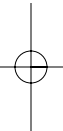
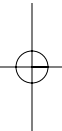
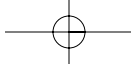


באחד בשבת באחד ועשרים יום לירח כסלו שנת חמשת אלפים וחמש מאות ושמונים ורחוש
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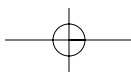
מורכב בן מנחם עד
 יצחק בן דוד עד

GET/DIVORCE DOCUMENT, Paris 1824

GUIDE TO **JEWISH DIVORCE**
 AND THE **BEIT DIN SYSTEM**



Cover image courtesy of the Library of the Jewish Theological Seminary.



ACKNOWLEDGEMENTS

The publication and distribution of the Guide to Jewish Divorce and the Beit Din System would not have been possible without the generous support of the Altria Group, Inc.

We thank all the *dayyanim* who contributed to the information contained in the Guide and verified the *halakhic* content.

We are grateful to the rabbis and administrators of the *batei din* who graciously consented to be interviewed by members of the Beit Din Comparison Committee.

We owe a debt of gratitude to the following for their participation in the development of the Guide:

Susan Alter, Sarah Antine, Nissan Antine, Robin Bodner, Rochel Cheifetz, Lynn Cohen, Carolyn Hochstadter Dicker, Rabbi Mark Dratch, Rachel Dulitz, Shayna B Finman, Leah Gniwesch, Edwin Goldstein, Joy Goodman, Stanley Goodman, Blu Greenberg, Abbie Greenberg, Rivka Haut, Deborah Karp, Beth Kolevzon, Peter Kolevzon, Rose Landowne, Batya S. Levin, Rachel Levmore, Sarah Mendlovitz, Dina Najman-Licht, Carole Oshinsky, Pam Scheininger, Audrey Trachtman, and Zvi Zohar.

JOFA AGUNAH TASK FORCE:

Susan Alter, Susan Aranoff, Giti Bendheim, Robin Bodner, Tova Bulow, Rochelle Cheifetz, Judy Feder, Michael Feldstein, Shayna B Finman, Edwin Goldstein, Joy Goodman, Stanley Goodman, Rivka Haut, Fanya Gottesfeld Heller, Alvin Hellerstein, Milton Kain, Ruth Kobrin, Michelle Greenberg-Kobrin, Beth Kolevzon, Joan Sadinoff Katz, Rose Landowne, Alexandra Leichter, Batya Levin, Esther Macner, Naomi Mauer, Dina Najman Licht, Carole Oshinsky, Gabby Propp, Pam Scheininger, Audrey Trachtman, and Henna White.

WE WELCOME YOUR COMMENTS AND SUGGESTIONS. IF YOU HAVE A QUESTION ABOUT THIS GUIDE, PLEASE EMAIL US AT AGUNAH@JOFA.ORG. ALL INQUIRIES ARE CONFIDENTIAL.

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- D. Beit Din Comparison Grid
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DISCLAIMER

This Guidebook is solely for informational purposes.

This guidebook is not intended to replace consultation with a rabbi or an attorney, nor is it intended to give legal or halakhic advice.

JOFA does not assume any responsibility for actions taken by any person as a result of information in this Guidebook.

The inclusion of a *beit din* in the Comparison Grid does not constitute and should not be viewed as an endorsement by JOFA.

INTRODUCTION

” כי יקח איש אשה ובעלה והיה אם לא תמצא חן בעיניו כי מצא בה ערות דבר וכתב לה ספר כריתת ונתן בידה ושלחה מביתו.”

“When a man has taken a wife, and married her, and it comes to pass that she finds no favor in his eyes, because he has found some unseemliness in her: then let him write her a bill of divorce, and give it in her hand, and send her out of his house.”

(Devarim/Deuteronomy 24:1)

A Jewish marriage is considered a holy institution, in which God partners with the bride and groom. Marriage however, is subject to human nature and as such, it can result in either success or failure. We pray for success in each marriage, and we grieve when a Jewish marriage fails. Nonetheless, divorce is a reality.

It is vital to be educated in the particulars of Jewish divorce, because Jewish divorce, like Jewish marriage and all aspects of Jewish life, is governed by *halakhah*. *Halakhah*, with regard to Jewish divorce, provides the husband with disproportionate power to effect change. Most Jewish men recognize their obligation to give a *Get* and do so willingly and quickly. When they do not act appropriately, such inaction can result in a woman being rendered an *agunah*, a chained woman, who must remain in a dead marriage.

JOFA's aim is to work with husbands, wives, rabbis and communities, so that men and women can marry with security. We strive to eliminate the incidence of *iggun* in the event of the dissolution of a marriage. We take this idealistic stand knowing that it will take time to alleviate this serious problem. Until that day, JOFA's goal is to help educate the community about the divorce process and *iggun*, and particularly, to help parties to a Jewish divorce make informed decisions as they proceed through the *beit din* system. Obtaining a divorce is a highly emotional process, and people are often at their most vulnerable during this time. We hope that this Guide will educate litigants, and help reduce their stress as they navigate this difficult process.

A. GLOSSARY OF TERMS

The following terms have been used in this document or may appear in other *agunah* writings:

AISHET ISH - A married woman. One who is not free to marry another man because Torah law prohibits a woman from being married simultaneously to more than one man

AGUNAH (pl: *AGUNOT*) - A married woman who may not remarry because the death of her husband has not been verified or because she is unable to obtain a *Get* from her husband

BEIT DIN (pl: *BATEI DIN*) - A rabbinic court

DAYYAN (pl: *DAYYANIM*) - A judge on a rabbinic court

ERUSSIN See *KIDDUSHIN* below

GET (pl: *GITTIN*) - A Jewish document of divorce written by hand at the request of the husband. Note: Because of the intricacies of writing a *halakhically* correct *Get*, the person who actually pens the *Get* must be an expert, and a functionary of the *beit din*

GET ME'USEH - A forced *Get*; one which may be considered invalid

HAFKA'AT KIDDUSHIN - Invalidation of a marriage for a technical reason

HALAKHAH - Jewish law, including rabbinic decisions, made throughout history

HALITZAH - A ceremony freeing a childless widow from the obligation of marrying the brother of her deceased husband

HAZMANAH (pl: *HAZMANOT*) - Summons to appear before a *beit din*

HECHSHER - Rabbinic endorsement (for example, that a product is kosher and is ritually fit for use or consumption)

HETER - Literally, permit or permission; frequently alludes to a lenient *halakhic* ruling

HETER ME'AH RABBANIM - Literally, permission of 100 rabbis

HUPPAH - The nuptial "canopy" under which the bride and groom are joined in marriage

IGGUN - The state of being an *agunah*

KEFIAH - "Coercion" - refers to coercion of a husband to the point where he willingly gives his wife a *Get*

KETUBBAH - A contract between husband and wife that commits the husband to support, feed, and satisfy his wife sexually and that entitles the wife to collect money in the event of a divorce

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KIDDUSHEI TA'UT - A marriage entered into based on erroneous assumptions, including lack of knowledge about a defect in the husband that pre-existed the marriage. A *beit din* may declare that this marriage was never validly established, so there would be no need for a *Get* to end the marriage

KIDDUSHIN - The first of two ceremonies performed at the time of marriage. It is also known as *erussin*. The groom recites the formula "*harei at mekudeshet li...*" and immediately places a ring on the bride's finger creating the marital union.

MAMZER (pl: *MAMZERIM*) - "Misbegotten" offspring of an incestuous or adulterous relationship; often mistranslated as "bastard" in the sense of one born out of wedlock

MAMZERUT - The state of being a *mamzer*

MESAREV GET - A recalcitrant husband, one who refuses to give his wife a *Get* despite being required to do so by the *beit din*

MIKVAH - A ritual bath

"MI-SHUM IGGUNAH AKILU BAH RABBANAN" - (An idiom) The principle that "out of concern that she might otherwise become or remain an *agunah*, the rabbis were lenient."

MUM - A serious blemish, a basis for a determination of *kiddushei ta'ut*

MUM NISTAR - A hidden blemish, one not revealed prior to the wedding

NISSU'IN - The second phase in the Jewish wedding ceremony after which the couple is considered legally married

PESAK - A rabbinic decision (verdict)

POSEK (pl: *POSKIM*) - A rabbinic decisor; a rabbi who is qualified to render a *halakhic* decision

PTUR (pl: *PTURIM*)- A document issued by a *beit din* indicating that spouses are free to remarry

SERUV - A declaration that a person is in contempt of a *beit din*

SHALIACH - An agent (in this context, for the writing and/or giving of a *Get*)

SHTAR BERURIN - A document required by some rabbinic courts which gives that court authority to determine all matters of the divorce including financial obligations and child custody. This document is likely to be binding in civil court.

SOFER - For purposes of Jewish divorce, the expert who actually pens the *Get*.

"TAV L'METAV TANDU ME'L'METAV ARMELU" - (An idiom) A strong presumption in Jewish law that it is preferable "to sit as two than to sit as one" (meaning that a woman would rather be married to anyone than to be single)

TO'EN, TO'ENET (pl: *TOANIM, TOANOT*) - People who function as lawyers or "pleaders" in the rabbinic courts (*batei din*)

YIBBUM - A levirate marriage, one in which a childless widow marries the brother of her deceased husband for the purpose of bearing children in her deceased husband's name ("levir" in Latin means brother-in-law)

B. FREQUENTLY ASKED QUESTIONS

Note: To get the most out of this section, we suggest you read through all the questions and answers provided. For your convenience, questions are loosely grouped by subject:

I. CIVIL DIVORCE AND JEWISH DIVORCE

1. What differences exist between civil divorce and Jewish divorce?

II. *GET*

1. What is a *Get*?
2. What expenses may be incurred in obtaining a *Get*?
3. What occurs during the actual transfer of the *Get*?
4. Why is a *Get* required?
5. What are the *halakhic* requirements of a *Get* proceeding?
6. What if a husband disappears without giving his wife a *Get*?
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I. CIVIL DIVORCE AND JEWISH DIVORCE

1. WHAT DIFFERENCES EXIST BETWEEN CIVIL DIVORCE AND JEWISH DIVORCE?

Every divorce has several components: (1) the marital status of the parties; (2) division of property; and, (3) custody of minor children.

