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LOS ANGELES SUPERIOR COURT

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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

RITA PAUKER,
Plaintiff,

vs.

RABBI SAMUEL OHANA, BETH
MIDRASH MISHKAN ISRAEL,
Defendants

Case No. BS119163
Before the Honorable Zaven V. Sinanian

**REPLY TO OPPOSITION TO PETITION
TO CONFIRM ARBITRATION AWARD OF
THE BAIS DIN OF THE RABBINICAL
COUNCIL OF CALIFORNIA;
DECLARATIONS OF RABBI AVROHOM
UNION, RABBI NACHUM SAUER, RABBI
GERSHON BESS, RABBI MICHAEL
BROYDE, BARUCH C. COHEN, JEFFREY
BOHRER; RITA PAUKER**

Date: April 3, 2009
Time: 8:30 am
Place: Courtroom
111 North Hill Street
Los Angeles, CA 90012

Plaintiff Rita Pauker (hereinafter "Plaintiff") hereby Replies to the Opposition filed by Defendants Rabbi Samuel Ohana, Beth Midrash Mishkan Israel (hereinafter "Defendants" and/or "Rabbi Ohana") to Plaintiff's *Petition to Confirm Arbitration Award of the Bais Din of the Rabbinical Council of California* (hereinafter "Petition").

Defendants' Opposition claims that the RCC's Bais Din award should be vacated in its entirety because: (1) the RCC Bais Din failed to comply with Jewish laws of procedure in Bais

1 Din hearings and in issuance of the Bais Din award; (2) the RCC Bais Din's binding ruling is
2 appealable; (3) the RCC Bais Din's binding ruling is appealable to the Supreme Rabbinic Court
3 in Jerusalem Israel; (4) the RCC Bais Din's binding ruling is actually "on appeal" to the
4 Supreme Rabbinic Court in Jerusalem Israel (that an appeal is actually pending) and that this
5 case should be stayed; (5) Rabbi Ohana was deprived due process of law because he was not
6 represented by counsel at the Bais Din; (6) Rabbi Nachum Sauer had personal knowledge of the
7 disputed evidentiary facts concerning this proceeding and did not disclose them in violation of
8 C.C.P. § 170.1(a) and C.C.P. § 1281.9(a); (7) Rabbi Ohana was not aware of Rabbi Sauer's
9 alleged personal knowledge of the disputed evidentiary facts concerning this proceeding until
10 February 4, 2009; (8) the RCC Bais Din never quoted any Rabbinical legal source as the basis
11 for its decision; (9) the RCC Bais Din communicated the award to Plaintiff 10 days prior to
12 communicating same to defendants.

13 Plaintiffs number Defendants' argument to conclusively rebut each one in the order
14 made. The reality is the complete converse of Defendants' opposition: (1) the RCC Bais Din
15 complied with Jewish laws of procedure in Bais Din hearings and in issuance of the Bais Din
16 Psak; (2) the RCC Bais Din's binding ruling is not appealable; (3) the RCC Bais Din's binding
17 ruling is not appealable to the Supreme Rabbinic Court in Jerusalem Israel; (4) the RCC Bais
18 Din's binding ruling is not "on appeal" to the Supreme Rabbinic Court in Jerusalem Israel and
19 that this case should not be stayed; (5) Rabbi Ohana was not deprived due process of law; (6)
20 Rabbi Nachum Sauer did not have personal knowledge of the disputed evidentiary facts
21 concerning this proceeding and did have any obligation to disclose them pursuant to C.C.P. §
22 170.1(a) and C.C.P. § 1281.9(a); (7) Rabbi Ohana was aware of Rabbi Sauer's alleged quote in
23 the newspaper at trial; (8) the RCC Bais Din was not obligated to quote any Rabbinical legal
24 source as the basis for its decision; (9) the RCC Bais Din did not communicate the award to
25 Plaintiff 10 days prior to communicating same to defendants.

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1 **DEFENDANTS' OPPOSITION DOES NOT PROVIDE A VALID**
2 **BASIS FOR VACATING AN ARBITRATION AWARD**

3 In general, courts may not interfere with arbitration awards. Courts may not examine the
4 merits of the controversy, the sufficiency of the evidence supporting the award, or the reasoning
5 supporting the decision. A court may not set aside an arbitration award even if the arbitrator
6 made an error in law or fact. *Santa Clara-San Benito etc. Elec. Contractors' Assn. v. Local*
7 *Union No. 332* (1974) 40 Cal. App. 3d 431, 437 [114 Cal. Rptr. 909]. As explained more
8 recently by our Supreme Court: "[I]t is the general rule that, with narrow exceptions, an
9 arbitrator's decision cannot be reviewed for errors of fact or law. In reaffirming this general
10 rule, we recognize there is a risk that the arbitrator will make a mistake. That risk, however, is
11 acceptable for two reasons. First, by voluntarily submitting to arbitration, the parties have
12 agreed to bear that risk in return for a quick, inexpensive, and conclusive resolution of their
13 dispute. A second reason why we tolerate the risk of an erroneous decision is because the
14 Legislature has reduced the risk to the parties of such a decision by providing for judicial
15 review in circumstances involving serious problems with the award itself, or with the fairness of
16 the arbitration process." *Moncharsh v. Heily & Blase* (1992) 3 Cal.4th 1 [10 Cal.Rptr.2d 183,
17 832 P.2d 899].

18 Code of Civil Procedure section 1286 et seq., strictly limits this court's role. On a
19 petition to confirm, correct, or vacate an arbitrator's award, the court may (1) confirm the
20 award as made, (2) correct the award and confirm it as corrected, (3) vacate the award, or (4)
21 dismiss the proceeding. (§ 1286.) The court may vacate the award on any of the following five
22 grounds: "(a) The award was procured by corruption, fraud or other undue means; (b) There
23 was corruption in any of the arbitrators; (c) The rights of such party were substantially
24 prejudiced by misconduct of a neutral arbitrator; (d) The arbitrators exceeded their powers and
25 the award cannot be corrected without affecting the merits of the decision upon the controversy
26 submitted; or (e) The rights of such party were substantially prejudiced by the refusal of the
27 arbitrators to postpone the hearing upon sufficient cause being shown therefor or by the refusal
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1 of the arbitrators to hear evidence material to the controversy or by other conduct of the
2 arbitrators contrary to the provisions of this title." (§1286.2.)

3 The California courts have declined to read section 1286.2, subdivision (e), as requiring
4 that an arbitrator always resolve disputes through a disgruntled party's claims. The purpose of
5 arbitration, as reflected in the Act, is to provide a "speedy and relatively inexpensive means of
6 dispute resolution." *Moncharsh v. Heily & Blase* (1992) 3 Cal. 4th 1, 9 [10 Cal. Rptr. 2d 183,
7 832 P.2d 899]. Having chosen arbitration over civil litigation, the parties should "reap the
8 advantages that flow from the use of that nontechnical, summary procedure." (Id. at p. 11).

9 As the California Courts of Appeal - 4th District recently decided in *Christensen v.*
10 *Smith*, cited as 2009 DJDAR 2973, (dated February 27, 2009): generally, "[i]n an arbitration,
11 'the parties do not get to appeal an adverse decision.'" (*Evans v. Centerstone Development Co.*
12 (2005) 134 Cal.App.4th 151, 167 (*Evans*). Unlike *DirecTV (Cable Connection, Inc. v.*
13 *DIRECTV, Inc.* (2008) 44 Cal.4th 1334 ("DirecTV"), the terms here do not expressly deprive
14 the arbitrator of the power to commit legal error. As the Supreme Court observed in *DirecTV*,
15 "A provision requiring arbitrators to apply the law leaves open the possibility that they are
16 empowered to apply it 'wrongly as well as rightly.'" (*DirecTV*, supra, 44 Cal.4th at p. 1360.)
17 After all, "'[t]he arbitrator's resolution of these issues is what the parties bargained for in the
18 arbitration agreement.'" [Citations.]" (Id. at p. 1361.) *DirecTV* cautioned parties to "expressly
19 provide for an expanded scope of review" to distinguish their agreement from "the usual
20 expectations of parties to arbitration agreements, who accept the risk of legal error in exchange
21 for the benefits of a quick, inexpensive, and conclusive resolution." (Id. at p. 1360.) Because
22 the parties did not do so, there is no basis for the expanded appellate review the Defendants
23 now seek. ... Any other reading opens the door to the full-bore legal and evidentiary appeals
24 that can 'rende[r] informal arbitration merely a prelude to a more cumbersome and time-
25 consuming judicial review process'"].

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1 **THE RCC BAIS DIN COMPLIED WITH JEWISH LAWS OF**
2 **PROCEDURE IN BAIS DIN HEARINGS AND IN ISSUANCE OF THE**
3 **BAIS DIN PSAK**

4 Defendants' present no credible evidence that the RCC Bais Din did not comply with
5 Jewish law and procedure. No expert testimony was presented as to what the Jewish Law is on
6 any given topic that the RCC Bais Din allegedly violated. Further, as evidenced by the
7 Arbitration Agreement, the parties explicitly waived that claim when they signed the arbitration
8 agreement that provided: "*that the arbitrators may follow any lawful procedure as they decide*"
9 (as seen in Exhibit "2" to the *Petition to Confirm Arbitration Award of the Bais Din of the*
10 *Rabbinical Council of California*)

11 As evidenced by the Declarations of Rabbi Avrohom Union, the administrator, Rabbi
12 Nachum Sauer, and Rabbi Gershon Bess the arbitrators of the RCC Bais Din for over twenty
13 years, everything done in this case was done lawfully and in accordance with Jewish law and
14 procedure.

