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Man must pay his ex-wife over 'get' tradition

By Pat Milhizer
Law Bulletin staff writer

When a Jewish man and woman divorce, they remain married in the eyes of Jewish law unless the man gives the woman a "get" that releases her from the marriage.

Today, a state appeals court told a man to get his checkbook. Because he wouldn't give a "get," he has to pay his ex-wife more than \$54,000 in attorney fees.

Earl M. Schneider filed for divorce from Jodi Ann Schneider in 2000. After the marriage was dissolved in court nearly two years later, the couple remained married under Jewish law.

Under that tradition, only the husband can divorce his wife by petitioning a rabbinical court to issue a "get." Without it, the wife is regarded as "chained," the appellate ruling states.

If a divorced woman doesn't have a "get" and she marries again, the second marriage isn't recognized under Jewish law. The wife is viewed as adulterous and any children of the second marriage are not considered legitimate.

Jodi sued Earl in 2006 to get a "get."

She alleged that he was living with another woman and that the intent of his refusal to give her a "get" was to harass her and deny her the right to remarry under Jewish law.

Jodi cited *In re Marriage of Goldman*, 196 Ill. App. 3d 785 (1990), arguing that the couple's marriage contract required Earl to give her a "get."

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Earl responded that the marriage contract didn't require him to do that. He also argued that the trial court lacked jurisdiction due to separation of church and state.

And he contended that *Goldman* was distinguishable from the facts of this case.

In 2008, then-Cook County Circuit Judge Barbara Ann Riley ordered Earl to give Jodi the "get." The legal wrangling continued and Jodi eventually petitioned for attorney fees pursuant to Illinois Supreme Court Rule 137.

Riley — who is now retired from the bench — found Earl's actions to be subject to sanctions, saying he was harassing his ex-wife.

After Riley ordered him to pay \$54,516, Earl appealed.

The 1st District Appellate Court affirmed Riley's ruling in a 21-page opinion written by Justice Sheldon A. Harris. Justices Joy V. Cunningham and Maureen E. Connors concurred.

Rule 137 is a tool that judges can use to prevent future abuse of the judicial process.

Harris wrote that because Earl initiated the divorce proceedings, Jodi could reasonably assume that he planned to dissolve the marriage under both Illinois and Jewish law.

In Earl's responses to Jodi's filings, he stated that *Goldman* didn't apply.

"Because Earl raised the same baseless argument repeatedly in response to Jodi's every filing, even after the trial court's judgment on the merits, we can see no reason for these pleadings except 'to harass or to cause unnecessary delay or needless increase in the cost of litigation,'" Harris wrote.

Thus, the appellate panel concluded that the Rule 137 sanctions are proper.

Jodi was represented at trial and on appeal by Buffalo Grove sole practitioner Marshal P. Morris.

Morris said the case is a rare one because lawyers typically don't advise clients to withhold a "get."

"What Earl Schneider did was terrible to this woman," Morris said. "It was pure harassment."

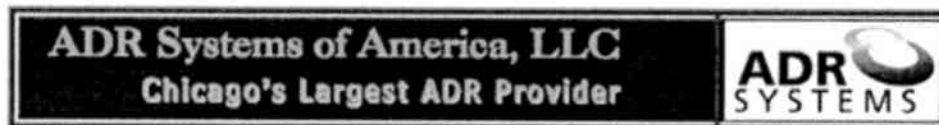
Earl was represented by Ariel Weissberg of Weissberg and Associates Ltd.

Weissberg, who only handled the appeal, said his client is "morally challenged, but legally in the right." The marriage contract and divorce decree say nothing about Earl having to issue the "get," Weissberg said.

"Earl had the right to contest giving a 'get' under the rights that he had. I don't have the same opinion that he should have because I feel differently as a Jewish person and the son of a rabbi. But I certainly feel that he has legal rights that he asserted properly. The fact that he asserted those legal rights properly and then lost the case should not be the basis of Rule 137," Weissberg said.

The case is *Jodi Ann Schneider v. Earl M. Schneider*, No. 1-09-1986.

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