In both Jewish and civil law, divorce, or the dissolution of a marriage, comes about through the acts of the parties and/or entities that initially established the marriage. Thus, in civil law, marriage is formalized through the establishment of the state and its dissolution is ultimately formalized by the state as well. In Jewish law, marriage requires certain actions by two individuals and thus may only be dissolved through acts by these two individuals.

Under United States civil law, marital status is established by the state. The state issues a license to marry. After the marriage ceremony has been completed, the person legally authorized to perform the marriage ceremony files the license with the state registry and the couple is considered civilly married. If that couple later divorces, the state, through its courts, changes the status of the parties to divorced. A determination is made, either by the couple or by the court, about division of property and custody of children.

Under Jewish law, marital status is based on a contractual agreement between the husband and wife; therefore, a Jewish marriage can only be dissolved by contract between the spouses. In contrast to civil law, the *beit din* does not formally dissolve a marriage, though it does play an indispensable role in facilitating the writing of the *Get* and witnessing its delivery. Moreover, only if the divorce is contested does the *beit din* involve itself in other details of the divorce agreement. (See V:3, and Beit Din Comparison Grid Section.)

When a religious divorce is not contested by either party, the procedure is quite simple: a *sofer* writes a *Get* in the name of the husband. While all *gittin* follow a standard formula, a *Get* must be handwritten by the *sofer* for each individual proceeding. The husband then delivers the *Get*

to his wife and she accepts it. The marriage is dissolved and the couple is then divorced according to Jewish law.

Unless a *Get* has been given by the husband and accepted by the wife according to Jewish law, an individual remains religiously married notwithstanding a civil divorce. Conversely, one can be religiously divorced by means of a *Get*, yet remain civilly married.

Since most Jewish couples in the United States are married under both civil and religious law, they are obligated to divorce under the laws of both legal systems to completely dissolve their marriage.

II. GET

1. WHAT IS A GET?

A *Get* is a writ of Jewish divorce. It is a 12-line document, written by hand on paper by a professionally trained scribe at the request of the husband. It is written under the proper supervision of a *beit din* versed in the *halakhah* of *Gittin* in the presence of two witnesses. A *Get* may only be presented by a husband to his wife, however, there is no *halakhic* impediment to a woman contacting the *beit din* to initiate the divorce proceeding.

It is imperative that the *Get* be properly prepared by a *beit din* in accordance with Jewish law. (See Comments and Cautions Section).

2. WHAT EXPENSES MAY BE INCURRED IN OBTAINING A GET?

Fees for a standard *Get* vary. Some *batei din* have a flat fee and some charge an hourly rate. The *beit din* may take the parties' financial situation into account in determining its fee. A few *batei din* do not charge a fee for facilitating a *Get*.

3. WHAT OCCURS DURING THE ACTUAL TRANSFER OF THE GET?

- a. The husband authorizes a *sofer* to write the *Get*. The *sofer* writes the *Get* on paper with a quill, usually while the parties wait. Two witnesses must then sign the *Get*.

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- b. The husband (or his agent) declares that he is giving the *Get* of his own free will. When the wife receives the *Get* she must also state, in the presence of two witnesses, that she accepts the *Get* of her own free will.
- c. When the *Get* is given to the wife, she cups her hands and the husband (or his agent) drops the *Get* into her hands. She indicates acceptance of the *Get* by raising it up, then putting it under her arm and walking a few steps.
- d. The wife then gives the *Get* to a *dayyan*. The *dayyan* makes a cut in the *Get* to indicate that it has been delivered and accepted and cannot be used again by any other party. A declaration is made by the *dayyan* that no one shall cast doubts on the validity of the *Get*. The *Get* is then put into the files of the *beit din*.

Note: There may be slight variations in this procedure depending on the *beit din*.

The *Get* must be given willingly by the husband, without coercion, and it must be accepted willingly by the wife. Opinions differ as to what constitutes persuasion and what constitutes coercion.

Usually a husband places the *Get* directly into his wife's hands. However, in cases where the husband and wife no longer live in close proximity, when there is acrimony between husband and wife, or when there has been spousal abuse, it is permissible for the husband to appoint an agent -called a *shaliach* - to order the *Get*, deliver the *Get*, or both. Although *halakhah* permits the appointment of an agent to accept the *Get* for the wife, in practice this is not done.

4. WHY IS A *GET* REQUIRED?

A woman who was married by *kiddushin* but did not receive a *Get* is considered by Jewish law to be an *aishet ish* and still married to her first husband, notwithstanding a civil divorce. If the woman subsequently has children with another man, those children may have the status of *mamzer*. (One who has the status of *mamzer* and all of his/her descendants may only marry other *mamzerim*.)

While it is forbidden for a man to remarry without having given his first wife a *Get*, some rabbis, under certain circumstances, will allow him to remarry. There are no adverse consequences to children born of a man's subsequent marriage, even if he has not given his wife a *Get*, as these children are not considered *mamzerim*.

5. WHAT ARE THE *HALAKHIC* REQUIREMENTS INVOLVED IN A *GET* PROCEEDING?

- a. The *Get* must be given and received without coercion, as defined by Jewish law.
- b. The transfer of the *Get* must be supervised by a *beit din* that is competent in the area of *gittin* and must be witnessed by two acceptable adult male witnesses.
- c. The *Get* must be written by a trained *sofer* who follows the prescribed formula.
- d. The *Get* must contain all the names by which the parties and their fathers have been known, including their nicknames. The full names of all parties should be included in the *Get* and if possible, the *ketubbah* or a copy of it should be checked for the names that were used within it. Identification should be provided to the *beit din* to establish the identity of the parties. As the *Get* includes information about whether one is a *kohen* or *levi*, such determination should be made prior to appearing before the *beit din*.
- e. The *Get* must also include the name of the city in which the *Get* is being written, and the name of the nearest body of water.

6. WHAT IF A HUSBAND DISAPPEARS WITHOUT GIVING HIS WIFE A *GET*?

If a husband disappears without giving his wife a *Get*, every effort must be made to find him, including sending mail to his last known address and exploring all sources of information about his whereabouts. There is also an international e-mail listserv, Gettlink, that facilitates communication among *agunah* activists worldwide. If a husband cannot be found, his description may be put on this listserv by contacting any one of the member organizations. (Contact JOFA for additional information about Gettlink.)

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Note: If a husband flees to Israel without giving his wife a *Get*, there may be recourse in Israel's courts, though this may be an expensive process. There are organizations in Israel that can be of assistance.

If a husband is deemed missing, and there is reason to believe he may have died, some rabbis may rule that he is deceased and thus allow the wife to remarry. The rabbis may act leniently in order to prevent a woman from being an *agunah*, by employing the Talmudic principal "*mi-shum iggunah akilu bah rabbanan.*" This leniency was employed following the sinking of the Israeli submarine *Dakar* and following the destruction of the World Trade Center, when wives were deemed free to remarry based on the presumed death of their husbands even absent direct testimony.

In the absence of a *Get*, the death of a husband, or a rabbinical ruling freeing a woman for the purpose of remarriage, a woman may become an *agunah*.

7. ARE THERE CIRCUMSTANCES IN WHICH A WOMAN SHOULD REFUSE TO ACCEPT A *GET*?

It is advisable for a woman to refuse a *Get* if the *Get* itself is defective, i.e., the names in the *Get* are incorrect, or if the *Get* is being processed in a *beit din* that is not generally recognized as competent in matters of divorce. It may also be legitimate to refuse to accept a *Get* if the woman will be compelled to also accept an unconscionable settlement with regard to spousal and/or child support or custody. Another circumstance in which it may be recommended for a woman to refuse to accept a *Get* is a situation in which the *Get* is based on false allegations against the woman.

A woman's refusal to accept a *Get* may form the basis for a *heter me'ah rabbanim*, which would permit a man to remarry prior to his wife's acceptance of a *Get*. (See V:4.) If a *heter me'ah rabbanim* is issued, a valid *Get* must be deposited with the *beit din* issuing the *heter* for delivery to the wife when she is willing or able to accept it. Many *batei din* are lax in their enforcement of the requirement that a valid *Get* be deposited with them. A *beit din* that issues a *heter me'ah rabbanim* is obligated to investigate whether the woman was offered a valid *Get* and the circumstances under which she refused, however, not all *batei din* undertake such an investigation.

Note: The decision to refuse to accept a *Get* is a significant one and should only be undertaken with a great deal of forethought and in consultation with an attorney and a rabbi.

8. ONCE A *GET* IS WRITTEN, IS THE COUPLE DIVORCED?

No. Once a divorce has been initiated, only the receipt and acceptance of the *Get* by the wife effects a final religious divorce. Some *batei din* may encourage the husband to have the *Get* written and placed in escrow with the *beit din* for the pendency of the civil divorce. Although a *Get* can be revoked at any time prior to its delivery to the wife, it is still better to have it written and placed in escrow than to risk the husband's ultimate disappearance or refusal to write one. Some *batei din* may try to prevail upon the husband to release the *Get* even absent a final civil divorce if the divorce proceeding is taking a long time. Other *batei din* will deliver the *Get* to the wife and will effect the Jewish divorce, but withhold the *ptur*, which would enable both spouses to remarry, until the civil decree of divorce is rendered. (See II:9.)

