

# ASK THE ADVISERS

The views and opinions expressed in "Ask the Advisers" are solely those of Keith Singer.



## Singer Wealth

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## Pre/Post Nuptial Agreements

Whenever two people get married they enter a legal contract; the state they reside in will apply certain laws regarding property division, alimony, and inheritance in the event of death or divorce. Often these matters will be litigated in state court if the parties do not agree on these terms either prior to the marriage (prenuptial agreement) or while they are married (postnuptial agreement).

Whenever anyone enters a marriage contract, they are agreeing to a certain outcome in the event the marriage ends either through divorce or death. Many people view prenups as unromantic because the wealthier spouse is typically trying to protect their wealth in the event of a divorce. However, the reality is, the state will provide rules to direct the distribution of marital assets to every married couple who do not make their own agreement.

Most divorces are resolved through mediation that results in the parties agreeing to a

postnuptial agreement rather than a full-blown trial. I would submit that it is better for the parties to negotiate the terms of their divorce or death while they are agreeable with each other rather than while they are fighting in a divorce proceeding.

A prenuptial agreement may be especially appropriate for second marriages. There may be significant income and estate tax advantages to getting remarried, especially for the wealthier spouse. I often see older clients who have lost their spouse contemplate remarriage. Whether they remarry or just live together they often keep separate finances.

A lot of times if people with children from a prior marriage remarry later in life, they want the bulk of their assets to go to their kids when they die not their new spouses. However, without either a prenup or a postnuptial agreement, a Florida spouse will be entitled to a 30% elective share, even if the will leaves everything to the kids. A properly drafted pre or post nuptial agreement can ensure that assets go to the intended beneficiaries.