



JAY HAIT

EVERYTHING ANGLO
JEWISH MEN

NEED TO KNOW ABOUT DIVORCE IN ISRAEL

A GUIDE FOR THE PERPLEXED

Everything
Anglo Jewish Men
Need to Know
About Divorce
In Israel

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Including

- 4 issues that have to be addressed by every Jewish couple with children getting divorced in Israel
- 3 things you have to know regarding which court will hear your divorce issues – Family court or Rabbinic court
- 11 tips for living in the same house with your wife prior to the divorce
- 4 things the judge will try to determine at the pre-trial conference
- 10 of the motions (judicial requests) you or your spouse can make during the divorce process
- 7 rules you must follow with the social worker evaluating who will get custody
- 3 determinants needed to calculate child support
- 18 questions you should be asking about your attorney
- 20 steps to prepare for a divorce
- 7 stages of divorce

WARNING AND DISCLAIMER

The goal of this book is to provide general information,
and not to render specific legal advice.

Please use this book for informational purposes only.

For specific advice about your situation
you should speak to a qualified divorce attorney.

RECOMMENDED PRACTICES TO UTILIZE THIS BOOK

Believe it or not, a lot of people who have read my informational materials have later spoken to me and told me that the information I have given them is great, but that many times they have gotten into "information overload" and failed to utilize the information they received. To people like this, I have two pieces of advice. The first piece of advice is to read and re-read. Many times you will find that by re-reading the same material more than once, the information is internalized even without your consciously trying to memorize things. The second piece of advice that I give them is to take notes, and in the case of books – even in the book itself. I know that many of us have such a great respect for books that we would never write in a book. At most, many of us would highlight important texts (do you remember doing that in college or graduate school?), but we would never actually write in a book. Throw out that mentality when you read this book. This book is meant to help you. This book is meant to be written in. Write in the sides of the book. Highlight text that speaks to you. Jot down notes in the notes section of the book that starts on page _____. The important thing is to not just read this information and forget about it – but to utilize the information to help yourself prepare for the direction in which you want your life to continue. Whether you get divorced in the end or not, you should do whatever it takes to understand and internalize the information in this book. As the saying goes "knowledge is power." However, information that is just sitting on the bookshelf is not knowledge...

SPECIAL NOTE ABOUT HEBREW LANGUAGE CONVENTIONS UTILIZED THROUGHOUT THIS BOOK

Although my office does everything possible to help our Anglo clients go through the divorce process in their native tongue, we cannot simply ignore the fact that we are living in Israel and that the official language in the court system is Hebrew. To that end, throughout this book when we introduce legal terminology we will a) first use the English language word, 2) introduce the transliterated Hebrew term in English letters, 3) type the term in Hebrew, and 4) if the literal translation is different than the English language word, we will present the literal translation. After the initial usage we will either use the English terminology or the transliterated Hebrew terminology.

For example: Motion (in Hebrew bakasha **בקשה**) literally, a request.

Subsequent use throughout the book will be Motion or bakasha.

The reason that we do this is that in our opinion it is important that you are familiar with the Hebrew terminology both so that you will understand terminology utilized in the course of a divorce or negotiations, and secondly so that you understand the terminology utilized by third parties who you will be in contact with in the event of divorce (social workers, professionals, and even family and friends).

**SPECIAL NOTE ABOUT FACTS AND
STATISTICS SPRINKLED
THROUGHOUT THIS BOOK**

Most of the facts and statistics that you will find on the sidelines throughout this book (referred to as Jay's factoids by some of my office staff) are statistics that I find from time to time either on the Israeli government's Central Bureau of Statistics website, the Rabbinic court's website, newspaper articles, or different studies that I read on occasion. Although there is no guarantee that they are one hundred percent accurate, I share them with you because I find them interesting and hope that you do too.

**SPECIAL NOTE ABOUT URL (UNIFORM
RESOURCE LOCATORS – OR IN THE
VERNACULAR, WEB ADDRESSES)
LINKS SPRINKLED
THROUGHOUT THIS BOOK**

Everybody learns things differently. Some people absorb information better when they read it. Some people absorb information better when they hear it. Some people absorb information better when they see it in video format. Throughout this book I have listed links to different urls with information that I have created in other formats (usually video – I love making educational videos) that may be of interest to you and may help you better absorb the information that I am sharing with you in this book. Visit the sites if you are interested, but even if you don't, most if not all of the same information will be covered in the print version of this book.

ACKNOWLEDGMENTS

After my first book came out (geared for women), we found that a) a lot of men were calling in and asking about getting a copy of the book, and b) a lot of men were downloading copies of the book. It was never my intent to write a book geared towards family law in Israel for men. The reason for this is that in my law practice, I had usually found that men generally go into the divorce process with more information (i.e. from a greater position of strength) than women, and didn't see the need for it. Apparently I was wrong. Thank you to my wife and life partner Anat for pushing me to write this book as well. Thank you to my staff who take on more tasks and responsibilities during the periods of time that I need to write and think and plan when I write these types of books. Thank you to all of the men who called in and/or downloaded the last book I wrote and/or asked for a book geared towards Israeli family law for men. They opened my eyes to the reality that really, just about everybody needs help finding good information on this very arcane yet necessary subject.

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WHO IS THE AUTHOR OF THIS BOOK AND WHY SHOULD I LISTEN TO HIM?

Chances are that you can't believe that you're sitting where you are today. When you stood under that wedding canopy (in Hebrew, chuppah חופה) in what seems like a lifetime ago, you

Did you know?

Roughly 40,000 couples a year in Israel get married and about 11,000 get divorced?

thought that you had found the perfect partner for your life. Now, whether it's her decision or yours, you probably realize that this is not the case – she may still be your partner for life, but she definitely isn't the perfect partner – and the truth is that nobody can be. Today, the thought of getting divorced may be daunting and even overwhelming.

You may have moved to Israel together achieving either or both of your life's dreams. You may have met her after either you or she moved here. She may be from a different ethnic background (personally, I see a lot of families where Ashkenazi Anglo olim meet and marry Sephardi Israelis). You have built a family together. But somewhere along the line, things changed.

Maybe she is the one who has decided that this marriage is not working any more. Maybe you don't understand why she wants to get divorced. Maybe you are the one who is just tired of the relationship – the bickering or the lack of respect or the lack of intimacy between the two of you.

The truth is that how you got here doesn't really matter.

What matters is what you are going to do next. You may (together with her) decide to work on your marriage – and truth be told, that is what I almost always suggest that people with families do, or at least try to do first. You may decide that you

want to get divorced. You may be forced to respond to her actions towards divorce. You may have questions that keep you up at night. You may be agonizing over how your relationship with your children will be if you get divorced. You may be asking yourself questions like: will you be able to have joint custody over your kids? How much child support will you have to pay? How will you be able to make ends meet if you have to pay child support? What will happen if she wants to leave Israel with your children? What will happen if you want to leave Israel to get a better paying job? What will happen with your friends? Are you going to be ostracized like many divorced men we have all read about that live in religious communities and find themselves all alone during the Sabbath and holidays?

The thought of getting divorced may be daunting and even overwhelming. The thought of having to go through the process in Israel may seem unsurmountable. So slow down and take things one step at a time. Time and again we have seen men come through the process happier, and ready to move on and find somebody new to be their life partner. We try to get our clients there while at the same time keeping their familial relationships with their children intact. If you are a man considering divorce, or if your wife has started the divorce process, the most important thing for you to do right now is to learn the rules of the game. By having an understanding of the laws and procedures that govern divorce in Israel you will be able to properly plan how the rest of your life will look.

Did you know?

Divorced men get are two times more likely to get married a second time than divorced women.

My name is Jay Hait. I am an American Israeli attorney licensed in both the United States and in Israel. I have been practicing law for over two decades, and my Israeli practice focuses solely on family law (divorce negotiation, divorce litigation, divorce

mediation, wills, trusts, and estates). When I first moved to Israel in 2004, I continued to fly back and forth to New York City to continue to work there in my corporate law practice. However, I started practicing in the family law field because I found myself where you are now. I was in an unhappy marriage. In the end – since I didn't have the knowledge that you will gain by reading this book – things simply spun out of control. Multiple lawsuits were litigated in multiple countries. Too much money was spent litigating points that shouldn't have been litigated. At the end of the day I found myself as the longest open Agun* in the Israeli court system (and yes – there are Agunim in Israel as well as Agunote – although nobody debates the fact that the consequences are much worse for the Agunah than for the Agun). I found myself with my now ex-wife living in the United States and not even visiting my three children (who ended up growing up with me in Israel) for almost six years due to her attorney's bad advice. Simply put: an unmitigated disaster for all parties.

I opened my family law practice – and am now writing this book (my second on the subject – the first one was geared towards women) – to show you that this is not the way it has to be, nor should it. Divorce sucks. However, being in a bad

For more information on divorce in Israel, visit <http://clktr4ck.com/divorce411>.

marriage is even worse. Worse for you. Worse for your spouse. Worse for your children. In my family law practice we attempt to create teams and groups of professionals to assist in educating and representing people to wade through the divorce process with confidence and support. We know, and help our clients to understand, that information becomes power. We give our clients the information and the tools that they need in order to maximize their legal rights throughout the divorce process in Israel. Most importantly, we help them to do this without turning their divorces into scorched earth World War III scenarios whereby their children turn out to be the

biggest casualties.

This book will not solve all of your problems, but it will give you a wealth of information and provide you with the tools that you need to address your divorce related issues in an educated, intelligent manner in order to maximize the results of your divorce.

OUR GUARANTEE

You are in the right place at the right time. By reading this book, you are going to have the answers to more Israeli divorce-related questions than most people even ask. You will probably know more about divorce in Israel not only than your wife, but more than the vast majority of Israeli attorneys. You will have the answers and tools needed to make intelligent decisions about getting to the next stage of your life.

SO LET'S BEGIN!

*Agun/ah (m/f) – literally somebody who has been chained. Under Israeli (and Jewish) law, it is a person whose spouse has been unwilling to grant them or accept from them a religious writ of divorce (a Get) – usually in order to exact financial benefit or emotional revenge.

THE BASICS – A SYSTEMATIC OVERVIEW OF THE DIVORCE PROCESS IN ISRAEL

In divorce in Israel – any divorce – there are a number of factors that ultimately must be resolved.

1. If there are children – who will have custody over the children and what will the visitation schedule be for the non-custodial parent?
2. If there are children – and if the mother has custody over them - what is the amount of monthly child support that will be paid?
3. How will the assets and debts of the divorcing couple be split?

Furthermore, in the event that both of the parties (i.e. both the husband and the wife) are considered Jewish by Jewish law, there is a fourth factor:

4. The Jewish writ of divorce (in Hebrew, Get גט), sometimes referred to as the body of the divorce itself.

Did you know?

In 2015 11,114 couples got divorced in the Rabbinic courts as opposed to 11,023 in 2014 – a rise of less than one percent.

It is important to understand that these are the basic factors that need to be addressed in every Israeli divorce between Jewish spouses. Further, because they embody the issues that need to be addressed in every Israeli divorce between Jewish spouses,

and because their outcomes can be affected by which court addresses which of these issues, it is important to have a basic understanding of how the system works.

Before we continue, it is very important for you to understand something regarding the 4th issue – the Get. Many people think that if they weren't married according to Jewish tradition (in Hebrew, Halacha *הלכה*), and that if they got married outside of Israel in a secular ceremony, then they will not have to go through the Get process in the Rabbinic courts. Unfortunately, this is not generally the case. As long as both the husband and the wife are considered Jewish according to Jewish law (as determined by the Rabbinic court (in Hebrew, Bet Din *בית דין* literally, house of law) then in order for the couple to get divorced in Israel they will have to go through the Get process in the Rabbinic court.

Did you know?

The percentage of couples in Israel from the FSU that get divorced is significantly higher than the percentage of couples in the general population.

Now that we know what the issues are that need to be addressed in Israeli divorces, let's look at where all of these things get adjudicated (heard).

In Israel, there are two court systems which have simultaneous jurisdiction over the four divorce issues detailed above – or at least some of them. What this means is that two different court systems – the secular Family court (in Hebrew, Bet HaMishpat LaInyanei Mishpacha *בית המשפט לענייני משפחה*) literally, the family affairs court, and the religious Rabbinic court - can end up being the court in which some of the divorce issues are decided. In the Family court, a single judge presides at the hearings and makes decisions. In the Rabbinic court, a panel of three Rabbinic court judges (in Hebrew, Dayanim *דיינים*) presides and makes the decisions. Which court hears the case

determines which law will be applied (i.e. Jewish law or secular law) and can therefore affect the outcome of the case. Even though in theory the Family court is also supposed to rule within the confines of Jewish law in these cases (i.e. divorces

You can see a video on the race for jurisdiction in Israel by going to <http://clktr4ck.com/race>.

between two Jewish spouses), in practice the Family court's application and interpretation of Jewish law can differ greatly from that of the

Rabbinic court. Whoever brings the appropriate suit in front of the appropriate court first determines which court will decide of that issue. This is the cause for what is referred to as the "race for jurisdiction". In laymen's terms, what it means is that historically, people would rush to bring divorce related suits before their spouse brought the suit, because that would enable them to determine which court decides upon their issues and which law is applied.

