

MOSHE SISELENDER Book 85

Critical Evaluation and Comparison with 4000 year old Jewish Law of [1] Rules of Evidence 2016 Used in all Federal Courts adopted in 45 states

[2] Rules of Practice and Procedures United States Tax Court 2016

[3] Model Rules of Professional Conduct 2016 for attorneys and non attorneys who practice in United States Tax Court and Attorneys in all United States Courts

[4] Taxes -Code and Regulations Court Cases 2016 Personal C and S Corporations Partnerships Estate tax Defined Benefit Plans Asset Protection

The list of 1-4 topics is a mouthful. I AM 86 YEARS . I AM CPA WITH OVER 45 YEARS OF EXPERIENCE . I am an ordained Rabbi 60 years and head of a Bet Din for the last 16 years to free Agunot chained women whose husbands refuse to grant them a religious divorce. AN AGUNAH IS CONSIDERED MARRIED CAN NOT CONTRACT ANOTHER MARRIAGE OR HAVE ANY SEX . My Bet Din has annulled the marriages of over 1000 Agunot.

If their marriage never took place by annulling their previous marriage there is no need to have the recalcitrant husband grant them a Jewish divorce. I have written 2 books book 10E and 11 in English explaining the procedure and one in

Hebrew 10H . The reaction from the imprisoned women was beyond words. However the establishment went after me . What disturbed them most was that I was operating with in the cover of the 3400 year old laws. I am not Refom or Conservative. Plus I am a greater scholar than my detractors. My credential are greater than what they possess I am ordained from RAV Moshe Feinstein and Yeshiva Torah Vodaat and have the approbation from the recognized greatest Jurists in Jewish law in the 20th century Rav Moshe Feinstein Rav Yisroal Piekarski and Rav Kaminetzki.

I have published on the internet 84 Books and Essays on God given laws on Mount

Sinai 3500 years ago . I am an iconoclast and am a trail blazer with in the parameters of United States and Jewish law.

I will select a number of legal areas on the 4 topics I have chosen and place them under the microscope of common sense and compare them to Jewish Judicial law and practice. I will not record each law in the 4 areas since such a task would be beyond the scope of this work. However the laws I select for discussion will pin point the strengths and weaknesses of the 4 topics I elect to discuss. The opinions I recite are mine only. They do not represent the opinions of Judaism. Scholars are free to voice their own opinions of Jewish law .
THIS IS THE SAME IN ALL FEDERAL COURTS.

!!!NOTICE!!!

!!! NOTICE !!!

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THE MATERIAL THAT FOLLOWS IS ONLY FOR EDUCATIONAL PURPOSES .IT IS NOT GIVEN TO OFFER LEGAL or TAX ADVICE.

YOU MUST CONSULT AN ATTORNEY OR A CPA if you have an actual case.

This MATERIAL IS NOT TO BE RELIED UPON IF YOU HAVE AN ACTUAL CASE. YOU MUSTCONSULT AN ATTORNEY OR A CPA AND PRESENT ALL THE DETAILS OF YOUR CASE.

UNTIL YOU AND THE ATTORNEY OR CPA SIGN AN AGREEMENT YOU ARE NOT CONSIDERED A CLIENT. THERE DOES NOT EXIST ANY RELATIONSHIP AND ETHICAL RESPONSIBILITY OWED TO YOU AS A CLIENT BECAUSE YOU ARE DEEMED A CLIENT.

[1] I will summarize the laws of evidence used by all Federal Courts . 45 States have adopted the Federal Guidelines.

[2] I will compare some of the federal Laws of Evidence laws with the Jewish laws of Evidence as recorded in the 3400 year old God given laws at Mount Sinai recorded in Babylonian and Jerusalem Talmud 2000

years ago . I am including the 2000 year old interpretations of the Talmud summarized in various Codes –Rif 1100s Rambam 1100-1200 s Rosh 1300s, Tur 1300s, Bais Yoseph [Rav Yoeph Karo] and Ramo [Rav Moshe Isrelish] 1500s , Levush 1700 s Shulchan Aruch Harav the first Luvavitzer Rebbi 1700s , Chofetz Chaim beginning middle first third 1900s and Aruch Hashulchon in the late 1800 s. I am including , as well as , 2000 year of interpretations and Responsa on the Talmud and Codes . I will use the Codes authored by Aruch Hashulchon Yechial Michel Epstein Late 1800s Jurist and Talmudic scholar who summarized all the accepted writings and interpretations of the Talmud Codes and Responsa for the last 2000 years.

[3] I will discuss some of the rules of Practice and Procedure of United States Tax Court 2016 edition .

[4]I will discuss some of the ABA Model Rules of Professional Conduct . The Ethical Standards of American Attorneys

Book 86

Defined Benefit Plans

Asset Protection

Book 87

Part II SAME AS Part I

Critical Evaluation and Comparison with Jewish Law

additional areas of law

[1] Rules of Evidence 2016

[2] Rules of Practice and Procedures United States Tax Court 2016

[3] Model Rules of Professional Conduct ABA American Bar Association 2016

[4] Taxes Code and Regulation Court Cases 2 Personal C and S Corporation

Comparison of Tax Court vis-à-vis

Tax court

District Court.

