

HALACHICALLY SPEAKING

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{ TOPIC }

Burdening the Public



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► Each issue reviews a different area of contemporary *halacha* with an emphasis on practical applications of the principles discussed. Significant time is spent ensuring the inclusion of all relevant *shittos* on each topic, as well as the *psak* of *Harav Yisroel Belsky, Shlita* on current issues.

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Burdening the Public

In many shuls, the question arises regarding waiting when a rabbi is taking longer to *daven Shemoneh Esrei* and people are getting edgy, since they have to make the train to work or drive the kids to school. If there is a *minyan* in shul does the public have to wait for the rabbi to come to the *minyan*? Does the *shatz* have to wait for the rabbi? Is this considered a burden to the public – *tircha d'tzibbur*? How many people need to be available to answer a *shatz* before he begins *chazaras hashatz*? If one takes out the wrong *sefer Torah*, should he put it back, or should he *lein* from that one even though it will cause a delay in the completion of the *davening*? There are seven *aliyos* on Shabbos morning; are we allowed to add to this number? These and other issues which may be a burden on the public will be dealt with in this article.

Burdening the Public

The Gemara¹ says that the *parshah* of *Balak* is not in *Krias Shema* since it would be a burden for the *tzibbur* to say the lengthy selection.

Waiting for the Rabbi

Our first discussion in this area of halachah applies to a rabbi who may be late to shul for the *minyan*, or is *davening*

1 *Maseches Brachos* 12b.



איך ללמוד להקדיש את השבת לאלו שאינם יכולים להגיע לביהמ"ד? (ברכות ח')

a long *Shemoneh Esrei*. The public needs to wait for him to come or finish *Shemoneh Esrei*.

The Gemara² says that Rabbi Akiva would shorten his *davening* to avoid burdening the public.³ The Pri Megadim⁴ says that one who *davens* too long and is a burden on the *tzibbur* will be punished for it.⁵ *Davening* too long means spending too much time on each word, and being overly lengthy with your supplications.⁶

The Rema⁷ says that if there is a *minyan* in shul and the *rav* is not there yet, the *minyan* need not wait for him before they start *davening*.⁸ The Magen Avraham⁹ says that today we wait for the *rav* to come and to finish *Shemoneh Esrei*. One reason is that most congregants *daven* quickly, while others savor every word. These individuals would not be able to say *Kedushah* with the *tzibbur* since they will be in middle of *Shemoneh Esrei*. Therefore, we wait for the *rav* who will *daven* slowly as well, so these individuals can recite *Kedushah* properly. Others explain that the congregants are *mochel* the rabbi for taking a long time to *daven*, and it is not a bother to the *tzibbur*.¹⁰

In any case, if a *rav* is being too lengthy in his *Shemoneh Esrei* one does not have to wait for him.¹¹ If the *rav* wishes to take his time, he should motion to the *shatz* not to wait for

2 Ibid. 31a. See *Meiri*, *ibid*.

3 See *Magen Avraham* 124:7; *Elyah Rabbah* 6; *Shulchan Aruch Harav* 5; *Machatzis Hashekel* 7; *Chessed L'alafim* 2.

4 *Eishel Avraham* 124:8.

5 See *Chessed L'alafim* 124:2; *Pela Yoetz* "tzibbur" page 180 (new).

6 *Machatzis Hashekel* 124:8.

7 O.C. 124:3. See *Binyan Zev* 168.

8 *Levush* 124:10.

9 124:8; *Mishnah Berurah* 13; *Kaf Hachaim* 12; *Yalkut Yosef* 104:8. See *Elyah Rabbah* 6.

10 *Ibid*. 124:6.

11 *Ibid.*; *Magen Avraham* 124:8; *Mishnah Berurah* 13.

כל השונה הלכות בכל יום מובטח לו שהוא בן עולם הנא... (תדה עב.)

