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divorce *Team Style*

“Divorce is hard. It’s the death of a relationship and dreams—a huge dislocation. Yet, you have to look at it as a transition. The lesson of getting older is that we can survive the hurt.”

*Abigail Trafford
Washington Post
Columnist and
Author*



Susan Reach Winters, Esq.

Shareholder and Chairperson of Family Law Department
Budd Lerner, PC

- 25-year career veteran with broad experience in all areas of family law practice – divorce, prenuptial agreements, custody and visitation, child support, alimony and equitable distribution
- Author to NJ Practice and Family Law Practice in New Jersey; widely published in professional journals
- Speaker at high-profile conferences and guest on radio and TV talk shows
- Recipient NJBIZ: New Jersey's Best 50 Women in Business

"A client may often think of him or herself as a failure because of the divorce. I try to get the client to understand that it wasn't a failure, something just went wrong. I tell them: 'That part is over and you're moving into a new phase.'"

Budd Lerner, PC

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Keara Reilly

Licensed clinical social worker, marriage and family therapist, psychoanalyst

- Faculty member of New Jersey Institute for Training in Psychoanalysis teaching courses in Ego Psychology and Resistance
- Previously staff clinician in community health centers, providing individual, couple, family and group therapy
- Previously, medical social worker, bereavement coordinator, working with hospice families helping them react to and cope with separation and loss

"Whether or not a person initiates a divorce, he or she experiences significant trauma and emotional turmoil that is most difficult to manage alone. As a therapist, I guide and support a person in confronting failures of the past, managing crises in the present and developing a positive attitude towards the future."

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Divorce may be unpleasant, but it is here to stay. This psychological revolution, as many experts call it, takes an emotional, mental and physical toll on more than one million lives in the United States alone each year. Says Trafford, whose books *As Time Goes By* and *Crazy Time* address the impact of divorce: "Divorce is a trauma. Love has broken down and the buses of connection have gone off track."

"That's tough stuff," says Susan Reach Winters, the practice lead for the family law department at Budd Lerner, PC. Winters says she's pretty much "seen it all" in her 25-year law career. That's inspired her to try to improve the process. There may be no perfect way to end a marriage, but Winters is committed to having her clients come out of the divorce process post marriage reinvented and positive. So several years ago she initiated the team approach to divorce at her Short Hills, New Jersey-based firm.

The team approach brings together four professionals, each with a particular expertise, to deal with the various pain points of the divorce: a lawyer to protect the client's legal rights; a therapist to help the client deal with emotional and child-related issues; a forensic accountant to identify and value the marital assets; and a financial advisor to assist the client in planning his or her future. Positioning herself as the quarterback, Winters recruited her first string: Keara Reilly, a psychotherapist in private practice; I. Alan Hirschfeld, partner-in-charge at Marcum LLP in New Jersey; and Mark Murphy, president and chief executive officer, Northeast Private Client Group.

How team divorce works

All three positions support Winters in her endeavor to get to closure on all items — legal, financial and emotional. "There's more to a divorce than the legal aspect," said Trafford, and the team approach seems holistic."

"There's a piece missing when the lawyer tries to do and be all things," says Winters and adds that not all team members are on the "field" at the same time, and sometimes not all their functions are in play. Sometimes, she calls in other professionals to perform the mental health or financial roles and takes those names from a short list of other specialists when she feels another specialist might constitute a better fit for a client.

According to Winters, a client is only ready to reach a settlement when he or she has a clear mind. "If you're stuck in anger," said Susan, "you'll be in *The War of the Roses* forever."

When a client agrees to therapy, the whole case becomes less emotionally charged. "When your emotions are out of control, you are out of control," Winters says. And as humane and empathetic as Winters is, she'll tell you in no uncertain terms that she doesn't mince words. For example, a non-working wife may want her to negotiate to keep her house. "Can you afford to keep the house? It doesn't make sense," says Winters, to get her clients to reality.

"I set real expectations based on real facts," she says, and in large part she relies on her financial team to provide these facts. Hirschfeld creates a menu of assets and lays out the marital lifestyle including earnings and expenses. Murphy takes Hirschfeld's information, sometimes gives input early on and typically picks up or begins his job following the settlement to discuss a client's financial future.

