

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 26 Notice of Discovery to Joined  
Parties Sallie Mae, ACS Xerox, HESC,  
ECMC

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 26 Notice of Discovery to Joined Parties  
Sallie Mae, ACS Xerox, HESC, ECMC

DANIEL M ROSENBLUM

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

Amex card 371339213796009 exp 1/11

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Notice of Discovery to Joined Parties Sallie Mae, ACS Xerox, HESC, ECMC

1. DMR seeks discovery of all instances Sallie Mae, ACS Xerox, HESC and ECMC contacted DMR while purportedly in privity with DMR as a result of a loan contract 2006-2014, and requests a list of all such instances, and DMR seeks copies of all recorded dialogue, and, notes associated with such calls by the Parties.
2. DMR seeks discovery of lists of forebearances processed verbally alone by the loan servicers here named.
3. Rosenblum seeks Discovery of phone recordings of forebearance processing for purposes of determining if the borrower made gesture or

articulation of an incapability to pay which is equivalent to a Notice of Intention to Default on the loans because in such situations the forbearance or deferment should be deemed illicit or illegal as it pertains to statutes of limitations effected and the information passed on to the lenders by the servicers in this situation is a deliberate non-truth-and such forbearances are being relied upon by the servicer and the lenders as valid Promissory Notes, which Notes are not valid, and which Notes should have been litigated if they were to be litigated in a previous time period, perhaps 12, 24, 36 48, or 60 months earlier; and which has perpetuated a failing lending cycle because the actual cost of the loans is not being felt by the lenders and the same is being relied upon in the same way that mortgages without validity were relied upon precipitating crisis.

4. Insofar as Discovery, DMR seeks to review a list of deferments which there has not been payment on account for over 3 years, over 4 years, and over 5 years, and the associated records with the forbearance processing including the phone recording. The lenders should be subject to a judicial order to maintain record of all correspondence about the contract to determine as to whether borrower(s) have sought to provide to a servicer on a loan information to a lender then associated record of the gesture from the borrower; if borrower has made gesture to lender and looked to document ability to pay during 2008, 2010, 2011, 2012, 2013, 2014, the servicer is doing an injustice both to the lender and the borrower and the economy in whole by not maintaining record of such gesture because such is in the Promissory Note defined as a determined inability to pay, a determined gesture to renege on a contract. It is a travesty that there is a class of individual US citizens whom through no fault of their own has sought to become educated to participate in the economy but then have inability to pay on loans which should not have been made in the first place and should be unenforceable as loans due to illegality in the first instance, which contracts are not in actuality 20, 25, and 30 year notes held by lender; rather the schemata of operational policy has the end result of looking to maintain as 25 year notes or 30 year notes on earnings of individuals for whom that burden is now solely a tax on monies which such borrowers would have had anyway without the added burden of this

'tax', this 'toll' from a sector of the economy which has caused the factors cited above.

5. Note as well that servicers such as Sallie Mae procedural mechanisms are operational policies. For example, the decision as to whether to maintain a recording of a paragraph read to and agreed to by a borrower is maintained as a recording and used in negotiations and presumably represented as evidentiary all the whilst no other dialogue recording in proximity to forbearance paragraph is maintained or discoverable; the one is not valid without the complete dialogue.

6. Note, insofar as two sections by DMR on joinder and discovery there are two prongs: one prong on Joinder is adding ACS Xerox and Sallie Mae to the American Express suit; however there is an additional prong which is the 21st Century Digital claim on receivables by executives at both the servicer and the lender; the earnings from this platform are subject to claim ; the Joinder prongs require: list: {insert list of the requirements for joinder: 1) the nexus of facts, the subject matter, elaborate on the subject matter issues of data processing, of jurisprudence, of lending activities by bank holding companies, etc: Several subject matter issues are relevant to both prongs of the Joinder Issue and with the Discovery Subject Matter including the Discovery subject matter of the DMR 9/15/13 Amex filing. Please see:

{DMR#10} Appendix 8 of 18 to DMRAMEX091513 §§¶¶ 12, ¶ 20-22 below ..., & ¶ 35. "21st Century Digital Analysis/Critique Generally": RE: PERMISSIBLE ACTIVITIES & TYING IN BANKING INDUSTRY; DURBIN AMENDMENT TO DODD FRANK ACT, 21ST CENTURY DIGITAL, Efiled Document #16 please also see <http://www.twentyfirstcenturydigital.com/DurbinSwipeFeeFederalReserveDecision.php>

