

LOCAL

Divorce mediator sees mitzvah in his work

by Deborah N. Cymrot
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Clients sometimes tell divorce mediator John Spiegel that they wouldn't want his job. After all, it can't be too much fun to be smack in the middle of two people arguing over how to work out the details of ending a failed marriage.

But Spiegel tells them he feels honored to get to do this work. Because unlike the family courts where he once served as a staff attorney, divorce mediation can make children's lives — and the divorcing couple's lives — significantly better than they would have been following litigation. Working in the D.C. Superior Court's Office of Counsel for Child Abuse and Neglect, the Yale Law School-trained Spiegel, 49, a father of four, came to see that "in most cases, kids were losers. Parents were less able to cooperate through the mutual humiliation and impoverishment involved in going to trial. It kept going through my mind that there must be a better way."

After watching one case of

court-ordered mediation, Spiegel was amazed that the two bitter combatants not only had come to agreement, but had modified their destructive behavior.

He apprenticed "to a wonderful mediator" to learn conflict resolution tools, earned mediation certification from the National Center for Mediation Education and in 1996 opened a family mediation practice in Rockville.

That year he also initiated a mediation program under the auspices of Jewish Family Services in Baltimore tailored to the needs of Jewish couples. Spiegel knows of only two such programs in the United States.

The Baltimore program, for which he is an independent contractor, pays its own way, but the agency hopes at some point to make a profit and use that profit to provide partial subsidies where necessary.

Spiegel says a high divorce rate among Jewish couples that touches every segment of the community and for which there is no recent precedent affects more than just the families directly involved. He relates how one rabbi told him about a congregation that was being ripped apart by the messy divorce of

two board members.

"Whenever we're able to help couples in conflict stay out of the court system and allow them to civilly resolve their points of view,



John Spiegel

everyone benefits," agrees Rabbi Joel Tessler of Beth Shalom Congregation and Talmud Torah in Potomac.

Spiegel asserts that divorcing Jewish couples — which in the context of mediation he defines as a couple with at least one Jewish person — may have certain problems and emotional "baggage" that non-Jewish couples don't.

In professional workshops — he is scheduled to conduct one this week during the annual conference in Baltimore of Nefesh, the International Network of Orthodox Mental Health Professionals — he explains that mediating specific Jewish issues is not simple and takes time.

The Dec. 23-26 Nefesh conference at the Marriott Hunt Valley Inn in Baltimore is focusing on "Torah Values and Mental Health in the 21st Century." Among the rabbinic participants are Rabbis Dovid Cohen, Abraham Twerski, Yissocher Frand and Tzvi Hersh Weinreb.

Issues of specific Jewish concern include obtaining a *get* (a Jewish bill of divorcement), post-separation/divorce planning for bar/bat mitzvah and religious education and helping children deal with different levels and standards of religious observance in parents' separate homes.

Spiegel raises the issue of a *get* with all Jewish couples. The different movements deal differently with it, so he recommends they discuss it with their rabbi. In general, Orthodox rabbis suggest that couples obtain a *get* as soon as it is clear that they will divorce, while their Conservative counterparts usually suggest they first get their civil divorce, he says. Either way, a separation agreement should bind the partners to obtain a *get*.

A man's implied threat of not giving a *get*, which would prevent a woman from remarrying according to Jewish law, can subvert the whole mediation, Spiegel says, because there's such an imbalance of power. The refusal to give a *get* also has religious consequences for the community, for if she were to remarry and have more children without benefit of a *get*, her children would be considered illegitimate *halachically*.

Since Spiegel does not want to use his skill as a negotiator to facilitate bargaining over a *get*, he consulted Rabbi Yitzchok Breitowitz of the Woodside Synagogue-Ahavas Torah, a law professor as well as an expert on this *halachic* issue. "He helped me write a standard provision for the separation agreement that would be enforceable in civil court while conforming to Jewish law."

Disagreements over issues related to a child's bar/bat mitzvah celebration or wedding can turn what should be a happy *simcha* into a sad day for a family and the congregation. Spiegel thinks that negotiating ahead of time how costs and decision-making responsibilities will be shared, how invitations should

be worded and honors assigned can decrease the tension level.

Ritual observance can also become a problem after a separation. While couples typically make compromises in ritual observance in the marital home, Spiegel says, when they divorce, they want to do things their own way in their own homes. That may be fine for the individuals, but not always so fine for the kids who will be spending time in both places. At some point, he will say to the couple, "Given these differences, how will you handle this in a way that will make sense to your children?"

With religious couples (Jewish or not), Spiegel appeals to their reverence for the Ten Commandments, and specifically the commandment to honor parents. He reminds them that speaking badly of each other and putting the child into the middle of their disputes makes it much harder for their children to keep that commandment.

A typical course of mediation for a couple with minor children averages four to six approximately two-hour sessions. Spiegel always begins by ascertaining that the couple has already made the decision to separate.

Then he explains the framework for mediation, hears a little of the situation and presents a detailed proposed agenda of issues to resolve — a parenting plan, division of property, child support and alimony, and other financial issues. Both parties should have enough information to know whether they want to go forward.

At the end of mediation, he will come up with a first draft of a comprehensive separation agreement, which the parties will submit to their respective lawyers. Then they will reconvene and address the attorneys' concerns with a new draft for the lawyers to sign.

One part of a thoughtful agreement, he says, is to allow for flexibility as children grow up or as parents' situations change.

Mediation is not always appropriate, Spiegel says. But very few people — especially those who seek out a mediator's services — really want to go to war, he says, and research indicates that mediated agreements hold up well.

Spiegel says he feels a real sense of accomplishment in knowing that because of what he does — providing a service and fulfilling the mitzvah of pursuing peace — "children's lives will be significantly better."