

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE No. 1:20-CV-11889-MLW

Dr. SHIVA AYYADURAI)
Plaintiff,)
)
v.)
)
WILLIAM FRANCIS GALVIN,)
MICHELLE K. TASSINARI,)
DEBRA O'MALLEY,)
AMY COHEN,)
NATIONAL ASSOCIATION OF)
STATE ELECTION DIRECTORS,)
all in their individual capacities, and)
WILLIAM FRANCIS GALVIN,)
in his official capacity as Secretary)
of State for Massachusetts,)
Defendants.)

JURY DEMANDED

**OPPOSITION TO AMY COHEN'S MOTION TO DISMISS
FOR LACK OF *IN PERSONAM* JURISDICTION**

THIS COURT MUST MAKE A FINDING OF MISCONDUCT
BY ATTORNEY NOLAN J. MITCHELL (BBO #668145)

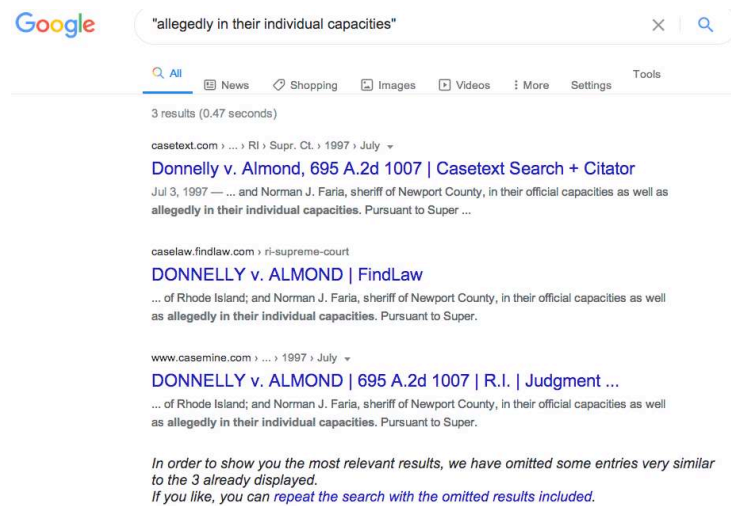
Attorney Mitchell has tampered with the caption of this case without consent from either the court or the Plaintiff. This is impermissible conduct.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DR. SHIVA AYYADURAI,)
Plaintiff,)
)
v.)
)
WILLIAMS FRANCIS GALVIN, MICHELLE) Civ. No. 20-cv-11889
K. TASSINARI, DEBRA O'MALLEY, AMY)
~~COHEN, NATIONAL ASSOCIATION OF)~~
~~STATE ELECTION DIRECTIOS, allegedly in)~~
~~their individual capacities, and WILLIAM)~~
~~FRANCIS GALVIN, in his official capacity as)~~
Secretary of State for Massachusetts.)
Defendants.)
)
)

AFFIDAVIT OF AMY COHEN

Attorney Mitchell has employed this tampered caption in all the documents he has filed on behalf of both Amy Cohen and NASED. Specifically, he has inserted the phrase, “allegedly in their individual capacities” in the caption (and the word “DIRECTORS,” he changed to “DIRECTIOS”). A search on Google is able to locate only ONE document among the approximately 130 TRILLION documents on Google where this phrase is employed. And, that one document was written by a judge, not by counsel for a RICO defendant. And even then, that judge did NOT tamper with the case caption.



Attorney Mitchell’s misconduct is absolutely unheard of and demonstrates contempt for this court and an arrogance that is unique. What we have in this case, is not only one RICO Defendant who considers herself above the law, but also her attorney who considers himself above the law too. Tampering with the caption, by an attorney of nearly 20 years experience, was undeniably unintentional, and not some late night keyboard error.

The Plaintiff respectfully requests this court to make a finding that Attorney Mitchell committed conscious, intentional, willful, egregious misconduct, and issue exemplary sanctions such that all lawyers are on notice that they shall NOT tamper with case captions.

THIS COURT HAS STATUTORY JURISDICTION OVER AMY COHEN

This is a civil RICO case. Cohen is a RICO defendant. The claim is that she participated in a RICO conspiracy along with persons resident within Massachusetts. This court has personal jurisdiction over Cohen because Congress granted this court national jurisdiction over all defendants named in a RICO conspiracy. 18 USC § 1965(a) and (b) and (d).

