

46: Why I Love Prenups



Full Episode Transcript

With Your Host

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Welcome to The Wealthy Mom MD Podcast, a podcast for women physicians who want to learn how to live a wealthy life. In this podcast you will learn how to make money work for you, how you can have more of it and learn the tools to empower you to live a life on purpose. Get ready to up-level your money and your life. I'm your host, Dr. Bonnie Koo.

Welcome to episode 46. Prenups is one of my most favorite things to talk about. And you're probably thinking, why? Well, you are about to find out. But before we go into this topic, I just want to let you guys know that there is a huge snowstorm going on where I live.

I live in Northern New Jersey, just outside of New York City. So, it's a huge snow day. Which I guess isn't a problem. I work from home. However, that also means that my kids are home. Kids meaning my toddler Jack, my stepson also happens to be here right now. He's in virtual school during the pandemic.

So, I have to record this super-early in the morning before everyone gets up, otherwise it will just be crazy in terms of noise et cetera. So, if my voice seems a little raspy or groggy, that's why.

Okay, so back to today's topic; prenups. So, this episode is coming out just around Valentine's day, so I thought this topic would be fitting. And I don't think I've actually talked to you guys about how I feel about prenups.

So, first, I just want to say, I am not a lawyer, obviously. So, the one thing I will say about prenuptial agreements – prenap for short – is that they are state-specific, just like divorce laws are also state-specific. So, I'm going to talk in generalities. I'm not here to give you any legal advice about prenups. I want to have a conversation about why you, whether you're a female physician, a high-earning female or male, why you need a prenap and why they are actually romantic.

Yes, you heard me. I think prenups are extremely romantic. And you'll find out why I think that. So, first of all, let's just set the stage. Why are we talking about this?

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If you are a high-earner and you're married, getting divorced is, or can be, a financial catastrophe for most high-earning women. And I say most because it depends on many things. For example, if you and your spouse earn similar high incomes then maybe it won't be. It's mainly a problem when there's a disparity in income, especially if one spouse is a stay-at-home spouse.

I also want to say that divorce happens. The divorce rate isn't 0%. Now, I know you know this, but how many of us head into our marriages, our wedding day thinking, "We're not going to be one of those people that get divorced." However, just the facts, the divorce rate isn't zero. And it's pretty common.

Now, I'm not an expert in divorce rates, but if you Google it, The Googles tell me that the divorce rate actually isn't 50%. I feel like that's kind of thrown out a lot. It's actually lower. And the divorce rate depends on your socioeconomic status and many other factors. And I do know, for physicians, it is generally lower than the general population.

However, if you are a female physician, it's higher than if you're a male physician, and it goes up if you work more than 40 hours a week, AKA you're in certain specialties like OB/GYN, for example.

Second, I want you to also realize that when you're getting married, you are signing a legal contract. Which I know many of you know logically. But because it's a marriage contract versus a job contract, a lot of emotional intelligence kind of goes out the window. People don't want to think about the exit plan.

However, would you ever sign a job contract that said that they would take half of your assets and maybe make you pay money ongoingly? No. You would never sign that.

However, so many of us have blinders on when it comes to getting married. So, as you know, prenups are a very taboo topic. A lot of people are very uncomfortable talking about it with their potential spouse. And I understand

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because there are so many beliefs out there saying that if you're talking about a prenup, you're already discussing divorce. Which is one way to look at it, I guess.

But no one thinks about that for a job contract. Well, hopefully you're not. So, first, I'm going to walk you through some of the logistics and facts about prenups. And then, we're going to get into my take from a coach perspective as to why they are romantic.

So, I already said earlier that marriage is a legal contract. So, you just need to understand that when you get married, it's not just about being in love and wanting to start a family and whatever you think marriage means to you. You are signing a legal contract for the state you are in.

And if you get divorced, there are legal consequences. So, here's the thing about getting divorced. If you do not have a prenup, you are basically agreeing to the state's default prenup. So whether or not you think you have a prenup, you do. Except, if you don't have your own – which I like to explain as a custom, tailored suit – you are agreeing to the state's one-size-fits-all prenup.

