

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

Stephen Lathrop)	
)	
Plaintiff,)	
)	
v.)	Cause No. 03-194-DRH
)	
Juneau & Associates, Inc. P.C.,)	
Joe Juneau individually and in)	
his official capacity as)	
City Engineer of Granite City, Illinois,)	
Ed Juneau,)	
Charlie Juneau,)	
Dan Brown individually and in)	
his official capacity as Economic)	
Director of Granite City, Illinois,)	
Ronald Selph individually and in)	
his official capacity as)	
Mayor of Granite City, Illinois,)	
Mark Spengler individually and in)	
his official capacity as)	
City Attorney of Granite City, Illinois, and)	
Other Unnamed Persons, and)	
Granite City, Illinois)	
)	
Defendants.)	

PLAINTIFF’S PRO SE MOTION FOR A STAY, UNDER FRCP
56(g),
ON PLAINTIFF’S RESPONSE TO DEFENDANT’S
INTERROGATORIES AND REQUEST FOR PRODUCTION

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Comes now Stephen Lathrop appearing and proceeding pro se in support of this requests motion and would show the court as follows:

1. In ¶ 6 of the prayer for relief in Plaintiff's original pro se Complaint in this case, filed on March 25, 2003, the following relief was requested:

"Plaintiff is not an attorney and is insolvent as a result of Defendant's actions. Plaintiff has filed this complaint Pro Se in order to preserve his rights within the statute of limitations period. Therefore, Plaintiff leave of court for 60-90 days to retain counsel and file an amended complaint."

2. On July 10, 2003 this honorable Court granted Plaintiff's third Motion for an Extension of Time In Which To Retain Counsel and File An Amended Complaint. The Court ordered that the Plaintiff be granted up to and including July 30, 2003 to retain counsel, file an amended complaint and that the running of time deadlines for Plaintiff's responses to Defendants' motions, including motions to dismiss, be delayed until after this date.

3. On July 31, 2003, the Plaintiff filed, in good faith, his fourth request for an extension of time to continue his ongoing process of acquiring proper legal counsel to represent him and file an amended complaint in this very complicated and charged Civil RICO cause of action.

4. On August 8, 2003 this honorable Court denied Plaintiff's Forth Motion for an Extension of Time to Retain Counsel and File an Amended Complaint.

5. Plaintiff continues to seek qualified counsel and is continuing to discuss representation with former Chief Justice of the Missouri Supreme Court, Edward D. Robertson, of the firm Bartimus, Fickleton, Robertson & Obetz, P.C., and Ted Huge of Motley Rice LLC.

6. To date, in spite of ongoing good faith efforts, the insolvent Plaintiff has been unable to obtain legal representation for this cause of action.

7. Nevertheless, Plaintiff has already begun moving forward pro se to defend his legal rights in this honorable Federal Court.

8. Plaintiff was served with Defendants' Interrogatories and Production (of Documents) Requests on April 29, 2003. It is Plaintiff's understanding that the time period for answering these under FRCP 34, was delayed and did not begin to run until August 1, 2003. Plaintiff has had no opportunity to answer or address these discovery requests for the following reasons.

9. On August 26, 2003 Plaintiff filed Plaintiff's Pro Se Response To Defendants' Summary Judgment Motions, Plaintiff's Request For Discovery Under FRCP 56(f) And Plaintiff's Request To Hold Defendants In Contempt Under FRCP 56(g) For Filing Affidavits In Bad Faith. Attached to this Response were the Affidavits of Glen Hollis and Sandra K. Shaw. And, the original notarized copies of these Affidavits have been filed with the Court. This honorable Court's ruling on Plaintiff's Response has not yet been issued.

10. Plaintiff's bank account has been seized and Plaintiff is struggling to feed and take care of his family. Plaintiff is under a heavy burden.

11. In addition to seeking counsel, Plaintiff has been working diligently, and in good faith to obtain the Sandra K. Shaw and Glen Hollis Affidavits. This has required a great deal of time.

12. As part of Defendants' Motion for Summary Judgment, Defendants filed affidavits denying under oath every single material allegation of Plaintiff's complaint. As evidenced in the Shaw Affidavit, the Defendants have participated in a, "bait & switch fraud scheme" before the Granite City Council (See ¶ 33 of Shaw Affidavit). It appears that the Defendants have continued, via their affidavits, to protect their "fraud scheme."

13. Rule 12(b) of the FRCP states in pertinent part:

If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties **shall be given reasonable opportunity to present all material made pertinent to such a motion** by Rule 56.

