

## **Exclusive: The Matter of 'The Vengeful Judge'**

**Yossi Abadi**, lawyer and journalist

**Precedent: Dozens of men gathered against Judge Rivka Makayes \* They claim: "She discriminates against men" \* Intended: huge lawsuit against the state of Israel for vicarious liability**

**The Accusation: Tendentious Behavior and Concealment**

**The Details Erased from the Resume**

**Makayes' "Guard"**

**The Claim: Assists Women during Discussion**

**The Claim: "Law Orders – Far from Her"**

**"Contact Center"? – Where's the Contact?**

**Comments: The Complaints were not Found to be True**



**Judge Rivka Makayes.  
Precedential lawsuit**

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The family court was never a pleasant place for spouses. For many, it is the end of the road for a long-term relationship, a battle field for distributing alimony, and quite often the last chance to see the child. Family court in Kfar-Saba – is a different story: They call themselves "Makayes' casualties", they've coincidentally met only recently, and today they start a precedential organization journey against a judge in Israel. the declared purpose: "to wake the system up to act".

The things to be presented hereinafter are not news to the officials in the Ministry of Justice. They are also not news to the commissionership for public complaints against judges, nor for the court's administration and the regional court judges. President Judge Dorit Beinisch has also received a severe complaint in the matter more than once. Her name is **Rivka Makayes**, judge in the Family court in Kfar-Saba. She was appointed as a judge on 2001, and since then had accumulated a bundle of unprecedented complaints regarding her conduct.

While gathering materials, NFC editorial staff has accumulated hundreds of pages of protocol documents, dozens of hours of discussions' records, official complaints to the Supreme Court and the Ministry of Justice, many requests of judge's dismissal, petitions to regional courts and dozens of testimonies of those hurt by the rulings. Based on the evidence, it seems that Makayes' attitude towards men facing her is supposedly problematic. Due to the nature of discussions in family courts, most of the materials we have are confidential. The hereinafter presented is therefore only within what's allowed.

The testimonies we hereby present are only a small portion of the hundreds of data accumulated; but what is presented here will be based on the testimonies of those who were hurt. The harsh claims remain prima facie at this point, and we do not take a

stance regarding the truthfulness of these claims or their severity, but only to publish them as they were said to us.

### **Met by Coincidence**

The group of "Makayes' casualties" already includes a few dozens of members. Yossi Tzaig, a 46 years old electronics engineer, formerly an intelligence officer, claims that "this is a judge that violates all possible law orders". Tzaig is not alone. The hereby presented testimonies will supposedly paint a sad judicial picture.

O., a father of two little girls, sums up the main criticism: "Judge Rivka Makayes", he says, "extremely discriminates against men, clearly violates law orders, deprives the right to argue, sins in judge's counsel to the woman's representative during trial, in inaccuracies in her resume, in improbable use in maintaining men's movements during discussion. She had supposedly demonstrated problematic protocols, tendentious protective warrants, separating fathers from their children in a manner unprecedented in Israel, and had also made an exaggerated and irresponsible use of the 'contact center' infrastructure as a condition to a meeting between a father and his children."

NFC editorial staff has recently received exclusive information, according to which a precedential lawsuit is being consolidated these days, within which a number of attorneys, representing the "Makayes' casualties", claim that the courts' administration and also the state of Israel are responsible for the parties' damages, by force of vicarious liability and negligence for damages caused by Judge Rivka Makayes. We emphasize that the law in Israel does not allow to personally sue a judge for his/her administrative conduct during trial.

### **The Accusation: Tendentious Behavior and Concealment**

Sunday, December 16<sup>th</sup> 2007, 8pm. NFC team joins a special gathering initiated by "Makayes' casualties group" in an apartment in the center of Israel. None of the participants knew the others who were about to become their partners in their personal struggle.

**"Everyone thought that they have a personal issue with Makayes. No one knew that this is the judge's tactic. They thought they had bad lawyers, that it's the entire judicial system"**

They met through the internet, and as one of the participants defined it: "everything was by coincidence".