And you probably don't even know what the state's prenup is. You're just like, "Well, I don't want to think about it so I guess it's fine." What's ironic is that the prenup, AKA the finely tailored suit, is way cheaper than the state's default one-size-fits all ready-to-wear fashion, right? And so, that's just one thing I want to point out.

Another thing is, a lot of us don't think about things like alimony or child support. Now, child support is separate from divorce, meaning that you can't put child support clauses or anything about kids, whether they're born or not, inside the prenup. The prenup is only between the two adults getting married.

However, if you're listening to this, you probably know at least one friend who got divorced who is spending a lot of money paying alimony and or child support. And so, you know that that's a thing, right?

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And at the time of this recording, the tax laws recently changed. Where previously, if you were paying alimony, you could actually deduct the alimony on your tax return, and then the alimony receiver would pay taxes on that. And they reversed that. Which makes sense for the government because they'll collect more taxes the other way around. So, also another reason why paying alimony is not palatable.

Now, as I said before, I am not a lawyer and prenups are state-specific in terms of the laws, in terms of whether they're contested or not. One thing I hear a lot is, "Oh, I hear prenups are thrown out the window." And I find it so interesting when people say that as if that one example means none of them work.

And so, let me just give you an example. You know, I actually wanted to record this podcast after Matt and I had signed our prenups. But it's taking a little bit longer than usual. Not because anything weird or bad is going on. We're just kind of lazy getting the lawyers on board. But we do have a draft.

And what I do want to say about the prenups for New Jersey is, I asked my lawyer, has a properly done prenup in New Jersey ever been thrown out of court. And she told me, "No."

And so, obviously I'm sure this is state-specific. And you also have to have it properly done. So, noticed that I asked properly done prenup. And so, that is also state-specific. Just to give you an example from New Jersey, the law states that for it to be a properly done prenup, that each person needs their own representation, meaning I have my own lawyer, Matt has his own lawyer.

And then, I also asked her, does it matter who pays for the lawyer?" Meaning if I paid for my lawyer and also paid for his lawyer, would that be, I don't know, seen as coercion? And she said, "No." That did not matter.

However, I have also heard from other people – like I said, other people, not lawyers – that some states might require that each person pays for their

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own lawyer. So, you really have to find out how it applies to you where you live.

Okay, now onto the part I love talking about; the part where I say that prenups are romantic. So, before I go into that, I just want to say that concept of marrying for romantic love is a modern concept.

Now, my opinion is that people can and should marry for love versus a business transaction. But that's what marriage was for back in the day. We all know that.

Here are my reasons why I think every couple needs to have a prenup. And here is the argument I hear a lot, "Well, we weren't really making any money when we were getting married, at the time." Things can change rapidly over the course of a lifetime, right?

And so, I think a prenup, first of all, is a great way for a couple to really sit down and talk about money. Because if there are any money problems, we all know they don't get better once you get married. Every couple needs to have a frank discussion about money before getting married. Because you carry all your baggage into the marriage, right?

And so, here is why I think prenups are actually extremely romantic, versus the opposite that most people think it is. Think about the context of drafting a prenup versus fighting, contesting a divorce agreement. When you're drafting a prenup – and this is something my lawyer told me, so I don't want to take credit for what she said – you hold each other in the most highest regard. Meaning that you love that person and vice versa, I hope, right?

And so, it's a very different context for talking about how you're going to legally divide things, versus when you're in the midst of a divorce, when emotions can run high, and people are usually not really behaving very well. I think about a prenup like this. You're basically saying, "I love you no matter what. I want the best for you. Here is my proof."

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And I'm going to tell you some of my beliefs about the prenup that we're currently drafting – not finalized yet, of course. But honestly, my belief about the prenup in terms of how Matt and I are going to divide things, at least from my point of view is that why wouldn't want him taken care of?

