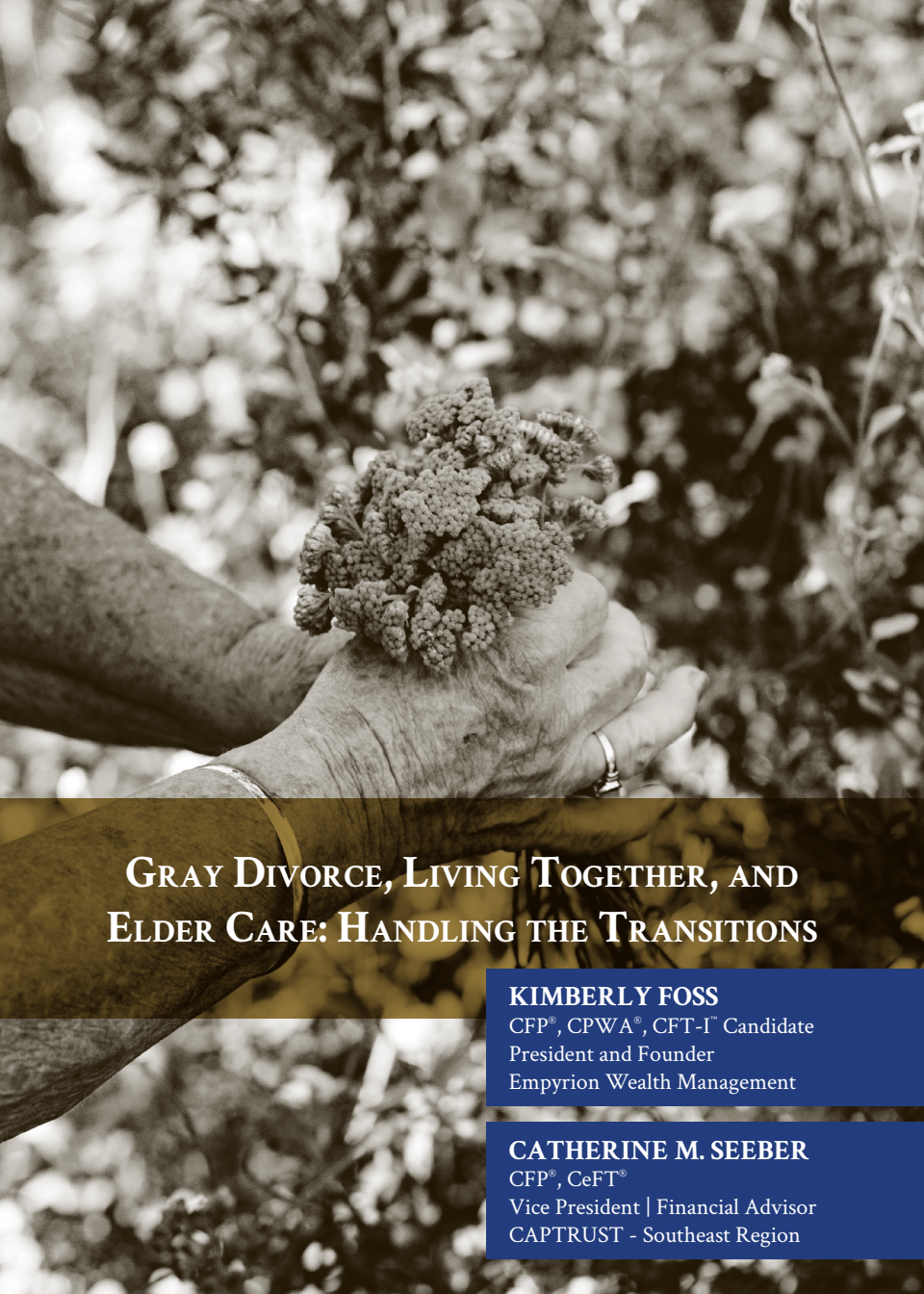

Gray Divorce, Living Together, and Elder Care: Handling the Transitions

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Introduction

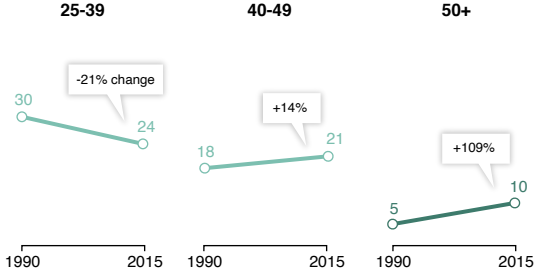
Kimberly could tell something unusual was going on as soon as she saw her clients on the computer screen. Ray and Bethany (not their real names) had been clients for some time, referred by Ray's father, Jim (not his real name). Kimberly had worked closely with them during Jim's late-in-life divorce, as the dissolution of a marriage that had lasted for more than 40 years was very traumatic for Ray, his siblings, and their spouses, not to mention the financial planning implications. She didn't have to wait long for the shoe to drop: "Kimberly," Ray said, "another woman is living with Dad. We thought everything would smooth out when we moved him into the retirement center, but now this other woman is in his life—and his apartment—and we don't know what to do."

In Cathy's case, the divorce of two longtime clients generated a different type of complication. A wide disparity in income created a contentious imbalance. Also, the fact that the couple's children were still of college age meant that following the separation of assets, ongoing student expenses caused continual arguments and resentment. As a financial advisor, Cathy found herself mediating input from a variety of "interested parties," including the parents, friends, and siblings of the divorced couple, all of whom felt the need to offer unsolicited opinions on how the situation should be handled. To make matters even more complex, when both of the ex-spouses entered new relationships, the circle of participants—and opinions—expanded even more, adding to the dysfunction. Though the new couples postponed full-time cohabitation until after the boys' college graduation, the situation seemed all too normal for the boys; many of their friends had experienced similar situations.

