

What is The Role of a To'ain

**Rav Yehoshua wolfe**

**Question:** I was summoned to a *din Torah* and my friends tell me that I need to find a good *to'ain*. Is this correct?

**Answer:** According to U.S. law, everyone has a right to legal representation. For this reason, if a *bais din* wouldn't allow a party to have a *to'ain* or lawyer present with him at a *din Torah*, the arbitration agreement could possibly be undermined and challenged in court. For this reason, every established *bais din* that I am aware of allows lawyers to be present.

According to the strict *halacha*, the parties would be expected to speak for themselves and *bais din* would have to hear their claims directly from their mouths; however, the common custom is to allow a representative, such as a *to'ain*, to speak on their behalf. This is a very old *minhag* that is already discussed by the *Shach* and the *Tumim*. Because it is already an established custom, the assumption is that all parties implicitly agree to it.

Some have claimed that attorneys are preferable to *to'anim* because they have some kind of license that holds them to a higher standard and prevents them from engaging in deception. In my experience, I have seen both unscrupulous lawyers and unscrupulous *to'anim* and do not see the benefit of one over the other. *Boruch Hashem*, I can say that most of the lawyers and *to'anim* who appear before our *bais din* are upstanding and professional.