Plaintiff, completely insolvent, acting pro se and under a heavy burden, should have a reasonable opportunity to gather and present his responsive discovery material **made pertinent by the Defendants' submission of their denials, under oath, of every single material allegation of Plaintiff's complaint**.

14. Rule 56(g) of the FRCP reads, in pertinent part, as follows:

Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented pursuant to this rule are presented in bad faith . . . the court shall forthwith order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other

party to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt."

15. Relying on FRCP 56(g) the Plaintiff requests a stay on his interrogatories and Document Production Request responses for a time. Plaintiff requests, due to the equities of the situation, that Plaintiff be allowed to obtain discovery, depositions and production of documents from the Defendants, so that he can fully refute their testimony (denying every single material allegation), prior to his being required to respond to Defendants Interrogatories and Requests for Production. Plaintiff very respectfully suggests to this honorable Court that this could serve as a proper contempt sanction under Rule 56(g), given the injustice of a situation where Defendants have attempted to hoodwink the Court into dismissing this action via (evidence of) false testimony.

16. Furthermore, Plaintiff's evidence of Defendants' fraudulent and perjurious actions lends credence to the idea that the Plaintiff needs to protect the identities of some of his witnesses (and documents that lead to their identities) until after Plaintiff's discovery is obtained.

17. **Apparently, Defendants believe their wealth and/or position can keep the entire Granite City Council silent.** And, apparently, Defendants have even lied to their own Attorney. For example, see attached EXHIBIT A (July 23, 2003 letter from Defendants' counsel, Attorney Stephen R. Kaufmann). In pertinent part, EXHIBIT A states:

"In Paragraph 6 of the Pro Se Response you recently filed, you indicate that **"Defendants conveniently forget that it was as a direct result of the Defendants' actions that the Granite City Council voted unanimously to**

have the City Attorney work to settle this case with Plaintiff to avoid this litigation.” I have verified with our clients that no such action was ever taken by the Granite City Council.”

18. Then, compare the above quote, from Defendants’ Attorney, with ¶ 22 of Sandra K. Shaw’s Affidavit (filed on August 25, 2003), which reads as follows:

“Again, I was present at this same April 16, 2002 meeting and I heard Alderman Virgil Kambarian begin the inquisition of Dan Brown by asking: “We are the stewards of this property, who are you to defy our express wishes to work with Mr. Kehr?” I watched Dan Brown attempt to explain why he felt the City must maintain control of the property. I then heard Alderman Bob Page ask, “I want to know if the Mayor authorized this call to Mr. Kehr?” And, then I heard Dan Brown respond, “Absolutely, he knows how we operate.” Then, I observed Alderman Kim Hess stand and shout angrily “Dan, because of your stupidity, a proven developer with unlimited money to spend in our town, is no longer interested because we obviously don’t know if our ass is pointing up or down! I don’t know what evidence Mr. Lathrop has, but if I’m deposed, I’ll have to admit that two of his financiers called me right after talking with you because they were confused after meeting with me and getting great support from us (Council), then you say something totally different! I not only talked to Kent Kehr after your call but Mr. Balsters also called me from Mr. Lathrop’s kitchen table right after he met with you last year!” That is not an exact quote but is very close. **Alderman Hess then made the following motion - To prevent an embarrassing lawsuit, our City Attorney shall meet with Mr. Lathrop and his Attorney as soon as possible to work out a settlement. I voted for this motion and it passed unanimously.”**

19. Moreover, Defendants had full access to and control over the minutes to the April 16, 2002 Council meeting where this motion regarding settlement with the Plaintiff was raised and passed (See attached EXHIBIT B which is the relevant portion of the April 16, 2002 Granite City Council minutes). Note, Plaintiff has been informed by the Granite City Clerk that, the term “Motion Carried” in Granite City Council Minutes means that the Motion was passed unanimously.

20. Finally, on August 27, 2003, Granite City Defendants’ filed:

Granite City Defendants' Motion For An Extension of Time To Respond to Plaintiff's Pro Se Response To Defendants' Summary Judgment Motions, Plaintiff's Request For Discovery Under FRCP 56(f) And Plaintiff's Request To Hold Defendants In Contempt Under FRCP 56(g) For Filing Affidavits In Bad Faith.

