

In re:

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF SUFFOLK  
Index No. 061458/2013

AMERICAN EXPRESS BANK, FSB

-v-

{DMR#36} Efiled Document #42 DMRAMEX08042014  
Contract should be void

DANIEL M ROSENBLUM

Plaintiff attorney of record Zwicker & Associates action commenced July 2013.

Amex card 371339213796009 exp 1/11

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and also in re: ..

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SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK  
Index No. 100156/2011

AMERICAN EXPRESS BANK, FSB

-v-

{DMR#36} Efiled Document #42 DMRAMEX08042014  
Contract should be void

DANIEL M ROSENBLUM

Plaintiff attorney of record: Jaffe & Asher action commenced March 2011

Amex card 371339213796009 exp 1/11

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The Contract Should be Void

1. Section Heading: Duress; contract void due to duress at time of contract
2. Several subsections in the alternative

3. Note that DMR argument for void of contract below and throughout are at times in the alternative
4. One such sections need be: breach in rights see 1996 debacle and related filings including law school character and fitness, breach is one duress, economic duress another
5. Can include set of circumstances where homeless for many years, compare and contrast Administrative Assistant at time of law school start, to christmas tree sales and streetsweeper at start MBA, rent and lease at 249 East 48
  
6. Section : Contract should be void due to Frustration of Purpose: In fact, the lending industry, which is a product like any product, has concoted a series of databases including the credit reporting system, which single handedly, indubitably, compromises the bargaining power of borrowers and redeuces competition amongst lenders and in particulr the power of competition in the hands of borrowers. When a lender makes a loan, the lender needs to assess the risk and lend accordingly. The relationship between a single borrower and a single lender should not have the effect, without judicial adjudication, of co mpromising all other relationships the borrower is in a position to negotiate. In particular, when there is flawed servicing on the part of the lender. The redit reporting effects all facets of the borrowers life, in particular vocation, and, compromises all facets of freedom of information insofar as the individual borrowers. That system has frustrated the purpose of Rosenblums moving forward. There was an era when that was the only database available because the internet wasn't prevalent. But the fact of the matter is that it is a monopolistic power that disingenuous and compromises and frustrates the purpose of borrowers paying loans because it compromises the vocation facet of a borrowers existance and consider the Visa Masterard dilema - if you have one lender willing to take on a risk and lend, say 2000 to a college graduate or teenager. That borrower should in theory qualify with the other major lender for the same sort of lending. The resolution of allocation of risk is not one where the lender creates a scenario where such lender is the only party now available to such borrower. Rather, the lender should only lend on take on the risk that

the lender can handle, independent of the borrowers interaction with other commercial entities.

7. Note lender utilizing extra-judicial practices, extra judicial policies which seek to remove from analysis of law and appropriate jurisprudence the proper adjudication of contracts, and application of contract law to this product market. Note that in part, DMR states that such extra-judicial practices have sought to perpetuate anti-competitive practices and perpetuate the strangle hold which banking industry has on the non-traditional banking commercial product of data processing. Commercial data processing is a non-traditional banking product, and its questionable as to whether it is banking in any way whatsoever, and the industry has sought, using extrajudicial practices including credit reporting- to maintain a strangle hold on commercial data processing which is not a banking product.

8. The system of credit reporting seeks only to circumvent the intents and purposes of the doctrine of statutes of limitations on contracts in jurisprudence as established in the USA. The CRAs are more than welcome to report adjudications, but, the report of transactional data prior to adjudication circumvents the process, and belittles the system of jurisprudence and the intents and purposes behind the axiomatic notion of statutes of limitations and the laws that are axiomatic to due process. The same full system as well relies 100% on the authority of a default judgement based upon a 30 day or 60 day period on not answering, and not filing, in the system criticized above which completely circumvents all other axiomatic facets of the judicial system.

9. There are certain facets of jurisprudence, certain facets of the law, certain principles of jurisprudence and law which are by nature immutable. For this reason it is the law of the land- because it is immutable, From the immutable principles of jurisprudence we generate continued just markets, productivity and efficiency in those markets. That being said, you cannot contract around the immutable nature of

those certain immutable axiomatic principles of the law or a combination of general legal principles of law which have the effect of contracting around the immutable nature of law and its effect of generating continued just adjudications and jurisprudence for the purpose of continued productivity and efficiency and protection of rights of individuals. Apply that concept to varied sections of the filing.

10. Good Faith in Contract Performance

11. Note, here, that the loan was made on certain date, completing performance by lender. The remainder of lender activities is outside the scope of the contract as far as performance is concerned insofar as activities or actions on the part of the lender. The borrower is required to perform through payment alone. Here Rosenblum states that his failure to perform contractual duty occurred a very long time ago, as did his realistic ability to perform in accordance with the parameters of performance which constituted the meeting of the minds at contract inception. The remaining scheme of servicing the loan and deferring and extending statutes of limitations is all extra to the subject matter at the heart of the issue in a loan contract. For the most part, the lender has done absurd tinkering with language and policies which have in sum the deliberate goal of limiting the borrowers rights in a loan product which is otherwise yes, a very risky loan subject to default unlike other loan products where there is generally collateral etc to secure the loan. The borrower and the lender understand this at the inception, the borrower is in a vulnerable position economically by nature in most situations where an educational loan is needed, and in large percentage does not have income at all when taking the loan, which is altogether other than other loan products. The burden of unsuccessful loans in this market cannot fall lopsided on borrowers only; by nature, the lender assumed a tremendous risk when dispersing loans without collateral; where there is not success, the appropriate remedy is not to burden one party for 3 decades in an unfair manner effecting all facets of the borrowers life.