Not only do I love him; he's the father of my child. He's the father of my stepson. Why wouldn't I want him to have the best chance of living the next phase of his life if we separate?

I also think about money very differently now, meaning that I know that I can always make more money. I also know that I have a lot of money. And I'm not even talking about an amount. It's not like I have \$10 million in the bank right now. However, I'm not worried about my money in the future if we separate.

You know, the conversations Matt and I have had around the prenup have not always been, you know, rainbows and unicorns. Meaning that it is a little weird and uncomfortable to talk about certain things at some times. However, there's been some levity in it as well.

So, for example, first of all, if you don't know Matt or haven't met him in person, he is the funniest guy ever. I'm the more serious and kind of boring person. And so, he's basically said, "Listen, as long as I have my own really nice apartment, luxury high-rise with a doorman, I'm fine. I just need a two-bedroom; one for me, one for Jack, or my other son, and I'll be fine."

Now, I'm joking about this a little bit. But I also want to say that just because the conversations might be a little uncomfortable, doesn't mean that it's the wrong conversation to have. Because I also just want to let you guys all know that it's way more to have these conversations without a prenup when emotions are likely tense, angry, resentful, you know, when our primitive fear-based brains take over.

And so, I like to really think about the prenup as using our higher brain, our prefrontal cortex to plan thoughtfully and make decisions ahead of time.

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And these decisions are coming from a place of, “I want the best from you no matter what.”

When you’re thinking about these types of decisions from that place, we’re thinking things like, “He is the father of my son. I love him. I want my son to have an amazing relationship with his father, no matter what.” You just make decisions from just a much more abundant place.

Now, I do want to share with you all the logistics of our prenup. But it’s not finalized, so I don’t want to say anything that may or may not actually happen. But it’s actually very simple.

We each keep our own retirement accounts. Matt and I started investing in real estate, and so we decided, from the get-go, that that will be split 50-50, no matter where the money comes from. And I guess one thing I’ll say in terms of how we do our finances – and I definitely want to do an episode on how we do our finances. And I don’t think there’s a right way to manage money together. But I truly, truly try to take the stance that it is our money; not mine or his. And so, I’ll definitely talk more about that in another episode.

We did put a calculation for spousal support, alimony, you know, based on income differential et cetera and, you know, years not worked if that comes into play. And there is, of course, a clause to protect my business Wealthy Mom MD.

And so, that’s sort of where we are in terms of the rough draft. And I can’t wait to tell you all when it’s finalized. And I think I’m actually going to have my lawyer come onto the show so you can hear from a prenup lawyer, so we can normalize the conversation around prenuptial agreements. And so, she’s obviously a huge fan of it, not just because she’s a lawyer, but she’s obviously seen people do prenups and then also she does divorces.

So, I hope you’ve learned something new today. I hope maybe I’ve given you something to think about for those of you who are not married. And for those of you who are married and you’re thinking, “Oh, maybe I should

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have done that.” Not to worry. There is something called a postnuptial agreement, which basically means it’s an agreement signed after you get married.

Now, I will say, again, state-specific, they don’t tend to hold up in court. They don’t have a lot of strength behind them in most states. At least that’s what my lawyer told me. Again, you’ll have to check with your state.

And so, this is what I usually say to women, men who don’t have a prenup and now they think that maybe they should have. You know, unless you’re in a marriage that you’re not happy with, that is abusive et cetera, my advice is simple.

Invest in your marriage. Take your marriage very seriously. Not just because of the financial consequences, but because it is the most important relationship and a lot of us take it for granted. It’s human nature to take things for granted.

And so, if you just need a little reminder to spend time, water your relationships, then there you go. And I also recommend you listen to the podcast I did with Kate Mangona, or check out Kate Mangona’s podcast. I think it’s called Marriage, Medicine, and Money, or something like that. And so, she interviews couples, mainly physicians, around money and marriage and kind of combines the whole money and relationship thing. So, check that podcast out and I will talk to you guys next week.

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