“One section of the RICO statute, 18 U.S.C. § 1965, provides for nationwide service of process in civil cases under certain circumstances, in order “to enable plaintiffs to bring all members of a nationwide RICO conspiracy before a single court in a trial.” Butcher’s Union Local No. 498 v. SDC Inv., Inc., 788 F.2d 535, 539 (9th Cir. 1986). Rule 4 of the Federal Rules of Civil Procedure, in turn, provides that service of process establishes personal jurisdiction over a defendant. Fed. R. Civ. P. 4(k)(1)(C), (“Serving a summons . . . establishes personal jurisdiction over a defendant when authorized by a federal statute.”). Thus, under § 1965 and Rule 4, personal jurisdiction over defendants can be obtained in RICO cases under circumstances where it otherwise might not exist.” *World Depot v. Onofri*, 1:16-cv-12439-FDS (D. Mass. 2017) See also *Bridge v. Invest Am., Inc.*, 748 F. Supp. 948, 950 (D.R.I. 1990)

To do otherwise guts the statutory scheme erected by Congress to effectuate the statute’s aims. *Rotella v. Wood*, 528 US 549 (2000)(Congressional intent was to “encourag[e] civil litigation to supplement Government efforts to deter and penalize the . . . prohibited practices”) This court must decline Cohen’s invitation to defy an explicit statute passed by Congress.

It would be fair, and expected, for a RICO defendant to claim that RICO does not apply to her actions and therefore this court lacks national jurisdiction over her. But that is not Cohen’s claim. Cohen has chosen to concentrate on common law constructions to claim this court has no jurisdiction over her and has avoided all discussion of the RICO statute at all. This is curious.

While one may speculate that it betrays Cohen’s fervent wish to not be connected even slightly with Tassinari and the other RICO co-defendants, her attorney Nolan Mitchell is not exempt from his professional and ethical duty to explain why the national jurisdiction conferred by Congress via the RICO statute does not apply to Cohen in this case. The words

“racketeering” and “RICO” do not appear even once in Cohen’s motion to dismiss for lack of personal jurisdiction. This can be construed only as an attempt to mislead and misdirect this court, and one more expression of attorney Mitchell’s contempt for this judicial forum.

As a matter of law, this court has statutory national jurisdiction over Cohen and her co-defendants in this RICO case.

AMY COHEN IS PROPERLY NAMED A RICO CO-DEFENDANT

Written claims by Cohen in an affidavit that she is not responsible for NASED’s actions are intentionally misleading as well. Tassinari called Cohen to complain that Plaintiff had posted screenshots of her emails on Twitter. Tassinari called Cohen because Cohen acts for “NASED,” as its Executive Director. Cohen filed a complaint with Twitter using NASED’s Trusted Partner privileges that are not available to ordinary persons. Cohen is smack in the middle of the conspiracy. Her claim to the contrary has been proved false by Tassinari’s own testimony.

In addition, this court must note that Cohen and NASED are being represented by the same lawyer. There is no evidence in the record that Cohen has informed NASED’s Board of Trustees of this lawsuit and that the Trustees selected this lawyer for both NASED and Cohen. Discovery is expected to reveal when the Trustees learned of this suit over Cohen’s actions and what decisions they made independently of Cohen. There is no evidence in the record to support Cohen’s claim that she does not take decisions for NASED. The only evidence in the record thus far is that Cohen takes decisions for NASED, and did so when she complained to Twitter about the Plaintiff posting screenshots of the Tassinari emails on Twitter.

This court must note adversely that Cohen has refused to produce a single screenshot or printout of the complaint that she filed with Twitter, unlike the numerous screenshots produced by the Plaintiff in his complaint. Discovery will produce from Twitter itself the actual text of

what Cohen submitted to Twitter. Naturally Cohen is desperate to conceal that evidence and hopes to get this case dismissed without such discovery at all. Her present motion to dismiss with no mention of statutory jurisdiction at all is part of this effort.

CONCLUSION

As a matter of law this court has statutory personal jurisdiction over Cohen. Her motion to dismiss on that ground must be denied.

Respectfully submitted under the pains and penalties of perjury,

/s/ Dr. Shiva Ayyadurai

Date: January 21, 2020

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CERTIFICATE OF SERVICE

Plaintiff certifies that he served this opposition upon Defendants, via counsel, via ECF.

Respectfully submitted under the pains and penalties of perjury,

/s/ Dr. Shiva Ayyadurai

Date: January 22, 2020

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