

If a Contract Says That Disputes Will be Resolved in Secular Court, Will a Bais Din Rule According to Secular Law?

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Question: If one signs a contract that says that disputes will be resolved in a secular court, will the bais din rule according to secular law?

Answer: Although one should not sign a contract that says that disputes will be heard in a secular court, if one did sign such a contract then the Nesivos Hamishpat and other Poskim say that in such a case, bais din will be compelled to rule according to secular law, rather than according to halacha, as this is the type of law the litigants had committed to.

Just recently, I was shown a contract that says that any dispute will be arbitrated by the American Arbitration Association. In this case, it could be argued that they would be permitted to go to this body, as it is not clear altogether that it is considered a secular court. Since the panel could be made up of any three licensed arbiters, the parties can specifically ask for religious Jews to sit on the case, which could be classified as a viable bais din that halacha would allow to rule on a dispute. Therefore, it may be possible to allow this commitment to stand, and the decision would be made by the Jewish arbiter according to secular law.