Withholding a *Get* that is written but not delivered can still be used to exert pressure on the wife in relation to issues of spousal and/or child support and custody in civil court.

The final step in the *Get* process is the issuing of a document called a *ptur*, which is a receipt acknowledging that both parties are divorced according to Jewish law and are free to remarry.

9. WHAT IS A *PTUR*?

A *ptur* is a document issued by a *beit din* indicating that a man and woman are divorced according to Jewish law and allowing them to remarry. *Batei din* have different practices about whether they will mail a *ptur* or require parties to pick it up. Before choosing a *beit din*, it is advisable to inquire as to the *beit din's* approach to issuance of the *ptur*. Parties intending to pursue romantic relationships prior to the issuance of a *ptur* should consult a rabbi.

Notwithstanding the receipt of a *ptur*, a woman must still wait 90 days after receiving the *Get* before remarrying. In certain situations, some *batei din* will

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count the 90 days beginning with the writing of the *Get*, rather than the date of its receipt. If a civil divorce is finalized prior to the receipt of the *Get*, some rabbis may begin counting the 90 days from the finalization of the civil divorce.

10. WHEN DOES A DIVORCING WOMAN RECEIVE HER *PTUR*?

Generally, *pturim* are issued to both spouses after the *Get* has been received and the civil divorce has been finalized. Some *batei din*, on consent of the husband, may release the *pturim* after receipt of the *Get* but prior to the finalization of the civil divorce.

11. IS THERE A CENTRAL *GET* REGISTRY?

There is no central *Get* registry in the United States. There is one in Israel for divorces that take place in Israel. Some U.S. divorces have been reported to have been registered in Israel.

12. DOES THE LACK OF A CENTRAL *GET* REGISTRY PRESENT A PROBLEM?

It can. Some U.S. *batei din* do not keep records. Some *batei din* keep records but accessing those records is difficult, if not impossible, for various reasons, i.e., disorganized record keeping practices, unavailability of the record keeper through death or incapacity, or problems affecting access to the location of the records. For reasons discussed previously, flawed or incomplete records of a Jewish divorce may have serious effects on future generations. It is thus advisable for both husband and wife to retain original documents in a safe and secure place so as to avoid loss, damage or theft. It is also wise to make multiple copies of the *ptur* and keep the copies in different places.

13. ARE THERE ALTERNATIVES TO A *GET* IN DISSOLVING A JEWISH MARRIAGE?

A great deal of thought and energy has been directed to addressing problems arising from the inequitable system of giving and receiving a *Get* by investigating possible alternatives to a *Get*.

The following are some of those potential alternatives:

- a. A determination of *kiddushei ta'ut* can be made by a *beit din* to void a marriage when the marriage is deemed to have been invalid from the outset because it was based on a mistake. This determination stems from the Talmudic principle of *mekach ta'ut*—a mistaken transaction.

A marriage may be voided under the theory of *kiddushei ta'ut* when: (1) the husband has a pre-existing condition (*mum*) unknown to the wife, or hidden from her (*mum nistar*), that is serious enough that had a rational person known about the condition, he/she would not have entered into the marriage; and, (2) there is proof that the condition was present before the marriage.

If, following the marriage ceremony, the wife discovered the condition and nevertheless continued to live with her husband, she may be deemed to have waived a claim of *kiddushei ta'ut*.

Note: There is a *halakhic* presumption that a woman prefers any marriage to being single (*tav l'metav tandu me'll'metav armelu*). In light of this presumption, some *batei din* may be reluctant to make a determination of *kiddushei ta'ut*, despite a wife's testimony to the contrary.

- b. A theory has been put forth recently that a *beit din* is a party to a marriage and can therefore annul a marriage. This theory is still being developed and is the subject of much debate.

A Talmudic method, *hafka'at kiddushin*, is an annulment based on limited circumstances.

- d. If an Orthodox rabbi did not officiate at the initial marriage ceremony, some *halakhic* authorities may not require a *Get* to dissolve the religious marriage.

III. BEIT DIN

Often a person's first experience with a *beit din* occurs when he/she seeks a religious divorce. Many people are unfamiliar with differences in procedure, language and personnel between *batei din*. These differences may significantly impact one's experience with a *beit din*,

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and, as such, should be given serious consideration before one chooses a particular *beit din*.

1. WHAT IS A *BEIT DIN*?

A *beit din* is a Jewish rabbinic court that deals with various business related and commercial disputes, as well as matters of personal status, i.e., divorce. A *beit din* is comprised of three *halakhically* qualified men called *dayyanim*.

2. ARE *BATEI DIN* LICENSED BY THE STATE?

No. *Batei din* are neither licensed nor regulated by the state. Nonetheless, certain determinations by *batei din* may be considered binding in civil court.

3. ARE *BATEI DIN* REGULATED?

A *beit din* may be regulated by the organization that sponsors it, (for example, the Beth Din of America may be regulated by its sponsoring organization the Rabbinical Council of America), but usually the parent organization will allow the *beit din* to establish its own rules and procedures.

4. ARE *BATEI DIN* INDEPENDENT ENTITIES OR PART OF LARGER ORGANIZATIONS?

Batei din may be sponsored by local or national organizations, i.e., the Union of Orthodox Rabbis of the U.S. and Canada/Agudath HaRabonim, but *batei din* may also be formed on an ad hoc basis to hear a particular case, such as a *zabla beit din*. (See III:9.) Some problems that may arise with ad hoc *batei din* include a lack of oversight by a sponsoring organization, inaccessibility of the *dayyanim*, who may be difficult to find once the *beit din* has dissolved, and unavailability of records due to poor record keeping practices.

5. ARE THERE UNIFORM PRACTICES AMONG *BATEI DIN*?

Most of the practices and procedures encountered in the *beit din* are dictated by *halakhah*. *Batei din* are also governed by formal or informal local customs and norms that may result in different procedures among different *batei din*. It is difficult to ascertain the precise basis for each *beit din's* practice, as this information is not generally recorded.

Note: In light of the potential for differing approaches and practices among different *batei din*, it is advisable to work with a well-established and long-standing *beit din* with consistent procedures and practices.

6. ARE THERE UNIFORM RECORD KEEPING PRACTICES AMONG *BATEI DIN*?

No. Each *beit din* decides how it will maintain its own records, and records in some *batei din* are not computerized. Some *batei din* are convened for one particular case, and there are no uniform rules as to how or where records from that *beit din* are maintained. (See III:9.) We advise that each litigant keep records for him/herself of the full name of the *beit din*, the names of all the *dayyanim*, the names and addresses of any witnesses, name of the scribe, a list of all other people present at the proceeding, and the location, date and time of all proceedings.

7. WHICH DOCUMENTS, GENERATED BY THE *BEIT DIN*, IS THE WIFE ENTITLED TO RECEIVE?

Each *beit din* has its own practices with respect to which documents are provided to the parties. Be sure to make inquiry of your specific *beit din* as to which documents you may have, and ask that copies be made for you. It is essential that a copy of the *ptur* is obtained from the *beit din*.

8. MUST BOTH PARTIES TO A DIVORCE APPEAR BEFORE THE *BEIT DIN* CHOSEN BY THE INITIATING PARTY?

A person is not compelled to submit to the *beit din* chosen by the other party, however, he/she must answer the initial *hazmanah* of that *beit din*. If the purpose of the *hazmanah* is solely to bring the wife to the *beit din* to receive the *Get*, it may not be worthwhile to contest the husband's choice of *beit din*. However if the *beit din* is addressing issues of spousal and/or child support and custody, the choice of *beit din* becomes much more significant.

If you don't agree to the initiating party's choice of *beit din*, try to come to the *beit din* prepared with suggestions of *batei din* that would be acceptable to you. If the initiating party does not agree to adjourn to one of those *batei din*, a *zabla beit din* may need to be established.

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9. WHAT IS A ZABLA BEIT DIN?

If a situation arises where a husband and wife are unable to agree on an existing *beit din*, they may be forced to convene a *zabla beit din* to facilitate their divorce. A *zabla beit din* is an ad hoc *beit din* that may be established to hear a particular case. In such a case one *dayyan* is chosen by the husband and one *dayyan* is chosen by the wife. The two *dayyanim* then choose a third *dayyan* to sit with them.

There are several obvious reasons to avoid a *zabla beit din*, including the absence of a parent organization and the oversight it may provide, unknown record-keeping practices, and the fact that the *beit din* has no track record to consider. Nevertheless, there are times when a *zabla beit din* may better serve a woman's interests than a standing *beit din* that is known to be inequitable towards women.

10. HOW SHOULD ONE CHOOSE A BEIT DIN?

If a litigant is comfortable doing so, the litigant may ask a community rabbi to recommend several possible *batei din*. (See General Comments and Cautions Section regarding discussions with rabbis.) We recommend that a litigant make inquiry of any *batei din* he/she is considering before making a final determination. A review of the FAQs, the General Comments and Cautions, and the Beit Din Comparison Grid will educate a litigant as to the key questions to ask when calling a *beit din* to obtain information. Also, if possible, ASK others about their experience with different *batei din* in the context of obtaining a divorce.

IV. BEIT DIN DIVORCE PROCEDURES

Note: For procedures associated with the transfer of a *Get*, see II:3.