Well-oiled machine

"The three are all wonderful resources for me," says Winters. "They help me do my job more efficiently and make me a better lawyer." Their intervention also helps the client. "Each of us working from our areas of expertise makes the process more streamlined." And because the four are accustomed to working together they have the advantage of knowing what each other is thinking even before anything is communicated. This eliminates the need for protracted meetings and discussions and saves the client time and money.

How strong the team members present their case when they meet with 'the other side' relates directly to how likely it is that the team will get a

pretrial settlement. “Susan and I need to show the other side what they would be going up against if we go to trial,” says Hirschfeld. “Quite often it’s a question of who will be more convincing and more credible as the expert who takes the stand.”

According to Winters, about one percent of cases actually go to court. “The goal is to settle to avoid having a judge determine your fate.” Showing your cards is important because it lets the opposition size up your position and the strength of your case before you even get to that point.

Less battle time

Avoiding court is much easier if emotions are minimized. That’s where therapy helps to separate the business of the divorce from the emotion of the divorce and “ideally gets clients through the transition period with less battle time,” Reilly says.

“My job,” said Reilly, “is to help spouses deal with emotions around the break and to have them get in touch with their feelings. “People must deal with their emotions good and bad, because left unexplored these emotions can cause harm.” This provides them with a new level of self-knowledge and frees them up emotionally, allowing them to see that they have options and can make choices about their behaviors.

According to Reilly, during therapy clients learn how different behaviors lead to different consequences. This can lead to a divorcing spouse understanding his or her role in the break — an important point, adds Tafford, because “it’s very tempting to blame the other spouse, even if it’s your fault.”

Therapy can also be beneficial for the children, especially when one spouse is trying to turn the children against the other, says Reilly.

What goes on in a therapy session is vaulted unless a client gives permission for Reilly and Winters to talk. “This is helpful; it gives me a chance to learn ‘who and what I’m working with,’” says Winters.

Important financial issues

Revenge is often played out on the ‘battlefield’ of dividing the financial assets in the marriage. Engaging a forensic accountant early in the case narrows the focus to the most important financial issues and also leads to completing a thoughtfully prepared settlement proposal earlier in the process. Forensic accountants, who analyze lifestyle for spousal support purposes and determine actual cash flow (as opposed to taxable income) available for child support and equitable distribution, can untangle a complex web of marital and nonmarital assets — something a traditional CPA may not have the knowledge and training to accomplish.

Valuation is particularly important when one spouse owns a small business. Because an entrepreneur is typically too busy with the day-to-day business operations, he or she doesn’t have the resources to know the real worth of the business. Hirschfeld says that sometimes one spouse is the bread winner and the “nonmonied” spouse may not be aware of the real estate deal in Colorado, the ski resort in California or the LLCs in North Carolina. A spouse may also begin to dissipate assets, and put money away in things like gold coins, accounts in the Caymans, or art, and the assets begin to disappear.

Winters emphasizes that “there are no real winners in divorce.” The goal is to achieve a fair and equitable settlement under the law of the state in which the divorcing couple resides. In New Jersey, for example, the courts divide property under the concept of “equitable distribution.” This means that assets and earnings accumulated during marriage are divided “equitably,” or “fairly” but not necessarily “equally.”

“You have to be familiar with the particular rules of family law in a state — and it varies state to state — and view the assets beyond the traditional business valuation to establish the true cash flow on the basis of the marriage entity,” says Hirschfeld. “For example, I am required to take a nonliquid asset like a family business and determine its value according to the specific guidelines in the state in which the married couple lived as opposed to its actual fair market value.”



I. Alan Hirschfeld

Partner-in-charge, Marcum LLP Advisory Services (NJ)

- Certified Public Accountant (CPA) accredited in Business Valuation (ABV), Certified in Financial Forensics, Masters of Business Administration (Finance)
- Previously the Executive Vice President for a national cosmetic surgery and dermatology practice
- Previously Chief Operating Officer and Chief Financial Officer of a publicly-traded vitamin manufacturing company
- Frequent lecturer/speaker on litigation support accounting, business valuations and matrimonial accounting

“All of us on the team have a sense of higher purpose. The ultimate motivation is to make our clients’ lives better, and at the end of the process we experience great satisfaction. It’s wonderful to hear a client say: Thank you. Had you not been there how would I have gone through this and settled this and gotten some closure.”