12.

13.

14. Thus the portion of the dealings with the loan servicer probably is not a direct facet the "good faith in contract performance" required by law; however, such an admission begs to question as to a focus on the portion of dealings with the loan servicer which do not pertain to contract performance; what is all this activity by the lender if not efforts to circumvent law and actual jurisprudence? Obviously the borrower desires to perform in the contract, and, if able, should without fail. When a borrower fails to perform, the option to the lending party to the contract is seek appropriate jurisprudence. If en masse the terms of a contract form are failing, operational policies

mitigating such failures through limitations of rights and circumvention of actual just jurisprudence is NOT an option. Rather, in such market, the product is failing and need adapt to the market without limiting rights but through wiser lending including the real cost of jurisprudence which in turn betters the market through such supply and demand and competition.

15.

16. Continuing insofar as this subject matter of lender activity within the scope and outside the scope of performance, and fair dealings in performance, it is a reasonable assumption by a party to the contract that, in such activity as servicing the loan verbally for example in processing deferments and forbearances, when a servicer states that a borrower "qualifies" for ebearance such that no report will be made to a credit bureau that under the fair dealings expectation, that, borrower is stating that the lender is giving a privilege to the borrower- as the lender represents in such dialogue- which has no effect on statutes of limitations for performance which are as such given equity in the economy as a statute of limitation in which all contracts exist which all Americans and businesses alike are subject to as part of the system of checks and balances in the political economy which protects all businessses and consumers etc and drives competition and producation and jurisprudence. Here, the lenders are circumventing such safeguard and disturbing competition and real costs in this market which should drive efficiency. Rosenblum seeks Discovery of contracts serviced by Sallie Mae which Sallie Mae represents as not in default where no payment has been made in 4 years. Bears question on negotiation tactics by the Servicer in call center activity, similar but not identical to negotaition in question at Zwicker and Jaffe while case is in litigation and or discontinued or not

17. Please see {DMR#29} Letter / Correspondence

**DMRAMEX08042014** Efiled Document #35 1. Summary {please see attached document DMR#26}:

- a. **Section on Spending by Sallie Mae Section on Spending by ACS**
- b. Inefficient data processing/ servicing
- c. **Sallie Mae's data processing system is negligent and is liable under the tort of intentional negligence for providing misinformation regarding the contracts Sallie Mae is servicing, which information HESC and NY State are relying**

18. Please see {DMR#28} Letter / Correspondence

**DMRAMEX08042014** Efiled Document #34 Summary {please see

attached document DMR#26}: As to whether Sallie Mae Operations call center activity has anything to do with contract performance, and related legal performance and obligations, liabilities related.

*Note to all parts DMRAMEX08042014 items {DMR#23} through {DMR#36} and Supplements DMRAMEX08042014 {Q1- Q19} which cumulatively are DMRAMEX08042014 Efiled Documents #29 through #62; today's filings are not comprehensive. Presently all parts are filed today for August 4<sup>th</sup> given a variety of factors mostly pertaining to resource allocation and the calendar. DMR cannot spend more weekends working on this necessary filing presently, and is working as a truck driver presently Monday thru Friday. However, the subject matter and format and titles and content of the documents today filed suffice to give Notice of all parts of DMRs contentions, allegations, assertions, etc to the intended recipients of this correspondence filed in NY State Supreme Court presently. DMR states that the categories, for example, of today's Q1 -Q16 supplements are of great import to DMRs filings, and the articles contained therein evidence DMRs assertions throughout this filing; DMR has accomplished more work on the same categories, and, additional work on such categories for this filing are necessary. And, DMR recognizes the fact that the instant filing , although desired to be filed in the NYC case where an RJI has already been filed, is actually filed only in Suffolk Efile where no RJI has been filed, and, no motion fee is paid. DMR cites his 2002 Southampton tolling motion, which is 9152013 {{{}}; such fees cannot at present are cost prohibitive by DMR; as necessary DMR will cite this 8041014 request for Joinder if the lenders here cited choose to commence litigation under a different docket # rather than recognizing the appropriateness of the joinder subject matter*

*described in DMRs 08042014 materials. As per this paragraph and related paragraphs, therefore, it is recognized that DMRs 08042014 filing is not suggested to be comprehensive in addressing the relevant and pertinent subject matter and evidence supporting Rosenblum's assertions and claims made herein.*

*In any instance DMR reserves right to amend any letter or correspondence to a motion or discovery notice, and, amend any supplement to an exhibit in evidence for the subject matter herein under examination in any litigation.*