

Statements of Witnesses and Litigants

Ref: *Sefer Mishpatim, Hilchot Toen Venitan, Chapter 6–7*

Reminder

Pack on Witnesses



- Court requires litigants to give precise statements including exact details. Even if litigant is a wise person and understands all the legal implications, he still must specify all details for the judges to assess.
- If a person lies in court and two witnesses come and offer testimony which contradicts his claims, then the court establishes him as a liar. This is the only time that a court can presume person is a liar.
- If court established a person as a liar, his claims are not accepted and he must pay i.e. no oaths are needed.
- If person is only presumed to be lying, and it is not yet established, he would have to take a *shvuat hesset*, and be released of all obligations.

If witnesses are

- Employed in a direct manner by the litigant
- Hidden
- Spoken to in a light manner
- Told statements whereby litigant ‘did not want to appear wealthy’,

then their testimony is unacceptable.

- Even if witnesses were not charged to be witnesses, if manner of speech was in a serious way, they are regarded as witnesses.
- If two witnesses would result in financial obligation, one witness would cause an oath to be taken.
- Court
 - If litigants were called to a court, the document can be composed etc.
 - If a litigant set up a court of judges (and other litigant was not present) the court may not write up documents (because the defendant may have already paid). This only applies to movable property because with landed property, it is impossible to give a piece of land twice.
 - An admission made in court, or a testimony of two witnesses, has the same power as a loan supported by a promissory note.
 - Until litigant statement is verified by witnesses, he can change his statement.