[a] NO jury trial

[a] Jury trial

[b] No need to pay up front
to pay up front the tax and then request a refund.

[b] One is mandated

[c] all collection is halted once Tax or [c] District Court takes jurisdiction.

[d] In Tax Court IRS can bring up other matters in their answer to taxpayer's petition.

[e] In Tax Court there exists greater motivation for IRS to compromise their disallowances because taxpayers have not paid yet until the Court renders final judgment.

IRS HAS A CHANCE TO LOSE

[f] In District Court IRS can bring up other matters than what one is litigating to offset the amount of money one is requesting to have refunded. However even if one loses they can not lose more money than what they requested to have refunded. However one must be prepared to defend and prove not only the matter that

are requesting to refund; but also ANY matter IRS can dig up.

[g] IRS has less motivation to settle. IRS already is in control of the money. Taxpayers must pay up before they can appeal to District Court. It is the Tax payer who will doing the compromising since he is not in possession of the money.

[h] Some times it is wiser not to go to tax Court or District Court. If one has fraudulent items deductions or income not properly reported there exists no statute of limitations.

IRS CAN COME AFTER YOU AT ANY TIME .

In the contingency of willful reckless disregard of IRS Code and regulations ,fraud , false returns, non filing of tax returns reports ,payroll taxes information returns, on civil as well as criminal charges IRS can investigate you any time.

Even if one is deceased IRS and the States can and do pursue the estate for gift estate inheritance tax and income and payroll taxes owed by the deceased.

They will not pursue criminal charges- civil and criminal penalties that with a live person would result in a prison term obviously-after one is deceased.

One must is mandated to amend returns if one has not reported all income. Likewise, if one has taken deductions that can not be substantiated. IRS may not pursue criminal charges if one volunteers this information. If IRS discovers this information in an audit, they may pursue criminal charges. One must consult his/her attorneys and CPAs before deciding to proceed.

[i] By going to tax Court or District Court one can find himself facing criminal charges. IRS is mandated to start digging where they never dug before.

Yes, One doe not lose more money than one is requesting as a refund in District Court , however, there is no immunity against criminal charges. Unless one has A PURE RECORD and has been religiously reporting every thing and not taken any deductions that may have any problems, there exists this problem mentioned

True one can request a jury trial at District Court . However, IRS may uncover income never reported or

/and deduction they claim fraudulently taken. Then you face civil and possible criminal charges with penalties 100,000 -250,000 for form 1040 individual return to 500,000 for C- Corporation 1120S LLC Partnership return.

If criminal charges are filed then imprisonment of 1 year for personal return to 5 years for C Corporation 1120S LLC or Partnership .

Both in United States Tax Court and District Court the burden of proof is upon the plaintiff-you. You are mandated to prove your position. In Tax Court you can end up losing more money than IRS originally wanted plus paying for IRS Court costs. In District Court the most you will lose you will not get your advanced payments back. Of course you may have to pay IRS costs. In both Courts you may have to defend yourself against newly uncovered civil and criminal charges . The best course of action is to settle at Appellate level unless you have a

clean record. **You must**

always have a clean record.

However ,If IRS charges you with a crime criminally or civilly ; or they charge that you committed fraud filed fraudulent returns IRS has the burden of proof. This is true both in United States Tax Court and Circuit Court.

By going to Circuit Court IRS is mandated to dig up new charges to counter your request for a refund. Along the way they may discover the skeletons they missed in earlier audits. They can subpoena all evidence and force you to provide the evidence to hang you. If you plead the fifth amendment. IRS can counter that this is only a civil audit and possibly force you to reveal all your cards. This a matter that a Criminal attorney can answer.

What the IRS agent doing the audit does not know - because their superiors did not tell them -is that there is

an ongoing criminal investigation. The IRS shares the information they find in a civil investigation with the criminal division of the IRS. If you ask the agent if this is also a criminal investigation he/she may possibly tell you that it is not. Not because they are lying, but because they do not know.

If you go to trial in tax Court or District Court you lose and the Court finds that you had no basis for trial, the IRS can demand and the Court may agree that you pay for their attorney and all other costs

You may end up paying for your own attorneys as well as IRS attorneys and costs.

In the United States TAX Court IRS must stick to the assessment they gave you or notice of denial and you owe additional taxes. However, they can bring up new matters in the answer to your petition. Thus going to Tax Court, as well as, District Court may be a trap.

If the items in controversy are over 3 years the statute of limitations kicks in, unless there exists more than 25% of unreported gross income that has 6 years for the

statute to kick in. Then if your over payment is less than 2 years you can sue in District Court.

Make sure that your position is not frivolous- no basis in fact or law . If it is frivolous you and your lawyer can be sanctioned with monetary fines. And you may also have to pay for the IRS attorney. When the attorney signs the petition the reply to the respondent's the IRS answer the attorney is in effect alleging that he has read the petition that he feels the petition is submitted in good faith that there exists evidence that meets the criteria of Federal Courts and that he is complying with the rules and Procedures of United States Tax Court Practice or Federal Practice for all other Courts-District Court.

