



Substantiating Signatures

The *Mishnah* (2:4) discusses substantiating the signatures on a document. Interestingly the cases discussed is where the individuals confirm their own signatures. The *Mishnah* teaches that if they both verify both signatures then it is sufficient. In other words, there are two witnesses for each signature. If however they are only verifying their own signatures, then it is the subject of debate. *Rebbi* maintains that it is not enough and two witnesses are required for each signature. The *Chachamim* however argue that no additional witnesses are required.

The *Bartenura*, citing the *Gemara* (21a) explains the debate as follows. *Rebbi* understands that the witnesses are testifying about the individual signatures. Consequently, two witnesses are needed for each signature. The *Chachamim* however maintain that the witnesses are testifying about the substance of the document. Since there are already two witnesses, and no additional witnesses are required.

It would seem that according to the *Chachamim*, in order for the two people to be sufficient, they would need to remember that substance of the contract on which they signed. Indeed, *Rashi* comments that according to the *Chachamim*, the witnesses say, “we saw the loan, and we signed it,” suggesting that they remember the loan.

The *Tosfot HaRid* however disagrees maintaining that if the witnesses recognised their signatures, it would be sufficient. He explains that debate between *Rebbi* and the *Chachamim* as follows. According to *Rebbi* even if the two witnesses remembered loan, they would still need two witnesses for each signature. Without substantiating the document in that manner, the loan would only have the force a verbal loan. In other words, the money could not be claimed back from land that was sold after the loan, and the lender could simply claim it was paid back. For the loan to be defined as a contractual loan the signatures must be validated. The

Chachamim however disagree arguing that even if they do not remember the loan, each witness confirming their own signatures would be enough. In the beginning they each testified about the loan. Each individual signature related to the substance of the contract. Consequently, they do not need to now remember, since they are confirming their own signature that related to that loan when it was signed.¹

The *Ritva* explains similarly that since they signed the document, if they say it their handwriting then the document itself is substantiated and the witnesses confirmed (*ke'mi she'nechkeru edutan be'beit din*). Consequently, it is as if they are now testifying faithfully about the substance of the document. The *Shach* cites the *Maharik* who explains similarly that when the witnesses identify their signatures it is immediately equivalent to testifying about the substance of the document. After that point, they would not be believed if they said we did not see the loan.

This point is also debated between the *Rambam* (*Edut* 8:1) and *Raavad* (8:4). The *Shulchan Aruch* (46:7) rules like the *Rambam* that if the witnesses have no memory of the loan, then they cannot verify their signatures. The *Raavad*, takes the position that the witnesses need not remember. He argues that if they identify their signatures but argue that they it was a *shtar amana* – a document written in advance of a loan – they are not believed. The *Shach* defends the *Rambam* explaining that in the case where they claim it was a *shtar amana* they are not believed because they are incriminating themselves. The case of the *Rambam* however is different since they simply deny knowledge of the loan all together.

The *Keztot* (46:11) however understands that the *Rambam* was only discounting the case where they have no memory of the loan at all. If however they remember being instructed to sign on the document then he would agree that that would be enough.

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¹ The *Tosfot Chadashim* notes that after the *Mishnah* records that the *Chachamim* position that no additional witnesses are required, they add “rather they are believed when they say, this is my handwriting”. The *Tosfot Chadashim* explains that the additional reference to believin them, can be

explained based on the *Yerushalmi* (cited by the *Rosh*) that they are believed, even if they do not remember that details of the contract without reading it.

Revision Questions

כתובות א' ט' – ג' ב'

- If a single woman is found pregnant, is she trusted when she says the father is a *kohen*? (א' ט')
- What did *R' Yochanan ben Nuri* rule, regarding a woman who was raped and whether she could then marry a *kohen* and why? (א' י')
- In a divorce case where the value of a *ketubah* is disputed (100 or 200), on what basis do they decide the value? (ב' א')
- What case is brought in the *Mishnah* of "*ha'pe she'asar...*"? (ב' ב')
- When are witnesses to a contract believed if they claim they were forced to sign the document? (ב' ג')
- Explain the debate regarding whether it is enough if each of the witnesses on a contract to substantiate their own signature. (ב' ד')
- Is a woman believed if she says she was divorced but cannot produce her *get*? (ב' ה')
- What is the other case brought in the same *Mishnah* that shares a similar law to the previous question? (ב' ה')
- If two women were captives and both claim that they are *tehora*, when are they believed? (ב' ו')
- How many witnesses does one require to prove he is a *Kohen*? (ב' ז')
- What are the opinions of *R' Yehuda*, *R' Elazar* and *Rabban Shimon ben Gamliel* regarding the previous question? (ב' ח')
- If a woman is kidnapped, when is she allowed to return to her husband? (ב' ט')
- What can one testify about when they are an adult regarding what they saw when they were a child? (List five matters.) (ב' י')
- What does it mean when it says: "אלו נערות שיש להן קנס"? (ג' א')
- Which *ne'arot* do not have a *knas* associated with them? (ג' ב')
- What is the source for the law that if one is sentenced to death, he is exempt from monetary payments? (ג' ב')

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
7 January כ"ז טבת	8 January כ"ח טבת	9 January כ"ט טבת	10 January ל' טבת	11 January א' שבט	12 January ב' שבט	13 January ג' שבט
Ketubot 3:3-4	Ketubot 3:5-6	Ketubot 3:7-8	Ketubot 3:9-4:1	Ketubot 4:2-3	Ketubot 4:4-5	Ketubot 4:6-7