Dr. Eric Cohen-Adad, a French senior plastic surgeon, immigrated to Israel about ten years ago, and claims he was severely hurt by Makayes. He told NFC how testimonies accumulated in websites, forums and talkbacks for articles. "Everyone thought that they have a personal issue with Makayes. No one knew that this is the judge's tactic. They thought they had bad lawyers, that it's the entire judicial system. Why, we're dealing with closed discussions, and we don't know the people that come there – not by name nor by details. But thanks to the internet we've learned that we're not the only casualties. I've heard horrifying testimonies regarding unacceptable actions of Makayes, regarding the exact same method, from dozens of men", he tells us.

Half an hour into the gathering, and the house is already full. About twenty men, and some women representing their sons, found themselves a "support group", while being their own supporters. One after the other, they present us with prima facie evidence, **which in their view requires an immediate examination of the system.** "We wish to reveal our personal story in the media, so we can gather more cases",

they say. "Why, we've met by coincidence, and each of us knows of many more men in the same situation we're in", they claim.

### **The Details Erased from the Resume**

The forum members demand Judge Makayes to reveal the details that they claim were erased from her resume prior to her appointment to be a judge. In their opinion, the information supposedly erased regarding her work in the Israel Women's Network and other women's organizations, attest the discriminatory attitude they claim to have faced in court.

**"Makayes systematically discriminates against men. She comes from a background in which men are the enemy"**

Documents obtained by NFC editorial team show that when Judge Makayes applied for a position in the family court, she withheld information regarding her full professional history. In her resume, as it is posted in the official website of the court, 19 years of her professional history are in fact missing. The court's website states that: "In March 1982 she was authorized as a lawyer, and since then worked in an academic and public framework **related to her field of expertise in family law**". What has she really done since then up until 2001, when she was appointed to be a judge? – the fathers wonder – since nothing is written about it.

We obtained the original form, **hand written by the judge**, the form she filed to the court while applying for the position (March 10<sup>th</sup> 2000). Nothing was written there regarding the missing 19 years. In fact, the court's website quoted word for word her resume as she herself wrote it in her application form.

In a letter he has recently sent to the minister of justice, Niv Amit, one of the struggle's leaders, wrote: "For some reason, the judge hides her various activities (prior to her appointment), including her work in the Israel Women's Network, **her work in an abused women's shelter in Jerusalem**, her involvement in NA'AMAT, in N.O. association, etc."

These data, the struggle's leaders explain, don't mean she should be excluded from being a judge. However they claim: "These things clearly prove her history as women's activist. For over a decade she had represented abused women... She worked in an abused women's shelter in Jerusalem since 1994. Don't you think it should be mentioned in her resume? Don't you think that the court should have known about it while hiring her for the position? And why do all the judges specify their resume in detail and she doesn't?", they ask. And the result, in their opinion, is that "Makayes systematically discriminates against men", and that – they say – is just another reason for it. "She comes from a background in which men are the enemy", tell us Dr. Cohen-Adad. "For most of her professional life, men were the defendants. The enemy of the abused woman... it's unacceptable that a clearly not objective person will sit as a judge and discuss the fate of children, and men, without revealing his past. Even if it does not disqualify her from being a judge, it's hard to understand the mere concealment."

### **Makayes' "Guard"**

A letter sent to the court's legal adviser and to the minister of justice, Prof. Daniel Friedmann (September 1<sup>st</sup> 2007), claimed that Judge Makayes uses the court's security guards in an exceptional and unlikely manner. "We claim", says the letter, "that the use of security guards is intended to humiliate the deliberating men".

The NFC editorial team gathered many testimonies, according to which Judge Makayes often attaches many men, who have no history of violence or outbursts in courts – with a **private guard**. "They don't let us move or talk without raise our hand. Needless to say that the woman has never received such a guard". One of the complainants is Uri Ein-Tzur. "I've never even raised my voice", he claims. "But Makayes doesn't need anyone's approval in order to activate the court's guard".

