

**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 SET AN ANSWER DATE**

Pursuant to Rules 4 and 12 of the Federal Rules of Civil Procedure, defendant Bradley J. Schlozman (“Schlozman”) hereby moves the Court for an order setting a deadline of Tuesday, June 24, 2008, for him to file an answer or other responsive pleading to the AMENDED COMPLAINT filed herein by plaintiff Samuel Lipari (“Lipari”). 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 has purported to serve Schlozman on or about January 28, 2008 [Doc. 39]. Lipari, however, to date, has not properly served the United States Attorney’s Office for the Western District of Missouri.

6. Although no answer date presently exists for Schlozman, he does not want to unduly delay these proceedings based on a service defect in a case involving a *pro se* litigant and, moreover, Schlozman believes that the allegations lodged against him may be disposed of expeditiously by the Court in ruling on a motion to dismiss.

7. To that end, under the unique facts of this case, the United States Attorney’s Office for the Western District of Missouri will waive Rule 4(i)(1)(A)(i) service on its office in this case and Schlozman requests that the Court set an answer date of sixty days from the date of this motion for him to file an answer or other responsive pleading to the AMENDED COMPLAINT.

For the foregoing reasons, defendant Bradley J. Schlozman respectfully requests the Court for an order setting a deadline of Tuesday, June 24, 2008, for Schlozman to file an answer or other responsive pleading to the AMENDED COMPLAINT.

Respectfully submitted,

John F. Wood
United States Attorney

By */s/ Jeffrey P. Ray*

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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 25th day of April, 2008, a true and correct copy of the foregoing **MOTION OF DEFENDANT BRADLEY J. SCHLOZMAN TO SET AN ANSWER DATE** 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 on this 25th day of April, 2008, a true and correct copy of the foregoing **MOTION OF DEFENDANT BRADLEY J. SCHLOZMAN TO SET AN ANSWER DATE** was placed in the United States first class mail, postage prepaid, addressed to the following non-ECF participant:

Samuel Lipari
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Lee's Summit, MO 64064

PRO SE PLAINTIFF

/s/ Jeffrey P. Ray

JEFFREY P. RAY

Assistant United States Attorney