If the Attorney advances frivolous charges fails to follow the directives orders misses attending conferences the Court may sanction both the taxpayer /and or one of them.

[j] The sanctions

can be [1] monetary

finer of thousands of dollars to be paid to the Court or to opposing Counsel the IRS . Or else [2] for failure to admit or to agree to a stipulation- where both parties discuss all the issues and narrow the areas of disagreement - the judge may agree with the IRS to render immediate

judgment for **dismissal of**

the petition. Thus IRS

wins .

[3] In addition
IRS can demand
payment of all
Court costs. Thus the

taxpayer will have to pay for his attorney as well as the respondent's IRS attorney and costs of witnesses and experts.

[k] There
exists a cardinal
principal in all
Courts. When
an opposing
party makes

any statement
advances any
position no
matter how
wrong and
illegal unless

you oppose it
as erroneous ;
the court will
consider your
silence as
agreeing to give

up your rights.
Thus if the IRS
alleges an
assessment
where the
statute of

limitations has
tolled and you
remain silent
you fail to
challenge it the
Court will admit

this
assessment. If
you remind
yourself in the
middle of the
trial it may be

too late, unless
you convince
the Court at
your or your
attorneys over
sight and are

permitted to
amend your
reply.

The same
ruling applies
to any form of

evidence that
the opponent
wants to have
admitted.

Let us say that
the IRS

introduces new
charges like
fraud charges,
unless you
demand that
IRS has the

burden of proof
the Court may
very well insist
the you the
taxpayer have

the burden of
proof.

If the IRS
introduces
here say
evidence that

has not been
exempted from
the hearsay
rule and you do
not object
immediately or

at your first
opportunity the
Court will admit
it and you will
not be able to

have it
removed later.

Likewise if
you are relying
on a
presumption

that is in your
favor you must
declare it. The
Court will do
nothing for
you. If you fail

to declare it, it
is tantamount
as you waived
it.

In those
State

jurisdictions
that interpret
Presumptions
like the legal
scholar Morgan
that the

opponent the
IRS has the
burden of proof
both for the
production as
well as

persuasion ,
unless the
proponent the
taxpayer
demands these
rights the court

may very well
ignore your
rights. The
same is true
with Judicial
Notice as well

as Privilege
Communications.
Unless the
proponent or
his attorney
demands it the

Court may
ignore your
rights. When
you try later to
reinstate your
rights the Court

will argue that you waived it by your silence.

In addition to challenging position contrary to yours, you must also state the precise legal ground that you base your opposition. Otherwise the judge will not accept your reply . That means that your attorney must be an expert in the area of law under discussion and be alert. He can not be sick and because of his illness be unable to timely respond. One can not be Mr. Nice guy and hire an attorney a friend who is ill. If you do and lose, you have no one to blame but your self. If you are hiring to represent a client, you committed a tort and are liable to be sued. You will lose your client. You have a distorted sense of values. You are technically stealing

from your client who is relying on you. You are in violation of an ethical principle of loyalty to your client. You are giving your client a bum deal you are favoring your friend at the expense of your client. One is not permitted to accept a second client if that would conflict with the interests of client number one.

CRITICISIM

This procedure is unfair. However common law dictated such discipline. This is part of the adage of dog eat dog. This is not equity. There exists no reason that a judge seeing that a litigant over looked to dissent on some thing that is black and white should not remind the person , if not dissent for him. Certainly this is not worse than judicial notice that the judge allows himself to intervene. Certainly this is not worse than when a judge rules not to admit certain evidence because it will confuse the jury or will unfairly prejudice them. To my mind such arbitrary behavior on the part of Court smacks of a medieval justice that tolerated justice by throwing a murder defendant into the water. If he would sink and drown it was a sign from heaven that he was innocent. If he would float on his back, that was a sign from God that

he is guilty. He then would be drowned. Then there was the ordeal of fire . If someone was suspected of murder, he would be forced to pick up one two or three burning coals. If the burns would heal it was a sign from heaven that he is innocent. If they would not heal then it is assign from God that he is guilty. He then would be put to death.

The procedure followed by all Courts that the litigant must immediately challenge all proposals against his interest on the punishment of conceding otherwise, to my mind lacks merit. Jewish Law takes issue with such procedure because of equity considerations. Many cases arise when one remains silent to false accusations. That does not mean that he concedes. If someone calls you illegitimate or called your wife a prostitute and your children bastards , and you keep quiet. That does not mean that you agree that you are illegitimate or your wife is a prostitute and your children are bastards You kept quiet because you ignored the person and were not interested in having to do any thing with him. Your silence is not to be taken to mean that you concede your

status to be illegitimate your wife's status a prostitute and your children's status bastards.

There exists another fundamental difference between Jewish law and American law and procedures. In Jewish law an individual can do any thing with his money and if he agrees he can dispose of his money give it away. Thus if he agrees to be under the jurisdiction of American law and accept the rules of United States Federal or State Courts, that is ok.