In theory, this "race for jurisdiction" was supposed to change with a new law that went into effect in July 2016 which obligates divorcing parties to go through a form of social worker organized mediation. The social worker organized

You can learn more about this mediation process via a complimentary mini video course that I made at <http://clktr4ck.com/mediation-course>.

mediation begins when either the husband or the wife submits a Motion to Settle Differences (in Hebrew, Bakasha LiYashev Sichsooch סכסוך ליישב בקשה), which is really just a form and not a formal motion, with either the

Rabbinic or Family courts. In reality the race for jurisdiction still exists because if the sides do not reach an agreement via the social worker organized mediation, and statistically the vast majority do not, then the side that made the motion first is able to decide which court will hear the issues between the parties by filing suit at the end of the mediation period.

There is one basic caveat however – neither court system has the power to make all of the decisions regarding all four of the factors that must be resolved. In a word, there are 3 basic things that you need to know about which court can hear which issues.

Did you know?

The chance of female olim getting divorced is 61% greater than the chance of native Israeli women getting divorced.

1. The Rabbinic court is the sole authority in Israel that is able to issue the Get – and thereby to legally end the marriage. So even if all of the other issues of your divorce are litigated (or much better - a comprehensive divorce agreement is affirmed) in the Family court, you still will not be divorced until you and your spouse have gone through the Get ceremony in the Rabbinic court. **This means that even if one side sues in the Family court first, the Get issue will always be done or decided in the Rabbinic court.**
2. Unless both parties agree that the Rabbinic court will have jurisdiction (i.e. will hear these issues) then the issue of child support payments will always be heard before the Family court. The reason for this is that child support is the right of the children. Therefore, whoever has custody over the children (generally the mother) can always ask the Family court to make decisions regarding the children. This is regardless of which jurisdiction their parents are litigating their other issues in. **This means that even if one side sues in the Rabbinic court first, the child support issue can always be decided in the Family court.**
3. Finally, either the Rabbinic court or the Family court can make decisions regarding a) who will have custody over minor children and what the visitation schedule with the

non-custodial parent, and b) how the assets and debts of the couple will be divided. **This means that whoever brings a lawsuit for custody or for the division of assets first, can determine which court will be hearing those issues.**

It may be easier to understand by looking at the chart below:

Which court system can hear divorce issues in Israel?

	Family Court Jurisdiction	Rabbinic Court Jurisdiction
Custody	✓	✓
Division of Assets & Debts	✓	✓
Child Support Payments	✓	✓ - only if both sides agree
The "Get"		✓

Again, in areas where both courts have the ability to hear cases involving particular divorce issues, the spouse who brings the lawsuit first will determine which court will hear those issues, whether it is before or after the obligatory social worker coordinated mediation period.

Finally, you should understand that in the event of litigation you may be involved in multiple lawsuits when you get divorced. In

You can learn more about which court can hear which litigation issues by watching my video on how to start divorce suits in Israel at <http://clktr4ck.com/start-divorce>

the Rabbinic courts, all of the issues can be addressed in one lawsuit – let's call it "A Lawsuit for Divorce including Division of Assets and Custody (and if there is no Opposition then also for

Child Support)." In the Family court each issue is addressed by a different lawsuit – one for division of assets, one for custody,

and one for child support. (Remember – the divorce itself or the Get – can only be done in the Rabbinic courts). Usually what happens is that some issues are litigated in front of each court. Generally, we counsel our clients that the Get in the Rabbinic courts only be taken care of after all of the other issues have been resolved – either via a compromise agreement or judicial decision – whether from the Family or Rabbinic courts.

Now that you have a basic understanding of the framework within which the divorce process in Israel works, let's dig into the particulars..

ISRAEL'S "OBLIGATORY DIVORCE MEDIATION" LAW

Effective July 2016, a law which many people have called Israel's "Obligatory divorce mediation" law – in Hebrew the Chok LeHesderei Hitdayanut Bisichsuchei Mishpacha חוק להסדרי התדיינות בסכסוכי משפחה (literally the "law for judicial procedures in family disputes"), changes the manner in which we start divorce litigation, but not its substantive issues.

Lots of people have approached me saying that they heard that as of July 2016, before a couple can get divorced in Israel, they

Did you know?

Parents of minor children get divorced less often than parents of post adolescent and adult children.

have to go through obligatory mediation. Wrong. Although parts of the new law have yet to be adjudicated (in other words – it still has to be interpreted by judges in lawsuits to see exactly how things are going to work out), in general

what the law does is to organize divorce related lawsuits (and other certain suits – but those are not the subject of this book) in the following manner:

Spouse A files a Bakasha LiYashev Sichsuch that notifies either the Family court or the Rabbinic court (whichever court that spouse elects to notify) that they are in dispute with Spouse B.

At that point a 45 day freeze occurs during which neither side can bring a lawsuit against the other spouse – and can only make emergency requests from either the Rabbinic or Family courts (e.g. like a request for the court to prevent the other spouse from abandoning them in Israel).

The sides are invited to an initial meeting with a social worker connected to the court the form was filed in. The social worker tries to evaluate the sides and the "story" at this meeting – and then the social worker recommends to the couple how they can continue – either by having more meetings (up to four) with the social worker, going to marital therapy, going to mediation, or going through divorce via the courts. The meetings with the social worker are free of charge. Meetings with professionals other than the social worker will generally be paid for by the couple. The initial meeting with the social worker is without either side's attorney present – although both spouses are able to speak with their attorneys via telephone. If there are follow up meetings with the social worker, each side may have their attorney present.

Did you know?

In the United States, 41% of first marriages end in divorce, 60% of second marriages end in divorce, and 73% of third marriages end in divorce.

After 45 days (or a longer period if both sides of the couple agree to it) then the person who filed the form with the court can bring lawsuits against their spouse within a 15 day period.

There is a lot more minutiae to the system, and if you are interested to learn about it, I invite you to sign up for my complimentary mini video course on the subject at <http://clktr4ck.com/mediation-course>.

The bottom line is that the law does open a potential path for mediation, and that may end up being a good thing. However, to date, the system is a colossal failure. There aren't enough social workers for the system so the time periods prescribed in the law are almost never adhered to, one side or the other usually makes motions to have the time periods cut or changed or have the mediation period cancelled altogether. The bottom

line is that for most couples, if they could have come to an agreement on all of their divorce issues without the court system, they would have without the implementation of the new law; and for those couples that couldn't have come to an agreement on all of their divorce issues without the court system, the new law usually doesn't help.

LET'S GET STARTED – WHAT IS THE BEST FORUM FOR YOUR CASE TO BE HEARD IN?

The cliché says that men should always go to the Rabbinic courts, and women should always go to the Family courts. After years of having litigated in both courts, representing both men and women, all I can say is that this is simply hogwash. Each case has to be evaluated on its own merits, but the following are a few of the considerations to be taken into account:

- In the Rabbinic courts, everything can be done in one lawsuit, rather than a number of lawsuits in the family courts;
- The Family courts are generally more sophisticated in their understanding of asset valuations
- The Family courts are generally more professional with regards to evaluations of child/parent relationships (via utilization of psychologist and social worker reports);
- The Rabbinic courts may take into account changes in one of the parties religiosity; and
- The law being applied in the different courts may affect rulings (e.g. a woman's assets may be shielded during the distribution of assets in the Rabbinic court but not in the Family court).

Did you know?

Couples where both parties are from the same country get divorced less than those couples that are "mixed"

The bottom line is that each case is different and must be evaluated individually. That being said however, I tend to favor the Family courts when all other factors are equal. This is especially true with regards to issues of custody and visitation for men, where I find that the Family courts do a much better job when visitation issues come up after the divorce.

IS IT TRUE THAT THERE IS NO SUCH THING AS SEPARATION IN ISRAEL?

Many times men who know that their wives want to get divorced end up coming to me after their wives have had them thrown out of their houses by the police for a period of up to two weeks. Sometimes the divorce process has already started, and sometimes it hasn't, but almost always these men know that their wives wanted them to leave the house, but that they didn't want to or were unable to leave. These men ask me things like:

Is this going to become permanent?

What if she does this again after I go back?

Can I do anything about the fact that she just lied to the police?

What you have to understand is that in Israel, unlike most other Western democratic countries, there is no legal concept of separation prior to divorce. This is a problem because the first thing that most divorcing women want is to physically separate from their husbands – i.e. they want their husband to leave the marital home. What ends up happening is that many women who have an argument with their husbands during this period call the police. Many times women do this because they have gotten bad advice from attorneys or friends or family. Other times women do this because there is a lot of tension between themselves and their spouse during this period of time, and they just don't know what to do. Due to a spate of wife killings a few years back, the standard procedure in Israel today is for the police to remove the husband if they believe that the wife really feels that he is a threat to her or the children.

Did you know?

Female olim make up more than one third of the divorced women in Israel.

Of course, sometimes women just lie to the police and make

false allegations in order to have the husband thrown out of the house. This is why I always counsel men who are starting the divorce process to record every interaction between themselves and their wives. In the event that you are falsely accused by your spouse in her attempt to have you removed, if you have a

Did you know?
in Israel, Jewish couples
are more likely to get
divorced than couples
from other religions

recording that shows that she is lying, then there is a good chance that the police will not remove you. Better yet, if you are removed, you can go in front of a judge and both be returned to your house earlier, and set the tone for any future

divorce proceedings by establishing in the eyes of the family court judge that your wife is willing to lie to achieve her goals. Again, it is my sincere hope that you never arrive at this situation, but understand that if your wife lies to have you physically removed from your house, and if you have taken the proper steps in advance, you may be able to defend yourself from her actions.

Despite all of the above, it is important that you understand that there is no legal concept of separation before divorce in Israel. This means that, barring the above, no judge is likely to throw you out of the house at the very beginning of the divorce process. Further, you should not just pick up and leave the house because this can affect your legal rights regarding visitation and support payments (you may be portrayed as having abandoned your family). For that matter, don't expect your wife to do so either (although if you are fighting for custody over your minor children, this may help). Bottom line – adjust accordingly – both you and your spouse are probably going to be in the house for the time being, and there are steps that you can take to reduce the stress between yourselves during this time period.

Remember, you must keep your eye on the long term bigger

picture. This situation is not going to go on for too long.

You should never leave the house until you have gotten the appropriate legal counsel as to when and how you should leave (if at all), and not without a clear strategy that you and your legal counsel agree to. Throughout this book I will be using the term legal counsel because if litigation is only occurring in the Rabbinic court then you may be represented by somebody who is not an attorney but a Religious Court Paralegal (in Hebrew, To-ane Rabbani *טוען רבני*) literally a Rabbinic claimer.

How can you adjust while you are living in the same home with your wife?

Understand that once the divorce process begins, your spouse may be getting legal advice that would enable her to "game the system" to get the best results for her. A classic example of this would be to have a divorce suit that you have filed (e.g. in the Rabbinic court) dismissed because you and she were having marital relations after the suit had been filed. Israeli law recognizes something called the date of irreconcilable differences (in Hebrew, Ta'areech HaKera *תעריך הקרע*) literally, "the date of the rip." This is the date after which it is clear that the parties are not reconciling. This date can affect your legal rights. For example, if you receive an inheritance after this date, it will be almost impossible for her to make a claim on those assets assuming that you have taken the proper steps. During the period while it is clear that you are divorcing but are not yet divorced and while you and your wife are still living in the marital household, we recommend that you take the following steps:

Did you know?

The average age of people who get married for the first time in Israel is 27.6 for men (27.8 amongst Jews) and 24.8 for women (25.7 amongst Jews).

1. Do not sleep in the same bedroom as her.

2. Do not fool around or have intimate relations with her.
3. Do not go out with her socially.
4. Do not eat meals with her except for the Sabbath (in Hebrew, Shabbat *שבת*) and holidays or children's birthdays where you are eating meals with the whole family.
5. Use a separate and secure computer.
6. Use a separate and secure telephone.

Did you know?

Men who have open heart surgery while they are married are three times more likely to survive for three months after the operation than single or divorced men, and 2.5 times more likely to survive for at least five years after the operation than single or divorced men.

7. Open a separate banking account.
8. When you have small children, only attend events that are vital together: e.g. parent teacher conferences, doctor appointments, etc.
9. Cease to give your spouse gifts for holidays and birthdays.
10. If she or you have already filed for divorce, let people (i.e. friends and family, co-workers) know that you are getting divorced and are only living together temporarily until things are sorted out, and not as husband and wife.

11. Do not hold yourselves out as "the happy couple" in front of neighbors and friends.

All of the above are important. Some of the things listed are important because they safeguard personal or private information that could be used against you. Some of the things listed are important because they help to solidify and clarify for the court (whether family or Rabbinic) what your intent is. Some of the things listed are important because they will lower the amount of interaction and potential for stress and arguments between you and your wife. The bottom line is however, that all of these things will help your case to move to a close sooner rather than later, which will make the time that you will be living together shorter.

