

Will Kobe Bryant Lose Millions? Prenuptial Agreements - To Have or Have Not

Earlier this month, Vanessa Bryant filed for divorce from her husband of ten years, Kobe Bryant. Vanessa cited “irreconcilable differences” as the reason for the divorce. Nonetheless, it has been thoroughly reported that Kobe had at least one intimate evening with a woman in Colorado. Since California is a “no-fault” state when it comes to divorce, any previously committed adulterous actions are not taken into consideration in determining the outcome of the case. As a result, the talk in the tabloids has now turned from possible infidelities to possible divorce settlements with much commotion about the millions that Vanessa will obtain. One Los Angeles attorney stated that Ms. Bryant will likely receive “more than enough for many lifetimes.” Some people have reported that Vanessa will be “scoring big” in her divorce settlement. However, whether fair or not, this outcome would be appropriate, considering Kobe’s accumulations during marriage and his super-sized income.

As for Vanessa’s entitlement to spousal support, the amount of such a support order is based upon the incomes of both parties, the length of the marriage, the standard of living during the marriage and a variety of additional factors. A marriage of ten years or more is considered to be a “long-term” marriage. While sometimes the “supported spouse” of a long-term marriage may receive spousal support for *the rest of his or her life*, oftentimes, the particular facts and circumstances of a case will result in different outcomes when it comes to spousal support. For example, in this case, the Court may consider the length of Kobe’s career, Vanessa’s ability to earn income, whether from her own employment or her investment income, and their relatively young age and good health. Since each case is different, it is difficult to predict how much support, if any, Vanessa will receive, or for how long.

Under California’s community property law, all earnings and other assets obtained during the marriage (aside from gifts, inheritances, and a few other exceptions) are community property. Upon dissolution of a marriage in California, generally speaking, each party is entitled to half the community property assets and obligations. For purposes of property division, it does not matter how long the parties were married or what happened to cause the divorce. Thus, despite Ms. Bryant’s lack of income herself, she is entitled to keep half of everything the two of them received during the marriage.

Kobe and Vanessa chose not to execute a premarital agreement. Therefore, under the *California Family Code*, Kobe is unable to protect his wealth gained during his stellar career with the Los Angeles Lakers and Vanessa will likely receive one-half the value of the parties’ accumulations during the marriage. If the parties had entered into a prenuptial agreement, they could have essentially created their own terms in an agreement which would supersede the community property laws of California, where people can mutually decide prior to marriage that they want to keep all or part of their income, as well as assets purchased with income earned during the marriage, as their separate property. This would have safeguarded the Bryant’s separate assets from division at the time of divorce. There are a variety of combinations of separate and community allocations that the Bryant’s could have made to protect each of their separate acquisitions. Choosing not to do so was, in Kobe’s case, a big - and expensive - mistake.

However, premarital agreements are not only for the wealthy. Kobe was not wealthy when he got married. Even if he had been, the topic of premarital agreements is usually pretty low on the priority list of fun wedding discussions. Young lovebirds would prefer to focus on building a life together rather than contemplating a divorce or death. It can be difficult and uncomfortable to bring up such a conversation. Nonetheless, no one knows what the future holds, rendering it a prudent decision to execute a premarital agreement even in the absence of high incomes or assets at the time of marriage.

Would you ever consider getting a pre-marital agreement or do you have one already? Why or why not? How would you advise a friend to broach the topic of executing a premarital agreement?