However, when it comes to criminal matters no person can volunteer to confess his guilt. Rambam laws

Radvaz gives the following explanation : one who confesses his guilt on a criminal matter where there exists the death penalty in effect want to die. This a convenient way to commit suicide by confessing regardless if he is truly guilty or innocent. The same is true regarding status of illegitimacy . One is not believed that he is illegitimate or his children are illegitimate. In united States Federal and state laws one is believed to plead guilty to murder.

INFERRANCES FROM PAST CHARACTER NOT ACCEPTED IN EVIDENCE

The statutes that do not accept evidence from a person's prior behavior that portrays his character . We will not make a presumption since he behaved in an evil manner before he is an evil person we will therefore convict him presently. We will draw the conclusion that he is guilty. The same in reverse since he behaved like a saint before he must be a saint and we will find him innocent for the present litigation.

Fundamentally this outlaws prejudice and bias of past behavior . Just like we outlaw religious racial gender and age bias from any consideration ;so too we outlaw prior conviction or award of honor to influence and substitute for a trial on the merits. We do not convict or find innocent on the basis of reputation.

This law echoes the Biblical adage of "tzedek tzedeh tirdoff" you are mandated to pursue justice and not favor anyone because of his status high or low. The noblest soul in the past can turn around and become evil . The wicked sinner can repent and turn noble. One must judge "kasher hu shom" the way the litigant is at present. No

one has to carry past baggage No one can escape judgment by exploiting past good deeds.

There exists exception when a criminal defendant murder or rape invokes his reputation to prove he is innocent . However other individuals other than himself must testify for his reputation. When he invokes his reputation then the prosecutor can produce witnesses that stain his reputation. Likewise when the defendant claims that the victim was the first aggressor and he invokes self defense he can invoke his reputation. The prosecutor can then retort by proving the peaceful character of the victim. Or in a rape trial the defendant can claim that sex was consensual . He can claim that the victim is a whore who sleeps with anyone.

What is very troubling in cases of sexual molestation or accusation of rape that the testimony of minors under the age of 4 or 6 or 8 [depending on the State] is accepted to convict some one. Children are very prone to undue influence and suggestion to falsely testify. To accept their testimony and destroy some ones reputation is a crime that screams to heaven. In the halls of justice one finds injustice.

The same laws of evidence that grants the judge dictatorial power to exclude testimony from the jury because they would be confused or be unduly influenced and unfairly prejudiced against a plaintiff , never the less, is ok with the concept of accepting the testimony of babies aged 6 7 8 depending on the State.

HABIT

The exception to this law is that past habits can be considered in the calculus. A habit is different than a character trait. A habit is akin to an automatic response. When one sneezes one wipes out a handkerchief or tissue. That is a habit. When one writes a check one makes a copy . That is always. When an accountant has to prepare payroll taxes he will set aside the time and not do other work. If there is a question if he filed timely and he does not have certified return receipt requested to prove timely mailing, he can rely on the evidence that his habit was to set aside time that he would do nothing else than prepare payroll taxes.

HERE SAY EVIDENCE

The laws of not permitting here say evidence is based on the principle that the antagonist must be given the chance of challenging all evidence submitted in open court where the evidence is submitted under penalty of punishment if the evidence is false. However evidence secured outside a Court room is not given under penalty of punishment if it is false. It also has not been subject to cross examination. Therefore it is called here say evidence. There exist exceptions. [1] written records in an office can be presented in a court room if they were not prepared for the trial. [2] Hospital medical dental records qualify if not prepared for the trial. [3] a police report of an accident or a homicide or an injury also qualify. [4] A witness who can not be deposed because the defendant has intimidated him that he will be subject to harm or death. However the witness provides written testimony that can be used at trial. [5] A witness resides in an other jurisdiction and is not subject to a subpoena to appear personally at trial. However this witness provides written testimony to be used at trial. [6] written memorandum of a witness who forgot the testimony. He

is reminded by reading his testimony not prepared for trial

There exists a rule that when one witness is testifying other witnesses must not be present other than the plaintiff defendant or company representative. The reason is that the other witnesses not shape their testimony to tailor the testimony of prior witnesses.

Likewise, witnesses should not be presented with transcripts - written copies of the testimony -of prior witnesses in order to prevent collusion.

Confidentiality.

[1] The lawmakers legislated wisely to prevent conversations between a litigant and his attorney as well as work products prepared for trial to be subject to disclosure or subpoenaed at trial . This was legislated to enable clients to confide everything to their attorneys in order to prepare for a defense . Otherwise justice would be undermined.

[2] The same reasoning holds for conversations between patient and physician.

[3] The same is true for conversations between spouses.

The reasoning is to encourage the survival of marriages and enable spouses to feel safe with their private matters, with out fear that at some point, their spouse will be forced to disclose .

[4] The same is true with conversations with their ministers clergy or priests. When some one is confessing his sins and mentions that he murdered some one the priest is forbidden to inform the police.