15 **THE RCC BAIS DIN'S BINDING RULING: (1) IS NOT**
16 **APPEALABLE; (2) IS NOT APPEALABLE TO THE SUPREME**
17 **RABBINIC COURT IN JERUSALEM ISRAEL; (3) IS NOT "ON**
18 **APPEAL" TO THE SUPREME RABBINIC COURT IN JERUSALEM**
19 **ISRAEL; (4) THIS CASE SHOULD NOT BE STAYED; (5) RABBI**
20 **OHANA EXPLICITLY WAIVED HIS RIGHT TO APPEAL THE RCC**
21 **BAIS DIN'S BINDING RULING**

22 Defendants' present no credible evidence that the RCC Bais Din ruling is appealable as a
23 matter of law. No expert testimony was presented as to the appealability of a Bais Din award.
24 Further, as evidenced by the Arbitration Agreement, the parties explicitly waived their rights to
25 appeal when they signed the arbitration agreement that provided: "*The parties recognize and*
26 *acknowledge that by agreeing to binding arbitration, they waive and surrender their right to*
27 *present their dispute to a court. The only recourse to court will be in the event that one of the*
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1 *parties hereto does not honor this agreement or the decisions made by the arbitrators under this*
2 *agreement” (as seen in Exhibit “2” to the Petition to Confirm Arbitration Award of the Bais Din*
3 *of the Rabbinical Council of California).*

4 As evidenced by the Declarations of Rabbi Avrohom Union, Rabbi Nachum Sauer,
5 Rabbi Gershon Bess, and Baruch Cohen, Rabbi Union began the arbitration proceeding by
6 clearly advising the parties that they are entering into “*binding*” arbitration specifically giving
7 up their rights to appeal. Rabbi Union explicitly informed the parties beforehand, of the
8 procedure as to how to move to reconsider the Bais Din’s decision pursuant to “Choshen
9 Mishpat Section 25” that so long as the Motion for Reconsideration is in writing, copied to the
10 other side, presented to the RCC Bais Din for reconsideration, and presents newly discovered
11 evidence of arguments that could not have presented at the day of trial, for whatever the reason.
12 Rabbi Union has declared that said procedures were clearly not complied with by Defendants,
13 nor has Defendants proffered any evidence to the contrary. Further, Rabbi Union declares that
14 in his 20 years of overseeing the RCC Bais Din, no one has ever sought to appeal the RCC’s
15 ruling to a different Bais din because that would be contrary to Jewish law and contrary to the
16 terms of the arbitration agreement.

17 Rabbi Union and Rabbi Michael Broyde have declared, that no Bais Din has the power
18 to review or overturn a ruling of a different Bais Din. That’s the functional equivalent of a San
19 Diego Superior Court reviewing a decision of a Los Angeles Superior Court.

20 Rabbi Union has declared, that he is familiar with the “Bais Din Hagadol” the Supreme
21 Rabbinic Court in Jerusalem Israel and is familiar with its procedures and that the Bais Din
22 Hagadol has appellate jurisdiction limited to reviewing cases brought before Israeli government
23 sponsored Rabbinical Courts.

24 Rabbi Union has declared, that the Hebrew document alleged by Defendants to be the
25 “Appeal” to the Bais Din Hagadol was addressed to Rabbi Yitzchok Peretz, who is the personal
26 secretary of the Sefardic Chief Rabbi of the State of Israel, Rabbi Shlomo Amar, who has no
27 position and does not serve in the Bais Din Hagadol. Basically, Defendants did not even FILE
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1 the appeal to the Bais Din Hagadol. There is no file stamped document showing that the appeal
2 was actually filed.

3 Rabbi Ohana's declaration is not notarized and fails to present an English translation of
4 the letter in Hebrew purporting to be an appeal to the Bais Din Hagadol, so the document in
5 question is irrelevant, unauthenticated and hearsay. Rabbi Ohana presents no qualifications as
6 an expert translator from Hebrew to English (he is not a Certified/ Registered Court Interpreter
7 or Accredited Translator registered with the American Translators Association) and his
8 declaration and the alleged appeal is objectionable in violation of California Government Code §
9 27293(a)(1).¹

10 **RABBI OHANA EXPLICITLY WAIVED HIS RIGHT TO BE**
11 **REPRESENTED BY COUNSEL AT THE BAIS DIN**

12 Defendants' present no credible evidence that the RCC Bais Din deprived rabbi ohana of
13 due process of law because he was not represented by counsel at the Bais Din. Further, as

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15 ¹California Government Code § 27293. Except as otherwise provided in subdivision (b), if an instrument
16 intended for record is executed or certified in whole or in part in a language other than English, the recorder shall not
17 accept the instrument for record. (2) (A) A translation in English of an instrument executed or certified in whole or in
18 part in a language other than English may be presented to the county clerk for verification that the translation was
19 performed by a certified or registered court interpreter, as described in Section 68561, or by an accredited translator
20 registered with the American Translators Association. The translation shall be accompanied by a notarized declaration
21 by the interpreter or translator that the translation is true and accurate, and includes the certification, qualification, or
22 registration of the interpreter or translator. The clerk shall consult an Internet Web site maintained by the Judicial
23 Council or the American Translators Association in verifying the certification, qualification, or registration of the
24 interpreter or translator. (B) Upon verification that the translation was performed by an interpreter or translator
25 described in subparagraph (A), and that the translation is accompanied by a notarized declaration as required pursuant
26 to subparagraph (A), the clerk shall duly make certification of that verification under seal of the county, attach the
27 certification to the translation, and attach the certified translation to the original instrument. (C) For this verification
28 and certification, a fee of ten dollars (\$10) shall be paid to the county clerk for each document submitted for
certification. The attached original instrument and certified translation may be presented to the recorder, and, upon
payment of the usual fees, the recorder shall accept and permanently file the instrument and record the certified
translation. The recording of the certified translation gives notice and is of the same effect as the recording of an
original instrument. Certified copies of the recorded translation may be recorded in other counties, with the same effect
as the recording of the original translation, provided, however, that in those counties where a photostatic or
photographic method of recording is employed, the whole instrument, including the foreign language and the translation,
may be recorded, and the original instrument returned to the party leaving it for record or upon his or her order. (b)
The provisions of subdivision (a) do not apply to any instrument offered for record that contains provisions in English
and a translation of the English provisions in a language other than English, provided that the English provisions and
the translation thereof are specifically set forth in state or federal law. (c) The county clerk is not required to issue a
translation certificate if he or she is unable to confirm the certification, registration, or accreditation of the translator,
as required in subdivision (a).

1 evidenced by the Arbitration Agreement, the parties explicitly waived their rights to counsel
2 when they signed the arbitration agreement that provided: "*We understand that we have the*
3 *right to be represented by attorneys or other advisors in the arbitration at any time but that any*
4 *party may elect to proceed without an attorney and the parties have the right to argue for*
5 *themselves before the arbitrators*" (as seen in Exhibit "2" to the *Petition to Confirm Arbitration*
6 *Award of the Bais Din of the Rabbinical Council of California*).

7 As evidenced by the Declarations of Rabbi Avrohom Union, Rabbi Nachum Sauer,
8 Rabbi Gershon Bess and Baruch Cohen, Rabbi Union explicitly advised the parties before the
9 arbitration that they had the right to counsel. Rabbi Union has declared that Rabbi Ohana knew
10 that Rita Pauker was represented by counsel, Baruch Cohen. Rabbi Union has declared that
11 over the 20-years worth of cases, there were many instances where parties chose to appeal in
12 pro per without attorneys to represent them.

13 **RABBI NACHUM SAUER DID NOT HAVE PERSONAL**
14 **KNOWLEDGE OF THE DISPUTED EVIDENTIARY FACTS**
15 **CONCERNING THIS PROCEEDING AND DID NOT DISCLOSE**
16 **THEM IN VIOLATION OF C.C.P. § 170.1(A) AND C.C.P. § 1281.9(A)**

17 'The party claiming bias bears the burden of establishing facts supporting its position.
18 [Citation.] The test is objective, i.e., whether the relationship would create an impression of
19 bias in the mind of a reasonable person. [Citation.]" (*Evans, supra*, 134 Cal.App.4th at p.
20 162).

21 The statutory and ethical guidelines incorporate the objective test for bias, and Rabbi
22 Sauer did nothing to expand the criteria for disclosure. (See Code Civ. Proc., § 1281.9, subd.
23 (a) [arbitrator's disclosure responsibility measured objectively by whether facts would
24 "reasonably" cast doubt on arbitrator's impartiality]; Cal. Rules of Court, Ethics Standards for
25 Neutral Arbitrators in Contractual Arbitration, standard 7(d) (hereafter Ethics Standards)
26 [same].)

27 As evidenced by the Declaration of Rabbi Nachum Sauer, the claim that Rabbi Sauer
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1 knew of the facts of this case (*Pauker vs. Ohana*) before the trial, is patently false. Rabbi Sauer
2 never heard of Plaintiff Rita Pauker before the trial. Rabbi Sauer was completely unfamiliar
3 with the dispute prior to the hearing. Rabbi Sauer was not consulted about the specifics of this
4 case, and was unaware of the particular dispute prior to trial.

5 Rabbi Sauer will declare that as a matter of personal and professional practice, and
6 pursuant to Jewish Law, he cannot and does not give tentative rulings to disputed matters
7 without both sides being present before him.

8 Regarding the article in question that seems to quote Rabbi Sauer, a careful reading of
9 the article does not state that he made them regarding this case. That article cites: "*Lending a*
10 *Torah to a synagogue is a common way Jews fulfill a mitzvah, or a good deed, said Rabbi*
11 *Nachum Sauer, who teaches Torah studies at Yeshiva University High Schools of Los Angeles.*
12 *"It is on long-term loan to their synagogue, but he still owns it," Sauer said."* Rabbi Sauer's
13 quote does not cite Rabbi Ohana or Rita Pauker.

14 Rabbi Sauer is an expert in Jewish Law (Halacha) who receives many inquiries on a
15 daily basis about Jewish law. Hardly a day goes by without Rabbi Sauer receiving numerous
16 queries regarding Jewish law. Rabbi Sauer believes that the "quote" attributed to him in the
17 article may have come from one of the thousands of queries that he receives about the Jewish
18 Law in general concerning disputed ownership of religious objects including Torahs.

19 Further, the RCC Bais Din has adjudicated disputes about ownership of *Sifrei Torah* in
20 the past and this case is not the first case about disputed *Sifrei Torah*. Rabbi Sauer has spoken
21 publicly on the general parameters of Jewish law on the subject law in general.

22 In short, the Defendants' disappointment with the result cannot be transmuted into
23 evidence of bias. Nothing in the Defendants' evidence suggests bias, and the absence of bias
24 cannot be cumulated to somehow produce an impression of bias.

25 **RABBI OHANA WAS AWARE OF RABBI SAUER'S ALLEGED**
26 **QUOTE IN THE NEWSPAPER AT THE ARBITRATION HEARING**

27 The notion that Rabbi Ohana "discovered" for the first time on February 4, 2009 (a
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1 newspaper article about) Rabbi Sauer's private ruling on this case, a claim heavily contested by
2 Rabbi Sauer, is false and rank perjury.

