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The Beth Din of America takes confidentiality very seriously. Before publishing any case, we modify key details to protect the identities of all parties involved. Names, dates, locations, and other identifying information are changed or omitted, and certain unique facts may be altered. For example, the industry in which the dispute took place is often modified.

כ"ט חשוון תשפ"ו
November 20, 2025

Psak Din - Wasser v. Katz and Executive Journeys Ltd.

The Beth Din of America, having been chosen by the parties as arbitrators pursuant to an arbitration agreement (the "Arbitration Agreement," attached hereto as Exhibit A) dated as of August 28, 2025, between Noam Wasser, with an address at Rashba 7/2, Jerusalem ("Plaintiff"), and Michael (Zvi) Katz and Executive Journeys Ltd., each with an address at 214 Marlborough Street, Philadelphia, PA 19103, to submit for a binding decision with respect to a June 2025 program in Switzerland, hereby decides as follows:

Facts and Claims

This case arises out of a dispute concerning an executive leadership conference in Lake Geneva, Switzerland organized by Defendant. Plaintiff and a companion were scheduled to participate in the conference, which was to take place June 16 - 19, 2025. Plaintiff paid the full cost of the conference, \$7,300, in four installments, thereby reserving two conference spots.

On Friday, June 13th, just days before the conference, the twelve-day Iran-Israel war broke out. At the outset of the war, Ben Gurion Airport closed. Plaintiff, who lives in Israel, messaged Defendant in the early hours of June 13th to inform him of the outbreak of war and the closure of the airport, expressing uncertainty about his ability to attend the conference. In response, Defendant offered Plaintiff the opportunity to withdraw from the conference at that time and receive a full refund, explaining that he had a contractual hotel room release deadline later that Friday afternoon. If Plaintiff cancelled before that deadline, Defendant could return the reserved rooms to the hotel and recoup some of his costs, in which case he was prepared to credit back to Plaintiff a full refund. Once the release window closed, the rooms would be non-refundable.

Plaintiff expressed optimism that the airport would reopen quickly and instructed Defendant to retain his spots at the conference. He indicated he would follow up closer to the conference's start date. Plaintiff's flight to Switzerland had been scheduled for 5:00 am on Monday, June 16, and as of Friday, Plaintiff was still hopeful he would be able to make that flight.

Defendant emphasized that the offer to refund was conditional on Plaintiff making a prompt decision before the hotel release deadline that afternoon. He communicated that if Plaintiff waited the hotel rooms would already be non-refundable and it would be too late for Defendant to recover those costs. Plaintiff declined to cancel on Friday. On Saturday night, he informed Defendant that he was withdrawing from the conference. By that point, according to Defendant, the hotel release deadline had passed and the room costs were unrecoverable.

Defendant also asserts (although the evidence does not appear in the record) that he had made clear to all conference participants from the outset that deposits and payments were non-refundable, and that participants were encouraged to obtain travel insurance. Defendant contends that Plaintiff made all payments with that understanding. Defendant explained that group conference arrangements require substantial upfront payments and logistical coordination, and that conference organizers customarily enforce a no-refund policy within 60 days of the conference's start date to safeguard the financial commitments made in reliance on confirmed participants.

Defendant also expressed concern that Plaintiff had been publicly misrepresenting the situation by telling others that Defendant had refused to issue a refund improperly. Defendant contended that such statements were misleading, as a full refund had in fact been offered promptly on Friday, contingent upon timely cancellation.

Plaintiff seeks a full refund of the amount he prepaid for the conference, and articulated his claim as grounded in the halachic concept of *makas medina*, which is discussed in more detail below.

Decision

Defendant's offer, and Plaintiff's decline, of a refund on Friday before the hotel room release deadline, is certainly relevant to this case. However, before addressing the implications of that offer, we first analyze the merits of some of Plaintiff's other arguments on their own terms.

Plaintiff's principal contention is that, as a matter of halacha, this case constitutes a *makas medina*, a widespread calamity or force majeure event, such that his contractual obligation to pay for the conference falls away. He argues that the outbreak of war and the resulting grounding of flights out of Israel were unforeseeable circumstances entirely beyond his control, rendering his performance impossible.

The concept of *makas medina* received renewed and extensive attention during the COVID-19 pandemic, when the widespread disruptions caused by the epidemic raised difficult questions of payment liability in

cases involving cancelled weddings, vacation rentals, and similar arrangements.¹ In many of those cases, the transaction was rendered impossible or impractical because the event could no longer take place or the rental property could no longer be lawfully used due to a calamity that affected all participants. These included weddings cancelled due to governmental restrictions on gatherings or travel limitations affecting guests, where both the caterer and the marrying couple were thwarted in their ability to perform by a common cause. The present case differs in that respect. Here, the outbreak of a war directly affected only Plaintiff and not Defendant.