[5] The privilege of confidentiality is true only for past crimes ; not to cover for one who plans to commit presently or in the future crimes. The attorney the physician the spouse the clergyman must report to the police or warn the intended victim. If he/she fails they may face punishment as an accomplice.

The laws of confidentiality have similar parallel laws in Jewish Jurisdiction.

JUDICIAL NOTICE

Judges in their own jurisdiction have established certain criteria and a set of principles they consider as given facts as gospel that can not be questioned. These judicial

notices are given the status of proven facts. They need no further proof. Each jurisdiction have their own set of pet judicial notices. Judges instruct the jury that they must or have a choice to accept the judicial notices. The judicial notices are considered stronger than presumptions. Presumptions can be rebutted . Judicial notices can not be rebutted.

Only in criminal cases do judges yield to the jury to decide to consider the judicial notice as fact or not. The reason is because criminal defendants have the protection of the fifth and fourteen amendments for due process.

CRITICISM

If judicial notices are the gospel truth how come every jurisdiction have their own pet judicial notices? How can justices who are sworn to uphold the truth and be impartial and do justice hide their own prejudices under the cover of judicial notices? Since when are justices the mouth piece of God that only they have the revelation and are the true arbiters of what GOD wants?

Today the Courts have substituted what used to be the role of religion. Although Courts pretend that they have banned religion from the Court house[religion is not in the calculus of qualification or disqualification of a witness] . However looking deeper, the Court and its laws is the new religion. This thesis is strengthened when we scrutinize judicial notice . Certain instances of Judicial notice are n=0 more than prejudices common to a select population in a jurisdiction. These judicial notices may or may not be recognized in an other jurisdiction.

Presumptions

I discuss presumptions in other parts of this essay.

Jewish law has no judicial notices as used in Federal and State Courts. . There exists many presumptions in Jewish law that are tempered in accordance with the circumstances. See my books in English Book 10E and 11 and book 10h in Hebrew for further elaboration. In order to annul marriages I use many presumptions that have the effect of annulling the marriage because of misrepresentation .

[l] One must research which court is most favorable to your case from past rulings of that Court. However if you are not domiciled in the district of the court you can not go there. However, one living anywhere in the United States can go to United States Tax Court . There are no jury trials. The judges are more experienced in tax matters because they only handle tax matters. One does not have to pay the tax up front. When you go to the Circuit Court you must first pay the tax then request a refund. We already mentioned this fact. Tax Court will may rule like the rulings of the Circuit Court of Appeals that you are located in . This is done since you will appeal any adverse ruling to that Circuit Court. Thus a resident of New York State is under the jurisdiction of the second Circuit Court. Tax Court will render judgment in accordance with the rulings of the second Circuit .

[m] In District Court you must pay in advance and then request a refund. An exception is made in the case of payroll taxes. All you have to pay is one quarter and then you can sue for all other quarters that are open. You can sue for abatement of penalties and interest on the penalties. Many Circuit jurisdictions are very strict

regarding penalties for not making timely deposits and not timely filing payroll taxes.

[n] However some Circuit jurisdictions including the Second District where New York is located are more sympathetic to taxpayers. Especially when illness occurred in the immediate family that prevented the taxpayer from timely filing/and or making deposits for payroll taxes. They also are sympathetic in the case where timely payments for payroll taxes can mean that the taxpayer will go out of business.

Summary of 2016 Federal laws of Evidence. Criticism

Rules of evidence 103 104 105 106
mandates that the judge act as the gate
keeper to prohibit admittance of

evidence that can possibly mislead
confuse or render evidence unfair
prejudicial to the jury.

This rule demonstrates the wisdom of
the lawmakers and concern for justice.
However , any great law as with
religion ,it all depends on the people
who carry out the laws and the religion.
All religions are believed by their
votaries given by God. However the
people who carry out the laws of the
religion can possibly be and were in
actuality monsters. Then religion can
become tyranny and opium of the
masses. The same is true with Federal
Laws of evidence.

Thus valuable information can be arbitrarily dismissed by the whims of one individual who was politically appointed and selected as a judge. The judge can very well be a drunk nitwit who has in his power the life and death of a defendant or the life saving of a plaintiff or defendant . He can determine the out come of a proceeding by arbitrarily denying entry of life saving information. He can “legally” choke a criminal defendant by denying admittance of life saving testimony. He can determine the out come of any jury by insuring that only incriminating evidence reaches the jury. No matter

how many protests are recorded on record by the attorney for the defendant the judge if he sees fit can make life miserable for the defense. The appeal from the judge's errors can be very costly and beyond the reach of the indigent who is being framed. The Court appointed attorneys may very well be individuals who failed to compete and get high salaried positions in the "lawyer industry". They represent a population of second hand talent. How much incentive do they have to challenge the decrees of the judge?

However , all is not lost. Litigants have a choice even where juries are allowed in

District Court to select a judge trial. Then all evidence is permitted.

