



ALL IN THE FAMILY

Legal blog on all aspects of Family Law and Divorce in Massachusetts and Rhode Island

Bennifer is benefinished...and didn't have a prenup!

BY LYNETTE PACZKOWSKI • SEPTEMBER 26, 2024

Prenuptial agreements are not just for celebrities, but the messiness that follows a celebrity divorce filing often puts prenuptial agreements in the spotlight. Here are five reasons why Ben Affleck and Jennifer Lopez (J-Lo) should have had a prenup and why you should consider one, too.

1. They have children from prior relationships. Many people with children from prior relationships have a vested interest in identifying certain assets as “separate property,” i.e., property that their spouse is not entitled to, so that they can preserve existing estate plans or other savings strategies (e.g., paying for college).
2. J-Lo filed for divorce in L.A. County Superior Court. California is a “community property” state, which means she and Ben will likely have to divide everything they acquired during the marriage on an equal or nearly equal basis. Other states, like Massachusetts, that are not community property states, require an equitable division of the assets. While that can lead to a fairer outcome, getting to that outcome can be a complicated and complex undertaking to analyze the various factors that the Court will consider in reaching that equitable distribution.
3. Alimony and spousal support can remain an open question. While there are sometimes reasons not to pre-determine this issue via a prenuptial agreement (for example, if the parties are contemplating having children and one spouse or the other might leave the workforce for some period of time), for others, securing a waiver of alimony/spousal support or otherwise agreeing on a calculation can make sense. J-Lo’s filing reportedly requested no support for herself and requested that she not pay Ben support. No word yet on whether Ben is seeking support.
4. News outlets are reporting that Bennifer (Ben and Jen) put their marital home in Beverly Hills up for sale, that Ben bought his own house in Brentwood, and that J-Lo is currently looking for a new house. Without a prenuptial agreement, it may be ill-advised to buy/sell/transfer assets while the division is still being determined. In Massachusetts, that is further complicated by the automatic financial restraining order during the pendency of a divorce.
5. Having a prenuptial agreement can save you money. A prenuptial agreement can protect you from having to take on your spouse’s debt, and it can save you an enormous amount on legal fees sorting through a bevy of contested issues.

Creating a prenuptial agreement is not the most romantic part of an engagement, but it truly is worth a conversation with a family law attorney about the creation of a prenuptial agreement prior to getting married (or a postnuptial agreement after your wedding).