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UPDATE: Jackie's Private Source of Strength

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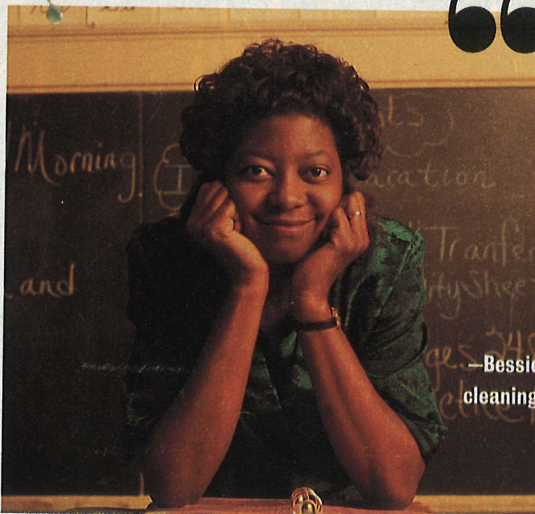
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Your old teapot brings a new kind of charm to fresh flowers.



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“I dreamed of the day I'd have a classroom of my own.”
—Bessie Pender, former cleaning lady, now teacher”

DURING THE NEARLY TWO YEARS IT took for Barbara Macy's* case to lumber through the Florida divorce courts, her husband stopped paying the mortgage on their house and, in blatant violation of several court orders, succeeded in hiding other assets. In the end Macy's share of their joint assets was negligible; she was awarded no alimony and only minimal child support. When she asked the judge to arrest her ex-husband for violating court orders, he just shrugged and said, "There's nothing I can do."

The St. Louis judge who ruled in Nancy Leeds's* divorce apparently discounted her doctors' testimony. Though Leeds was being progressively weakened by a debilitating physical

Although divorce laws and court protocol vary from state to state, overall the system is rife with inequity, incompetence and sexism. Many women leave the bargaining table impoverished; wheeled and dealt out of joint assets by financially savvy husbands; let down by lawyers more interested in running up fees than protecting their clients; and denied alimony by judges who assume that all married women are capable of being economically self-sufficient.

"The courts help men rather than women as an initial instinct. Judges aren't comfortable separating the wage earner from his money," says New York City matrimonial lawyer Harriet Newman Cohen. Even in the era of no-fault divorce, which removed "fault"—such as infi-

WHAT EVERY WOMAN MUST KNOW ABOUT DIVORCE

By
**Melinda
Blau**

condition, the judge awarded her only five years of "rehabilitative alimony" on the assumption she could eventually support herself by working at home—despite her frail health.

And in a New York City courtroom, Claire Garber* was stunned by a judge when, as a result of his order, she had to change her infant son's breast-feeding schedule to accommodate her husband's visitation schedule—even though he refused to pay child support.

The experiences of Macy, Leeds and Garber are echoed in divorce courts throughout the country. Women are often humiliated, threatened, lied to and bullied by lawyers and judges.

**Name and some identifying details have been changed for privacy.*

delity or cruelty—as grounds for divorce in most states and ushered in new laws mandating equitable distribution of marital property in every state, judges are sometimes lax when it comes to enforcement of pretrial discovery (disclosure of tax returns, deeds, ledgers and other documents that could shed light on joint assets).

With husbands often able to maneuver assets or declare bankruptcy, the once revolutionary concept of equitable distribution has failed to benefit women. Some judges further erode a wife's economic security by requiring that all assets be liquidated, including the family home, which few women can ever replace.



INSTEAD OF RECEIVING JUSTICE, many women who go to court to settle a divorce find themselves being bullied, humiliated and cheated out of their money. In our continuing investigation of the family court system, McCall's finds out why most women aren't getting a fair shake from divorce laws, judges and lawyers.

MARY ELLEN BARTLEY, Prop stylist, Fritz Kerch

In encouraging judges to view men and women as equals, no-fault reforms made alimony a relic of the past. "Under no-fault, alimony is given in only 16 to 20 percent of all cases," says Jessica Pearson, director of the Center for Policy Research in Denver, Colorado. Not equipped to support themselves at anywhere near the lifestyle of the marriage, women

experience a 30 percent decline in their standard of living after a divorce (while their husbands' increases by 10 to 15 percent), according to recent national surveys.

