

YOUR ACTIVE WEALTH PODCAST

Ensuring Financial Wellbeing After Divorce

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Featuring:

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[00:00:01] **VO:** What do you want your wealth to do for you? Welcome to *Your Active Wealth* from BNY Wealth, where we offer insights that can help support the life you want to live and the legacy you wish to create. We tackle timely topics through the lens of the five strategies that comprise our Active Wealth framework: Invest, Protect, Manage, Borrow and Spend, and provide guidance on navigating the unpredictable to help you build and sustain wealth.

[00:00:30] **Chris:** Hi, I'm Chris Gold, Market President for BNY Wealth's Dallas office and the host of today's episode. Welcome back to *Your Active Wealth*.

While most people don't generally get married believing they'll one day get divorced, it would be financially irresponsible to completely rule out the possibility. With any risk in life—whether it's likely to happen or not—there should be some consideration for what to do if it does, as well as how to ensure it doesn't derail your entire life.

Although the annual divorce rate has declined substantially over the past two decades (2.4 per 1,000 people in 2022 versus 4 per 1,000 people in 2000), the U.S. has a higher divorce rate than much of the world, tying three other countries for the ninth highest rate.¹ Coupled with the fact that 43% of first marriages end in divorce, with that percentage increasing to 60% of second marriages and 73% of third marriages, divorce is an unfortunate fact of life that many will eventually face.

Specifically, gray divorce, which is when those aged 50 or older dissolve their marriages, disproportionately affects the financial wellbeing of women, with that demographic typically experiencing a 45% decline in their living standards compared to their male counterparts, who experience a 21% decline.² While this stems from many catalysts, including the gender wage gap, which has only begun to improve, as well as outdated beliefs surrounding stay-at-home parenting and homemaking, proactive wealth planning can help alleviate the financial burden faced by many gray divorcees.

It is my pleasure to welcome Judy Barton, Wealth and Transition Advisor at BNY Wealth, who we are delighted to have share her expertise on managing wealth through divorce. Judy will provide valuable insights on assembling the appropriate team of advisors as well as the most essential considerations before commencing the proceedings. To begin, what are some of most critical considerations when divorce is underway?

¹ **Forbes:** *Revealing Divorce Statistics in 2024*. October 16, 2024.

² *Ibid.*

[00:02:32] **Judy:** Thanks, Chris, for having this conversation with me today. I think it's really important. There are two critical considerations from my experience in working with those going through a divorce that I think somebody should consider. And the first is making sure that you assemble the right advisory team around you as you go through this transition. The second thing is ensuring that that team from each of their different perspectives assist you with doing a review before this settlement so that you really understand the potential outcomes of all of the different factors involved in your divorce.

[00:03:15] **Chris:** So you mentioned team. Who do you need on your team of advisors?

[00:03:20] **Judy:** Well, first and foremost, the quarterback of that team should be your family law attorney. That relationship that you're going to have with the family law attorney is really important. So it's incumbent upon you to speak to perhaps a few different family law attorneys to ensure that they understand your communication style, they understand what your goals are, and they understand the type of working relationship that is going to help you to get to a successful outcome. Your family law attorney then is going to help you navigate who else needs to be on that team. And those individuals might include your trust and estate attorney, will definitely include your wealth manager and also a CPA and possibly even a forensic accountant.

[00:04:14] **Chris:** Judy, can you briefly touch on the difference between a CPA and a forensic accountant, as well as the importance of the latter as it pertains to the division of the marital estate?