3 As evidenced by the Declaration of Baruch Cohen, on June 13, 2008, Mr. Cohen called
4 Rabbi Ohana as a professional courtesy requesting that he voluntarily agree to submit this
5 matter to the RCC Bais Din. Rabbi Ohana initially refused, claiming that he already obtained a
6 private ruling from Rabbi Sauer (outside of a Bais Din hearing) allowing him to keep the Sifrei
7 Torah. Rabbi Union had the exact same conversation with Rabbi Ohana arguing that he did not
8 need to come to Bais Din because Rabbi Sauer had already ruled in his favor, and this point is
9 contained in Rabbi Union's declaration as well. [A point of irony or impeachment here, in that
10 Rabbi Ohana told Rabbi Union and Mr. Cohen that Rabbi Sauer had already ruled for him when
11 the article in question seems to read against Rabbi Ohana]. What private ruling was Rabbi
12 Ohana talking about to Rabbi Union and Mr. Cohen back in June 13, 2008 if Rabbi Ohana
13 discovered it for the first time on February 4, 2009?

14 As evidenced by the Declaration of Baruch Cohen, on June 13, 2008, Rabbi Ohana told
15 him that he was furious and very upset over the negative and embarrassing media coverage that
16 he received on the internet about this dispute. Rabbi Ohana was particularly upset about the
17 "unfair" treatment he received in various internet blogs. Rabbi Ohana was obviously referring
18 to the article that he claims he discovered for the first time on February 4, 2009.

19 Rabbi Ohana finally agreed to take the dispute concerning the four Sifrei Torah for
20 binding arbitration before the RCC Bais Din before three arbitrators, one of which was Rabbi
21 Nachum Saur. Rabbi Ohana signed the Arbitration Agreement, specifically agreeing to allow
22 Rabbi Sauer to be on the arbitration panel, thereby waiving any possible conflicts. At trial,
23 Rabbi Ohana did not object to Rabbi Sauer's participation on the Bais Din panel, and clearly
24 consented.

25 Finally, Plaintiff presented the February 2007 article by Brad Greenberg in her
26 Arbitration Brief. Plaintiff attached a true and correct copy of "The Written Word" an online
27 portfolio of Brad A. Greenberg, <http://musclys.blogspot.com/2007/02/ownership-of-torah-scrolls-disputed.html> as an
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1 **JEFFREY BOHRER WAS NOT COUNSEL OF RECORD TO RITA**
2 **PAUKER IN THE BAIS DIN PROCEEDING OR IN THIS**
3 **CONFIRMATION PROCEEDING**

4 An incoherent and unintelligible reference was made by Defendants in the opposition
5 (page 2, lines 13-15) to the petition to confirm the RCC Bais Din award, that alleges that
6 Jeffrey Bohrer represented Mrs. Pauker in the Bais Din proceeding. This reference is reiterated
7 as fact in Defendants' motion to disqualify attorneys Baruch Cohen and Jeffrey Boher.

8 Jeffrey Bohrer was not counsel of record to Rita Pauker. His name did not appear on the
9 Petition to Confirm the Arbitration Award, and did not appear in the Bais Din Arbitration Brief
10 as counsel of record for anyone. Baruch Cohen is Rita Pauker's sole attorney during this
11 proceeding and during the Bais Din proceeding.

12 Mr. Bohrer testified at Bais Din as a witness.

13 Mr. Bohrer was authorized by Mr. Cohen to personally serve the defendants: so as not
14 to cause Rabbi Ohana any more embarrassment by having a uniformed Sheriff or overzealous
15 private server; because Mr. Bohrer knew what Rabbi Ohana looked like, making service easier
16 and less obtrusive (Mr. Bohrer was Rabbi Ohana's former student in 1975 at the Rambam
17 Torah Institute, a former Jewish High School in Los Angeles); IF service was effectuated at his
18 place of business, Mr. Bohrer was sure to give the synagogue the deference and respect due it.

19 **ATTORNEYS FEES ARE PROPERLY AWARDED TO PLAINTIFF,**
20 **NOT TO DEFENDANTS**

21 The Arbitration Award specifically provides that: "*In the event that a party does not*
22 *honor the decisions of the arbitrators or seeks to vacate the award, we authorize the arbitrators*
23 *to award additional legal fees and costs.*" The party not honoring the Bais Din award seeking to
24 vacate it is Defendants. It is Plaintiffs who are properly awarded attorneys, not Defendants.

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1 **DEFENDANTS' REQUEST FOR SANCTIONS ARE PROPERLY**
2 **DENIED IN VIOLATION OF CALIFORNIA RULES OF COURT**
3 **RULE 2.30(C)**

4 The CALIFORNIA RULES OF COURT RULE 2.30® clearly provides the criteria for
5 awarding sanctions, criteria that do not apply here, and were ignored by Defendants. The
6 request for sanctions does not: (1) state the applicable rule that has been violated, (2) describe
7 the specific conduct that is alleged to have violated the rule, and (3) identify the attorney, law
8 firm, party, witness, or other person against whom sanctions are sought.

9 WHEREFORE, Plaintiff Rita Pauker pray as follows:

- 10 a. That this Court shall confirm the *Arbitration Award* of January 19, 2009, deny
11 Defendants' Motion to Vacate, and enter Judgment per said award as follows:
- 12 i. Defendants must turn over the four Sifrei Torah to Plaintiff forthwith.
- 13 ii. An award of ~~\$4,000.00~~^{\$9,450.00} per the Arbitration Agreement, for having to
14 confirm the Arbitration Award.
- 15 iii. That this Court shall grant such other and further relief as the Court may
16 deem proper.

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18 DATED: March 15, 2009

LAW OFFICE OF BARUCH C. COHEN
A Professional Law Corporation

19
20 By  
21 Baruch C. Cohen, Esq.
22 Plaintiff Rita Pauker

1 appellate jurisdiction limited to reviewing cases brought before Israeli government
2 sponsored Rabbinical Courts. The RCC Bais Din is not an Israeli government sponsored
3 Rabbinical Court.

4 11. The Hebrew document alleged by Rabbi Ohana to be his "Appeal" to the Bais Din
5 Hagadol was addressed to Rabbi Yitzchok Peretz, who is the personal secretary of the
6 Sefardic Chief Rabbi of the State of Israel, Rabbi Shlomo Amar, who has no position
7 and does not serve in the Bais Din Hagadol.

8 12. I explicitly advised the parties before the arbitration that they had the right to counsel.

9 13. Rabbi Ohana knew that Rita Pauker was represented by counsel, Baruch Cohen.

10 14. Over the 20-years worth of cases, there were many instances where parties chose to
11 appeal in pro per without attorneys to represent them

12 15. In my early pretrial conversations with Rabbi Ohana asking him to come to Bais Din, he
13 demurred claiming that he had a private ruling from Rabbi Sauer allowing him to keep
14 the Sifrei Torah, and that a Bais Din trial was therefore unnecessary. I then called Rabbi
15 Sauer who told me that he knew nothing of the case.

16 16. Plaintiff presented the February 2007 article by Brad Greenberg in her Arbitration Brief.
17 Plaintiff attached a true and correct copy of "The Written Word" an online portfolio of
18 Brad A. Greenberg, <http://musclys.blogspot.com/2007/02/ownership-of-torah-scrolls-disputed.html> as an exhibit
19 "2" to the Arbitration Brief.

20 17. The binding language of the Arbitration Agreement used by the RCC Bais Din provides"
21 *"that the arbitrators need not explain the basis of their decision verbally or in writing."*
22 Rabbi Ohana specifically waived that claim when he signed the Arbitration Agreement.

23 18. I explicitly advised the parties before the arbitration about this waiver, and actually
24 explained the circumstances and procedures for how one can obtain the Bais Din's
25 reasoning, once the Bais Din's decision is complied with.

26 19. The RCC Bais Din did not communicate the award to plaintiff 10 days prior to
27 communicating same to defendants. Our office issued and mailed the Bais Din award to
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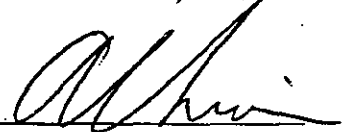
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Baruch Cohen and to Rabbi Ohana on the exact same day.

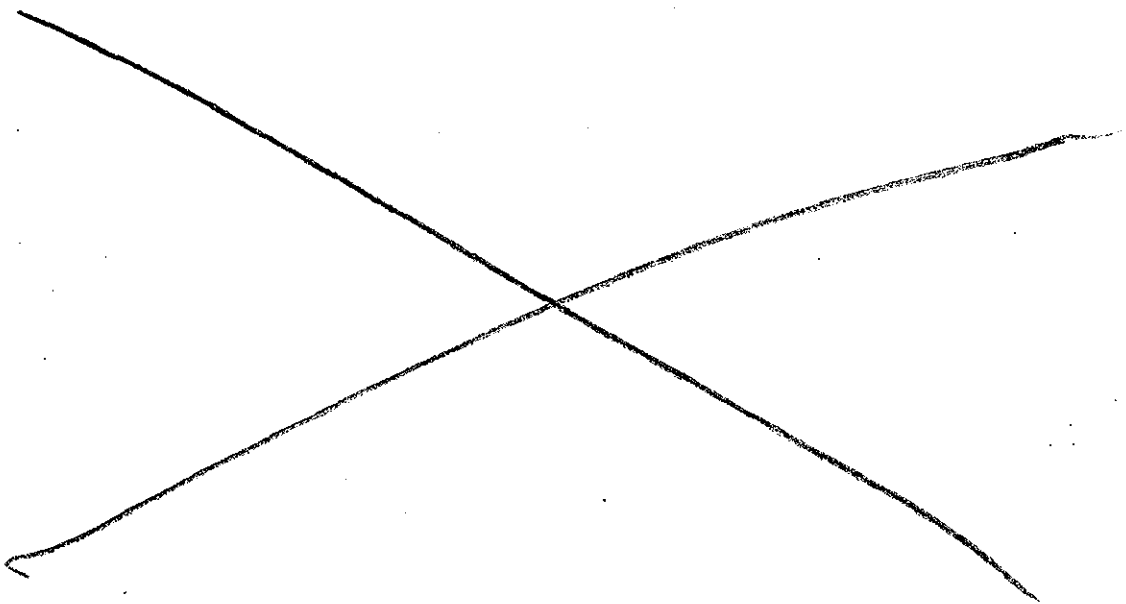
20. Jeffrey Bohrer was not counsel of record to Rita Pauker in the Bais Din Proceeding. His name did not appear on the Bais Din Arbitration Brief as counsel of record for anyone. Baruch Cohen is Rita Pauker's sole attorney during the Bais Din proceeding. Mr. Bohrer testified at Bais Din as a witness.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

DATED: March 11, 2009

By 

Rabbi Avrohom Union, Declarant



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regarding Jewish law. I believe that the "quote" attributed to me in the article may have come from one of the thousands of queries that I receive about the Jewish Law in general concerning disputed ownership of religious objects including Torahs. Further, the RCC Bais Din has adjudicated disputes about ownership of *Sifrei Torah* in the past and this case is not the first case about disputed *Sifrei Torah*. I have spoken publicly on the general parameters of Jewish law on the subject law in general.

