

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 14-2103

JOHN BENJAMIN BLOUIN

VERSUS

SB ENTERTAINMENT, INC. and AMERICAN EXPRESS COMPANY

FILED
2014 FEB 27 11:41 AM
DISTRICT COURT
DIVISION I
SECTION 14

FILED: _____
DEPUTY CLERK

PETITION FOR RESCISSION AND FOR DAMAGES

1. DALE N. ATKINS
CLERK, CIVIL DISTRICT COURT

Petitioner, John Benjamin Blouin, (hereinafter "Blouin") is a person of the full age of majority and is a life-long resident of Orleans Parish.

402 CIVIL COURTS BUILDING
421 LOYOLA AVENUE - ROOM 402
NEW ORLEANS, LA 70112
504-407-0000

2. 504-407-0000

Defendant, SB Entertainment, Inc. ("SBE"), is a corporation organized and existing under the laws of Louisiana and operates a business establishment in the City of New Orleans at 423 Bourbon Street called Larry Flynt's Hustler Barely Legal Club (hereinafter the "Barely Legal Club") that, among other things, sells and serves intoxicating beverages of alcoholic content, and features "exotic dancers," who entice customers to purchase "Beaver Bucks."

DATE: 2/27/2014 at 12:58
CASE#: 2014 - 02103 SEC.: 14
RECEIPT#: 423482

3. OTHER PETITION INFORMATION

Defendant, American Express Company, is a corporation organized and existing under the laws of one of the states of the United States and is in the business, among other things of issuing credit cards for the purposes of allowing consumers to obtain legal goods and services on credit. American Express is made a defendant herein pursuant to 15 USC §1666i which permits a cardholder to assert against a credit card issuer all claims and defenses arising out of any transaction in which the credit card it issued is used as a method of payment and for its failure as described below to reject and disapprove improper charges on a credit card it issued.

\$ 444.50 \$ 444.50 \$ 0.00
JSC
INDIGENT LEGAL FEE \$ 10.00 \$ 10.00 \$ 0.00
BUILDING FUND FEE \$ 20.00 \$ 20.00 \$ 0.00
TOTAL PAID CASE # 201402103: \$502.50
RECEIPT TOTAL \$502.50

4. AMOUNT RECEIVED \$502.50

Since April of 2010 Blouin has been employed by The Trainque Group. As part of his employment with The Trainque Group Blouin was provided a credit card by his employer

CHANGE DUE \$0.00
=====

Check #5175 Amt. \$502.50

issued by American Express to be used by him solely to purchase goods and services required as part of his employment with The Trainque Group. During the entire time of Blouin's employment, he has never knowingly used the credit card provided to him by his employer in an unauthorized manner.

5.

Beginning on the evening of Saturday, November 23, 2013, Blouin engaged in celebratory activities with family members and friends involving the consumption of numerous alcoholic beverages in various business establishments located in Jefferson and Orleans Parishes. At some undetermined time in the early morning hours of Sunday, November 24, 2013, Blouin lost consciousness, presence of mind and the ability to exercise reasonable judgment as the result of inebriation due to the excessive consumption of alcoholic beverages.

6.

At approximately 4 pm on Sunday evening, November 24, 2013, Blouin regained consciousness and learned that he was located at the Barely Legal Club. While still suffering from the effects of excessive alcohol consumption and fatigue, Blouin was informed by at least two agents, employees and/or representatives of SBE that (1) while he was unconscious they, without his permission, removed from his person items of his personal property including his shoes, wallet and mobile telephone, and that (2) they would not return to him his items of personal property unless and until he signed a receipt for credit card charges at the Barely Legal Club of which he had no knowledge or recollection. Moreover, the attitude, conduct and statements by SBE's agents, employees and/or representatives caused Blouin to be concerned for his well-being and concerned that he would not be permitted to leave the Barely Legal Club unless and until he signed the credit card receipt, regardless of the fact that petitioner had no knowledge or recollection of the charges.

7.

Blouin in his impaired state succumbed to the wrongful and unlawful demands of the agents, employees and/or representatives of SBE and signed a receipt for charges totaling \$11,180 purportedly for alcoholic beverages, "Beaver Bucks," and gratuities of which he had no knowledge or recollection.

8.

On the morning of Monday, November 25, 2013, Blouin informed his employer that charges for goods and/or services may appear on the credit card account issued by American Express which was on his person but during his unconsciousness was wrongfully taken from him and was within the possession and control of the agents, employees and/or representatives of SBE. Upon further investigation by petitioner's employer, it was later discovered that charges in excess of \$53,480 were caused to be made on the American Express account between 6:00 a.m. and 4:00 pm on November 24, 2013. Accordingly, during Blouin's inebriated state, SBE's agents, employees and/or representatives used the American Express card wrongfully to make five charges totaling \$42,300 purportedly for alcohol, "Beaver Bucks," and gratuities of which Blouin has no knowledge or recollection.

