

## BOOMERANGST: TURNING DILEMMAS INTO DISCOVERIES

Diane Sewell | July 18th, 2013



**Q. I'm about to be married to a wonderful man and it's a second marriage for us both (we're in our late 50s.) I have two grown sons and he has two grown daughters. He recently sold his house, moved into my house and paid off my mortgage. We're since been busy amalgamating and purging. Some of our friends have been strongly recommending we do a legal pre-nuptial agreement, but we're hesitant. We were thinking instead of covering our wishes and bequests (to each other and our respective kids) through wills. Is this a good idea or not? What would you suggest?**

**-Lorraine, Toronto**

**A. I've heard a variety of opinions on this topic (most of them personal and not professional). But Ontario-based lawyer Andrew Feldstein, of the Feldstein Family Law Group, is adamant about his position. He says you'd be "making a horrendous mistake" if you rely on wills alone to carry out your wishes.**

“The next day, or even the same day, one spouse can go to another lawyer and change their will,” he cautions, pointing out that a will only deals with what happens when you die, not what would happen if you happened to separate or divorce.

He has a point. While nobody wants to think that’s going to happen to them, according to *Psychology Today*, statistics show that in the U.S. 67 percent of second marriages and 73 percent of third marriages end in divorce. So what to do?

Feldstein recommends you and your future husband start talking – and well before the wedding – so you’re not under a lot of pressure to get everything settled quickly. You both also need to do a full disclosure of what assets and liabilities you’re each bringing into the marriage. A qualified lawyer can then help you draw up a marriage contract, a term he much prefers over pre-nup. It should clearly spell out each person’s rights and responsibilities if the marriage breaks down.

And while there are do-it-yourself kits out there, he recommends you not try and tackle the job on your own. “People don’t necessarily appreciate the significance of the words they’re using,” says Feldstein, “or they may think they’re saying something when in fact what they’ve written in the agreement may not make sense to a judge.”

He also recommends you each get independent legal advice once you think you’ve reached an agreement. And how long should that take? The time it takes to do a marriage contract entirely depends on how much you own – and how much you owe. The more you have to take into consideration the longer it will likely take. Obviously, you and your sweetheart don’t ever want to imagine yourselves as anything but blissfully happy in your marriage, but in legal circles you’re strongly advised to take the ‘what if’ very seriously.

Is that unromantic and untrusting? “It is – but it’s practical,” insists Feldstein.



***Send Diane a brief description of your dilemma, along with your first name and where you live, to [boomerangstblog@gmail.com](mailto:boomerangstblog@gmail.com) A professional journalist for more than 25 years, Diane Sewell has written for some of the top newspapers and magazines in Canada and is a baby boomer herself. Her new blog “Boomerangst, Turning Dilemmas into Discoveries” is interactive with readers and focuses on life issues – like aging, dating, second marriages, sex, death, family and fashion. Diane will use her expertise to find the right expert to help solve your predicament, unearthing kernels of truth and quickly getting to the heart of the issue.***