12. Everything done in this case was done lawfully and in accordance with Jewish law and procedure.

13. Rabbi Avrohom Union began the arbitration proceeding by clearly advising the parties that they are entering into "binding" arbitration specifically giving up their rights to appeal. Rabbi Avrohom Union explicitly informed the parties beforehand, of the procedure as to how to move to reconsider the Bais Din's decision pursuant to "Choshen Mishpat Section 25" that so long as the Motion for Reconsideration is in writing, copied to the other side, presented to the RCC Bais Din for reconsideration. Said procedures were not complied with by Defendants.

14. In my 20 years of overseeing the RCC Bais Din, no one has ever sought to appeal the RCC's ruling to a different Bais din because that would be contrary to Jewish law and contrary to the terms of the arbitration agreement. Under Jewish Law, no Bais Din has the power to review or overturn a ruling of a different Bais Din. That's the functional equivalent of a San Diego Superior Court reviewing a decision of a Los Angeles Superior Court.

15. Rabbi Avrohom Union explicitly advised the parties before the arbitration that they had the right to counsel. Over the 20-years worth of cases, there were many instances where parties chose to appeal in pro per without attorneys to represent them

16. The binding language of the Arbitration Agreement used by the RCC Bais Din provides "that the arbitrators need not explain the basis of their decision verbally or in writing ." Rabbi Ohana specifically waived that claim when he signed the Arbitration Agreement.

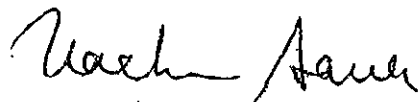
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Rabbi Avrohom Union explicitly advised the parties before the arbitration about this waiver, and actually explained the circumstances and procedures for how one can obtain the Bais Din's reasoning, once the Bais Din's decision is complied with.

17. Jeffrey Bohrer was not counsel of record to Rita Pauker in the Bais Din Proceeding. His name did not appear on the Bais Din Arbitration Brief as counsel of record for anyone. Baruch Cohen is Rita Pauker's sole attorney during the Bais Din proceeding. Mr. Bohrer testified at Bais Din as a witness.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

DATED: March 11, 2009

By 
Rabbi Nachum Sauer, Declarant

1 the functional equivalent of a San Diego Superior Court reviewing a decision of a Los
2 Angeles Superior Court.

3 10. Rabbi Avrohom Union explicitly advised the parties before the arbitration that they had
4 the right to counsel. Over the 20-years worth of cases, there were many instances where
5 parties chose to appeal in pro per without attorneys to represent them

6 11. The binding language of the Arbitration Agreement used by the RCC Bais Din provides"
7 *"that the arbitrators need not explain the basis of their decision verbally or in writing."*

8 Rabbi Ohana specifically waived that claim when he signed the Arbitration Agreement.
9 Rabbi Avrohom Union explicitly advised the parties before the arbitration about this
10 waiver, and actually explained the circumstances and procedures for how one can obtain
11 the Bais Din's reasoning, once the Bais Din's decision is complied with.

12 12. Jeffrey Bohrer was not counsel of record to Rita Pauker in the Bais Din Proceeding. His
13 name did not appear on the Bais Din Arbitration Brief as counsel of record for anyone.
14 Baruch Cohen is Rita Pauker's sole attorney during the Bais Din proceeding. Mr. Bohrer
15 testified at Bais Din as a witness.

16
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18 I declare under penalty of perjury under the laws of the United States and the State of
19 California that the foregoing is true and correct.

20 DATED: March 12, 2009

21
22 By 
Rabbi Gershon Bess, Declarant

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- 1 7. I wish to voice an opinion on one matter in contest: Rabbi Ohana's claim that he has a
- 2 right to appeal a Bais Din ruling under Jewish Law to another rabbinical court..
- 3 8. I have read the language of the binding Arbitration Agreement and note that there is no
- 4 contractual right to appeal: *"The parties recognize and acknowledge that by agreeing to*
- 5 *binding arbitration, they waive and surrender their right to present their dispute to a*
- 6 *court. The only recourse to court will be in the event that one of the parties hereto does*
- 7 *not honor this agreement or the decisions made by the arbitrators under this agreement"*
- 8 (as seen in Exhibit "2" to the *Petition to Confirm Arbitration Award of the Bais Din of*
- 9 *the Rabbinical Council of California*).
- 10 9. It is my professional opinion, that according to Jewish Law, there is no right to appeal
- 11 from a Bais Din ruling to any other rabbinical court in the world. (the language of the
- 12 Code of Jewish Law states this rule in Hebrew: *"Ain Achar Psak Beis Din Klum"*).
- 13 10. I am personally familiar with the "Bais Din Hagadol" the Supreme Rabbinic Court in
- 14 Jerusalem Israel and am familiar with its procedures and that the Bais Din Hagadol has
- 15 appellate jurisdiction limited to reviewing cases brought before Israeli government
- 16 sponsored Rabbinical Courts. The RCC Bais Din is not an Israeli government sponsored
- 17 Rabbinical Court. Hence it has no appellate jurisdiction in this matter. Even if it were to
- 18 issue a ruling in this case, the RCC Bais Din would have no obligation as a matter of
- 19 Jewish Law to follow that rulings.

20

21 I declare under penalty of perjury under the laws of the United States and the State of

22 Georgia that the foregoing is true and correct.

23

24 DATED: March 15, 2009

25 By 

26 Rabbi Michael Broyde, Declarant

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DECLARATION OF BARUCH C. COHEN

I, BARUCH C. COHEN, declare and state as follows:

1. The facts stated below are true and correct to the best of my personal knowledge and if called upon to testify to them, I could and would competently do so.
2. I am a member in good standing and eligible to practice before the following courts: California State Supreme Court; US Court of Appeals - Ninth Circuit; Bankruptcy Appellate Panel; United States District Courts: Central District of CA; Eastern District of CA; Northern District of CA; & Southern District of CA.
3. I am the principal shareholder and President of The Law Office of Baruch C. Cohen, a Professional Law Corporation, located at 4929 Wilshire Boulevard, Suite 940, Los Angeles, California 90010.
4. I proudly represent Plaintiff Rita Pauker.
5. I represented Mrs. Pauker at the arbitration trial on July 27, 2008.
6. Everything done in this case was done lawfully and in accordance with Jewish law and procedure.
7. Rabbi Union began the arbitration proceeding by clearly advising the parties that they are entering into "binding" arbitration specifically giving up their rights to appeal.
8. Rabbi Union explicitly informed the parties beforehand, of the procedure as to how to move to reconsider the Bais Din's decision pursuant to "Choshen Mishpat Section 25" that so long as the Motion for Reconsideration is in writing, copied to the other side, presented to the RCC Bais Din for reconsideration, and presents newly discovered evidence of arguments that could not have presented at the day of trial, for whatever the reason. Said procedures were clearly not complied with by Defendants.
9. In my years of litigation Bais Din cases, I am unaware of anyone ever appealing the RCC's ruling to a different Bais din because that would be contrary to Jewish law and contrary to the terms of the arbitration agreement.
10. Under Jewish Law, no Bais Din has the power to review or overturn a ruling of a

- 1 different Bais Din. That's the functional equivalent of a San Diego Superior Court
2 reviewing a decision of a Los Angeles Superior Court.
- 3 11. Rabbi Union explicitly advised the parties before the arbitration that they had the right to
4 counsel.
- 5 12. Over my years of representing parties before Bais Din I have seen many instances where
6 parties chose to appear in pro per without attorneys to represent them
- 7 13. The notion that Rabbi Ohana "discovered" for the first time on February 4, 2009 (a
8 newspaper article about) Rabbi Sauer's alleged private ruling on this case, a claim
9 heavily contested by Rabbi Sauer, is false.
- 10 14. In my pretrial conversations with Rabbi Ohana to get him to come to Bais Din, he
11 refused claiming that he had a private ruling from Rabbi Sauer allowing him to keep the
12 Sifrei Torah, and that a Bais Din trial was therefore unnecessary. A point of irony or
13 impeachment here, in that Rabbi Ohana told me that Rabbi Sauer had already ruled for
14 him when the article in question seems to read against Rabbi Ohana.
- 15 15. I presented the February 2007 article by Brad Greenberg in the Arbitration Brief.
16 Plaintiff attached a true and correct copy of "The Written Word" an online portfolio of
17 Brad A. Greenberg, <http://musclys.blogspot.com/2007/02/ownership-of-torah-scrolls-disputed.html> as an exhibit
18 "2" to the Arbitration Brief. Rabbi Ohana knew of this article at least as of the day of
19 Arbitration when he received the Arbitration Brief at trial.³ He could not claim that he
20 was unaware of it until February 4, 2009.
- 21 16. The notion that the RCC Bais Din "never quoted any Rabbinical legal source as the basis
22 for their decision" (Ohana declaration) is false. Rabbi Ohana specifically waived that
23 claim when he signed the Arbitration Agreement that states: "*that the arbitrators need*
24 *not explain the basis of their decision verbally or in writing.*"
- 25 17. Rabbi Union explicitly advised the parties before the arbitration about this waiver, and

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27 ³A true and correct copy of the Arbitration Brief with exhibits is attached hereto as Exhibit
28 "8" and is incorporated herein by this reference.

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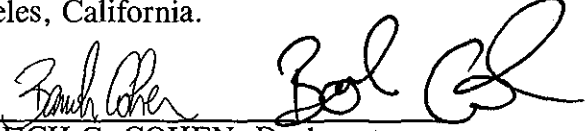
actually explained the circumstances and procedures for how one can obtain the Bais Din's reasoning, once the Bais Din's decision is complied with.