SHOULD YOU BE THE FIRST TO FILE?

I always tell my male clients that if they fear that their wife will be filing suit, or that she has unilaterally moved and taken the children with her, that they should be filing first. There are a couple of reasons for this. The first reason is that you will want to sue in the court which will maximize the potential legal outcome for you. Many people think that this means "women should file in the Family court and men should file in the Rabbinic court." This is not always the case. For example if your wife owns a successful business or certain assets that are titled in her name, you should probably be filing for division of assets in the Family court and not in the Rabbinic court.

The second reason to file first, in the case of your wife treating your children as if they were packages that she alone decides

Did you know?

The main reasons for divorce amongst Orthodox Jews in Israel: marriage at too young an age or without having known the spouse for a long enough time; having become parents at too young an age; and lastly, spouses having hidden pertinent information from them prior to marriage (usually regarding medical conditions or legal problems).

over, is twofold. Understand that you can make a motion preventing your wife from taking the children to a different locations as part of a general suit for custody and visitation. On the **strategic level**, filing first and making this type of motion sends a loud and clear message to your wife "The kids are not your property." It lets her know that the playing field has been revamped and that she will have

to deal with your lawyer and not with you if she intends to play games on the backs of your children. It lets her know that a judge will be calling the shots. On the **tactical level**, it lets you tell your story first. Your lawyer, representing your interests,

gets to tell the judge(s) (whether in the Family court or the Rabbinic court) the facts the way you see them before they anybody hears your wife's view of things. I find that having the first word in these situations, as heart breaking as they are when it happens, leads to better results for my clients.

I do not view this as changing much with the new law in place – just that now I tell my male clients that if they fear that their wife will be filing suit, that they should be filing the Bakasha LaYashev Sichsuch first – so that when the time comes for filing lawsuits (if required) they have the first right of refusal to do so, and they can determine what case is heard and in front of which court.

CAUSES FOR DIVORCE

If you haven't gotten the concept until now, another way that Israel is different from other Western countries when it comes to divorce is that most suits that start a divorce aren't divorce suits. They are lawsuits for the division of assets, for custody, and/or for child support. Yes, most of the people involved in those suits do end up getting divorced, but the initial suits aren't divorce suits. Also, remember – since only the Rabbinic court can issue the Get, the only court in which you can really bring a suit for "divorce" is in the Rabbinic court.

Why am I bringing this up? Why is it important for you to understand? Because in the event that either you or your spouse bring a suit for divorce in the Rabbinic courts (and again – this suit can include the division of assets, custody, and if you agree – child support) then you must have adequate legal grounds to sue for divorce. These legal grounds are defined in Halacha and Rabbinic case law. Some of the grounds are those

Did you know?

In the last 15 years the number of people that have married for a second time in Israel has gone down by 33%.

known to us from popular television shows. Some are unique to Jewish law. Adultery, spousal abuse (physical or verbal), impotence and/or infertility, gambling, alcoholism, unwillingness to have marital relations, the wife's unwillingness to cook or clean for her husband (in cases where she is cooking and cleaning for the rest of the family). All of these are some of the causes for divorce in the Rabbinic court. Here is an example of why it is important to understand this. In the event that you sue for divorce and/or division of assets and/or child custody in the Rabbinic court, and your wife wants the issues of child custody and division of assets to be litigated in the Family court, then if she can prove that you does not

have legal grounds for divorce, the case may be dismissed and she will have the ability to try to file suits over these issues in the Family court. It is far from a "sure thing" but it is possible.

It is also very important to understand the concept of intent when suits are brought in the Rabbinic court. A suit for divorce that is brought in the Rabbinic court by one of the spouses cannot continue if it is determined that the suit was brought in order to pressure the other side, but that there really was no intent to get divorced. I remember a case a few years ago where the case was dismissed on the spot because during one of the hearings the Rabbinic court judges found out that the couple was still having marital relations... The very next day the wife brought some of the suits in the Family court. So beware, if you want to get divorced remember that your wife is not to be just an object for your sexual release – and if you treat her as such you may find that the price you pay is enabling her to determine which court decides on your divorce issues.

THE CONCEPT OF FAULT

Almost everybody going through a divorce feels that it is the other side's fault. But what about fault in the eyes of the law and how can it affect the outcome of the divorce? Since Israeli divorces between Jewish spouses only occur in the Rabbinic court, the Halachic (Jewish law) concepts of grounds for divorce can include fault. However, on a practical level the legal

Did you know?

On average 1.6 people get divorced every year for every 1,000 people in the general population. Amongst Jews the number is 1.9 people, amongst Muslims it is 1 person, amongst Druze it is 0.8 people, and amongst Christians it is 0.3 people. These numbers have doubled since the 1960s – for all religions.

concept of "fault" should have a minimal impact on the outcome of the divorce – at least with regards to finances.

In the Family court, the legal concept of fault is really irrelevant. With regards to assets the civil law states that somebody's poor behavior should not affect what assets he or she owns. With regards to children's custody the test in the court is "what is in the best interests of the child(ren)?" This is also the test with regards to child support.

Although in the past the Rabbinic courts have made rulings in the division of assets that allocated fault to the woman (for example in the case of an affair) and therefore the Rabbinic court did not give the wife fifty percent of the assets of the couple, the Supreme Court has reversed such rulings. What this means is that at the first level hearings, if you are in the Rabbinic courts, and the court rules against you because it is assigning you fault of some type, you should appeal. But again, the Rabbinic courts will rarely do this.

In the case of adultery it may influence the Rabbinic court's rulings on custody. Even though the golden rule regarding custody is supposed to be that the courts act in the best interest of the child(ren), in reality the Rabbinic courts do sometimes take into account either spouses bad behavior when balancing what is in the best interest of the child(ren).

WHAT IS THE DIVORCE PROCESS?

Statistically, men are much less likely to be the initiators of divorce (the ratio is more than two to one). So the chances are that you are considering divorce either because your wife has either started the proceeding or has told you that she wants to get divorced, or maybe you've just been unhappy with each other for a long time, or maybe one of you has had or is having an affair. Whatever it is, you have realized that your marriage has come to an end and that you are going to be getting divorced.

What usually happens at this stage is that you hire an attorney, and after coming up with a legal strategy together with him or her, and after going through the social worker initiated process oftentimes misquoted as the "obligatory divorce mediation law", you prepare one or more documents that are known as complaints (in Hebrew, Kitvei Tvia כתבי תביעה) or answers (in Hebrew, Kitvei Haganah כתבי הגנה, literally a letter of defense). The person initiating the lawsuit (the Plaintiff, in Hebrew, the Tove'a or Tova'at תובע or תובעת) files the complaint and the other spouse (the Defendant, in Hebrew, the Nitva or Nitvaat נתבעת or נתבע) files an answer. In any given divorce proceeding, there may be multiple actions so that spouse A may be the

Did you know?

Women are twice as likely to get divorced in a second marriage as in a first marriage.

plaintiff and filing a few complaints and at the same time be a defendant in other actions and filing a few answers. How many complaints and/or answers are filed depend on which court was filed in, and what

was filed for. Generally, most divorces require us to file between two and three complaints and/or answers. For example we may file a complaint in the Rabbinic court for divorce and division of assets and custody/visitation of minor children; and at the same time we would file an answer in the

family court for child support. Another example would be that we would file three separate suits in the Family court for custody/visitation; for child support; and for the division of assets. When we file these three cases in the Family court we generally do not file for divorce in the Rabbinic court – as we find that once these three issues have been adjudicated that both parties are willing to go to the Rabbinic court for the Get ceremony without our client incurring the costs of filing an additional suit for divorce in the Rabbinic court. Each of the

Did you know?

The average Israeli family spends 15,053 NIS on goods and services, and the average family with children spends 4.1 times the average family without children.

complaints contains basic information about the couple: their names and Israeli ID numbers; when they married and where; how the parties got to where they are in their relationship; for some of the complaints – children's names, birth dates and Israeli ID numbers; and most importantly what it is that our client wants the court to give him or her. You will generally sign an affidavit for each complaint affirming the truth of everything stated in the complaint, and you will sign a power of attorney enabling your attorney to submit and receive documents on your behalf. The complaints will be filed in the appropriate Family and/or Rabbinic courts depending upon which city you live in. At this point, for purposes of the courts, you and your spouse will be referred to as plaintiffs or defendants depending on which cases were brought by whom.

After the relevant complaint(s) have been filed and the filing fees paid (filing fees may be as high as two to three thousand shekels depending on which complaints are brought, although some of those fees may be returned upon completion of the process), the court will either serve the papers on the defendant or a private process server will serve him or her. In our office we generally use a process server. The cost of this is usually only a few hundred shekels, but the sooner the other side is

served the more quickly the divorce will start to take place. Remember that until one of you has been served the divorce litigation hasn't really started. Once served, the defendant has between 30 to 45 days to respond to the complaints (depending on which court and which suit). Generally, this is the period during which your spouse may bring additional suits against you, and may make motions to the court – but these are not things that you should be worried about. Once you are in divorce litigation, you are in divorce litigation, no matter what the positioning your wife attempts – the bottom line is that the four issues referred to at the beginning of this book that must be addressed will remain the same. Remember, your wife may

Did you know?

Ninety five percent of the couples in Israel are married, and the other five percent are couples that live together

make allegations against you that are way over exaggerated. If this happens, don't let that get you down! Remember, your wife's attorney may be trying to upset and disturb you. He is creatively writing what he has been told and is trying

to make you look as negative as possible. Either your wife or her attorney is trying to get under your skin and to push your buttons. Don't let them. The best thing to do is not to react – because they are expecting you to react. By not reacting you may actually throw them off of their game rather than you being thrown off of your game.

After this the court proceedings will begin. This generally entails one or more preliminary conferences at which the Family court judge or Rabbinical court dayanim will a) hear preliminary requests (motions), and b) try to get the sides to agree on at least some of the issues, and c) set timelines for the remainder of the case.

Once all of the pretrial issues have been dealt with the Family court judge or Rabbinical court dayanim panel will set one or more dates for evidentiary hearings. These hearings are what

most westerners envision as a court date (the type of stuff you see on television). Here the parties are cross examined and evidence is presented.

After the evidentiary hearing(s) are completed, there may or may not be oral or written summations (it is up to the Family court judge or Rabbinical court dayanim to decide if they want them and in what format), and then a written judgement is issued. After that, judgements are issued (usually within thirty to sixty days).

Again, it's important to remember that over ninety percent of cases never reach this stage and that at some earlier point (i.e. before a judgement is issued) the parties come to some sort of an agreement.

KEDAM MISHPAT. THE PRE-TRIAL CONFERENCE.

No, it's not some new type of grape juice. If you are doing any type of litigation in the Family court, you will eventually be given notice of a hearing called the Pre-Trial Conference (in Hebrew, Kedam Mishpat *קדם משפט*), literally a "pre-trial" hearing. Generally there will be a number of these hearings throughout the litigation period, and in these hearings the idea is not that they are evidentiary hearings (i.e. where testimony is taken and evidence presented) but that the judge is trying to

To learn more about the pretrial conference in the Family court you can watch the video at <http://clktr4ck.com/pretrial>.

establish a few things for him or herself: timelines with regards to how the trial will continue; whether or not the sides can be pushed and/or

bridged into an agreement; who the parties are; and what the real issues between them are. These hearings may also be used by the judge to make interim decisions on motions (some of which will be looked at in the next chapter of this book) that the sides have submitted and responded to in front of him or her.

THE TYPES OF REQUESTS THAT THE COURTS CAN GRANT

In Israel, whether your divorce related matters are heard in the Rabbinic court or the Family court, there are certain types of temporary decisions that the court is able to make during the course of the litigation (or in some cases prior to or upon initial filing of the litigation). These decisions may become permanent or long term depending on how the litigation goes. These requests are made via a submission to the court called a motion (in Hebrew a Bakasha בקשה) literally translated as a request.

Following is a list of some of the typical Motions made during the legal proceedings for divorce and ancillary suits in Israel.

Reconciliation (in Hebrew Shalom Bayit שלום בית) literally, "peace in the home".

Shalom Bayit or reconciliation is an order that the Rabbinic court can give that basically says to the couple: "We are not going to let you proceed in getting divorce right now, go and try to work it out by yourselves". Now sometimes, the court may condition it on your seeing a social worker or a psychologist or a particular Rabbi; but otherwise it is just that they can't continue until they have gone through the period of reconciliation determined by the court.

You can watch a video about these agreements at <http://s87.eu/shalom-bayit>.

Use of a Car (or other asset) Order

An order for the use of a car or of other assets is an order that the court will sometimes give when they think that a side is

justified in making a request. For example, if a couple is getting divorced and they only have one car and the father needs the car to get to work but the mother needs the car to take the kids to school or to after school clubs (in Hebrew, Chugim חוגים) then there is a good chance that the court will intervene and give an order regarding the use of the car.

