



life after divorce
COACHING
with Doreen Yaffa and Jeff Wilson

Ep.110 - Thinking about Prenuptial and Postnuptial



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Jeff: [00:00:00] Hello, friends. Today, we're going to be talking about prenups and postnups. So if you're ready, Let's get started.

Doreen: Are you ready to create a life that's better than ever before? We are Doreen Jaffa and Jeff Wilson, and we are here to give you the strategies you need to create the life after divorce that you deserve and desire. As partners, both in marriage and coaching, we use our expertise as well as our own personal experience.

Doreen: Experience is to help you make the next chapter of your life, the best chapter.

Jeff: Hi, Doreen. How are you? I'm good. Good. Good to see you today.

Doreen: I'm laughing because we live together. We're married. Of course we saw each other

Jeff: today. I haven't seen you all

Doreen: day. I was at the [00:01:00] office all day. You're so funny. It's nice to see you. I know you want to talk about nuptial agreements today and I think it's a very important subject.

Doreen: It's important for people that are considering divorce because it may be helpful potentially. Um, and it's helpful for our listeners if they are in the future, maybe going to consider remarriage.

Jeff: Okay. Well, can you explain what is a prenup?

Doreen: Sure. A prenuptial is an agreement between the parties that basically outlines what would, what each of the parties would receive, would get by way of support.

Doreen: Assets liability, maybe who stays in the house, who leaves if the house gets sold, it can cover a number of topics. They're unique to the individual party. There's certain things that go in them generally. And there's certain what we call boilerplate language that has to be in them. [00:02:00] And every state is different, so I am speaking as a Florida lawyer.

Doreen: And they're entered into when the parties are not married before the marriage. Okay. Okay. And they're negotiated before the marriage. And basically they usually are triggered by one of two events. One being if there is a divorce filed or a separation, okay, sometimes there can be a formal separation notice where it triggers some of the, um, terms of the agreement and other times they can cover or in addition.

Doreen: In the event of death, so if, um, they can be handled for both circumstances or cover both circumstances, most people think that nuptial agreements are solely for divorce and they're not, they cover, they can cover other issues of the family to protect the parties and think about future unforeseen events.

Jeff: Okay. [00:03:00] Okay. Um, is there any marriages or anybody out there that you feel? You should definitely get a prenup versus maybe

Doreen: I, that's not for me to, to judge. I am a lawyer and a coach. I am not to judge who should have a pre nup and we're talking right now about pre nups. We're going to talk about post nups as well, but I'm not there to judge that.

Doreen: What I would tell you is it's not a bad idea to consider it to at least understand what it is because it can help the marriage in the longterm if Uh, if there's understandings of what the terms are and what would happen in the event of divorce, right? So it basically will, if they're enforced, which they usually are, it depends on the criteria and the factors of each state as to what.

Doreen: would constitute an enforceable agreement. Like in Florida, you need a full financial [00:04:00] disclosure. You need, um, the agreement to be entered into freely and voluntarily. It can't be done under coercion or duress. These are some of the factors that need to be considered, right? Yeah. So

Jeff: I mean, is there any common questions that you get from your clients that seem to be the prevalent questions that they have?

Jeff: For what? About, about prenups. You know, they come to you and say, I have a question about it. Most of

Doreen: the people that come to me for a prenup already know that they want a prenup or at least one side, one party, one part of the, you know, soon to be party parties has decided that they want a prenup. So they're coming to me typically.

Doreen: with the idea, the thought that they're going to have one and it's already a decision that's been made at least by one party. Sometimes one of the parties won't even get married [00:05:00] unless they have a prenup because maybe they have what we call a significant amount of non marital assets. Maybe they, it's a second or third marriage for them and they want to make sure that whatever they built up to that point is not going to somehow default to their new spouse, but will be there for their heirs.

