

HOW TO HAVE
AN AMICABLE
DIVORCE

Separate LIVES

Local experts share insights on the law and finances to help you secure your best life after divorce.

By Laura Quaglio



When Miranda J. (not her real name) of Chester, N.J., realized her marriage was failing, her first impulse was to flee. “It was a toxic situation that wasn’t going to resolve itself,” she says. “I just wanted to leave.” Her next decision was one that would dramatically impact her future: Miranda met with an attorney before packing her bags.

“I learned that had I left before we both signed a separation agreement, I would have been at fault for abandoning our marriage,” says the then-Virginia resident. As the breadwinner with significant premarital assets, Miranda would likely have lost half of everything. Instead, she later filed for an annulment

based on fraud. (She had found inappropriate texts from another man on her husband’s phone.) Once the marriage was annulled, which is a ruling saying it never existed, everything reverted to the couple’s premarital status, including assets and last names.

Fortunately, not all splits are this contentious. In fact, there is a nationwide trend toward collaborative divorce, in which both parties sign an agreement promising to settle the divorce without litigation. A further condition: If collaboration fails and the matter goes to court, each party must secure a new attorney—a stipulation that makes the prospect of “working it out” even more appealing.

Collaborative (aka amicable) divorce isn’t for everyone, says Jennifer Weisberg Millner, Esq., a partner at Fox Rothschild LLP in Princeton, N.J., who is certified in collaborative law and is a contributor to the New Jersey Family Legal Blog (see “Where to Turn,” page 33). This approach typically works best with marriages that “just didn’t work out.” “Maybe there was not a cataclysmic event that created a great deal of anger; maybe they have a strong friendship; or maybe they are very dedicated to their children. That’s probably the most common idea of an amicable divorce,” says Millner.

“A divorce is only going to be amicable if



both parties want it to be,” adds Wendy M. Rosen, Esq., a partner with Ulrichsen Rosen & Freed LLC in Pennington, N.J., who is certified in collaborative law and sits on the board of the Mid-Jersey Collaborative Law Alliance.

Real Woman sought the advice of Millner, Rosen, and other legal and financial counsel from the Mercer County area to bring you these additional insights:

A CASE FOR AMICABLE DIVORCE

Legally, divorce is the dissolution of a marriage. It can be litigious (a judge decides the outcome in court) or amicable (the parties

come to an agreement, and the judge finalizes the dissolution).

“Litigation can be very expensive,” says Millner. “But far more importantly, if you go to litigation, you are asking a judge to make a decision that is going to affect the lives of you and your children.” Given that the average Mercer County judge has 400 cases on her docket per year, the person deciding your future is unlikely to be as well-versed in your details as you are.

“It’s better to create your own destiny,” says Eliana Baer, Esq., an associate with Fox Rothschild who helped develop the New Jersey Divorce App. This is particularly true for

WHERE TO TURN

For support and help with divorce, consider these resources, recommended by financial and family-law experts:

Institute for Divorce Financial Analysts This website can help you find a Certified Divorce Financial Analyst (a person trained in pre-divorce financial planning). Visit institutedfa.com and click on the “Find a CDFA in Your Area” link.

International Academy of Collaborative Professionals Visit the website (collaborativepractice.com) for information on collaborative divorce, mediation, minimizing hostility, and more.

New Jersey Divorce App

This app (free in the iTunes Store) was created by Fox Rothschild and offers access to resources and information about every stage of divorce.

New Jersey Family Legal blog This collection of articles (njfamilylaw.foxrothschild.com) provides specifics regarding divorce and family law in the Garden State, including alimony, child-centric issues, and prenups.

Mid-Jersey Collaborative Law Alliance

This site (mjcla.org) was created by local attorneys, financial and mental health professionals, and advisors. In addition to tips, resources, and events, you’ll find contact information for local professionals.

