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# THE DIVORCE MEDIATOR

CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC.

THE TROLLEY BARN ● 10 WALL STREET ● NORWALK, CONNECTICUT 06850 ● (203) 854-9394

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## SAVING FOR COLLEGE

### RELIGIOUS DIVORCE AND ANNULMENT

When we mediate divorce cases, we focus most of our time on the classic issues of marital property, support, and parenting. For many couples, however, there is also the issue of a religious divorce. Jewish couples may ultimately want to obtain a Jewish divorce or “Get” and Catholic couples, usually without children, may want to obtain a church Annulment. The main reason for obtaining a Get or Annulment is so that either party may remarry in a religious ceremony. As mediators, we facilitate discussion about the issues of religious divorce, provide information and resources about Gets and Annulments to those who request it, help the couple reach resolution, and include what the couple decides in the Mediation Agreement. It is easier to do this when the couple obtains their civil divorce and the parties are implementing the other aspects of their divorce. Later, the couple may be geographically separated or not as willing to work on the issue for a variety of reasons.

The process, but not the court, are very similar for obtaining a Get and an Annulment. The religious divorce process is very similar to the spirit of mediation.

A Get is actually a writ of divorce. A Get is required when a Jewish couple wishes to religiously dissolve their marriage. A Get is not required when only one spouse is Jewish. The Husband asks a trained scribe to write the Get. The Husband gives the Wife the Get in the presence of a rabbinical tribunal (Beth Din) of three individuals and two witnesses. The Wife’s acceptance of the Get makes the divorce final. It is not an adversary procedure. The Get makes no reference to responsibility, fault, or details of the settlement. The Rabbi issues a certificate of proof (p’tur) attesting to the fact that a Get was properly drawn up, delivered and accepted.  
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Financing their children’s college education is a topic that regularly comes up in mediation. There is a new college investment plan that many of our clients are using. A 529 Plan is an investment plan operated by a state, designed to help families save for future college costs. As long the plan satisfies a few basic requirements, the federal tax law provides special tax benefits. The State of Connecticut offers such a flexible, tax-advantaged program - CHET, Connecticut’s College Savings Program. CHET savings may be used at schools nationwide. Anyone may open an account. There are no income limits. There are contribution limits. Under CHET, you open an account on behalf of a designated  
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February, 2002

Dear Colleagues:

**The CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC. is pleased to send you this tenth issue of THE DIVORCE MEDIATOR.**

**The CENTER FOR DIVORCE MEDIATION & ALTERNATIVE DISPUTE RESOLUTION, INC. has developed this newsletter to share information and ideas related to Divorce Mediation. We want to share what we know as well as invite your questions, thoughts and comments. This exchange of ideas will allow us to continue to grow and learn from each other and better serve couples who have made the difficult decision to end their marriage.**

**Wally Marcus and Mary Marcus**



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## **RELIGIOUS DIVORCE AND ANNULMENT**

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In order to obtain an Annulment, the couple must demonstrate that factors necessary for a valid marriage did not exist. These include three criteria: (1) A defect of canonical form such as being married by a justice of the peace or Protestant minister without getting permission from a Bishop. (2) An impediment such as being under age or marrying someone who was previously married whose marriage was not annulled. (3) The lack of consent due to mental illness, abuse of alcohol or drugs or physical abuse. The party or parties petition for the Annulment saying the marriage is invalid. Consistent with mediation, the parties do not seek to blame each other. The religious tribunal seeks information which confirms the statements of the petitioners. If the decision is in favor of Annulment, it must be reviewed by another tribunal of at least three judges. If the second court agrees, a decree of nullity is issued and both parties are free to re-marry in the Church.

The Mediation Agreement should include language that the parties will not contest, but will cooperate, in obtaining the Annulment or the Get, and in providing the information required to file for the Annulment or Get. The Mediation Agreement should include a reasonable time within which the Annulment or Get will be obtained. There should not be a penalty clause in the Mediation Agreement for lack of cooperation in obtaining the Get, as the process must be voluntary. The Mediation Agreement

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### **THE DIVORCE MEDIATORS**

Wally Marcus is an attorney who has practiced Family Law for 30 years. He is an Advanced Practitioner Member of the Association for Conflict Resolution, former President of the Connecticut Council for Divorce Mediation, former Chair of the Connecticut Bar Association Divorce Mediation Committee, a member of the Executive Committee of the Family Law Section, and a member of the Alternative Dispute Section of the Connecticut Bar Association.

Mary G. Marcus, Ph.D. is a Clinical Psychologist who has had a private practice of individual, couples and family therapy for 22 years. Dr. Marcus is an Advanced Practitioner Member of the Association for Conflict Resolution, Co-President of the Connecticut Council for Divorce Mediation, and a member of the American Psychological Association and the Connecticut Psychological Association.

will normally state how the parties will pay for obtaining an Annulment and the Get. As the Annulment and Get do not address the details of the settlement, the Mediation Agreement should have other provisions, if the couple wishes, that deal with other religious issues. These would include issues concerning religious education, confirmation, bar or bat mitzvah, weddings, funerals, holidays, transportation and housing issues for holidays for orthodox Jewish couples, etc.

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### **SAVING FOR COLLEGE**

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beneficiary. Your account contributions are placed in a trust and may be allocated for investment in any one or a combination of investment options. CHET offers three investment choices. Earnings on any distributions used to pay for a beneficiary's qualified higher education expenses will be free from federal income tax. CHET withdrawals for qualified expenses have always been free from Connecticut income tax. There are no sales charges and no application fees. An annual asset-based management fee is paid to cover the cost of investment management and administrative services. This fee will not exceed 0.79% of the average daily net assets. CHET is supervised by the Connecticut State Treasurer as Trustee of the Program Trust. TIAA-CREF Tuition Financing, Inc. (TFI) serves as CHET's program manager. TFI, an SEC-registered investment advisor, manages CHET investments and provides investment advisory services. If you want additional information about CHET and 529 Plans log on to Connecticut website [www.aboutchet.com](http://www.aboutchet.com).

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NORWALK, CT 06850**

**(203) 854-9394**

**EMAIL**

**CENTER@DIVORCEMEDIATION.NORWALK.CT.US**

**WEBSITE**

**WWW.DIVORCEMEDIATION.NORWALK.CT.US**

**FREE ONE-HALF HOUR CONSULTATION**

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