If the attorney for the mover or defendant does his research properly he can then hand his research to the judge and not rely on the law clerks . No judge alive knows all the rules and all the changes . Laws from different disciplines inter wind in many cases especially criminal cases. Unless the attorney for the mover or defendant does his homework, the litigant is doomed.

PRESUMPTION OF THE HONESTY OF THE JUDGE .

THIS WHOLE DISCUSSION IS PREMISED THAT THE JUDGE IS HONEST. WHO CAN VOUCH FOR THE HONESTY OF A JUDGE ?

The answer is that there exists a presumption that a judge will be honest when sworn to uphold the law. He will put aside his prejudices otherwise if found guilty of prejudice and doing the things I mentioned above he/she will go to prison. He will be disbarred and lose his career.

Jewish law also employs this presumption . It is called “umdenah demuchoh” a convincing presumption. No government employee will lie because he will be severely punished. We will accept the testimony of government officials in all matters of religious life because of this fundamental principle.

The same presumption is true regarding the notices of the IRS . notices are given the presumption that they are correct unless they are rebutted by the tax payer. That is why the tax payer in both United States Tax Court as well as Civil Court has the burden of proof to

disprove the presumption that the IRS is correct. The reason because they are government employees.

There exists an other presumption that if a person mails a letter the presumption exists that it was received. Once proof is provided that the letter was mailed we will be entitled to the benefit that the letter was received after the normal time of mailing.

Using this logic once we establish that the letter was timely mailed by having a certified mail showing the date stamped by the post office the letter is deemed timely mailed. In situations where the date of mailing is critical. Such a

situation arises in the case of mailing a petition to United States Tax Court 90 days after receiving final notice from IRS of a deficiency or else threatening to institute collection action.

THE CERTIFIED RECEIPT IS PROOF OF TIMELY MAILINGS. Court cases exist that when petitioner does not possess a certified receipt he can request the IRS to produce the envelope to ascertain the date stamped by the post office on the envelope.

The IRS IS REQUIRED TO MAIL THE FINAL NOTICE TO THE TAXPAYERS LAST KNOWN ADDRESS. It does not matter

that the taxpayer never received the final notice because he moved.

Jewish law has no Jury trials similar to United States Tax Court. District Court likewise offers the mover a jury or judge trial. Thus the shortcomings of Rules 103 104 105 106 can be averted.

Permitting all evidence in civil, as well as, criminal cases has another more subtle effect. It permits the judge to use his

brain and intuition to size up the line of thinking and motivation of the fraudster. From the accumulated pleadings ,answers, stipulations or lack of them the judge can very well get a handle to differentiate between the framed defendand and the alleged “victim” in a criminal case or sex abuse or sex molestation case.

The laws on the books of evidence law is very unfair to the defendant in an alleged criminal sex attack or sex molestation case. The past conduct and convictions of the defendant can be admitted in evidence. However, the sexual promiscuity of the ALLEGED VICTIM IS PROTECTED AND IS NOT ADMITTED IN EVIDENCE UNLESS SHE CLAIMS THAT THE DEFENDANT'S SEMEN IS ON HER PANTIES OR VIGINA. The defendant can then introduce evidence

that the alleged victim is tramp who has intercourse at random or has a boy friend. Admitting such evidence is critical to prevent a frame up or a false paternity suite. Also a false paternity suite of a married “victim ” can be contested with the presumption that children born where the woman is married most likely the husband is the father.

However , to offset the prejudice of present evidence

rules regarding sex crimes and sex molestation crimes the honest judge can interview the alleged victim and get a sense of the fraud being perpetrated on the defendant.

In my book 10E I devote a chapter to an actual FRAME UP case that came before our Rabbinical Court.

Every judge sitting in Criminal cases is advised to read and

learn the lessons of 2000 years of scholarship. One need not be Jewish to learn how fairness and wisdom is enhanced by studying the results of on going scholarship for the last 2000 years in a Bet Din Jewish Courts. I am an ordained rabbi for the last 60 years. I am head of the Rabbinical Court for the last 16 years. Read my books

and essays . So far there exist
84 in addition to this book.

Model Rules of Professional Conduct 2016

ABA AMERICAN BAR
ASSOCIATION

These rules have been
accepted by attorneys

practicing in all Federal Courts
and non attorneys practicing in
United States tax Court

**A MEMBER OF THE
PROFESSION WHO AGREES TO
UPHOLD THESE RULES IF
FOUND GUILTY OF VIOLATING
ONE OR MORE OF THESE RULES
AFTER A TRIAL BY THE
COMMITTEE OF ETHICS WILL
FACE DISCIPLINARY CHARGES
AND SANCTIONS.**

The sanction can be a [1]to be suspended to practice for a specified period of time. [2]If he is found guilty in violation again the sanction can be double or triple time suspension. [3]If he is further found and is adjudged a habitual offender willful reckless with complete abandon of the moral ethical conduct of law and ethics such

an individual would be permanently barred .

Of course the defendant would be entitled to represent himself or have another attorney defend him. He is afforded all the rights any defendant in a criminal trial is accorded.

This trial is in addition to any criminal or civil trial the

individuals who brought the complaint can file .

