

**Spitzer v American International Group**

2006 NY Slip Op 30372(U)

September 8, 2006

Supreme Court, New York County

Docket Number: 0401720/2005

Judge: Charles E. Ramos

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

**Charles Edward Ramos**

PART **53**

PRESENT:

Index Number : 401720/2005

SPITZER, ELIOT

vs

AMERICAN INTERNATIONAL GROUP

Sequence Number : 004

OTHER RELIEFS

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INDEX NO. \_\_\_\_\_  
MOTION DATE \_\_\_\_\_  
MOTION SEQ. NO. \_\_\_\_\_  
MOTION CAL. NO. \_\_\_\_\_

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

PAPERS NUMBERED

FILED

OCT 02 2006  
COUNTY CLERK'S OFFICE  
NEW YORK

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

The retention of Paul Weiss Rifkind by A.I.G. and witness interviews conducted pursuant to that retention resulted in a number of attorney's memos that contain privileged information revealed in those interviews. The defendants seek disclosure of all the interview memos contending that the attorney-client privilege was waived. This discovery demand is overly broad in light of the privileged nature of the requested documents but otherwise sustained.

At a time after some or all of the interviews were conducted, A.I.G. requested that Paul Weiss Rifkind prepare a report which A.I.G. turned over to the office of the New York Attorney General.

This use of the report was in a litigation context in that it was part of the effort that finally resulted in a settlement between the Office of the New York Attorney General and A.I.G. and as such, constitutes a waiver of any privileged matter referred to in that report. However, this Court considers as a significant factor in weighing the scope of the waiver, A.I.G.'s limited use of this report (for example, it was never made

-OVER-

Dated: \_\_\_\_\_

J.S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST

public). This Court therefor restricts our finding of a waiver to those interview memos which provided a basis upon which factual or legal conclusions were made in the unprivileged report.

This matter will be referred to a Special Referee to direct disclosure of specific memos in a manner consistent with this decision and order in the event the parties are unable to agree on which memos (if any) are implicated by this order as subject to the waiver.

The defendants' application for disclosure of A.I.G.'s legal files relating to the subject insurance transactions on the basis that the attorney-client privilege does not bar these defendants access to those files is denied in its entirety. The privilege attaches to the corporation, not its officers. The line of cases cited by the defendants refer to close corporations where the distinction between principals and the corporation as separate interests is obscured. In addition, the recent amendment of the complaint eliminates the element of scienter which would implicate advice of counsel.

This shall constitute the decision and order of this Court.

Dated: September 8, 2006



J.S.C.

HON. CHARLES E. RAMOS

Counsel are hereby directed to obtain an accurate copy of this Court's opinion from the record room and not to rely on decisions obtained from the internet which have been altered in the scanning process.

**FILED**

CLERK'S OFFICE