

What Documents Must One Sign When Coming to Bais Din?

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Question: Someone received a *hazmanah* to a *din Torah*. He is willing to go but does not want to sign all the paperwork and documents that he was sent. Can he refuse to sign?

Answer: There are two documents that a bais din typically asks the litigants to sign. The first one is known as a *shtar borerim*. This document empowers and authorizes bais din to issue a decision and commits the parties to abide by the ruling. The second document is a legal arbitration agreement. Until recently, our bais din used to provide two separate documents – a *shtar borerim* in Hebrew and an arbitration agreement in English. Recently, we began using one English document which incorporates both an arbitration agreement and the *shtar borerim*.

The Poskim discuss a case where a person is willing to come to bais din but unwilling to sign the documents. In today's *batei din*, the *dayanim* alone do not have the power to enforce their ruling, which is why the arbitration agreement, which makes their ruling legally binding, is so important. Without this document, the bais din cannot ensure their decision has any authority; therefore, a *din Torah* cannot be held without it and a litigant who refuses to sign it can be held as a *mesarev l'din*.

Question: What if a person signs a *shtar borerim* but he says that he only agrees to a *din Torah* if the strict halacha is followed without any compromises?

Answer: Forcing bais din to stick to strict halacha would mean that they would personally be responsible if any mistake is made, and we cannot force *dayanim* to agree to that today.

The *shtar borerim* of today usually says that the parties agree to let the bais din *pasken* "either with *peshara* or with *peshara kerova l'din*." *Peshara* would mean that bais din has the authority to make a compromise that they feel will mostly satisfy both parties, even if it is not fully in line with the strict halacha. This option gives bais din more leeway and allows them to deviate somewhat from halacha for the sake of peace. *Peshara kerova l'din* means a compromise that is close to the law of halacha, in which bais din tries as best as possible to stick to the accurate halacha.

If a person insists on the *dayanim* using the method of *peshara kerova l'din* and not full *peshara*, he has the right to do so.