Having requested a metered ride, instead of fixing a price with the monit driver, quickly evolved into an increasingly costly picking for the Lewenstein party, as the pre-holiday bumper to bumper traffic snarling through the narrow Jerusalem streets began to sap their pockets.

After crawling for ten minutes, the traffic began to disperse and the upcoming traffic circle turned fairly empty. The monit driver revved up his engine and raced towards the circle.

Pushing double stroller with two kids on her side, Mrs. Berger observed the episode. Reaching the intersection at about the same time the taxi did, she wondered if it was noble to defer the right of way to the taxi and spare the Lewenstein’s from incurring a more expensive ride.

Must David pay for the etrog?

What's the Law?

Please email us with your comments, questions, and answers at weekly@projectfellow.org

Last Week’s Case # 264: The PITUM BROKE!

An exceptional family ritual by now, David Lewenstein from Los Angeles arrived in Jerusalem with his growing family a few days before Sukkot. Moments after settling in their rented villa on Keren Kayemet St., David and his boys dived straight into the exciting hub of action, procuring the four species and erecting their decorative sukka.

David found what seemed to be a prize etrog. In Jerusalem as well as in other cities, the consumer takes his etrog of interest to a Rabbi to ensure it is kosher. If the Rabbi disqualifies it, the dealer will allow the consumer to void the sale.

Etrog and a danish in hand, David and sons boarded the heavy populated light rail en-route to the Rabbi.

Challenged to curb his excitement, David fatefully opened the etrog box to take another look...but so did the elbow of the
security guard passing through the train, inadvertently knocking the style (pitum) off the etrog, whereby rendering it non-kosher.

What’s the Law?

The Answer:
David must pay for the etrog.

Detailed Explanation:

The PITUM Broke invokes the following laws.

1. A Borrower derives benefit from the borrowed property; [Sha“ch - Choshen Mishpat 340:3] without having to pay a fee.

   Hence, the borrower assumes complete responsibility including damages due to (a) negligence (b) theft/loss outside of the realm of negligence, c) general unforeseen accidental damages beyond his or her control.

2. A borrower is exempt from paying for damage that occurs simply as a result of using the article in its intended use. [Exodus 22:13 Choshen Mishpat 340:1].

Application:

As David derived the benefit of reserving the etrog of his choice before having to pay for it; he is deemed a borrower so long as he has yet to pay for the etrog. As such, he assumes full liability for any mishap that may occur to the etrog, spare for paying for damage that occurs simply as a result of using the article in its intended use.

David acted with negligence by taking the delicate etrog out of its box in a crowded light rail car. He is thus liable to compensate the seller for the damage that ensued.

Parenthetically, if without known mishandling, the pitum would have fallen off the etrog in the box with reason to assume that the style was simply weak, we could have viewed it as damage occurring as a result of using the article in its intended use, and absolved David.

Dedicated l’refuah sheleima for Chana Bas Basya