

# Wall Street Icon's Divorce War

## Carl Icahn's estranged wife attempts hostile takeover

Ever the strategist, billionaire Carl Icahn inked a prenup when he married two decades ago in New York. But it may turn out he didn't plan carefully enough. Liba Icahn has moved to Connecticut, which has no statute of limitations on prenup challenges.

By **SCOTT BREDE**

'Wealth is relative,' asserts divorce specialist Elaine T. Silver, who represents Liba Icahn.

Dru Nadler

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Ambitiously, some would say ruthlessly, Susan Bysiewicz has made the Secretary of the State's office her own. No one expects her to stop at just this. *Page 6*

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A parent may not be held contributorily negligent for sexual abuse of the child by a third party while the child was under parental supervision. *Page 492*



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By SCOTT BREDE

**G**reenwich divorce-meister Samuel V. Schoonmaker III is certainly no stranger to high-asset break-ups.

After all, he didn't get his membership card to the so-called "Dirty 30"—a nationwide fraternity of highly prominent divorce lawyers—by representing just *ordinary*, middle-class spouses duking it out in court.

As Schoonmaker tells it, his high-asset cases can fall into the neighborhood of \$100 million or more.

But, as unflappable as he may be, even Schoonmaker seems floored by the sheer wealth of his richest divorce client to date: billionaire Carl Icahn, the corporate raider who helped define the bustling, often savage, boom years of the 1980s.

Icahn's wife of 20 years, Liba, it seems, is intent on doing a little raiding of her own. She filed for divorce in 1993 in Westchester County, New York, and challenged the couple's prenuptial agreement.

Now, Icahn's estranged wife is attempting to move the heavily litigated slugfest with her husband to Connecticut in hopes of invalidating the couple's 13-page prenuptial agreement.

The provisions of that agreement leave veteran matrimonial lawyer Elaine T. Silver, who is representing Liba Icahn, aghast. The deal calls for Silver's 50-year-old client to receive "absolutely nothing" in terms of property distribution or alimony from her husband upon their impending divorce, Silver says.

The pre-nup, asserts Silver, of Stamford's Silver, Golub & Teitell, was signed by Liba Icahn under duress on her March 21, 1979, wedding day; she was pregnant with the couple's first child.

### Greed Was Good?

Despite six years of litigation in

New York, where the Icahns wed and lived together in a luxury befitting the Wall Street mogul's stature, the decades-old pact has yet to be found "unconscionable," the legal standard to which prenuptial agreements are held.

Icahn's wife first filed for divorce and challenged the couple's prenuptial deal in 1993 in Westchester County, N.Y. Now-deceased Judge Gordon W. Burrows dismissed her challenge, holding it came several years too late under New York's six-year statute of limitations governing general contractual obligations.

Warring spouses in Connecticut, however, face no such time restrictions, Silver contends. In this state, an unconscionable determination can be made from the time a couple enters into a prenuptial agreement until the time that arrangement is sought to be enforced, she says.

And, Liba Icahn, it just so happens,

moved to Stamford last year, according to her lawyer.

In November, Icahn's estranged wife brought *Icahn v. Icahn*, a new divorce action, in Stamford Superior Court.

Ever-confident, Schoonmaker, of Schoonmaker, George & Colin, discredits the new complaint filed by his client's wife as "forum shopping" at its worst.

"She's just looking around for a court that is willing to do what she wants," he protests. "All the issues she wishes to have decided here have been decided in New York."

Adjudicating those issues again in Connecticut, Schoonmaker argues, would conflict with the Full Faith and Credit Clause of the U.S. Constitution, which requires states to uphold the judicial decisions of other states.

But Silver says Liba Icahn, as a Connecticut resident, is free to bring the new action because the couple's divorce proceedings in New York are still pending.

On Dec. 4, Carl Icahn filed a motion to dismiss the Connecticut case because it lacks subject matter jurisdiction. The case has yet to be assigned to a judge and a hearing date on the motion has yet to be scheduled.

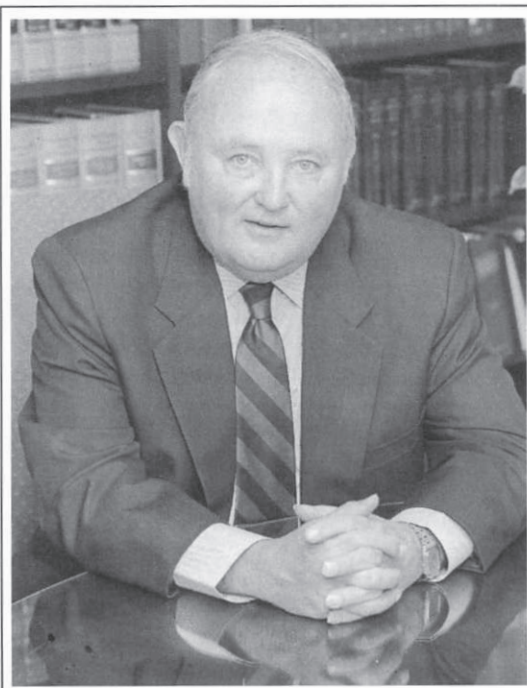
### Rich and Famous

The 63-year-old Icahn was just beginning to amass his fortune when the couple took their vows in 1979.

