

**Gottbetter v CKR Law LLP**

2019 NY Slip Op 33791(U)

December 30, 2019

Supreme Court, New York County

Docket Number: 652715/2015

Judge: Robert R. Reed

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

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

**PRESENT: HON. ROBERT R. REED PART 43**

*Justice*

-----X  
PAUL GOTTBETTER, GOTTBETTER & PARTNERS, LLP,  
Plaintiff,

INDEX NO. 652715/2015  
MOTION DATE N/A  
MOTION SEQ. NO. 008

- v -

CKR LAW LLP F/K/A CRONE CLINE RINDE LLP,  
Defendant.

**DECISION + ORDER ON  
MOTION**

-----X

CKR LAW LLP F/K/A CRONE CLINE RINDE LLP  
Plaintiff,

Third-Party  
Index No. 595130/2016

-against-

ADAM GOTTBETTER, AUGUST VENTURINI, VENTURINI &  
ASSOCIATES  
Defendant.

-----X

The following e-filed documents, listed by NYSCEF document number (Motion 008) 312, 313, 314, 315, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331

were read on this motion for DISCOVERY.

Upon the foregoing documents, it is ordered that this motion is granted in part and denied in part.

Defendant moves for an order to compel plaintiff Paul Gottbetter (1) to disclose all records and information regarding the payment of his legal fees, including but not limited to the identity of all payors and sources of payment, and (2) to disclose all correspondence regarding said plaintiff's standing as an accountant and an attorney. In opposition, subject plaintiff argues that the information requested by defendant is immaterial and irrelevant, and cross-moves to quash defendant's deposition subpoena sent to non-party Christopher Brown.

CPLR 3101 requires full disclosure of all matter material and necessary in the prosecution or defense of an action. The phrase “material and necessary” is “to be interpreted liberally to require disclosure, upon request, of any facts bearing on the controversy which will assist preparation for trial by sharpening the issues and reducing delay and prolixity. The test is one of usefulness and reason” (*Allen v. Crowell-Collier Publishing Co.*, 21 NY2d 403). Accordingly, “an application to quash a subpoena should be granted ‘only where the futility of the process to uncover anything legitimate is inevitable or obvious’ ... or where the information sought is utterly irrelevant to any proper inquiry” (*Anheuser-Busch, Inc. v. Abrams*, 71 NY2d 327). “[I]t is the one moving to vacate the subpoena who has the burden of establishing that the subpoena should be vacated under such circumstances (*see Ledonne v. Orsid Realty Corp.*, 83 AD3d 598).

The discovery sought by defendant concerns subject plaintiff’s responses to questions at his deposition regarding the prosecution of this action. The documents sought in defendant’s first request is narrowly tailored -- as to not be overly broad or burdensome to plaintiff. The documents and information sought are not protected by privilege, as courts have long held that fee arrangements do not constitute confidential communication. “The fee arrangements between attorney and client do not ordinarily constitute a confidential communication and, thus, are not privileged in the usual case” (*Priest v. Hennessy*, 51 NY2d 62). Moreover, “a communication concerning the fee to be paid has no direct relevance to the legal advice to be given. It is a collateral matter, which unlike communications which relate to the subject matter of the attorney’s professional employment, is not privileged” (*id.* at 69).

Defendant’s second request -- to compel subject plaintiff to disclose all correspondence regarding plaintiff’s standing as an accountant and an attorney -- is one that is overbroad and

unduly burdensome. Defendant has failed to provide the court with substantive arguments regarding the materiality and relevancy of this request to the issues at dispute in the current action. Moreover, the information that defendant seeks is readily available as it is a matter of public record.

Plaintiff's cross-motion seeks to quash defendant's deposition subpoena sent to non-party Christopher Brown. Defendant argues that the non-party deposition is necessary to aid in its discovery efforts related to plaintiff's mitigation efforts. In the court's view, the information sought by defendant is irrelevant to the action and is not likely to lead to material information; rather, the subpoena seems designed more for the purpose of creating annoyance and vexation to subject plaintiff.

Accordingly, it is

ORDERED that the portion of defendant's motion seeking to compel plaintiff to disclose all records and information regarding the payment of his legal fees, including but not limited to the identity of all payors and sources of payment is granted, and therefore is directed to provide such responsive documents within 20 days of the date of this order; and it is further

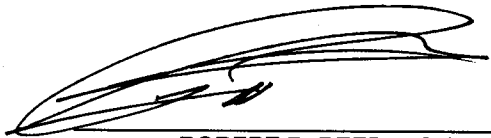
ORDERED that the portion of defendant's motion seeking to compel plaintiff to disclose all correspondence regarding said plaintiff's standing as an accountant and an attorney is denied; and it is further

ORDERED that plaintiff's cross-motion to quash defendant's deposition subpoena sent to non-party Christopher Brown is granted; and it is further

ORDERED that counsel are directed to appear for a status conference at Part 43, Room 412, at 60 Centre Street, New York, New York on February 13, 2020 at 11:00 a.m.

This constitutes the Decision and Order of the court.

12/30/2019  
DATE

  
ROBERT R. REED, J.S.C.

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> GRANTED		<input checked="" type="checkbox"/> GRANTED IN PART	
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE