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News

## Poll shows increase in prenuptial agreements

### Attorneys say previous failed relationships are big reason couples sign prenuptial agreements

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By Tracey Read

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In the event of a divorce, country music singer Keith Urban will receive \$640,000 for every year he was married to Nicole Kidman — as long as he's never caught using drugs again.

Denise Richards had a clause in her prenuptial agreement that gave her a \$4 million bonus if Charlie Sheen ever cheated on her.

Elin Nordegren Woods' pre-nup with golfer Tiger Woods reportedly amounted to an \$80 million payout — not including child support.

But celebrities aren't the only ones using prenuptial agreements these days.

According to a recent poll of American Academy of Matrimonial Lawyer members, 73 percent of divorce attorneys reported an increase in prenups during the past five years.

"There's been an increase related to failed prior relationships," Mentor attorney Darya Klammer said. "People are looking to protect their assets in their next relationship. I'm also seeing a lot of people who wished they'd had a prenup. These are average, working people who maybe have pensions or a house they want to protect."

Werner Barthol, another Mentor attorney, said failed first marriages are the main reason he sees requests for prenups (which are technically called "antenuptial" agreements in Ohio).

"A lot of times, both parties want them," he said. "I'm also seeing more cases with women as breadwinners."

According to the AAML poll, 52 percent of lawyers have noted an increase in women initiating requests for prenuptial agreements.

People are also more careful these days to make sure the agreements hold up in court.

"There have been cases in Ohio that were bootied out because they were literally done at the eve of the wedding," said Lake County Domestic Relations Judge Colleen Falkowski.

"It used to be — 20 or 25 years ago — they'd ask you to sign one the night of the rehearsal dinner or even at the wedding itself. That could be considered duress or coercion. You have to have enough time to take it to your own attorney. You need someone representing your own interests."

The judge added that prenups can become null and void if either side fails to make a full disclosure of assets.

"One of the best things you can do is have both sides have their own attorney approve it," Barthol said. "I've seen arguments like, 'I didn't know what I was signing,' or 'I didn't know I had a choice.' "

Even with an attorney, prenups are tricky and are never completely foolproof, he added.

"Some guys are videotaping them. They're executing them well in advance of the wedding," Barthol said.

"One of the things you have to watch out for is spousal support. Under the law, it's very difficult to get around it, even with a ban on spousal support in a prenup. If you have a man making \$3 million in a long marriage and the wife sacrificed her career to become a homemaker, the judge is not going to ban her to the curb."

Barthol said prenuptial agreements should not be thought of as unromantic.

"It's kind of like planning for your funeral. People hope for the best, but they're realistic," he said. "I'm sure the first time (a prenup client) was married, they didn't think divorce was going to happen, either."

Klammer called prenuptial agreements a good way to prevent future disasters, including unnecessary property disputes.

However, she said they're not for everyone.

"If two people are entering a situation and they're young and have no assets, I'd say it's probably not necessary," Klammer said.

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