Stop Order (in Hebrew, Tzav Eekoov צו עיקול) literally, a following order

A Tzav Eekoov is an order that prevents somebody from leaving the country. In other words, a person who has a Tzav Eekoov or a stop order against them will get to the airport and they basically won't be allowed to leave the country and get on the plane. That being said, upon application to the court that granted the order, the person will generally be able to leave if they meet certain terms and conditions that are either written in the stop order or decided by the court. Sometimes the terms will be money issues. For example the court may require the person to put up an amount of security (either in cash or sometimes other assets); sometimes the court will require the party who wants to leave to give or accept the divorce or 'Get' to or from the other party. But the bottom line is the person cannot leave while there is an open tzav eekoov against him or her.

Lien Order (in Hebrew, Tzav Eekool צו עיקול)

A Tzav Eekool is an order that attaches to an asset and prevents that asset from being transferred. In other words, if the court grants a tzav eekool against a real estate asset, it cannot be transferred; or if a court grants a tzav eekool against a brokerage account or bank account, then those accounts are essentially frozen. These orders are given to ensure that the assets are not dissipated pending the final resolution and disposition of assets that are to be split between the parties at the completion of the divorce process. It is important to note that these orders may be granted initially, and then as the process ensures, and usually

by agreement of the parties, they may be taken off so that the case may move forward (e.g. a house being sold), but only with the court's agreement or decision.

Parental Capability Evaluation

An order for a parental capability evaluation (in Hebrew, Misoogalut Horit *מסוגלות הורית*) is basically an order to have either a social worker or a psychologist make an evaluation of either or both parents' capabilities of child rearing. This is important because these evaluations can be the basis for custody and/or visitation orders and even judgements later down the line. It is very important that if this order is given and you are evaluated, that you do not bad mouth your spouse at these meetings. Your focus must be on your child(ren) and what would be best for them without any connection to what your wife says or does, or how she acts. You should emphasize the importance to you that just like you have a good connection with your child(ren) now, you want to do everything to ensure that this will continue to be so in the future after you divorce.

Specific housing (in Hebrew Madoor Spatzifee *מזור ספציפי*)

This is a special order that a wife can get, which basically prevents the husband from selling the house or from forcing the sale of the house to split the couple's assets while the wife is still living in the house and especially, while she is living in the house with the children.

To see a video on this type of order, visit <http://clktr4ck.com/habitation>.

An order to give information

This order can be given against you by your wife or against a third party or against your wife by you. This order forces those parties who receive the order to provide financial information to the other side or to the other side's attorney so that they can utilize the information for the lawsuit in the division of assets

and for the lawsuit in child support.

Rebellious wife

An order for declaring somebody to be a rebellious wife, is an order that is sometimes given by the Rabbinic court. It may be given in the event that a wife either a) stops having marital relations with her husband; or b) makes food for the whole family, but not for the husband, or c) won't clean her husband's clothes when she cleans the rest of the family clothes, etc. If that type of order is given by the Rabbinic court, then that woman will not be entitled to get the money that she is entitled to under her Katoova or Jewish writ of marriage.

Dmei Katoova Order

This is an order against the husband to pay to the wife the money specified in the Katoova that the wife is entitled to under their Jewish contract act of marriage. Under this order, which is usually given pursuant to a separate lawsuit, what will

Go to <http://clktr4ck.com/dmei-ktoova> to see a video on when a woman may get her dmei katoova.

happen is that if the husband has not been meeting his obligations to the wife, (e.g. either he has not treated her properly or he has abused her

or he has had an affair) then he will be ordered to pay the sum fixed in the Katoova. In point of fact, this almost never happens, as most divorces end in an agreement at one point or another, and one of the first conditions of divorce agreements is usually the Dmei Katoova is given up.

Restraining orders

There are all sorts of restraining orders that the court can give. The court (either Rabbinic or Family) can give orders restraining one person from either phoning the other person; being in the house, talking to the other person, getting within 500 meters of one site (like the other side's office and/or the house) etc. These are orders that are generally given when there

is a fear of what is called family violence (in Hebrew Alimoot BaMishpacha *עלימות במשפחה*).

HOW DO YOU GET INFORMATION AFTER THE DIVORCE LAWSUIT HAS BEEN FILED?

Israel works differently than other countries with regards to the discovery process. The discovery process is the methodology by which the litigants (the parties to a lawsuit) are able to get information from the other side. In other countries the discovery process includes depositions (the taking of parties testimony outside of the courtroom and in front of a stenographer), interrogatories (written questions that must be answered), and requests for admissions (basically interrogatories that say "admit or deny that...."). In Israel these discovery tools generally don't exist in the divorce context.

This is the reason that if you suspect that your spouse is hiding assets or other things you should start preparing for your divorce by doing your homework prior to filing. You will find

Did you know?

The five main reasons for divorces in Israel are: affairs, no more love, spouses grow apart, disagreements between spouses, and economic problems.

out more information about how to do this later in this book. The other thing that I strongly suggest that you do is to hire a PI (private investigator). Time and again we have found that when husbands suspect that their wives are hiding something, they usually are. If it's important to you and you think that

assets are being hidden, or additional salary amounts are being stocked away, then the price of the PI will usually pay for itself many times over, and if nothing is found then at least for a few thousand shekels you will gain some peace of mind.

The discovery process in Israeli divorce and family law occurs mainly in two ways. The first way is via the filing of the

complaint and answer themselves. There are forms (sort of like case information sheets) that each party has to fill in and when done properly they include and/or reference many documents that are supposed to shed light on the case. They include things like amounts spent, assets owned, etc. If, as I have suggested, you have done your homework and know what the answers to these questions should be, then in the event that your wife lies in filling out the forms, you can make motions to the court to compel her to produce documents. In the event that she doesn't do so, you can ask for the court to issue orders on third parties (banks, partners, accountants, etc.) to give you the information which you are seeking.

Remember, if you are able to prove to the Family court judge or to the Rabbinic court judges that your wife has hidden assets or income and has been lying to the court, then the court is likely to find in your favor for the maximum amount that the law allows for in that case (i.e. not always 50-50).

THE SCENARIOS IN WHICH YOUR DIVORCE CASE WILL END

Most divorces ends in one of two scenarios – either 1) the husband and wife reach a comprehensive divorce agreement , or 2) a Family court Judge and / or Rabbinical court judges or a combination thereof make judicial rulings.

DIVORCE VIA A DIVORCE AGREEMENT

Most divorces will end in a divorce agreement – but the real question is how the couple gets there. The divorce agreement can be made at any time – before litigation has started, after litigation has started, in the middle of the litigation itself, and after judgements have been issued by one of the courts, but prior to the giving of the get itself (although I have to stress that couples rarely get into divorce agreements after one side feels they have "won" major battles in litigation). As a practicality, I only recommend to men to reach an agreement after they have

Did you know?

Six percent of all families in Israel are single parent families with children under the age of 17.

begun litigation by filing the relevant lawsuits in the courts which will give them the best deal. Nothing can be as enraging as beginning to work on a divorce agreement with your wife only to find that (either because she didn't like the way things were going in the negotiations or because she had planned it all along) she has filed lawsuits in the courts that are less advantageous to you – and that you are now stuck with those courts.

In any case, after you have filed, the real question for you should be "How do couples get to comprehensive divorce agreements?"

There are a number of manners that are employed to get to comprehensive divorce agreements.

Sometimes the **couple is able to agree on all of the issues by themselves**, in which case they go to an attorney and have the terms they agreed to drafted into a formal divorce agreement. **I CANNOT EMPHASIZE ENOUGH TO YOU THAT YOU SHOULD NEVER DO THIS. YOU MUST HAVE YOUR OWN ATTORNEY TO AT LEAST REVIEW THE DIVORCE AGREEMENT THAT YOU WILL BE ENTERING INTO. USING THE SAME ATTORNEY WILL ENSURE THAT THERE IS NOBODY TO LOOK AFTER YOUR INTERESTS.** In other words, even if you and your wife agree to all of the terms of your divorce and have it drafted by an attorney into a formal divorce agreement, you should go to another attorney who will only be representing you to review and amend the agreement.

Many times the couples are represented by different attorneys and the **attorneys negotiate** for and on behalf of the parties – sometimes with the parties attending and sometimes without their attendance.

Mediation is also a viable alternative to help you reach an agreement. In mediation the couple meets with a mediator – sometimes together, sometimes alone, sometimes with their attorneys – each as determined by the mediator – and the mediator tries to facilitate the couple's reaching agreements. This is usually accomplished in a number of "mediation sessions" each lasting between one and three hours. In my not so humble opinion, even though this can be the best manner by which to reach an

Did you know?

The average difference of ages between Jewish men and women for their first marriage is 2.1 years, and for people of other faiths it is 5 years.

agreement, it can also be the most risky. If you ask me, before going to any mediation you must meet with an attorney and learn what your legal rights are and make an outline of the issues and where the law falls, and you must find out what all of your family assets and liabilities are. Without this information, going into mediation can end up costing you a lot more money and aggravation through the years than you will be saving.

Sometimes a Family court judge may agree to help the couple come to a compromise pursuant to **Section 79A of the Court law**. In this case, rather than having to follow through with the whole litigation process, and in the Family Court judge's

Did you know?

Forty seven percent of married people believe that their lives will improve in the future compared to fifty four percent of divorced people.

discretion, the judge may offer to take into account all of the documents in front of him (the complaints, the answers, and motions, and protocols from any hearings) and issue a binding decision for the couple regarding all of their outstanding issues. I tend to think of this more as **binding**

arbitration by the Family court judge rather than going through the full blown litigation. The potential advantages are that it cuts down on the time and emotional toll and sometimes financial toll that long drawn out litigation takes of both sides.

The best thing about getting divorced via an agreement is that there is no limit on how creative you can be. In one case, the couple decided to purchase a small apartment around the corner from where their joint marital home was – rather than selling the home - and each of the "ex-spouses" after the divorce would alternate living in the former marital home. The children stayed in the marital home and the parents moved. Each week one was in the house and the other was in the small apartment and the next week they switched. Now, I am not saying that this is a good idea or even that it is viable for most couples, but

I am saying that this is something that no judge or dayan in Israel would ever have arranged for in a judgement – even though it worked for this couple, and even though outside of Israel such so called "nesting" agreements are much more popular.

In any case, once a divorce agreement has been reached it is executed by the parties and then has to be affirmed as a judgement by a court. If the executed divorce agreement is affirmed as a judgement by the Family court, which takes one court hearing, the Family court judgement will then have to be "affirmed" by the Rabbinic court (one hearing) after which the "Get ceremony" will occur (usually but not always on a different day). In other words – generally there are a total of three court hearings. For the record, this is the method which I highly recommend to most men. This is because even though it is negligibly more expensive, it secures Family court jurisdiction in the event of any future litigation (generally regarding custody/visitation issues)

Did you know?

In November, 2012, Tzchian Ping of northern China sued his wife when he found out that her beauty was due to plastic surgery unbeknownst to him, which led to the birth of an ugly daughter. He was awarded seventy five thousand pounds and granted a divorce.

In any case, alternatively, if the executed divorce agreement is affirmed as a judgement by the Rabbinic court, which takes one court hearing, you still have to have the "Get ceremony" which will usually occur on a different day – i.e. generally two court hearings.

DIVORCE VIA JUDICIAL RULING (LITIGATION)

This is where you hear of couples "fighting it out in court". Many times a men find themselves in this type of situation because their spouses are not willing to resolve their issues in a

fair and equitable manner. Here, the issues in front of the Family court will be decided by a single judge who will hear the case, and the issues in front of the Rabbinic court will be decided by three judges. In no case will there ever be a jury. This just doesn't exist in the Israeli system. In this case there will be a trial, which may take several days – not necessarily

Did you know?

People who have a feeling of "cold feet" prior to getting married are more likely to get divorced.

consecutively, where each side presents their evidence and cross examines the other side. The judge (or judges in the Rabbinic court) will make decisions about each issue presented before them, and issue judgements. Again, it is important

to remember that the Family court will never issue a judgement for divorce, only the Rabbinic court can do that. Generally, the Family court judgements will be on the following broad issues: division of assets, child custody and visitation, and child support. The most important thing for you to do if your divorce case goes this way is to make sure that you and your lawyer are ready for the process. This means that you must work with your lawyer to get him all the information that he requires – these are the "tools" that he will need to be able to present your case. The use and submission of these materials can be very time sensitive and may have a disastrous effect on your case if not submitted in time. This is the reason that I suggest that you prepare carefully before filing for divorce, by following the suggestions that I give in this book for gathering financial and other information before making your first move. It is important to understand that getting divorced via litigation will take more time than any other methodology – almost never less than six months and sometimes going on for years.

KNOWING WHAT YOUR RIGHTS ARE

The first thing that most men want to know when they come to see me is what their rights are and what they are entitled to. In order to give them this information, I need to know many facts. The number of years of the marriage, number of children and ages, what real estate and other assets each party has and how and when they were acquired, what debts each party has and how and when it was acquired, what types of insurances the parties have, the incomes of each spouse, etc. Only when I have all of this information am I able to begin to explain to people what their rights are and what they are legally entitled to.