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him.¹² Some maintain that after he finishes the first *Yiheyu L'ratzon* before *Elokai Netzor* he may take his steps back, and then finish the rest of the *Elokai Netzor*. This way the *shatz* can start his *chazaras hashatz*.¹³

Rav Akiva Eiger *zt"l* is of the opinion that waiting for the rabbi is extremely important.¹⁴ The *rav* should not be *mochel* on the rule that the *tzibbur* should wait for him, especially on Shabbos when there is a lot of time in the day and people are not rushing to leave shul.¹⁵

The *Sefer Chassidim*¹⁶ says that if a *rav* senses that his congregation is waiting for him and this makes him unable to concentrate properly,¹⁷ he can actually take three steps back to indicate he is finished so the *shatz* can start. Then he may return to his place and continue *Shemoneh Esrei*. The steps are not considered a *hefsek* since there is a slight need for it so the *shatz* can start *chazaras hashatz*.¹⁸ Others do not agree with this concept.¹⁹

If the *rav* stepped out in middle of *davening* or *krias haTorah* for some reason, the *tzibbur* does not have to wait for him.²⁰

It is disrespectful for a *shatz* to *daven* longer than the *rav*, and the congregants must wait for the *shatz* to finish. One

12 *Sha'arei Teshuvah* 104:1; *Mishnah Berurah* 104:1; *Lekach Hakemach Hachadash* 104:7, 124:4; *Michtav L'Chizkiyahu* 9; *Aruch Hashulchan* 124:8; *Teshuvos V'hanhagos* 1:116; *Divrecha Yair*, O.C. 1:6.

13 *Yalkut Yosef* 104:8. This was the custom of Harav Ovadia Yosef *zt"l* (*Yalkut Yosef* 124, footnote 8).

14 *Chadoshes* 5, brought in *Teshuvos V'hanhagos* 1:116. See *Miyum Hahalachah* 3:31; *P'shat V'iyun Maseches Brachos* page 107.

15 *Teshuvos V'hanhagos* 1:116.

16 784. Brought in *Magen Avraham* *ibid*.

17 *Machatzis Hashekel* 124:8.

18 *Pri Megadim*, *Eishel Avraham* 124:8.

19 *Gra* 124:3; *Aruch Hashulchan* 8. See *Lekach Hakemach Hachadash* 124:4.

20 *Aruch Hashulchan* 124:8.

איך ללמוד תורה
היא בעולם הזה
אין לה שום תועלת
לדעתה... (ברכות טז)



who is *davening* for the *amud* should make sure to finish his *Shemoneh Esrei* before the *rav*.

If a *minyan* is known to have a slow *davening*, then it is not an issue of burdening the public even if it takes longer than usual.

Shatz Davening Long

If the *shatz daven*s an extended *davening* so that people can hear his voice, it is not proper. If he is happy that Hashem gave him a nice voice²¹ and *daven*s to inspire the *tzibbur* then it is permitted. Nevertheless, he should not *daven* too long since it is a burden on the *tzibbur*.²² This applies even on Shabbos and Yom Tov without the consent of the *tzibbur*. Even if the *tzibbur* agrees, it should not be too long.²³

If it is known that the *shatz* takes a long time, it appears that there is no issue of burdening the public.²⁴

Some have the custom of singing in many different places in *davening*. This is done to inspire the congregation to *daven* with *kavanah*.²⁵

Many frown upon the new custom of having *chazzanim* who *daven* long to show off their voices.²⁶

Waiting to Start *Minyan*

Once ten men gather, one does not have to wait for a *rav*

21 See Magen Avraham 53:14; Mishnah Berurah 53:44.

22 Shulchan Aruch, O.C. 53:11. See Yabia Omer, O.C. 6:7:6. Refer to Nishmas Shabbos 1:522. See Sha'arei Hora'ah 8, pages 135-137.

23 Elyah Rabbah 16; Mishnah Berurah 36. Refer to Yabia Omer, O.C. 7:14:4 about a *shatz* repeating words to fit a song he is singing.

24 Sha'arei Hora'ah 8, page 135.

25 Refer to Mishneh Halachos 11:49.

26 Tzitz Eliezer 4:26. See Chayei Adam 138:4.

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כל השומה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (גדה עב)

to begin the *minyan*.²⁷ This is true even if there is enough time for *Krias Shema* or *tefillah*.²⁸ The *Mishnah Berurah*²⁹ says the custom is to wait for the *rav* since many times after *davening* the *rav* learns with the congregants. If they would *daven* without him, then the learning might be canceled.³⁰ On Motza'ei Shabbos if one does not wait for the *rav* to begin they may *daven* too early.³¹

In any case the *rav* should come to shul early so the *minyan* does not have to wait for him.³²

When to Begin *Chazaras Hashatz*

Every shul is faced with the same dilemma. During the week, people need to go to work right after *davening*. If some people are still *davening Shemoneh Esrei*, is there an obligation to wait until nine people are available to listen to *chazaras hashatz*? If nine have finished but the majority have not, is it necessary to wait?

