

Does Bais Din Encourage Peshara

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Question:

When I came to Bais Din, I signed a *shtar* that says that I agree for the *dayanim* to rule “according to din or according to *Peshara*”. What exactly does this mean? Will they force me to accept a *Peshara*?

Answer:

The Nesivos Hamishpat describes two types of *Peshara*. One type of *Peshara* is when Bais Din is given the mandate to arbitrate what the compromise should be. The other is when the *dayanim* mediate between the parties to arrive at a settlement.

When the litigants come to Bais Din, they are asked if they want the *dayanim* to rule according to *Peshara* or *Din*. There is a *machlokes* amongst the Poskim regarding whether Bais Din should actively try to convince them to accept a *Peshara* or not. The *minhag* is to encourage them towards accepting the mediated type of *Peshara* because this leads to a peaceful resolution to the dispute. This type of *Peshara* is the most ideal outcome of a *din Torah*.