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# Big Firms Get in on Divorce Action

BY MARK DIAMOND

Everyone is doing it," says Milton S. Gould, a partner with the 425-attorney firm of Shea & Gould in New York.

"It" is matrimonial law, and big law firms that traditionally would not sully themselves with such cases are rolling up their sleeves and dipping into a once-*verboten* well. The reason: the larger awards that are being granted.

Not that the larger firms will necessarily admit they do matrimonial law. Numerous telephone calls to the managing partner of one major New York City firm went unanswered. A spokesman for another prestigious firm insists, "We don't have anyone involved in divorce litigation. We never have and have no plans to get involved."

"That's baloney," says Raoul Lionel Felder, a New York matrimonial specialist. "Almost all of the firms do matrimonial law.

"They might not admit it, but

*Mark Diamond is a lawyer and writer in New York City.*

they all do it. They rationalize their insistence that they don't by saying they only do it as a courtesy for their established clients. But I don't believe that for a moment."

"We found we have to be involved in matrimonial law," Gould points out. "Nowadays, every divorce case involves the life and fortune of your client. We used to send such clients to other lawyers who specialize in this sort of work. Not now. The risks are too great.

"We've created a department here that processes matrimonial matters. If it goes to litigation it's re-assigned to a litigator. But very few go to litigation. Most, almost all, settle."

One reason big firms are loath to admit they handle these matters is the sensitive nature of the field.

"Our clients in that area are particularly sensitive about seeing their names in the newspapers," says Robert Stephan Cohen, a partner with Morrison, Cohen & Singer in New York. "Our business is by word of mouth, with a lot of lawyer referrals; two-thirds of our matrimonial business is by lawyer referral. The rest is client referral.

"We market the firm but not the matrimonial side," says Cohen.

The big change for large firms was sparked in 1980, when the New York law on property distribution and divorce became one of equitable distribution. That meant larger awards, bigger risks, and lots more money for lawyers.

For 18 years, Julia Perles has been the separation and divorce specialist for Phillips, Nizer, Benjamin, Krim & Ballon, a large New York firm. Phillips Nizer's divorce practice was actually prompted years ago by Louis Nizer, who practiced in the field.

"When equitable distribution finally passed," she recalls, "my partner said, 'This is going to be a workers' compensation bill for lawyers.' Lots of attorneys see it that way; they think there's a bonanza. But they find they have to devote huge amounts of time to learn the trade. It is true that in the old days we had to beg or blackmail to make money. Now a lot more money is being spread around."

