

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

<b>SAMUEL K. LIPARI,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 07-CV-00849-FJG</b>
	)	
<b>GENERAL ELECTRIC COMPANY, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANTS’ OPPOSITION TO PLAINTIFF’S THIRD  
MOTION FOR EXTENSION OF TIME (DOC. 35)**

Defendants General Electric Company, General Electric Capital Business Asset Funding Corporation, GE Transportation Systems Global Signaling, LLC, Heartland Financial Group, Inc., Christopher McDaniel and Stuart Foster (collectively the “Moving Defendants”) oppose Plaintiff’s Third Motion for Extension of Time (Doc. 35). For their opposition to Plaintiff’s motion, the Moving Defendants state as follows:<sup>1</sup>

1. On February 11, 2008, Plaintiff filed a Motion for Extension of Time which requested that he be allowed twenty-three (23) days after the filing of the last motion to dismiss to file a single omnibus opposition to all motions to dismiss pending at that time. (Doc. 18) In support of his motion, Plaintiff stated that defendant Bradley J. Schlozman had been served, but that he had not yet responded to Plaintiff’s Amended Complaint. (Doc. 18, ¶ 3) Notably, Plaintiff’s motion was filed one week after the filing deadline for his response to the GE Defendants’<sup>2</sup> Motion to Dismiss (Doc. 11).

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<sup>1</sup> The Moving Defendants hereby incorporate the arguments and analysis from their Suggestions in Opposition to Plaintiff’s Second Request for Extension of Time. (See Doc. 34) In order to avoid unnecessary repetition of those arguments, the Moving Defendants have focused this brief on the deficiencies and problems with Plaintiff’s Third Motion for Extension of Time.

<sup>2</sup> The GE Defendants are General Electric Company, General Electric Capital Business Asset Funding Corporation, and GE Transportation Systems Global Signaling, LLC.

2. On February 13, 2008, Plaintiff filed a Second Motion for Extension of Time which stated that “[P]laintiff was mistaken and is still attempting to serve Defendant Bradley J. Schlozman[.]” (Doc. 21, ¶ 2) Plaintiff’s motion otherwise incorporated the argument and prayer for relief stated in his prior motion.

3. On February 28, 2008, Moving Defendants filed their Opposition to Plaintiff’s Second Motion for Extension of Time. (Doc. 34) The Moving Defendants argued that allowing Plaintiff an unlimited and indefinite time to respond would be prejudicial to the Moving Defendants, and that an omnibus response from the Plaintiff would likely be confusing for both the Court and the Moving Defendants. The Moving Defendants’ argument on the response deadline issue focused on the fact that Plaintiff’s proposed deadline to respond was tied to a potential dispositive motion that may or may not be filed by a defendant (i.e., Schlozman) who had not even been served yet.

4. On March 3, 2008, Plaintiff filed his Third Motion for Extension of Time. (Doc. 35) In this Motion, Plaintiff requested that he be allowed until April 4, 2008 to file a single omnibus response to all of the motions to dismiss. Surprisingly, Plaintiff states in this new motion that Defendant Schlozman was served on January 25, 2008, a statement which is in direct contradiction to statements made in his Second Motion for Extension of Time. If Defendant Schlozman *was* served on January 25, 2008, Plaintiff certainly would have known of this fact as of February 13, 2008 (i.e, the date on which Plaintiff filed his Second Motion for Extension of Time alleging that Defendant Schlozman had not been served). Thus, the statement in Plaintiff’s Second Motion for Extension of Time -- that he needed additional time to respond to the motions to dismiss because Defendant Schlozman had not yet been served -- was a misstatement to the Court.

## ARGUMENT

The Moving Defendants oppose Plaintiff's Motion for Extension of Time because: (1) it is prejudicial to Moving Defendants to allow Plaintiff further additional time to respond to the pending motions to dismiss; (2) statements made in Plaintiff's Second and Third Motions for Extension of Time contradict each other; (3) an omnibus response from the Plaintiff will greatly increase the likelihood that separate arguments from separate defendants will be lumped together and will not be cogently addressed by the Plaintiff.

Every defendant, except Defendant Schlozman (upon whom service may or may not have been effectuated by Plaintiff), has filed a motion to dismiss Plaintiff's Amended Complaint. There are presently four separate motions to dismiss on file, and Plaintiff has yet to file a response to any one of them. Moreover, Plaintiff has already missed the response deadline for three of these four pending motions to dismiss. However, Plaintiff now requests that the Court allow him until April 4, 2008 to file a single consolidated response to these motions. Plaintiff's request is unreasonable and prejudicial to the Moving Defendants. By way of an example, if Plaintiff does not file a response to the GE Defendants' motion to dismiss until April 4, 2008, Plaintiff will have missed his deadline for opposing that motion by more than eight (8) weeks. Fairness dictates that the GE Defendants receive a response to their dispositive motion within a reasonable period of time.

Plaintiff's Third Motion for Extension of Time is extremely troubling in that it contains statements that are diametrically opposite to statements made in Plaintiff's Second Motion for Extension of Time. The primary argument supporting Plaintiff's Second Motion for Extension of Time was that he should be allowed more time to respond because

he had not yet been able to serve Defendant Schlozman. However, in his Third Motion for Extension of Time, Plaintiff states that Defendant Schlozman had been served on January 25, 2008, which was nearly three (3) weeks before he filed his Second Motion for Extension of Time. These statements cannot be reconciled, and Plaintiff should not be allowed to continue to file such frivolous motions that needlessly waste the time of both the Court and opposing counsel.

The Moving Defendants also oppose Plaintiff's request to file a single consolidated response to the pending motions to dismiss. Plaintiff's Amended Complaint (Doc. 6) is a 68-page/403-paragraph rambling morass of non-linear and bizarre allegations. On numerous instances within the Amended Complaint, Plaintiff simply makes sweeping allegations against "the defendants", rather than making specific allegations against specific defendants. It is highly likely that if Plaintiff is allowed to file one large omnibus response to the various motions to dismiss, his response will exhibit the same nebulous quality of his Amended Complaint, thereby leaving the defendants and the Court guessing as to which specific arguments from which specific motions to dismiss he is addressing. The mere fact that Plaintiff chose to proceed against nine separate defendants in this case does not excuse him from some of the consequences thereof, one of which is the requirement that he file a separate response to each dispositive motion filed by a defendant. Therefore, the Moving Defendants request that Plaintiff's request to file a single consolidated opposition brief be denied.

### **CONCLUSION**

The Moving Defendants request that the Court deny Plaintiff's Third Motion for Extension of Time. In the alternative, the Moving Defendants request that the Court order

Plaintiff to file separate opposition briefs to the four separate pending motions to dismiss by March 13, 2008, which is the current deadline for Plaintiff to respond to the last motion to dismiss. Additionally, the Moving Defendant request that the Court prohibit Plaintiff from filing any other pleadings or motions, without prior approval from the Court, before he files his responses to the various motions to dismiss.<sup>3</sup>

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CHRISTOPHER MCDANIEL AND  
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<sup>3</sup> Federal courts have the inherent power to sanction and impose filing restrictions on litigants who abuse the judicial process. *Van Deelen v. City of Kansas City, Missouri*, 2006 WL 2077640 (W.D. Mo., July 24, 2006) (Judge Fenner); *see also Johnson v. Stock*, 2005 WL 1349963 (10<sup>th</sup> Cir., June 8, 2005).

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was forwarded this 6<sup>th</sup> day of March, 2008, by first class mail, postage prepaid to:

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And an electronic copy was filed via the CM/ECF system which will send a notice of electronic filing to the following:

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