1. WHAT INITIAL PROCEDURES ARE ENCOUNTERED WHEN ONE GOES TO A BEIT DIN FOR A GET?

a. One of the parties seeking a divorce must call the *beit din* and schedule an appointment to initiate the proceeding. Either the husband or wife may initiate this contact.

b. Commonly, following the initial interview with a party, the *beit din* issues a *hazmanah* to the other party to appear before that *beit din*. At this point the other party may indicate that he/she does not agree with the initiating party's choice of *beit din* and may offer a choice of other *batei din*. If the parties cannot agree on an existing *beit din*, a *zabla beit din* may have to be formed.

c. The *beit din* may need to issue up to three *hazmanot* (see Beit Din Comparison Grid Section for schedule of issuance), and if the summoned party does not appear, the *beit din* may issue a *seruv*. (See IV:2 and 3.) A *seruv* is a document indicating that the person who did not respond to the *hazmanah*, is not cooperating with the *beit din*, and is therefore a recalcitrant party who is in contempt of court. Either husband or wife can be held in contempt of court. (See III:8, as to whether a litigant submits to the jurisdiction of the *beit din* issuing the summons by appearing in response to the summons.)

d. The issuance of a *seruv* is a serious matter that can trigger community sanctions against any person who is "*mesarev*". Some *batei din* will not issue a *seruv* because of the severity of the measure. (See Beit Din Comparison Grid Section.) However, these *batei din* may be willing to issue a letter to community rabbis indicating that synagogue honors should be withheld from the husband because he has failed to cooperate with the *beit din*. According to *halakhah*, the sanction of withholding honors from an uncooperative husband does not require a *seruv*, however other sanctions, such as picketing the husband's home or workplace, are considered to be substantively different, and do require a *seruv* issued by a *beit din*.

2. ONCE A SERUV IS ISSUED, DO COMMUNITY SANCTIONS AUTOMATICALLY FOLLOW?

No. In most cases it is the responsibility of the cooperating party to ensure that sanctions are enforced against the *mesarev*. He/she must obtain a copy of the *seruv* from the *beit din* and provide it to the rabbi of the *mesarev* and others who would be willing and able to implement community sanctions against the *mesarev*.

3. WHAT COMMUNITY SANCTIONS CAN BE APPLIED AGAINST A PERSON AGAINST WHOM A *SERUV* HAS BEEN ISSUED?

Once a *seruv* has been issued, the *mesarev's* home may be picketed and/or that person's workplace may be picketed. If the husband is *mesarev*, his congregation may be asked to deny him the honor of being called up to the Torah (however, as indicated previously, this particular sanction can be applied even without a formal *seruv*). If the *mesarev's* business needs a *hechsher*, the *hechsher* may be refused or withdrawn after a *seruv* is issued. All requests for sanctions must be initiated by the aggrieved party or someone acting on his/her behalf. The *beit din* and/or local rabbi are unlikely to initiate sanctions unless asked to do so by the injured party. The sanctions are sometimes applied by individuals and sometimes applied by the community leaders, institutions or organizations. For example, the *Jewish Press*, a weekly New York-based publication, will list individuals who are *mesarev Get*. Another list of *mesarvei Get* may be found at www.getora.com.

4. WHAT IS A *TO'EN* (masc.), *TO'ENET* (fem.)?

Toanim (pl.) are advocates who act as attorneys for people appearing before a *beit din*. Presently, *Toanot* (women) may only appear in *batei din* in Israel and only after they have completed a rigorous course of training. In the United States, there is no uniform training curriculum for *toanim*, nor are *toanim* accredited by any communal institutions. As there is no requisite level of knowledge that *toanim* must evidence, and there are no ethical guidelines that govern their conduct, some *batei din* will not allow *toanim* to advocate in the *beit din*. (See Comments and Cautions Section.)

5. DO HUSBANDS AND WIVES CONFRONT ONE ANOTHER DIRECTLY WHEN APPEARING BEFORE A *BEIT DIN*?

No. Both husbands and wives are present in the same room, but they do not speak to one another directly. During the proceedings, each party speaks directly to the *dayyanim* and the *dayyanim* pose questions or relay comments to the other party.

6. SHOULD A WOMAN GO TO A *BEIT DIN* ALONE?

We do not recommend that a woman appear before the *beit din* by herself. Appearing before the *beit din* can be an emotional experience and the litigant may need support. We suggest that a woman ask a female friend and/or a trusted relative to accompany her. If the person accompanying a woman has knowledge of *halakhah*, that may be helpful, however, each *beit din* differs with respect to whether a non-party will be permitted to attend and/or speak during the proceeding.

7. CAN A WOMAN'S ATTORNEY ACCOMPANY HER AND SPEAK ON HER BEHALF BEFORE A *BEIT DIN*?

Batei din differ on whether attorneys may be present during the proceeding and to what extent they may participate. Ask the *beit din* you are considering using to what extent, if any, your attorney may be involved. (See Beit Din Comparison Grid Section.)

8. WHAT KIND OF MONETARY SETTLEMENT MAY A WOMAN BE ENTITLED TO IN A *BEIT DIN*?

Each *beit din* has its own method of division of marital assets. (See Beit Din Comparison Grid Section.)

A *beit din* does not have to award spousal support. A *beit din* may award a woman the worth of her *ketubbah* solely or it may ask a woman to waive her claim to the *ketubbah* money. On the other hand, some *batei din* may order a year or more of spousal support, sometimes as an interpretation of the worth of the *ketubbah*. (See V:2.)

9. IF A LITIGANT FEELS HE/SHE HAS BEEN TREATED UNFAIRLY BY A *BEIT DIN*, IS THERE ANY TYPE OF APPELLATE PROCESS?

One of the flaws of the *beit din* system currently is that there is no clear-cut formal appellate process and no specific entity that is empowered to address complaints. If the *beit din* has a parent organization, a complaint may be lodged in writing and sent by certified mail, return receipt requested, to that organization. It should clearly outline the complaint and ask for an investigation and a report to the complainant. Additionally, in some *batei din*, if the *av beit din* was not one of the *dayyanim* who ruled on the original case there may be recourse to the *av beit din*.

V. DOCUMENTS FOUND IN JEWISH DIVORCE PROCEEDINGS

Note: Many documents involved in Jewish divorce proceedings, such as *Get* and *Ptur*, are discussed elsewhere.

1. WHAT TYPE OF PRE-NUPTIAL AGREEMENTS MAY BE USED TO ADDRESS ISSUES WITHIN A JEWISH MARRIAGE?

A bride and groom may sign a pre-nuptial agreement prior to marriage creating financial incentives for a man to give a *Get* in a timely manner in the event of the dissolution of the marriage. This agreement may also be signed after a couple is married, in which case it is considered a post-nuptial agreement. Pre and post-nuptial agreements are equally valid and enforceable.

Increasingly, Jewish pre-nuptial agreements are signed by the bride and groom prior to the wedding ceremony. (See Comments and Cautions Section about timing of the signing of such agreements.) The pre-nuptial agreement compels a husband to provide financial support to his wife if he withholds a *Get* once a Jewish divorce has been initiated. As a result, the pre-nuptial agreement—though not foolproof—reduces the incentive a husband otherwise may have to refuse to give a *Get* in a timely manner.

Pre-nuptial agreements can differ. The pre-nuptial agreement of the Beth Din of America is a commonly accepted option. It can be obtained by calling 212-807-9042 or downloaded from www.ocweb.org.

In the United States, state laws may differ as to what must be included in a pre-nuptial agreement for it to be valid and enforceable. These rules may be fairly complex and therefore any pre-nuptial agreement should be obtained ahead of time and discussed with your attorney as well as your rabbi before it is signed.

2. WHAT IS A KETUBBAH?

A *ketubbah* is a document that was created by the rabbis for the purpose of protecting women in the context of marriage. The *ketubbah* is signed by the groom and given

to the bride during the wedding ceremony. According to the terms of this contract, the husband commits himself to support, feed, and satisfy his wife sexually for the duration of their marriage and to give her a certain sum of money in the event of a divorce.

The sum of money outlined in the *ketubbah* is described in *zuzim*, an ancient coin. *Batei din* take different approaches in their calculation of the amount of money owed in the event of a divorce according to the terms of the *ketubbah*. Some *batei din* will award a woman a finite amount in local currency (i.e., \$5,000) and other *batei din* will interpret the *ketubbah* to require the husband to pay spousal support for a given period. *Batei din* differ as to the duration of the spousal support that will be awarded, and the standards they will apply in determining the amount of support owed. (See Beit Din Comparison Grid Section for examples of different approaches taken by *batei din*.)

In the event of a divorce, some *batei din* may ask a woman to forego her *ketubbah* money for various reasons. Unfortunately, some *batei din* may fail to ensure that the woman receives adequate financial support once she has waived her claim to her *ketubbah* money. Unless a woman has signed a *shtar berurin* she should be encouraged to file a petition in civil court for spousal and/or child support. Some *batei din* may view a litigant's decision to seek the aid of the civil court in an unfavorable light, and it has come to our attention that some communities may penalize and/or ostracize parties who seek the aid of civil court rather than rely on the rulings of the *beit din*.

3. WHAT IS A SHTAR BERURIN?

A *shtar berurin* is a document that grants the *beit din* exclusive authority to arbitrate and determine issues including division of marital assets, support, and custody of children. Civil courts may accept this as a BINDING ARBITRATION agreement. This may vary in different courts and in different states. Each party to a divorce has the right to refuse to sign the *shtar berurin*, however, some *batei din* require that a *shtar berurin* be signed before agreeing to adjudicate the matter. One should consult an attorney before signing the agreement. (See Comments and Cautions Section.)