The *Shulchan Aruch*³³ rules that if one of the ten people who *davened* with them cannot answer the *brachah*, he may still count toward a *minyan*. Some extend this leniency to even four people, as long as six can answer.³⁴ Others argue that it is mandatory to have nine men plus the *shatz*.³⁵

The halachah³⁶ is that if there are not nine people who are

27 *Rema* 124:11; *Mishnah Berurah* 124:15; *Aruch Hashulchan* 8. See *Levush* 124:11.

28 *Mishnah Berurah* 124:14.

29 124:15.

30 *Mishnah Berurah* *ibid*.

31 *Biur Halachah* 124, "a." See *Lekach Hakemach Hachadash* 124:5.

32 *Elyah Rabbah* 124:6; *Mishnah Berurah* 124:15; *Teshuvos V'hanhagos* 1:116.

33 *O.C.* 55:6.

34 *Magen Avraham* 55:8; *Mishnah Berurah* 55:32. See *Elyah Rabbah* 55:7. Refer to *Mishneh Halachos* 4:9; *Chayei Halevi* 3:12:4.

35 *Mishnah Berurah* 55:32. See *Taz* 55:4; *Machatzis Hashekel* 8; *Pri Chadash* 55:6; *Birchei Yosef* 6.

36 *Shulchan Aruch*, *O.C.* 124:4.

איך ללמוד תורה בציבור? (פרק ח)



listening and answering to the *chazaras hashatz*, it is “close” to being a *brachah l’vatalah* for the *shatz*.

There is an apparent contradiction between these two *halachos*.³⁷ There are a few ways to resolve this contradiction:

1. Some maintain that nine people are not really required, and the halachah that said it is close to a *brachah l’vatalah* means it is close but is not an actual *brachah l’vatalah*. In cases of need (perhaps when the *tzibbur* is in a rush), one can be lenient.³⁸ Others say this is a weak answer.³⁹
2. Others say that the halachah does not follow the rule which maintains you need nine to answer in regard to *chazaras hashatz*.⁴⁰
3. The first halachah is talking about Kaddish, *Kedushah*, and *Barchu*. These are permitted even without nine people responding.⁴¹ As long as ten men are present, the *Shechinah* is present and Kaddish, etc. can be recited even if not all are listening.⁴² The latter halachah is talking about *chazaras hashatz*.⁴³

Many say that for *chazaras hashatz* one should make sure that there are nine who have finished *Shemoneh Esrei* besides the *shatz*, and are listening to *chazaras hashatz*.⁴⁴ If there is a minimal *minyan*, if one of the nine is *davening* long he should

37 Refer to *Pri Chadash* 55:6; *Pri Megadim*, *Eishel Avraham* 55:8. See *Siach Tefillah* page 440, 7.

38 *Drishah* 124; *Birchei Yosef* 55:6. See *Magen Avraham* 55:8. Refer to *Chayei Adam* 29:1. See *Kinyan Torah* 7:10; *Beis Hillel* 28, pages 128-130; *Vaya’an Shmuel* 7:26.

39 *Birchei Yosef* 55:6.

40 *Magen Avraham* 55:8. See *YehudahYa’aleh*, O.C. 1:26.

41 *Ben Ish Chai*, *Vayechi* 1:5.

42 *Ibid.*; *Shulchan Aruch Harav* 55:7.

43 *Shulchan Aruch Harav* 55:7. See *Biur Halachah* 55, “oh.”

44 *Ben Ish Chai*, *Vayechi* 1:5; *Chayei Adam* 29:1; *Kitzur Shulchan Aruch* 20:2; *Kaf Hachaim* 55:48, 124:17; *Teshuvos V’hanhagos* 1:104; *Orchos Rabbeinu* 1, page 51, 158.