Doreen: You know, their children or things of this nature. So I, you know, personally, I think that prenups are a very smart idea and I, and I think that they should be considered by anyone wanting to enter, you know, thinking about getting into a marriage. Yeah. And

Jeff: I think I meant more along the lines of questions about the prenup, not whether they want one or not, but when they come to you for a prenup, what are some of the questions about the prenup that they might have?

Jeff: For an example, they may be a little bit, How do they break it to their significant other that they want to get a prenup?

Doreen: You know, that's something that we don't really as lawyers deal with. We just don't, you know, we might [00:06:00] have some suggestions to just broach the conversation in a calm, collected, you know, understanding kind of way explaining it.

Doreen: Certainly don't spring it on them last minute, you know, a week before the wedding, things of this nature. Um, and explain your reasons why I understand your reasons why.

Jeff: Okay. Right. Now you had said pre nup and talk about post nup. Is there a big difference between the two other than it's before and after?

Doreen: Post nups are for married couples after obviously a nuptial agreement that's entered into after they're married. And what I want to suggest, at least for the listeners, if there's, um, You know, listeners out there that maybe are having challenges in their marriage considering divorce, that sometimes a postnuptial agreement is.

Doreen: It's an option to maybe solidify some of the issues, have understandings, finances tends to be a big [00:07:00] topic, you know, so, um, so that then they can work on the under, they can get that kind of out of the way. They understand and have an agreement. issues of finances in the event of divorce or in the event even of death, and they can then work on the emotional part of their marriage.

Doreen: So

Jeff: it sounds like a, in some cases a post snup can save a marriage.

Doreen: I think it is an option, you know, especially if you have, I had a circumstance once where, um, Um, the husband, they were both lawyers and the husband was very involved in, uh, very involved. I'm sorry. He's a personal injury lawyer and was expending a lot of dollars, marital dollars, okay?

Doreen: Their earnings, their money, their savings on cases. That he, you know, in, in these types of cases, you fund, you have to fund the expenses up front as the lawyer in many of the personal injury cases. And [00:08:00] they would, and then he lost many of the cases, right? Yes. So the money was going out of the marital.

Doreen: state to fund the cases that the gentleman, the husband was working on. And then he lost several hearings, trials in a row. And the wife was taken back by it. She was very upset about it because they had worked very, they were both lawyers. They'd worked very hard. They met in law school and they'd worked very hard to collect what, you know, to save whatever money they, they had.

Doreen: And she thought that, um, her opinion was he wasn't vetting the case well, so that it was kind of known that maybe it wasn't going to be a win at the end of the day. And so, um, you know, arrangements were made, terms were understood in the postnup so that whatever dollars he utilized came from a particular, um, account that were.

Doreen: Identified as his funds and she had her funds. So they [00:09:00] basically decided to split their their dollars at that point and to maintain certain separate accounts that then they could fund in their own name. And they were kind of off limits to the other spouse. Now they could agree and they could decide to do things otherwise.

Doreen: But it was clear that in the event of divorce, that what divorce, what each person would get. So I do think that, you know, it can, but they can help, but let's talk about our listeners who probably are either divorced or very close to being divorced. And the thought about looking at prenups if they do get into a new marriage,

Jeff: right?

Jeff: Well, that's what we hope eventually they find a, another significant other if they, if they want to, of course it's, that's their thing.

Doreen: They'll find their own happiness as an individual.

Jeff: And I think that, uh, sometimes we like to learn, I wouldn't want to call it a mistake, but learn from our mistakes [00:10:00] as to what I want to do, uh, with my finances or my home and my situation to protect myself in the future.

Doreen: Exactly. Because nobody wants to go through litigation, right? Exactly. And so, um, if you're considering. There's a number of reasons that you should, in my opinion, seek out advice in your state, in your jurisdiction from a, you know, from an experienced family lawyer that does nuptial agreements as to, you know, what it looks like and, and what's required and what types of terms can be considered within, within a nuptial agreement.