The client situations faced by Kimberly and Cathy—and the predicaments they pose for family relations—are not unusual. In fact, it is growing more common each year. So-called "gray divorce"—dissolution of marriages by partners in their 50s or older, usually after more than 30 years of marriage—is increasing at a faster rate than divorce among other demographics. And frequently, older persons, either because of divorce or the death of a longtime spouse, are seeking companionship in non-marital living arrangements in a process sometimes called "re-partnering." All of this poses new questions and decisions for not only the re-partnered persons, but also their children, grandchildren, and other friends and acquaintances. Especially for adult children who are already concerned with the responsibility of caring for aging parents, the presence of a new companion in the parent's life can add a whole new set of considerations and uncertainties.

Gray Divorce Is on the Rise

As shown below, the U.S. Census data indicate that while divorce is actually becoming less common for younger Americans, the rate for those age 50 and older has doubled since the 1990s. Coinciding with the rising rate of divorce for older couples, the rate of non-marital cohabitation among those age 50 and older is also on the rise, with a 75% increase since 2007.

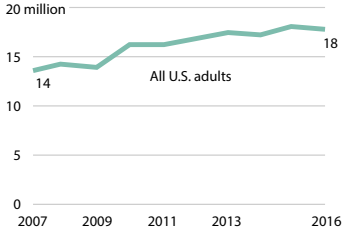


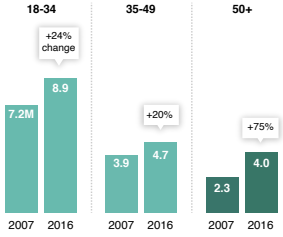
Counterclockwise from top left:

Source: Pew Research Center

Below is the number of people in each age group who are cohabitating, in millions.