**"I usually sit in the back. My lawyers sit in the front, and Makayes sends to each discussion a special guard that will stand behind me. She wants to intimidate us, but we're strong. We will not brake"**

Yossi Tzaid claims: "I usually sit in the back. My lawyers sit in the front, and Makayes sends to each discussion a special guard that will stand behind me. She wants to intimidate us, but we're strong. We will not brake". Ein-Tzur and Tzaid are not the only ones. An unprecedented damages claim was filed these days, in the amount of 7,000,000 NIS, regarding a physical harm one of the court guards inflicted upon Dr. Eric Cohen-Adad. Dr. Cohen-Adad explains: "I was crippled because a guard hit me while removing me out of the courtroom for no reason. I've been to hospitals for a long time. But regardless of my case, many men I know, who have no history of violence or outbursts, are attached to guards that don't allow them to speak up. They literally bend forward over us... It's an outrage, and should be immediately examined. Compared to other judges, here is an unlikely trend of using security guards against men during discussions. No other judge in Israel competes with Makayes in this matter. Not even one".

### **The Claim: Assists Women during Discussion**

One of the more severe testimonies regarding Judge Makayes's conduct is the claim that she supposedly recommends legal actions to the woman's representative during discussions. "I've reached an agreement with my wife", says A., one of the complainants, who wishes not to reveal his full name. "Everything was ready to be

**"Judge Makayes puts words in experts' mouths. While the expert suggested that he will see his children twice a week in a 'contact center', Judge Makayes intervened and 'suggested' otherwise, while leading the expert to the answer"**

signed. Alimony was in the amount of 4,000 NIS. We came with a lawyer. The younger child stayed with the wife, the older one – with me. When we came to court, Makayes had to sign the agreement. All of a sudden, she asks my ex-wife: 'Say, are you happy with the agreement?'. **My wife answered yes**. Makayes immediately responded and asked my wife: 'Don't you think you should add 1,000 NIS for the older child that stays with the father and will come to visit you from time to time?'. The wife, so says the complainant, replied that she thinks the agreement is "OK". According to him, "after a few minutes my wife was convinced by the judge and insisted on changing the agreement. Because of that we were dragged ourselves through long years of deliberations. She blatantly intervened and counseled the wife how to act".

**A.'s case is not the only one.** We have many testimonies claiming a supposedly wrong counseling during trial. In one instance, also documented in protocols we've

obtained, Judge Makayes recommended a woman to file a criminal complaint against her husband, while instructing her to read the Privacy Protective Act, which might assist her in her complaint. The woman, for the record, did not mention such a complaint before that.

Page 410, row 12 of the protocol quotes Judge Makayes who says: "Madam will act in the matter and file the appropriate complaint". Thereafter she says: "Sorry... I ask Madam to consider the issue of blatant violation of the Privacy Protective Act".

A. further claims that "Judge Makayes puts words in experts' mouths". He says that while an expert suggested that he will see his children twice a week in a "contact center", Judge Makayes intervened and "suggested" otherwise, while leading the expert to the answer. In the protocol of the discussion, page 363, the following is quoted:

Honorary Judge: "Twice a week in a contact center?"

The Expert: "Twice a week, that's the maximum, yes."

Honorary Judge: "**Once a week?**"

The Expert: "**Once a week, yes, once a week.**"

P. tells us how in one instance he came to a discussion unprepared, and was surprised to hear what Makayes had to say. "My wife told me on Thursday night that we have an evidence discussion on Sunday morning. The lawyer's office was already closed, and I've arrived on Sunday not prepared. During discussion I've told Judge Makayes right away that I did not know about the discussion. Makayes turned to my wife and asked her: '**Did you call him two weeks ago and told him of the discussion?**' My wife answered yes, of course, and so the discussion continued without me. I left. I had nothing to do there. I was not ready to continue with such an abuse".

