

SPLIT DECISIONS

When divorce seems inevitable, you *can* keep your horse.

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YOU'RE HAVING A TERRIBLE nightmare. In it, you answer the doorbell to find an impassive stranger on your front porch. He hands you a large manila envelope. In agonizingly slow motion, you lift the flap and pull out several official-looking documents. They're divorce papers—with *your name on them*. Your spouse, the coldly phrased sentences say, wants out of the marriage. Among the assets to be split up: *your horse!*

Or perhaps this is your nightmare: You're sitting in your attorney's office, nervously twisting a wadded-up handkerchief as you explain that you don't think you can survive another day in your miserable marriage. But you're scared to start divorce proceedings, you say, because you don't see how you can afford to keep your horse on your own income. What's worse is that you wouldn't put it past your vindictive spouse to haul away the horse—your sole source of joy and sanity—in the dead of night.

The visions recede. You awake to find yourself alone in the big bed you used to share, and a familiar heavy feeling hits your gut. This is no dream, you remind yourself—this is real. Your marriage is falling apart, and your horselife is at risk of being swept away with the pieces.

With the national divorce rate at 50 percent of all marriages, you're certainly not alone in watching your wedded rela-

tionship go up in smoke. And you're not alone with your "how can I keep my horse?" dilemma, either, because plenty of others have faced that question.

The fact that others *have* faced it is good news for you, because that means you don't have to hack a trail through untraveled country; instead, you can find help in collective experience. To bring you a horseperson's "strategy package," we consulted a trio of professionals—a psychologist and two attorneys—all of them horse owners, and all of them veterans in practices that help many divorcing clients. The tips from these pros will start you off thinking wisely, thinking calmly, and thinking *keep that horse, no matter what!*

KEEPING HYSTERIA AT BAY

First, let's address your emotions, and how to keep them under reasonable control—the better to have rationality as part of your strategy. Whether you're the respondent or the plaintiff, you're about to undergo a lengthy, exhausting, all-consuming ordeal, and the last thing you want to do is crumble under the pressure. To enter divorce proceedings with a clear and cool head:

- *Seek professional counseling.* As soon as you receive papers, or before you file them, spend at least a few sessions with a psychologist. This can go a long way in enabling you to approach your divorce nego-

tiations with the mental fortitude you'll need in order to strategize keeping your horse. Certainly, don't count on your attorney for emotional advice—that's not his/her job, and you'll end up owing your legal professional a lot of money for the hours you spend crying to him/her on the phone. Family members and friends might be convenient sources of solace, but you can't expect them to offer objective advice.

- *Recognize that conflicting emotions are normal.* Nearly all people involved in a divorce experience a lot of ambivalent feelings: love, hate, anxiety, self-doubt, fear, depression, confusion, frustration, guilt, bitterness, and more. Professional counseling will help you identify and sort out those feelings, so you can use them to make appropriate decisions about your future—and your horse's future.

- *Don't act, or react, too hastily.* Since this is likely the worst you're ever going to feel in your life, aside from when a loved one dies, it's only natural to want to get the whole bleak experience behind you as fast as possible. But giving in to that desire can cost you your horse! (Example: You feel guilty about being the one who wants out of the marriage, and therefore agree to your spouse's demand that the horse be sold, and the proceeds divided.) Give yourself the time to formulate a successful game plan for negotiation.

- *Don't expose your "Achilles' heel."* Your



spouse undoubtedly knows how crazy you are about your horse. If this will be a hostile dissolution, chances are he/she will not only want to deprive you of your most prized possession, but also will use it as a tool to wear down your mental defenses. By all means, don't resort to begging ("I'll give you *anything* if you'll let me keep the horse!"), and don't react outwardly if you're tormented by such remarks as, "I'm going to make you buy out my half, and that's \$5,000 you can't afford!" Just ignore him/her, and act mysteriously detached—your silence will shatter any feelings of having control over you.

- *Use your riding time to shore up your psyche.* Now more than ever, you're going to need a pleasant diversion from all your troubles. What better way to partake of sunshine, fresh air, and exercise than aboard your beloved horse? Important note: This is *not* the time to tackle ambitious new training tactics that may leave you frustrated or exhausted—your life is challenging enough right now.

KNOW YOUR STUFF

Okay. Let's assume you've now gotten your head screwed on straight, and that you're ready to face the legal proceedings, *determined* to hang onto your horse.

Here are some important steps to take:

- *Find your own attorney.* Even if you and your spouse are parting ways on equitable terms, don't be tempted to save money by letting him/her handle the details of your divorce—it could end up costing you your horse. For safekeeping, seek the advice of someone who only has *your* best interest in mind.

- *Get your paperwork in order.* Make copies of any and all financial statements—bank records, tax returns, stocks, bonds, credit-card balances, vehicle payments, mortgage/rent, utilities, groceries—and the bills for your horse's maintenance. Copy his registration papers (or the bill of sale, if he's unregistered), plus the documents on anything for which you hold the title. You'll need to supply these to your attorney; the information will be used to determine each person's living expenses from the time of the preliminary hearing to the final settlement.