{DMR#11} Appendix 9 of 18 to DMRAMEX091513 ¶ 16 ¶¶¶¶¶¶¶¶ REGARDING AMEX FIRM PHONE RECORDED EVIDENCE & COMMUNICATIONS TECHNOLOGY GENERALLY; FIRM/&LENDER OPERATIONAL COST&POLICIES SACRIFICING DILIGENT LEGAL PRACTICE. Efiled Document #17. Viewable at <http://www.twentyfirstcenturydigital.com/ThuottePhoneRecordedEvidence.php>

{DMR#12} NOTICE OF DISCOVERY CPLR 3120 Zwicker and Amex Phone Recordings and Communications by Amex and Zwicker; re: subject matter at issue in Amex v Rosenblum. Notice of Discovery , Efiled Document #18. Referred to in DMRAMEX091513 ¶16, ¶, ¶¶¶¶ Viewable at <http://www.twentyfirstcenturydigital.com/NoticeofDiscoveryZwickerPhoneRecordings.php>

{DMR#4} Appendix 2 of 18 to DMRAMEX091513 ¶ 6 , ¶ 7 ¶ 4 ¶ 10 ¶¶¶¶¶ Subject: DEFENDANT PROPOSED "JUST RESULTS" PRESENTLY: JUDICIAL STAY OF PROCEEDINGS ON DEFENDANT'S FUTURE MOTION OR STIPULATION BETWEEN PARTIES. , Efiled Document #10. viewable on the internetd at <http://www.twentyfirstcenturydigital.com/JustResultAmex.php>

{DMR#5} Appendix 3 of 18 to DMRAMEX091513 ¶ 6.1 ¶ 4 ¶¶¶¶¶ et al Subject: POSSIBLE ABUSES OF NY CIVIL PRACTICE LAW AND RULES, AND NY MODEL RULES OF PROFESSIONAL CONDUCT BY AMEX ATTORNEYS: ZWICKER FIRM AND JAFFE FIRM IN THE CAPTIONED ACTIONS. Efiled Document #11. viewable at : <http://www.twentyfirstcenturydigital.com/ZwickJaffeCPLRConduct.php>

7. Insofar as communications operational policy in effect at both servicer and lender: that a simple fact is that there are people, individual people who have never dealt with the subject matter before while the servicers have been in the industry for decades . Cite the Boards' bios of experience over twenty, thirty years in the self same industry that led to appointment as board member. The communications operational policies in effect do not comport with what is necessary for borrower and lender to achieve just results- an analysis of the communications in effect- the daily phone calls, repeating same query to individual people which has the effect of annoying alone. There is no benefit except to line the pockets of the executives at these lenders- no benefit towards just result in the operational policy rather there is a tendency to frustrate, annoy, the borrower alone. There is no other benefit, especially when we have the operational policy which minimizes the recordation of gesture/articulation by borrower which tend to give a valid representation of the cost of these loans which would break the cycle of bad loans harming the economy

8. Discover request: information conveyed by borrower to lender during course of 2010 to 2014; for example, does the servicer's record indicate that borrower during 2010 was village of OB street sweep, no pay 2007 2008 2009 2010 2011 apart from VOB street sweeper; 2011 hired for \$14 per hour? Any semblance of such report in Discovery request.
9. Imperative discovery request of like class borrowers' conveyance of information to lender from servicer following in depth, detailed, discussion 2010, 2011, 2012 at the processing of the forbearance and/or deferment.
10. Discovery Request: deposition of senior IT Personnel responsible for implementing policies, implementing software and associated hardware architecture for communications at the commercial entity - intend itemize list of subject matter for depositions relevant to questions presented and just adjudications and in itemized list incomplete presently however of great import presently :
11. Compare and contrast necessary programming to send out emails, and, to receive emails, and to turn off emails if that were to be implemented - which may or may not be policy- but compare and contrast the same to the necessary technology which would have the automatic dialer cease from dialing out to a borrower who has given information which is not changing. {note: contrast also to indication from phone number dialed without further information that dialer cease and desist- regardless of additional verification or identification- as simple insistence that the number be not dialed from the corporation only. }}  
{also note that presently as of July 1 or June 30 the calls coming in to DMR from lines which have been observed to contain individuals rather than just recordings- theres a 'Heather' recording from one line that dials out from Sallie Mae to me, and, there are additional lines from additional call centers but presently when come in to me where the Sallie Mae employee is seeing a call dialed to me and answered to me and they are not speaking but rather they are hanging up. My impression is that the impetus for that change is the most contemporaneous dialogue with Sallie Mae from 917-741-5319 to July 2014, during which dialogue 9177415319 made opinion known to dialers of dialers'