[00:04:24] **Judy:** Absolutely. The CPA is going to assist you in the family law attorney and the rest of the team by looking at the marital estate and the trust and estate planning that has been done and looking at all of that through a tax lens or the tax implications on the marital estate after the divorce. Some examples of this are maybe you've done some extensive trust and estate planning and you've included some entities or some partnerships or different types of gifting strategies that include both spouses. And when you're unwinding that in a divorce or trying to figure out how to deal with that, there could be tax implications. The CPA is going to be really vital in helping that team understand the best way to navigate those tax implications, as well as possibly tax implications of certain types of assets in the marital estate, whether it be capital gains or losses or income tax implications. Different than a CPA, a forensic accountant might also be included in the divorce process and the divorce team. A forensic accountant you might think of as a detective or somebody who's really going to ensure that every single account, every single asset, every single transfer of money in or out of accounts, spending, all of those different types of financial considerations that can impact the outcome of divorce. The forensic accountant is going to be that detective and help to make sure that the inventories are accurate, reflecting the marital estate. And so they both have a part to play. But they are different advisory roles on your divorce team.

[00:06:26] **Chris:** Are there any other types of advisors that could be helpful?

[00:06:29] **Judy:** There are. And again, this is going to be really unique and specific to each divorce or each spouse's situation. You might again defer to your family law attorney to help figure out which of these professionals makes sense to pull into that divorce team. You might want to include somebody who is a valuation specialist. You might want to include an insurance professional. That could be life insurance. That could be property insurance. You might need to include a real estate agent, if there is real estate or multiple properties or even a single property. That's part of the divorce process. You might also want to include a mental health professional, somebody to help navigate the emotional part of the divorce. And again, I would always defer to the family law attorney to decide where it makes sense because each divorce is unique and may or may not need all of these different team members.

[00:07:35] **Chris:** Thank you. What does a pre-settlement review aim to uncover? And how important is it to ensuring financial stability after a divorce?

[00:07:43] **Judy:** There's two parts when you want to think about a pre-settlement review. The first is the purpose of doing that. And the purpose is to provide the family law attorney and the team and most importantly, the client or the person getting divorced, as much information about all of the assets that are part of the marital estate, that make up the marital estate, to ensure that everybody has that information for a favourable outcome. The second

part of the pre-settlement review is really the data that is produced by that review. And as we all know, data is power. And the more data that that team has, the better outcome the review will yield for the person going through the divorce.

[00:08:44] **Chris:** That's good advice. That's very well said. What exactly does the review entail?

[00:08:48] **Judy:** The review entails many different components of the marital estate and the marital assets. So I'm going to go through a lot of them. Not all of them apply again to every marital estate. But let me give you some examples. You're going to want to look at the characterisation of the assets in the marital estate. So by that, I mean, are they risky? Are they safe? Are they liquid or illiquid? Do they generate income or do they generate growth? Are they diversified or are all of the assets really focussed on one type of the market? What is the cost of those assets? Meaning what did you buy them for versus what is the value of them now? And where that's going to be impactful is if you ever sell something, is there a tax implication? You're also going to want to look at what type of structures housed these assets. Are they owned individually? Are they owned a separate property? Are they owned inside of a trust? Are they owned inside of a retirement account or are they part of a retirement plan? You also want to look at this is a long list. You also want to look at what kind of cash flow can be generated from the portfolio or a portion of the portfolio to ensure that your lifestyle can be supported by the portfolio. And lastly, you're going to want to look at your balance sheet. So you're going to want to look at what kind of debt the marital estate holds and what kind of other assets the marital estate holds. So the pre settlement review is comprehensive, and you want to make sure that you have the right team member to help you do that.

[00:10:55] **Chris:** What are the different types of divorce processes and what do each mean?

[00:10:58] **Judy:** There's a lot of different paths that your divorce can take, and sometimes your divorce will go down multiple paths depending on how it all unfolds. The thought of getting divorced obviously is scary, is unpleasant. Having the right way to unwind something that you most likely didn't intend to be unwound is really important. So you can go down the litigation path, which a lot of people think that divorce means, well, I'm just going to end up in court and the judge is going to decide everything and I'm going to get to air my grievances. And there are parts of divorces that do incorporate going to court. But it's not always the only path. You can also incorporate mediation in the divorce process. And that's where both parties agree on a neutral mediator who then tries to navigate a agreement between both parties versus having, for example, a judge in court make those decisions for you. You also can engage in what's called the collaborative process. And this is actually a very formal process that many family law attorneys are trained in and are certified in. And the collaborative process has its own path and its own positives, depending on if this is the right way for the spouses to navigate their divorce. And sometimes people just work it out and come up with their own plan and then engage a professional to document how that plan should transpire legally. And I will say that, you know, that can happen, but it really is important, especially where there are assets being divided and where there are custody issues with dependents. It is really important that even if you're just working it out, that you do engage legal counsel to ensure that you are following the laws that govern divorce by the state that you reside in.