Once a *shtar berurin* has been signed by the parties, and

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the *beit din* has arbitrated the matter and reached a determination, it will be very difficult to enlist the aid of the civil court in changing the outcome of the case. We strongly advise that one seek the assistance of an attorney in this matter. Moreover, a party may be subject to disapproval by his/her community based on his/her decision to turn to the civil courts.

4. WHAT IS A *HETER ME'AH RABBANIM*?

In the event that a woman cannot or will not accept a *Get*, this *heter*, which must be signed by 100 rabbis, would permit a man to take another wife so long as he deposits a proper *Get* for his first wife with the *beit din*. Unfortunately, not all *batei din* follow the requirement that a *Get* be deposited with them before issuing a *heter me'ah rabbanim*.

Historically, a *heter me'ah rabbanim* constituted a remedy for men whose wives could not accept a *Get* because of incapacity or because the wife could not be found. This remedy is easily subject to abuse. For instance, in some cases, a woman may refuse to accept a *Get* for legitimate reasons and nonetheless the *heter* will be issued. Moreover, in some cases the husband misrepresents to the *beit din* that his wife has refused to accept a *Get* and the *beit din* agrees to issue a *heter me'ah rabbanim* without investigating the matter. (See II:7, outlining legitimate reasons for refusing to accept a *Get*.) Once a *heter me'ah rabbanim* has been issued, according to *halakhah* a man may remarry.

VI. DAYYANIM

1. WHO CAN SERVE AS A DAYYAN ON A BEIT DIN?

A judge on a rabbinic court may be a rabbi or a layperson, but currently, only men may serve as *dayyanim*. The chief judge is called the "*rosh*" or "*av*" *beit din* and it is often he who gives the character to his *beit din*. The *beit din* is often referred to by the name of the *rosh* or *av bet din*, i.e., "Rabbi Yossi's *beit din*."

2. ARE THERE UNIVERSALLY ACCEPTED STANDARDS FOR DAYYANIM?

Every *beit din* determines what qualifications will be

required for its *dayyanim*. (See Beit Din Comparison Grid Section for particulars of some *batei din*.)

VII. AGUNAH

1. WHAT IS AN AGUNAH?

An *agunah* is a woman chained to a dead marriage. Historically, this term referred to a woman whose husband had disappeared with no witnesses to his death and his body was not found. The term is frequently used today to include a woman who is *mesorevet Get*, that is, one whose husband refuses to give her a *Get* even though his whereabouts are known.

Whether a woman does not receive a *Get* because her husband's whereabouts are unknown or because he refuses to give her a *Get*, the woman cannot remarry.

2. WHAT IS THE DIFFERENCE BETWEEN AN AGUNAH AND A WOMAN WHO IS A MESOREVET GET?

Historically an *agunah* was a woman whose husband had disappeared and a *mesorevet Get* was a woman whose husband refused to give her a *Get*. Currently the term *agunah* is used to describe women in both situations.

Nonetheless, some *batei din* maintain that there is a *halakhic* distinction between an *agunah* and a *mesorevet Get* and thus will not apply the leniencies required by *halakhah* in *agunah* situations to *mesoravot Get*.

3. ARE THERE OTHER CIRCUMSTANCES IN WHICH A WOMAN MAY FIND THAT SHE IS AN AGUNAH?

Yes. If a woman's husband dies and no children had been produced through their marriage, the deceased husband's brother is required to marry her in a special levirate marriage ceremony. It is the current practice in most communities, for the brother to perform the ritual of "*halitzah*" releasing his sister-in-law from marrying him. If the brother refuses to release the woman by performing *halitzah*, she is an *agunah* and cannot remarry. Under these circumstances, a rabbi must be consulted.

Note: Following the ritual of *halitzah*, the woman's

status is that of a divorcee. This can create problems if she later wishes to marry a *kohen* who is forbidden to marry a convert or divorcee.

VIII. CUSTODY

1. WHAT, IF ANYTHING, DOES JEWISH LAW DICTATE WITH REGARD TO CUSTODY OF CHILDREN IN THE EVENT OF THE DISSOLUTION OF A MARRIAGE?

Halakhah provides that custody determinations should be made based on the 'best interest of the child'. However, *batei din* differ in how they determine what is in the 'best interest of the child'.

Historically, it was assumed, and still is assumed by some *batei din*, that when both parents are equally competent, daughters should remain with their mother, and sons above the age of six should remain with their father.

The *beit din* should carefully reconsider this guideline if either parent is suspected of incompetence or there is a concern about abuse and/or neglect. If a litigant is aware of abuse and/or neglect he/she should speak with an attorney well versed in family law about alerting the proper authorities. Experience has shown that the resolution of this matter is not simple, as not all *batei din* seek the services of mental health professionals in determining what is best for a child. A litigant may request an outside evaluation by an expert. (See Beit Din Comparison Grid, and Comments and Cautions Sections.)

IX. OTHER IMPORTANT ISSUES

1. WHAT IS THE LAW WITH RESPECT TO CONFIDENTIALITY AND CLERGY-PENITENT PRIVILEGE AS IT APPLIES TO COMMUNICATIONS WITH RABBIS?

When a communication is a privileged one, it means that under the secular rules of evidence the details of that communication may not be disclosed in a civil court proceeding. In some states, there is a clergy-penitent privilege that may include discussions with a rabbi. This privilege does not ensure complete confidentiality. Even if such a privilege would prevent a rabbi from disclosing the details of a communication in a civil court, rabbis may reveal to the *beit din* or to a husband what a wife has told them, for example, disclosures about practices involving *mikvah* attendance, sexual relations or extra-marital affairs. The fact that communications between a woman and her rabbi may not be confidential can operate to her detriment in *beit din* proceedings. As such, we generally recommend that when a woman meets with a rabbi to discuss her divorce, she be accompanied by a third party who may act as a witness to the conversation. Insofar as the presence of a third party will destroy any clergy-penitent privilege that may apply, we strongly recommend consulting with an attorney.

We advise women who are anticipating or are experiencing a divorce to seek counseling from a mental health professional. Though some states deem communications between mental health professionals and patients to be privileged, this privilege may be a limited one. Please consult with a local attorney to get more information about communications with mental health professionals.

Note: One reason to consider confiding in a mental health professional rather than a rabbi is because a mental health professional may not feel compelled to disclose the details of the confidence to a *beit din*.

C. COMMENTS AND CAUTIONS:

The following comments and cautions have been compiled based on discussions with people who have had experience with the beit din system in the context of Jewish divorce.

1. If one is seriously contemplating divorce a consultation with a matrimonial attorney is strongly recommended prior to undertaking any divorce action or related steps, including, going to a *beit din* or establishing another residence. If financial constraints would prevent one from obtaining a private attorney, in New York, call the New York Legal Assistance Group (NYLAG) at 212-750-0800 for a consultation. In other communities, contact local social service agencies to ascertain the availability of free or low cost attorney services.
 2. It is wrong for either party to use a *Get* for leverage in divorce proceedings. As soon as it becomes clear that there will be no reconciliation, the *Get* should be written and delivered to the woman so that it cannot be used as a bargaining tool in financial or custody negotiations.
 3. When someone is told that a woman refused to accept a *Get*, the listener must question whether and why the *Get* may have been refused prior to determining that the woman is simply recalcitrant. There may be valid reasons for a woman to refuse a *Get*. (See FAQs Section II:7.) One should refrain from premature judgments and gossip.
 4. We recommend the signing of a Jewish pre-nuptial agreement. There are different pre-nuptial agreements available and rabbis have different positions as to which pre-nuptial agreements are acceptable. Several weeks prior to the marriage ceremony, ask your rabbi to show you the form he proposes to use. If the rabbi performing your wedding will not use a pre-nuptial agreement, we suggest that you think seriously about whether or not to work with him.
- You should review your pre-nuptial agreement with someone who can explain its language, and the legal and the *halakhic* ramifications. It is preferable that the agreement be signed prior to the wedding day.
- While a pre-nuptial agreement is not a guarantee against extortion through the *Get* process, it has been found to help prevent it. The more widely it is used, the more effective it will be. Although individual couples may feel they do not personally need it, all who sign it do so for the good of the community.
5. In the United States, each state has its own rules as to the content and execution of pre-nuptial agreements. In many jurisdictions, the document must be notarized for it to be enforceable. Consult with a local attorney to determine what is required for a Jewish pre-nuptial agreement to be valid and enforceable in your state. Also check with the local *beit din* to determine whether such changes in your pre-nuptial agreement are *halakhically* acceptable. If necessary, ask a *dayyan* to help you work out acceptable wording and procedure.
 6. A *Get* must be written and reviewed by a qualified *beit din* or it may be invalid.
 7. Names are very important in a *Get*. A *Get* issued by or to a person using an incorrect name is VOID. Be sure to provide the *beit din* with your full name and the full name of your father and

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be sure to verify the spelling of every name. It is advisable to check your *ketubbah* or a copy of it for reference to ensure that the names in the *Get* are complete and correct. If a party referenced in the *ketubbah* is known in the community by another name or a nickname, these names too should be provided in writing to the *beit din* and should appear in the *Get*.