intelligence and actions. Note, here, DMR states that a question presented is as to the extent to dialers' ignorance is actual negligence nad/or intentionla negligence in servicing loans and/or harrassing, and, the extent to which the actual persons speaking are liable in tort to the households harassed and for defamation of character etc for pre-adjudication involvement of third parties where third parties are called.

12. Look to determine the difference between information conveyed in months prior to late June "FU" dialogue and the 2013- spring 2014 requests 'sallie mae to cease and desist calling please ' dialogue of the earlier time period. Also compare and contrast to the forbearance fact set conveyed and discussions.
13. "there will be no change in the information conveyed to you" was the message conveyed to dialers in 2012, 2013, early 2014. and the message " you are entitled to sue". The "FU" message of July 2014 has caused in certain instances the dialer not to speak when new calls are coming in late July early August 2014. Here, in a deposition, look to clarify from IT what is the policy that is being implemented in programming the dial out from varied call centers incessantly- who or what policy - why is IT programming that way, and , is there any capibility implemented to shut off the dial out from the varied offices? What would be necessary? Are the July callers simply exercising discretion when not speaking after calling me? What are the circumstances of information displayed to dialer at t the time of call, and, does not the IT system display a set of facts associated with the contract which may have caused failure of contract?
14. Note, an additional parameter necessary to explore is the extent to which such a system is in effect or resembles this system for any other product market in the US- where, a manufactered product or a telecom service is subject to such extrajudicial measures corrupting, or, facilitating jurisprudence and associated product supply and demand? For consumer product market associated with data processing itself- ie- the software market, hardware, or telecom ?

15. The DMR discovery request to depose senior IT and operations is part and parcel of the DMR allegation of tort, harassment, the deliberate operational policy of harassment built into operations, ignoring common law and common practice. Looking to circumvent and influence jurisprudence by abuse of process, a question presented is as to whether this is in fact a tort.

16. Here, Rosenblum couples the foregoing analysis in the educational loan market with the Rosenblum 21st Century Digital data processing analysis and related banking analysis as it relates to BHCs and Permissible Activities, including tying in banking and data processing: please see:

- a. {DMR#13} Appendix 10 of 18 to DMRAMEX09152013 §¶ 12 & ¶20-22 Regarding Section 106 of the Bank Holding Company Act of 1970, Bank Anti-Tying Legislation. Efiled Document # 19. Viewable at : <http://www.twentyfirstcenturydigital.com/2007BHC106.php>
- b. {DMR#14} Appendix 11 of 18 to DMRAMEX091513 ¶ 12 & ¶'s 20-22. Application under 4(c)(8) and 4(j) of the BHC Act to engage in non-banking activity of "21st Century Digital Network Administrator". Efiled Document #20. viewable at : <http://www.twentyfirstcenturydigital.com/BHC2007PermissableActivities.php>
- c. {DMR#15} Appendix 12 of 18 to DMRAMEX091513 ¶ 12 & ¶'s 20-22. Section 4(c)(8) and 4(j) of the BHC Act, under the "Procedures for other nonbanking proposals" as described in section 225.24 of Regulation Y. Efiled Document #21 viewable at :<http://www.twentyfirstcenturydigital.com/20084c8.php>
- d. {DMR#16} Appendix 13 of 18 to DMRAMEX09152013 ¶ 12 & § ¶ 20.4 ¶ 20-22 , ¶ 30- re: USPTO Patent 12/079,235 application for "21st Century Digital Network"; DMR Response dated 1/31/2011 to Non Final Rejection pages 1 - 14 of 142 only", Efiled Document

#22. Viewable at

[:http://www.twentyfirstcenturydigital.com/TTS16YearsAgenciesUSPTOpatentfilenonfinal.php](http://www.twentyfirstcenturydigital.com/TTS16YearsAgenciesUSPTOpatentfilenonfinal.php)

e. {DMR#17} Appendix 14 of 18 to DMRAMEX091513 §¶ 12 & 20-22 ,  
¶30- info re: "21st Century Digital" USPTO Trademark Registration  
in Class 35: Advertising&Business;Class36FinancialServices; Class  
38 Telecomm & Class42Computer/Internet R&D". Efiled Document #23.  
viewable at

