



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Kesubos Daf Chuf Aleph

#### MISHNA

- If each of the 2 witnesses who are signed on the document testify as to the authenticity of his own signature and the signature of his co-witness, they are believed. **Rebbi** says, if each one only testifies regarding his own signature, they must each have a second witness to join them and authenticate their signature. The **Chachomim** say, they would not need a second witness, because a person is believed to authenticate his own signature by himself.

#### GEMARA

- We can conclude that the machlokes is based on the fact that **Rebbi** says the witnesses are testifying on their signatures, therefore 2 witnesses are needed for each, whereas the **Chachomim** consider the witnesses to be testifying regarding the underlying transaction of the document, and therefore each witness can authenticate his own signature.
  - **Q:** This seems obvious!? **A:** We would think that **Rebbi** is uncertain whether we should treat them as testifying regarding their signatures or regarding the underlying transaction, and therefore he would require the path that produces the more stringent result. The Gemara is teaching that he is certain, and therefore paskens that they testify regarding the signatures even if it results in a leniency. The case of a leniency would be where one of the signed witnesses died. In that case the **Rabanan** would say we need 2 new witnesses to authenticate his signature (if we allow the other witness to be one of the witnesses, we are essentially relying on his testimony for 75% of the document – completely for his signature and half for the other signature). **Rebbi** would say that the remaining witness may join with one other to authenticate the other witness' signature.
    - **Q:** According to the **Rabanan**, if there is only one witness besides the other signing witness, who can authenticate the dead witness' signature, what can be done to authenticate the document? **A:** **Abaye** said, the live witness should sign his name on a piece of pottery and give it to Beis Din, so that they can authenticate his signature without his testimony, and then he can join the other witness to authenticate the signature of the dead witness.
      - He should not sign on a piece of paper, so that it not fall into the wrong hands and someone write an obligation above his name, making it look like he signed his name to the obligation.
- **R' Yehuda in the name of Shmuel** said that the Halacha follows the **Chachomim**.
  - **Q:** As the majority opinion, it is obvious that the Halacha follows them!?! **A:** We would think that just as we pasken like **Rebbi** when he argues on another single view, we should also pasken like him against a majority. He teaches that we do not.
  - **Q:** We find that **Shmuel** once certified a document only when each witness authenticated his own signature and the other signature, which is not like the **Chachomim** said!?! **A:** That case was the case of a document to be used by orphans to collect. **Shmuel** was concerned that they may try to collect in a Beis Din that erroneously followed **Rebbi's** view. Therefore, he authenticated it in a way that even such a Beis Din would accept. However, he did so only to help the orphans, not because he held that way.
- **R' Yehuda in the name of Shmuel** said, if one witness authenticates his own signature, and one judge authenticates his own signature on the certification, they combine to authenticate the document.
  - **Rami bar Chama** said, this is an excellent teaching. **Rava** said, this is not so excellent, because the witness (testifying to the underlying transaction) and the judge (testifying

that the signatures were authenticated) are testifying to different things, and therefore cannot combine! **Rami bar Yechezkel** said that **R' Yehuda's** version of **Shmuel's** statement is incorrect, and in fact the witness and the judge cannot combine.

- It was said in the name of **R' Huna** (or possibly **Rav**), if 3 judges are sitting to certify a document, and 2 of the judges recognize the signatures of the witnesses, if they have not yet signed the certification the 2 may testify to the 3<sup>rd</sup>, and they may all then sign the certification. If they have already signed, they may no longer testify.
  - **Q:** We have learned that **R' Pappi in the name of Rava** said that a certification written before the testimony authenticating the signatures is passul, because it looks like a lie is being made. If so, how could the certification have been written before the testimony!?  
**A:** The statement must have been that the 2 may testify before the 3<sup>rd</sup> as long as they have not yet begun to *write* the certification.
  - We learn 3 things from here: 1) a witness may be a judge, 2) if judges recognize the signatures, they need not hear testimony regarding the signatures, and 3) each judge that does not recognize the signatures must hear testimony regarding the signatures (it's not enough for some of the judges to know).
    - **Q: R' Ashi** asked, it may be that testimony must always be heard, and the above case is ok because the 2 testified to the one, so testimony was said and accepted!? Also, it may be that testimony need not be heard by each judge, and only in this case that was important so that testimony be given!?
    - **R' Abba** was once relaying the statement that a witness may be a judge. **R' Safra** asked, a Mishna says, if 3 members of Beis Din saw the new moon, 2 of them should testify in front of the other one and at least 2 others (so that there is at least a Beis Din of 3), and they can then make the month Mekudash. This must be done, because a single judge is not enough to make the month Mekudash. If it is true that a witness can become a judge, why can't the 2 who testify then sit down with the 3<sup>rd</sup>, and declare the Chodesh as being mekudash? **R' Abba** replied, I was also bothered by this, and I asked the question, which made it all the way to **Rav**, who said that we can't compare the case of documents to kiddush hachodesh, because Kiddush hachodesh is D'Orasia, whereas certification of documents is only D'Rabanan.
- **R' Abba in the name of R' Huna in the name of Rav** said, if 3 judges sat to certify a document, and a challenge about the fitness of one of the judges was raised, if they have not yet signed the certification the other 2 judges may testify about the fitness of the judge and he may then sign along with them. Once they have already signed, they may no longer testify, because they are considered to be biased at that point.
  - **Q:** In what way was the judge's fitness challenged? If he was claimed by witnesses to be a thief, how can the other judges testify to make him fit? At best they will be 2 against 2!? If the challenge was about his having tainted lineage, then it is not even considered to be a "testimony" that the other judges must give (it is a mere "giluy milsah"), and they should be able to do that even after they signed!?  
**A:** The case is where he was testified against as being a thief, but the other judges testify that he had done teshuva.
- **R' Zeira** heard from **R' Abba**, if 3 judges sit to certify a document, and one of them died before being able to sign, the remaining two should write "We sat as 3, and one is no longer alive", and should then sign. **R' Nachman bar Yitzchak** said, as long as they mention that the document was brought before "the court", that would be sufficient, even though there are only 2 signatures (people will realize that one must have died).