The Collaborative Way to Divorce

Written by Stuart G. Webb and Ron Ousky, this book describes the process of collaborative divorce and how to reinvent your post-divorce relationship.

parents. “If you have a contentious divorce,” adds Baer, “it’s unlikely that you’re going to be able to co-parent amicably again.”

An amicable divorce is also typically faster, explains Lauren Koster Beaver, Esq., another associate with Fox Rothschild, who also serves as a mediator in yet another type of divorce case. (In mediation, an impartial third party facilitates negotiations and settlement, with each party’s attorney weighing in before clients sign.) In the months it would take to litigate, kids will grow up, jobs may change, and life goes on as you wait your turn in the system. If you can come to a resolution on your own, the court’s only role is to grant the dissolution of the marriage. What’s more, says Rosen, “In collaborative cases, most people are more satisfied with the result because they personally chose it.”

FIRST THINGS FIRST

When seeking a divorce, most people see an attorney and then a financial advisor. However, it may be helpful to reverse that order, suggests Marianna Goldenberg, a Certified Divorce Financial Analyst (CDFA) and founding principal at CURO Wealth Management in Langhorne, Penn. “The first thing an attorney is going to ask for is your financial information,” she says. Since a CDFA is an expert in divorce-related finances, she recommends having her (not an attorney) help you gather and organize your financial documents.

When Goldenberg first meets with a client, she supplies a comprehensive list of what to collect, then uses the information from those materials to generate a spreadsheet and a summary for her client to take to the attorney. This often makes for a more productive first meeting with legal counsel, since it allows clients to discuss the particulars of their cases. Goldenberg also explains details such as how to split complicated assets (e.g., employee stock options and annuities) and the tax impact of different arrangements. (After the parties agree on a percentage split, she can

run various scenarios to show the long-term effects of taking certain assets versus others.) She notes that not every financial analyst has experience in divorce finances—but you want one who does because she will know things that may otherwise be overlooked.

Further, Goldenberg stresses that the goal of a collaborative divorce is an “equitable, not equal” settlement. For instance, if a woman agrees that part of her settlement will be an IRA in her husband’s name and she’s not yet 59½, she won’t be able to use that money for current expenses unless she pays tax and a penalty to withdraw it. Translation: If the wife needs that money now, the split would not be equitable, even if her spouse receives an equal number of assets. If that’s a bit confusing or surprising, it only underscores the wisdom of seeking a professional who is schooled in divorce-related finances.

ALL THINGS CONSIDERED

Before you take your portfolio to an attorney’s office, it’s helpful to envision your future, says Beaver. “If you could have everything you want, what would that look like?” she asks. Being able to clearly articulate your vision will help your attorney decide how to proceed.

Still, you must be reasonable. “People think the only difference will be that their spouse will be gone,” says Baer. “They don’t realize the magnitude of the change.”

Goldenberg offers this example: Many times, a woman wants to stay in the marital house but doesn’t consider costs beyond the mortgage, including taxes and maintenance. Chances are, your lifestyle and budget will have to change at least somewhat since the expenses you once shared will now be yours alone.

