

BUSINESS WEEKLY

under the auspices of
HaRav Chaim Kohn, shlita



Restoring the Primacy of Choshen Mishpat

ISSUE #171 / PARSHAS KI SAVO
FRIDAY, AUGUST 23, 2013
17 ELUL 5773

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STORY LINE

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Lost Leining

It was summertime. Congregation Shaar Shamayim was relatively empty, as many of its members were away in camps or in bungalows.

The gabbai, Mr. Gelb, was having a hard time finding someone to lein (read the Torah) that week. Finally, he decided to employ one of the few yeshiva boys who were around.

"We need someone to lein at Shaar Shamayim," Mr. Gelb said to Eliezer. "Any chance you're available?"

"I am," replied Eliezer. "Do you pay for the leining?"

"We usually have a rotation of members without pay," answered Mr. Gelb. "When we need outside people, though, we pay \$200 for the leining."

"Great," said Eliezer. "See you on Shabbos."

Later that day, Eliezer received a phone call from the gabbai of another shul, which also needed someone to lein.

"Sorry, but I just committed to lein elsewhere," said Eliezer.

The following day, one of the regular leiners called Mr. Gelb.

"We changed our plans and will be here for Shabbos," he said. "So, if you want, I can lein on Shabbos."

"Thank you," said Mr. Gelb. "Meanwhile, I hired Eliezer to lein, though. I'll see if I can cancel him."

Mr. Gelb called back Eliezer. "It turns out that one of our members can lein this week," he said. "Is that okay with you?"

"Actually, it's a problem," said Eliezer. "Shortly after you called, I had another job offer, which I had to turn down."

"Do you think they may still need you?"

asked Mr. Gelb.

"No, they already arranged with one of my friends," replied Eliezer. "I'm not out to cause the shul an unnecessary expense, but I'm also facing a loss. I'd like to ask Rabbi Dayan."

"That's fine with me," said Mr. Gelb. "Whatever he says."

Eliezer called Rabbi Dayan and explained the situation. "Would the shul have to pay me for the leining, even if one of the members is now available to lein?"

"It would be most ethical for the shul to uphold its verbal commitment to you," answered Rabbi Dayan (see Rema 204:11).

"However, even if the shul insisted on having its member lein, they would still have a legal liability to pay you for the leining, since they caused you to lose an alternate job. Assuming you enjoy leining, they would

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Too Stressed to Confess

I was pulling out of a parking spot and scratched another car in the process. I was in a rush and didn't leave a note for the owner.

That night in shul, I heard someone complain that his car was scratched that morning and it will cost him \$400 to repair. From his account, it is evident that I was the one who scratched his car. I would like to repay him for the damage that I caused, but I am hesitant to contact him directly.

Q: Am I obligated to call him and identify myself as the one who damaged his car, or can I get him the money in some other manner and remain anonymous?

A: A similar question arises when someone steals money and does not want to identify himself as the thief to his victim. The halacha in that case is that as long as the thief can be certain that the money reaches the owner, he satisfies his obligation to repay

what he stole (C.M. 355:1).

However, this only addresses the thief's financial obligation. A thief must also ask his victim for forgiveness. The Mishnah (Yoma 85b) teaches that Yom Kippur does not provide atonement for interpersonal transgressions until one first asks his friend for forgiveness. Rambam in Hilchos Teshuvah (2:9) codifies this halacha and writes that one who steals from a friend is not forgiven until he returns what was stolen and ap-

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have to pay you fully, not only partially as po'el batel, since you would prefer the time and effort of learning the Torah reading to being idle (C.M. 333:2; Rema 334:4, 335:1)."

"I'm surprised that the shul would have a legal liability, not just a moral obligation," said Eliezer. "Isn't this a form of indirect loss, grama? We learned in yeshiva that mevatel kiso shel chaveiro — canceling a friend's financial gain — is considered only grama, which does not have an enforceable obligation."

"Excellent! In fact, the Ketzos (333:2-3) cites the Maharam that one does not have a full legal liability for this reason," replied Rabbi Dayan. "However, his opinion is not accepted (see Pischei Choshen, Sechirus 10[10])."

"Why not?" asked Eliezer.

"There are a few explanations," replied Rabbi Dayan. "Tosafos and the Rosh view this as garmi, a direct cause, for which there is legal liability (Sma 332:8).

"Others explain the liability as one of davar ha'avud in employer-employee relationships," added Rabbi Dayan. "An employee cannot quit a job if it will cause significant loss to the employer; if he does, the employer can employ others at his expense. In parallel, if the employer retracts in a situation that causes the employee a loss, he is liable and must compensate the employee for the lost wages (see Rabi Akiva Eiger 333:2)."

"Are there other explanations?" asked Eliezer.

"The Ketzos suggests that the responsibility is on account of the liability of sheves (missed employment) when damaging another," said Rabbi Dayan. "Nesivos (333:3) suggests that this liability is an institution of Chazal."

"What if I found another shul to lein in that offers lower pay?" asked Eliezer.

"Shaar Shamayim would then be liable to pay the difference between the jobs," answered Rabbi Dayan.

peases his victim.

Accordingly, it would seem that you must ask this person for forgiveness for having damaged his car. The rationale is that beyond the obligation to return what was stolen, one must also ask forgiveness for the distress he caused by stealing from another (see Igros Moshe, C.M. 88).

In your case, however, since you damaged this man's car but did not steal from him, you are not obligated to appease him.

Rambam (Hilchos Chovel U'mazik 5:9) contrasts injuring a friend and damaging his objects. When injuring a friend, in addition to repaying him for the injury-related expenses, one must also ask the victim for forgiveness. On the other hand, one who damages his friend's possessions is only obligated to repay the

owner for the damage.

In contrast to a thief, the Rambam holds that a damager (mazik) is not required to ask forgiveness from the owner. Why is a thief obligated to ask forgiveness but a damager is not?

Lechem Mishnah explains that a thief generally benefits from having possession of the stolen property and causes his victim significant distress. One who damages someone else's property does not derive any benefit from the damaged property, and the owner of the damaged property does not experience the same degree of distress by what happened; it is sufficient to merely repay him for the damage.

(See also Tosafos, Yom Kippurim, Yoma ibid. For a dissenting opinion, see Maaseh Rokeach to Rambam ibid. and Darkei Dovid, B.K. 93a.)

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Lost and Found #6

Q: In my yeshiva, I found an envelope of cash stashed away behind some sefarim on the top shelf of a bookcase. What should I do?

A: An item hidden away in a secure place should not be touched, even if there is a siman (identifying feature). The owner clearly placed the envelope there and will presumably return to retrieve it. Furthermore, by

taking it, you make it more difficult for the owner to reclaim it (C.M. 260:9-10; Shach 260:29).

Even if you picked up the envelope, you should return it promptly to its place. However, if you already took the item home and time passed, you should not return it there. Perhaps the owner came meanwhile and saw that the envelope was gone.

Therefore, since there is a siman (location

and/or sum) you must publicize the item. [If there is no siman, you should hold it until Eliyahu Hanavi comes and clarifies whose it is.] (Sma 260:41,48).

However, if the envelope is dusty and seems to have been there a very long time, you can assume that the owner already abandoned hope of retrieving it (yei'ush) and you may keep the money (C.M. 262:5).

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