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MARKET MATTERS: Irreconcilable financial differences

Joseph Matthews

Outrageously expensive celebrity divorces are becoming more and more commonplace. Take, for instance, Steven Spielberg's payout of $100 million to Amy Irving, roughly the same amount Tiger Woods paid Elin Nordegren. Basketball star Michael Jordan and wife Juanita recorded one of the most expensive divorces ever, with Juanita reportedly receiving $168 million along with custody of their three children.

And in perhaps the costliest divorce settlement in Hollywood history, a Los Angeles court ruled that Robyn Moore, former wife of Mel Gibson, was entitled to $425 million — precisely half the actor/director's fortune — and furthermore would receive residuals from all future movie earnings.

A nationwide study of more than 9,000 people found that divorce reduces a person's wealth by about three-quarters compared to that of a single person, while being married almost doubles comparative wealth.

When hard-earned dollars are at stake, individuals facing divorce should not be blindsided by their own finances, regretting that they overlooked precautions that could have prevented a financial — and emotional — meltdown.

Perhaps the best first step to take — one that Gibson and Moore overlooked — is to create a prenuptial agreement.

Details of what can be included in a prenup — that is, what is considered separate and what is communal marital property — vary from state to state. In a divorce, marital property may be divided evenly, unless a prenup directs the court's considerations.

An inheritance for children from a previous relationship may be protected, as may treasured heirlooms, real estate and the family business, by specifying them in the pre-marital arrangement. Retirement benefits, life insurance, 401(k)s and investments all may be specified in the document, as well as management of bank accounts, bills and expenses, and income and tax claims for tax returns. Debt liability may be deflected (without a prenup, creditors can seek marital property even if only one spouse is the debtor).

Of course, a prenuptial agreement may not specify child custody or child support arrangements — only a court can decide what is in the child's best interest.

But it is important to remember that a prenup is only a partial solution: Other documents, such as powers of attorney, wills and trusts also may be helpful.

Whether or not a prenup exists, as soon as a couple begins to contemplate a divorce, the wisest course of action is to organize documents and keep copies of financial records: titles and deeds, mortgages and bank information, lines of credit, past tax returns, and all personal identification.

Everyone should note the importance of keeping accessible cash, enough for a few nights in a hotel, meals and personal items, in the event a bank card is canceled. Maintaining enough money for a few months' worth of house payments and daily expenses also may be recommended.

Whether it is the husband or the wife who is the higher earner of the household, both should take note that an attempt to hide assets in anticipation of a looming divorce — that is, moving them to a child's name or secret account — will be seen as fraudulent by the court, and in some cases may even result in incarceration.

According to the National Endowment for Financial Education, about one-third of Americans say they have tried to deceive their spouse about money, with women far more likely to say their partner lied to them about finances.

Even though a divorce lawyer may assume many roles, including spokesperson, therapist, even shoulder to cry on — an attorney will not be an expert in finances. Each spouse should consider the services of an accountant and a financial adviser as they navigate the divorce process.

The best way to retain wealth, though, is to stay married, the nationwide study noted. Using data funded by the U.S. Bureau of Labor Statistics, the study found that because divorce can be a long and expensive process in itself, it results in a four-year decline in wealth, whereas people who got married and stayed married were far more likely to show increases in wealth accumulation.

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