



BETH DIN of AMERICA
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FROM THE FILES OF THE BETH DIN CASE FILE PACKET

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Conference on Jewish & American Law

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Like all the cases in this series, the names, some crucial details, and other relevant information that might allow you to identify the parties, have been changed to protect the innocent and the not-so-innocent.

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A high school dismisses a teacher because, when a job opened in another high school in the area during the summer before school, the teacher approached another teacher and told that second teacher that she should apply for the job in the other school and "the other school is a much nicer place to work" and induced this second teacher to breach her contract with the school, leaving the first school one teacher short; they addressed that problem by raising the pay of each of the remaining teachers, and making each of them work one extra period. Prior to the raise, the first teacher made \$52,000. After the raise, the teacher was slated to make \$61,000.

When the first school found out that this first teacher had told the second teacher that the other school was a "nicer" place to work and encouraged the second teacher (who was already under contract to the first school) to apply for the job at the second school, they took that as an act of disloyalty, and fired the first teacher on the spot.

When the first teacher sought unemployment payments (as they were now unemployed), the first school did not note the true reason why they were fired, but instead stated that the first teacher was fired for absenteeism. This caused the first teacher to be denied unemployment benefits worth \$13,000.

The school and the first teacher are each suing each other in bet din. The second teacher is not a party, but is a witness. Neither side is currently seeking damages from the second teacher.

Consider whether:

1. The second teacher's conduct was proper;
2. The first teacher's conduct was grounds for dismissal;
3. The school's misstatement on the unemployment form was actionable;
4. Who should pay who money?

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1. Husband (57) and Wife (55) have been married for 27 years and are getting divorced. There are three children from this marriage, the youngest of whom is 21 and thus custody matters are not relevant. Wife has been working as husband's assistant in his law office for 15 years. Husband's income is \$275,000, and the couple's net worth is \$3,200,000 (\$1,000,000 in a pension), nearly all accumulated from husband's law practice. The cost of wife's standard of living is between \$55,000 and \$75,000 per year and the wife's income potential is no more than \$27,000 per year. They request the help of the Beth Din in dividing up the assets. There is no allegation of fault. (Consider also who (if anyone) should have to pay for the graduate education of the children.)

2. Husband (28) and Wife (27) have been married for 3 years and are getting divorced. They hate each other, but there is no allegation of fault. Each works as a doctor and have roughly equal earning potential (currently \$135,000 per year). Wife is pregnant with their only child, and wants both child support and compensation for lost future earnings due to the needs of the child. Husband and wife both agree that wife will have custody of child, and be primary care giver. Husband desires to leave the area and start life over elsewhere; he does not desire a role as father. Neither party has any assets, but both can borrow up to \$750,000.

3. Husband (50) and Wife (50) have been married for 23 years and are getting divorced. There are four children from this marriage, ages 21, 19, 16, and 12. Husband and wife are both school teachers, with incomes of about \$70,000 each. There are no assets to speak of (less than \$20,000), other than a house worth \$370,000 with a mortgage of \$50,000 left on it (monthly payments of \$1,100). Wife alleges, but cannot prove that husband is an adulterer, and is ending the marriage for that reason. Husband denies the allegation. The two older children are out of the house, and the 16 year old will be soon. The 12 year old son suffers from a moderate learning disability and is a complex child. They request the help of the Beth Din in resolving the many disputes. Wife very much wishes to stay in the house, which is where they have lived for the last 17 years. Wife also asks in private whether she should simply stay married to him, given the fact that he is an adulterer.

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Leah and Reuven are happily married, and have many wonderful children. Leah is 42 and Reuven is 53. Based on their understanding of the halacha, and after consulting with their local Orthodox rabbi, last year Leah and Reuven have decided to stop having children, a decision they are both comfortable with for many different reasons.

Leah recently needed some therapy; the physical therapist when speaking to Leah about the consequences of this therapy, stated that while on this therapy (which would last for 18 months), Leah would not be fertile, which did not bother Leah one wit -- indeed, Leah was relieved, as she no longer had to bother using any method of contraception. Nineteen weeks after the therapy began, Leah suspected that she was pregnant; this was confirmed by a pregnancy test, which indicated that she was seven weeks pregnant.

Leah was surprised by this, and when she spoke to the physical therapist about this, the therapist (after checking and double-checking) agreed that his original assertion to Leah was wrong, and that the course of treatment that Leah is on merely reduces the likelihood of conception, but does not make a person infertile. He apologizes for his error.

Leah has inquired of the Beth Din as to whether she has a cause of action in Jewish law against the therapist, and if so, what is the measure of damages?

[In secular law, this matter remains in dispute with widely varying results from no action is sustainable to liability for punitive damages.]

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Husband has been a member of the Ohavai Tzedek vePoalai Emunah (OTPE) synagogue for 28 years; he and his first wife joined when they moved into the neighborhood soon after their marriage. Husband and first wife divorced 8 years ago, and first wife moved from the neighborhood. Husband has since remarried to Second Wife, whom he is now separated from, and in the process of divorcing, in a bitterly contested divorce.

