

Solomon Rubin, Attorney ID 022162003
2077 Center Ave, Suite 6E
Fort Lee, NJ 07024
Tel: (718) 974-9303
Attorney for Defendants, Shlomie Klein and Abraham Sharaby

YECHESKEL SCHWAB and DATAMAP
INTELLIGENCE LLC,

Plaintiffs,

vs.

JOYCE BLAY, HERSHEL HERSKOWITZ a/k/a
HAROLD HERSKOWITZ, SHLOMIE KLEIN a/k/a
SHLOMO KLEIN, ABRAHAM SHARABY, JOHN
DOES 1-10, ABC CORPS A-J,

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: OCEAN COUNTY

: Docket No.: OCN-L-2695-18

: Civil Action

: **CERTIFICATION OF SOLOMON RUBIN IN**
: **SUPPORT OF MOTION TO ENFORCE**
: **LITIGANT'S RIGHTS**

I, Solomon Rubin, certify as follows,

1. I am the attorney for Defendants Shlomie Klein and Abraham Sharaby.
2. I make this certification, based on firsthand knowledge, in support of their motion to enforce litigant's rights, as a result of the refusal of non-party witness, Menashe Miller, to appear for a deposition pursuant to a subpoena.
3. Attached as Exhibit A is a copy of the subpoena served on Menashe Miller, which set a deposition date for January 28, 2019.
4. Attached as Exhibit B is a copy of the affidavit of service of Eliezer Richter indicating that Miller was served on January 1, 2019.
5. Attached as Exhibit C is a letter dated January 24, 2019, faxed to my office by Peter J. Van Dyke, Esq., indicating that he was representing Menashe Miller, who would not be appearing on the date stated in the subpoena.

6. Prior to that date, there was no communication by Menashe Miller or anyone acting on his behalf about the subpoena.

7. Attached as Exhibit D is an email I sent to Mr. Van Dyke on January 28, 2019, and a follow-up email sent on February 6, 2019, requesting that he proposed dates when his client could be deposed. He failed to respond to my inquiries.

I certify that the forgoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Solomon Rubin

Dated: February 8, 2019

6. All documents related to the property in Lakewood Township identified as Block 190, Block 58.13.

7. All documents related to Diamond Triumph Properties LLC, Pinerock Lakewood LLC, Richatz LLC, North Lake Realty LLC, Land Barron LLC, Diamond Triumph Properties LLC, Pinerock Capital LLC, Pinerock Lakewood LLC, Clifton Rock LLC, North Lake Realty LLC, Land Barron LLC, Lippencott Capital LLC, Andy17 LLC, Janicerock LLC, Rack Holdings LLC, Lennyrock LLC, Ridge Rock Holdings LLC, Janice Rocks LLC, Pine Rock Terra LLC, and/or Chaldt Enterprises LLC.

8. All communications between you and anyone about any lawsuit for defamation filed against Defendants, Hershel Herskowitz, Shlomie Klein, and Abraham Sharaby.

9. All communications between you and Yechezkel Schwab related to Hershel Herskowitz, Shlomie Klein, and Abraham Sharaby.

10. All communications you have had with Kenneth Garzo.

11. All communications between you and Yechezkel Schwab about Kenneth Garzo, or any litigation in which he was involved.

PLEASE TAKE FURTHER NOTICE that, in accordance with R. 4:14-7(c), the subpoenaed evidence shall not be produced or released until the date specified for the taking of the deposition. If the deponent is notified that a motion to quash the subpoena has been filed, the deponent shall not produce or release the subpoenaed evidence until ordered to do so by the Court or the release is consented to by all parties to the action.

Failure to appear or comply with the command of this Subpoena will subject you to the penalties provided by law.



Solomon Rubin
Attorney for Defendants, Harold Herskowitz, Shlomie Klein, and Abraham Sharaby


/s/ Jennifer M. Perez

Dated: December 24, 2018

Yechezkel Schwab, et. al.
vs.
Joyce Blay, et. al.

Plaintiff
Defendant

Superior Court of New Jersey
Venue Ocean County
Docket Number OCN-L-2695-18

Person to be served (Name & Address):
Menashe Miller
189 Pine Street
Lakewood, NJ 08701

AFFIDAVIT OF SERVICE
(For Use by Private Service)

Attorney:
Solomon Rubin
2077 Center Ave, Suite 6E, Fort Lee, NJ 07024

Cost of Service pursuant to R. 4:4-3(c)

\$ _____

Papers Served:
Subpoena along with an attendance and mileage fee of \$10.00

Service Data:

Served Successfully Not Served _____ Date: 01/01/2019 Time: _____

Attempts: _____

Delivered a copy to him / her personally

Name of Person Served and relationship / title:

_____ Left a copy with a competent household member over 14 years of age residing therein (indicate name & relationship at right)

Menashe Miller

_____ Left a copy with a person authorized to accept service, e.g., managing agent, registered agent, etc. (Indicate name & official title at right)

Self

Description of Person Accepting Service:

Sex: M Age: 44 Height: 5.9 Weight: 170 Skin Color: White Hair Color: Brown/Black

Unserved:

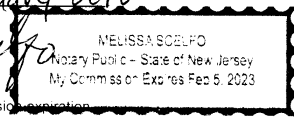
- () Defendant is unknown at the address furnished by the attorney
- () All reasonable inquiries suggest defendant moved to an undetermined address
- () No such street in municipality
- () No response on: _____ Date _____ Time _____
- () Other: _____ Comments or Remarks _____

Server Data:

Subscribed and Sworn to me this _____ day of January 2018

I, Eliezer Richter was at the time of service a competent adult not having a direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.

