

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

United Lawyers

-----X
JOSE CABRERA

Plaintiff,

-against-

**ORDER WITH
NOTICE OF ENTRY**

Index No.: 306032/10

1279 MORRIS LLC, EAST 149TH STREET LLC
and LA PAZ FUNERAL SERVICE, INC.

Defendants.

-----X
1279 MORRIS LLC, EAST 149TH STREET LLC

Third-Party Plaintiffs

-against-

LA PAZ FUNERAL SERVICE, INC., THE CITY
OF NEW YORK and NEW YORK CITY
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Third-Party Defendants.

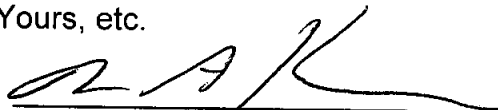
-----X

C O U N S E L O R S :

PLEASE TAKE NOTICE, that the annexed Order of the Honorable Larry S. Schachner, dated January 31, 2013, was entered in the Office of the Clerk on March 7, 2013, in the Supreme Court, Bronx County.

DATED: New York, New York
March 13, 2013

Yours, etc.



ROY A. KURILOFF
GORAYEB & ASSOCIATES, P.C.
Attorney for Plaintiff
JOSE CABRERA

RECEIVED
2013 MAR 15 AM 9:31
CLERK OF THE SUPREME COURT
BRONX COUNTY

100 William Street, Suite 1205
New York, NY 10038
(212) 267-9222/8005 - P/EA

TO:
M. CORNEY, ESQ.
HERTZFELD & RUBIN, P.C.
Attorney for Defendants
1279 MORRIS LLC and 149TH STREET LLC
125 Broad Street
New York, NY 10004
(212) 471-5800

SAFRANEK, COHEN & KROLIAN
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LA PAZ FUNERAL SERVICES, INC.
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(914) 997-0072

MICHAEL A. CARDOZO, ESQ.
Corporation Counsel
Attorney for THE CITY OF NEW YORK and
THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION
100 Church Street, 4th Floor
New York, NY 10007
(212) 788-0800

PART 03 DM

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

- Case Disposed
- Settle Order
- Schedule Appearance

CABRERA, JOSE

Index No. 0306032/2010

-against-

Hon. LARRY S. SCHACHNER

1279 MORRIS LLC

Justice.

The following papers numbered 1 to 2 Read on this motion, COMPEL
Noticed on January 14 2013 and duly submitted as No. _____ on the Motion Calendar of January 24, 2013

	PAPERS NUMBERED	
Notice of Motion - Order to Show Cause - Exhibits and Affidavits Annexed <u>Amend</u>	1	
Answering Affidavit and Exhibits	2	
Replying Affidavit and Exhibits		
_____ Affidavits and Exhibits		
Pleadings - Exhibit		
Stipulation(s) - Referee's Report - Minutes		
Filed Papers		
Memoranda of Law		

Upon the foregoing papers this motion is decided in accordance with the attached memorandum decision

Motion is Respectfully Referred to:

Justice: _____

Dated: _____

Dated: 1/31/13

Hon. [Signature]
LARRY S. SCHACHNER, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX - PART IA3

-----X
JOSE CABRERA,

Plaintiff,

- against -

1279 MORRIS LLC, East 149th Street LLC
and LA PAZ FUNERAL SERVICE, INC.

INDEX NO. 306032/10

DECISION/ORDER

Defendants.
-----X

1279 MORRIS LLC, EAST 149th STREET LLC

Third-Party Plaintiff,

Index 83784/11

- against -

LA PAZ FUNERAL SERVICE, INC., THE CITY OF
NEW YORK and NEW YORK CITY DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Third-Party Defendants.
-----X

HONORABLE LARRY S. SCHACHNER

Defendant 1279 Morris LLC's motion to compel plaintiff to provide an authorization for his Law Cash records is denied.

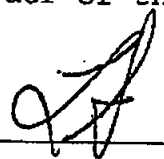
CPLR Section 3101 provides that "there shall be full disclosure of all matter material and necessary in the prosecution or defense of an action regardless of the burden of proof ..." In seeking the Law Cash authorization movant's counsel alleges that the subject loan effects the possible disposition of the case and would effect any settlement or verdict.