OTPE has assigned seats on the high holidays, with each member unit assigned two free seats, and Husband has asked that his seats not be assigned to his estranged Wife, but to his daughter from his first marriage, who is now 23, and by the bylaws of the synagogue would otherwise have to purchase her own seat. Wife states that the seat is hers, and she wants the seat that she has sat in since her marriage. Synagogue has family membership, and Wife's current seat was used by first wife, before her. Husband purchased the rights to those two seats in perpetuity for the high holidays when the new building was built 14 years ago, for \$12,000.

Is Husband or Wife entitled to those seats? (Does it matter how seats were purchased, and whether synagogue dues were paid out of marital assets? Does it matter whether husband and wife are a single unit for membership purposes?)

When the divorce is final and the get is given, who owns the seats? Does it matter how the seats were purchased, and whether synagogue dues were paid out of marital assets?

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A man in his early forties is diagnosed with Premature Alzheimer's, an illness that causes the premature onset of senility. The doctors involved state that over the next five years this man will lose all of his mental capacity, and by the time he is fifty, he will have no knowledge of his surroundings or family, and will be incompetent. Currently, he is fully mentally alert. After the onset of senility, this man, with reasonable care, could live a normal life span (thirty more years), albeit mentally unaware, and living in a sanatorium. Degrees of senility comes in waves for people with Premature Alzheimer's.

Husband and wife are in the Beth Din seeking information on divorce. They are happily married, and in love. She is worried that when he becomes senile, she will be trapped in a dead marriage from which she can derive no benefit from, but yet cannot marry another. The couple does not desire to be divorced now, as each still loves the other. He, too, does not really wish for her to be trapped in a dead marriage after he is in a sanatorium, fully incompetent, and unaware of the community around him. However, he would like to be married for as long as he is mentally alert.

According to Jewish law, a man cannot authorize a *get* to be given to his wife when he is mentally incompetent.

What should you advise them?

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Reuven and Rachel are seeking to get married, and they arrange with a florist to do the flowers for the wedding, at a cost of \$2,475, half in advance and half after the wedding. On the day of the wedding, the florist does not show up, and notwithstanding any number of frantic phone calls, the florist simply never shows up. The wedding proceeds anyway, and the couple are now happily married.

After *sheva brachot*, the newlyweds contact the florist, who tells them that he is a sole proprietor, and the morning of the wedding his own father died, and thus he could not do the wedding. He was very sorry, and gladly offered to refund their down payment of \$1,237.50. The couple has contacted you to ask if they have any other remedy besides simply a refund. The wedding, they feel was bare, and it makes them unhappy that their wedding was without any flowers. They would like \$5,000 from the florist.

Questions to ponder:

1. Does it matter whether the florist's excuse is true or not? Would the matter be resolved differently if the florist had told them that he was a sole proprietor, and that morning a wealthy person had contacted him and told them that they needed flowers urgently, and he gave that person the same flowers he had for their wedding, but for \$6,745?
2. What are the actual damages suffered by the couple?
3. Can they threaten the florist that they will tell people that he did a poor job at their wedding unless he gives them \$2,750?
4. Is the florist without blame, even if his story is true?

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Reuven and Shimon are criminals, who have developed a bank fraud that they have succeeded in using five times. In essence, Reuven goes to a bank with legal title to collateral that he has forged title to, but actual possession of. (In fact, someone else owns the items, which Reuven has just rented.) Reuven borrows money from the bank against the value of the items, which Shimon then steals and sells. Sometimes there is an insurance policy present as well. They have done this five times, and made money (nearly \$390,000 over the last 3 years).

In the course of the sixth attempt to engage in this activity, it appears that the bank that they were scamming caught on, and in fact video taped Reuven, had Reuven followed, and otherwise documented his various frauds, including finding the true owner of the property that he claimed ownership of. Just before the end of the transaction (when the money was supposed to be borrowed from the bank by Reuven, and the goods were supposed to be stolen by Shimon), the bank stepped in and told Reuven that they understood exactly what had happened and would happen, and furthermore they have contacted many other banks and found three other banks that Reuven had defrauded. They told Reuven that they would bring this whole matter (plus the supporting documentation) to the attention of the local US attorney UNLESS Reuven gave the bank \$250,000 to compensate the bank for its anti-fraud efforts, and refunded to all the three other banks the money he stole (an additional \$240,000). Although the bank was aware of Shimon, and even had pictures of Reuven and Shimon speaking, they did not know who Shimon was, and his role in the fraud. Reuven mortgage his home, borrowed all the money he could, and did in fact give the bank \$490,000, so as to avoid criminal prosecution.

Reuven and Shimon are now in front of the Beth Din; Reuven wants Shimon to give him \$245,000, which is Shimon's half of the loss incurred in the last transaction.