ALIMONY

One of the things that differentiates Israel the most from other Western countries when it comes to divorce is the issue of alimony. In most Western countries, when there is a

To see videos about alimony in Israel go to <http://clktr4ck.com/alimony1> or <http://clktr4ck.com/alimony2>.

disproportionate level of income between spouses (usually because one stayed at home to raise children) then upon divorce it is expected that for a certain time period

the spouse who earned less would be entitled to a monthly payment from the other spouse, which is called alimony. The good news for men (who are generally the main bread winners in Israel) is that in Israel there is generally no alimony after divorce.

As between Jewish spouses in Israel, *for so long as they are married the husband has an obligation to support his wife*. This means that the husband has to pay for clothing, food, household bills, etc. to keep his wife at the lifestyle she was accustomed to. I tell you this because many times men decide that during the divorce they will simply stop depositing their paychecks into the joint pool and will stop paying bills. Legally, the husband cannot unilaterally do this. However, it is important to understand that as soon as the divorce goes through, unless agreed to via a binding divorce agreement, you will not be obligated to make any payments to your wife above and beyond those that you are required to make for child support.

There is an exception to the above called rehabilitative alimony – whereby the court occasionally (but very rarely) will award a woman who has stayed at home so that her husband could build his career a small alimony payment for a short defined period

(almost never exceeding 2-3 years) so that the wife can acclimate herself to and find work.

The bottom line is that you probably won't be paying any alimony to your ex-wife after the divorce goes through. You should work with your legal representative to help you to do the calculations on what you will get from the division of assets and what you should expect to pay for child support in order to be able to calculate how you will be able to afford your living expenses after the divorce.

CUSTODY / VISITATION

Custody in Israel is separate and apart from guardianship. Usually one parent will have custody but both parents will have guardianship (in Hebrew, Aptroposoot אפטרופוסות) over the minor children. As a practical matter what this means is that both parents are considered legally responsible for the child, and that both parents are entitled to have a say regarding education, health care, etc. If the parents cannot agree then the issue will be decided (on an ongoing basis) by a court. Generally, the issue at hand in divorce litigation is not guardianship, but physical custody over the minor children – i.e. where will they be spending most of their time.

No matter which court hears your custody case (i.e. the Family court or the Rabbinic court), the standard that is supposed to be utilized is what is known as "the best interests of the child." What this means is that the court is supposed to make an evaluation as to which parent it will be in the best interests of the child to live with. The way that the court does this is by making an evaluation of the family and determining who the

You can see a video on typical visitation arrangements at <http://clktr4ck.com/visitation>

main caregiver for the child or children should be. The courts will generally appoint a social worker and/or a psychologist to do an evaluation regarding this issue – it is often said that the social worker or psychologist acts as the eyes of the court. The social worker and/or psychologist evaluation will generally include visits or meetings with the children, with each parent, and/or with each parent and the children. They will also generally speak with the children's teachers – especially if the children are younger. The court will get the report (evaluation) and will utilize it in rendering custody and visitation decisions. Many times the judge (or dayan) will "rubber stamp" the recommendations of the report, so I cannot

emphasize enough how important these reports are and how you must try to work in conjunction with the social worker or psychologist. You will find that these reports almost never recommend splitting up children – and usually if one parent is the best caregiver in the best interests of the child evaluation, they will have custody for all minor children.

Additionally, Israel employs something called "the tender age doctrine." This doctrine says that there is a presumption (which is overcome able) that the best interests of children under the age of six is to be under the custody of their mother.

All this being said, in the vast majority of cases in Israel, custody over minor children goes to the mother. The general visitation schedules in Israel are twice a week for the non-custodial parent (usually the father), with or without sleepovers, plus alternate weekends. Vacation periods and holidays are generally divided equally between both parents on an alternate basis.

When should you expect your children to sleepovers during the week?

If you reach an agreement that your children will be sleeping over at your house during visitations, then this agreement will be accepted by the court. In that case, you will generally be responsible to gather your children from school the day of your visitation and to return them to school the next day. If you cannot agree and the court must decide, the court will consider a number of factors, including the age of your children, whether or not your housing will be sufficient for your children to sleep over (i.e. having your three kids sleep on the living room sofa bed in your two room apartment won't cut it), what your work schedule is,

Did you know?

In December 2011, a 99 year old Italian man, Antonio, got divorced from his 96 year old wife of sixty years, Roza, after he found love letters that she wrote to a lover from 1940.

and the recommendations of the social worker and/or psychologist assigned in your case. Generally, the older the child is the more likely the court will grant sleepovers for the mid-week visitations.

Joint Custody

Finally, I have to address the issue of joint custody. First of all, if you and your wife come to an agreement that you will both have joint custody (i.e. that the children will spend an equal amount of time with each parent) then the courts will generally

Watch a video about joint custody in Israel by going to <http://clktr4ck.com/joint-custody>.

go along with your agreement. Whether the agreement be that the kids are with one parent from

Sunday to Tuesday and the other parent from Wednesday to Friday and alternate Shabbatot (Saturdays) or whether the kids alternate between each parent each night, the courts will generally accept such an agreement.

However, more and more fathers are suing for joint custody over their children. If you spend an equal amount of time taking care of your children and want to have joint custody, then know that the pendulum is changing on this issue, and you do have a better chance to get joint custody than you would have in the past in the event of litigation. On the other hand, if you are considering requesting joint custody so that you have lower child support (in Hebrew Mezonot *מזונות*) payments, my honest opinion is that it is not worth the battle. Remember that if you do have joint custody you will have time obligations that cannot be escaped from, and unless you had been and are willing to continue to leave work early to take care of the kids, miss work when they are sick, etc., then you would be better off (financially) in having the traditional visitation schedule and finding something to earn some more money with your new found free time.

RULES ABOUT THE COURT ORDERED EVALUATION

Before you meet with the psychologist or social worker that the court appoints for your case, there are some general rules which you must follow if you want the report to reflect positive on you.

1. Unless you feel that your Hebrew is perfect, you should ask to speak to the evaluator in English. I cannot tell you how many times we have had clients "mess up" by using the wrong word or improperly conjugating a word and having the evaluator understand the exact opposite of what they were trying to say.
2. Don't refer to your kids as "my child" or "my children" but as "our child" or "our children".
3. Never speak badly about your spouse in front of your children.
4. You and your wife probably don't agree with each other regarding your philosophies regarding raising the children. The court won't choose one parenting style over the other per se. However, rather than fighting with your wife about it, try to find a mutually acceptable children's therapist to mediate during the course of the divorce.

To see a video explaining why a psychologist may be involved in your divorce case, go to <http://clktr4ck.com/psychologist>.
5. If you think that there is going to be a legal custody battle, talk to a lawyer experienced in contested custody cases to learn what you should or should not be doing.

6. One of the single biggest factors that will make a judge consider granting a father custody or lowering child support payments is if the father does not have access or has very restricted access to his child. If your wife is playing games with visitation schedules, document it.

7. Many times when men start going through the divorce process, the first things they do is go and try to find a new love interest. This helps repair battered egos. Introducing new partners into your child's life before you are divorced is considered damaging to the child. Don't introduce a girlfriend before the divorce is finalized, and even after that I would suggest that you do so in coordination with consultation with a child's psychologist.

CHILD SUPPORT

Until recently, the law in Israel regarding child support for Jewish parents was decided in accordance with Jewish law (in Hebrew, halacha הלכה). This changed in the summer of 2017 due to a judgement given by the Supreme Court of Israel. Until that time, the sole responsibility for the financial upbringing of the children was the obligation the father, at least until the child or the children got to age 16. In special circumstances, after the age of 16, when the mother was well to do and the father was poor, then in accordance with the Jewish laws of charity (in Hebrew, medin tzedaka מדין צדקה), the mother might have to participate in the financial cost of raising the child as well.

Did you know?

According to a University of Cincinnati study in 2012, married women drink 9 alcoholic beverage on average a month as opposed to 6.5 alcoholic beverages a month drunk by divorced women. However, married men drink an average of 19 alcoholic beverages a month as opposed to 22 alcoholic beverages a month drunk by divorced men.

In this most recent ruling, the High Court decided that in cases of joint custody the court would figure out the amount of "costs" associated to support the couple's children and then would obligate the parents to pay those costs on a pro rata basis with what they each earned. For purposes of illustration, if the court found that the total "costs" of raising the children was 5,000 NIS per month and the father earned 20,000 NIS per month and the mother earned 10,000 NIS per month – meaning that the father earned two thirds of their joint income -, and there was joint custody, then the father would be responsible for two thirds of that 5,000 NIS monthly costs of raising the children. From this would be subtracted half since he had joint custody for a total of ~1666 NIS. This is arrived at

as follows: total cost of raising children = 5000. Husband has the kids half the time so he is already paying half – or 2,500 by bearing the costs when they are with him. Husband is responsible for 2/3 the cost of the children while they are with the mother (i.e. 2/3 of her 2500) – so the total is 1666. Yes – the calculation is complex and convoluted – making it even more unclear to both legal practitioners and Family Court judges. In any case, after this Supreme Court ruling, some of the family courts and also the District Court in Jerusalem decided that the calculation of child support would be in equal portions relative to the incomes of the parents - even in cases where there is not joint custody.

Since things are in a state of flux, at this point in time, I cannot tell you what will be in the near or the far future. However, I will address the traditional calculation that the courts were using until the most recent judicial decisions. This is important because most of the courts still use this calculation as the initial basis for their calculations, even though this too may change. In accordance with the old law, the monthly amount of child support was made up of 3 sections as follows. For each child there is a "base" component which is between 1,250 and 1,550 N.I.S per month. This is called Base Support (in Hebrew Mezonot basees **מזונות בסיס**). That is to cover food, clothing, i.e. "basic" needs. Then there is a second component which is called the housing expense (in Hebrew, Madoor **מדור**). This is set as a percentage of housing costs. For example, with one child it would be 30%; 2 children 40%; 3 children and more 50% of the housing expense. The housing expense can be either the mortgage or rent and it will also be property taxes (in Hebrew, Arnona **ארנונה**) electricity, gas, water etc. The third and last component of child support is a part that gets split between the parents and that is miscellaneous expenses. Those would be health care expenses, school expenses, babysitting for the afternoon expenses, etc.

For the most part, until the most recent rulings, the courts would decide that on this third part (the other expenses that got split between the parents) the expense would either be divided between the parents in accordance with their salaries.

Now, there were other expenses that weren't necessarily computed at all, in other words, that the court doesn't feel that people have to do, like the trip to Poland, like higher education, driving lessons, etc, One of the things that should be taken into account when trying to figure out a total amount for the child support is that the part of the base child support will go down in as much as there are additional children. For example, if there are 5 children, then the base child support of between 1250 and 1550 will go down for each younger child. So while the expense for the first child might be calculated at the high amount of 1550, the expense for the second child will be set at a lower amount, and so on. You have to remember that this portion does not take into account the salary of the parents.

In any case, the big picture is that, until the most recent ruling, even when the father did not make a lot of money, and even when the mother made more money than him, the father still was the one who had to pay these amounts and everything was because of the fact that it was all going in accordance to Jewish law (even in the Family Courts). Just for purposes of clarification, although the child support is meant to pay for expenses for the children, the payment is made to the custodial parent, and most of the time, that means the mother.

In the past, attorneys were able to tell people with up to seventy or eighty percent surety what their child support payment would look like. Today we can't say for sure what the amount is going to be until the Knesset (the Parliament in Israel) makes a new law regarding this, or until the courts make judicial decisions that get through to the Supreme Court even for cases that do not involve joint custody. The big picture is that you should be

prepared for the level of your salary and your spouse's salary, in addition to the amount of time that each child is spending with each of you, to be taken into account in the calculation of child support.

Finally, it is very important because you should understand that the child support almost never really covers the real expense for the children. As I always tell my divorce clients (both male and female) – if you were struggling financially before divorce, please understand that you will be struggling financially even more (at least initially) after divorce. And why is this? Because supporting two separate households statistically costs 135% of the original expenses that a couple has when married.

When you start making those payments, please remember – even though it feels like you are just giving money to your ex-

You can see a video on computing how much child support to expect to pay by going to <http://clktr4ck.com/child-support>.

wife, this is not really the case. You are paying, in accordance with Jewish law which requires the father to bear the sole financial

responsibility for raising his children, the costs of bringing up your children. As I say time and again, the family law system in Israel remains much to be desired for a modern Western country.

FIGURING OUT HOW YOUR ASSETS AND DEBTS WILL BE DIVIDED

The general rule in Israel is that assets and debts which were acquired during the course of marriage, are going to be split equally at the time of divorce. What that means is that anything that you bought while you were together is going to be split between the two of you. On the other hand, any debts that you have built up while you were together are going to be split as well. This includes pensions. It includes real estate owned, stock accounts, cars and so on. It also includes credit card debt, mortgages, bank loans, etc. There are some exceptions to this rule, which I will address below.