כל השומה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (מדה עב)



try to shorten his *Shemoneh Esrei* if he knows the *shatz* is waiting.⁴⁵

However, if there is a situation where waiting would result in no *minyan* at all, since people have to go to work, then one can rely on the lenient opinion above.⁴⁶ The same would apply when there is a long *davening* such as on Rosh Chodesh when there is *Shacharis* and *Mussaf*, or a day when we recite *Selichos*.⁴⁷

Many say that one should wait until most of the *tzibbur* is finished before starting *chazaras hashatz*.⁴⁸ Accordingly, if the *minyan* has thirty people one should wait for most of the *minyan* to finish *Shemone Esrei* (sixteen people) before the *shatz* begins.⁴⁹ One reason for this is that *chazaras hashatz* was instituted so the *tzibbur* can hear and say *Kedushah*, and if most of the people in shul are *davening* then this is not being accomplished.⁵⁰ Others explain that the purpose is that the *tzibbur* can answer amen to the *brachos* of *chazaras hashatz*.⁵¹

In regard to *Ma'ariv*, some permit *Kaddish* with six, although it is better to wait until at least nine are listening.⁵²

45 *Chayei Halevi* 3:12:5.

46 *Teshuvos V'hanhagos* 1:104; *Tzitz Eliezer* 12:9. See *Be'er Eliyahu* 1:27; *Divrei Shalom* 3:22, 4:22:4, 5:4. Refer to *Salmas Chaim* 1:24.

47 *Siach Tefillah* page 148, 5.

48 *Aruch Hashulchan, O.C.* 124:8; *Az Nidberu* 2:79:3; *Halichos Shlomo, Tefillah* 9, footnote 2; *Massei Nissim* 2:55; *Avnei Yashpei* 4:10:4, quoting the opinion of Harav Elyashiv *zt"l*, Harav Shlomo Zalman Auerbach *zt"l*, and Harav Fisher *zt"l*. Also see *Avnei Yashpei, Tefillah* page 150, 8, footnote 12*.

49 *Avnei Yashpei* 4:10:4.

50 *Ibid.*

51 *Mishnah Berurah* 124:37; *Biur Halachah* 124:9, "ein tzorech."

52 *Ohr L'tzion* 2:5:6. See *Rivevos Ephraim* 4, page 415.

אינן על להקדיף"ה בעולמו אלא יד אמות של הלכה בלבד... (ברכות ח)

כל השנה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (תדה עב)

If People Are Not Listening

The *Mishnah Berurah*⁵³ says that if the *chazzan* suspects that at least nine people will not listen to *chazaras hashatz*, he should say before beginning *chazaras hashatz* that if they don't answer amen to his *brachos* it should be a *tefillas nedavah*. Harav Shlomo Zalman Auerbach *zt"l* practiced this condition in his youth.⁵⁴ Others are not sure this would work at all.⁵⁵

Rolling the *Sefer Torah*

The halachah is that the *sefer Torah* is not rolled in public since it is a burden for the public to wait.⁵⁶ The *shames* or the *ba'al korei* should make sure the *sefer Torah* is ready to be used and rolled to the proper place.⁵⁷ Many are not careful about this, and they should be told.⁵⁸

If the *leining* will be in two different areas of the Torah (such as Shabbos Rosh Chodesh, or Yom Tov),⁵⁹ and there is only one *sefer Torah* in the shul,⁶⁰ then it is rolled even if it a burden to the *tzibbur*.⁶¹ The reason is that the *tzibbur* is *mochel* on the time it takes to roll.⁶²

If there are additional *sifrei Torah*, then two (or more) are taken out. If the second *sefer Torah* needs to be rolled,

53 124:19. Refer to *Avnei Yashpei* 5:19.

54 *Halichos Shlomo, Tefillah* 9, page 121, footnote 13. See *Birurei Chaim* 4, page 440.

55 Refer to *Shila D'kaita*, introduction.

56 *Maseches Yoma* 69a; *Rambam, Hilchos Tefillah* 12:23; *Shulchan Aruch* 144:3. See *Pri Chadash* 3 which asks on the opinion that holds today we can be lenient with this.

57 *Aruch Hashulchan* 144:6.

58 *Ibid.*

59 *Mishnah Berurah* 15. See *Aruch Hashulchan* 6.

60 *Shulchan Aruch* 144:3.

61 *Ibid.*

62 *Pri Chadash* 3; *Mishnah Berurah* 16. See *Mordechai, Maseches Gittin* 463; *Ritva, Maseches Yoma* 70a.

