

# CASE FILES FROM THE BETH DIN

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## HOW DOES A DAYAN ARRIVE AT A JUST AND HALACHIC DECISION?

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## ISSUES RELATING TO INHERITANCE

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1. Question from one party: My father died many years ago and my mother died last year. I have a brother and we were each given half of the estate, worth a total of \$900,000. In addition, my mother divided up the various pieces of jewelry and art in the household, marking each one with a post-it indicating whether I should get it, or my brother should: each of us got the pieces we or our children liked the most, as a way to remember our mother. I got seven paintings and so did he. Although we thought that all of the paintings were junk, one of the seven paintings I got was appraised as worth \$345,000. I sold it, and I want to know if I should give half the value to my brother. Please answer. (Would the answer be different in a din torah?)

2. Husband and second wife were in the process of getting divorced (initiated by husband) when husband was killed in a car accident. Will left wife with a life estate in the marital home, as well as \$25,000 a year from the estate for support. Children of husband argue that the filing of divorce indicated that husband wanted to change his will and wife should get nothing. The matter is now in front of the bet din for a din torah. Please give direction to the parties.

3. Father was very ill for a long time, and was cared for throughout his illness by his eldest son, Reuben, in whose house father lived for 12 years. Upon father's death, his estate was split evenly between his four sons. Reuben has presented the estate of his father with a bill for his services for the last twelve years taking care of father, including his time spent, his actual expenses (paying a contractor to build a handicap ramp, ect.) and other such costs. The other children contest this bill. Does the estate have to pay?

4. Molly and Jack have died and they left an independent trust fund with the mission of supporting the salary of the Head of School of the local Jewish high school they were deep supporters of. The head of school was always thus entitled "The Molly and Yechezkel Frankelstein Head of School." The school recently merged with another school and the Trustee wishes to know if the Trust needs to continue to support the new headmaster. The new school has a mission that the trustee thinks neither Molly nor Jack would have liked, and both Molly and Jack opposed the merger in their lifetime. If the trust no longer has to support the new headmaster, what should the trust do with the money?

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## NO FLOWERS AT A WEDDING

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Reuven and Rachel are seeking to get married, and they arrange with a florist to do the flowers for the wedding, at a cost of \$2,475, half in advance and half after the wedding. On the day of the wedding, the florist does not show up, and notwithstanding any number of frantic phone calls, the florist simply never shows up. The wedding proceeds anyway, and the couple are now happily married.

After sheva brachot, the newlyweds contact the florist, who tells them that he is a sole proprietor, and the morning of the wedding his own father died, and thus he could not do the wedding. He is very sorry, and gladly offers to refund their down payment of \$1,237.50. The couple has contacted you to ask if they have any other remedy besides simply a refund. They feel the wedding was bare, and it makes them unhappy that their wedding was without any flowers. They would like \$5,000 from the florist.

1. Does it matter whether the florist's excuse is true or not? Would the matter be resolved differently if the florist had told them that he was a sole proprietor, and that morning a wealthy person had contacted him and told them that they needed flowers urgently, and he gave that person the same flowers he had for their wedding, but for \$6,745?
2. What are the actual damages suffered by the couple?
3. Can they threaten the florist that they will tell people that he did a poor job at their wedding unless he gives them \$2,750?
4. Is the florist without blame, even if his story is true?

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## KOSHER FRAUD?

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Reuven, also known as Rob, runs a small dairy bagel shop (known as Rob's Bagel Place) in a large office complex. His shop is kosher, and is so certified. Roughly 70% of his business is a take-out business which comes from three interconnected office towers, which place breakfast and lunch orders. About half of those orders are standing orders, i.e., the law firm always has bagel and spread for 30 at their Wednesday morning partners meeting. The remaining 30% is a kosher nosh (brit, pidyon haben, shul, lunch & learn) crowd.

On Yom Tovim and Pesach, Rob has historically closed his shop. This Pesach, however, he lost a large regular daily customer to another bagel shop in the area. Rob would like to consider the following arrangements, so as to avoid further loss of his customer base.