It is worth mentioning that the complainant did not receive any official summons to court. Judge Makayes even had proof, supposedly, that the complainant was not properly summoned. The court knew that the complainant's address is not the address written for summoning, and indeed, the NFC editorial team has the official court record indicating that the summons did not reach its destination. In spite of all this, Judge Makayes, according to the data we've gathered, was satisfied with the wife's oral testimony, "and created a dangerous precedent", so say legal authorities, according to which "one can rely on a litigant's testimony regarding delivery of summons letter for court".

B., another complainant hurt by the judge's conduct, claims that in one instance he was late to file documents, and Judge Makayes turned to his ex-wife and told her: "Don't you think you should ask for monetary compensation for this delay?". According to him, Makayes guided his ex-wife how to act.

### **The Claim: "Law Orders – Far from Her"**

Judge Makayes, claim the members of the new forum, didn't allow a 19 years old, legally adult, to testify in a trial regarding his sister's future, while violating his right. "I haven't seen her for two years", he says with tears in his eyes. "I've sent letters, asked to talk with the judge, she rejected everything and didn't allow

**"In one of the discussions she started yelling at me, pulled me out of court, and all that doesn't even appear in the protocol. It's erased. And it's not the only incident"**

me to testify even though it's a basic right". And indeed, in the protocol from September 1<sup>st</sup> 2005, page 62, row 24, the judge is quoted saying that: "The kids don't testify".

In other instances, we were presented with claims that Judge Makayes accepted the woman's version, without documents supporting it, even though the law obligates it. In other instances, it was claimed that Makayes refused to approve an expert's testimony, without any reason. One document even shows that Makayes preferred an application hand-written by the wife, while a similar application of her ex-husband was rejected immediately and "required to be delivered only if typed".

Yossi Tzaig also says: "My lawyer wanted to see my file, and Makayes didn't allow it. They claimed it's in her office... but so it went on for weeks. We came once, twice, we came a third time, they didn't want to let us see the documents, in contrast to the law. Only when Ms. Lea Rakover intervened we were able to receive the documents".

In another case, one of the complainants told us that "Judge Rivka Makayes doesn't quote the protocol accurately". He said that "in one of the discussions she started yelling at me, pulled me out of court, and all that doesn't even appear in the protocol. It's erased. And it's not the only incident". Let us emphasize that the NFC editorial team heard of similar claims, but we do not have the ability to confirm them. The proper authorities should thoroughly examine whether or not it is true.

Claims of delaying discussions for months and years were the most frequent claims. A senior legal authority revealed to us that the Supreme Court's president examined the cause for delay herself, and that other judicial authorities instructed the judge, on several cases, to respond immediately to many unanswered requests, in which they have identified a severe delay of justice.

Dr. Eric Cohen is an extreme example of that claim. He filed no less than 41 requests, which according to him, "Judge Makayes didn't reject, didn't accept, and in fact didn't give any decision regarding them". A legal specialist who reviewed the case claimed: "There's no need to go into detail in regards to the basic right of a litigant to turn to court with various requests. Not in vein did the legislator determine in chapter 20 of the Civil Law Order Regulations a mechanism of 'written request'; such a mechanism not only gives the litigant the right of access to court through a written request but also outlines and allots the times in which the other party should reply to the request and how to discuss it".

### **"Contact Center"? – Where's the Contact?**

The angry fathers complain about unreasonably high alimony, about blatant discrimination in seeing arrangements, and "about the intolerable ease with which Makayes sends parents to psychiatrists and psychologists". Makayes' casualties are not calming down. Most of them are emotionally exhausted, they lost

**"My restraining order doesn't refer to 300 meters or the kindergarden. I was never violent, but they say I can't enter Jerusalem as a whole. Makayes said so. A Jew that can't go into Jerusalem, the entire city?! What am I, a killer? What have I done?"**

their money. They've been through years of discussions and didn't see their children for many months. One father tells NFC that due to a false accusation, Makayes removed him from the entire city of Jerusalem. "My restraining order doesn't refer to 300 meters or the kindergarden. I was never violent, but they say I can't enter

Jerusalem as a whole. Makayes said so. A Jew that can't go into Jerusalem, the entire city?! What am I, a killer? What have I done?"