8. A *hazmanah* should never be ignored. When summoned, you must respond. A *seruv* can be issued against a party who fails to appear in the *beit din* after being summoned three times and sanctions may be applied to that person. If you do not want your case litigated in the *beit din* issuing the summons, ask to have another *beit din* hear the case, and come prepared with the names of alternative *batei din*. In the event that you and your spouse cannot agree on a *beit din*, a *zabla beit din* may have to be convened.
9. A husband who does not want to grant a *Get* may use stalling tactics such as attempting to delay the issuance of *hazmanot* or moving to change the *beit din* immediately prior to the issuance of a *seruv* in order to prolong the Jewish divorce proceeding. If the initiating party wants to put an end to the delay, he/she can request that the *beit din* issue a *seruv*. If the *beit din* will not issue a *seruv*, the party may request that a *zabla beit din* be formed. (See FAQs Section III:9.) When choosing to go to a *zabla beit din*, one must weigh the consequences of going to an ad hoc *beit din* or not obtaining a *Get*.
10. Before deciding whether to go to a particular *beit din*, that *beit din* should be interviewed extensively about such matters as the timing of *hazmanot* and its practices with respect to *seruv*. Some courts will not issue a *seruv* even though they say they do. Try to determine under what circumstances this might happen. Keep in mind that a *beit din* may reserve the right to diverge from its own written rules and procedures.
11. No woman should attend a *beit din* by herself. Even if the woman initiates the divorce, she needs support. Attending a *beit din* session and/or receiving the *Get* itself are very emotional experiences.
12. A litigant should exercise caution about what he/she reveals to his/her rabbi because it has not yet been established to what extent communications with a rabbi are considered privileged in either a civil court or a *beit din*. Women, in particular, must use caution in revealing details of their marital intimacy or mental state as some rabbis may feel that they have an affirmative duty to reveal this information to a *beit din* or husband and the information may then be used against the woman. Although there may be reasons to have a third party present when consulting with a rabbi about a divorce, be aware that the presence of a third party may destroy any privilege that attaches to the communication. Speak to your attorney about this issue.
13. We ask rabbis to act in good faith towards their congregants. If you, as a rabbi, feel that under certain circumstances you may have to break a confidence with a woman, you should make that clear with specificity both at the outset of your interaction, and, if necessary, during the course of your conversation. If necessary, please refer her to a licensed mental health professional.
14. We recommend that a woman who needs counseling seek the services of a licensed mental health professional. Please speak to an attorney about whether, and to what extent, the law in your state protects the confidentiality of your communication with a mental health professional.
15. One should be aware that a *beit din* may require individuals seeking a divorce to undergo counseling with a rabbi, even if they have already been in counseling with a licensed

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- mental health professional. If, after undergoing counseling with a rabbi, one concludes that the marriage is not viable, they should inform the beit din of the measures they have taken to promote *shalom bayit*, which were unable to mend the marriage.
16. If a rabbi is helping to arrange your *Get*, do not let him make commitments on your behalf without your prior approval. It is a good idea to put this request in writing in the form of a cordial letter. When discussing your available options with a rabbi, and his recommendations, make sure that you have a full understanding of all commitments that you are making and their ramifications.
 17. Unfortunately, some *toanim* are corrupt and/or untrustworthy. Rabbis of integrity often refuse to serve on a *beit din* when *toanim* are appearing. Some *toanim* have been known to take bribes from spouses, offer bribes to *dayyanim* and switch their representation from one client to the other. Be very careful if you hire a *to'en*. You must investigate carefully to find out if he is honest and reliable. Similarly, some *dayyanim* are known to be corrupt. Rabbis of integrity often refuse to serve on a *zabla beit din* when such *dayyanim* are participating.
 18. Determine if the *beit din* you intend to use requires you to sign a *shtar berurin*, a binding arbitration agreement, which may give the *beit din* authority over the giving of the *Get*, as well as over child custody and financial matters. Some *batei din* require parties to sign a *shtar berurin* before they hear a case; others suggest but do not require such an agreement. If a husband requests a *shtar berurin*, some *batei din* will require it. Some women have regretted signing a *shtar berurin*, particularly with regard to issues of child custody, because custody issues continue to remain open to the scrutiny of the *beit din* during the entire minority of the child. Unfortunately, a woman is often faced with the choice between signing a *shtar berurin* or foregoing a *Get*.
 19. You need not submit to the *beit din* that first receives your case. You should always find out about the practices of any *beit din* before consenting to its jurisdiction.
 20. One need not simply accept responses like "it's the *halakhah*," or "it's *d'oraita*" (Biblically originated Jewish law). This answer is not always fully dispositive of the issue in question. Variations in Jewish law do exist and you should try to inform yourself about them. You may respectfully ask your rabbi or others for explanation of the *halakhic* issue in question.
 21. When speaking to a *beit din* or *to'en*, be respectful, but firmly assert your position. You may always ask for time to check issues that are unclear to you or statements that seem inaccurate.
 22. Sometimes one of the parties may try to have ex parte (private) communication with the *beit din*. One should request from the *beit din* that all parties be informed of any communication the other party has with the *beit din*.
 23. If a parent is guilty of abusing his/her children and the *beit din* wants to grant that parent custody, the other parent should ask the *beit din* to have the situation reviewed by a mental health professional. Be prepared to submit the name of a mental health professional who is acceptable to you. It may be helpful to find someone conversant with Jewish law. If the *beit din* has someone they wish to consult, ask for time to investigate that person's credentials. If you suspect that your spouse may be guilty of abuse and/or neglect, you should speak with an attorney well versed in family law about alerting the proper authorities.

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24. Often, a *beit din's* fee exceeds the amount initially quoted to the litigants. Most *batei din* have sliding scales for parties who cannot afford the *beit din's* regular fees. Some cities have Hebrew free loan societies that will lend people money to pay for a *Get*.
25. If a man is given a *heter me'ah rabbanim* by a rabbinic court, he must deposit a valid *Get* with the *beit din*. If a woman decides to accept a *Get* that had been deposited when that *beit din* issued a *heter me'ah rabbanim* for her husband, she must be sure to bring someone to verify that the *Get* has been properly executed.
26. If a woman decides to stay in a marriage where there may be grounds for *kiddushei ta'ut* because her rabbi or parents asked her to remain in the marriage to see if the situation would change, she should take precautions to ensure that her decision will not be used against her at a later date. She should secure a promise from her rabbi that her good faith attempts were solicited, and will not be viewed as an acceptance of the flaw if she later determines she wants the marriage voided. A document should be drafted and signed that reflects this promise. Be aware that such a letter or even a rabbi's statement may not bear weight with some *batei din*.
27. Beit Din L'Inyenei Agunot (Rabbi Rackman's *beit din*) deals only in matters of *iggun* and only with difficult cases. All litigants are interviewed first by the members of Agunah International, Inc., which may try to resolve the case and, if possible, find another *beit din* to write a *Get*. When, upon examination by the *dayyanim*, they make a finding that the marriage meets the criteria of "mistaken marriage," they apply the principal of *kiddushei ta'ut* to void the marriage. The majority of Orthodox rabbis will not officiate at the marriage of a woman who had her previous marriages voided through this *beit din*.
28. Although other methods of dissolution may be available, a *Get* is the preferred way to end a Jewish marriage. Most *batei din*, when possible, will try to secure a *Get* before considering any alternative options. Be aware that some *batei din* will not consider alternative means to dissolve a marriage.
29. For additional information about the *Get* procedure, visit the Rabbinical Council of America web site, www.bethdin.org. Their brochure, "Explaining Jewish Divorce," can be obtained by calling the Beth Din of America at (212) 807-9042.

D. BEIT DIN COMPARISON GRID

The Beit Din Comparison Grid features information about practices and procedures of *batei din* in the greater New York metropolitan area. **The information contained in the Grid is based on data supplied by rabbis representing these *batei din* in response to interviews using a standardized questionnaire. (See Section E following the Grid.)** We invite additional *batei din* in the New York area and in communities throughout the U.S. to participate in the Beit Din Comparison Project. Contact JOFA for more information.

The aim of the comparison is to provide individuals seeking a Jewish divorce with knowledge of the variations in practices and procedures among rabbinic courts. This knowledge will enable individuals to ask more probative questions when selecting a *beit din*.

***Batei Din* Interviewed:**

Beit Din of Elizabeth New Jersey	Beth Din of America
Beth Din of Agudath HaRabonim	Beit Din L'inyanei Agunot
Beth Din of Agudath HaRabonim (Brooklyn branch)	Bais Din of Igud HaRabonim of America

Practices and Procedures Reviewed:

Location of <i>Beit Din</i>	<i>Toanim</i>
Contact Information	Civil Attorneys
<i>Rosh (Av) Beit Din</i>	Attitude Toward Jewish Pre-nuptial Agreements
<i>Dayyanim</i>	Attitude Toward Civil Litigation of Financial Matters
Associated Organizations	<i>Ketubbah</i> Money
Cases Per Year	Attitude Toward Civil Litigation of Custody
Confidentiality	Recognition of <i>Beit Din</i> by Israeli Rabbanut
Languages	Records of Deliberations and Decisions
<i>Shtar Berurin</i>	Location of Records
<i>Hazmanot</i>	Computerization of Records
<i>Seruvim</i>	Fees
Timing of Writing/Delivery of <i>Get</i>	Qualifications of <i>Dayyanim</i>
Approach to bringing a Woman for Support	Rules Governing Relationship of <i>Dayyanim</i> to Litigants

PLEASE NOTE:

ONE SHOULD READ THE COMMENTS AND CAUTIONS (SECTION C) IN TANDEM WITH THE GRID.

ALL INFORMATION IN THE GRID WAS LAST VERIFIED ON 6/6/05. CHECK WWW.JOFA.ORG FOR UPDATES. SINCE THE PRACTICES OF *BATEI DIN* ARE SUBJECT TO CHANGE, IT IS ONE'S BEST INTEREST TO USE ALL MEANS AVAILABLE TO VERIFY THE CURRENT PRACTICES OF THE *BEIT DIN* YOU ARE CONSIDERING USING.