1. On Yom Tovim and Pesach, he would like to make an arrangement with another bagel store (Treif Bagels Associated, TBA) to deliver his standing orders for him, with the delivery being made in "Rob's Bagel Place" containers, but from the TBA bagel store. His regular delivery man (Gomez is his name) will work for (and be paid by) TBA on those days. (The goal is not to let his standing customers know that his store is closed now.)

2. His telephone calls will be forwarded to a back line of TBA, which will be answered by Gomez, who will take orders and fill them, from TBA food, but will place them in Rob's Bagel Place bags, and do the deliveries himself, whenever he can. (The goal is not to let his call-in crowd know that his store is closed now.)

3. Rob's Bagel Place will be closed during all of Pesach and all the Yom Tovim, but a big sign will read "Call [Rob's Bagel Place telephone number] to place an order. Your order will be filled if you call."

4. All money made goes to TBA, and TBA has offered Reuven \$200 per day for the right to have this business.

Is this a fraud? Who is defrauded?

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## COUNTERFEIT SINGAPORE DOLLARS

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Reuven, a religious Jew living in Brazil, is an artist, who has a side line business of counterfeiting S\$10,000 Singapore dollar notes (worth about \$6,200 each) and after he has crafted enough of them, he purchases a piece of real estate with them in a Central or South American country. He has a policy (grounded in his understanding of halacha) of never using his counterfeit S\$10,000 notes to purchase real estate from Jews.

In a recent transaction in Argentina, Reuven's activity was detected by the local authorities, and word circulated about what Reuven was doing. Reuven was contacted by a person in the Jewish community in Mexico (named Shimon) who Reuven had purchased a property from about a year ago, and he asked Reuven if Reuven had paid him in counterfeit currency also (since he too had be paid in S\$10,000 notes). Reuven stated that he had, but that had he known that the person was Jewish, he never would have purchased the property from him and he is sorry. Shimon states that he wants his property back, given the fact that he was not actually paid.

The matter is now in front of you as peshara kerova ledin and the question is whether Shimon is entitled to his property back or is some other remedy proper?

According to the rules of the Beth Din of America (found at [www.bethdin.org](http://www.bethdin.org)):

### Section 3. Choice of Law

(a) In the absence of an agreement by the parties, arbitration by the Beth Din shall take the form of compromise or settlement related to Jewish law (p'shara krova l'din), in each case as determined by a majority of the panel designated by the Beth Din, unless the parties in writing select an alternative Jewish law process of resolution.

(b) The Beth Din will strive to encourage the parties to resolve disputes according to the compromise or settlement related to Jewish law principles (p'shara krova l'din); however, the Beth Din will hear cases both according to Jewish law as it is understood by the arbitrators or compromise (p'shara) alone, if that is the mandate of the parties.

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## CIVIL MARRIAGE ISSUES

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1. Reuven (age 63) and Shimon (age 57) are brothers-in-law. Shimon has been developmentally disabled his whole life, and has a host of medical difficulties. Reuven has been taking care of Shimon for more than 15 years, since Reuven's wife (and Shimon's sister) died. For more than 25 years, Shimon has actually lived with Reuven. In the last six months, Reuven's employer has offered domestic partners health insurance benefits. Reuven wishes to sign up Shimon as his domestic partner since he has a "loving, permanent, caring relationship" with Shimon, his brother-in-law, as required by his employer. This will save Reuven hundreds of dollars a month, as currently, Shimon has no health insurance, and will otherwise never get such insurance. Reuven asks whether he may sign Shimon up as his domestic partner. Could he marry Shimon in a state that permits such?

2. Harry is engaged to be married to Harriet in 11 weeks. Harry recently lost his job, and Harriet suggested that they get civilly married now, and Harry be covered by Harriet's spousal health insurance, which is nearly free. Of course, they will not live together or otherwise have a marital relationship until their Jewish marriage. Otherwise, Harry will have to purchase private health insurance, at a cost of \$650 per month. May they get civilly married now for the insurance benefits?

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