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it should be done during the reading from the first one.⁶³ Others have a custom to roll if necessary during *Pesukei D'zimrah* so the *sefer Torah* is ready to use when needed.⁶⁴

Occasionally, the wrong *sefer Torah* is taken, and the mistake is only discovered after it is already opened on the *bimah*. What should one do in this situation?

Returning the first *sefer Torah* when taking the second out is embarrassing, and this may outweigh the issue of burdening the public. Also, people might say that the first *sefer Torah* is *pasul* and that is why it is being returned.⁶⁵ Others maintain that there is no issue with doing so. Harav Moshe Feinstein *zt"l*⁶⁶ maintains that either option is acceptable. If the *tzibbur* does not care, then the first *sefer Torah* should be rolled. He says that most people today don't mind. Others say that the first *sefer* should not be returned because of a disgrace to the *sefer Torah*.⁶⁷

Called *Kohen* But...

It is very common that a shul has only one *kohen*.⁶⁸ If he is called for an *aliyah*, and the *gabbai* did not realize that the *kohen* is in middle of *davening* and cannot accept the *aliyah* (such as *Krias Shema*),⁶⁹ we do not wait for the *kohen*

63 *Magen Avraham* 6; *Mishnah Berurah* 13; *Kaf Hachaim* 12.

64 *Darchoi Moshe* 1; *Pri Megadim*, *Eishel Avraham* 144:3; *Mishnah Berurah* 13.

65 See *Salmas Chaim* 4:29; *Noam* 21, page 278.

66 *Igros Moshe*, O.C. 2:37. See *Yabia Omer*, O.C. 8:15:4; *Shinon Yosef* 1, page 158; *Olas Kohen*, O.C. 144:12.

67 *Shemesh Tzedakah*, O.C. 31; *Mateh Yehudah* 282, 144:5; see *Machazik Brachah* 282 or 144, 1; *Halachah Berurah* 14, page 253.

68 *Pri Megadim*, *Eishel Avraham* 6; *Mishnah Berurah* 17.

69 *Shulchan Aruch* 135:5. If he is in middle of *birchos Krias Shema* some say he can go up for the *aliyah* (*Taz* 135:4). Others say only if he is in middle of the *perakim* of *birchos Krias Shema* (*Mishnah Berurah* 17). It is possible that during *Pesukei D'zimrah* he may go as well (*Magen Avraham* 6; *Mishnah Berurah* 17, see *Machatzis Hashekel* 6).

to finish since it is a burden for the public.⁷⁰ A *yisrael* takes his place.⁷¹

This applies even before the *sefer Torah* is taken out. The public should not delay taking out the *sefer Torah* so the *kohen* can be ready for the *aliyah*.⁷²

Choosing Better *Sefer Torah*

If an older *sefer Torah* is in front of the *aron kodesh*, and a nicer one is behind it, one should not reach past the older one as long as it is not *pasul*.⁷³

Adding *Aliyos*

We generally call up seven people to the Torah on Shabbos.⁷⁴ It is permitted to add to this number,⁷⁵ but one should not burden the public with many additional *aliyos*.⁷⁶

Since the custom today is that each person makes their own *brachah* when getting an *aliyah*, it is not proper to add *brachos* by adding *aliyos*.⁷⁷ However, if there is a need to do so, i.e., for a *bris* or *chassan*, it is permitted.⁷⁸ In any case there should not be more than ten *aliyos*.⁷⁹ Some maintain that the custom is to add *aliyos* after seven usual *aliyos* have already been called up.⁸⁰ Others have the custom not to add to the *aliyos* on Shabbos.⁸¹

70 *Shulchan Aruch* 135:5; *Magen Avraham* 7.

71 *Shulchan Aruch* *ibid*.

72 *Mishnah Berurah* 16.

73 *Shevet Hakehasi* 1:81.

74 *Maseches Megillah* 21a; *Shulchan Aruch* 282:1; *Aruch Hashulchan* 4.

75 *Shulchan Aruch* 282:1; *Shulchan Aruch Harav* 282:1; *Nishmas Shabbos* 2:261.

76 *Shulchan Aruch Harav* 282:3.

77 *Magen Avraham* 282:1; *Mishnah Berurah* 282:4.

78 *Magen Avraham* *ibid*.; *Mishnah Berurah* *ibid*.

