

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF SUFFOLK

Index No. 061458/2013

AMERICAN EXPRESS BANK, FSB

NOTICE OF DISCOVERY CPLR 3120

-v-
COMMUNICATIONS

PHONE RECORDS, RECORDINGS, OTHER

DANIEL M ROSENBLUM

attorney of record Zwicker & Associates action commenced July 2013 Amex card
371339213796009

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

Index No. 100156/2011

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NOTICE OF DISCOVERY CPLR 3120

-v-
COMMUNICATIONS

PHONE RECORDS, RECORDINGS, OTHER

DANIEL M ROSENBLUM

attorney of record Jaffe & Asher action commenced March 2011 Amex card 371339213796009

THE FOLLOWING NOTICE IN THE ABOVE CAPTIONED MATTER(S) IS HEREBY PRESENTED TO THE GENERAL
PUBLIC AND NEW YORK STATE SUPREME COURT, SUFFOLK COUNTY & NY COUNTY....

.... IN THE ABOVE CAPTIONED MATTERS, SUBMITTED BY DEFENDANT DANIEL M ROSENBLUM
("I", "ROSENBLUM" and "DMR" below.)

1 Notice of Discovery and Inspection

Under CPLR 3120, Defendant Rosenblum gives Notice of Discovery to Attorney Firm Zwicker and Associates for Audio Recordings of all calls and records associated with all calls by Attorney Firm Zwicker and or affiliate made to and from Zwicker PC to DMR or associate concerning the subject matter of New York State Supreme Court Index #s 061458/2013 and 061458/2013 beginning 1/11/2011 through resolution of this case.

Zwicker knew, or should have known, for a variety of reasons, that Amex had already filed suit against Rosenblum when Zwicker proceeded to file the same case against Rosenblum. Rosenblum has cause for a variety of counter claims as a result, and, Rosenblum's Tolling Motion should take precedence to the necessity to file such counter claims. Additionally, Rosenblum will oppose any termination of the current case unless Rosenblum stipulates otherwise. The instant discovery request is first and foremost concerned with recorded dialogue- recorded by Zwicker- in which Rosenblum notified Zwicker that such subject matter was in fact in litigation whilst Zwicker was calling Rosenblum continuously. Similarly, Zwicker client American Express should have been knowledgeable. Note that separately, additional communications and policy discovery shall be necessary for subject matter which is discussed variously in Rosenblum's Labor Day

2013 Efiling in Suffolk County in the instant Supreme Court Index # 061458/2013. Rosenblum hereby requests copies of, or the ability to copy audio recordings of all dialogue recorded in phone calls between Zwicker and Rosenblum. Additional information about such calls is below, and additional requests are made below, and, additional related discovery requests shall be made.

2 As a point of information, here is some info that should be helpful to Zwicker in locating the requested records:

3 Zwicker should certainly have records associated with calls made to Rosenblum on Monday April 15th, 2013 at 8:38 AM from Zwicker telephone line 800-594-7323 to Rosenblum telephone number 917-741-5319 for four (4) minutes, and again from Zwicker line 800-594-7323 on Wednesday May 15th at 9:50, Tuesday June 11 at 8:26 AM, Thursday June 13th at 8:52 AM for eight (8) minutes, and two 10 minute calls on June 13 at 9:43 AM and June 25 at 4:24 PM where Rosenblum called the Zwicker recorded line 800-594-7323 from 917-741-5319. Rosenblum first called the Rochester Office of Zwicker 585-506-9850 on July 10th at 6:57 PM and then subsequently at 3:39 PM on July 11th, at 3:55 and 4:53 on July 12, 8:51 AM and 11:53 AM and 12:32 PM and 2:33 PM on July 16, 8:53 AM on July 26th, and lastly 10:30 AM on July 26th (there may be another calls during August Rosenblum will look further into that.) Rosenblum also called American Express Bank FSB on July 10 2013 at phone # 801-945-3000 at 6:20 PM Utah time for a 37 minute phone conversation and Friday July 12 at 7:26 PM for 19 minutes.