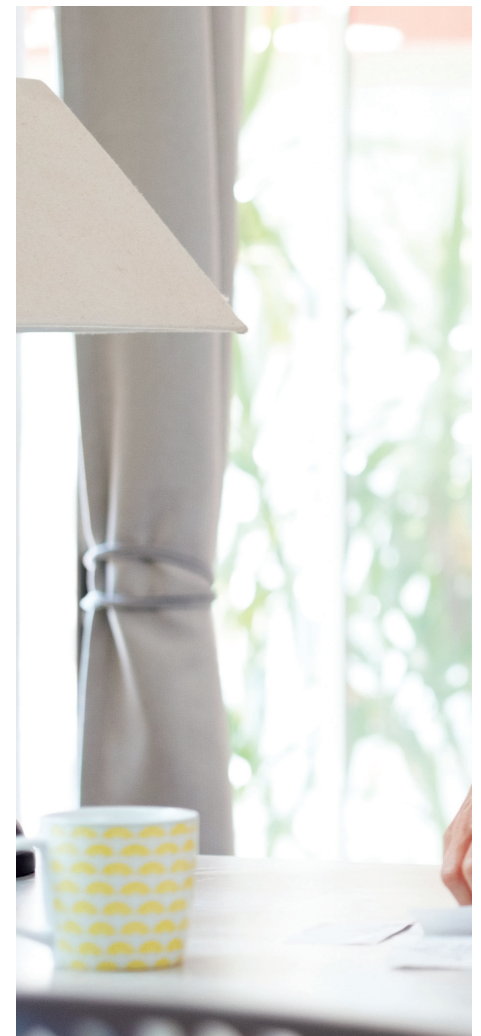
When you’re a parent, you’ll also want to view the divorce from your children’s perspective, Millner explains. Where are they going to live and on which days? Will a stay-at-home mom need to get a job, and how may that affect child care? If there’s a

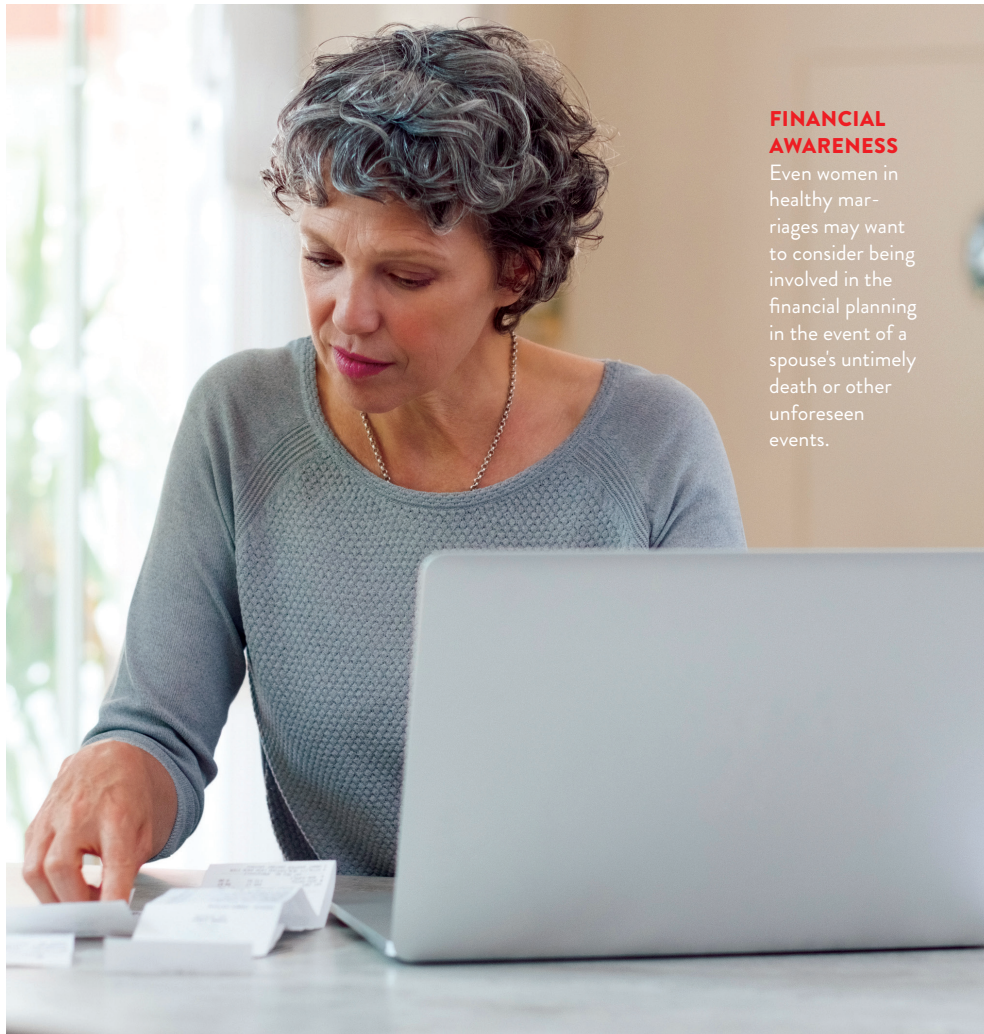
special-needs child, how might the divorce affect access to resources? Will the kids need to change schools?