The issue of the existence of statute of limitations depends on the laws and by laws of the Bar in the state where the accused attorney resides.

I know that in the State of New Jersey there exists no statute of limitations.

The purpose of the Model rules is to enforce self policing

by the Bar in order to prevent passing of laws by the State and Federal government that would limit the independence of attorneys.

I have discovered great similarities of the laws in the ABA Code of Professional Conduct with the laws and procedures of the United States Tax Court and the Rules

and procedures in Civil Cases of all other Courts.

[1] The attorney by signing the petition in United States Tax Court or other Courts is in effect vouching under penalty of punishment that he believes to the best of his knowledge that the contents of the petition are accurate as to fact and that they have the support of law.

This proposition is to be found in the laws of evidence 2016 the procedures of Tax Court and the Procedures of Civil Courts. This proposition is part of the ABA Code of Professional Conduct.

Would the contents of the petition signed by the attorney be found to be frivolous, the attorney is subject to sanctions by [1] the ethics Committee of

the ABA [2] the Judge of Tax Court or [3] other United States Federal Courts.

In effect the attorney would come under surveillance of the ethics Committee, as well as, the Courts. He could be facing multiple charges. Thus a presumption is created that the lawyer is honest when he signs.

Just like a presumption exists that every Judge is

honest in every proceeding pre trial and during trial. The sanctions within the legal profession exist, as well as, civil and criminal charges in the Courts.

Embarrassment public humiliation shame and loss of one's career are the insurance policy that shield the public from the desires of self interest

on the part of the judge and attorney.

Jewish law agrees with this presumption as I mentioned earlier in this paper. Thus Jewish law accepts the accuracy of labeling of food products. We can accept that milk sold in the super market is from cows not from pigs. This presumption sanctioned by the ruling of Horav Moshe

Feinstein in his Responsa
books Igros Mosh^e established
the validity of this presumption.
The presumption is based on
th^e fact that one who mislabels
milk and claims that it comes
from cows rather than in truth
from hogs is subject to great
fines and possibly criminal
charges. The presumption rests
on the fact that the punishment
for mislabeling is too costly.

Likewise , when stores display a sign that they sell Kosher meat with the certification of the Orthodox supervision we can trust them . The punishment for fraudulent misrepresentation is too costly. Thus the presumption of accuracy exists.

I have annulled marriages because of the breach in basic core marriage undertakings

pledged at the moment of sanctification of the marriage.

A groom pledges in the “ksuba”- the marriage contract that “he will behave as a Jewish husband .” Jewish husbands do not beat their wives .They do not abuse their wives . The~~y~~ do not abandon their wives. They provide conjugal rights –sex-. They provide food shelter clothes

that includes make up. They work . They spend time with their wives. They do not have a girl friend extra marital affairs or boy friend they are not homo sexual or bi sexual.

They are not on drugs or alcoholic or a chain smoker. Any thing else that the couple agree can be written into the ksuba. The ksuba is in effect a contract between groom and

bride. I also add a clause that explicitly permits annulment of the marriage if the husband breaches the contract. See my Book 10 and 11 and 10 H

The wife likewise pledges to behave as a Jewish wife. Her pledge is oral. It is not a contract there is no Ksuba. The reason is because the husband is free to divorce her if she does not keep her pledge. After the

year 1000 ACE there exists a ban- Cherem Rabenu Gershon prohibiting a husband to forcefully divorce his wife without the authorization of 100 Scholar. The husband has a way out in case the wife breaches her pledge.

However , the wife where the husband is found to have breached his pledge remains in limbo.

That is where the Rabbis for the last 2000 years created the institution of annulment to extradite the agunah- the wife whose husband refuses to grant her a Get a JEWISH DIVORCE.

WE use a presumption that no woman would have agreed to consent to a marriage with a husband who does not behave in accordance with the bill of

rights that every woman Jewish or not is entitled. The Ksubah uses the term “the husband promises to behave as a Jewish husband behaves “ because they are dealing with the marriage where both spouses are Jewish. Jewish law does not permit marriage unless both spouses are Jewish.

If one of the spouses is not Jewish that spouse is

mandated to convert to
Judaism .

Ivanka Trump had to convert to Orthodox Judaism and practice all the tenets of Orthodox Judaism in order to marry her Jewish husband. President Trump back then gave his blessings for the conversion and marriage. His son on law is one of the most

trusted and loyal advisors of President Trump.

The wording of the Ksubah-
the Jewish marriage contract
represents a bill of rights for
every wife -Jewish or not.

The Ksubah represents the
husband's model Rule of
conduct.

Annuling the marriage
represents sanctions exercised
by the Rabbinical Court for

breach of contract by the husband. We utilize the presumption that no wife Jewish or not would have agreed to consent to get married would she have known that her future husband would breach the Ksubah her bill of rights .

Therefore the marriage

Ab Initio never existed.

Since the marriage never existed there is no need for the recalcitrant husband to authorize the writing of a Get a Jewish divorce.

When the wife complains that her husband has breached the agreement. The Rabbinical Court conducts a trial. The trial is conducted similarly to trials in Federal Courts with differences that I have

previously mentioned.