79 *Elyah Rabbah* 282:3; *Aruch Hashulchan* 282:6.

80 *Chasam Sofer*, O.C. 170. See *Nishmas Shabbos* 2:261.

81 *Massei Rav* 132.

כל השווה הלכות בכל יום מובטח לו שהוא בן עולם הבא... (מדה עב)

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When reading two *parshiyos* on Shabbos, *revi'i* should end the first *parshah* and start at least three *pesukim* from the second *parshah*. Adding *aliyos* to the second *parshah* is not an issue.⁸²

The custom is not to add *aliyos* on Yom Tov⁸³ (except for Simchas Torah⁸⁴). However, if Yom Tov falls on Shabbos we treat it like Shabbos and do add.⁸⁵

Kel Malei

When saying a *Kel Malei*, one should be careful not to say too many, for many names is a burden to the public. Rather one should say one *Kel Malei* for all the names.⁸⁶

Hallel and Singing

During the week, people often *daven* at a specific *minyan* because they know they will arrive to work on time. When reciting Hallel on Rosh Chodesh, most shuls do not sing since the *minyan* is on a tight schedule. However, some do sing. If they sing every paragraph (some actually do), it causes a burden on the *tzibbur*, and may not be done. In addition, the later ending time will unfortunately cause people to leave early and miss Kaddish and amen, etc. This is the fault of the *chazzan* who decided to sing each stanza and causes these people to miss out of important aspects of *davening*. If one wishes to sing and be part of such a *minyan* he should *daven* where he knows the *tzibbur* appreciates it. Most places do not have such *minyanim* and assume that *davening* will take a few minutes longer because of Hallel, not a much longer period of time.

82 *Taz* 1; *Mishnah Berurah* 282:5. See *Kaf Hachaim* 16; *Sha'arei Ephraim* 7:21; *Nishmas Shabbos* 2:261-2.

83 *Rema* 282:1.

84 *Ibid*.

85 *Taz* 1.

86 *Nishmas Yisrael* page 41.

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Running to and from Shul

Women and Davening

Reciting One Hundred Brachos Daily

Mashed, Ground and Crushed Fruits and Vegetables

Brachah on Wise People and Kings (Presidents)

Baruch Shepitarani

Noise and Shabbos

Birkas Habanim

Women and Working on Rosh Chodesh

Eating on Erev Pesach

Buying Chametz after Pesach

Hallel on Yom Ha'atzma'ut

Working on Tishah B'Av

When to Light the Chanukah Menorah

Al Hanissim on Chanukah

Avel Leaving His Home during Shivah

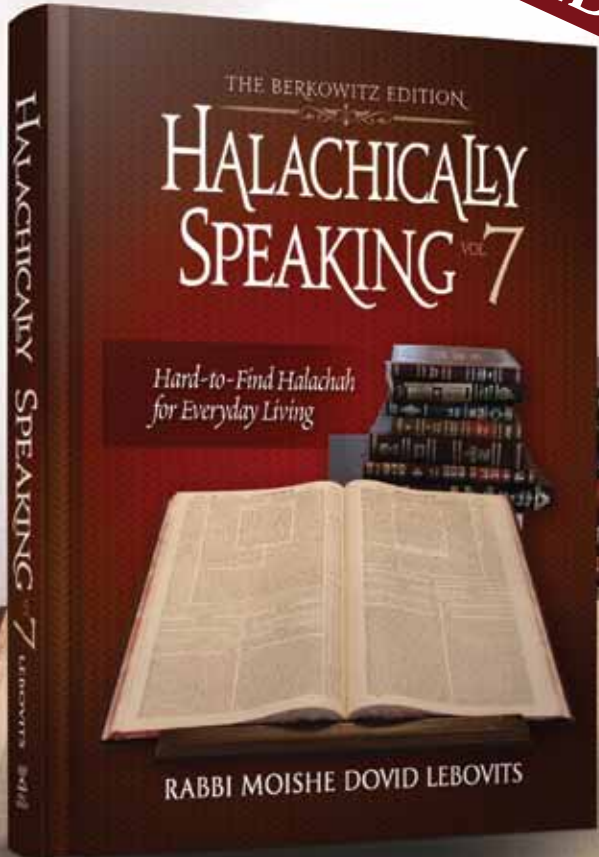
Nichum Aveilim

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Any questions please call

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