

VALUABLES

Ideas, Systems and Strategies for Managing Family Wealth to Fulfill Your Greatest Values.

About VALUABLES

Many financial advisors focus on communicating with clients to provide complex analysis of the investment markets and economies. However, we have learned that most clients are not particularly interested in this complex analysis. Most clients hire an advisor for their knowledge of the markets, not for their ability to explain that knowledge. Most want to know what time it is, not how to build a watch.

Experience has taught us is that wealthy families care most about using their wealth as a means to a desirable end, which is to achieve a more satisfying, fulfilled and impactful life, and to fulfill their most important Life Values.

VALUABLES is a periodic article series focused on the concepts, systems, and habits which we have observed among families who have been successful in this quest to use their wealth as a tool to live a life of significance. The most successful families share a set of habits, systems, and insights which enable them to use their wealth as a tool to fulfill their Values and what is most important to them.

We named this article series **VALUABLES**, because it provides an exploration of those habits, systems, and insights. We hope it will help you to consider your assets and possessions which are most valuable to you, and how you can use your financial wealth to enhance and cultivate your true "Valuables".

Nuptials

By Erik Strid

"The beautiful baby you once bounced on your knee is preparing to marry. You're happy and excited – and worried. The bleak statistics gnaw at you: 1/3 to 1/2 of all marriages end in divorce. You want to protect your hard-earned family wealth from the fallout of any future divorce."

- Pitcairn Wealth Advisors White Paper

[Family Wealth Conversations: The Role of Prenuptials](#)

Tis the Season

With the approach of the summer, this month we thought it would be appropriate to tackle a controversial but timely topic, which can be very important to wealthy families. As the spring fades into early summer, wedding season is coming – summer is a season which provides a wonderful backdrop for nuptial celebrations, and a common time to schedule a family wedding. This time of celebration can also be a time of great anxiety for many wealthy families, as they consider the need to protect their wealth against the possibility of erosion due to divorce.

As the quote above illustrates, many families may experience mixed feelings when they send their children off to marry. Although it is a happy time as your child prepares for an exciting new life, it can also be a fearful time as you consider the fact that slightly over 50% of new marriages in the US end in divorce. Unfortunately, divorce is a sad fact of life in today's society, and the breakup of a marriage can have far reaching emotional and financial consequences.

Although most families understand that they cannot necessarily protect themselves from the personal and emotional damage that a divorce can bring, many do wish to take measures to prevent the financial toll that a divorce can demand. Many wealth creators feel it is their fiduciary duty to protect their family's financial wealth, and that it is important to consider the use of a prenuptial agreement when a child gets married.

Just the Facts Please

The use of a prenuptial agreement can have complicated consequences for your family's relationships, as we will explore below, and should only be undertaken after careful thought and consideration of those consequences. For families who are considering the use of a prenuptial agreement, the first step should be to fully understand the facts about what these agreements can or cannot accomplish.

In our experience, there is widespread lack of understanding among families about the realities of asset protection in marriages, and the financial consequences of divorce. It may be important to understand the following information about the realities of divorce, before considering a

prenuptial agreement in your family. *(Please note: this information is generic in nature, and generally represents the law in the state of Pennsylvania. We strongly advise consultation with a qualified legal advisor for a more specific discussion of the rules in your state).*

- First and most important, it is important to understand how your own personal assets can be impacted in the event one of your children gets divorced. It seems that many wealth creators are under the mistaken assumption that **their own** personal assets could be under threat if their child divorces, which is not true. Only assets which have been gifted to, inherited by, or otherwise transferred to your child could possibly be at risk in a divorce proceeding. Of course, this fact does not give comfort to the senior generation of the family that assets will be protected after their death, when the child may inherit assets which could potentially become marital assets at that time. *(Please note: certain states may require disclosure of family assets in a divorce proceeding, even assets which may not be at risk in the settlement. Please consult an attorney for the rules in your state).*
- For families who are contemplating transfer of assets to children, trust planning may be appropriate. It is generally true that assets which have been transferred to a child in trust can be protected from divorce, provided the assets are still owned by the trust at the time of the divorce. There are many valid reasons why families transfer assets to children in trust, including divorce protection – so the use of a trust as an alternative to a prenuptial agreement may have the advantage of avoiding many of the emotional pitfalls. It may be easier to explain to your child and her prospective spouse that you are transferring assets in trust for a variety of reasons, than it would be to explain why you are using a prenuptial agreement to protect your assets.
- It is also important to understand the impact of asset titling in the event of a divorce. Assets which have been transferred outright to the next generation through gifting or an estate transfer may also be partially protected from a divorce settlement, provided that the transferred assets remain titled in the individual name of the child. If you transfer assets to your child, and they maintain ownership of the assets in their single, individual name, the original gift value is not considered a marital asset subject to a divorce decree. However, although the original principal of your gift would be protected, any appreciation of such assets which occurs while your child is married would be subject to the