<http://www.twentyfirstcenturydigital.com/TTS16YearsAgenciesUSPTOTrademarkfile21.php>

17. The result is an absurd environment in which appropriate jurisprudence has fallen by the wayside, and needs to be corrected. Further, this situation in and of itself would merit additional analysis, correction, and an appropriate adjudication. However, in the case of Rosenblum, in addition, the calamitous set of circumstances is compounded by a similar set of circumstances and factors which continue extant in a corrupt form and bears great similarity to the self same analysis made above. That compounded predicament is the Citibank debacle which effected Rosenblums' business' ability to compete beginning 1996, 1997, 1998, and which effected the person of Rosenblum which Rosenblum has termed a "breach " in liberty rights, please see the Southampton and East Hampton filings . Those circumstances also need correction and merit a tolling in certain statutes of limitations and it should be noted as well, that the lenders here must have been knowledgeable, could have should have been knowledgeable, that Rosenblum's sole source of income in the 8 9 10 years prior to the inception of the loans in question was SSD, Hampton Jitney, Note in addition that in the years 07 8 9 10 11 12 Rosenblum not hired anywhere, sole income Village of Ocean Beach in 2010, and then driving a truck 2012----Yet there are 10s of thousands, 100s of thousands of like situated borrowers during the years in question, who were simple given capital by lenders flush with TARP money cash, NOTE Discovery Request insofar as origination of funds ; in a scenario where no form of income to support self, and, a large percentage of monies" borrowed " simply paid to educational institutions where the Boards and

stockholders are beneficiaries of the monies being lent in payment, and , now, in addition to the receipt of such monies on the paying into the educational institution, these beneficiaries as well look to state the claim that now over the course of the next 20 to 30 years those borrowers are indebted with the interest premium to those lenders and through a systemic contraption circumvent due process, privacy, and privity of contract in absolving the borrowing party of any and all rights associated with the contract which has only to do with the two parties, but the lending party has concocted this system which effects all aspects of the borrowers livelihood both social and insofar as vocation/working etc; its an unfair situation, and, the product is just that- a product- it's a risky product and of the lenders are going to look to safeguard what has been loaned- but compare and contrast this form of loan to the other forms of loans where theres security, or property, or business which secures the loan. Here the lenders have looked to get theose same guarantees by tinkering with the rights of borrowers and the system of jurisprudence in place which carries the authority of the state. And in tinkering, there is a huge violation of due process and [[[reasons why the contract should be void}}]

18. The collections operations are deliberately harrassing and antagonistic; the behavior of the corporation should be analyzed as the behavior of an individual, and, reasonable people in a reasonable society. It would be unacceptable for an individual to call and send emails daily and incessantly for months and years on end, with no manner to actually get a point across to the caller which would effect the callers' continuing behavior other than to give the caller what he/she wants. The actual behavior of the system created by operational policy at Sallie Mae is the actual behavior of a lunatic, a psychotic. Rosenblum alleges that an entity such as Sallie Mae should and does understand such fact- that Sallie Mae has purposefully put into place policies which mimic psychotic behavior to the extent that it frustrates and disturbs parties in contract with Sallie Mae for the duration of time from a missed payment through the 280 days or whatever until default, and, in proximity to processing forebearances and

deferments. Rosenblum makes Discovery request of operational policy consultation with psychologists in determining policies which will frustrate borrowers to the point that borrowers' actions will seem futile given manner of calls from Sallie Mae at all hours without schedule, inability to continue dialogue or refer back to dialogue during a 280 day period, necessity to start from scratch in any communication, inability to identify caller, inability to call back to knowledgeable individual receiving full time salary in an efficient manner. The scheme created is in no manner efficient, and is in all manners contrary to the expectation of borrowers that there will be reasonable continued dialogue for the duration of the contract. Here, Rosenblum indicated inability to pay in 2009 and 2010 and continuing, and spelled out all circumstances contributing to the same.

19. 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 forbearance 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 businesses and consumers etc and drives competition and production 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 negotiation in question at

Zwicker and Jaffe while case is in litigation and or discontinued or not.

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.*