Doreen: Right. Because, you know, if you look at the statistics, if you look at the statistics and let's just say, you know, somewhere between depending on the state, 30 to 50 percent of marriages end in divorce. Well, that's an indication that there's something that you want to [00:11:00] protect there, right? Exactly. And so if 30 to 40 percent or 30 to 50 percent of the cases end up in divorce and second marriages and third marriages from what I understand, based on the

Google statistics are even higher divorce rates that why wouldn't you, a lot of people seem to think that a prenuptial agreement is.

Doreen: It's not sexy. It's like a lack of trust and it's looking at a marriage already with, you know, defeat.

Jeff: Well, it's like a business as well. It's a business, you know, it's more along the lines of you got your ducks in a row and you're a business person, not just going into it for love.

Doreen: Right. What? But I'm suggesting that a lot of people think that way, that a nuptial agreement is, you know, looking at, well, we're entering into this marriage and we're going to get divorced.

Doreen: Right. Yeah. Now it's, you know, and it's really, I would suggest probably a bit, um, you [00:12:00] know, it's, know the stats on marriages and we know the stats on divorce, You know, of marriages, especially second and third marriages, then wouldn't it be smart to, as you say, put your ducks in a row?

Jeff: I would think that going into a second marriage or a third marriage requiring a prenup might be easier knowing that I've been through a first marriage before.

Jeff: What do you mean easier? In other words, easier to ask for. I mean, in other words, uh, if, if my, uh, soon to be your fiance say, right. Came to me saying, you know, I've been married before we need a prenup. I think I would be a little bit more understanding that. Okay. She's been there through this before. This is why she would ask for a prenup.

Doreen: Well, and that's you. And that's a beautiful thing as far as the way you think, unfortunately, not everybody thinks that way. Yeah. Right. Yeah. I [00:13:00] mean, the bottom line is. that if you're trying to protect yourself and you've been through a divorce and you want a prenup, it can be a condition for marriage. I mean, you have to really decide and set your boundaries.

Doreen: And we talk a lot as coaches about boundaries. You know, if you think it's best for you and your family, because you may have children and heirs, you know, and you may be protecting them as well. And why some of the reason that you want your prenup is for that purpose to keep your money separate and identified as your dollars, your assets, your, that you can, you know, do what you want with regard to inheritance.

Doreen: Then, you know, that's yours. And would you, if you decide that that's what you want and the person you're marrying doesn't, that's a decision that you have to make and then you set your boundaries. Is this something that I insist on in order for us to be [00:14:00] married or is it something I'm willing to say no to?

Doreen: It's an interesting thought. It's a personal decision, you know, it's, it's really personal where we, we live here in Boca Raton, Florida. There's a lot of wealth. There's a lot of second marriages because a lot, you know, we have. Populations that generally migrate here when they're getting closer to, to retirement.

Doreen: I know it's changed in real estate over the last number of years, but a lot of, you know, second marriages here. And it's certainly not uncommon to, to ask for a prenup or to consider it. Now, I also want to say that prenups are not always one sided, you know, it's not like You're asking for the prenup and everything is mine.

Doreen: No, there's negotiation. So there's, there's a level of, you know, negotiating on, okay, if you're going to keep your assets separate and your, whatever it is, it's going to be yours. Well, then I would also like the following. Right. You know, a certain amount for every year [00:15:00] that we're married, or maybe there's some money up front that I put into an account, or maybe every year, you know, there's a certain amount that's put into savings that we are, is in both names and we both enjoy.

Doreen: I mean, you can really look at it more of like a financial planning document that can benefit both sides.

Jeff: Yes. Or it could be where both sides. Uh, have wealth and they're just going into it very even Steven and you know, just want to keep everything

Doreen: separate. I just want to keep everything separate. And in some cases I've had prenups where they even get down.