Regarding things that were acquired before the marriage, that's a more interesting question. If there were things that were kept totally separate they will remain the property of the spouse who owned it prior to the marriage. For example, if you have an apartment that you rent out, that you owned before you were married, and you did not use that rent money to run your household and did not put that rent money into a joint bank

You can see a video on how assets get divided during divorce in Israel by going to <http://clktr4ck.com/assets>.

account, and you did not live in the apartment while married, then that apartment will remain yours generally. Of course the same is true if that apartment was hers prior to marriage and she had kept it separate. In short: things that were acquired before the marriage and kept totally separate will generally remain the separate property of the spouse who owned them before marriage. Things that were commingled will be split equally. So, as another example, if your wife inherited \$200,000.00 from one

of her parents and you used that money to put an addition on the house, well your wife has lost. Or if you used that money and you put it together with other money that you had and bought another house that you are renting out, then your wife has lost it. You should expect to get half of that.

It's very important to try to figure out, before filing your divorce papers, exactly what you can expect to receive and what you can expect to have to transfer over to your wife. Of course, there are also other exceptions to the rules that I stated above. For example, if you had a prenuptial agreement, for the most part, you are going to go in accordance with whatever the prenuptial agreement said. So to summarize regarding inheritances: if you inherited money that was kept totally separate while you were married then it will continue to be totally yours after you divorce. If you commingled it then it will be split.

But again, this is the type of thing that you really should come into my office and discuss. When I work with my clients we generally look at each asset and try to figure out who will end up with which asset in the event of litigation. Generally we will have a pretty good idea of what it is that you can expect to keep or get out during divorce – in ordinary situations.

THE LOW DOWN ON "SHALOM BAYIT" – AGREEMENT OR COURT ORDERED RECONCILIATION

In the divorce process in Israel, when we talk about Shalom Bayit בית שלום or "reconciliation", we are really talking about two different things. The first one is an agreement. A lot of times a couple will start down the road towards divorce and then at a certain point realize for whatever reason that they still want to stay with each other. Maybe it's because they still love each other. Maybe it's for the kids. Maybe it's because of financial issues. But the bottom line is that they want to keep trying, but they want to change things. In that case, they can reach a reconciliation agreement. By

You can watch a video about whether you can be forced to stay married or not at http://clktr4ck.com/shalom_bayit

the way, I don't let my clients sign a reconciliation agreement unless it's a two part agreement. It's a reconciliation agreement and in the alternative a divorce agreement. This is called a Heskem Shalom Bayit viLeChilufin Gerushin הסכם שלום בית ולחילופין גירושין in Hebrew. I do this so that if the reconciliation does not work, we all know the terms of how the couple will get divorced and we don't end up back on the great mystery tour. In any case; that's the first usage in family law in Israel in Shalom Bayit or reconciliation.

The second one and the more devious one, is court ordered reconciliation which is generally in the Rabbinic court. What happens is one of the spouses generally uses it as a tactic. The spouse makes a motion for Shalom Bayit (reconciliation) and if the court decides "yes we are ordering Shalom Bayit", then they are essentially ordering reconciliation and they will give a period, let's say 90 days - during which time they won't let the couple get divorced. If one person wants the other person out of the house, and the other person either won't leave or has an order that they are supposed to do Shalom Bayit or reconciliation and therefore they can't be forced out in any case, then the side that did not want the order is going to be pressured to reach an agreement. An agreement reached during this period may not be as good as an agreement otherwise negotiated – because of the pressure of being forced to live together to try to reconcile. So, it's really turned into a tactical thing where you basically ask the court (and again it's generally the Rabbinic court) to order a period of reconciliation during which you are not going to be able to move forward in your divorce. This adds to pressure in the household which is really not a good thing – especially during the period while you are getting divorced - and generally it's not a tactic that I would use.

You can watch a video about shalom bayit agreements at <http://s87.eu/shalom-bayit>.

Don't misunderstand - I'm all for reconciliation and a lot of times I will turn clients away and tell them "Until you have gone for some couples counselling, I would rather not represent you, because I don't think you are ready for it." But, knowing that ten to fifteen percent of the people who start down the divorce path will end up getting back together, I always try to keep in mind the old saying amongst family law attorneys in Israel. "A couple that has brought suits to get divorced may end up reaching shalom bayit (reconciliation). A couple where one party has sued for shalom bayit will always get divorced."

WHAT IF YOUR SPOUSE IS NOT RECOGNIZED AS JEWISH BY THE ISRAELI RABBINATE?

What happens if your spouse isn't Jewish? What happens if your spouse is Jewish, but can't prove it halachikly (in accordance with Jewish law)? What happens if your spouse or her mother or her maternal grandmother were converts to Judaism via the conservative or reform, movements? What happens if your spouse is registered as being of no religion in the office of the interior (Misrad HaPanim משרד הפנים)? In all of these case, because your spouse is not recognized as being Jewish by the Israeli Rabbinate, you will not be able to get divorced in the Rabbinic court, and Jewish laws regarding divorce will not apply. In this situation, all of your issues will be heard in the Family court, which should be applying different standards (e.g. rather than the father being solely responsible for the financial raising of the children, the amount of child support will take into account both the mother's and the father's earnings and earning capabilities), and the process will be somewhat more complex.

First of all, absent an agreement, all of the three main issues will be litigated in front of the Family court (i.e., custody, child support, and division of assets). Additionally, there will be a suit for annulment of the marriage itself. At the end of the day, this just adds an extra procedure, and must be approved by the vice president of the Family courts (it's really a rubber stamp approval), and then the divorce happens via annulment by the Family court.

COMMON LAW MARRIAGE (YADOOIM BATZIBUR)

Israel has no common law marriage, so why would I be writing a chapter on common law marriage? As you have surely gotten by now, the basis of the Israeli family law system goes according to Jewish law (halacha). According to halacha the ways for two Jews to be married is either "in accordance with the laws of Moses and Israel" – i.e. with the religious marital ceremony, known as chuppa and kedushin for people who get married in Israel; or for people who get married outside of Israel in formal marriages recognized by the country in which they got married.

What this means is that people who form family units outside of these frameworks are not considered married in Israel – even though in other Western countries they are usually considered married (i.e. they are what we call common law spouses). The way that the Israeli legislature, which is not bound by halacha, got around this was to create a new category of relationships which is called Yedooim Batzibur (יְדוּעִים בְּצִיְבוּר, literally known in public). This is basically what common law spouses are in other countries. In other words, if you have formed a family unit with a woman, whether you have had children or not (and believe it or not, there has been a lot of litigation to determine whether or not people have formed such a unit and become "yadooim batzibur" or not, especially in cases where there are no children), then your relationship and any subsequent break up will be treated like a common law marriage and subsequent divorce.

The question then is, how do yadooim batzibur get treated, and what do they need to do when these couples break up (i.e. divorce)? The answer is that when this happens, the procedure is basically the same as with other Jewish married couple, but with two differences. First of all, everything happens in the

family court (i.e. issues of children's' custody, child support payments, and division of assets. Second of all, since there is no "Get" or religious writ of divorce required (since the couple is not recognized as having been married in accordance with Jewish law), there is no proceeding in the Rabbinic court. What is important to understand is that in these situations, there is never any type of divorce decree made by any court – there are just judgements regarding the issues of custody over minor children, child support payments, and division of assets.

THE AGUNAH OR AGUN

Time and again, people hear me complaining about how the family law system in Israel is below par for a modern Western country. One of the basic problems with our system is that, in our reliance upon Jewish law as interpreted by the Israeli Rabbinate, there is a requirement that for a marriage to end, the husband must of his free will give the wife a Get (writ of divorce) and the wife must, of her free will, accept the Get. This is generally done in a formal ceremony in the Rabbinic court, after which the couple is legally divorced.

But what happens if one of the parties is unwilling to either give or to accept the Get? This leads to what can become a nightmare scenario – when all of the issues except for the divorce itself are resolved by judicial rulings, but the parties don't get divorced. This leaves one of the parties (the party who wants to get divorced) an "Agun" אגון or an "Agunah" אגונה (m/f) – literally somebody who has been chained. Under Israeli (and Jewish) law, this is a person whose spouse has been unwilling to grant them or accept from them a religious writ of divorce (a Get). This occurs when one of the parties is unwilling to get divorced regardless of what the judges say.

This, in the case of a woman, makes it impossible for the chained woman to remarry, and if she has children, they will be categorized under Israeli and Jewish law as "Mamzerim" (and the consequences of this categorization are beyond the scope of this book, but believe me that there is nothing good or beneficial about this categorization). In the case of a man, this prevents him from getting remarried unless a) if he is Sephardic* he gets a permission from the Rabbinic court to have a second wife, or b) if he is Ashkenazic** he gets 100 Rabbis to essentially annul his marriage and let him take on a second wife.

This leads to situations where spouses (generally husbands) blackmail their wives and preventing them from ever being able to open a new chapter in their lives with a new spouse or the ability to date until they acquiesce. The chief Rabbinate has recently started getting more involved in an attempt to bring this situation to an end, but there are still about 2,000 cases of agunim and agunote open in Israel (roughly equal cases of men and women) at the time of the writing of these pages. Although I am a big believer in not giving or receiving the Get until all of the underlying issues in the divorce are finalized (i.e. custody, child support, and division of assets), **I do not believe in, and will not represent clients who are unwilling to give or receive the Get from their spouses.**

* a Jew of Middle Eastern or oriental descent
European descent

** a Jew of

QUESTIONS THAT YOU HAVE TO CONSIDER BEFORE HIRING A DIVORCE ATTORNEY

For most people, choosing a divorce lawyer is a daunting task. You are about to embark on an unfamiliar and treacherous journey through the legal system. To make things worse you have to do this while you are in the grip of extreme emotional turmoil. Guiding you through this dramatic life experience should be a lawyer that you can trust completely and with whom you can establish a close working relationship which will continue for as long as you need. For weeks, months, and in rare cases even for years. Throughout this selection process remind yourself that all lawyers are not created equal. Protect yourself by carefully considering the following questions before making payment arrangements:

Did you know?

The percentage of working men who get divorced is lower than the percentage of unemployed men or men working in non-permanent positions that get divorced.

1. Is the lawyer's practice focus exclusively on family law? You should choose a lawyer who exclusively or at least primarily practices in the area of matrimonial and family law. This is a constantly evolving, highly complex area of practice, and you need in your corner a knowledgeable and experienced lawyer who is intimately familiar with the intricacies of divorce law and family matters. You cannot leave your future financial security or your future relationship with your children in the hands of a "jack of all trades, master of none" attorney.

2. Is the lawyer attentive when you are talking? It's crucial to have an initial face to face consultation with any potential lawyer before signing a written payment agreement. An initial consultation is a golden opportunity to assess whether the attorney will treat you with compassion and dedication or whether you are just going to be another number in a book and a faceless file stuck in a corner in his office. If the lawyer is checking his emails, typing away, on his telephone or taking other calls during your meeting, you really should think about going elsewhere.
3. Does the lawyer return your initial consultation fee in the event that you retain him or her? On the one hand, an attorney's time is his or her stock in trade – i.e. he or she makes his or her living by selling time and expertise. On

Did you know?

In 2015 Tel Aviv was the city with the greatest number of divorces in Israel, a title held by Jerusalem until 2014.

the other hand, it can get very expensive to visit attorney

after attorney evaluating which attorney you should be using. Only an attorney who does not value his or her own time will be able to take initial consultations for no fee on a regular basis. Instead, what most reputable attorneys will usually do is to spend ten to fifteen minutes talking to the potential client on the phone, and then, if they think that the conversation sounds like it will lead to a case that fits their firm's clientele, is to invite the potential client in for a paid initial consultation. Ask any attorney who invites you in for a paid consultation if he refunds the consultation fee in the event you retain him. If he doesn't, then he may just be using the consultations as a "money leader" without doing any real evaluation of the potential of the case

beforehand. You do not want an attorney who is unwilling even to do preliminary work to be the one representing you on your day in court.

4. Does the lawyer have an office policy insuring the timely return of phone calls? Communication between attorney and client is a key in any divorce action. A lawyer should be reachable by phone and email. Unfortunately, clients' main complaints against divorce lawyers are that the lawyers fail to respond in a timely manner to emails, telephone calls or other communications. Ask any lawyer you consider retaining whether there is an office policy regarding the prompt return of phone calls and emails. If he hesitates, there likely is no such policy and you will be frustrated to no end in trying to get in touch with him or her.

Did you know?
Seventy percent of divorces in Israel are initiated by women.
5. Is the lawyer selective in accepting cases? Does the lawyer you are considering accept every client that walks through the door? Or does his or her practice consist of fewer, but select clients? In order to provide dedicated and comprehensive service an attorney owes it to existing clients to be highly selective and accepting new matters, make sure that this is the case with your attorney.
6. Is your personality compatible with your lawyer's personality? In order to work effectively with your lawyer, you have to be comfortable with him or her. Make sure that the lawyer you are retaining is someone that you can talk to, that you can listen to, and that you will be able to share the most intimate details of your life and finances without feeling threatened in any way.