Stu's Views

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“Of course you can consult with your attorney.”

divorce. In addition, the moment such assets are placed into any kind of joint ownership with your child's spouse, they become marital assets and can be included in the divorce. Of course, once you have gifted assets to your child, there is no way to coerce her or otherwise guarantee that they will never place the assets into joint name with their spouse.

Knowing these facts about asset protection and divorce, many families might reconsider the introduction of a prenuptial agreement, and rely instead upon trust planning or asset titling for protection. Many families may find that a prenuptial agreement is like wearing a “belt and suspenders” at the same time, and that the added benefits are not worth the possible emotional cost.

The Emotional Cost

For families who still wish to consider the use of a prenuptial agreement after considering the facts outlined above, it may also be wise to consider the potential emotional cost of introducing this conversation into the courtship and marriage of your children. In your haste to protect your Financial Capital, you may find that you are risking disruption of your family's **Human Capital**. Our firm has a vision of wealth which includes not just your family's *Financial Capital*, but also your Human, Social, and Intellectual Capital, which can be just as important. Specifically, your *Human Capital* includes the health and happiness of the people who you love most, your loving relationships and connections with family and friends, your values, morals and character.

Unfortunately, there is no way to predict or control the reaction of your child, or your child's future spouse, when you bring up the topic of a prenuptial agreement. From your point of view, this is an important aspect of your family's overall legacy planning and a way to protect your family's hard earned wealth. From your child's perspective, it may be a signal that you don't trust them

to pick the right life partner, or that you are trying to sabotage the most important relationship in their lives, by creating an undertone of distrust right from the start of their marriage. They may resent that you are placing your money in higher importance than their marriage, as this conversation may even put their marriage at risk. It is a fact that many families have had to call off a family wedding because of the angry reaction to a prenuptial agreement. From your child's spouse's perspective, this conversation may be a signal that you don't trust him, or that you think he is a "gold digger", and can cause resentment and distance in the relationship right from the start.

The discussion of a prenuptial agreement may result in no problems at all – your child and her fiancée may understand perfectly your desire to protect your assets, and have no objection to this technique to do it. Alternatively, this discussion can lead to total disaster – your child's fiancée may become so upset and angry that he calls off the wedding. Somewhere in between, your child and her fiancée may reluctantly agree to sign an agreement, while harboring lifelong suppressed and unspoken resentment and anger toward you, or each other, because of it.

It may be wise to carefully consider these possibilities, and to weigh your desire to protect your *Financial Capital* against the risk that you may jeopardize your *Human Capital* – the loving and happy relationships you share with your child, and you may hope to share with your child's life partner. You may decide that a prenuptial agreement is simply not worth the risk – after all, what good is all the money in the world, if your loving family relationships are fractured and unhappy?

A Valuable Message

We hope that you enjoyed our message in this month's VALUABLES, and we love it when you share our articles. So feel free to post this on Facebook, Twitter, or any other form of social media. You might also feel free to email out to a friend or family member who might appreciate it.

At the very least, if you liked this message, do us a favor and visit our blog and "Like" this post to let us know, and be sure to leave a comment or question. We love to hear from people about the issues they are facing so we offer our take and share what we have learned from our time servicing clients and their families.

To like, share or leave a comment about this article, just visit this post on our blog by [clicking HERE](#).

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