



*There are always what I refer to as “matters of the heart” when it comes to succession and estate planning. It is usually an intensely personal experience. Oftentimes many people are affected by this process. A good advisor is one listens intently to those matters of the heart and used their professional expertise be sure that everything is working together so you will have a plan that works under all circumstances. This article illustrates this point.*

*Luke*

**By Dr. Donald J. Jonovic**

**L.K. from Iowa writes:**

Last week my dad’s lawyer threw me into a tailspin, and I’m still not recovered from it.

I’m the youngest of three sons who all grew up on a farm in America’s breadbasket and came back to farm after college. I’m 25 and engaged to Dana, who I’ve known since we met six years ago at Iowa State University. My parents like her and keep kidding about when the grandchildren are going to show up.

Great, happy, normal family life, right?

Right. Until Dad’s lawyer calls. We meet for breakfast. He slides papers across the table. “A prenuptial agreement,” he says. “Your dad wants you to have Dana sign it before you get married.”

At first, I was like OK (maybe stunned is more accurate). But soon – especially after reading the agreement – I realized what Dad was asking and what’s likely to happen if I spring this on Dana.

My brother, Rich, got divorced a few years ago; it was a horrible mess. I’m sure that’s what drove Dad to this. But why didn’t he talk to me?

I want to refuse. I think it’s a slap in the face for Dana. I’m mad at Dad. I’m sure my brothers agree with him, so I’m getting mad at them, too. Can you help?

**Dr. Jonovic's solution:**

A daughter-in-law, tears in her eyes, once asked me, “Why invite me to the farm family meeting? I signed a prenu. I’m not part of the family.”

Prenups – which, among other things, define prior to marriage the dissolution of property in the event of divorce – can be legally effective. They also can cause emotional devastation and permanent scars.



Without addressing the legal issues, I can say these agreements are appropriate in a few situations, but they are almost always toxic in most others.

When individuals with large interests in separate assets are contemplating marriage (for example, a second marriage especially when children are involved, or a couple who both come from wealthy families), prenups can help achieve clarity and trust, and can dispel suspicion.

But in most cases, marriage is a commitment by two people to meld their lives and to share what they have for better, for worse. A prenup on its face says, “I’ll share everything with you – except the stuff that’s really valuable or might become so.” That’s hardly a solid expression of commitment.

L.K.’s father likely had to pay dearly to keep the family’s farm assets from going to his divorced son’s wife, and he doesn’t want to see it happen again with L.K.

The concern is understandable. But by insisting that his son get a prenup, L.K.’s father is forcing L.K. to tell Dana at the outset, “I love you completely, but . . .”

The family can take steps now to protect farm assets (stock, land, etc.) by using sharper tools like trusts and buy/sell agreements. These can be designed to protect specific assets instead of the value they represent, value that L.K. would normally share with Dana as they build their life together. In the event of divorce, then, she cannot take actual assets, but she could be entitled to a portion of the value they share.

The family can choose these specialized tools rather than the meat axe of a prenuptial agreement. That would free L.K. and Dana to fully commit to each other and to strengthen – rather than undermine – their love and trust.

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***Reprinted from Successful Farming Magazine, November 2011.***

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