



STORY LINE

after becoming your brother-in-law. However, should a need arise in the future to validate his signature in order to actualize the kesubah, Dovid could no longer testify to validate it, since he is now your brother-in-law" (C.M. 46:35; Sma 46:86).

"What could be done, then?" asked Moshe.

"Other people, who recognize his signature, would have to validate it," Rabbi Dayan replied. "Alternatively, beis din could compare it with other validated signatures of his" (C.M. 46:7).

"Would this apply to other disqualified witnesses?" he asked. "For example, what if one of the witnesses later became a thief?"

"The same would apply, provided we knew of the existence of the document before the person became a thief. Otherwise, we are concerned that the thief signed a false document now, but predated it before he became disqualified" (C.M. 46:34).

"Does the requirement to know about the document apply also to a relative?"

"No. While the Torah disqualifies a relative as a witness, he is not necessarily suspected of being dishonest," replied Rabbi Dayan. "For example, he cannot testify even to the detriment of his relative. Even Moshe and Aharon are disqualified as witnesses for each other, despite their impeccable integrity. The Rambam calls the disqualification of relatives a gezeiras hakasuv (Scriptural decree). Once their signature is validated, we do not suspect that they signed after becoming relatives and predated the document. Thus, their signed testimony remains valid" (Hil. Eidus 13:15; Shach 46:92).



BHI HOTLINE

Consequently, each situation must be considered to determine whether or not the imperfection is so significant that most people would return the item. This determination obviously takes into account the cost of the item and extent of the imperfection.

Regarding the second matter, one who discovers a defect in an item that he purchased has the right to return that item, even if he does not discover the defect until many years after the purchase. However, a customer who intends to return the defective merchandise may not use it once he discovers the defect, since by doing so he forgoes the right to return it (C.M. 232:3).

Some authorities maintain that if the customer could have examined the merchandise immediately and did not bother to do so, he loses the right to return it later for a refund (Sema 232:10). (This assumes that the merchant did not explicitly assure the customer that the merchandise is not blemished [Divrei Malkiel, E.H. 86 (6)]). Accordingly, in your case since you could have opened the box to examine the leichter before leaving the store and did not do so, you relinquished your right to return the merchandise if you subsequently found it to be defective. Other authorities reject this position as representative of a minority opinion (Divrei Chaim, C.M. 36) or limit the scope of its application (Nesivos 232:1). Therefore, if it is determined that the leichter are scratched to the point that most people would return them, it is permitted to stop the check and return the leichter to the merchant.

For questions on monetary matters, Please contact our confidential hotline at 877.845.8455 ask@businesshalacha.com



MONEY MATTERS

Adapted from the writings of Harav Chaim Kohn, shlit

BEIS DIN AND CIVIL COURT #12

Registering Rights

Can I secure in civil court or other government agencies legal rights that do not involve adjudication?

A: If this is done willingly by both parties, it is not considered granting authority to a secular law system. Therefore, it is permissible to register in civil court rights that do not require adjudication, for example, to place a lien or mortgage on a borrower's property or to have the proceedings of the beis din conferred there with legal status (Pischei Teshuvah, C.M. 26:3).

Furthermore, while government agencies that do not have adjudicating authority, such as the Better Business Bureau, might not be included in the prohibition of litigating in civil court, since a complaint there can cause monetary losses not warranted by Torah law and potential legal suits, one should consult with a qualified posek before submitting a complaint against a fellow Jew.

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