This Court disagrees with counsel's assessment. In seeking this information counsel has embarked on a fishing expedition. The material sought is neither material or necessary to the defense of this action. This Court knows of no appellate case which would require plaintiff to provide the authorization sought. Movant contends that the legislature has sought to regulate the activities of funding companies in personal injury lawsuits. While the legislature has seen fit to protect plaintiffs from unscrupulous funding companies via the Structured Settlement Protection Act (SSPA), that statute involves situations where one seeks to sell a structured settlement to a funding company in exchange for a lump sum. The SSPA has nothing to do with the type of loan at issue in this case. The subject loan is not part of plaintiff's damages, defendants are not parties to it, and do not have to satisfy the loan. Plaintiff's Law Cash loan is simply not relevant to plaintiff's claims or to the defense of this action.

Accordingly, the motion to compel is denied.

This constitutes the decision and order of the court.

Dated: January 31, 2013



LARRY S. SCHACHNER, JSC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

INDIVIDUAL ASSIGNMENT PART

Cabrera, Jose

1279 Morris LLC, East 149th St

STIPULATION

Index No. 30603 2/10

Mot. Cal. No 9

Date 1/24/13

IT IS HEREBY STIPULATED AND AGREED by and between the below-named attorney(s) as follows:

That portion of defendant/third-party plaintiff's motion which seeks relief against City of NY, DEP, ~~NYC~~ is resolved as follows

(a) City will produce a witness from ^{department of Environmental Protection} ~~NYC~~ on or before Feb 28, 2013
march 11

(b) Movant reserves the right to ~~NYC~~ review & object to discovery responses served by NYC, ^{NYC} DEP, ~~NYC~~ in court on this day. (Department of Environmental Protection)

That portion of motion which seeks relief against plaintiff regarding disclosure of law cash loan is not resolved by this stipulation

Plaintiff to file Note of Issue by March 31, 2013
Remainder of the motion is submitted

Date: 1/24/13

So Ordered.

ENTER:

J.S.C.

Attorney for Plaintiff Cabrera

Attorney for Defendant / 3rd Party PT NBR
Attorney for Defendant

MAR by
Attorney for ~~NYC~~ DEP ~~NYC~~ and NYL

STATE OF NEW YORK

SS.: AFFIDAVIT OF SERVICE

COUNTY OF NEW YORK

I, EVA ARTEAGA, being duly sworn, depose and say: I am not a party to the action, am over 18 years of age, and reside in the County of Kings.

On March 13, 2013, I served the within **ORDER WITH NOTICE OF ENTRY** by

Service by mail by depositing a true copy thereof in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth:


M. CORNEY, ESQ.
HERTZFELD & RUBIN, P.C.
Attorney for Defendants
1279 MORRIS LLC and 149TH STREET LLC
125 Broad Street
New York, NY 10004
(212) 471-5800

SAFRANEK, COHEN & KROLIAN
Attorney for Defendant
LA PAZ FUNERAL SERVICES, INC.
One Water Street
White Plains, NY 10601
(914) 997-0072

MICHAEL A. CARDOZO, ESQ.
Corporation Counsel
Attorney for THE CITY OF NEW YORK and
THE NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION
100 Church Street, 4th Floor
New York, NY 10007
(212) 788-0800


EVA ARTEAGA

Sworn to before me on
March 13, 2013


Notary Public

JANIRA RODRIGUEZ
Commissioner of Deeds
City of New York - No. 1-6659
Certificate Filed in New York County
Commission Expires Feb. 01, 2015

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

JOSE CABRERA

Index No. 306032/10

Plaintiff,

-against-

1279 MORRIS LLC, EAST 149TH STREET LLC and
LA PAZ FUNERAL SERVICE, INC.

Defendants.

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1279 MORRIS LLC, EAST 149TH STREET LLC

Third-Party Plaintiffs

-against-

LA PAZ FUNERAL SERVICE, INC., THE CITY OF
NEW YORK and NEW YORK CITY DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Third-Party Defendants.

ORDER WITH NOTICE OF ENTRY

GORAYEB & ASSOCIATES, P.C.

Attorneys for Plaintiff

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100 William Street, Suite 1205

New York, New York 10038

(212) 267-9222

FILE NO. 8005 - P