IF POSSIBLE, SPEAK TO A WOMAN WHO HAS HAD EXPERIENCE WITH THE *BEIT DIN* YOU ARE CONSIDERING USING.

THE INCLUSION OF A *BEIT DIN* IN THE COMPARISON GRID DOES NOT CONSTITUTE AND SHOULD NOT BE VIEWED AS AN ENDORSEMENT BY JOFA.

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LOCATION OF BEIT DIN	330 Elmora Avenue Elizabeth, NJ 07208 <i>Meets in the JEC school building</i>	235 East Broadway New York, NY 10002 <i>Meets in the Agudath HaRabonim Central Office</i>	Young Israel of Avenue K 1240 East 29th Street Brooklyn, NY 11230 <i>Meets in synagogue or in R' Ralbag's home office</i>	305 Seventh Avenue 12th Floor New York, NY 10001 <i>Meets in office building</i>	Law Offices of Michael Rackman, Esq. 270 Madison Ave, 8th Floor New York, NY 10016 <i>Meets in the law office</i>	Young Israel of Kensington 305 Church Avenue Brooklyn, NY 11218 <i>Meets in the synagogue or the Igud HaRabonim Central Office</i>
CONTACT INFORMATION	PHONE: 908-352-9586 CELL: R' Elazar Teitz 908-403-9841 R' Eliyahu Teitz 646-522-5592	PHONE: 212-964-6337	PHONE: 718-258-5596 FAX: 718-252-8418 EMAIL: Ralbaga@aol.com	PHONE: 212-807-9042 FAX: 212-807-9183 EMAIL: menahel@bethdin.org WEBSITE: www.bethdin.org	HOTLINE: 718-434-6246 EMAIL: agunah@ agunahinternational.com WEBSITE: www.agunahinternational. com MAILING ADDRESS: Agunah International 498 East 18th Street Brooklyn, NY 11226	PHONE: 718-851-6203 718-871-4543 FAX: 718-871-7104
ROSH (AV) BEIT DIN	Rabbi Elazar M. Teitz	Rabbi Hersh M. Ginsberg	Rabbi Aryeh Ralbag	Rabbi Gedalia Schwartz	Rabbi Emanuel Rackman	Rabbi Herschel Kurzrock
DAYYANIM	Elazar M. Teitz Eliyahu Teitz Howard Jachter Other <i>dayyanim</i> appointed as needed	Confidential; does not reveal names	Aryeh Ralbag Chaim Kraus Elemelech Liebowitz Yisroel Belsky	Gedalia Dov Schwartz, <i>Rosh</i> , Mordechai Willig, <i>Ass't. Av Beit Din</i> , Yonah Reiss, <i>Menahel</i> , Michael Broyde, <i>Chaver Beit Din</i> , Shlomo Wahrman, Herschel Schachter, Moshe Dovid Tendler, Aaron Levine, Yosef Blau, Steven Pruzansky, Ronald Warburg, Daniel Rapp, Joseph Karasick, Julius Berman, Kenneth Auman, Michael Hecht, Yossi Prager, Adam Berner, Richard Stone, David Pelcovitz, Yaakov Lichter (<i>Dayyanim</i> rotate; not all give equal time)	Emanuel Rackman Haim Toledano Asher Murciano Eugene Cohen	Rabbis Steinberg, Brissman, Epstein, Singer, Elbaz, Lustig, Kurzrock, Belsky, and Hecht (Some <i>dayyanim</i> sit more often than others)

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ASSOCIATED ORGANIZATIONS	YESHIVA: Jewish Educational Center of Elizabeth, NJ	NATIONAL RABBINIC ORGANIZATION: Union of Orthodox Rabbis of U.S. and Canada, Agudath HaRabonim	NATIONAL RABBINIC ORGANIZATION: Union of Orthodox Rabbis of U.S. and Canada, Agudath HaRabonim (Brooklyn based, affiliated with New York Branch)	NATIONAL RABBINIC ORGANIZATION: Rabbinical Council of America	NATIONAL AGUNAH ORGANIZATION: Agunah International Inc.	NATIONAL RABBINIC ORGANIZATION: Rabbinical Alliance of America, Igud HaRabonim
CASES PER YEAR (contested and uncontested)	100-150 per year Mostly uncontested	100 per year 50% are uncontested Few unresolved	300 per year 33-50% contested 18% unresolved	300 per year 75-80% uncontested 15-20% contested 3% unresolved	20 per year All are contested Voids marriages when there are grounds for <i>hafka'at kiddushin</i>	50-75 per year 50% contested 10% unresolved
CONFIDENTIALITY (unless information is about a crime that has been or will be committed)*	Guaranteed	Guaranteed	Guaranteed	Guaranteed	Guaranteed	At discretion of <i>beit din</i>
LANGUAGES**	English Documents are not translated but are explained	English Yiddish Hebrew Documents translated	English Yiddish Hebrew Other languages if necessary Documents translated	English All documents translated	English. All <i>dayyanim</i> are fluent in Hebrew. Interpreters found for other languages. All documents are in English and Hebrew	Language of litigant Documents translated Interpreters found for all languages
SHTAR BERURIN (binding arbitration agreement)	Not required in uncontested cases Required in litigated cases	YES	Not required, but very strongly preferred	Not required in uncontested <i>gittin</i> Required in litigated cases	NO	Not required in uncontested cases Required in litigated cases
HAZMANOT (summons to appear before <i>beit din</i>)	After first call by a <i>dayyan</i> , <i>hazmanot</i> issued every 7-10 days Automatic by computer	<i>Hazmanot</i> only issued if requested. Once requested <i>hazmanot</i> issued every 10 days. If matter is urgent the interval between <i>hazmanot</i> may be shorter.	First issued immediately After the first, <i>hazmanot</i> are sent two weeks apart.	<i>Hazmanot</i> are issued automatically, need not request. 3 are sent over a 30-day period	Endeavors to secure appearance and cooperation of husband. Generally, husband has already refused <i>hazmanot</i> of other <i>batei din</i> . Seeks evidence for legitimate application of <i>hafka'at kiddushin</i>	Sent one week apart
SERUVIM (contempt of court citation) ***	Very few issued <i>Seruv</i> may be issued two weeks after third <i>hazmanah</i>	Will issue <i>seruvim</i> , but try to avoid it	Not automatic; <i>seruvim</i> issued after a month or two	Will issue <i>seruvim</i> , when deemed appropriate by <i>Av Beit Din</i>	Not applicable	No information as to when issued; sent as personal letter on <i>beit din</i> stationary

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Timing of Writing/Delivery of Get	Encourage writing/delivery of <i>Get</i> as soon as it is clear reconciliation is not possible. Rabbi Teitz is <i>shaliach</i> . <i>Pturim</i> released only after civil divorce is final	<i>Get</i> is not written early in divorce process	Sometimes will write <i>Get</i> early in divorce process and hold at <i>beit din</i> , for release when rest of issues are settled	Encourage writing of <i>Get</i> and delivery to wife as soon as it is clear no reconciliation is possible; <i>pturim</i> released when civil divorce is final	Not applicable	Does not write <i>Get</i> early in divorce process and hold it at <i>beit din</i> , because it can become invalid
APPROACH TO BRINGING A WOMAN FOR SUPPORT	May bring someone. Must notify <i>beit din</i> if bringing someone	Will allow it	Will allow it	Women are advised to bring someone, or the <i>beit din</i> will provide female support	May bring someone Agunah Int'l workers also provide support	May bring someone, or the <i>beit din</i> will provide female support
TOANIM (Jewish law advocates)	Discouraged	Allowed	Allowed	Not Allowed	Allowed	Allowed
CIVIL ATTORNEYS	May attend Can speak to rabbis	May attend	May attend	May attend Can speak to rabbis	May attend Also contacted in pre- <i>beit din</i> counseling sessions as needed	May attend
ATTITUDE TOWARD JEWISH PRE-NUPTIAL AGREEMENT	Recognized and encouraged (Prefers the RCA pre-nup)	Not recognized	Recognized	Recognized and strongly encouraged	Recognized	No information
ATTITUDE TOWARD CIVIL LITIGATION OF FINANCIAL MATTERS	Parties are encouraged to settle monetary matters in <i>beit din</i> , but may go to civil court if both parties agree	Prohibited <i>Beit din</i> decides	Advises not to go but <i>beit din</i> does not prohibit. Encourages <i>beit din</i> resolution to all issues, including finances	Prefers <i>beit din</i> resolve all issues, including finances	Not applicable	Parties are obligated to settle finances in a <i>beit din</i> ; if they refuse the <i>beit din</i> will still handle the <i>Get</i> . When <i>beit din</i> decides finances, takes into account NY State guidelines
KETUBBAH MONEY	Sometimes will collect. Feel New Jersey equitable distribution law more favorable so generally applies it	Yes will collect, if wife demands it. Approximately \$5,000 according to Rabbi Moshe Feinstein (based on current value of silver)	Yes, tries to collect. \$10,000 for first marriage \$5,000 for second marriage	<i>Beit din</i> considers a variety of factors to determine monetary settlement. Will evaluate worth of <i>ketubbah</i> if party(ies) request	Not applicable	Yes, collects. Part of monetary consideration of overall settlement
ATTITUDE TOWARD CIVIL LITIGATION OF CUSTODY	Prefers civil court decide, but <i>beit din</i> will decide if both parties wish and a <i>shtar berurin</i> is signed	Prohibited <i>Beit din</i> decides, and consults "experts" when necessary	Advises not to go but does not prohibit. Urges use of <i>beit din</i> to resolve all issues, including child custody. When deciding custody consults with "experts"	Employs "best interests of child" standard. Sometimes, if parties elect, will decide custody, and consults with experts	Not applicable	May settle child custody in civil court or in <i>beit din</i> - it is up to the couple. When <i>beit din</i> decides takes NY law into account, and consults with "experts"
RECOGNITION OF BEIT DIN BY ISRAELI RABBANUT	YES	YES	YES	Yes Works with <i>batei din</i> in other countries	No Only by individual Rabbis	YES

