

SUGGESTION IN OPPOSITION TO DISMISSAL

Comes now the petitioner Samuel K. Lipari appearing pro se and makes the following response in opposition to the answering defendants' motions for dismissal:

STATEMENT OF FACTS

The petitioner calls attention of the court to the following statement of facts and excerpts from the petition arranged in their relevance to the defendants assertions that elements of pleading 18 U.S.C. § 1962 were not met. Records and pleadings relevant to the defendants' assertions are attached. The attachments are not evidence relevant to supporting the petitioner's claims and therefore the petitioner's suggestion in opposition is within Rule 12.

I. Background

The petitioner provides the following facts relevant to the defendants' contentions over the background of this action:

A. Facts Relating To Three Unopposed Claims of Predicate Acts against Some Defendants, Unopposed Claims of Predicate Acts by Identified Non Defendant Co-Conspirators, Unopposed Claims of RICO Enterprise Liability Against All Defendants, And Unopposed RICO Conspiracy Claims Against All Defendants

1. The petitioner contacted the Office of John Wood, the US Attorney for the Western District of Missouri to complain about continued interruption of Internet service to his business from AT&T's warrantless surveillance during the week of March 24, 2008.
2. US Attorney John Wood was said to be out of the office in Carolina and the petitioner was referred to Assistant US Attorney Jeffrey P. Ray.
3. Jeffrey P. Ray surprised the petitioner by stating he was the attorney representing Bradley J. Schlozman in this matter where Schlozman is being sued solely in his private capacity.

1. Bradley J. Schlozman did not seek dismissal

4. The defendant Bradley J. Schlozman has not appeared before this court since being served under Missouri State Law.
5. The defendant Bradley J. Schlozman

6. Neither the Office of John Wood, the US Attorney for the Western District of Missouri or Jeffrey P. Ray has answered the petition on behalf of the defendant Bradley J. Schlozman.

2. Bradley J. Schlozman is averred to commit three fraud predicate acts

7. The defendant Bradley J. Schlozman has been averred in the petition to commit three predicate acts of fraud under 18 U.S.C. § 1961, one more than the number of predicate acts required to state a claim against the defendants under 18 U.S.C. § 1962(c).

8. The petition avers Bradley J. Schlozman is a member of the subject RICO 18 U.S.C. § 1962(c) enterprise with the other defendants in an association in fact.

9. The petition avers Bradley J. Schlozman is a member of the subject RICO 18 U.S.C. § 1962(d) conspiracy with the defendants and other non-defendant government officials.

10. The Office of John Wood, the US Attorney for the Western District of Missouri and Jeffrey P. Ray are defending US Attorney General Michael B. Mukasey in *Patel v. Gonzales et al* Case #: 4:07-cv-00065 proceeding in this district before the Hon. Judge Ortrie D. Smith Date Filed: 01/24/2007.

11. The Office of John Wood, the US Attorney for the Western District of Missouri and Jeffrey P. Ray failed to respond to the Summary Judgment motion filed by the plaintiff in that action.

12. The Hon. Judge Ortrie D. Smith ordered the Office of John Wood, the US Attorney for the Western District of Missouri to show cause by April 1, 2008 why US Attorney General Michael B. Mukasey had not filed a response to the Summary Judgment motion. See Exb. 1 Order of Hon. Judge Ortrie D. Smith.

13. The Office of John Wood, the US Attorney for the Western District of Missouri and Jeffrey P. Ray failed to make a timely answer to the Show Cause Order. See Exb. 2 *Patel v. Gonzales et al* Case #: 4:07-cv-00065 appearance docket.

3. Non-defendant co-conspirators are alleged to make predicate acts of extortion in furtherance of the defendants' RICO conspiracy

14. The defendants' motions to dismiss do not refute that non-defendant government officials are alleged to be acting as co-conspirators.

15. The defendants' motions to dismiss do not refute are alleged to commit 18 U.S.C. § 1961 predicate acts of Hobbs Act Extortion.