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**Thought For The Day**

**Daniel Greenberg 2 June 2021**

**Cancelling Holidays**

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Good morning.

Enjoying a sunny bank holiday in a lovely Cornwall cottage, I saw a forum online where owners of cottages shared satisfaction at sell-out bookings as people concentrate on staycations. But a recent thread sounded a note of caution around possible cancellations: apparently many owners have felt obliged to offer no-penalty cancellation terms because of COVID, and it appears that relying on that, some people booked UK holidays months ago in case they were unable to holiday abroad, intending to cancel at the last minute as and when restrictions on foreign holidays ease. So a sell-out summer could take a turn for the worse.

Some comments on the thread stressed that those were the cancellation terms offered, so owners cannot complain if consumers take advantage of them.

The relationship between contract law and morality arose notably in the House of Lords’ decision in *Donoghue v Stevenson* (the famous “snail in the ginger beer bottle case”, widely regarded as the foundation of modern consumer-protection law, which will have its 90th anniversary next year). Lord Atkin famously said in that case that the biblical injunction “thou shall love thy neighbour as thyself” becomes in civil law the proposition “you must not injure your neighbour”.

In determining actionable injury, the law necessarily draws tight boundaries on either side of which will be anomalies and unintended consequences. But in a world that increasingly relies upon the strict letter of the law to enforce rights, the Talmud teaches me that the first question I will be asked on the day of judgment is not “did you keep within the law” but “did you deal decently with other people?” The Rabbis articulated a formula – called a “*mi she’pora*” – for someone who relies on their legal right to resile from an agreement into which they had entered but by which they are not legally bound, causing loss to others. It reminds the rescinding party that those who profess to believe in a religious reckoning after death would do well to regulate their conduct by ethics as much as by law.

Most people act in good faith. Most people would not book three holidays on no-penalty cancellation terms intending to cancel whichever are the two least attractive at the last minute. Although that action would be 100% lawful, it might be causing a miserable summer for an industry that has already been one of the worst hit by COVID. So for me, this is just a small illustration of a general principle: where the legal question is “can I”, my faith reminds me that the more important question is “should I?”.