Obviously there exist many other differences that I do not mention because the scope of this book does not permit.

Conflict of interests

The attorney is not permitted to accept any additional client that would create a conflict with the interests of an existing client unless the attorney receives the written agreement

of all clients the old and new client. Likewise when the attorney represents two clients in a common matter and new matters develop where the interests diverge, the attorney can not continue representing both unless he receives written permission from each of the parties.

The attorney in all instances when there exists a conflict of

interest must fully explain in writing all the possible consequences and contingencies where each of the clients could possibly be injured as a result of the dual representations.

FEES

Attorneys should not accept a contingency fee arrangement when he represents a client



regarding alimony or child support.

Jewish Law has no Contingency fee arrangements. Period.

The Rabbi's fee is only if he is a day laborer the time he loses by all the time required to conduct the Bet Din Rabbinical hearing. Only if the Rabbi depends on his labor to earn a living for himself and family. However if the Rabbi is in

business or has a profession -
physician CPA attorney
actuary appraiser government
job and does not need the fee
for the time spent on the
hearing ,he is not permitted to
take any fee. Likewise if he is
hired by the community to be
the Rabbi and part of his duties
are to be a member of the
Rabbinical Court he is not

permitted to take a fee or any gratuity.

Technically, Rabbis should receive no salaries or fees. Just like God does not charge for giving us life and giving us His teachings in the Bible and other holy books the Torah- so too a Rabbi should charge nothing.

An exception a dispensation is made when **THE RABBI HAS NO OTHER BUSINESS OR**

PROFESSION OTHER THAN BEING A FULL TIME Rabbi.

The Rabbi has to survive and the congregants need the services of a full time or part time Rabbi. Only then is the dispensation available for the Rabbi to take a salary and gratuities.

However, when the rabbi is a professional or business man and does not need the money

he should charge nothing. Only where the Rabbi is a laborer and has not enough money for his family and himself do we use the formula mentioned above:

multiply the amount of money he receives hourly for his labor x the total number of hours conducting a RABBINICAL TRIAL

Philosophy behind ABA Code of Professional Conduct

All standards and laws are centered around the core values that the attorney is supposed to be honest and upright. An attorney is forbidden to be a wolf a thief hiding in the clothes of a sheep. He can not hide in the clothes of the legal profession. The American Bar Association the

ABA does not want to be an accomplice to “legalize the crime of the attorney who creates his own mafia.”

The ABA IS ECHOING

THE WORDS OF THE Bible

“ In the place of justice there can not be injustice.”

The ABA DOES NOT WANT TO GIVE A KOSHER CERTIFICAT TO “THE LEGAL MAFIA.”

Competence

An attorney must be competent and be or become an expert in the area of law he is hired . An attorney is not permitted to undertake a case unless he is or will become well versed in all the laws regarding the new case. Or else another attorney in his firm possesses or will possess the expertise. If not -he nor any other attorney

does not possess the expertise, he must not undertake the case. He must advise the client of the truth. He should suggest an other attorney who possesses this knowledge and expertise.

Fees for recommending work paid by an other attorney.

If the attorney recommends a client to an other attorney and receives a fee or a percentage of the fee for the

Recommendation is this ethical?

If he does some work on the case ,and the fee corresponds to the amount of work that he does- Example. The attorney charges 500 an hour and he puts in 10 hours . He is entitled

to get 5,000. He must inform the client of the arrangement and secure his written permission.

NAME OF FIRM

The name used must be the name of one or more of the attorneys of the firm they should write next to the name the state or states he is licensed to practice. If the

attorney has received a master of taxation this fact should be mentioned. If the attorney is deceased this fact should be mentioned . If the attorney departed the firm he is no longer with the firm his name should not be used on the stationery or any correspondence .

In addition, it is wise to have a web site for the firm with the

resume of each attorney and his rank in the firm ,the educational background the areas of practice and the number of years experience in each area.

**COMPARISON OF ABA –
AMERICAN BAR ASSOCIATION
CODE OF ETHICS AND CODE OF
ETHICS OF AMERICAN
INSTITUTE OF CERTIFIED
PUBLIC ACCOUNTANTS.**

They are almost identical.

COMPARISON OF CODE OF ETHICS OF ABA AICPA and Rules and Procedures of United States Tax Court and Rules and Procedures of Federal Courts Civil Cases

Reveals that all these forums demand the attorney CPA and pro se practitioner to be honest and follow all the measures outlined.

In addition , to all the sanctions each of the organizations have in their power, there exists the civil and criminal courts- that may independently find with the party lodging the complaint . They will order monetary damages and or a prison sentence to the judge Attorney the CPA or the pro se practitioner if he gets out of line and thinks he is above the

law. If the smart alek Attorney CPA or pro se practitioner is able to organize a support network in the judiciary system to further his self enrichment there always exists RICO for such conspiracy.

**No one is
above the law**

Very important

Wherever I

mention the

masculine

gender “he his”

I mean the
feminine
gender as well .