Sources: U.S. Census Bureau Table AD-3, Pew Research Center





Note that this most recent report on the state of gray divorce and cohabitation is based on the American Community Survey data released by the US Census in 2017. According to the Census Bureau, the 2020 data won't be released until September 23, 2021 (and see https://www.census.gov/programs-surveys/acs/news/data-releases/2020/release-schedule.html). Nevertheless, current reporting offers abundant indication that this trend continues, as strong as ever.

Further, beyond the mere numbers, real-life questions await answers that few seem to be providing. An older parent's new living arrangements can create ripple effects that involve estate planning, healthcare considerations, financial planning, family dynamics, and a host of other considerations. And all of this must be balanced with the real need for companionship experienced by the re-partnered persons as well as the expectations and emotional needs of the younger generations. The many complicated transitions involved in such situations—emotional, financial, medical, and others—require careful handling that affords to all parties respect, fairness, and, above all, love.

Understanding the Money/ Relationship Ecosystem

It is often helpful to begin such conversations by putting finances and family relationships into perspective. We need to remember that money need not control or alter any of our most important relationships, and further, that we are in control of any impact that finances might have on the expectations and behaviors we bring to those relationships. We should be in control of how money impacts our families, and one important key to that control is open, honest communication around financial matters. In fact, it is often the case that money dominates the family dynamic most in families that "never discuss money."

After committing to open and honest communication around financial matters, a second important principle is to focus on gratitude, rather than financial planning, in these discussions. When everyone comes to the table with a thankful recognition of what has been provided, rather than fear or defensiveness about what might be taken away, discussions tend to proceed much more smoothly and with fewer hurt feelings.

Money and Marriage

According to a study by the University of Virginia, married persons tend to have more money than non-married individuals. At the same time, money (or the lack thereof) can also impose strains on marriages, especially when the household carries a heavy load of debt. In fact, a study at the University of Florida indicates that excess consumer debt exerts a major strain on marriages. It makes sense, then, that other studies indicate higher rates of happiness among couples who exercise thrift in their household budgeting.

Different Lenses

At the same time, it's important to remember that different family members—and especially those from different generations—tend to view money and its proper uses through different lenses and with different levels of understanding. One partner may be a dedicated saver, while the other gets an actual hit to the pleasure centers of the brain from making a purchase. When financial discussions are necessary, keeping these different perspectives in mind and maintaining respect for all points of view can lead to more productive conversations and decisions. Once again, though, the driving factor is open, honest, and respectful communication among all parties.

The Gray Divorce/ Cohabitation Conundrum

Baby Boomers (those born between roughly 1946 and 1964) are the most numerous generation in American society, and they are entering the retirement ranks at an expanding rate. As we have already seen, they are also divorcing and entering into non-marital cohabitation relationships at a faster rate than other cohorts of the population. Many Baby Boomers, parents of late Gen Xers and Millennials, are reaching the age where elder care, with all the attendant healthcare, social, financial, and emotional considerations, is becoming a concern for them and their adult children. Additionally, several financial and other factors contribute to many older Americans making the decision to live together outside of marriages.

- Social Security Considerations. Older women who remarry typically lose spousal benefits that form an important source of monthly income. Also, unmarried couples may pay less federal income tax on Social Security benefits than those who file joint returns.
- Estate Considerations. For persons with college-age children, the greater combined household income in a marriage may reduce the financial aid available to their students. Also, for those who want to pass assets to children or grandchildren, a new spouse may complicate inheritance considerations.
- Alimony. For those in non–community property states, marriage can result in loss of alimony payments from an ex-spouse.
- Medical Expenses. Having a spouse means taking mutual responsibility for medical expenses; unmarried couples may have more options.

In addition to these primarily financial concerns, those considering non-marital "re-partnering" face other emotional and financial drawbacks, including:

- Heightened uncertainty about the nature and durability of the relationship;
- Concern for impact on other parties, such as children, grandchildren, and other family members;

- The legal status of the relationship. In most states, marriage laws supersede cohabitation agreements for disposition of estate assets, tort claims, and other legal remedies.
- Preservation of other relationships. Extra care must often be taken to preserve the rights and wishes of children, grandchildren, and other desired beneficiaries of one or both parties.