7. Does the lawyer treat you with compassion and empathy? Make sure the lawyer treats you as the unique individual that you are. A good lawyer will be eager to listen to your marital history and will make sure to fully understand your priorities and your objectives without being in a rush to simply categorize you and hurry you out the door.
8. Is the lawyer proactive? You should hire a divorce lawyer who is able to provide you with a plan of action. This attorney should listen to you and then take charge.
9. Will the lawyer be involved in your case personally? If your case is also handled by an associate or paralegal when will your attorney be involved? You do not want to go to a firm where you meet the attorney at the initial meeting and then never see or speak to him or her again. While it is understandable that in successful law practices there is the lead attorney on a case and then associates doing the legal "grunt work", you must be satisfied that any staff member working on your case is competent and experienced. You must know when and how you will be in contact with the lead attorney, even though you may be in contact with the associate attorney for most of the day to day interaction. This is essential.
10. Is the lawyer willing to attempt and negotiate settlement of your matter? Only a very small percentage of divorce cases actually go to trial. The vast majority of cases are settled, some on the court house steps on the very day of trial. A good attorney knows that there is no court winner in a full blown divorce or custody trial. If it's left

unchecked, the process can be emotionally and financially devastating to both sides. Your attorney should therefore make every reasonable effort to negotiate a settlement on your behalf - while at the same time diligently be preparing your case for the potentiality of the trial. Cases are settled when the lawyers are both prepared and dedicated.

11. Is the lawyer willing to educate you and to answer your questions? Your divorce lawyer must be a good communicator and be willing to answer all your questions. Any skilled divorce lawyer knows that educated clients are better equipped to make good and informed decisions with regard to their and their family's future.
12. Is the lawyer assertive without being arrogant? Many people make the mistake of looking for divorce lawyer that will be “pit-bull”. In hiring a divorce lawyer remember that louder, does not necessarily mean better. A good attorney will not feel the need to compensate for a lack of skill by being obnoxious. A good attorney will aggressively and effectively advocate for you, but without an ego that squeezes the air out of any room.
13. Is the lawyer being honest with you? Or are you being promised the sun, the moon and the stars? Be very weary of any lawyer who guarantees a specific result in your divorce case. All litigation is risky and can be influenced by present circumstances, future developments and the decisions and the attitude of the judge. Every case has strengths and weaknesses and your lawyer should be able to point out both. You can trust an attorney who tells it like it is, and who is candid with you about your chances of getting a particular outcome. You can't trust an

attorney who simply tells you what you want to hear.

14. Does a lawyer underscore that your children's best interests are your highest priorities? No parent should ever use his children as pawns in a divorce action. Your children's welfare and best interest should be your paramount priority. Any good lawyer will understand and support this objective and will caution you that manipulating your children will be devastating to them personally.
15. Does the lawyer present himself or herself well? If you are put off by the lawyer's personal grooming and dress, behavior, or language, then chances are that the judge and the opposing counsel may be also. If a lawyer's office is a mess of dirty pizza boxes, dirty clothes, and legal documents that he or she prepares on your behalf; it is likely to reflect that the work product on your case, will not be thoughtful, cogent and organized either. You want an attorney who cares enough to present him or herself, the staff, and the office in a professional manner.
16. Is the lawyer able to utilize the latest technology? In this day and age your lawyer should be up to date on the latest technological developments. Your lawyer should understand how computers and the internet are changing communications, relationships and society. If a lawyer has chosen to remain blindly old school about technology, do you think he or she cares enough to stay up to date with the latest developments in the law?
17. Does your lawyer speak your language and understand the mentality and culture you are coming from? Here in Israel, I would not call ourselves a melting pot like in the U.S., but I would call us a salad. We have different

groups of people that stay mainly in the same ethnic and or social types of groups that they were in in their home countries. This is because such a large number of us are immigrants who have moved here from other countries. You really have to make sure that your attorney has an understanding of where you are at. Not only in terms of language, also in terms of mentality. If you need to hire a divorce lawyer, you really have to be sure to do your homework and to consider these questions before signing a retainer agreement.

18. Does the lawyer provide you with free information about the law? The days of monks being the only people able to read are over. You do not want to work with a person who tries to hoard information to him or herself. When that occurs, what can happen is that the attorney may end up making decisions in your case which are not in your or your family's best interest. This may be because the attorney is just not cognizant of all of the issues relevant to you, or worse – may be because the attorney's interests conflict with yours (i.e. the attorney wants the case to be over so that he or she can move on to the next file...). You want to work with an attorney who understands that a well-informed client is the type of client who will make the best decisions about his or her own personal future and his or her family's future. Most attorneys are busy people and may not be able to spend a lot of time with every client to go over every potential eventuality in a legal case – but they should be able to provide the client (or potential client) with guides, books, audio and / or

Did you know?

The percentage of divorces amongst couples with academic degrees is lower than that amongst couples with no academic degrees.

video files, and other information that will give the client the information needed to make an intelligent decision when the time comes.

The last thing you need during your divorce case is to waste your precious energy and money on disagreement with your lawyer. So, be sure to hire the right lawyer from the start and save yourself the agony of lost time, big bills and endless frustration.

STEPS YOU SHOULD BE TAKING TO PREPARE FOR A POSSIBLE DIVORCE

Some people say that you should take as much time to plan your divorce as you or your spouse did to plan your wedding. Here are some steps that every man should be taking in order to prepare for divorce.

First of all, you should consult an attorney about your legal rights. This is very important, because different situations can lead to different legal rights and you have to know what it is that you can expect. Secondly, you should write a narrative for the attorney, detailing the date that you got married or if you lived together before getting married, the date you started living together, children's birthdates, if you ever separated, or what assets you acquired and what separate property each of you brought into the marriage. My office gives all of our potential clients a diary to write all this information. You should gather information about what you own and what you owe; copies of financial statements, tax returns, and retirement plan documents, brokerage statements, insurance policies, sales contracts and deeds. You should also get detailed information about each retirement plan, in which either you and or your wife has participated.

Did you know?

Statistically, there is a large increase in divorce proceedings initiated after the holidays in the Jewish month of Tishrei and Nissan.

You should think about what assets you would like to keep if you get divorced and what you are willing to give up. You might even consult with your accountant about the tax consequences of various options, especially if you have overseas assets in your original home country or any third party countries. You should get preliminary estimates of the value of

the property you own and you should list all of the debts that you owe. You should also try to pay bills and credit card from joint funds before you get divorced, so that you don't get stuck with them later. If you have a safety deposit box, you should get both keys if possible.

You should get a spending history. Prepare a spending history for the last year from your and your wife's checkbooks so that you can get a real good idea of your future needs, and decide where to cut back as necessary. You should also set aside cash reserves to use for the first few months of your divorce process. Practically what this means is that you should transfer your share and only your share of the joint funds to your separate bank account and you should do that immediately before filing.

You should apply for some credit cards and bank accounts in your own name and in a different bank (not different branch, a different bank). Preferably, the address you use for these account should not be your home, and should be somewhere that your wife will not find out. You should make sure to

Did you know?

There are no statistical differences in expected life spans between single people, married people or divorced people except for the ages of 40-59 – during which ages divorced people have a higher expected life span than the other two groups.

remember that after the process starts you should close or freeze your joint credit card accounts. You should, if possible, get control over both credit cards on your joint accounts. After filing, you should close all joint accounts or alternatively

you should notify all the creditors that you are not going to be responsible for your wife's charges on those accounts. You should also open up a private post office box that you can use for your mail, while you are preparing for and are in the process of divorce.

If you have time and opportunity, do whatever you can to lower your family household expenses. If you had moved into a smaller apartment, gotten rid of a car, lowered shopping expenses, etc. for a year or two before getting divorced, then this would positively affect the amount of child support your wife would be entitled to if she is the custodial parent of your children after divorce.

You should begin a divorce notebook where you list all the problems with the impending divorce and you should also list each step that you take in the divorce process including a synopsis of telephone calls, conferences with your attorney, accountants, social workers, psychologists, etc. and keep notes.

Finally, now is the time to set the stage for what your relationship with you children is going to look like after the divorce. Many times I find that after divorce fathers tend to have uninterrupted time to dedicate for their children during their visitations that they never had while they were married. At the same time, they wish that they had more time with their children. If you want to have expanded custody rights (i.e. more than twice a week, and preferably with sleepovers, etc.) or joint custody then start making the time now. Spend more time with your kids a few nights a week – be the main caretaker and document it. Be the one to take the kids to doctors' appointments, go to parent teacher conferences, be the one to dress them and feed them and get them out to school in the mornings. Inasmuch as you have been doing these things and especially if you have it documented, then in the event that you and your wife cannot agree with regards to custody and visitation issues, you will be in a much stronger position.

Did you know?

Studies show that divorced men are eight times more likely to commit suicide and two times more likely to suffer from clinical depression than divorced women.

The bottom line is that divorce is intimidating and aggravating - but it is going to be less so - if you figure out the worst that could happen and decide in advance how you are going to deal with it. You should also begin negotiation discussions with your wife as calmly as possible. Find out what her hot buttons are

Did you know?

People who own their own apartments are 22% less likely to divorce.

and where she is willing to make concessions. I recommend that you find a good therapist or at least a support group to help you go through the months ahead, because

divorce is too dramatic to go through alone for most people – yet we as men generally don't have an emotional outlet to let us share with other people. Whether it's a close friend or a relative, you really will need somebody that you can talk too openly and honestly about what you are going through. It will make your life and the divorce process much easier. Most importantly, take your time and don't rush matters, planning for divorce is best done when it's done deliberately and slowly.

When things look grey and downcast - remember - this may be your chance to shed some dead weight and to get a new start.

STAGES OF DIVORCE

I am not a psychologist, but after having spoken with many while working on my client's cases, and after I and my staff having been there to support our clients time after time, I have come to understand that divorce is known to be one of the most stressful events that a person may go through in the course of his or her lifetime. Psychologists have noted that during divorce people move through a natural progression in what they call the "stages of divorce." Apparently, every person experiences these stages differently and some people may skip some of the stages. However, since divorce has its root in marriage, the stages we will look at start to occur during the marriage.

Stage One: Disillusionment

Disillusionment begins when spouses begin to realize that there are some real differences between them. In this stage, a spouse starts to feel that the person who they expect to fulfill almost all of their expectations, needs, and ideals turns out to be: depressed, sloppy, boring, unaffectionate, anti-social, uncaring, insensitive, or anything else that is not what they expected when they got married. When people feel these things, it intrudes on the happiness of the marriage, and prolonged time spent dwelling on these feelings sows the seeds of destruction, which leads to stage two.

Did you know?

Generally, married people are content with their lives in higher ratios than single people and divorced people.

Stage Two: Erosion

This state is characterized by chipping away of each other's ego. One or the other says, sometimes to his or her self, and sometimes to the other spouse "I'm not getting enough out of this marriage." Sometimes a careful vigilance is maintained by either or both spouses to make sure that one does not give any more than the other. The concentration in this period is on taking rather than giving, being loved instead of loving. Sex becomes a battleground, where frigidity or impotency expresses the frozen anger that exists beneath the surface of the spousal relationship.

Stage Three: Detachment

In the detachment stage the couple no longer cares enough about each other to hate or to fight. Each feels a low

Did you know?

The chance that a couple will divorce goes down by ten percent for each year of marriage.

commitment to the relationship. They barely talk. They avoid physical affection or sex. They don't look into each other's eyes. This period is not so much of an intensified conflict as it is increasing

boredom with the conflict. The coldness that was at first withholding of love has become habitual and natural, empty shells of people pass each other in routine. The detached person begins to dream of his or her own future without the spouse.

Stage four: Physical Separation

For those who have spent a long time preparing to get divorced by building up the courage to leave an entire marriage, the physical separation can be enormous relief. For those who are unprepared and still emotionally involved in the spouse, physical separation can leave a person in shock. But almost all newly separated persons have to face the loneliness, the anxiety, initial confusion and fears. This separation may not be to separate homes – yet – but just may be when one spouse leaves the marital bedroom and just sleeps somewhere else.

Stage Five: Mourning

Mourning is a web of anger, hurt, loneliness, relief and helplessness. Mourning helps a spouse to rid himself or herself of the ghost of the former spouse. A person says, "I can't go back, but I can't go forward." They want intimacy, but they can't handle it. In this stage the divorcing person moves from no goals to concrete goals. They will take off the wedding ring, rearrange the furniture and clean out the old house and begin as a single person. Mourning during divorce enables the releasement of anger. Releasing anger is a necessary part of divorce. Depression may also accompany mourning.

