

LOVE HURTS



HERE'S
THE ONLY
TIME YOU
SHOULD
FOLLOW
BRITNEY'S
LEAD: SIGN
A PRENUP.

By KRIS FRIESWICK

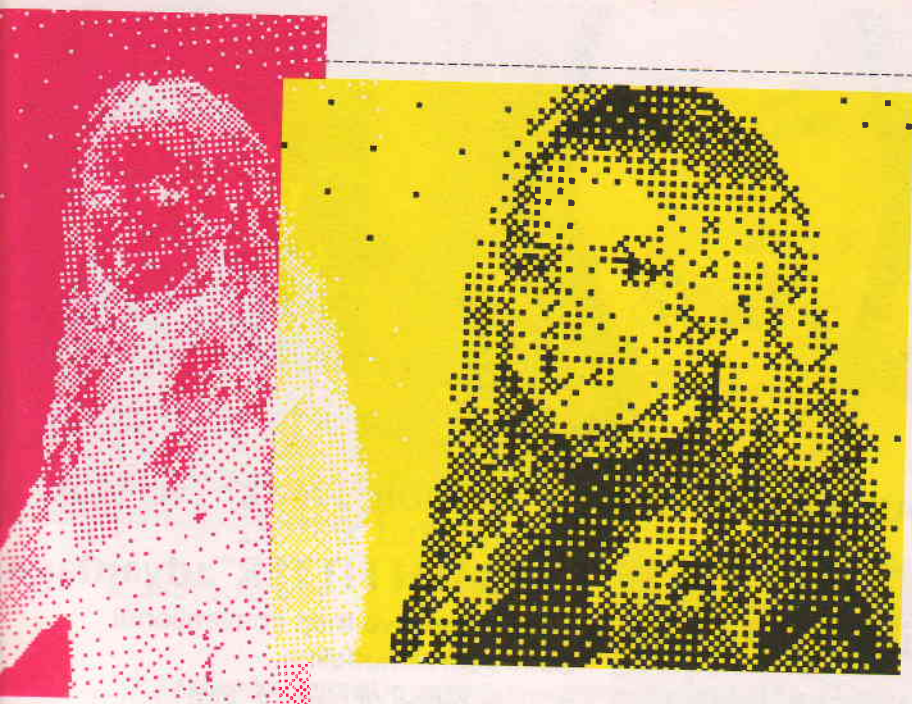
When my husband, Andrew, and I got married, our decision not to sign a prenuptial agreement – which outlines how property will be divided if a couple splits – was more like a non-decision. It didn't occur to us, and we had enough on our minds planning a wedding. We don't anticipate the lapse will be a problem.

Unless we divorce – which is, of course, the whole point. No one marries planning on divorce. A 2003 Harvard Law School study showed that although survey subjects knew the national divorce rate is about 50 percent, they predicted their own likelihood of getting divorced one day was about 12 percent. This “optimism bias” is a major reason that only 1 percent of people in the nation have a prenup, according to a

survey done by Harris Interactive for Lawyers.com in 2002.

Some people avoid a prenup because they think it sends a message of distrust to their spouse-to-be. Sheryl Kurland, author of *Everlasting Matrimony: Pearls of Wisdom From Couples Married 50 Years or More*, thinks that just having one could be an indicator that a marriage will end, that a prenup admits divorce may one day be an option – exactly the wrong attitude, she says, if you want to have a successful union. “A prenup is just an avoidance of issues and challenges until you fail,” she says. For the couples she interviewed for her book, “the word divorce never crossed their minds,” Kurland says. That must be why those couples were married for 50 years – whether they should have been or not.

Some people argue that they



don't need a prenup because they don't believe in divorce. But even those people admit that in cases of physical or substance abuse or unfaithfulness, divorce is a reasonable and often necessary solution. A prenup could make those less than amicable splits a lot less contentious.

And in some cases, a prenup isn't just a good idea, it's necessary, especially if one partner is heir to a family business that requires its owners to legally protect their interest. It's also a good idea for couples bringing children from previous relationships into the union because a prenup can protect a child's right to her or his parent's assets.

Experts agree that prenups are not quite as important for couples with no assets and no expectations of inheriting significant assets. They still can be useful in this case,

however, if one partner earns significantly more than the other or one partner plans to stay home to raise children. A prenup can be a good way to ensure a financial safety net for a lower-earning or stay-at-home spouse if divorce comes.

As hard as it is to talk about dividing your assets before you've even merged them, a prenup ensures that mates will thoroughly disclose and discuss their complete financial position before tying the knot – something far too few engaged couples ever do, often with disastrous results later.

But even the best legal agreements in the world can be challenged. So, in the final analysis, the best strategy may be choosing a spouse well.

Kris Frieswick, who lives in Boston, writes frequently about money.



Union Dos and Don'ts

Brian Bixby, a family attorney with Boston-based Burns & Levinson, shares some tips.

SIGN IT EARLY.

Prenups are invalid if there is any indication they were signed under duress. That includes presenting one to your betrothed at the rehearsal dinner.

KIDS ARE OFF-LIMITS.

You may not negotiate away the rights of any future children in a prenup. For instance, you can't stipulate child support or custody for yet-to-be born offspring.

KNOW TROUBLE MAY STILL BREW.

Even an airtight prenup can be challenged in court. Your ex may not win, but there's nothing preventing him or her from trying.