18. Jeffrey Bohrer was not counsel of record to Rita Pauker in the Bais Din Proceeding. His name did not appear on the Bais Din Arbitration Brief as counsel of record for anyone. I am and was Rita Pauker's sole attorney during the Bais Din proceeding. Mr. Bohrer testified at Bais Din as a witness.

19. Attorneys fees are properly awarded to plaintiffs. The Arbitration Award specifically provides that: "In the event that a party does not honor the decisions of the arbitrators or seeks to vacate the award, we authorize the arbitrators to award additional legal fees and costs." The party not honoring the Bais Din award seeking to vacate it is Defendants. It is Plaintiffs who are properly awarded attorneys, not Defendants.

20. My normal billing rate is \$350.00 an hour. I spent approximately 10 hours preparing this Reply: x \$350.00 = \$3,500.00. The Petition already cost \$2,450.00. I spent approximately 10 hours opposing the frivolous Motion to Disqualify that was an attempted end-run around this Petition: x \$350.00 = \$3,500.00. My total fees are \$9,450.00.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on March 15, 2009, at Los Angeles, California.

By 
BARUCH C. COHEN, Declarant

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DECLARATION OF JEFFREY BOHRER

I, JEFFREY BOHRER, declare and state as follows:

- 1. The facts stated below are true and correct to the best of my personal knowledge and if called upon to testify to them, I could and would competently do so.
- 2. I am a member in good standing and eligible to practice before the following courts:
California State Supreme Court.
- 3. An incoherent and unintelligible reference was made by Defendants in the opposition (page 2, lines 13-15) to the petition to confirm the RCC Bais Din award, that alleges that I represented Mrs. Pauker in the Bais Din proceeding. This reference is reiterated as fact in Defendants' motion to disqualify attorneys Baruch Cohen and myself.
- 4. I was not counsel of record to Rita Pauker. My name did not appear on the Petition to Confirm the Arbitration Award, and did not appear in the Bais Din Arbitration Brief as counsel of record for anyone. Baruch Cohen is Rita Pauker's sole attorney during this proceeding and during the Bais Din proceeding.
- 5. I testified at Bais Din as a witness.
- 6. I was only authorized by Mr. Cohen to personally serve the defendants: so as not to cause Rabbi Ohana any more embarrassment by having a uniformed Sheriff or overzealous private server; because I knew what Rabbi Ohana looked like, making service easier and less obtrusive (I was Rabbi Ohana's former student in 1975 at the Rambam Torah Institute, a former Jewish High School in Los Angeles); IF service was effectuated at his place of business, I was sure to give the synagogue the deference and respect due it.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on March 11, 2009, at Los Angeles, California.

By 
JEFFREY BOHRER, Declarant

Law Office of Jeffrey Bohrer

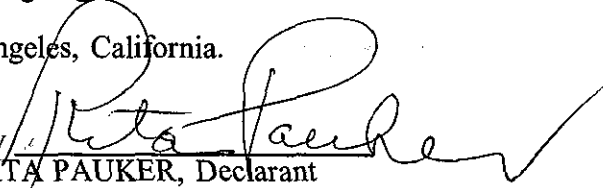
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DECLARATION OF RITA PAUKER

I, RITA PAUKER, declare and state as follows:

1. The facts stated below are true and correct to the best of my personal knowledge and if called upon to testify to them, I could and would competently do so.
2. I am the Plaintiff in this case and was present at the Arbitration trial.
3. Rabbi Union began the arbitration proceeding by clearly advising the parties that they are entering into "binding" arbitration specifically giving up their rights to appeal.
4. Rabbi Union explicitly informed the parties beforehand, of the procedure as to how to move to reconsider the Bais Din's decision pursuant to "Choshen Mishpat Section 25" that so long as the Motion for Reconsideration is in writing, copied to the other side, presented to the RCC Bais Din for reconsideration, and presents newly discovered evidence of arguments that could not have presented at the day of trial, for whatever the reason.
5. Rabbi Union explicitly advised the parties before the arbitration about this waiver, and actually explained the circumstances and procedures for how one can obtain the Bais Din's reasoning, once the Bais Din's decision is complied with.
6. Jeffrey Bohrer was not my counsel of record in the Bais Din Proceeding. His name did not appear on the Bais Din Arbitration Brief as counsel of record for anyone. Baruch Cohen is my only attorney during the Bais Din proceeding and in this proceeding. Mr. Bohrer testified at Bais Din as a witness.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on March 12, 2009, at Los Angeles, California.

By 
RITA PAUKER, Declarant

FILED
MAR 12 2009
LOS ANGELES

1 **PROOF OF SERVICE**

2 I, Baruch C. Cohen, declare as follows:

3 I am, and was at all times herein mentioned, a citizen of the United States, a resident of
4 the County of Los Angeles, State of California, over the age of 18 years and not a party to this
5 action or proceeding. My business address is 4929 Wilshire Boulevard, Suite 940, Los Angeles,
6 California 90010.

7 Upon this day, I served the within **REPLY TO OPPOSITION TO PETITION TO**
8 **CONFIRM ARBITRATION AWARD OF THE BAIS DIN OF THE RABBINICAL**
9 **COUNCIL OF CALIFORNIA; DECLARATIONS OF RABBI AVROHOM UNION,**
10 **RABBI NACHUM SAUER, RABBI GERSHON BESS, RABBI MICHAEL BROYDE,**
11 **BARUCH C. COHEN, JEFFREY BOHRER; RITA PAUKER** on all interested parties in
12 this action through their attorneys of record by placing a true and correct copy thereof,
13 addressed as per the attached service list.

14 X **VIA FIRST CLASS MAIL** [C.C.P. §§ 1012a, et seq.]. I deposited said document(s)
15 into the United States mail at Los Angeles, California, in a sealed envelope with postage
16 fully prepaid. My practice is to collect and process mail on the same day as shown on
17 this declaration. Under that practice, all correspondence is deposited with the US Postal
18 Service on the same day that it is placed for collection and processing, in the ordinary
19 course of business.


20 **VIA HAND DELIVERY/PERSONAL SERVICE** (C.C.P. §§ 1001, et seq.]. I directed
21 a courier to personally deliver said document(s) to each addressee.

22 **VIA FEDERAL EXPRESS/OVERNIGHT/NEXT BUSINESS DAY DELIVERY**
23 **SERVICE** (C.C.P. §§ 1011, 1012]. I enveloped, properly labeled, and caused to be
24 deposited into a Federal Express pick-up receptacle as per the regular practice of my
25 office.

26 **VIA FACSIMILE** (C.C.P. §§ 1012.5]. I caused the said document(s) to be transmitted
27 by facsimile machine to the number indicated after the address(es) noted herein. I
28 received written confirmation that the facsimile transmission was received by the
addressee.

I declare that I am a member of the State Bar of this Court.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct. Executed at Los Angeles, California on March 26, 2009.

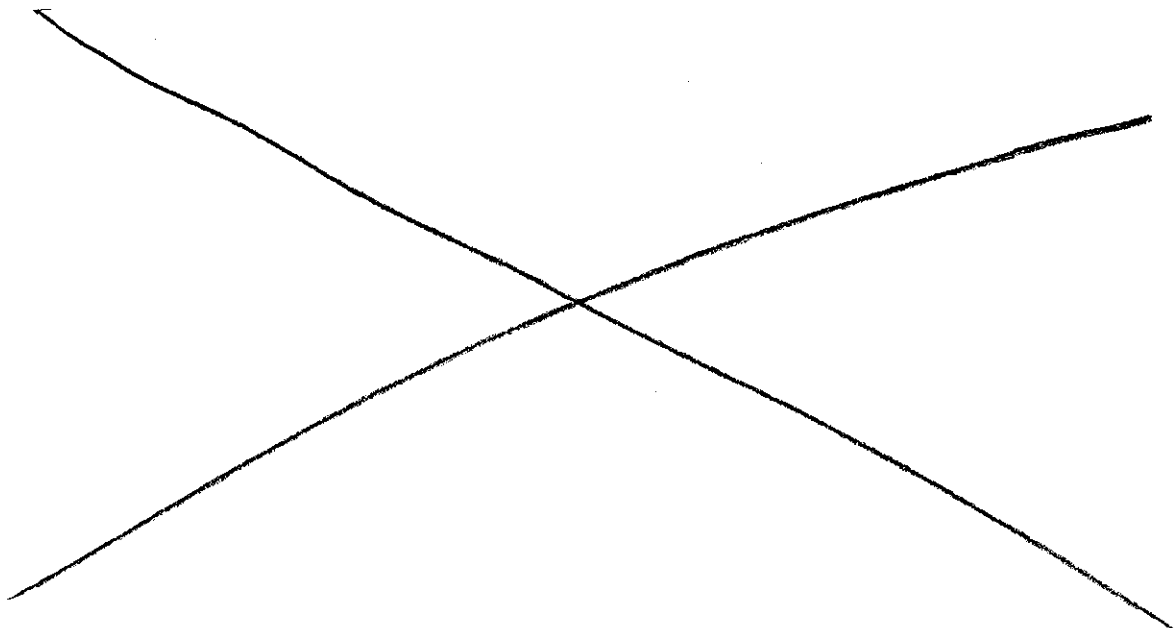
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23 Baruch C. Cohen

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G. Scott Sobel, Esq.
Law Offices of Scott Sobel
8350 Wilshire Boulevard, Suite 200
Los Angeles, CA 90211

Rabbi Avrohom Union
Rabbinical Council of California
3780 Wilshire Boulevard, Suite 420
Los Angeles, CA 90010



1 Baruch C. Cohen, Esq. (SBN 159455)
2 LAW OFFICE OF BARUCH C. COHEN, A Professional Law Corporation
3 4929 Wilshire Boulevard, Suite 940
4 Los Angeles, California 90010
5 (323) 937-4501 Fax (323) 937-4503
6 email: BCC4929@aol.com

7 *Attorney for Rita Pauker*

8 RABBINICAL COUNCIL OF CALIFORNIA
9 VAAD HARABBONIM BAIS DIN TZEDEK

10 **בית דין צדק**

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RITA PAUKER,

Plaintiff,

vs.

RABBI SAMUEL OHANA, BETH
MIDRASH MISHKAN ISRAEL,

Defendants

ARBITRATION BRIEF

Date: July 27, 2008
Time: 1:00 p.m.
Place: בית דין צדק
Rabbinical Council of California
3780 Wilshire Boulevard, Suite 420
Los Angeles, CA 90010

Rita Pauker (hereinafter referred to as "PAUKER") hereby respectfully submits her
Arbitration Brief in the above-referenced matter.

