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An Analysis of Federal Judge's violation of 15 U.S.C. sec. 1512(b):

Factual statements set forth below are derived from either the public record or from Peter W. Lindner ("Lindner"):

Lindner was a *pro se* Plaintiff in a case against IBM filed in the federal district court for the Southern District of New York, 06 Civ. 4751(RJS).

By e-mail dated June 19, 2009, Lindner wrote to USDJ Sullivan and IBM's lawyers objecting to Magistrate Judge Eaton's Orders of June 16 and 18, 2009 and moving for sanctions against IBM's lawyers for witness tampering and for a protective order for Lindner from IBM's lawyers.

By Order dated September 2, 2009 (Doc. No. 116), USDJ Sullivan denied Lindner's motion to sanction IBM's attorneys and commented on Lindner's e-mail to Judge Sullivan dated September 1, 2009 by stating: "Plaintiff is reminded that all litigants, including *pro se* litigants, are expected to conduct themselves professionally and to treat the Court and all other parties with respect. Thus, Plaintiff is advised that further *ad hominem* attacks may result in fines or dismissal of this action."

By Order dated September 18, 2009, USDJ Sullivan ordered Lindner neither to file any motions nor submit any documents to the Pro Se Office without first obtaining permission from the Court. By Order dated September 28, 2009 (Doc. No. 123), USDJ Sullivan clarified that the prior Order of September 18, 2009, does not apply "[w]ith regard to actions other than the above-captioned action ... and Plaintiff may proceed consistent with applicable law and whatever orders, if any, exist in those cases With regard to the above-captioned action, the Court's order of September 18, 2009, does not limit Plaintiff's freedom to "[c]ommunicate to the US Marshal," "[w]rite, speak, and visit the SDNY Clerk's Office," or [c]ommunicate with Congress, the FBI, the US Attorney, [and] the media."

Lindner, believing that a number of ruling during the discovery phase of the litigation were not substantiated by the record and could be the result

of undue influence upon the Court by IBM, wrote to US Marshal Joseph R. Guccione. Lindner's letter was forwarded (in apparent violation of US Marshal procedures) to USDJ Sullivan. In response to Lindner's letter to the US Marshal, Judge Sullivan wrote that Lindner's letter "berates the Court in deeply personal terms, suggesting that the undersigned should be impeached for being corrupt and for receiving bribes from Defendant IBM." USDJ Sullivan issued an Order dated October 6, 2009 (Doc. No. 130) by which Lindner "IS HEREBY ORDERED to show cause why he should not be sanctioned under 18 U.S.C. sec. 401 for accusing the Court of being corrupt and accepting bribes, in direct contravention of the Court's prior order." See www.tinyurl.com/impeach02.

By Motion dated October 7, 2009, entitled "Motion to Speak Freely," Lindner moved to have the 200 word restriction placed on him vacated. By Order dated October 8, 2009, USDJ Sullivan removed the 200 word restriction regarding Lindner's explanation as to why he should not be sanctioned for his October 2, 2009 letter and granted Lindner more time to submit his explanation. Lindner then requested that the Court appoint a federal defender to represent him on the Order to Show Cause but by Order dated October 9, 2009, USDJ Sullivan denied Lindner's request stating that "the Court is not currently contemplating ordering the incarceration of Plaintiff. He thus does not have a right to appointed counsel...."

By Memorandum and Order dated January 21, 2010 (Doc. No. 168), USDJ Sullivan granted IBM's motion for summary judgment, declined to sanction Lindner pursuant to the Order to Show Cause dated October 2, 2009 and closed the case.

The relevant portion of the statute at issue, 18 USC sec. 1512(b), reads as follows:

"(b) **Whoever knowingly** uses intimidation, threatens, or corruptly persuades another person, or **attempts to do so**, or engages in misleading conduct toward another person, **with intent to—**

(1) ...

(2) ...

(3) **hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense** (emphasis supplied).

The reasonably foreseeable effect of Order to Show Cause Order#130 would be to inhibit the nature and timing of Lindner's communications with those in law enforcement. The requisite intent required by the criminal statute could be established by the timing of Order #130 occurring after

Lindner had been given permission by the Court to communicate with law enforcement, Order # 123. It thus would appear that Judge Sullivan's actions by Order #130 were in contravention of U.S.C. sec. 1512(b)(3) as an attempt to hinder or delay Lindner in the reporting to the US Marshals a possible crime.