In another case, Dr. Cohen-Adad says that although his wife "abducted" his daughter to Jerusalem, he not only can't see her but he was also banned from talking with her over the phone. The fathers claim that Makayes is causing a de facto separation of the children from many of them, without any objective justification. With that, The fathers claim that Judge Makayes conditions many seeing arrangement with the kids only in a meeting under the cover of a "contact center".

The Jerusalem municipality, in charge of the center, gave no data about it. Representatives of Makayes' casualties claim that this is a center designated to supervise an estranged parental contact with the children. "This is a center designated for parents who were previously violent towards their children, parents who had abused them, ones who need to be supervised". In any event, they explain, "other judges don't tend to send there the parents and their children with such an ease".

Yossi Tzaig sees his children in the "contact center" for only one hour a week, for over a **year and a half**. In a tearful monologue Tzaig says that "it bothers the kids. The fact that the meetings are only in the center hurts their spirit. They present the dad poorly, it's an unproportional use. It's impossible that Makayes has so many fathers in contact centers, for very long periods of time, I never yelled. Never raised my voice, or hit someone".

"It never happened that I returned the kids to their mother and there was yelling", he adds excitedly. "It's just pure evilness of the judge. For a year and a half, their grandfather hasn't seen the kids. The family is separated. I realize it sounds unbelievable, we searched for a reason. The alimony is paid exactly on time. I arrive at the contact center, I bring them clothes, but one hour a week for three kids is nothing. What have I done so wrong? I just want to see the kids. Hug them. Why must I be supervised for a year and a half while I talk with them and spend time with them?, and all that for just one hour", he complains.

### **Comments: The Complaints were not Found to be True**

- Court's spokespersonship: "Complaints filed were examined, including by the commissionership for public complaints against judges, and were not found to be true. In a number of cases of order violations which occurred in Judge Makayes' court room, the court guard acted in order to prevent order violations and allow the legal proceedings to continue". However, the court's spokespersonship refused to define Judge Makayes as a "valued judge" and preferred not to address the issue.
- In response, says Mr. Yossi Tzaig, one of the struggle's leaders: "We have recordings showing we were attached to guards without any provocation. We can hear everything. Beyond that, we've suggested to the court to install cameras within the courtroom in order to prove that we didn't do anything, and so clarify our position. The court firmly refused".
- The Ministry of Justice's comment preferred not to refer to the presented claims, and mentioned only the following: "Due to the confidentiality duty anchored in Article 13(a) of the Commissioner for Public Complaints Against Judges Act 2002 and Article 14(a)(12) of the Freedom of Information Act 1998 (excluding the commissionership in regards to the Freedom of Information Act), no details of this issue will be given".
- Many legal authorities refused to address the matter. Some fear for their position, some for their role as representatives before the judge, but all of them have a

common denominator: profound criticism of Judge Rivka Makayes' conduct. The Ministry of Justice said off the record that "this is a known and familiar case".

- The struggle's leaders emphasize that "there are many more men that don't even know that they're a part of many casualties". They wish to clarify that they can be approached by e-mail: [mekaycase@gmail.com](mailto:mekaycase@gmail.com); and also by phone: 052/9966004.

**NFC editorial staff emphasizes once again that the abovementioned claims are only a small part of hundreds of data accumulated; the testimonies presented here are based on the testimonies of those who were hurt. The harsh claims remain prima facie at this point, and we do not take a stance regarding their truthfulness or severity, but only publish them as they were said to us.** However, these severe prima facie claims need to be examined. It is therefore appropriate that authorized legal authorities will immediately commence an extensive examination of the "Makayes' casualties" group's claims.