DATED: July 25, 2008

LAW OFFICE OF BARUCH C. COHEN

By *Baruch Cohen*
Attorney for Rita Pauker

1 1. MEMORANDUM OF POINTS AND AUTHORITIES

2 a. STATEMENT OF FACTS

3 Rabbi Norman Pauker's four Sifrei Torah were originally donated decades ago by his
4 sister to the Young Israel of the Bronx. When the Bronx synagogue closed, the four *Sifrei*
5 *Torah* were given to Rabbi Pauker.

6 When Rabbi Pauker retired in 1994 and closed his synagogue, Rabbi Pauker transferred
7 ownership of most of the assets to Rabbi Samuel Ohana of Beth Midrash Mishkan Israel,
8 including the *Aron Kodesh*, *Talleisim* and *Seforim*. But according to a handwritten contract
9 between Rabbi Pauker and Rabbi Ohana, signed by Rabbi Ohana, the four *Sifrei Torah* were to
10 be loaned for only two years (who was to insure them for two years).¹

11 Since Rabbi Pauker's death in 2002, his widow, Rita Pauker, has been repeatedly
12 begging and imploring Rabbi Ohana for the return of the *Sifrei Torah*. To Mrs. Pauker, Rabbi
13 & Mrs. Ohana repeatedly promised the return of the Torahs but came up with excuses after
14 excuses for failing to do so.

15 i. RABBI OHANA'S ADMISSIONS THAT THE TORAHS ARE NOT
16 HIS, BUT MRS. PAUKER'S

17 On Monday February 19, 2007, Brad Greenberg, a reporter for the Valley News and the
18 Jewish Journal, briefly interviewed Rabbi Ohana who said that "*he would return the Torahs if*
19 *Pauker could prove she was going to give them to another synagogue and not sell them.*"²

20 Approximately 5 or 6 years ago, both Rabbi & Mrs. Ohana, called Mrs. Pauker about
21 coming over to her home to return two of the Torahs very soon.

22 Approximately 4 to 5 years ago, Mrs. Yvonne Ohana told Mrs. Pauker that her husband
23 Rabbi Ohana was in Israel and was returning with new Torahs and that Mrs. Pauker would have

24
25 ¹A true and correct copy of the contract is attached hereto as Exhibit "1" and is incorporated
26 herein by this reference.

27 ²A true and correct copy of "The Written Word" an online portfolio of Brad A. Greenberg,
28 <http://musclys.blogspot.com/2007/02/ownership-of-torah-scrolls-disputed.html> is attached hereto as Exhibit "2" and is
incorporated herein by this reference.

1 her Torah's back. It was in June of whatever year it was.

2 Approximately 3 years ago Mrs. Pauker went to the North Hollywood police
3 department. The police were apparently willing to seek recovery on her behalf and contacted
4 Rabbi Ohana. Thereafter, Rabbi Ohana called Mrs. Pauker to offer her a weekly stipend in
5 return for him keeping the Torahs. Mrs. Pauker refused Rabbi Ohana's offer.

6 ii. **RABBI OHANA'S CONSTANTLY CHANGING STORY**

7 On February 20, 2007, in an interview with the LA Daily News, as quoted in the Failed
8 Messiah blog, Rabbi Ohana claimed that the Torahs belonged to his Shul, Beth Midrash
9 Mishkan Israel as Rabbi Pauker.³

10 On February 21, 2007, Rabbi Ohana is quoted as having said that his handwritten
11 contract between the two rabbis that has Rabbi Ohana's signature at the bottom "*was for*
12 *insurance purposes.*"⁴

13 On February 22, 2007, Rabbi Ohana admitted/acknowledged to a reporter for the
14 Associated Press that the Torahs were lent to him, but then claimed that they were subsequently
15 gifted. "He called me in front of his wife and he said, '*Rabbi I cannot bear having these Torahs*
16 *gathering dust in my garage,*' Ohana said. "*Take them, please.*"⁵

17 On ar about February 2007, KABC Eyewitness News did a story on this dispute, and
18 Rabbi Ohana was quoted as having said: "*I told him, Rita the Torahs is not yours. They were*
19 *not even your husband's. They belong to his congregation.*"

20 Reporter:KABC Eyewitness News reporter Melissa MacBride

21 "The issue here is whether these Torah's were on loan or donated to a synagogue in
22

23 ³A true and correct copy of "Rabbi Steals Torah Scrolls from Widow" at
24 http://failedmessiah.typepad.com/failed_messiahcom/2007/02/rabbi_steals_to.html is attached hereto as Exhibit 3 and is
25 incorporated herein by this reference.

26 ⁴A true and correct copy of "Rabbi's Widow U.S. Synagogue dispute owensrhip of Torah
27 Scrolls"on the Chaptzem Blog at <http://chaptzem.blogspot.com/2007/02/rabbis-widow-us-synagogue-dispute.html#comments>
28 is attached hereto as Exhibit 4 and is incorporated herein by this reference.

⁵A true and correct copy of the North County Times - the California, "Torah Sacroll Claim
Disputed" at http://www.nctimes.com/articles/2007/02/27/faith/18_56_022_22_07.txt, is attached hereto as Exhibit 5 and
is incorporated herein by this reference.

1 Sherman Oaks. This dispute has been going on for years, and there is no resolution in
2 site. For the past ten years, Rabbi Samuel Ohana has used these torah scrolls during
3 services at Beth Midrash Mishkan Israel. He says they were donated to his Congregation
4 in 1997 by the late Rabbi Norman Pauker after he retired and closed his Congregation,
5 but Paukers' widow says the Torah's were in her husband's family and she wants them
6 back!

7 Rabbi Ohana: Unfortunately, I'm sorry to say but Rabbi Pauker would be turning in his
8 grave now, to hear what's all this discussion. For two years I have tried to reason with
9 her.

10 Rita Pauker says her husband loaned the scrolls to Ohana, who insured them for two
11 years. She has his signature as proof, but those two years have come and went and her
12 husband never asked for them back. He passed away in 2002. Pauker says the Torah's
13 should go to her nephews who are Rabbis.

14 Rita Pauker: I feel Normans' nephew's, who are Rabbis, They should be the rightful
15 owners.

16 Pauker tried to involve the police, but no crime has been committed. She can't sue in
17 civil court because Jewish Law prohibits a suit involving a religious article.

18 Her attorney says, she's legally stuck.

19 Jeffrey Bohrer: I think it's heartbreaking that something along these lines could happen.
20 There's right and there's wrong.

21 The only other legal avenue at this point is to go to a Rabbinical court. Rabbi Ohana
22 says he's consulted other Rabbis who say the torahs belong with the congregation. He
23 accuses Pauker of trying to profit an accusation she denies.

24 Rabbi Ohana: *I told him, Rita the Torahs is not yours. They were not even your
25 husband's. They belong to his Congregation.*

26 Rita Pauker: I just want them to go back to his family.

27 Rita Pauker is reluctant to take her case to a Rabbinical court. She feels the court would
28 side with the synagouge. So, for now, these torah's remain in Sherman Oaks."⁶

b. CONCLUSION

Mrs. Pauker wants the four Torahs returned to her immediately.

DATED: July 25, 2008

LAW OFFICE OF BARUCH C. COHEN

By Baruch Cohen
Attorney for Rita Pauker

⁶A true and correct copy of the video of the KABC Eyewitness News story by reporter
Melissa MacBride is attached hereto as Exhibit "" and is incorporated herein by this reference.

Rabbi Dabbi

Shuli for Sale

10-12 on seats

10 on appeal collected

F

Rental 5,000

Rabbi - 2,000

degen 1,500

8,500

2-3 years investment for me
500 postage ultra-adult

income stream -

15% return on investment

Valley members Jewish - Shmuel Guy

He established on Corp.

I want to protect money in house now.

So File for a new Corp. Religious non profit
Corp. Federal + state - Part of purchase
agreement to have this in effect.

How

12,000

income stream of 15,000

Figure of 25,000 not out of Ballpark

Parent have to work - 2,000 for seat to weekly

50% return on income

July + Aug.

3 weeks actual work in time

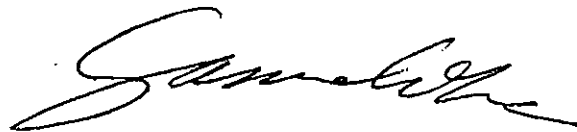
and Sept. the 3 days of your Tov.

at up seats - membership - Pledge 1994

	1. "500 amount starting	May 15, Pd. check
	2. June "500	June 25 Pd. C
	3. July "500 +	Aug. 4 Pd. C.
	4. Aug "1000 +	
100	5. Sept 500	Pd. 500 check plus check from
		media bank
20	6. Oct ³⁰ 10,000	Pd. 500 C
20	7. Nov. "500	
0	8. Dec. "500	
20	Jan. Feb + March - 500, 500, 50	

Passover -

Torahs for two years 1995 + 1996
 owned by Samuel Chana



1. Torah - Rita's Retirement fund - funded by Torah.
2. Enforce rights of Torah - certificate of insurance -
 - 2 Torah + 1 Posul Torah - medical level
 - 1 Torah woman Paul
 - 1 Torah Rabbi Freni's - statement of Co-insurance.

