

Oaths – *Modeh Bemiktzat* (admits part of claim)

Ref: *Sefer Mishpatim, Hilchot Toen Venitan, Chapter 3–5*

Modeh Bemiktzat (admits a portion of a claim)

A person who admits (or denies) a portion of a claim must take a Scriptural oath.

However, there is a measure to this portion.

- Minimal measure is **1 *prutah*** or more
- And – he denies owing **2 *maah*** or more



1 *prutah* = ½ barleycorn of pure silver – *Derabanan*

2 *maah* = 32 barleycorns of pure silver – *Derabanan*

See difference of Holy *shekel* – 20 *maah* and Rabbinic = *sela*

Reminder

Pack on Weights and Measures



If the claim is to do with merchandise, its value is calculated to assess if an oath is needed.

If claim is to do with utensil, their worth is not calculated – an oath would have to be taken even if item was worth less than a *prutah*.

Similarly, 1 witness would obligate an oath even if item was worth only a *prutah*. (Where 2 witnesses would obligate payment, 1 witness obligates an oath.)

Another aspect is that the part admission must be for the same category of item. Otherwise an oath cannot be taken i.e. if claimant says he is owed wheat and defendant admits to owing barley, an oath would not have to be taken.

Where it is mentioned that defendant is not obligated to take an oath, it is referring to a Scriptural oath. He would however be obligated to take a *shvuat hesset*.

Claim must involve measure, weights or number.

Role of *mashkon* (security)

Role of witnesses (varies if 1 or 2)

Reminder

Pack on Witnesses



	Must take scriptural Oath	Explanation
Normally	✓	
Plaintiff does not lodge claim specifying measure, weight or number. E.g. I gave you a wallet of coins	×	

If it is impossible for defendant to deny the partial admission	×	I.e. the part he admits to is obvious and therefore is not a partial admission.
Concept of 'returning a lost article'	×	Where person could have admitted less and admitted more, the extra is regarded as 'returning lost article' where no oath is needed.
Lender has security (<i>mashkon</i>)	✓	But lender also must take oath and then collect from the security
Borrower admits part but does not know about rest	×	Must pay full amount claimed. Lender does not need to take oath
Lender not sure		Borrower can make a <i>cherem</i> against him
Where borrower admits claim substantiated by one witness but claims he should be exempt for another reason		Cannot take the oath because of the one witness. Therefore, must pay.
Claim denied entirely against one witness		Must take oath. Whenever 2 witnesses cause defendant to pay, 1 witness will cause him to take oath.
Claim denied against two witnesses	×	Must pay, because it is presumed defendant is lying
Borrower denies claim entirely, but 2 witnesses say he paid part	✓	Pays part and swears regarding the rest

Exceptions

	Must take Scriptural Oath	Explanation
Claim involving a part of landed property	×	Would have to take a <i>shvuat hesset</i>
Servants	×	Would have to take <i>shvuat hesset</i>
Parts of promissory notes	×	Would have to take a <i>shvuat hesset</i>
Consecrated property	×	Would have to take a <i>shvuah Derabanan</i> – stricter than others i.e. must hold a sacred object
Products which are ready to be harvested	✓	It is as if already detached from ground
Products not ready to be harvested	×	Regarded as part of the earth. <i>Shvuat hesset</i> required

Rent for a courtyard where part claim involved	✓	Regarded as money and not as land
Deaf mutes	×	
<i>Shoteh</i>	×	
Minors	×	
Blind	✓	Considered a healthy person