

## Sequential Procedural Order of Conducting a Din Torah

1. Decide which case you deal with first. You usually take the cases in the order that they came, with the exception of giving special precedence over a regular case in the following order >(first) Isha, talmid chacham, almanah, yasom.
2. Make sure both baalei din are present – if not send hazmanah ledin to nitan
  - a. Toen pays for hazmanah.
3. If nitan does not show up to bais din, he is put into nidui.
4. Dayan should arrange mamonus before the Din Torah starts.
  - a. You only get your full schar batalah, of the specific type of work that you are batul from, if you ask for this amount in advance before the Din Torah starts.
5. Decide together with the baalei din, what type of psak they want, pshara or din.
  - a. You should first try to encourage a pshara.
  - b. When we say din, we mean karov ledin, that we will try our hardest, to come as close as we reasonably can to what the din is. We strongly discourage absolute keDin Torah, because it is not practical to reach that level of precision.
  - c. The baalei din should be mekabel these dayanim, to accept upon themselves as binding, the type of psak that they requested (pshara or din).
  - d. Most cases require a kabalas kinyan to make the psak din and kabalas hadayanim binding.
6. You should verify that the other dayanim on the case are kosher and worthy to be dayanim.
  - a. You should remove any talmid boor from being present, as he can inject krumkeit into the process.
7. Dayanim act with koveid rosh & aimas hadin and they project that attitude of aimas hadin to the baalei din.
  - a. Dayanim do ituf harosh to promote and project solemnity.
  - b. There are no devarim beteilim spoken in bais din.
8. Treat baalei din equally, and equate baalei din in dress, to promote fairness
  - a. Dayanim should view both baalei din with suspicion, keilu they are reshaim, so that they will be vigilant to catch any inconsistencies.
9. Nizkakin letovea techila, and the toen opens the case with his taynos first.
  - a. We allow the toen to go first, even to the extent of allowing him to finish all of his elaborate and detailed taynos, before allowing a response from the nitan.

- b. The toen and nitan should stand, during the entire extended process of presenting their taynos and rayos, until the dayanim start their later stage of masah umatan (#14) amongst themselves.
  - c. The dayanim always sit. The fact that the baalei din have to stand in respect of the sitting dayanim, promotes contrition on the part of the baalei din. Only when the baalei din's active presentation process is over, are they allowed to sit.
- 10. The dayanim say over the taynos of the baalei din. This is for the sake of clarity, and also so that the baalei will feel that they were understood, so that they will accept the psak din as being fair.
  - a. The dayanim do not say over the baalei din's taynos at the time they issue their psak.
- 11. Bain Din writes down the taynos of the baalei din. This way, they have an official record, so that the baalei can not change their story if it goes against a rayah or edim. (The very next stage is bringing edim, and other rayos.)
  - a. The safra dedayna writes the taynos, but the dayanim have to supervise the sofer for accuracy.
  - b. Both baalei din equally pay the sofer.
- 12. The toen brings his edim.
  - a. The edim have to stand.
  - b. Bais Din scares the edim with the seriousness of the situation.
- 13. The nitan brings his edim.
- 14. Bais Din starts the dreesha vechakira stage, where they cross examine the baalei din, on their taynos and their rayos.
  - a. If the dayanim see that it is a din merumah, and that one baal din is not playing kosher, now is the time where they really turn on the heat.
  - b. For dinei mamonos, there is no formal formula of information that we need. We practically look for the basic facts of the case, of why the person owes the money.
    - i. By dinei mamonos, we mean the regular type of dinei mamonos that we are dan on bizman hazeh. Knasos, for example, do need drisha vechakeera.
  - c. For dinei nefashos or to punish someone, we look for the 7 basic situational ingredients, which are the same seven basics components of edus that can be used to potentially show that edim are edim zomemim, like the time, date and place. This is in addition to the basic requirement of obtaining a clear picture of the basic facts of the case of why the person is chayav.
- 15. Now that the dayanim have heard the taynos and the facts and the rayos presented by the baalei din, and had a chance to cross-examine them for accuracy and clarity, now the dayanim conduct masa umatan to analyze & determine what the din is.

- a. The baalei din and edim have to leave, so that they do not see the dayanim's thought process, to see how to improperly modify their taynos in order to win the case.
  - b. Masah umatan is done until the dayanim feel that the din is barur.
  - c. If they are relying on a psak that they heard was given in a different case, and are being medameh milsa lemilsa to this case, then if there is a gadol be'ir, they should consult with this gadol, to make sure that the application of that psak to this case is correct.
  - d. The dayanim can only paskin, if they are matdzik the psak in their hearts and feel that it is emes.
16. Now that each dayan feels that he knows how he himself would paskin, they state their psak openly in a voting process.
- a. By dinei nefashos, we start from the smallest dayan (so that a smaller dayan is not influenced by what the bigger talmid chacham says).
  - b. By dinei mamonos, most poskim say that you can start with any dayan, and that there is no special order. There is a yesh omrim minority view that we start from the smallest dayan even by dinei mamonos.
  - c. We go by the rov of dayanim when it comes to din.
  - d. By pshara, we need a unanimous psak by all of the dayanim.
  - e. Lechatchila the dayan should say the reason of his psak. If he does not know reason (for example if has a mesorah to this psak, but he himself does not know the reason) then it is not me'akev.
17. The Bais Din should paskin expeditiously, without inuy hadin, an unnecessary delay.
18. Once the individual dayanim have stated their view of the psak, and we see how the majority of Bais Din paskined, then the Gadol Shebedayanim issues a formal psak on behalf of the complete Bais Din, and a formal gmar din of "ploni chayav ata litten lo, tzeh ve'ten lo". That the halacha is that ploni is chayav, and a demand that Ploni carry out the fulfillment of that psak.
19. Once the Din Torah is over, then the dayanim view the baalei din like zakayin and treat them with the regular halacha of diyun lechas zchus.
20. If one of the baalei din asks for it, then we do go ahead and have Bais Din write down the baalei din's taynos, as a summary of the case, so that this baal din will be able to appeal the psak to a greater Bais Din.