Important Considerations for the Re-Partnered

As you can see, there are many crucial factors that must be considered in the context of a late-in-life divorce and also a re-partnering arrangement. Discussions with older persons in such a relationship should begin with an understanding of the needs of the two people: their shared goals and values; their perception of the possible impacts on other people who are important to them—especially children and grandchildren; and the nature of their unique relationship—what brought them together and what they most enjoy about the relationship ("the story of you"). It is also important for them to be able to share their differing attitudes toward financial matters openly and without judgment, and they should also be able to come to agreement on what each expects of the other with regard to the relationship. They should also consider some important questions:

- Is your will up to date (especially with regard to ex-spouse)?
- What is your desired division of assets between your new partner and your children or other heirs?
- What is your/your new partner's tax filing status?
- If you/your new partner own life insurance or retirement accounts, who are the beneficiaries? What about pensions?
- Who is your healthcare proxy? How involved do you want your new partner to be in your healthcare decisions?
- Who will be your primary caregiver if you become incapacitated?
- Who holds your power of attorney (POA)?
- Are you/your new partner currently receiving Social Security benefits from an ex-spouse? Alimony?

Co-habitants should also consider having a formal "living-together" agreement. Such agreements can afford important protections to partners in a non-marital union, because in most states, non-marital unions do not enjoy the "defaults" provided by marriage. These agreements can provide guidance for matters such as:

- Who pays for what, and how much?
- What is separate property, and what is commingled?
- How should commingled property be distributed, in the event of the dissolution of the relationship?

Though these may sound like plans for a worst-case scenario, living-together agreements should be approached with an attitude of joy for the relationship, concern for the rights of both parties, and respect for everyone involved. They should clarify what is being agreed to, how the agreement will be put into action, the functioning of mutual accountability, and the desired outcome of a successful relationship.

Important Considerations for Family Members of the Re-Partnered

Obviously, other persons have vital stakes in the implications of late-in-life divorce and re-partnering relationships. The children, grandchildren, and other family members also need to deal constructively with their own attitudes toward the new arrangement. These attitudes can include misgiving, uncertainty, financial or emotional worries for the welfare of the older parent, and other considerations.

But family members should also keep in mind what is most important to the aging parent. After all, human beings never grow too old to desire companionship and the comfort of a close relationship. Further, a new person in the life of an older parent should not be seen as a reflection on their relationship or love for their children or other important people. Instead, the aim of the older parent's children should be an attitude of "curious, not furious." The more they can put themselves in their parents' place and remain open-minded and considerate about the needs of their parent, the more likely they are to continue the trusting, loving, and respectful relationship that should exist between older parents and their adult children. Certainly, because the aging parent is still an important person in the life of their adult child, it is only natural for the child to be concerned about any major change in the parent's circumstances, including a new live-in partner. But clear and respectful communication will bridge most uncertainties.

It is important for adult children of aging parents in new relationships to have under standings about several assumptions and considerations, including:

- long-term care expenses, preferences, resources, and options;
- ongoing money management;
- the family home (sell or keep?);
- estate planning documents (wills, trusts, etc.);
- final arrangements

The key is to be as involved as your aging parent wants you to be, while remaining as diligent as you need to be. You have the right to express your concerns, but that must be accompanied by the willingness to affirm your aging parent's choices and needs.
And, of course, there are a few things that adult children of re-partnering parents should definitely not do, including:

- Intervention-style communications or meetings;

- Involving unnecessary parties (for example, don't start a discussion about "Dad's new girlfriend" at the Thanksgiving table);
- Failing to listen at least 50 percent of the time (you should always aim to listen more than you talk);
- Focusing on finances more than people.
- Instead, three elements should guide every conversation between adult children and re-partnering parents:

1. Shared values ("We matter to each other because…")
2. Communication (building bridges, not walls)
3. Agreement on financial policies (mapping the desired route to the destination)

Conclusion

As our society continues to evolve and change, we are finding that many of the assumptions that were once universal are coming into question. Particularly, as American life expectancies continue to increase over time, the question of late-in-life relationship changes will continue to broaden, likely applying to more and more people.