- *Compile a visual record of assets.* Armed with a still or video camera, walk through your house, barn, garage, etc., to create a visual record of what you and your spouse own. (Your horse will be considered an asset, so be sure to get him on camera! Ditto, all your tack and equipment.) This can help alleviate future disputes over

what items were on the premises at the start of divorce proceedings.

- *Have your horse professionally appraised.* Some attorneys advise that you resort to this step *only* if you and your spouse can't reach an agreement on the horse's value. If the issue remains unresolved, you might obtain a written appraisal from a notable expert within your breed or riding discipline. But chances are, your spouse will want to hire his/her own appraiser, and if the two numbers vary a great deal, you *will* need to determine an agreed-upon value before you appear in court.

- *Make sure your horse is in a safe place.* Is your boarding stable secure enough that a disgruntled spouse would have difficulty removing your horse, even in the middle of the night? If so, that's one less worry for you.

But if not, or if your horse is stabled on jointly owned property, ask your attorney to file a *restraining order*. This order will mandate that there'll be no hiding of assets, and no alienating of property.

The absolute cruelest of spouses might defy the order and ship your horse to the meat packers. If that occurs, all you can do is file a motion for contempt, and the court will be likely to fine and/or jail your

spouse. (Although it's small consolation, such a flagrant act would boost your chances of gaining a disproportionate share of the marital assets, and/or a cash award for the value of the horse.)

Once you've covered the suggested steps above, you're ready to meet with your attorney. Take along copies of everything you've prepared, keeping an extra set for yourself (including a video dub, or photo negatives). For peace of mind, you might stash your own set of copies at a trusted family member's house, or in a safe-deposit box—at a bank other than the one normally used by you and your spouse.

IMPROVING YOUR KEEP-HORSE ODDS

Here's some general advice from our experts to help you minimize the unavoidable emotional and financial pain that comes with divorce:

- *Brace yourself: The first year is the worst.* Having been through her own divorce involving horses, one attorney cautions that adjusting to this major life change can "freak you out." Emotionally, you'll experience separation anxiety, even if you hate your spouse. Financially, you'll take a big hit. It doesn't matter how much combined income you had before;

that amount will be cut in half, while many of the expenses will stay the same. You'll still have a household to maintain, will still need a car or truck, and still will require food, utilities, insurance, medical care, and clothing—plus, you'll still have all your horse-related bills. Prepare yourself mentally for this first jolting year, and devise as many money-saving strategies as you can. It *will* get easier.

- *Scale down your horse-related expenses.* Even if temporary orders have you splitting the cost of your horse's upkeep with your spouse, you'd better start economizing now, if you want to be able to afford the total expense when you're on your own. If that means reverting from barn board to pasture board, leasing or half-leasing your horse, or eliminating horse shows, *do it*. Remember, your primary objective is to keep the horse! Once that's achieved, you might eventually be able to work your way back up to the way things used to be. Whether that means getting a job, getting a better-paying job, or teaching riding students on your horse, it doesn't matter—what *does* matter right now is that the animal go to *you* in the final settlement.

- *Don't squabble over small stuff.* Keep in mind that every minute you spend in the presence of your attorney will cost

you money, so don't sit there at the law firm's office conference table, arguing over who gets the draw reins, and who gets the dandy brushes. If you and your spouse are on any kind of civil speaking terms, try to work out the petty property division lists on your own time, then present those lists to your attorneys. Save the big-time bickering for big-time items—such as the horse!

- *If you don't have a job, consider getting one.* Maybe you're a woman who hasn't worked outside the home in 15 or 20 years, and your husband's income has always supported your horse. But unless he earns substantial money, *don't count on being awarded enough temporary spousal support to cover your horse's upkeep*. Remember, if your spouse is the sole breadwinner, the court recognizes that his/her expenses are virtually doubled now—at the very least, your spouse will have to pay for two residences in the interim. If you really want to keep your horse, circumstances may dictate that you find the means.

- *Settle the horse dispute before you get to trial.* This may seem like an impossible challenge, but there are dangers in letting a judge determine who should get the horse. First, you have no way of knowing who you're going to get—your

judge might be a sucker for horses, or a cold, judicial automaton. Second, you need to remember that the court views a horse as an *asset*, not an *issue* (i.e., a child). In fact, to call a fight over a horse a "custody battle" will make most court-room professionals laugh.

If you come to trial with an unresolved horse dispute, the judge will probably do one of the following: (1) award the horse to whomever he/she wants; (2) tell you that you have to give up X number of other assets to obtain the horse; (3) make one of you buy the other one out; (4) partition the horse by sale, via running it through an auction (which requires you to outbid your spouse); or (5) demand that you simply sell the horse and divide the money. One reasonable option that's available in some states is to request a settlement conference with the judge, prior to the trial—during which the judge can offer advice in a non-courtroom setting, to help steer you toward a decision.