4 Rosenblum also would like to review records of communications between American Express and Zwicker relating to the above and the below information pertaining to Zwicker's contact with Rosenblum, American Express' contact with Rosenblum, and Zwicker's filings related to Suffolk Index 06459/2013 and Jaffe's filings in 100156/2011 in NY

5 Regarding the same, note that the NY County Index file records an "Appearance" by Jaffe and Discontinuance on July 15 while the hardcopy of the file indicates receipt of the Discontinuance on July 23rd by the NY County Clerk. the Affidavit of Service of the Discontinuance is Notarized by the Attorney who signed the Discontinuance with a date of the 15th but Affiant Alexa Pesante did not date when she mailed the copy of the Notice to the wrong address for Rosenblum. Rosenblum contacted Court Reporters at NY County 60 Centre Street but there is no record of any appearance before a Judge nor no indication that any materials went to any Judge regarding the discontinuance. This is brought to bear insofar as policies at Zwicker and Jaffe which lack conformity with acceptable attorney dealings.

6 Rosenblum first contacted the American Express Legal Department on Thursday July 11, 2013, at phone number 212-640-2000 at 2:35 PM, 2:38 PM, and 2:40 PM, and again at 3:23 PM, and 3:28 PM before calling the Rochester Office of Zwicker that day at 3:39 PM. Rosenblum contacted Amex Legal in NY again at 3:58 on Friday July 12, 8:59 AM and 9:46 AM on July 16. Rosenblum first received a call from the same Amex Legal # in NY on Wednesday July 17 at 1:12 PM, and called back that number at 4:47 PM that same day. Rosenblum called the 212-640-2000 line at 4:47 PM on Tuesday July 16, and received a call from that # on Monday July 22 at 1:36 PM for a 49 minute phone call. It is uncertain what time the Zwicker Discontinuance was filed on that same day, July 22 2013.

7 Rosenblum also called American Express Bank FSB at phone # 800-437-3600 on July 11 2013 at 2:44 PM for 4 minutes, and July 12th at 4:00 PM, 5:06 PM, and 6:48 PM.

8 In addition, note that Rosenblum received calls from American Express recorded line 877-516-0592 at 11:08 AM on Thursday June 28th, 2012 for 24 minutes, Monday July 9 2012 at 1:20 PM, 11:31 AM on Saturday July 14, Monday July 16 2012 at 11:34 AM, Tuesday July 17 at 1:44 PM, and Rosenblum called the same number Tuesday July 17th at 1:59 PM and spoke for 14 minutes. Amex called Rosenblum again from 877-516-0592 at 1:21 PM and spoke with Rosenblum for 12 minutes and then subsequently the same day for 8 minutes beginning at 1:34 PM. American Express then called Rosenblum again on Friday August 8th 2012 from the same recorded line at 12:25 PM and one year ago, on Monday September 3rd, 2012 at 1:08 PM for 4 minutes. Rosenblum would like to review the recordings of those calls as they relate to the above captioned index numbers.

9 Telephone voicemail left for Robert Thutee in Andover requesting preservation of all

telephone between Zwicker and Rosenblum on August 28 9:16 AM from my cell phone 917-741-5319 to Robert Thuotte at 866-367-9942 x 3122

10 Demand for Preservation by Attorney Firm Zwicker All Phone Record(ing)(s) made to and from Zwicker PC to DMR or associate concerning the subject matter of New York State Supreme Court Index #s 061458/2013 and 061458/2013 beginning 1/11/2011 through resolution

11 Demand for Preservation by Attorney Firm Zwicker All Phone Record(ing)(s) made to and from Zwicker PC to DMR or associate concerning the subject matter of New York State Supreme Court Index #s 061458/2013 and 061458/2013 beginning 1/11/2011 through resolution

12 Note that Rosenblum has variously alluded to Zwicker mis-appropriation of resources to the detriment of diligent practice of law by the firm currently admitted to practice and working on behalf of major financial institutions. Rosenblum states that on several occasions during Zwicker recorded calls he stated succinctly that the matter being called about by Zwicker was in fact being litigated in New York State Supreme Court and Zwicker should cease and desist from pursuing the matter given such extant litigation, Amex v Rosenblum on the card in question. The fact that the Zwicker office eventually filed suit in the same matter in a separate county opens myriad questions about the purpose of the call center investment by Zwicker, and, the deliberate operational policies in place at the firm as it pertains to use information achieved by the firm in recorded calls. In due course Rosenblum certainly seeks discovery as it pertains to those operational policies in place by Zwicker.

13.

Affirmed and signed, (certificate of signature in Efile)

Daniel M Rosenblum September 15, 2013