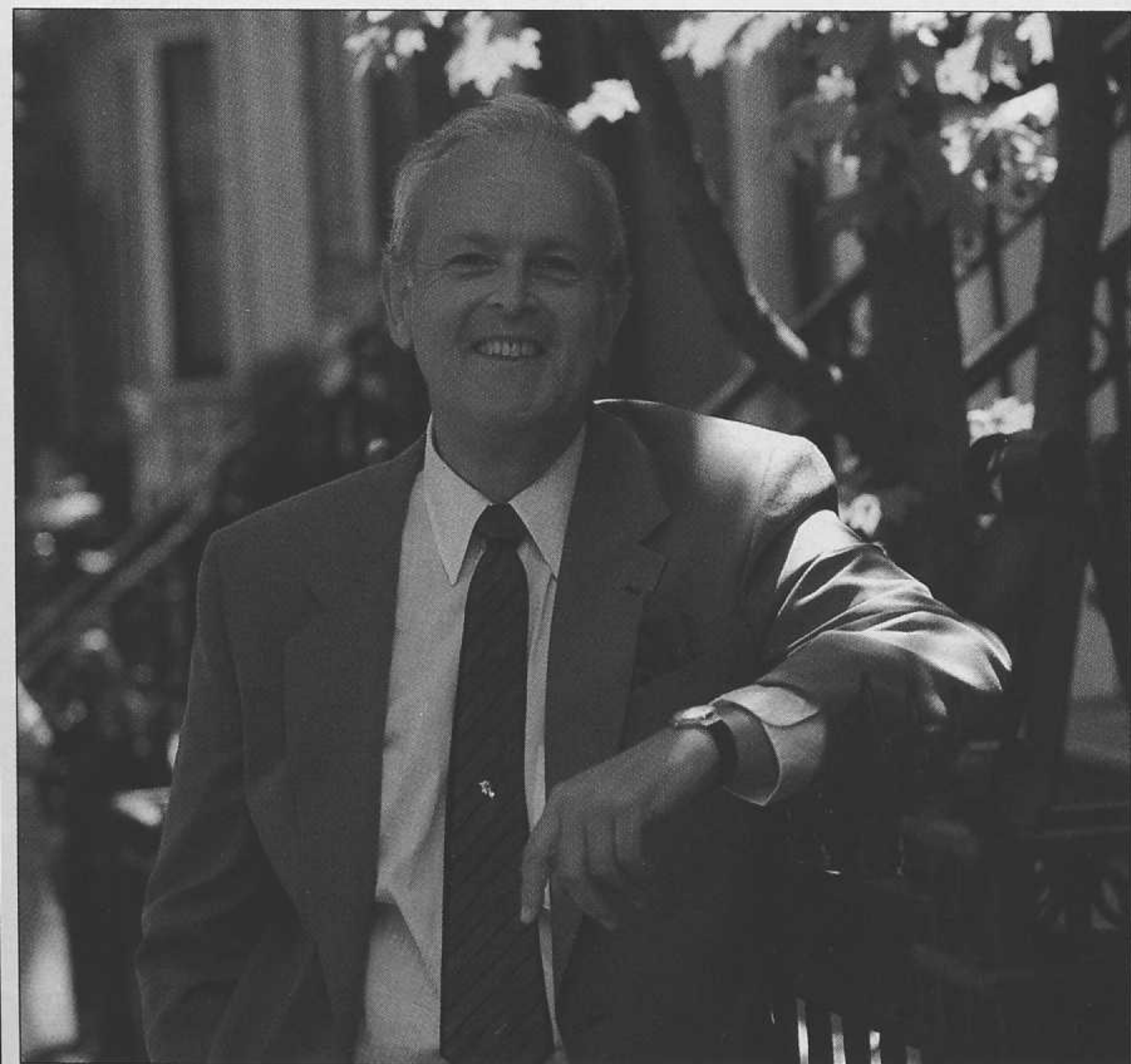
Cohen concurs. "The work just poured in when they changed the law," he says. "In the old days, if I



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**Robert Stephan Cohen:** "Divorce has become the equivalent of partnership dissolution."



**Norman Sheresky:** In general, larger firms are making a big mistake by getting into matrimonial law.

was representing a husband we would put up a big fight if the woman wanted \$500 a week in alimony and \$400 in child support. Now those amounts seem trivial. We're dealing with big bucks today."

It has taken these past few years for the larger firms to establish matrimonial practices, Felder says, because the larger firms are "slow and stodgy."

Money-wise, notes Cohen, "divorce has become the equivalent of a partnership dissolution. Our average case involves \$5 million to \$8 million dollars. Big firms want to be involved in this type of action."

The experience in other states has been similar. In New Jersey, for example, where equitable distribution became the law several years earlier, big firms have had matrimonial specialties for some time.

Another reason larger firms are picking up matrimonial business involves their ability to interconnect a broad base of practice areas.

Says Perles, "There's lots of crossover to our other specialties. A person who comes to us with a divorce case often needs corporate work done, a will, or the sale of property. There's spillover."

That crossover often benefits the client. Matrimonial cases may have sophisticated tax ramifications or property valuations. Some attorneys believe larger firms are best able to handle these matters.

"We have 40 lawyers, seven of whom are involved in matrimonial law," explains Cohen. "We use other departments, such as corporate and tax, to figure out the value of the marital estate, property, and so forth."

Despite the diversity of larger firms, their efficacy in handling matrimonial cases is often questioned.

Matrimonial law seems to attract (or create) specialists, much like criminal law does. And the specialists disagree as to the quality of the matrimonial work done by big firms.

"Larger firms try to woo divorce attorneys," says Felder. "But matrimonial attorneys are idiosyncratic, like criminal attorneys, so they don't want to work for large firms. The larger firms, therefore, must promote from within, generally from their trusts and estates departments. But being a good divorce attorney re-

quires special skills that these people just don't have. You have to be a litigator, a financier, a negotiator, a hand-holder.