His net worth statement at the time, which was included along with the prenuptial agreement and is now part of the court record, listed his assets at \$6.5 million.

His soon-to-be bride, however, was virtually penniless in comparison. Her statement put her net worth at \$500.

It wasn't until 1985 that Carl Icahn came to national prominence by staging a successful eight-



'Dirty 30' divorce attorney Samuel V. Schoonmaker III says his client's wife is forum shopping.

Dru Nadler



month siege of Trans World Airlines. Other hostile takeovers followed. Soon, the very mention of the reclusive Icahn's name struck fear in even the most stalwart of corporate executives.

His shadow has faded a bit over the last decade as he can no longer raise the huge amounts of money he once did to back his takeover bids.

Still Icahn, who grew up in a middle-class neighborhood in Queens, N.Y., remains a formidable presence in the financial arena, while other corporate raiders of the 1980s have crashed and burned.

As part of its Oct. 12, 1998, survey of the 400 wealthiest Americans, *Forbes* magazine estimated Icahn's net worth at \$2.6 billion.

Before marital strife hit, the couple primarily resided in a 14,000 square-foot mansion on 150 acres of land in Bedford, N.Y., says Liba Icahn's Jan. 18 memorandum opposing her husband's attempt to dismiss the Connecticut complaint.

But life-long happiness for the couple apparently wasn't in the cards.

#### **He Said, She Said**

Carl Icahn began an affair with his secretary, and left his wife in 1993, alleged Liba Icahn in her original divorce filing in Westchester County. (Unlike Connecticut, New York has a fault-based system of divorce, and court files in marital break-ups there are automatically sealed. The unsealed file in Stamford Superior Court, however, contains many of the sealed documents in the Icahns' New York divorce proceedings.)

In addition to her husband's alleged adultery, Liba Icahn's October 1993 complaint claimed the couple's prenuptial agreement was invalid because it had been signed under duress. Her husband, she alleges, made it clear that their wedding would be called off had she not accepted the agreement.

But Carl Icahn, in a lengthy brief supporting his bid to dismiss the Connecticut case, contends that his wife has admitted, at a deposition, that she completely understood the agreement—and that it was acceptable to her at the time of its signing. Both spouses, Carl Icahn says, were represented by independent counsel.

In addition to her other claims, Liba Icahn moved for divorce on the grounds that her husband treated her

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in a "cruel and inhumane manner."

The allegations as laid out in her original complaint, however, reveal behaviors that hardly seem out of character for a tycoon known for his fierce—some would say ruthless—business dealings.

Liba Icahn's claims include her husband's habit of eating dinner in front of the television; late night returns home—or on many nights, not at all; and berating employees and family members for "hours on end and then suddenly behaving as if nothing had happened."

Leonard G. Florescue, of New York's Tenzer Greenblatt, who has represented Carl Icahn since the case began, declines to comment on the allegations of adultery brought

against his client.

Schoonmaker, meanwhile, dismisses the claims of cruel and inhumane treatment as irrelevant mudslinging by an angry spouse.

In addition to Schoonmaker and Florescue, Carl Icahn's legal team includes Florescue's partner Stanford G. Lotwin and Manhattan attorney Jay Goldberg; both Lotwin and Goldberg helped represent Donald Trump in his divorce from ex-wife Ivana.

William S. Beslow, of the Law Offices of William S. Beslow on Madison Avenue, is representing Liba Icahn in New York.

#### **A Missed Opportunity**

The New York court proceedings have taken so many twists and turns over the last six years that the Stamford Superior Court file contains a handy flow chart outlining the progression of the case.

Judge Burrows dismissed Liba Icahn's 1993 challenge of the prenuptial agreement's validity based on New York's statute of limitations. And, upon appeal, the decision was upheld by the New York State Appellate Division.

Elaine Silver, Liba Icahn's attorney, notes that it was possible to bring an action in Connecticut at the time of the New York divorce filing; Carl Icahn, upon leaving his wife in 1993, had lived for about a year-and-a-half in Greenwich. But the lawyer who handled the case back then apparently decided against moving the dispute to Connecticut, according to Silver, who began representing Icahn's estranged wife last year.

Silver declines to name the lawyer, who is now deceased, and whose name is not listed in the court file in Stamford. But she says her client "certainly wouldn't be in the position she is today" had that attorney recommended Liba Icahn to file the action here.

After losing before New York's appeals court, Liba Icahn, in 1997, was allowed by Burrows to withdraw the Westchester action without prejudice.

"She," according to Carl Icahn's brief in support of dismissing the complaint pending here in Connecticut, "blamed her lawyers for exacerbating the parties' marital problems, and stated under oath that she hoped for reconciliation with Mr. Icahn."