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Couples delay divorce, wait out recession

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The recession has caused drops in everything from retail sales to divorce rates. While the former is edging up, however, the latter is continuing to fall.

In fact, the latest survey by the American Academy of Matrimonial Lawyers (AAML) shows 57 percent of lawyers nationally have seen a drop in divorce filings compared to last fall — which had already seen a plunge in filings compared to 2007.

"Forced to weigh damaged marriages against tight budgets and uncertain financial outlooks, many spouses seem more willing to try to wait out the recessionary storm," says Gary Nickelson, president of the AAML.

Couldn't that be good news? Couples sticking it out instead of throwing in the marital towel?

Not necessarily, say lawyers and therapists who see the emotional and financial toll it takes on couples who stay together when all they want is out.

For example, says Vienna divorce attorney Alan Plevy, "waiting out the recession" might just mean that there is even less equity in the house to split — but more debts to divide — when all is said and done.

"In many cases these days you're doing great if you can get out debt-free," says Mr. Plevy, who often sees clients with more than \$60,000 in credit-card debt and little or no equity left in the house.

Opting for divorce these days requires a big dose of realistic expectations, he says. In the past, one spouse might have been able to stay in the marital home — having the other buy him or her out — but that no longer is possible for many.

"Very few people can afford to stay in the marital home," he says.

The only true "winners" in recession divorces are very well-to-do people who can buy their spouses out of the house for less than they could have a few years ago because property values have fallen, he says.

But spouses also should consider — instead of holding off on a divorce for financial reasons — putting provisions in divorce negotiations to mitigate financial concerns, says Marlene Erskind-Moses, a divorce attorney in Nashville and president-elect of AAML. For example, the marital home could be rented until the market recovers, then sold and the proceeds split.

"This is a great time to critically analyze what your best options are," Ms. Erskind-Moses says, adding that one of these "best options" includes not letting your assets become liabilities just because you're going through a divorce.

But perhaps the biggest reason not to wait things out if the marriage truly is over is the emotional price children pay, Mr. Plevy says.

"When you try to wait things out, children get exposed to a lot of stress," Mr. Plevy says.

Norman B. Epstein, director of the Couple and Family Therapy Program at the University of Maryland, agrees, but says there are things couples can do — sometimes with the help of therapists — to help reduce stress in the waning days of a marriage.

"Sometimes it's about finding the least destructive holding pattern," Mr. Epstein says.

This means the couple has to learn to operate in a neutral, cooled-off mental zone when around their kids. Since feelings of betrayal and hurt are so close to the surface, however, that's easier said than done.

"We work with couples to compartmentalize those feelings for the time being so they can better work as a team [on finances and child-rearing]," he says. "This doesn't have to completely control their lives."

In the reality of this recession, however, even couples who both want a divorce can get stuck in a dead marriage.

Take Sheryl Schelin of Myrtle Beach, S.C. She and her estranged husband wanted to get a divorce two years ago but because of financially tough times that included job loss, they couldn't afford to maintain separate residences — a prerequisite to file for divorce in that state, she says.

So, Ms. Schelin now lives with the couple's 10-year-old daughter and her estranged husband lives with his new girlfriend and neither can completely move on emotionally.

"It's totally draining," she says, adding it feels like she's in limbo, neither going backward or forward. "I want my maiden name back, but that's not going to happen until the divorce goes through."

Which will be next summer at the earliest, she says.

So, in the end, can anything good come out of this temporary drop in divorce rates? A permanent reduction, perhaps?

"I suspect that the fundamentals of human nature have not changed," Mr. Plevy says. "The economy has changed, but not our personalities."

He adds: "I think eventually we'll reach the same levels as before the recession."

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