Stage Six: Second Adolescence

Instead of looking back at the former spouse with anger and attraction, the person during the stage is concentrating on his or her personal growth. Choices begin to increase. Vision clears. The excitement of possible new adventures and new risks creates what psychologists perceive to be an almost adolescent state. Previous areas of deprivation, whether sexual, travel, fun, hobbies, friends or training, are often vigorously pursued. Dating often renews all the feelings that people felt when they were adolescent. Is he or she going to call? Will he or she accept the invitation? Are my social skills okay according to today's standards? The divorcing person may feel considerable intrigue and excitement during this stage.

Stage Seven: Exploration and Hard Work

With renewed vitality the divorced individual begins earnestly to pursue self-chosen goals. Instead of seeing overwhelming, unreachable, future aspirations, a plan of action toward manageable, reachable goals has been implemented. New relationships are formed, old ones and relationships with children are enhanced, and you may feel new confidence, a sense of being master over your life. This is what I hope that you get to as quickly as possible.

POST DIVORCE ISSUES

It is my sincere hope that if you have gone through the very likely painful experience of divorce, that you and your now ex-wife are able to work together as parents of your children and to find ways to resolve your disagreements without utilizing the court system. I always tell my clients that if they can reach a comprehensive divorce agreement with their spouse, and that this agreement turns into a piece of paper that each side has tucked away in a safety box somewhere but that neither side ever has to pull out, that they are in the ideal situation and have reached a good agreement. That being said, even after your divorce, you may find that you and your now ex-wife have issues that end up bringing you back to court.

In the final part of this book I will be looking at some of the most common post-divorce issues that get litigated in Israel, but before I do that, there is one golden rule that you should remember. The jurisdiction of the court that heard your case the first time round (or affirmed your agreement) will almost always be the same court that will hear your new litigation issues. That means that if the Rabbinic court was the court that gave the final judgement on custody and visitation that new cases will be heard in front of the Rabbinic court, and vice versa with the family court; or that if the Family court had made the final judgement regarding child support then new cases (e.g. to lower or raise the amount of child support) will be made by the Family court.

CAN THE DIVORCE AGREEMENT OR JUDGEMENTS FOR DIVORCE ISSUES BE CHANGED?

First, I must tell you that if at any point in the future you and your ex-spouse agree and want to change part of your divorce agreement, that it should not be a problem. Whether you agree to change the amount of child support, or to change the visitation rights, etc. as long as you agree to the changes and have your original divorce agreement amended or add an addendum to it, the court will generally accept the changes. The important thing is that if you and your ex-spouse agree to do this, you should get it done in the court that affirmed your agreement in the first case. This is a relatively easy process and just involves going in front of the judge (or dayanim) and repeating the same process that you did when you originally got your agreement affirmed.

Regarding judgments made by a court, the situation is somewhat more complicated. In the rare occasion where ex-spouses come to an agreement to change a judgement after litigation has occurred, this can be done by having both parties execute an agreement and having it affirmed by a judge (or dayanim) in the court that issued the judgement in the first place. This is similar to the case of ex-spouses agreeing to amend their previously affirmed divorce agreement. However, all bets are off if the ex-spouses don't agree to the changes and want to have the judgements changed.

In those situations, a new lawsuit must be filed, and the chances

for winning are generally very low. The suit should be filed in the same court that heard the case the first time. The most common things litigated in these types of situations are child support (if brought by the ex-husband, for less; if brought by the ex-wife, for more), or for a change in custodial rights or visitations. It is a high threshold that the person wanting the change will have to cross. For the court to even entertain amending the prior judgment, the person making the change must be able to prove that the situation has changed, usually radically, and usually through no fault of his or her own. As a practical matter, this is very hard to prove. For example, being fired and forced to accept a lower paying job will generally not result in a change of child support to be paid, but a surgeon's arm being cut off in a car accident will.

The bottom line is that you may be able to get things changed by new litigation after the judgement, but your best shot (and even that had a low chance of success) is appealing right after the judgement is given.

APPEALS

I guess the only saving grace of going through full blown divorce litigation is the fact that if you are unhappy with the outcome, and it is in violation of law, you can appeal. In Family court cases you have a right to appeal to the local District court within 45 days of getting the final judgement or thirty days from any other decision. In Rabbinic court cases you can appeal to the High Rabbinic Appeals court within 30 days of getting the final judgement or within ten days of getting any other decision. Appeals can be very expensive and usually take from a few months to up to half a year. Appeals are not usually won, with only a small percentage of lower courts' decisions being overturned.

WHAT SHOULD YOU DO IF YOUR EX-SPOUSE LIMITS OR INTERFERES WITH YOUR VISITATION SCHEDULE?

One of the biggest fears of fathers getting divorced in Israel is that after the divorce their children's mother (in the event – which usually happens – that she has custody) will interfere with the father child relationship. This can be done in many ways – by badmouthing the father, by unilaterally scheduling after school activities and medical examinations, etc. when the father is supposed to have visitation, and even by just convincing the children not to go for the visit with the father.

What should you be doing if this nightmare scenario happens to you? First of all, don't flip out. What that means is that you shouldn't make a federal case out of the fact your child had a doctor's appointment scheduled when you were supposed to have visitations with him or her. Secondly, start keeping a diary of events – so that you can document each time your ex-wife is interfering with your visitation schedule. Third, you should be sending a notification to your ex-wife (I recommend using Whatsapp – because then you can verify that she received it) calmly explaining (that means no cursing, no accusing, etc.) that as per the judgement (or divorce agreement) you are supposed to have visitations with the children on such and such a day, and that this is the (how many times it has happened) time that this has happened, and that this is unacceptable behavior – you get the drift.

What you are doing in these steps is preparing a record to go

back to court with. Once this has happened consistently (and my sincerest hope for you is that it doesn't), then you can use the record you have been creating to go to court and either: a) have your ex-wife fined, or b) have your visitation times changed or expanded, or even, in very gregarious cases, c) sometimes have custody changed.

CAN YOU LEAVE ISRAEL AFTER THE DIVORCE? WHAT ARE THE LEGAL RAMIFICATIONS IF YOU DO

If you decide that you want to leave Israel after the divorce, then the worst thing that you can do is to just leave unilaterally without letting anybody know beforehand. On the one hand, there is always the risk that if your ex-wife knows beforehand that she will try to get a tzav eekooov – an order preventing you from leaving unless you have put up adequate assurances for the payment of child support. On the other hand, if there is any future litigation between you and your ex-wife, you will be viewed very negatively by the court, and that can affect the outcome. You can reasonably expect yourself to be in court in the future for: increased child support (which will probably be given, since your ex-wife now bears all the grunt of raising the children); suits regarding visitation (i.e. for the children to visit you, and for you to see them when you come to Israel).

In short, even though you may be leaving Israel so that you can make more money so that you can easily afford your child support payments, it is not something that I recommend that you just do unilaterally. Discuss it with your ex-wife – even utilizing an intermediary if required – and try to come to an agreement regarding changes in visitation and child support. If you do reach an agreement then have it affirmed in court. If you don't, and you leave anyway, then there is a good chance that you will be litigating in the future.

WHAT HAPPENS IF YOUR NOW EX-WIFE WANTS TO LEAVE ISRAEL AFTER THE DIVORCE?

In the typical scenario for these types of situations, the couple has divorced and are living separately; the father has visitation with the kids twice a week and alternate weekends or whatever other agreement the couple has come to or has been entered as a judgement by either the Rabbinical or the Family court. Then the ex-wife decides that she wants to leave Israel. Maybe because of a new love interest who lives outside of Israel. Maybe because of a job offer. Maybe because she is just unhappy in Israel. Does it really matter why? What do you do if your ex-wife plans on permanently leaving Israel ("relocating") with your children?

Even before that issue is addressed, you should have a better understanding of how the system works for visits outside of Israel. Generally, when a couple divorces and at least one of the parties is from outside of Israel, if the attorney for the other

To see a video addressing leaving Israel with children after divorce, go to <http://clktr4ck.com/leave>.

side is any good, he or she will make sure that there is a stop order against minor children

until age 18. What this means is that if either of you want to make a visit outside of Israel with your kids you may be able to, although you will may have to deposit some type of guarantee with the court to ensure that you and your children will return. If you don't do this, the court will keep the stop order in place, and your children simply will not be able to leave Israel. Understand that this amount can be hefty – I generally ask the courts not to let children leave unless at least 250,000 NIS is put up as assurance that they will return. Of course if your

relationship with your ex-wife is good and you entirely trust her and are one hundred percent sure that she will return the children after her visit, you do not have to insist on such a large amount to be put up as surety (or any amount at all for that matter).

How then does it work when your ex-wife wants to permanently relocate outside of Israel? The answer is that it depends on the factual circumstances. This is because what happens is that your ex-wife would have to make a motion to the court (i.e. the one that made the decisions regarding child custody) from your original divorce litigation or the court that entered your divorce agreement. As part of the process, she would make a motion and the court is supposed to look at three things. The first thing is what type of support network exists for her and or the children in Israel, including a new love interest that she may have outside of Israel; the second thing is financial issues – i.e. if she and the children are living in poverty in Israel and she has a great job offer and/or a proposal to marry a wealthy person outside of Israel; this will be taken into consideration. The third thing the court will look at is what's in the best interest of the children (in Hebrew *טובת הילדים* *tovat hayeledim*).

There are a lot of times where the courts will let the custodial ex-spouse (i.e. generally the ex-wife) leave the country with the children. However, even in the cases where they do allow the ex-spouse to leave, the courts are really careful about making sure that there are mechanisms in place so that the parent who is left behind in Israel has a regular connection with his or her children. As an example, a classic case would be a mother of three who has no family here in Israel, does not speak Hebrew well, has special needs children, and is living below the poverty level but meets a wealthy man who happens to live next to her parents, outside of Israel, and wants to get married and live in her original home country, where there is very good and

specialized care for her special needs children. I would say that in that type of case there would be a high chance of success that the woman would be allowed to leave.

But again what's really important is that she can't just pick up and go. If your ex-wife picks up and leaves with the children without first getting a court order allowing her to do so, then that is considered kidnapping under the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (the "Hague Convention"). Generally when taken to countries that are members of the Hague Convention (i.e. most western countries), the children may forcibly be returned and in that case she may very well lose custody if she is the custodial parent.

WHAT SHOULD YOU BE DOING IF YOU LOSE YOUR JOB AND ARE UNABLE TO MAKE YOUR CHILD SUPPORT PAYMENTS?

All of us have ups and downs in our financial lives. What should you be doing if you have a child support judgement against you (either via judicial ruling or from a divorce agreement which was affirmed as a judgement) and, because of unemployment, you are unable to make the payment? The first thing that you should be doing is talking to your ex-wife. Discuss the problem with her, and see if she is willing to let you miss a month or two and then make it up. If you can reach an agreement with her, then that's great – but make sure that whatever terms you agree too with her you write down and both of you sign. Make sure that you honor the terms of the agreement. Your ex-wife may still be able to collect against you even with this document, but this will make your case against her much stronger if she decides to try to collect by utilizing the Hatzla"p (bailiff court) system.

If you are unable to reach an agreement with your wife, you should make sure that you continue to make your payments. Generally, it is much easier to collect child support payments than any other type of debt – so that you would be better off being late and/or even defaulting on almost all of your other debts and/or regularly recurring bills than on your child support payments. The reason for this is that it will take more time for them to collect than it will for your ex-wife to collect on a child support default. Just for purposes of clarification, if you habitually do not pay your child support, your wife will be able

to get a portion of the child support from the Beetuach Leumi (National Insurance Institute) and then the Beetuach Leumi will go after you for it – with incredibly high fees for penalties and interest.

Finally, you can make a motion to the court to have your child support payment lowered. As I have said before, the barrier to getting the amount lowered is very high, but it is not something that can never be done.

In the event that your child support arrearages are very high and you are considering bankruptcy anyway, you should speak to your bankruptcy attorney, because at least part of the arrearages may very well be able to be erased in the bankruptcy process.

Thank you for taking the time to read this book. I hope that you found it informative and helpful. If I or my office can be of help, please feel free to contact us at Israel Tel: (077) 200-8161 or U.S. Tel: (201) 696 – 3947. You can also schedule an appointment with us in one of our offices in Tel Aviv, Jerusalem, Haifa, or Raanana.

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Jay Hait has been practicing law in the U.S. and/or Israel for nearly twenty years. When in the United States, Jay had a boutique securities related practice in New York City. When he moved to Israel with his family in 2004, Jay initially flew back and forth and continued to practice securities law in the United States. After going through an ugly divorce in Israel, with ancillary divorce litigation both in the United States and Israel, Jay was awarded custody of his three minor children (then 10, 7, and 4). Jay realized that despite the archaic family law system in Israel, there had to be a better way to get divorced than the process he had gone through, and opened a law practice in Israel focused on family law.

Today Jay's practice focuses on family law issues for the Jewish Anglo Saxon community in Israel, with affiliated offices in Tel Aviv, Haifa, Jerusalem, and Raanana, and local intake offices in most areas with large Anglo communities. Jay and his staff pride themselves on helping people from western countries navigate through the seemingly archaic intricacies of the Israeli family law system.