The legal system remains a daunting challenge for divorcing women. Not only can't most women afford the hefty upfront fees that lawyers typically demand for the discovery process, but

the inside **STORY**

Statistics show that under no-fault divorce, women come up short—receiving 25 to 40 percent of marital assets. Women suffer a 30 percent drop in their standard of living after divorce.

many are also victimized by greedy lawyers who prolong the process. Judges are often reluctant to grant temporary orders requiring husbands to pay interim support and legal fees, which would level the playing field. When faced with the prospect of the expense, not to mention the specter of litigation, many women understandably cave in and accept less-than-fair settlements. Statistics show that women are receiving between 25 and 40 percent of the marital assets.

Ever since the widespread passage of no-fault laws in the 1970s made it easier to dissolve the bonds of marriage, family-rights activists have questioned whether our adversarial legal system is an appropriate arena in which to divide marital assets. "The law is equipped to look backward and resolve a situation that happened in the past. But it is not equipped to make future projections about how people's lives will operate," says attorney Lynn Hecht Schafran, director of the National Judicial Education Program of the National Organization for Women (NOW) Legal Defense and Education Fund.

Allowed to sit without juries, to seal matrimonial files in most states and to bar outsiders from court proceedings, divorce-court judges are given a lot of latitude in deciding the futures of families. The findings of gender-bias investigations of family courts in 16 states indicate that such discretionary power is making justice uncertain for women who must go to court to settle a divorce.

The Trouble With No-Fault

Before no-fault, a woman had leverage. She didn't have to agree to divorce unless the settlement was fair. No-fault divorce eliminated the bargaining power for women," says Karen Winner, who authored *Women in Divorce*, a scathing 1992 study of lawyer abuses in New York State that mirrored the activities of countless other jurisdictions across the nation.

Now when a couple can't agree on a settlement and a judge must determine the distribution, no-fault removes consideration for the "injured" party—usually the long-suffering wife. Judges no longer view women through paternalistic eyes, but their rulings, consciously or unconsciously, continue to be prejudiced by cultural presumptions—for example, the assumption that a woman's economic needs sim-

ply are not as important as a man's. Some judges reason that women need less money because they'll eventually remarry.

NOW-LDF's Schafran recalls one judge in New York Family Court who reasoned that a man *has* to go out for dinner but a woman can cook her own meals. Other judges assume that if a woman needs subsidizing at all, a short period of rehabilitative alimony will make up for her years out of the job market.

For Catherine Ford,* this was a bitter pill to swallow. A dutiful wife who put her own interests on hold so she could buoy her husband's career, she thought that a homemaker's contribution was one of several elements the judge was supposed to consider. But Ford was awarded no money for lawyers' fees or for job training, and only two years of alimony. "I said to the judge, 'If you hired someone to work for a corporation for 18 years, do you think you could get away with paying them nothing?' But that judge has sat on that bench for so long he doesn't know what the real world is like for a woman who hasn't worked outside her home."

Judging the Judges

Any doubts Gail Pryor* may have had about the seemingly absolute powers of a divorce-court judge were dispelled the day she brought several friends and a reporter into the courtroom to bear witness to the injustices she claimed to be suffering in her divorce case. "The judge made everyone leave," recalls the North Carolina mother of four, "and then called the reporter back into the courtroom and told him that if one word of the hearing was ever printed, he and I would go to jail."

In her ongoing investigation into the no-fault system, Madeline Bennett,* an advocate for family justice, has "seen women weakened and ruined by what goes on in court. The most typical ploy by litigators is to paint a woman as crazy if she goes to a psychotherapist after divorce. Meanwhile, it's not crazy if her husband steals money from the family bank account or refuses to pay support. Judges tend to identify with the aggressor and react more favorably toward the person with more power."

Making matters worse, perjury related to assets or the other spouse's behavior is rarely acknowledged, let alone punished. One Massa-

chusetts judge (a woman, who asked not to be identified) admits, "A lot of people lie. I know they're lying, but sometimes it's not definitive enough to report as perjury." Thus, a vengeful spouse can allege just about anything to sway a judge in determining custody, the property split or alimony—and many do, says Bennett, who indicts the system for "throwing the weight of the court behind the person who knows how to manipulate."

Although every state has some sort of judicial-review board, taking on a judge is close to impossible—especially since divorced women are often viewed in the system as disgruntled, unreasonable and hysterical. Still, some women do attempt to seek retribution.