1. House Held in wife's name -
2. Will - Have a trust set up -

4,500

Exhibit # 1 Page # 4

List

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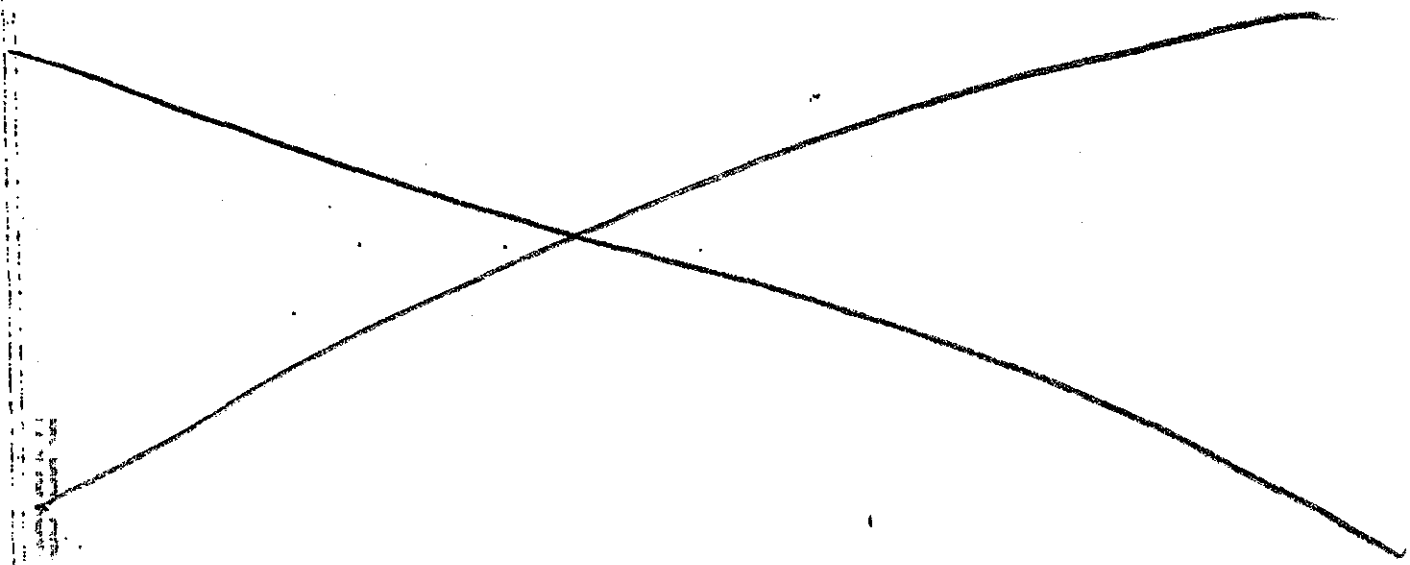


Exhibit # 1 Page # 5

THE WRITTEN WORD

AN ONLINE PORTFOLIO OF BRAD A. GREENBERG

MONDAY, FEBRUARY 19, 2007

Ownership of Torah scrolls disputed

Torah scrolls are the centerpieces of Jewish religious services. The written word of God, they are kept in arks like the tablets Moses brought down from Mount Sinai and are revered above all Jewish symbols.

But for the past decade, Beth Midrash Mishkan Israel in Sherman Oaks has been "praying on stolen Torahs," said Rita Pauker, whose late husband, Rabbi Norman Pauker, lent the Orthodox synagogue four Torahs in the late 1990s.

Since her husband died in 2002, Pauker has repeatedly implored Rabbi Samuel Ohana to return the Torahs so she can give them to two nephews, rabbis in Florida and New York.

Ohana has refused, saying the scrolls belong to the congregation. In a brief phone interview Monday, he said Rabbi Pauker gifted the Torahs years after he closed his North Hollywood synagogue, similarly named Congregation Mishkan Israel, in 1994.

"He called me in front of his wife and he said, 'Rabbi, I cannot bear having these Torahs gathering dust in my garage. Take them. Please,'" he said.

Ohana said he would return the Torahs if Pauker's widow could prove she was going to give them to another synagogue and not sell them. Three of them are likely worth about \$10,000 to \$20,000 each.

The dispute, deadlocked for the past two years, seems ripe for civil court. But it likely won't go there.

The only attorney Pauker can afford is Jeffrey Bohrer, a longtime member of her husband's synagogue (and coincidentally a former yeshiva student of Ohana's). But Jewish law prohibits Bohrer from

ABOUT ME



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A God-fearing Christian with devilishly good Jewish looks, I write about the intersection

of faith and life for The Jewish Journal of Greater Los Angeles.

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The Written Word: Ownership of Torah scrolls disputed

bringing a lawsuit regarding a religious article in secular court.

Pauker could take the case to beis din, a rabbinical court, but neither she nor Bohrer has faith in the tribunal process.

"It has been my experience that the beis din is more interested in compromise than in the word of Jewish law," Bohrer said. "... The truth is the beis din probably is going to split the baby. Rabbi Ohana has no claim to these, and Rita has all claim. So it is unfair for Rita to settle for half."

Lending a Torah to a synagogue is a common way Jews fulfill a mitzvah, or a good deed, said Rabbi Nachum Sauer, who teaches Torah studies at Yeshiva University High Schools of Los Angeles. "It is on long-term loan to their synagogue, but he still owns it," Sauer said.

"It would be the same as lending any property to anybody else," added David Olivestone, spokesman for the Orthodox Union. "It would be like lending a book to a synagogue. If I wanted it back, it would still be mine. Or if I lent a chair. There is no real difference."

Except Torahs are worth much more, literally and physically, than common books.

When a scroll is damaged and can't be restored, it must be buried. The focal point architecturally and liturgically of Jewish services, said Elliot Wolfson, professor of Hebrew and Judaic studies at New York University, "the Torah is described in rabbinic literature as the Princess of God."

New Torahs take nine months to a year to ink and cost from the high \$20,000s to high \$40,000s, said Avrom Fox, owner of AllTorahScrolls.com, an online retailer. Containing 304,805 letters and 245 columns of God's word on roughly 60 sections of parchment, Torahs are made with varying degrees of decoration and aesthetics.

Rabbi Pauker's Torahs were originally donated decades ago by his sister to Young Israel of the Bronx. When the organization closed, the scrolls were given to Pauker.

Toward the end of his career, his congregation began to shrink. At least once, it joined with Ohana's for High Holy Days services at Valley Cities Jewish Community Center near Valley College.

▶ February (1)

▶ January (1)

▶ 2007 (22)

▶ 2006 (33)

▶ 2005 (14)

▶ 2004 (3)


▶ 2003 (1)

When he retired in 1994 and closed his synagogue, Pauker transferred ownership of most of the assets to Ohana, including the ark, prayer shawls and religious books.

But the Torahs, according to a handwritten contract between Pauker and Ohana, were to be loaned for two years. At the bottom of the page is Ohana's signature.

However, Ohana said the contract was for insurance purposes, and five years later Pauker asked him to take the Torahs and put them to good use.

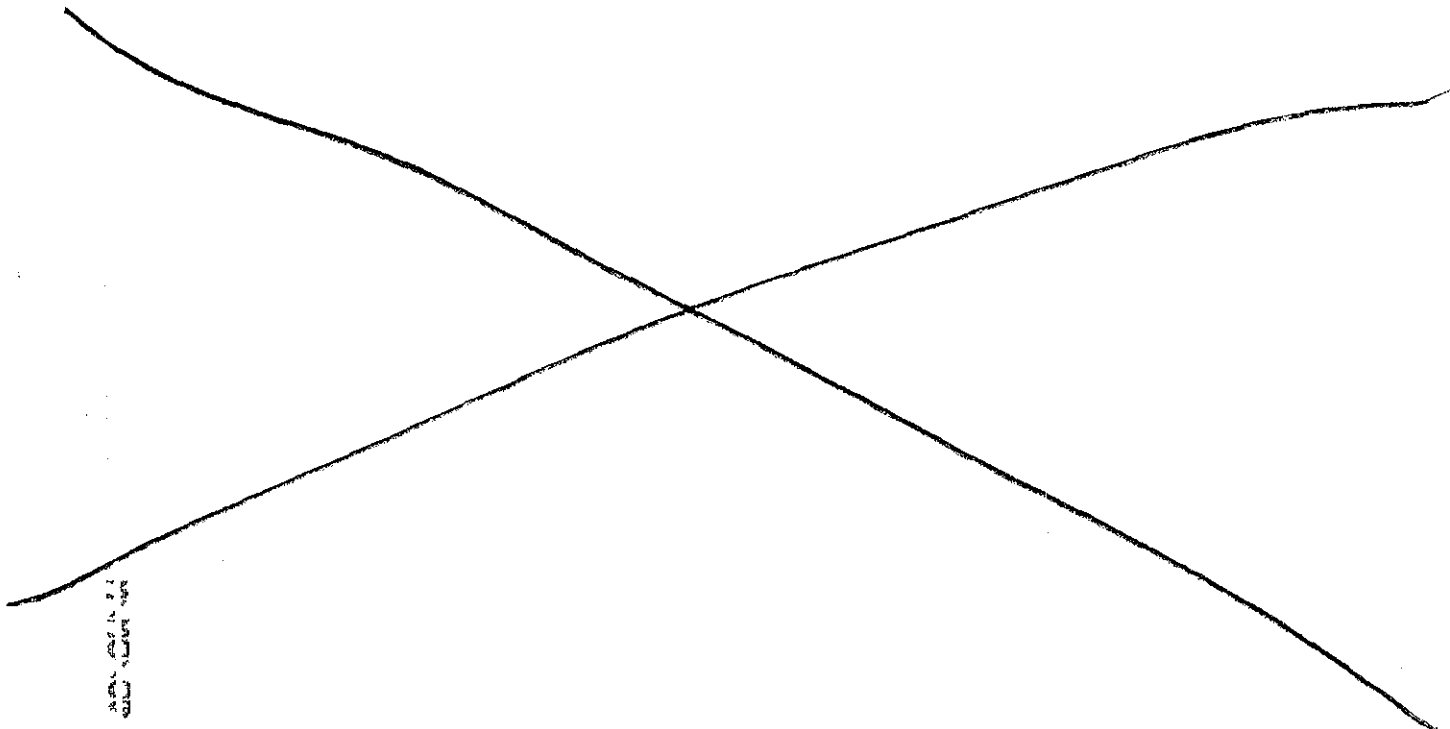
"He is disrespecting everything Jewish," was Rita Pauker's response. "He is operating on a lie. It's all a lie."

POSTED BY BRAD A. GREENBERG AT 2/19/2007 10:09:00 AM 

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February 20, 2007

Rabbi Steals Torah Scrolls From Widow

A rabbi in Los Angeles has apparently stolen four Torah scrolls from a widow. The LA Daily News [reports](#):

...[F]or the past decade, Beth Midrash Mishkan Israel in Sherman Oaks has been "praying on stolen Torahs," said Rita Pauker, whose late husband, Rabbi Norman Pauker, lent the Orthodox synagogue four Torahs in the late 1990s.

Since her husband died in 2002, Pauker has repeatedly implored Rabbi Samuel Ohana to return the Torahs so she can give them to two nephews, rabbis in Florida and New York.

Ohana has refused, saying the scrolls belong to the congregation. In a brief phone interview Monday, he said Rabbi Pauker gifted the Torahs years after he closed his North Hollywood synagogue, similarly named Congregation Mishkan Israel, in 1994.