Doreen: Most of the times the, the terms of the prenup do not, are not triggered until the divorce is, is on, is started, right? The separation has occurred. or a death if it, if it deals with provisions in the event of death. However, I've had prenups that talk about how they're going to run their finances while they're married, what he's responsible, what the other, what the spouse is responsible.

Doreen: [00:16:00] In other words, identifying it. So there's none of this. You know, questioning about

Jeff: it seems like it would take a lot of weight off people's

Doreen: shoulders. It does. But, uh, you know, whenever it comes to money, I think it can be, especially in romantic relationships and uncomfortable conversation to have. And if you, if something is uncomfortable in your mind to talk about, what is that the indication of that it needs to be discussed, you know, you can't just push it under the rug and hope that.

Doreen: Your marriage is going to be perfect. I mean you, we all want that. We all go into our marriage saying the vows that, you know, we're going to be together happily ever after. And you know, to death do us part if those are the vows. But the stats do tell us something, right? The stats do. And so I think it also makes for a.

Doreen: A friendlier divorce. If, if, you know, divorce doesn't always have to be this drawn out fight. Um, it, it can be a [00:17:00] simpler process and certainly a prenuptial agreement can, can help because if everything is laid out and it certainly tells you the terms and who gets what. Uh, other than if there's particular challenges, like I said, like a coercion duress, things of that nature.

Doreen: Like I entered into this, but he gave it to me the night before the wedding. I didn't have a lawyer, didn't understand it. Those types of things, at least in Florida, or there was a failure of financial disclosure or miss, um, misstatement of financial disclosure, like those, those are defenses to a prenup and I'm getting a little technical here, but.

Doreen: Typically, they're upheld generally, as long as you've crossed your T's and dotted your I's. So yeah, something to just consider. Something for our listeners who are going through divorce or have been through divorce. Look, many people get remarried. You may not think it now as you're sitting there. [00:18:00] You may be hurt.

Doreen: You may be angry. You may be, you know, basically in the recovery portion after or time after your divorce, but a lot of people do remarry and it's, it's something to, uh, to check out.

Jeff: So if, if, uh, one of our listeners is interested in a prenup or a postnup. What do they do

Doreen: they should seek advice in their in their um, jurisdiction in their state Like I said at the beginning from a qualified family Law attorney if you're in Florida, you could certainly call our law firm and this is not a plug for them I mean, we're in Boca Raton.

Doreen: It's Yoffe a family law group You know and you can find us on the internet obviously, our website is Www. yoffefamilylawgroup. com and we certainly will talk to you about it, but we only handle of course I'm only licensed in the state of Florida as are the lawyers that work with me, right? Um, but it doesn't hurt to have a consultation, right?

Doreen: Sure. So [00:19:00] I know, well, I know it's not our typical coaching subject. I think it's really, uh, an important subject and I found it very

Jeff: interesting. Well, you know, it's something to learn about.

Doreen: Something to consider. Just, you know, there's nothing wrong with being educated. There's nothing wrong with looking at your options before you're entering into a new marriage.

Doreen: Especially for those, like I said, who were married before, right?

Jeff: Dealing with life after divorce is, uh, one of the, one of the things is getting remarried potentially, potentially getting remarried. Yep. All right. Well, thank you for, uh, sharing your knowledge with us on prenups and postnups.

Doreen: Absolutely.

Doreen: Anytime, anytime. All right,

Jeff: everybody. Well, thank you and everybody. And we'll talk to

Doreen: you soon. Yes. Have an amazing week. Be kind to yourself and each other and we'll talk to you next. Next week,

Jeff: you have the vision of what you want [00:20:00] your life to look like after divorce, but maybe you just don't know how to get there. So if you're ready to take control of your life and want to find out more about our coaching, visit us at L a d dash coaching. com that's L a d as in life after divorce dash.

Jeff: Coaching. com

Doreen: until next time, have an amazing rest of your day. And remember, yes, you can have an amazing life after divorce.