Plaintiff does not object to the Defendants' request for an additional ten days of time to respond. Plaintiff is very mindful of the forbearance the Court has shown to his good faith requests for extensions of time. However, Plaintiff simply asks the Court to take notice of the primary reason given by Defendants as a basis for their requested extension of time. In paragraph 2 of Defendants' Motion, Defendants state, "**The Brief filed by Plaintiff raises new issues**, attaches affidavits and requires additional time for the Granite City Defendants to file a Reply." Virtually all of the issues raised in the Shaw and Hollis Affidavits are contained in the allegations of Plaintiff's original complaint. The new issue of significance raised by the Plaintiff's brief is: **Evidence that Defendants have lied under oath.**

WHEREFORE, relying on FRCP 56(g), the Plaintiff requests a stay on his interrogatories and Document Production Request responses for a time. Due to the equities of the situation, the pro se Plaintiff respectfully requests, under FRCP 56(g), this court allow the Plaintiff to obtain discovery, depositions and production of documents from the Defendants, so that he can have the opportunity to refute their testimony (denying every single material allegation), prior to his being required to respond to Defendants Interrogatories and Requests for Production of Documents.

Respectfully submitted,

Stephen Lathrop, Pro Se
Dated _____, 2003

Stephen Lathrop
2619 Pine Street,
Granite City, Illinois 62040
Telephone (618) 931-4900

The Defendants are:

Juneau & Associates, Inc. P.C., ("Juneau")
2100 State Street,
Granite City, Illinois 62040.

Joe Juneau,
2539 Cleveland Blvd.,
Granite City, Illinois 62040.

Ed Juneau,
2656 Delmar Ave.,
Granite City, Illinois.

Charlie Juneau,
104 Lakewood Drive,
Glen Carbon, Illinois 62034.

Dan Brown
Granite City Economic Director
3409 Princeton Drive 62040,
Granite City, Illinois.

Ronald Selph
Granite City Mayor
2000 Edison Ave.,
Granite City, Illinois 62040.

Mark Spengler
Granite City Attorney
2850 Grand Ave,
Granite City, Illinois

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on _____, 2003, I caused a copy of the foregoing to be served via U.S. First Class Mail upon:

Stephen R. Kaufman, Esq.
Burroughs, Hepler, Broom, MacDonald,
Hebrank & True
103 West Vandalia Street, Suite 300
P.O. Box 510
Edwardsville, IL 62025-0510
*(Attorneys for Defendants Dan Brown, Ronald Selph, Mark
Spengler & City of Granite City)*

John L. McMullin, Esq.
Brown & James, P.C.
LeChien Building
120 West Main Street, 2nd Floor
Belleville, IL 62220-1502
*(Attorneys for Defendants Juneau & Associates, Inc, P.C., Joe
Juneau, Ed Juneau and Charlie Juneau)*

Stephen Lathrop, Pro Se

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EAST ST. LOUIS DIVISION**

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Mayor of Granite City, Illinois,)	
Mark Spengler individually and in)	
his official capacity as)	
City Attorney of Granite City, Illinois, and)	
Other Unnamed Persons, and)	
Granite City, Illinois)	
)	
Defendants.)	

ORDER

ORDER

Comes Stephen Lathrop, Pro Se, and files Plaintiff's Pro Se Motion For A Stay, Under FRCP 56(g), On Plaintiff's Response To Defendant's Interrogatories And Request For Production, said motion being in the words and figures as follows, to-wit:

(H.I.)

The Court, having considered said motion and being duly advised in the premises, now finds that said motion should be granted.

IT IS THEREFORE ORDERED that the Plaintiff be granted, under FRCP 56(g), a stay on his interrogatories and Document Production Request responses for a time. Due to the equities of the situation, this court allows the Plaintiff to obtain discovery, depositions and production of documents from the Defendants, so that he can have the opportunity to refute their testimony (denying every single material allegation), prior to his being required to respond to Defendants Interrogatories and Requests for Production of Documents.

SO ORDERED THIS _____ DAY OF _____, 2003.

Judge
The United States District Court
For The Southern District Of Illinois
East St. Louis Division

Distribution to:

Stephen Lathrop
2619 Pine Street,
Granite City, Illinois 62040
Telephone (618) 931-4900

Stephen R. Kaufman, Esq.
Burroughs, Hepler, Broom, MacDonald
Hebrank & True
103 West Vandalia Street, Suite 300
P.O. Box 510
Edwardsville, IL 62025-0510
*(Attorneys for Defendants Dan Brown, Ronald Selph, Mark
Spengler & City of Granite City)*

John L. McMullin, Esq.
Brown & James. P.C.
LeChien Building
120 West Main Street, 2nd Floor
Belleville, IL 62220-1502
*(Attorneys for Defendants Juneau & Associates, Inc. P.C., Joe
Juneau, Ed Juneau and Charlie Juneau)*