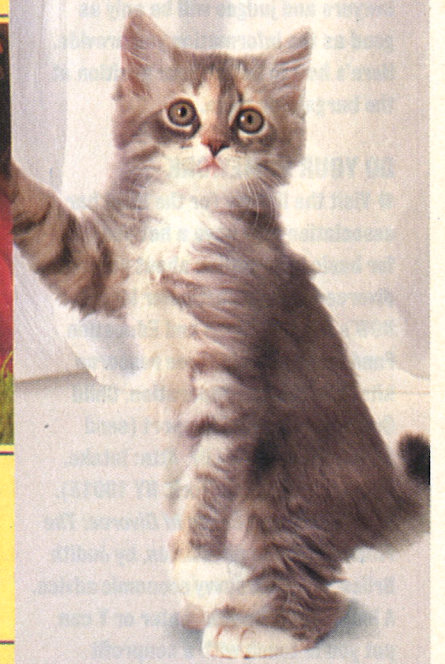
Linda Murphy,* a writer, says that her mistreatment by Manhattan Supreme Court Judge Walter Schackman—the same judge who ruled over Claire Garber's breast-feeding schedule—motivated her to investigate his record. "I met at least eight other women who had experienced his abusive rulings," she says. Several family-rights groups supported these women by lodging an informal complaint with the chief administrative judge of the Manhattan Supreme Court against Schackman and other judges for their biased decisions and refusal to enforce mandatory statutes.

Answering the charges in a telephone interview, Schackman contends, "Litigation can't satisfy everyone. In today's society if you don't fare well, people always think they're discriminated against." After seven years, and even before the informal complaint was lodged, Schackman stopped hearing divorce cases, but he insists that his treatment of women was never biased.

It's important to note that sexist attitudes are not restricted to male judges. "There are some women judges who became lawyers at a time when women in the legal profession were a rarity, and they have no empathy for the financial needs of a woman who has been a homemaker and out of the job market," says Schafran. "At the same time, some younger women jurists have never been married and never

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HOW TO PREPARE FOR A DIVORCE

If you are facing a divorce, you have every right to believe that your lawyer and the court will protect your interests and that you "deserve" to be paid back for years of devotion. Such assumptions, however, can easily turn into your worst mistakes.

Divorce is a business deal, and lawyers and judges will be only as good as the information you provide. Here's how to better your position at the bargaining table.

DO YOUR HOMEWORK

- Visit the library (or the local bar association may have a hot line) for basic information about getting divorced in your particular locale. NOW's Legal Defense and Education Fund has available three resource kits, *Divorce and Separation*, *Child Custody*, and *Child Support* (send \$5 per kit to: NOW-LDF, Attn: Intake, 99 Hudson St., New York, NY 10013). *The Dollars and Sense of Divorce: The Financial Guide for Women*, by Judith Briles, provides savvy economic advice. A local family health center or Y can put you in touch with a nonprofit advocacy group that offers counseling on family-law issues.

- If yours is a jurisdiction with open courtrooms, sit in on cases and watch judges and lawyers in action.

COMPARISON SHOP

- Most state bar associations have referral services, but Monica Getz of the Coalition for Family Justice says, "Never get a recommendation for a lawyer from another lawyer." The best endorsements come from satisfied clients in similar circumstances.
- Interview two or three prospects. Walk in with a long list of questions

and an idea of what *you* want out of divorce. It's wise to choose a lawyer capable of awakening the judge to the realities of survival for a woman. A settlement may follow the letter of the law but not account for childcare costs and limited earning potential.

- Be wary of any lawyer who promises to "take care of everything." *You* are the employer and it is your right to ask questions and to be informed of every summons and every motion and to take part in all conferences, including those with a judge.

- Don't be tempted to hire a lawyer just because he or she makes bold promises to "win." That usually means conflict, and hotly contested divorces last longer—and cost more—than necessary. An experienced lawyer can help you assess the value of a fight.

ACT LIKE A DETECTIVE

- Some husbands are pros at hiding assets, which can make the price of the pretrial discovery process quite steep. While it's best to know the family's finances and to have kept records before the divorce, you can unearth information on your own to insure your fair share.

- Deeds, licenses, stock transfers and many other documents are on file at City Hall. "Snoop around his desk and the trash can for receipts or an envelope from an unfamiliar bank that might signal a hidden account, and copy the registration of your car, income-tax records and check stubs," advises California family-law attorney Bobbi Tillmon-Mallory.