But some things can be expected to remain constant: the human desire and need for companionship, the bonds between parents and children, and the mutual caring that families and loved ones provide for each other. A fiduciary advisor can offer professional insights and advice for negotiating the financial considerations around providing for an older parent as well as planning that incorporates all important relationships and priorities. And, because a fiduciary advisor is duty-bound to offer guidance that keeps your best interest foremost, this guidance will be informed by a thorough understanding of not just the financial implications of your situation, but also by your most important priorities, goals, and core values. In these situations, as in most circumstances of life, relationships are paramount. Your professional fiduciary advisor can work with you to make arrangements that enhance, rather than compete with, those all-important familial bonds.

About the Author

Kimberly Foss is the president and founder of Empyrion Wealth Management. She has more than 37 years of experience helping people achieve their financial goals, with 31 of those years at the helm of Empyrion.

Beginning her career with Merrill Lynch as the youngest female account executive at the time, she quickly distinguished herself, rising to become the second leading broker in an office of 28. Despite her success, the commission-driven environment of a large stockbroker with a focus on selling proprietary investment products soon convinced her to found her own firm.

Committed to devoting her entire attention to helping clients make smart financial decisions and avoid costly mistakes, she founded E&A Investment Advisor, Inc. (now Empyrion Wealth Management) in 1989.

Foss is an acknowledged leader in the investment advisory industry, and her work has been consistently recognized. In 2020, Empyrion Wealth Management received two reputable awards from Investor.com, including the "Top Firms to Watch" and "Top Firms in California" awards. Bloomberg Wealth Manager also named Empyrion one of the nation's Top Wealth Managers out of a field of 500, ranking 116th in 2004, 91st in 2003, and 119th in 2002.
Each year since 1998, Foss has received the DALBAR seal award, a designation awarded to financial professionals who meet stringent requirements set by the Securities and Exchange Commission and who receive above-average ratings from their clients for financial results, trust, satisfaction, and overall advice quality.

In 1998, Foss was the only woman and the youngest person ever recognized by California State University, Chico College of Business as one of its Distinguished Alumni. She was a key contributor to Secrets of the Wealth Makers: Top Money Managers Reveal Their Investing Wisdom, written by Michael Lane and published by McGraw-Hill in 2000. More recently, she is the author of Wealthy by Design: A Five-Step Plan for Financial Security (2013, Greenleaf Book Group).

Foss has held the CERTIFIED FINANCIAL PLANNER™ accreditation from the Certified Financial Planner Board of Standards since 1991, and also holds the CERTIFIED PRIVATE WEALTH ADVISOR (CPWA®) designation from the Investments and Wealth Institute.
As of this writing, she is a candidate for the CERTIFIED FINANCIAL THERAPIST-I™ (CFT-I™) designation.

About Empyrion Wealth Management

Empyrion Wealth Management was founded on the principle that an effective investment portfolio directly reflects the investor's primary economic objectives. We strive to maximize the probability of achieving all that's important to our clients. We are a fee-based company, specializing in long-term investment strategy and dynamic portfolio design.

Empyrion Wealth Management provides financial and investment counseling to a limited number of high-net-worth individuals, closely held corporations, trusts, and pensions. We only take new clients when we have determined that we can add substantial value to those client's financial situations. Our services include thorough historic performance analysis, complete portfolio and investment policy development, diversified asset allocation, and comprehensive performance measurement and monitoring. In every aspect of our work, we make an uncompromising commitment to provide world-class client service and to meet every client's highly individualized wealth management needs.

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