One halachic source addressing the enforceability of contracts such as these in the face of unforeseen events is the *Gemara* in *Bava Metzia* 79a–b, which discusses a boat operator hired to transport wine whose vessel and cargo sank mid-journey. The Talmud analyzes, based on the wording of the agreement, whether either party remains bound to the wine transport contract following the casualty. Based on that (according to the reading of most Rishonim), the Talmud assesses whether or not the boat operator must refund to the wine owner the payment already tendered for the post-casualty leg of the journey. If the contract specified a particular boat (*sefina zu*) but anticipated the carriage of wine generally and not any particular stock (*yayin stam*), then the boat owner, whose specific vessel was lost, is the party “faulted” for being unable to perform the contract going forward. The wine owner remains ready, willing and able to act under the contract and gets his money back due to the boat owner’s breach. Conversely, if the contract called for a particular batch of wine but any available vessel, the boat owner may retain the payment since he can charge the wine owner for the carriage service he stood ready to perform, but which the wine owner is no longer capable of utilizing given the loss of the wine specified in the contract. In essence, the *Gemara* focuses on which party remains capable of fulfilling the contract’s terms. The party whose ability to perform has been eliminated by the unforeseen event is charged without refund.²

¹ Tzirel Klein, “Commercial Custom, Common Law & Contracts Impacted by COVID-19,” Jewishprudence blog, July 14, 2020, <https://bethdin.org/commercial-custom-common-law-contracts-impacted-by-covid-19/>; Rabbi Itamar Rosensweig, “Loss Splitting in Jewish Law: A COVID-19 Example,” Jewishprudence blog, October 24, 2021, <https://bethdin.org/loss-splitting-in-jewish-law-a-covid-19-example/>; and Rabbi Michael Zylberman, “COVID-19 and Canceled Rental and Employment Contracts.” *The Journal of the Beth Din of America* 3 (2023): p. 150.

² The foregoing *sugya* focuses on which party remains willing and able to perform, and establishes that an unforeseen event beyond a party’s control, such as the loss of a boat or cargo, does not, in itself, excuse nonperformance. A different *sugya*, however, appears to articulate a different principle. In *Bava Metzia* 77b, the *Gemara* discusses a case where an employer hires workers to irrigate a field, but unexpected rainfall renders their labor unnecessary. The *Gemara* rules, and *Rema* (Choshen Mishpat 334:1) codifies, that the workers are not entitled to payment for work they did not perform. Under this principle, known as *pseida dipoel* (the loss of the workers) the contract is effectively unwound when the agreed-upon work becomes impossible through no fault of either party, and the laborer (almost) always bears the loss. Building on that *sugya*, *Rosh* interprets *Bava Metzia* 79a–b differently, reasoning that where the boat operator can perform but the wine owner cannot, the contract does not necessarily remain intact; the boat operator cannot retain the payment because the underlying transaction has been frustrated. Applying that framework to our case, Defendant was the party engaged to perform a service for Plaintiff, and that performance became impossible due to events outside Plaintiff’s control. Under the *pseida dipoel* rule of *Bava Metzia* 77b, such a contract would unravel, and Defendant would bear the resulting loss. However, three important caveats must be noted in assessing the applicability of *Rosh*’s approach to this case:

1. *Mechaber* (Choshen Mishpat 311:3), rules in accordance with the dominant view among the *Rishonim*, including *Tosafos* and *Rambam*, that the *Bava Metzia* 79a–b *sugya* establishes that a party who remains capable of performance may collect payment. *Rema* adopts *Rosh*’s position,

The underlying principle derived from this *sugya* is that liability turns not on fault, but on which party remains capable of performance. *Rashba* reinforces this principle in a *teshuva* addressing a case analogous to ours.³ A man was sent by the king on official business, requiring him to travel from Murcia (Spain) to Tlemcen (Algeria). He hired an attendant to accompany him for the duration of the journey. When the man died mid-trip, the journey and the attendant's responsibilities came to an abrupt end. The attendant nevertheless sought payment from the man's heirs. *Rashba*, citing the boat and wine *sugya*, rules that the attendant is entitled to his wages. He had stood ready and able to fulfill his contractual obligation, even though the purpose of the employment had ceased. The instant case is similar. Defendant remained fully prepared and capable of providing the contracted service, and the fact that Plaintiff could not participate due to circumstances beyond his control does not negate Defendant's right to payment.⁴

Following this approach, Defendant should be entitled to retain the payment. The party who remains capable of performance may collect, or in this case, keep, his fee. Defendant is analogous to the boat owner in the Gemara who remains able to complete the voyage: he proceeded with the conference as scheduled, unaffected by the Israel–Iran war. The unforeseen event impeded only Plaintiff's ability to

but *Shach* notes that the majority of authorities side with the *Mechaber* and that this represents the normative halacha.