9.

Blouin was defrauded by the actions of SBE's agents, employees and/or representatives in wrongfully demanding and illegally forcing the execution of a credit card receipt in order to obtain the possession of his personal property and defrauded by the outrageous and exorbitant charges that were caused to be made on the American Express account during the period of his severe inebriation resulting in his loss of consciousness, presence of mind and the ability to exercise reasonable judgment..

10.

As a result of duress and fraud, Blouin did not consent to the charges that were caused to be made on the American Express account on November 24, 2013. Blouin seeks a full refund of these charges.

11.

Blouin seeks the rescission of any and all purported contractual agreements made with SBE on November 24, 2014 or at any other time and any contractual agreements made with any other entity or person during the time that his inebriation and/or unconsciousness deprived him of contractual capacity.

12.

Blouin has suffered damages as a result of the fraud and duress of SBE's agents, employees and/or representatives including mental anguish, emotional distress and loss of reputation.

13.

Blouin seeks damages and attorney fees pursuant to Civil Code Articles 1958 and 1964 since the rescission he seeks will be granted as a result of fraud and/or duress on the part of SBE's agents, employees and/or representatives.

14.

Blouin and his employer have timely notified American Express that they challenge and protest against the legitimacy and validity of all of the charges on the American Express account at the Barely Legal Club purportedly incurred on November 24, 2013. Blouin has, through counsel, notified SBE that he challenges and protests against the legitimacy and validity of all of those charges.

15.

On or about January 28, 2014, American Express notified Blouin's employer that it had rejected the challenge and protest of the charges and wrongfully demanded that Blouin's employer pay the charges.

16.

Blouin was required to borrow money from a family member to pay \$53,400 to his employer in order to maintain his employment.

17.

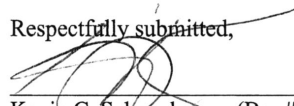
American Express wrongfully failed to notify Blouin's employer of the outrageous and exorbitant charges that were caused to be made on the American Express account on November 24, 2013 at the time they were being incurred preventing Blouin's employer from taking steps to prevent additional outrageous and exorbitant charges all to the detriment of Blouin and causing him damage.

18.

In the alternative, as a result of Blouin's impaired mental state, SBE should receive only the fair value of its goods and/or services, to-wit, no more than \$500.00.

WHEREFORE, petitioner prays that after due proceedings judgment be granted in his favor and against defendants (1) ordering that on November 24, 2013 due to his inebriation and unconsciousness petitioner lacked capacity to contract with any entity or person, (2) ordering that any and all contractual agreements purportedly entered into by petitioner on November 24, 2013 with any entity or person are null, void and rescinded, (3) ordering that due to the duress and fraud attributable to SBE because of the acts and/or omissions on the part of its agents, employees and/or representatives any purported contractual agreements made by petitioner are rescinded due to vitiated consent, (4) for all damages and attorney fees incurred by petitioner, and (5) for all other relief to which petitioner is legally entitled to receive.

Respectfully submitted,


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New Orleans, LA 70170
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Fax: (504) 587-0901
Attorney for Petitioner

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MILLER & WILLIAMSON LLC
1100 Poydras Street
Suite 3150
New Orleans, Louisiana 70163
Telephone: (504) 525-9800
Fax: (504) 525-9820
Of Counsel

PLEASE SERVE:

SB ENTERTAINMENT, INC.
through its registered agent,
CT Corporation System
5615 Corporate Blvd., Ste. 400B
Baton Rouge, LA 70808

AMERICAN EXPRESS COMPANY
through its registered agent,
CT Corporation System
5615 Corporate Blvd., Ste. 400B
Baton Rouge, LA 70808

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2014 FEB 27 11:45
DISTRICT CIVIL COURT
DIVISION " "

VERIFICATION OF PETITION

AFFIDAVIT

STATE OF LOUISIANA

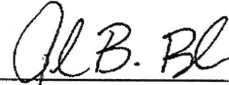
PARISH OF ORLEANS

Before me, the undersigned notary, personally came and appeared:

JOHN BENJAMIN BLOUIN

who, after being duly sworn did depose and say that each and every one of the allegations contained in the forgoing Petition for Declaratory Judgment and for Damages is true and correct to the best of his knowledge, information and belief.

New Orleans, LA this 13th day of January, 2014

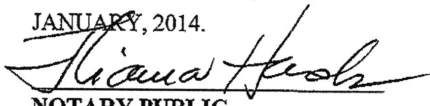


JOHN BENJAMIN BLOUIN

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 13th DAY OF

JANUARY, 2014.



NOTARY PUBLIC

My commission expires at death.

ILIAURA HANDS
Notary Public, Bar No. 23115
State of Louisiana
My Commission is issued for Life