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Breaking up now even harder to do

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Attorney Bonnie Rabin confers with an associate outside Brooklyn Supreme Court in New York. Rabin says that the financial crisis has sent her and other divorce attorneys to court countless times, renegotiating agreements for clients.

Associated Press

NEW YORK -- Bonnie Rabin is fond of saying that divorce lawyers are a bit like liquor stores. They're busiest in the really good times, and the really bad.

These, of course, would be the bad times.

After all, "Money is THE great source of stress in relationships," said Rabin, one of five partners in a Manhattan matrimonial firm, who speaks with the quiet authority of someone who's spent two decades speaking to troubled spouses. "You think it might be sex, or the kids. But no, it really comes down to money."

And so it stands to reason that in such a dire time -- when "virtually every day, I hear from a client who's lost their job," Rabin said -- troubled relationships become more troubled. And once seemingly solid unions begin to fray.

But that doesn't mean everyone's rushing to divorce court. It just means that every step of the process is more fraught, more complicated, more difficult. Breaking up in this economy, it seems, can be a lot harder to do.

So while some of Rabin's clients are taking the plunge, others are hesitating, figuring they'll ride out the worst of the economic storm, hoping their homes will regain value, their stock portfolios rise again, their 401(k)s recoup before the pie needs to be cut.

"These days, a lot of people can't afford to even maintain one home, let alone two homes with two mortgages or rents, cable, electricity, phone, two health insurance policies," Rabin said.

And there's a whole other group that's taking up Rabin's time these days: Clients who are already divorced or separated and finding they simply can't live up to obligations they made in flusher times.

Says Rabin: "They're saying, 'I just can't pay for that private school anymore, that sleep-away camp, the piano lessons and the art classes. I know the judge ordered this, but I can't do it anymore.' And so we need to go back to court."

Whatever the status of a client -- long divorced, just divorced or not yet -- this is the season of facing up to cruel realities. And so a crisp November day begins with Rabin in a Brooklyn courtroom, arguing to the judge that her client, a manufacturer who's been suffering severe losses, cannot meet the demands expected of him.

"The spouse has expectations," Rabin said later. "She can't quite understand why things are going to be different. But this isn't a case of sudden divorce poverty" -- the frequent phenomenon of a spouse suddenly claiming they're poor. "This is true. This is real. The glory days are over."

It's way too early to know the impact of the current financial crisis on divorce rates. Divorce has been on the decline in America for the past 25 years, after peaking in 1981. There's a common notion that one of two U.S. marriages ends in divorce, but many experts feel the real number is more likely between 40 percent and 45 percent.

The divorce rate did drop sharply during the Great Depression -- couples delayed marriages as well -- but that wasn't necessarily a good thing, says Stephanie Coontz, who teaches history and family studies at Evergreen State College in Olympia, Wash.

"At the time, people wrote that a silver lining of the Depression was that marriages were being saved," Coontz said. "But domestic violence rates went up. When people are forced by economic pressures to stay in a marriage that has already gone south, that's not good for them or for their kids."

Anecdotal evidence seems to show that divorces may have slowed down in recent months. Coontz said she's heard from some attorneys that they're seeing fewer divorce filings, and the American Academy of Matrimonial Lawyers got a similar result when it polled its members.

In numbers released this week, 37 percent of the group's 1,600 members said they saw a decrease in divorce cases during national economic downturns. Forty-four percent said they saw no change, and 19 percent said they saw an increase.

"One thing we always see in a bad economy is fear," explained the academy's president, Gary Nickelson, a longtime matrimonial lawyer in Fort Worth, Texas. "People may want out of their marriages -- but they want to be OK, too."

And most divorces, he says, are not rash decisions made during fits of passion. "If you come home and catch your spouse in bed with someone -- then, yeah, you might run and file for divorce," he said. "But that's not how most of these things occur. Most people take a long time to take action. So when the economy turns bad, the marriage may not be the best situation, but at least it's a known."

Nickelson, who's seen that phenomenon in his own practice, is not worried about his business; he says his firm could survive for months simply on work that's waiting to get done. "But are we seeing a lot of new people flooding our doors? No."

Rabin is back in her spacious midtown office overlooking the Empire State Building, lit in purple this evening. After the morning appearance in Brooklyn, her afternoon had taken her to state Supreme Court in Manhattan, arguing on behalf of a client in commercial real estate whose business has plummeted by some 75 percent this year.

Such arguments are quickly becoming a major part of Rabin's daily schedule. "We have cases where we've been negotiating agreements for months," said the petite, red-haired attorney, a 49-year-old mother of two. "And suddenly it's all changed. We have to renegotiate, in the midst of negotiations."

Rabin said she suspects that once the numbers do emerge, the financial crisis won't be seen to have lowered divorce rates. She remembers that after 9/11, "the divorce rate came right back up after only a few months."

And, just like those who are liquidating stocks now to cut their losses, there are clients who prefer to take the divorce jump immediately. Who knows if things will get even worse? "They're figuring, 'Maybe I should get divorced before it's ALL gone,' " she said.

The days often bring difficult cases, such as the woman who recently went back to work as a real-estate broker.

"She was given paltry alimony because the judge said she'd be able to get back on her feet and support herself. So she goes into real estate. That's pure commission. What is she going to do now?" Rabin said she gets her greatest professional satisfaction from helping people like that, "people at the most vulnerable points of their lives."

She does see a potential silver lining to the financial mess -- though one that would presumably cost her and her colleagues across the country some money.

"People who would have started a real war -- well, maybe they won't start that war," she said. "Rather than spend it all on the lawyers, maybe they'll sit down and actually work out something that's fair."

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