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Mark Murphy

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- Chartered Life Underwriter (CLU); Chartered Financial Consultant (ChFC); current candidate, Master’s Degree, Financial Services (MFS)
- Bachelor of Science Finance, Indiana University
- NFL Registered Player Financial Advisor
- Past President, Executive Committee, Guardian Field Force; Charter member of the Guardian Chairman’s Council
- Board of Directors at Association of Advanced Life Underwriting (AALU)

“Having good golf clubs is not as good as having a good swing. There’s a lot of competition in this business and everyone wants to sell people the best clubs. We [the team] try to spend time with clients to make sure they have a good swing.”

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Observations from Winters during her 25-year practice of family law

“I’ve found that the same thing that attracts you to your spouse, is the biggest stressor during the marriage.”

“Kids and money are also big stressors. It’s why people stay and also why they leave.”

“We may be dealing with a snapshot in time, but given the current economy and its presentation of issues that are different than anything we’ve ever encountered in the process before [e.g., joblessness, real estate issues], it’s even more important to get things right.”

This knowledge base benefits clients who, in turn, are more capable of making decisions. “If the wife isn’t cognizant of all assets and what they’re worth, then how will she get the point that \$1.3 million is fair? You also don’t want the divorcing spouses to agree on a settlement and wake up two years later dissatisfied.”

Hirschfeld says unfortunately some clients will not budge, and this puts their lives on hold. “Even if you think the settlement is not perfect, even if you have to part with a measure of assets, you have to weigh this against the opportunity to now start over with the rest of your life.”

And the rest of your life is when Murphy steps in to help clients manage the settlement assets to maintain their lifestyle. “\$1 million may sound like a lot of money, but you have to invest some of it, and you still need enough money to pay the mortgage and send the kids to school,” says Murphy.

The future value of money is tricky whether a client is a working or nonworking spouse. The key is to enable the divorce(e)s to live in the same lifestyle to which they have been accustomed during the marriage. The nonworking spouse raises kids and sends them to college but may not have the money to retire anywhere near the lifestyle to which he or she was accustomed. Also, following the divorce, the working spouse has to continue to pay child support to the family and maintain his or her divorced spouse’s lifestyle. “There are no retirement assets because basically the last 20 or 30 years have been spent supporting two families,” says Murphy. “People live close to means of what they earn and supporting two families doesn’t bode well for creating wealth.”

A bit of education

Murphy also often educates his clients, particularly if they are nonworking spouses, about going back to school, getting additional training and pursuing other opportunities that help establish a career. “There is really not much difference between someone raising children as a full time job and a professional athlete. If you’re in the NFL, there is life after football — and it’s not just about money. Learning that your investments do not provide enough money is a reality check; but education and work give you an opportunity to achieve what you want to achieve in life.”

He also helps clients put together an integrated plan: retirement funds, investment portfolios, tax considerations which reduce payments to the IRS and increase the amount of money for the ex-spouse and children, and insurance. “I give them a little direction, a little creativity and a little companionship; this leads to a plan that empowers them.”

Winters says she shares the wisdom of her family law background with clients when appropriate — particularly women who have relied on their husbands for support during marriage. “All the ‘d’s’ can happen: death, divorce, disability, disaster. You must have a plan; you have to decide whether you want to plan life or let life happen.”

There are other considerations. “Dating is scary,” says Reilly. “Some clients haven’t dated for 10 or 12 years, and their emotional bruises are horribly painful.”

Reilly says that divorced men have trouble with performance anxiety and deciding when they want to have sex; women have trouble deciding when they should agree to have sex. Some people can’t fathom living alone. “During the transition period, the therapy can increase their tolerance and their ability to deal with frustration and function on their own.”

The team approach to divorce gives clients a competitive advantage in the divorce process, but, as importantly, it can help them accept that divorce is not a permanent condition and move past that transition to a richer, better life.

Says a client: “I’m a million times stronger now that I have my team in place.” That pretty much sums it up.

Barbara Mannino is the business and finance editor for Silk Purse Women.