

May I Bring an Employer to Secular Court?

**Case:** *I recently returned from disability, to find that my employer has given away my job to another. When I threatened a lawsuit, he said "Go ahead, I have insurance." I was told that secular law does allow me to bring him to court.*

**Question:** Does Dina D'malchusa allow me to bring him to court instead of Bais din? What if the employer himself is ok with it? Is a dispute between Jews allowed to be brought to secular court if both parties give their consent?

**Answer:** No. Although Dina D'malchusa does create monetary halacha in many cases, it cannot allow anything that is prohibited in the Torah. For example, usury laws do not replace the halachos of *ribbis*, because you are dealing with a prohibition, not a monetary halacha. Likewise, the Torah does not allow using a secular court system as a way of adjudicating between Jews. The *pasuk* says in Parshas Mishpatim ואלה המפשטים אשר תשים לפניהם, these are the laws which shall be placed in front of them. The Gemara [Gittin 88b] tells us this is to exclude bringing your dispute in front of non-Jews to adjudicate. Therefore, Dina D'malchusa cannot be used to allow going to secular court. Even if the other party agrees to go to court, it is still prohibited to do so.

There is one scenario where a Jew may go to a secular court. The Gemara in Bava Kama [92b] quotes an expression קרית חברך ולא ענך רמי גודא רבה שדי If you call upon your friend and he does not respond, you may throw down a wall upon him. The Rosh [ibid] explains it to mean that if you called your friend to a kosher bais din and he refuses to come or follow their directives, the bais din shall issue a "*heter arkaos*" i.e. permission to bring his case to secular court.