"He called me in front of his wife and he said, 'Rabbi, I cannot bear having these Torahs gathering dust in my garage. Take them. Please,'" he said.

Ohana said he would return the Torahs if Pauker's widow could prove she was going to give them to another synagogue and not sell them. Three of them are likely worth about \$10,000 to \$20,000 each.

The dispute, deadlocked for the past two years, seems ripe for civil court. But it likely won't go there.

The only attorney Pauker can afford is Jeffrey Bohrer, a longtime member of her husband's synagogue (and coincidentally a former yeshiva student of Ohana's). But Jewish law prohibits Bohrer from bringing a lawsuit regarding a religious article in secular court.

Pauker could take the case to beis din, a rabbinical court, but neither she nor Bohrer has faith in the tribunal process.

"It has been my experience that the beis din is more interested in compromise than in the word of Jewish law," Bohrer said.

"... The truth is the beis din probably is going to split the baby. Rabbi Ohana has no claim to these, and Rita has all claim. So it is unfair for Rita to settle for half."...

Rabbi Pauker's Torahs were originally donated decades ago by his sister to Young Israel of the Bronx. When the organization closed, the scrolls were given to Pauker...

When he retired in 1994 and closed his synagogue, Pauker transferred ownership of most of the assets to Ohana, including the ark, prayer shawls and religious books.

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years. At the bottom of the page is Ohana's signature.

However, Ohana said the contract was for insurance purposes, and five years later Pauker asked him to take the Torahs and put them to good use.

"He is disrespecting everything Jewish," was Rita Pauker's response. "He is operating on a lie. It's all a lie."

Rabbi Ohana's son Ephraim has been put in cherem (excommunicated) by the Baltimore Va'ad HaRabbonim because he has refused to give his wife a get (Jewish divorce).

Rabbi Ohana himself was involved in a shady scheme to allow the son of David Batzri, a leading Sefardic rabbi and kabbalist (the man who blamed Hurricane Katrina on America's support for Disengagement), to remarry without giving his first wife a Jewish divorce:

...At the end of November, Luna suddenly received two summonses from another beit din in Los Angeles, one that is headed by Rabbi Samuel Ohana. She explains that it is a Sephardi beit din, in which it is easier to receive a permit to marry a second wife, because it is not subject to the ostracism regulation against polygyny enacted by Rabbeinu Gershom (960-1028 C.E.). This applies only to Ashkenazi communities, and so absolving Hagay Batzri from having to obtain the "consent of 100 rabbis" to approve a second marriage. Luna replied, in writing, that the beit din was not recognized in Israel and therefore had no jurisdiction to rule on the get.

Rabbi Eliyahu Ben-Dahan, the director general of the rabbinical court system in Israel, confirms that Rabbi Ohana received authorization to serve as a dayan only two months ago. In effect, the marriage between Hagay and Luna Batzri was dissolved on behalf of the beit din by Rabbi Moshe Ben-Zaken, who is not even a dayan.

Three weeks ago, Luna learned from posters adorning the walls of synagogues in Los Angeles that her husband Hagay was about to marry a second wife. It is easy to imagine the shock felt by the 36-year-old religious woman, who is of sound body and mental state, at the sight of the posters. She says she happened to meet Rabbi Ben-Zaken, whom she knows, at a restaurant close to her home. "Who gave him permission to marry a second wife?" she asked him. "I did," said the rabbi...

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Wednesday, February 21, 2007

Rabbi's widow, U.S. synagogue dispute ownership of Torah scrolls

A rabbi's widow is at odds with a synagogue over who her late husband's Torahs rightly belong to.

Rabbi Norman Pauker lent Beth Midrash Mishkan Israel four Torah scrolls after his own North Hollywood synagogue closed in 1994.

His widow, Rita Pauker, has been asking for the return of the scrolls since his death in 2002, but Rabbi Samuel Ohana insists that what was at first a loan to his neighboring Sherman Oaks synagogue later became a gift.

"He called me in front of his wife and he said, 'Rabbi I cannot bear having these Torahs gathering dust in my garage,' Ohana said. 'Take them, please.'"

According to a handwritten contract between the two rabbis that has Ohana's signature at the bottom, the Torahs were to be borrowed for two years.

Ohana said that contract was for insurance purposes, and that Pauker asked him to take the scrolls permanently five years later, an assertion Pauker's widow disputes. She accused Ohana's orthodox synagogue of "praying on stolen Torahs."

"He is operating on a lie. It's all a lie," Pauker said. "He is disrespecting everything Jewish."

The Torah, a set of ancient Hebrew writings also known as the Five Books of Moses, is the central document of Judaism and serves as the center of Jewish religious ceremonies. A formal written scroll like the kind in dispute is known as a "Sefer Torah."

Pauker said she doesn't want to sue for the Torahs because Jewish law forbids bringing disputes over religious items to secular court. But if she goes before a rabbinical court or "beis din" she fears she will be asked to compromise.

"The truth is the beis din probably is going to split the baby," said Jeffrey Bohner, an attorney representing Pauker who attended her husband's

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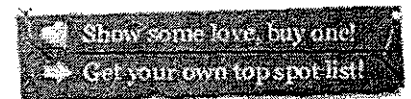


Exhibit # 4 Page # 1

synagogue and once studied under Ohana. "Rabbi Ohana has no claim to these, and Rita has all claim. So it is unfair for Rita to settle for half."

Torah scrolls can take as long as a year to ink, must be destroyed when damaged and are generally worth several thousand dollars (euros). Lending the scrolls is a common Mitzvah, or good deed, for those who own them.

Ohana said he would return the Torahs if he could be assured Pauker would give them to another synagogue and not sell them.

Pauker said she wants to give them to her nephews, who are rabbis in Florida and New York.

http://www.cjp.org/content_display.html?ArticleID=208845

Leave Comment ---This article posted by Chaptzem : 12:41 PM



Comments:

It sounds to me like this Rita Pauker lady is looking to churn a quick buck out of Rabbi Sam. If she would be viewing this situation from an altruistic viewpoint, she would leave the Torahs right where they are. Another chapter straight out of the "Greedy Widow" books. No doubt it'll fill her days with something to do, and keep her busy in life. Let's see if this fiesty b*t*h is able to pull it off.

Comment Credit ---This article posted by Anonymous : February 21, 2007 3:53 PM

When they came over fune der heim, why did they choose to spell there name with a "PAU"? With they way she's acting, she should spell it with a "FU" in the begining! Who does she think she is?

Comment Credit ---This article posted by Anonymous : February 21, 2007 4:42 PM

If her husband owned them and then loaned them to the shul, the shul has no right to keep them.

She says she wants to give them to her nephews, who are Rabbis. Even if she did intend to sell them, if it's her property she can do what she wants with it regardkess of what you or the rav of the shul think about it. He has no right to say he'll return them only if they go to another shul. And anyway, most widows are poor, not greedy - that's why it's a special mitzvah to help them. She might need the money to live on.

Finally, her last name is that of her late husband, the one who was kind wnought to lend the sifrei Torah to begin with. So you can't judge her for the spelling of her husband's name.

Comment Credit ---This article posted by Anonymous : February 21, 2007 9:57 PM

Purim is in the air. This is a story lekoved Purim right. I can't believe that Anon 9:57 is actually wasting his time to argue with the earlier joker. Take it easy...he is obviously commenting while under the influence. a frielichin Purim to one and all. Go go go Chaptzem.

Comment Credit ---This article posted by Anonymous : February 22, 2007 12:44 AM

Exhibit # 4 Page # 2

Print Page

Real News • Really Local

Real News • Really Local

NORTH COUNTY TIMES

THE CALIFORNIAN

Last modified Thursday, February 22, 2007 7:21 PM PST

Torah scroll claim disputed

By: Associated Press -

LOS ANGELES ---- A rabbi's widow is at odds with a San Fernando Valley synagogue over who her late husband's Torahs rightly belong to.

Rabbi Norman Pauker lent Beth Midrash Mishkan Israel four Torah scrolls after his own North Hollywood synagogue closed in 1994.

His widow, Rita Pauker, has been asking for the return of the scrolls since his death in 2002, but Rabbi Samuel Ohana insists that what was at first a loan to his neighboring Sherman Oaks synagogue later became a gift.

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"The truth is the beis din probably is going to split the baby," said Jeffrey Bohner, an attorney representing Pauker who attended her husband's synagogue and once studied under Ohana. "Rabbi Ohana has no claim to these, and Rita has all claim. So it is unfair for Rita to settle for half."

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Pauker said she wants to give them to her nephews, who are rabbis in Florida and New York.

Reporter: KABC Eyewitness News reporter Melissa MacBride

"The issue here is whether these Torah's were on loan or donated to a synagogue in Sherman Oaks. This dispute has been going on for years, and there is no resolution in site. For the past ten years, Rabbi Samuel Ohana has used these torah scrolls during services at Beth Midrash Mishkan Israel. He says they were donated to his Congregation in 1997 by the late Rabbi Norman Pauker after he retired and closed his Congregation, but Paukers' widow says the Torah's were in her husband's family and she wants them back!

Rabbi Ohana: Unfortunately, I'm sorry to say but Rabbi Pauker would be turning in his grave now, to hear what's all this discussion. For two years I have tried to reason with her.

Rita Pauker says her husband loaned the scrolls to Ohana, who insured them for two years. She has his signature as proof, but those two years have come and went and her husband never asked for them back. He passed away in 2002. Pauker says the Torah's should go to her nephews who are Rabbis.

Rita Pauker: I feel Normans' nephew's, who are Rabbis, They should be the rightful owners.

Pauker tried to involve the police, but no crime has been committed. She can't sue in civil court because Jewish Law prohibits a suit involving a religious article.

Her attorney says, she's legally stuck.

Jeffrey Bohrer: I think it's heartbreaking that something along these lines could happen. There's right and there's wrong.

The only other legal avenue at this point is to go to a Rabbinical court. Rabbi Ohana says he's consulted other Rabbis who say the torahs belong with the congregation. He accuses Pauker of trying to profit an accusation she denies.

Rabbi Ohana: *I told him, Rita the Torahs is not yours. They were not even your husband's. They belong to his Congregation.*

Rita Pauker: I just want them to go back to his family.

Rita Pauker is reluctant to take her case to a Rabbinical court. She feels the court would side with the synagouge. So, for now, these torah's remain in Sherman Oaks."¹