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Shepherding you safely through difficult family transitions!

DIVORCE IN NEW YORK – THE JEWISH RELIGIOUS DIVORCE (“GET”) ISSUE

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A disconnect in New York State law causes potential problems for religious people. Because traditionally marriage was a sacrament performed by ecclesiastical authorities, New York State recognizes that many still want their marriages performed by their religious leader. As a result, state law allows marriages to be performed by priests, ministers, and rabbis among others. Divorce, however, can only be granted by a justice of the Supreme Court. (Until Alexander Hamilton, if one wanted to get divorced in New York, he'd have to travel up to Albany, get both houses of the legislature to pass a bill of divorce, and get the governor to sign it. Hamilton realized that that scheme was unsustainable and, at his urging, had the legislature enact the laws that granted the authority to divorce to justices of the Supreme Court.) As a result, there's a disconnect, with marriages performed by religious authority, and a divorce by the civil state court—that might or might not be recognized by the religious authority that conducted the marriage.

The Catholic Church, for example, does not recognize divorce. As a result, a couple who gets divorced by the courts must return to the Church and ask that their marriage be annulled. (Because an annulment means the couple was never married, some might object to that procedure which would render any children born of the marriage as born out-of-wedlock.)

In the Orthodox Jewish religion (there are three branches of Judaism, Orthodox, Conservative and Reform, each with progressively more liberal adherence to the rabbis' strict interpretation of the Old Testament, the Talmud, and the Code of Jewish Law), a divorce can only be accomplished by the writing and delivery of an instrument named, in Hebrew, a *Get* in a strictly-prescribed manner. Generally, the *get* ceremony must be voluntarily participated in by both the husband and wife. The *get* must be written by a qualified scribe, in mostly Aramaic, with prescribed language, with a quill and ink, and on paper, all belonging to the husband, at his direction, for this specific wife (in medieval times bigamy was permissible). It must then be voluntarily handed by the husband into the wife's hands under the auspices of a presiding rabbi and in the presence of witnesses. Obviously, this highly-regulated act, is entirely religious in nature. Without a valid *get*,

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under Orthodox law, neither the husband nor wife can remarry. (There are some technical exceptions and, obviously, if either of them no longer submits to the control of religious doctrine, they are not bound by it.)

Many couples have obtained a civil divorce in New York State only to realize later that obtaining the religious divorce has become more problematic than anticipated. Chaim was dubbed by one of his clients “*The Divorce Whisperer*” for helping her obtain the religious divorce when many others had failed. She told him, “If you had been any softer, he would have steam-rolled over you; if you had been any harsher, you would have provoked an antagonistic response. You used the perfect blend of ‘iron fist in a velvet glove’ to get him to see reason and do the right thing.”

Consistent with his mediation practice and with his strategy in litigation, Chaim believes that if you treat people with courtesy and basic human dignity, they will more often than not, reciprocate and live up to those expectations. Using his skills as a mediator and negotiator, Chaim shepherds and guides his clients through the divorce process so that instead of further damaging the couple’s relationship, it allows them to hear and be heard; understand one another and grieve for the inability of one or the both of them to meet the other’s needs; grieve for the loss of relationship and the abandonment of hope for it; and allow each of them to move on with dignity and head held high to a better place and better relationships.

Chaim has represented both religious men and women in the civil courts, in religious divorce matters, and before the Jewish religious tribunals (known as a *Beth Din* or House of Law). He has challenged the Constitutionality of New York’s second *get* law that casts a pall over the religious validity of a *get* ceremony in New York, and that is contaminating religious practice. Stay tuned for Chaim’s forthcoming article on “The Great Feminist *Get* Hoax and How Involving Civil Authority in Religious Practice Corrupts Them Both.”

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