

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

SAMUEL K. LIPARI,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 07-0849-CV-W-FJG
)	
GENERAL ELECTRIC COMPANY, <i>et al.</i> ,)	
)	
Defendants.)	

**MOTION OF DEFENDANT BRADLEY J. SCHLOZMAN
TO ENLARGE TIME TO RESPOND TO
THE PLAINTIFF’S AMENDED COMPLAINT**

Pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure, defendant Bradley J. Schlozman (“Schlozman”) hereby moves the Court for an order extending his time to file an answer or other responsive pleading to the AMENDED COMPLAINT filed herein by plaintiff Samuel Lipari (“Lipari”) by two weeks to, and including, Tuesday, July 8, 2008. In support of this motion, Schlozman states:

1. Pursuant to leave of court, on December 7, 2007, Lipari filed his AMENDED COMPLAINT in this action. The AMENDED COMPLAINT added, for the first time, Schlozman as a named defendant.

2. By any plain reading of the allegations contained in the AMENDED COMPLAINT, Lipari’s allegations against Schlozman (although naming him in his individual capacity) all relate to Schlozman’s performance as an employee with the United States Department of Justice.

3. In order to effectuate service against “a United States officer or employee sued in an individual capacity,” a party must serve: (1) the officer or employee, (2) the local United States Attorney’s office, and (3) the Attorney General. FED. R. CIV. P. 4(i)(1)(A)(i), (3).

4. Thereafter, the United States officer or employee sued in an individual capacity must serve his answer “within 60 days after the service on the officer or the employee or service on the United States attorney, whichever is later.” FED. R. CIV. P. 12(a)(3) (*emphasis added*).

5. In this case, Lipari purported to serve Schlozman on or about January 28, 2008 [Doc. 39]. Lipari, however, did not properly serve the United States Attorney’s Office for the Western District of Missouri.

6. Inasmuch as no answer date existed for Schlozman because of the failure to serve the United States Attorney, on April 25, 2008, Schlozman requested that the Court set an answer date of sixty days from that date for him to file an answer or other responsive pleading [Doc. 44].

7. The Court subsequently granted Schlozman’s request, making his responsive pleading due on or before Tuesday, June 24, 2008 [Doc. 50].

8. The undersigned Assistant United States Attorney, due to some unanticipated personal matters, requires additional time in which to finalize the responsive pleading for Schlozman and, accordingly, is requesting herein an additional two weeks to file such a pleading until, and including, Tuesday, July 8, 2008.

9. The two-week requested enlargement of time is not sought for any improper purpose or for mere delay of the proceedings. Further, the requested enlargement of time will not interfere with any deadlines set or orders previously entered by the Court in this matter.

10. The motion is opposed. The undersigned Assistant United States Attorney contacted Lipari regarding this requested enlargement of time and Lipari responded by e-mail:

Yes, I do oppose! US citizens continue to die because I have been kept out of the market, additional time will only result in more deaths.

WHEREFORE, for the foregoing reasons, defendant Bradley J. Schlozman respectfully moves the Court to extend the deadline for the filing of his answer or other response to the AMENDED COMPLAINT until and including Tuesday, July 8, 2008.

Respectfully submitted,

John F. Wood
United States Attorney

By */s/ Jeffrey P. Ray*

Jeffrey P. Ray¹
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ATTORNEYS FOR DEFENDANT BRADLEY J.
SCHLOZMAN

¹ Authorized by the Department of Justice, on March 24, 2008, to provide individual capacity representation to Bradley J. Schlozman, former Interim United States Attorney, Western District of Missouri, in the case of *Samuel Lipari v. General Electric Co., et al.*, 07-0849-CV-W-FJG (W.D. Mo.). 28 C.F.R. § 50.15(a)(2).

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that on this 23rd day of June, 2008, a true and correct copy of the foregoing **MOTION OF DEFENDANT BRADLEY J. SCHLOZMAN TO ENLARGE TIME TO RESPOND TO THE PLAINTIFF'S AMENDED COMPLAINT** was electronically filed with the Clerk of the Court using the CM/ECF system, which then sent electronic notification of such filing to:

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The undersigned Assistant United States Attorney further certifies that, a true and correct copy of the foregoing **MOTION OF DEFENDANT BRADLEY J. SCHLOZMAN TO ENLARGE TIME TO RESPOND TO THE PLAINTIFF'S AMENDED COMPLAINT** was placed in the United States first class mail, postage prepaid, addressed to the following non-ECF participant:

Samuel Lipari
297 NE Bayview
Lee's Summit, MO 64064

PRO SE PLAINTIFF

/s/ Jeffrey P. Ray

JEFFREY P. RAY

Assistant United States Attorney