- *Keep your cool in the courtroom.* Any attorney will tell you this: If you do end up before a judge, the more reasonably you behave, the better he/she is likely to treat you. And if your spouse is an uncontrollable hothead, your docile demeanor will weigh that much more in your favor. □

The editors thank the following for their generous input on this article: attorney Patricia Finch, a multi-discipline horse-woman from Seguin, Texas, who handles mostly divorce cases and equine-related cases in the general civil-law practice that she still owns with her ex-husband, Stephen; attorney Kevin Chames of Wilsonville, Oregon, whose caseload is generally 40 percent divorce-oriented, and who shows his Thoroughbred in jumper classes and combined-training events; and psychologist Edward Fuller, who's counseled hundreds of clients involved in divorces, and who with his wife, Reetsie, owns a Paint breeding farm and show facility in Oregon City, Oregon.

"After listening to the stories told by the seasoned divorce-war veterans I interviewed, I certainly feel renewed gratitude for my happy, 16-year marriage (to her college sweetheart)," says award-winning writer Anne Lang, of Austin, Texas. Says California-based illustrator Nobee Kanayama, "I've always kept my work 'neutral' in tone, but to depict this article's 'violent theme,' I had to step outside that neutrality." His artwork also graces *On The Circuit* each month, and has been the subject of many reader requests for reprints.

But What About...?

You probably have many questions about the legal ABC's of divorce, the answers to which are beyond the scope of this article. But here, from our experts, are answers to some *horse-related* questions that often arise:

- *Should I seek an attorney who's also a horseperson?*

Here's advice from an attorney who *is* a horseperson: Seek the most qualified person you can afford. Period. When it comes right down to it, it's his/her knowledge of divorce law that's important.

- *Is a horse considered community property?*

In states where community-property laws exist, a horse is considered community property if he was bought or "earned" during the marriage. If he was given to you as a gift or by inheritance, or if he was bought with money you obtained prior to marriage, he's all yours. It doesn't matter if only one name is listed on the horse's registration papers—in community-property states, the above criteria are still used to determine ownership.

- *What about states where community-property laws don't exist?*

Generally in such states, the courts are enabled to make any allocation of personal property to either party, based on what the judge feels is equitable under all the circumstances. If two persons' names are listed on the horse's registration papers, those papers might be viewed as a legal title—both persons might have to sign off to clear title before the horse can be sold to a third party.

- *What if we have comparable incomes, and we both want this horse?*

If you can't work this out before you get to trial, the decision will rest with the judge—whose primary job will be to be fair. Most judges view horses strictly as assets, and so will elect to partition in kind. (Example: You get the horse, your spouse gets the sailboat.) It's risky business to subject your horse's future to this potential version of "eenie-meenie-minie-mo," so you're much better off working out the settlement with your attorneys.

- *How can I bolster my chances of getting the horse?*

Again, don't forget that in legal terms, a horse is simply considered an asset. So, if your spouse is only interested in the horse's monetary worth, be prepared to trade an equivalent asset, or to buy out his/her half. If your spouse wants to be awarded the horse, you're gambling for riskier stakes—so be ready to show the court that you're the one with the primary interest and involvement, and that you're financially capable of maintaining the horse. For documentation, gather written statements from riders who see you out at the barn every day, entry-fee receipts from horse shows, receipts from horse-related bills you've paid, etc.

- *What if I can't come up with buy-out money immediately?*

If your spouse is insisting that you buy out his/her half of the horse, and you don't have that much cash right now, relax; in almost all divorce cases that result in buy-outs, payment isn't required until the time of settlement—and often not even at that time, if you can arrange for an extended payment plan. Use the interim period to start saving, to take on added work, or to obtain a loan from a relative—whatever it takes to obtain the extra funds. (For tips on how to finance your horse, refer to "Finance Your Dream Horse," *Buy Wise*, April '93.)

- *Is there such a thing as shared custody of horses?*

Afraid not. We're talking a whole different can of worms here than the realm of shared child custody. Just imagine the potential ramifications: The horse stumbles and breaks his leg on a trail while your ex is riding him. Are you going to sue your ex for carelessness? Is he/she going to sue *you* because *your* farrier put on the wrong kind of shoes? How do you pick a stable that's an equal distance from your respective homes? Who gets to take the horse to the big shows, and how do you determine whose shows are more important than the other's? What if you can't agree on a veterinarian? We could go on and on here, but you get the point. Work it out.

- *How do breed registries respond to divorce cases?*

We don't have the space to list the policies of every registry, so we chose one of the big ones to use as an example—the American Quarter Horse Association, based in Amarillo, Texas. According to LaDonna Wilkerson, manager of the AQHA transfer department: If two names are listed on existing papers, and those two persons have put the horse in the middle of a divorce dispute, the AQHA requires a certified copy of a restraining order, to ensure that the horse can't be transferred or sold until further notice. When the divorce is final, the AQHA requires a certified copy of the decree that names a specific party as sole owner. The decree also must refer to the horse by his registered name. Accompanying the decree must be the original registration papers, a \$10 transfer fee, and the signature of either party. If the "losing" party refuses to relinquish the original papers, the AQHA might call him/her to appear before its executive committee, and his/her rights and privileges within the association's jurisdiction might be suspended until the issue is resolved. In short, the AQHA tries to adhere to whatever the courts have mandated.



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