Rosen asserts that it’s best to focus on child custody rather than getting caught up in the monetary breakdown. “With child support, there are guidelines based on income,” she says. “If you focus on what is in the best interest of the child, the support will fall into place.”

SKELETONS IN THE CLOSET?

“The most important thing is to find an attorney, counselor, or professional whom you feel comfortable with,” says Millner. You’ll need to reveal all pertinent information—including intimate details—up front. Nothing is more upsetting to a lawyer than “shifting facts.” Lawyers begin to develop a





FINANCIAL AWARENESS

Even women in healthy marriages may want to consider being involved in the financial planning in the event of a spouse's untimely death or other unforeseen events.

GET A HEAD FOR NUMBERS

If your husband handles all the finances, it may be time to rethink that. "Be involved and educated about your finances and ask questions if there is something you do not understand," says Fox Rothschild's Beaver. "You might not be the person paying the bills, but make sure you are aware of your assets and have online access or account statements that you can reference." This is vital, whether you're happily married or not. Other forces, such as a serious illness, may leave you in charge of the bills, so it pays to be well-informed.

Not married yet? Wendy M. Rosen, Esq., recommends a prenup to anybody who is entering a marriage with personal or business assets. "People don't want to think about protecting their assets when they're in love and getting married," she says. But it's just as important for women as it is for men. "We're seeing more and more women paying alimony to men," she says.

strategy from Day One, says Baer, and it's very frustrating—and counterproductive—to reveal additional information down the road. "Don't be embarrassed or ashamed by what you or your spouse are doing. We've heard everything," adds Beaver.

Finding a good fit may mean interviewing several lawyers or legal firms. For an average divorce case, you'll be working closely together for about a year. "If a client isn't comfortable with me, it will be that much more difficult," says Millner. "I'd rather not have a client than have one whom I'm at odds with."

Other professionals may also play key roles in the divorce process, including a divorce coach (who addresses emotional issues in a collaborative divorce), an accountant, and various therapists and counselors. Some of these resources may be shared by both parties in a collaborative divorce.

FOCUSING ON THE LONG GAME

Don't do anything without thoroughly considering the repercussions. This mostly entails maintaining control over your raw emotions. For example, says Baer, you don't want to slip and tell your kids that their dad is cheating. "That can ruin their relationship," she says. "If you have children, remember: That person you're divorcing is going to be your co-parent forever."

Likewise, don't rush the process. Verification is key, says Millner. You don't want to agree to split a bank account, for instance, without seeing documents that confirm what's actually in it. "Once you agree to something in a divorce settlement, absent extraordinary circumstances [like fraud], you don't get a do-over," she says.

Last, don't seek advice from a divorced co-worker or friend on how to settle your case, or compare your deal to theirs, insists Rosen. "If you want to vent to them, that's fine," she says. "But you really need to learn from forces that know what they're talking about. Every case has different facts, so you cannot compare yours to anybody else's."

As for Miranda J., her story has a happy ending. She has been in a "phenomenal marriage" for the past 6 years that has produced two adorable kids, ages 5 and 1. "The first time I got married for the wedding," she says of the event, which was a "New Year's Eve black-tie extravaganza" with an \$80,000 price tag. "The second time was because I genuinely loved the person and we were a good team. People say, 'Third time's the charm,' but the second time was the charm for me."