[00:13:17] **Chris:** In the beginning I mentioned the term gray divorce. Could you define this for our audience and provide us some background on its increased prevalence as well as some of the unique challenges that's faced by this demographic?

[00:13:30] **Judy:** There is so much information out there about gray divorce. If you just Google or ChatGPT gray divorce, you are going to find many, many articles about it and it's defined by those who are divorcing over the age of 50. And interestingly, and you noted this before, but I'll revisit some statistics. In 1990, Gray divorce made up about 9% of all divorces. And the latest statistic that I've seen is from 2019, that percentage is up to 36% of all divorces. So you might ask, what is the cause in the increase of these gray divorces? And there's actually a lot of research out about different causes attributed to gray divorce. Some are, you know, the typical empty nest syndrome, financial issues, infidelity, health issues. Sometimes spouses just grow apart. Or it can be different expectations of what the after 50 years of our lives look like. And so you are seeing also much more social acceptance of those getting divorced over 50. And even those remaining divorced or engaging in another

marriage after 50 is just more socially accepted and not as much of an anomaly as we used to see. The challenges you also mentioned are real, and I think that it stems from the financial impact that divorce has differently on men versus women. And you noted some statistics that I'm going to repeat, which is important, where the impact of divorce on women is that their financial well-being and their security declines by 45%, where men's financial security declines by 21%. Other challenges associated with gray divorce really are the impact on adult children. You know, we think of divorce on how is it going to impact the younger children. But there's also considerations about how gray divorce impacts adult children and then the grandchildren. And what are your adult children's expectations? And so all of those factors are really contributing to an increase in grey divorce.

[00:16:15] **Chris:** So do you have any final takeaways for our listeners?

[00:16:19] **Judy:** I do These are some of the hot buttons that I think are just really important. If you are a happily married person, spouse, couple, all of the things that we've been talking about are really important for both spouses to participate in your marital estate and your planning. And what I mean specifically, some examples are, know where your accounts are. Participate in your planning. Please go to the meetings that you both have with your trust in a state attorney or your accountants. Please read the documents that you're being asked to sign. And if you're not sure what those documents mean, then get that advice from your advisor or from your team. It is really important as a happily married couple that you do these things. And if you are doing these things, it's also important as you are contemplating divorce, that you know where these items are. You know who your team is, you know who your trust in the state attorney is, you know who the accountant is. Secondly, you also want to get your arms around what your cash flow needs are. And I oftentimes don't call it a budget because the word budget is kind of like the word diet. It sounds restrictive and nobody likes the word diet. I don't think people like the word budget. So I tend to refer to it as your cash flow needs or your spending needs. As you prepare or think about as you are going through your divorce, it is going to be really helpful for you to get your arms around what your cash flow needs are. And lastly, and most importantly, as you're going through this transition, I really want each individual to surround themselves with a strong team. And not just a strong team that will help you navigate the divorce, but also a strong team who's willing to work together to support you to have the most positive and favourable outcome of what, of course, is a very difficult time and very difficult transition. So those are the three things that I would really encourage listeners to take away and think about.

[00:18:59] **Chris:** Judy, thank you so much for joining us today. You've provided us with some great insights. To learn more about managing wealth through divorce, I encourage you to reach out to BNY wealth manager or client strategist. Thank you again for joining and we'll see you on our next episode of *Your Active Wealth*.

[00:19:19] **VO:** Thank you for listening to this episode of *Your Active Wealth*. Be sure to subscribe to this podcast on Apple Podcasts, Spotify, or wherever you listen to podcasts, and visit bny.com/wealth to view the latest insights on the subjects that matter most to you.

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