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RECORDS OF DELIBERATIONS AND DECISIONS	Drafts only. Deliberations are not recorded, but <i>beit din</i> may have notes. Also keeps records of Rabbi Spitz's decisions	Decision (<i>psak</i>) written down with notes. Rabbi Ginsberg has access	Deliberations and decisions written down; only Rabbis Ginsberg and Ralbag have access	Deliberations taped, decisions written	Sessions tape recorded, computerized and written records are kept. Decisions written and signed by <i>dayyanim</i>	Yes Both parties have access after names are erased (to prevent reuse by another party)
LOCATION OF RECORDS	File cabinet at <i>beit din</i>	On file in Manhattan office of Agudath HaRabonim	On file in Manhattan office of Agudath HaRabonim, copies at Rabbi Ralbag's home	<i>Beit din</i> office or storage, director has access	<i>Dayyanim</i> and litigants have access to records. <i>Ptur</i> is in the office of Agunah International Inc.	On file in office of Igud HaRabonim – Rabbinical Alliance of America
COMPUTERIZATION OF RECORDS	In process	NO	NO	Yes, in process; records computerized going back 5 years, may not go back farther	Yes, except <i>pturim</i> which are in hard copy only	NO
FEES	Litigants pay <i>dayyanim</i> directly. Simple <i>Get</i> : \$400-\$500 plus extras if applicable. Prefer litigants split fees but litigants decide. Withhold <i>ptur</i> if fees not paid. Adjustments based on need	Each party pays the <i>beit din</i> \$50/hour per <i>dayyan</i> . <i>Beit din</i> then pays the <i>dayyanim</i> per case. Parties notified about fees prior to litigation. Adjustments based on need	<i>Get</i> : \$400 and up. <i>Hazmanot</i> : \$36 for first one, up to \$1,000 for a <i>seruv</i> . Litigants pay <i>dayyanim</i> directly. Adjustments based on need	<i>Get</i> proceeding itself \$500 paid to <i>beit din</i> . If <i>shlichut</i> , (delivered by messenger) - \$650. Litigation \$150-\$225 per hour depending on number of <i>dayyanim</i> (<i>dayyanim</i> receive payment from the <i>beit din</i> based on time worked) Adjustments based on need	No fees	<i>Get</i> \$300/hour for the hearing. Each litigant pays half. Adjustments based on need
QUALIFICATIONS OF DAYYANIM	English speaking, "like minded," not clear what level of secular education is required	No secular education required; when necessary consult "experts"	<i>Smicha</i> Secular education not required	Based on expertise. Most but not all have <i>Smicha</i> . All are college educated. Some rabbis are lawyers, other <i>dayyanim</i> are learned lawyers but do not have <i>smicha</i>	All have <i>Smicha</i> All have university degrees	No information
RULES GOVERNING RELATIONSHIP OF DAYYANIM TO LITIGANTS	<i>Dayyanim</i> often know parties; inform parties if they know only one side and recuse themselves if objection raised	If <i>dayyan</i> knows parties or families of parties recuses himself	If personally acquainted with litigants or family member, <i>dayyan</i> recuses himself	Discloses any association <i>dayyan</i> may have with a party; if either party is uncomfortable <i>dayyan</i> recuses himself	Discloses association with one party to other party	If related to litigants, <i>dayyan</i> recuses himself
ADDITIONAL COMMENTS					Dedicated to applying <i>halakhic</i> solutions after all efforts including <i>seruvim</i> and demonstrations have failed to convince husband to issue a <i>get</i>	

*Note: We advise all litigants to be cautious about revealing confidential information to members of the *beit din*.

** Note: No document should be signed without obtaining an accurate translation.

*** Note: Community rabbis are generally not notified about *seruv*.

E. QUESTIONNAIRE ADMINISTERED TO THE BATEI DIN

NAME OF BEIT DIN (how commonly referred to):

ROSH BEIT DIN:

ADDRESS:

INTERVIEWER:

INTERVIEWEE:

CONTACTING THE *BEIT DIN*

1. How is the existence of the *beit din* made known? Web site, shul listing, advertisement, etc.?
2. Does the *beit din* have regular hours that are made known to the public?
3. How can a person contact the *beit din*? Phone? Fax? Online? By letter?
4. How long does it take the *beit din* to respond to a request for a first meeting?
5. Who answers the *beit din's* phone? Rabbi? Secretary? Answering machine?

CHARACTER OF THE *BEIT DIN*

6. Is the *beit din* an independent institution or is it affiliated with a synagogue or an organization? If so, which one?
7. About how many cases does the *beit din* handle each year? What percentage of these are uncontested/procedural, and how many are contested/difficult cases? How many remain unresolved each year?
8. Does the *beit din* advise women to bring a friend or relative? Is she allowed into the proceedings with the divorcing woman or must she wait outside? If the woman does not come with a friend, does the *beit din* have a woman available to fill this role?
9. Do the rabbis consider all information received from litigants to be strictly confidential, not to be shared with the other spouse or with anyone else, no matter the nature of the information (unless criminal)?
10. What language is used in the *beit din*? Are all documents translated into the language the litigants understand? Are translators found for other languages?

PROCEDURES

11. Does the *beit din* insist that the parties sign a *shtar berurin*?
12. Is the wife permitted to ask questions and to speak to the rabbis? Does she have the same access and opportunities as the husband?
13. Does the *beit din* follow appropriate *halakhic* procedures, issuing *hazmanot* and *seruvim* on schedule, or must the spouses call and ask for follow up before action is taken?
14. What is the *beit din's* schedule? How long before the first *hazmanah* is issued? The second? The third?
15. Does the *beit din* issue *seruvim*? How long after the third *hazmanah* does a *seruv* follow?
16. Can a husband stop the process from continuing if he calls and says he will grant a *get* after the civil divorce is finalized? Does the *beit din* permit the withholding of a *get* until after the civil divorce, thereby allowing the *get* to be used for further concessions, or does it go ahead with the process regardless?
17. Does the *beit din* sometimes suggest that a *get* be written and held "in escrow" until the civil divorce is finalized? If so, is there a time limit set before the *get* is given or can it be held in escrow indefinitely, if the civil divorce drags on for years? Alternatively, does the *beit din* encourage the writing and releasing of the *get* as soon as it is clear reconciliation is not possible, before other matters of the divorce settlement are finalized, and only withhold the *pturim* until the civil divorce is final?

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18. Are both litigants informed of all developments within 2 weeks?
19. When a *seruv* is issued, does the *beit din* inform the community rabbi?
20. Does the *beit din* permit *toanim*?
21. Does the *beit din* recognize pre-nuptial agreements? Do the rabbis routinely inquire if such exist?
22. Does the *beit din* try to have the wife collect her *ketubah* money, or is she asked to waive it? What monetary value does the *beit din* place on the *ketubah* money?

RELATIONSHIP WITH OTHER LEGAL BODIES

23. Is the *beit din* recognized by the Israeli *rabbanut*?
24. Does the *beit din* permit and/or expect and advise the parties to go to civil court to resolve some issues, such as custody, visitation, division of assets, and if so does its opinion differ between these different issues? Or does the *beit din* prohibit the parties to turn to civil court? If the *beit din* itself deals with custody, does it consult with social workers, psychologists, etc.? If the *beit din* deals with the financial settlement what guidelines do they use to make their determination?
25. Does the *beit din* permit the parties' attorneys to attend hearings and to communicate with the rabbis?

RECORD KEEPING AND PRESERVATION

26. Where and how are *beit din* records and files kept? Are they computerized?
27. Are *beit din* deliberations and decisions written down? If not, why not? If yes, where are they stored? Who has access to them?
28. If a person needs to track down records of a *get* received years earlier, is the information easily obtainable?

DAYYANIM

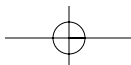
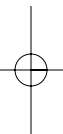
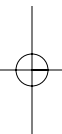
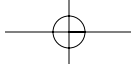
29. What are the names of all the *dayyanim* on the *beit din*?
30. How are the *dayyanim* selected or appointed? Do they receive a salary and, if so, from whom? Or do the litigants pay them directly?
31. What secular educational standards does the *beit din* require when appointing *dayyanim*? What other criteria does the *beit din* use when appointing *dayyanim*?
32. Do the *dayyanim* excuse themselves if they are personally acquainted with one of the spouses or with members of their family? If not, do they inform the other spouse of their relationship?

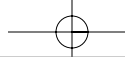
FEES

33. Does the *beit din* have regular fees? What are they? (Hourly fees or set fees for the whole case?) Does it have a payment schedule? Are all fees made known to the parties before they begin the proceedings?
34. Under what circumstances are fees changed?
35. Who pays the fees? Are they shared equally?
36. How does the *beit din* handle cases where spouses, or one spouse, cannot (or will not) pay the fees?

NOTE:

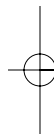
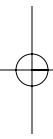
It is important to note the physical set up of the *beit din*. Is it in a house, a shul, does it have a space set apart for it? Is there office furniture? Does it seem like a dignified space? Please write down your general impressions. (Note if the rabbi looked directly at women when speaking to one.)





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