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Case: A freelance writer was approached by several editors of a publication prior to the spread of Covid-19 to write some time-sensitive articles, such as spending Yom Tov in hotels, issues of safety during Lag B'omer trips, and having small weddings vs. large weddings. However, after these articles were written, the publication could not use them anymore since the subjects were entirely irrelevant due to the restrictions and lockdowns imposed because of Covid-19.

Question: Who is responsible to bear the brunt of the financial loss in this case? Must the editors who hired the writer bear the loss and pay the writer the full agreed upon fee, or does the writer bear the loss and not receive payment for his work?

Answer: We can analyze this case using the halachic principles of *sechirus poalim*, employee-employer relations, since the editor hired the writer to write the article.

The *Shulchan Aruch* discusses two general types of models of *sechirus poalim*. The first one is where the employee is paid by the hour. In this case, if the employee works for a certain number of hours, he must be paid for his work, regardless of whether the employer actually benefits from the work or not. Therefore, the *Shulchan Aruch* states that even if someone hires another to work on an ownerless field or a field belonging to someone else, he must pay the employee for his labor.

The second scenario discussed is that of a *kablan*, one who is paid by the job. In this context, the *Shulchan Aruch* (C.M. 333:8) cites the *Teshuvos HaRosh* that if someone hired a craftsman to build a particular type of *kli* (utensil) and then says he doesn't want it anymore, the one who commissioned the craftsman is responsible to pay him (if it can no longer be sold to someone else).

It seems that our case would be more similar to a *kablan*, as the editor commissions the writer to write an article and will

pay them by the job. Thus the editor would be *chayav* to pay if the article is no longer usable at this point in time.

Question: If the article has retail value, can the editor tell the writer to search for a different publication in which to publish the article?

Answer: This question is subject to a major *machlokes* of the *poskim* and depends upon why the one who commissioned the employee is *chayav* to pay in the case of the craftsman. If it is based upon the regular rules of the employee- employer relationship, then the reason the writer gets paid is because of the work done, and the employer must bear the loss. But the *Nesivos* holds that the reason the employer must pay in the case of the craftsman is because he indirectly caused damage to the employee, known as *garmi*. According to his opinion, the writer would indeed be responsible to try to sell the article and see whether he can earn any profit from it. Whatever payment is still missing afterward would then be the responsibility of the editor to pay as compensation for the loss caused.

We should also point out that if there is an accepted practice in the field, the halacha would follow that practice. Therefore, where the accepted practice is that if the article is not published, the publisher pays a 50% fee, called a "kill fee," then the editor would be obligated to pay the 50% kill-fee but no more than that.