Melissa Scelpo
Notary Signature



eliezer Richter 01/08/2019
Signature of Process Server * Date

Name of Notary / commission expiration

<Insert Private Server's name, address and telephone number.>

Exhibit B

Affidavit of Service (9/30/02)

KELAHER, VAN DYKE & MORIARTY

THOMAS F. KELAHER
PETER J. VAN DYKE ‡
KATHLEEN C. MORIARTY;”

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
680 HOOPER AVENUE
BUILDING C, SUITE 302
TOMS RIVER, NEW JERSEY 08753
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”MEMBER N.J. & P.A. BARS
‡MEMBER NATIONAL ACADEMY OF ELDER
LAW ATTORNEYS

Website: www.kvdmLaw.com
Email: thefirm@KVDMLAW.com

OUR FILE NO. 13011.33859

January 24, 2019

VIA REG MAIL & TELEFAX # (718) 360-1311
Solomon Rubin, Esq.
20117 Center Ave., Ste. 6E
Fort Lee, NJ 07024

Re: Schwab, et al vs. Blay, et al
Docket No.: OCN-L-2695-18

Dear Mr. Rubin:

With regard to the above-entitled matter, please be advised that I have been contacted by Menashe Miller regarding the Subpoena served upon him.

Due to my Court schedule, please be advised that I am not available during the week of January 28, 2019 or the week of February 4, 2019 because of previously listed trials.

Additionally, I will need time to consult with my client with regard to the voluminous records request made for documents. Therefore, I am requesting that Mr. Miller's deposition be adjourned until a later time, allowing me time to review this matter with Mr. Miller.

Thank you for your kind attention.

Very truly yours,


PETER J. VAN DYKE

PVD/ss

cc: Menashe Miller
Bruce S. Rosen, Esq. - McCusker, Anselmi, Rosen & Carvelli, P.C. -
via reg mail & telefax #973.635.6363
Willard C. Shih, Esq. - Wilentz, Goldman & Spitzer -
via reg mail & telefax #732-855-6117

Exhibit C

Solomon.Rubin@outlook.com

From: Solomon Rubin <Solomon.Rubin@outlook.com> on behalf of solomon.rubin@outlook.com
Sent: Wednesday, February 6, 2019 11:11 AM
To: 'Katherine Suell'; 'thefirm@KVDMLaw.com'; 'wshih@wilentz.com'; 'pvandyke@kvdmlaw.com'; 'Bruce Rosen'; 'Landis, Todd C.'
Subject: RE: Schwab et al v. Blay et al. - Miller Deposition Adjournment

Mr. Van Dyke,

I am following up on my email of January 28, 2019, to find out when your client can be deposed. If I do not receive a response shortly, I will be forced to file a motion.

Thank you,

Solomon Rubin
Attorney at Law
2077 Center Ave, Suite 6E
Fort Lee, NJ 07024
Phone: (718) 974-9303

Admitted to practice in New Jersey and New York. Also admitted to practice before the United States Courts of Appeals for the Second Circuit and Third Circuit, the United States District Courts for the Southern, Eastern, Northern and Western Districts of New York and the United States District Court of New Jersey.

From: Solomon Rubin
Sent: Monday, January 28, 2019 10:11 AM
To: 'Katherine Suell' <ksuell@marc.law>; thefirm@KVDMLaw.com; wshih@wilentz.com; 'pvandyke@kvdmlaw.com' <pvandyke@kvdmlaw.com>
Cc: Bruce Rosen <BRosen@marc.law>
Subject: RE: Schwab et al v. Blay et al. - Miller Deposition Adjournment

Mr. Van Dyke,

Although the letter attached to Ms. Suell's email is addressed to me and indicates it was faxed to me, you never faxed it to me. I never saw the letter until I received Ms. Suell's email. As such, I was forced to order a court reporter and have to cancel later.

Separately, please get back to me promptly about when your client will be able to appear for a deposition. Hopefully we can agree without engaging in motion practice. However, I need a response soon.

Thank you,

Solomon Rubin
Attorney at Law
2077 Center Ave, Suite 6E
Fort Lee, NJ 07024
Phone: (718) 974-9303
Fax: (718) 360-1311

Exhibit D