"I love it when we're up against a large firm," he said. "We try to negotiate, but if we can't, we get them into court. They have poor litigators. Also, they'll talk an issue to death, paper it and motion it to death. Now, I'm not cheap, but my rate to do a motion for temporary maintenance is about \$7,500. The larger firms charge \$40,000 for the same motion. They're not cost-effective. They're inventing the wheel each time. You cannot do matrimonial law by committee. And that's what the larger firms try to do."

Norman Sheresky, partner with the New York firm of Colton, Hartnick, Yamin & Sheresky, agrees that "more and more people who know nothing about matrimonial law are getting involved in it. To be fair, though, I once knew nothing about it. We all know nothing about what we're doing at first. But if you're bright you don't have to know, you learn."

Sheresky concedes that there is "logic to the argument that large firms which have corporate, tax, estate, and matrimonial departments under one roof are efficient." But, he adds, "The logic fails in this way: Do you want a litigation department with lots of babies doing motion and paperwork, or tough litigators who will kick the bleep out of the babies before trial?"

"Big firms tell their matrimonial people, 'Attend this lecture and that one and you'll be our matrimonial expert.' That's not the way to do it right. Real matrimonial attorneys meet regularly. We discuss the cases and exchange agreement provisions. Cases in this field go largely unreported, so personal contact is a good way to keep up-to-date. Large firms don't keep within the matrimonial community—they want to remain aloof."

There are several ways that larger firms handle their matrimonial cases. They may do all the work in-house. Or they may do all the prelitigation work in-house and ship out the case if it goes to trial. Finally, they may refer the case out altogether. The latter is a less attractive alternative for many firms.

**R**egardless of how big firms deal with their divorce cases, the mere fact that they are handling them at all elicits a wide range of opinions.

"I find that the people in big firms who do the divorce work are generally very good, even though they are usually not strictly matrimonial lawyers," says Richard M. Weiner of Garden City, N. Y., a sole practitioner and past editor of the *Family Law Commentator*.

"But they are litigators. Plus, they have all of the support and facilities to bury me—everything from

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word processors to researchers to speed. It's hard to compete. If a client has enough money I'll hire backup staff. But if he or she doesn't, I can't compete. I'm very impressed with them."

There's a flip side to this point. "Big firms lack perspective," says Felder. "They can put in limitless time. But in a matrimonial case you have to look at the client and look at the potential bill; you have to be able to apportion time. Large firms are used to sending a bill to Coca-Cola, and Coca-Cola just pays the bill. In divorce cases you have to be much more cost-effective."

In general, Sheresky believes, larger firms are making a big mistake

by getting involved in matrimonial law.

"They perceive divorce law as a mother lode," he says. "They're big cases,' they say. 'Why shouldn't we have them? Besides, we'll lose clients if we don't do divorce law. They'll take their cases elsewhere and along with these cases the rest of their business.' But firms that don't get into matrimonial law are smart. They know they'll lose clients if they do."

Why?

"No client in a matrimonial case is happy in the end," says Felder. "The large firms will learn this the hard way. Once they start losing clients they'll learn that they're better off sending their divorce cases out."

"A chief executive officer's divorce is the most emotional business deal he or she will ever go through," Cohen says. "There is a big risk to the law firm that handles that divorce if it doesn't turn out right."

The emotional problems are often as serious as the legal problems in a matrimonial case.

"What happens to people emotionally in a divorce is almost always traumatic," explains Weiner. "Matrimonial law is unpredictable and detestable. You see the worst side of human behavior, the uncaring and selfishness.

"Large firms take a risk in this sense. The client knows you know things about him no one else does, such as drinking, drugs, wife beating, sexual deviation or other intimate problems. It's personal and makes people feel uncomfortable.

"Also, when you refer out you take a risk as to whether the client will like the attorney you referred him to. So doing matrimonial work for the larger firms is like any business decision; one must weigh the factors."

The risks can be substantial. Yet larger firms seem willing to face the danger. Apart from the money, big-firm lawyers often believe their relationship with a client requires that they handle the client's divorce.

"A client of a large firm often says to the attorney who handles his corporate work, for instance, 'Do me a personal favor—handle my divorce,' " says Weiner. "So the big firms are damned if they do and damned if they don't." ■