- The greatest challenge is the self-employed husband. If he works at home, hunt for records, bills paid, accounts payable, tax returns. —M.B.

had children. They don't appreciate what it's like for a woman to have invested all of her human capital in a marriage or how hard it will be for her to start over."

While some judges of both genders are arrogant or sexist, many more are simply uninformed—or they burn out, as Schackman says he did. This is not surprising. Domestic-court judges typically receive less support, fewer resources, less respect and lower salaries than other judges. In some jurisdictions, divorce-court judges may also be among the most inept members of the judiciary. An investigation of the Domestic Relations Division of Chicago's Cook County court system found that divorce cases were often relegated to the newest judges or to those unable to secure a posting to a more prestigious division of the court.

Lawyers Fuel the Fires of Divorce

Attorneys too can be guilty of violating the spirit, if not the letter, of the law, as Karen Winner and other investigators have found. Out of greed or ineptitude, lawyers can fuel the emotional fires of divorcing parties.

Given their intimate knowledge of a client's finances and their control over the process, unscrupulous lawyers can delay the proceedings and rack up unnecessary yet billable hours. In some states lawyers even write their fee into a marital agreement, without asking the client's permission, and then follow up by garnisheeing a client's wages or putting a lien on her property to satisfy the final bill.

Horror stories about their own lawyers punctuate many women's divorce sagas. Former model Delia Clark* charges that her lawyer took a huge retainer, then failed to inform her about settlement offers and pending motions, wouldn't give her itemized bills and padded his expenses. When she found a second lawyer, the first one refused to release her files. "In essence I was held hostage by someone I had hired to fight for my freedom," she says.

According to Gerald Nissenbaum, president-elect of the American Academy of Matrimonial Lawyers, "The media blows lawyer abuse out of proportion. In every profession there are a few bad apples. And the warts stand out." Michael Albano, a divorce lawyer in Independence, Missouri, thinks the problem is often a

lawyer's lack of experience in assessing a case. "Just about every lawyer thinks he or she can handle a divorce case. But it's very complicated, emotionally charged and nearly always unpleasant. There are very few winners."

Staying Out of Court

Mediation is one way to avoid lawyers and, assuming you can reach an agreement, avoid a judge as well. A well-trained private mediator—someone you and your spouse employ instead of hiring two lawyers—can save financial and emotional costs. However, both parties must furnish accurate records and hold equal bargaining power.

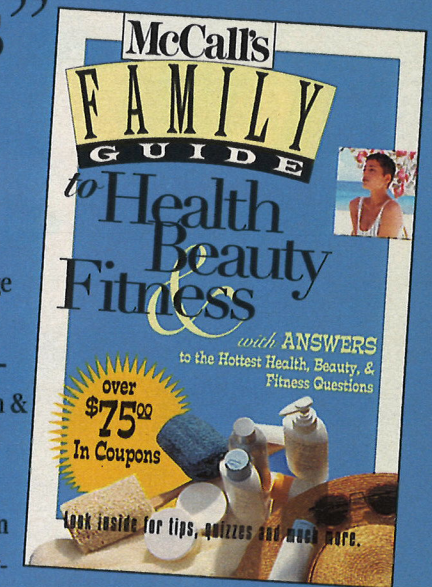
That is sometimes not the case with court-ordered mediation, common in states like California and designed to cut down on judges' caseloads. "It's poor people's divorce court," claims Joann Schulman, an outspoken feminist lawyer in Oakland, California. Schulman insists that mediation can echo sexism and other inequities of the system and, ultimately, can deprive women of due process. When a mediator lacks sufficient training or dedication, as some do, or if he or she simply takes clients at their word rather than referring assets to impartial evaluators to appraise, problems can be compounded.

"Based on our research, women don't seem to do any better or any worse" with mediated agreements, says researcher Jessica Pearson, who has analyzed both private and public mediation.

According to divorce reformer Amy Neustein, the relationship among lawyers, judges and mediators is so intertwined that it resembles "one big fraternity"—both inside and outside the courthouse. Elizabeth Reynolds* learned how the old-boys' network works when she tried to find a lawyer to represent her against her ex-husband, himself a lawyer, who owed her more than \$10,000. Five lawyers refused to take her case. She finally understood why when the sixth one she called offered, "Oh, I'll mention this to him when I see him at our meeting on Thursday." Her ex- (continued on p. 150)

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