

GAL-IMONY Typically on the receiving end of spousal support, many women are outraged to find themselves ordered to pay their exes / BY ANNE BOKMA



FOUR YEARS AGO, Madonna's split from film director Guy Ritchie made headlines as one of the biggest divorce settlements ever. Supposedly there was no prenup and Ritchie walked away with a reported \$60 million-plus of the singer's fortune after just eight years of marriage.

It's not only celebrities with megawatt salaries who are on the hook for "gal-imony." Any wife who earns more than her husband — and today that represents almost 30 per cent of women in this country — could find herself paying out big bucks if she gets divorced. According to a recent survey of American divorce lawyers, 47 per cent noted an increase in the number of women responsible for paying spousal support in the past three years. Toronto family lawyer Marion Korn says she's noticed a similar trend in Canada.

Midlife women are at the peak of their earning power, and one of the legal ramifications of receiving a higher paycheque may be doling out support to the lower-income spouse if the marriage ends. Traditionally the beneficiaries of spousal support, many women are taken aback — even angry — to find themselves ordered by the courts to support their exes. “Their thinking is often along the lines of, ‘I had to work my way to the top and had

having to pay monthly support to her ex, Bill*. His failing health during the nine years they were married (he gained excessive weight, developed diabetes, had a heart attack and stopped working when he went on dialysis after kidney failure) played a key role in the dissolution of their marriage.

It was a second marriage for Bedford. When her first one ended after 20 years, she and her ex split things equally; she didn’t go after his pension,

jointly owned by Bedford and her sister (a threat he didn’t follow through on). She briefly considered fighting Bill’s demands in court, but — picturing her ailing ex being pushed into the courtroom in a wheelchair by his elderly mother — figured she wouldn’t stand a chance. “He’d look like the vulnerable victim and I’d look like the ogre who divorced him because he got sick,” concedes Bedford. “The truth is, he refused to take care of himself. Because

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to take care of the kids, deal with my mother-in-law and handle all the domestic stuff;” says Toronto-based Eva Sachs, a certified financial planner specializing in divorce. “They are definitely more resentful than men.”

Korn puts it like this: “Women find it surprising to have to pay. That’s been my experience with all my female clients in this position.”

That was certainly the case for Miriam Bedford*, a 55-year-old Abbotsford, B.C., banker who is “furious” at

even though she was entitled to a portion of it. “I’ve always believed if you have kids, you’re responsible for paying for them,” she says, “but adults should be able to take care of themselves.”

So Bedford was “dumbfounded” when Bill initially asked for monthly support payments of \$1,000, as well as a \$50,000 lump sum that represented a portion of her \$55,000 pension and \$75,000 RRSP savings. She was also upset when Bill threatened to lay claim to one-third of her family cottage,

of his pride, he wouldn’t even apply for disability insurance.”

Bedford eventually settled on making monthly support payments of \$1,500 (out of her total monthly take-home pay of \$4,500) without the \$50,000 lump sum. She also had to remortgage her house after giving Bill his \$118,000 share, plus she was on the hook for \$10,000 in legal expenses. In an effort to curb expenses, Bedford ditched her cellphone and passed on restaurant meals. “I had many sleepless nights,”

SIX WAYS TO PROTECT YOUR ASSETS

1/ GET A MARRIAGE CONTRACT (ALSO KNOWN AS A PRENUPT) If you’re in a common-law relationship, this is known as a cohabitation agreement.

2/ BE CAREFUL ABOUT SPENDING AN INHERITANCE Provincial laws vary, but money you inherit during a marriage may be exempt from the division of family property. However, any increase in value might be shared with the other party. So if you use an inheritance to invest in a family asset, such as buying a cottage or paying down a mortgage, it may become an asset with shared value. “Many times

inherited property becomes shared property,” says Ottawa family lawyer Adriana Doyle. “If you expect to inherit money and want to safeguard those funds, you have to make sure the beneficiary indicates any interest accruing on the gift is not to be shared with your partner.”

3/ END IT SOONER RATHER THAN LATER Waiting a long time to divorce can cost you; the longer you’re married, the more you may have to pay.

4/ AVOID COURT This is probably the single best thing you can do to reduce di-

vorced-related expenses, since battling it out in court can cost tens of thousands of dollars. Many couples choose to work things out with a mediator instead. “The reality of covering the additional expenses of having two homes is reason enough to make sure the cost of the separation is handled responsibly,” says Toronto-based Eva Sachs, a certified financial planner specializing in divorce.

5/ MAKE A DEAL AROUND CHILD SUPPORT Every parent is responsible for child support. If your ex has

to pay child support and you will owe him spousal support, an agreement can be worked out where he gives up paying child support and in return you don’t have to pay spousal support.

6/ CONSIDER A LUMP SUM PAYMENT If you think you might experience ongoing resentment over the prospect of paying support to your ex year after year, you might want to consider a one-time payout. “It’s a complete release if you don’t want further obligations or contact and want to move on emotionally,” says Doyle.

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she says. “It costs only \$75 to get a marriage licence and it can cost you your life to get out of it” (see “How Much Would You Have to Pay?” at more.ca/december). Looking back, Bedford says she wished she’d had a prenup.

That’s a choice Ellen Clayton*, 49, is glad she made. Fifteen years ago, the businesswoman, who owns several retail stores in the Montreal area and had assets of about \$2 million at the time, married an office administrator a decade younger. She had the foresight to ask him to sign a marriage contract giving up any claim to her house or business. When the marriage ended seven years later, Clayton didn’t have to pay a dime. “I supported him during most of our marriage and I was glad I didn’t have to afterwards,” she says.

Clayton now lives with David*, a man her age who owns a business but has fewer assets than she does. Clayton was reluctant to ask him for a prenup. “When you’re having a beautiful time with someone, you never think it’s going to end — I didn’t want things to change between us and I didn’t want David to think we couldn’t trust each other.” Still, she worked up the courage to ask for the contract and was relieved when he said yes.

In addition to a prenup, Sachs says there are other creative solutions for settlement options that make financial sense for both sides. For example, she advised one female divorce client with a \$400,000 RRSP portfolio not to cash it out, but to take out a low-interest loan to pay her husband a lump sum equal to half the value of the RRSP. “If you are 55 and you take \$200,000 out of your RRSP, that will have a huge impact on your retirement because you don’t have the time to play catch-up.” No matter how you divide the pie, one thing’s for certain after a divorce, Sachs points out: “Both of you will end up living on less.”

Even with the financial hit she took, Bedford is relieved her divorce is final. “I didn’t go through all this to sit around and be miserable. I’m working on getting over it; I still have my home, my children, my friends and my job,” she says. “I plan to enjoy life.” **M**

**Names changed by request*