2. Even if one follows *Rema's* view, *Sma* (s"k 5) notes that the underlying position of the Rishonim on which *Rema* relies would not require the return of funds already paid. Accordingly, in a case such as this, where the payment was made in advance, Defendant would retain the funds already received.
3. *Pischei Choshen* (*Sechirus* ch. 12 n. 34) discusses the tension between the *pseida dipoel* principle and the rule governing the boat and wine case in *Bava Metzia* 79a–b. Among other resolutions, he suggests the following compelling and readily intuitive distinction: *pseida dipoel* applies primarily where the unforeseen event directly affects the object of the contract, where the contracted work itself becomes objectively impossible. By contrast, where the unexpected event affects one party personally and prevents that party from performing, but does not undermine the subject matter of the agreement, the boat and wine rule, allocating the loss to the party unable to perform, would continue to apply.

(“דאפשר דלא אמרו כן אלא כשאירע אונס בשל פועל, או עכ"פ שעל ידי האונס אינו יכול לעשות מלאכתו, אבל באונס שאירע בשל בעל הבית עצמו, שפיר יש לומר מזלא דבעה"ב גרם ופסידא דידיה הוא... דה"נ האונס הוא בבעל-הבית ופועל יכול לומר הא קאמינא”)

³ *Teshuvot haRashba* 6:224, cited by *Beis Yosef*, *Choshen Mishpat* 335:3.

⁴ Notably, before analyzing the case as a halachic matter, *Rashba* notes that common commercial custom (*minhag hasochrim*) would trump any applicable halachic rules to determine the parties' obligations. For present purposes, contemporary commercial custom can be gleaned from the common-law doctrine of impossibility as reflected in U.S. case law. Courts generally apply that doctrine only where the essence of the contracted-for performance has been destroyed, and only where the event rendering performance impossible was truly unanticipated. See *Kel Kim Corp. v. Cent. Markets, Inc.*, 70 N.Y.2d 900, 519 N.E.2d 295 (1987) (“impossibility excuses a party's performance only when the destruction of the subject matter of the contract or the means of performance makes performance objectively impossible. Moreover, the impossibility must be produced by an unanticipated event that could not have been foreseen or guarded against in the contract.”) Under this framework, just as under halacha, an impediment affecting only one party's ability to perform rather than the feasibility of the service itself does not excuse performance. As for foreseeability, given disruptions to travel arising from the political and military situation in Israel in early 2025 cannot readily be characterized as unforeseeable.

benefit from the contracted service, not Defendant's ability to provide it. Since Defendant was ready, willing, and able to perform, he is entitled to retain the amount paid.

Once the actual facts of this case are considered, Defendant's right to retain Plaintiff's payment is even stronger. First, even after the outbreak of war and the closure of the airport, Defendant made every effort to mitigate Plaintiff's potential loss by offering Plaintiff a full refund on Friday, contingent upon timely cancellation before the hotel room release deadline. Plaintiff elected to wait, fully aware that by doing so he risked forfeiting the refund once that deadline had passed. Under these circumstances, Defendant's entitlement to retain the payment is particularly clear.⁵ Second, Plaintiff had already prepaid the full amount of the conference. Some authorities have held that advance payment reflects an implied understanding that the provider may treat the funds as his so long as he remains ready and able to perform. By choosing to pay in advance, the payer assumes the risk of unforeseen circumstances that might prevent him from making use of the service, and thereby accepts that the payment will be retained if such circumstances arise.⁶

It is important to note, in the context of a dispute about plans thwarted due to a war fought by Israel, the extraordinary hardship faced by *acheinu bais Yisroel* living in Israel at a time of war, and of the deep sense of shared concern that all Jews naturally feel with one another in trying times. Plaintiff's plans were disrupted through no fault of his own. Nevertheless, halacha and equity point to the outcome set forth in the discussion above.

Based on the foregoing, Defendant is entitled to retain the full amount paid for the conference. Plaintiff's claim for refund is denied.

All other claims are hereby denied. Any request for modification of this award by the arbitration panel shall be in accordance with the rules and procedures of the Beth Din of America, the provisions set forth herein, and the arbitration agreement of the parties. The obligations set forth herein shall be enforceable in any court of competent jurisdiction, in accordance with the rules and procedures of the Beth Din of America and the arbitration agreement. Any provision of this agreement may be modified with the written consent of both parties. Except as otherwise indicated, all of the provisions of this decision shall take effect immediately.

IN WITNESS WHEREOF, we hereby sign and affirm this order as of the date written above.

Rabbi AA, Esq.

⁵ If, in fact, Defendant expressly allocated the risk of unforeseen events to participants at the time of purchase and informed customers that payments were non-refundable and advised them to obtain travel insurance, those facts would also point towards the conclusion that Defendant should not be required to refund the payment.

⁶ See *Kehilos Yaakov, Bava Metziah* 46:4 and the section titled "Prepayment and Assumption of Risk" in Rabbi Michoel Zylberman, "COVID-19 and Canceled Rental and Employment Contracts." [The Journal of the Beth Din of America](#) 3 (2023): p. 150.