

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GARY R. WALL, :
 :
 Plaintiff :
 :
 v. : No. 3:09CV1066 (DJS)
 :
 UNITED STATES DEPARTMENT :
 OF JUSTICE, ET AL. :
 :
 Defendants :

MEMORANDUM OF DECISION AND ORDER

The pro se Plaintiff, Gary R. Wall, brought this action against the following the following named Defendants: Department of Justice U.S. Attorneys Office, New Haven, Connecticut; District Judge Janet C. Hall; Unknown District Law Clerks in the Meaning of Bivens; Circuit Judge [now Supreme Court Justice] Sonia Sotomayor; Unknown Circuit Law Clerks in the Meaning of Bivens; and Congressman John Larson. The caption of the Complaint states that it is a "42 U.S.C. 1985(3) Civil Rights Act Complaint for Obstruction and Usurpation of Due Process (5th Amendment) Rights (Action in Equity)." (Dkt. # 1, at 1.) The Complaint does not clearly identify the nature of the Plaintiff's action. In a subsequent submission to the Court, the Plaintiff represented that "[t]his complaint is and can only be interpreted as a Bivens Complaint and this Civil Rights pleader respectfully request[s] the Court to do so." (Dkt. # 12, at 3.)

The Plaintiff alleges that the U.S. Department of Justice improperly denied him access to a federal grand jury, that the

defendant judges and law clerks conspired to violate, and did in fact violate, his "Due Process 5th Amendment Rights" through actions taken and rulings made in the previous federal lawsuits filed by the Plaintiff, and that Congressman Larson has failed to take action in response to information about corruption provided to Congressman Larson by the Plaintiff. The Defendants have moved pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) to dismiss the Complaint in its entirety.¹ For the reasons that hereafter follow, the Defendants' motions to dismiss (**Dkt. # 8 and Dkt. # 17**) are **GRANTED**.

PROCEDURAL BACKGROUND

This lawsuit is the latest in a series of court actions filed by the Plaintiff relating in one way or another to long-standing claims by the Plaintiff and another individual named William Cooksey ("Cooksey") against Construction & General Laborers' Union, Local 230 (the "Union"), which is affiliated with the Laborers' International Union of North America ("LIUNA") (collectively, "the Unions"). The factual history of these claims is set forth in detail in Wall v. Construction & General Laborers' Union, Local 230, 224 F.3d 168, 170-73 (2d Cir. 2000) and need not be repeated here. In short, the Plaintiff has

¹The Defendant Larson has also moved to dismiss on the basis of insufficient service of process under Fed. R. Civ. P. 12(b)(5). The Court finds it unnecessary to address that claim.

consistently maintained that he and Cooksey were wrongly and illegally denied readmission to the Union, from which they had resigned after they had successfully pursued unfair labor practice charges against the Union before the National Labor Relations Board. According to the Plaintiff, this denial adversely affected his and Cooksey's employment and pension rights.

Having been denied readmission to the Union, the Plaintiff and Cooksey initiated an action in federal court against the Union and its officers claiming violations of the federal Labor Management Reporting and Disclosure Act as well as Connecticut statutory and common law ("Wall I"). The district court (Janet C. Hall, Judge) initially granted summary judgment in favor of the defendants and the plaintiffs appealed to the United States Court of Appeals for the Second Circuit. The Second Circuit affirmed the dismissal of the plaintiffs' state law claims, but reversed the dismissal of the plaintiffs' federal claim. Wall v. Construction & General Laborers' Union, Local 230, 224 F.3d 168 (2d Cir. 2000). On remand, the district court granted in part and denied in part the defendants' renewed motion for summary judgment. The plaintiffs' remaining claim was tried before a jury, which returned a verdict for the defendants. The district court subsequently denied the plaintiffs' motion for a new trial and motion to reconsider the denial of the motion for a new

trial. The Second Circuit later affirmed the district court's decision to deny the motion for reconsideration and declined to consider the plaintiffs' untimely challenge to the underlying verdict and judgment. Wall v. Construction & General Laborers' Union, Local 230, No. 06-1264-cv, 2009 U.S. App. LEXIS 1905, at *2-*3 (2d Cir. Feb. 2, 2009).

In 1998, the Plaintiff, along with Cooksey and a third individual named Stephen Manos ("Manos"), filed a complaint pursuant to the Racketeer Influenced and Corrupt Organizations Act ("RICO") alleging that the defendants, who were the Unions and various officials of the Unions, had violated the civil remedy provisions of RICO. The plaintiffs in that action contended that the defendants had deprived them of the rights to union membership, employment, due process, and the right to vote in union affairs, as well as entitlement to their pensions. The district court (Janet C. Hall, Judge) concluded that the plaintiffs had failed to establish the existence of two predicate acts required to demonstrate a RICO violation and, for that reason, dismissed the Second Amended Complaint². On appeal, the Second Circuit affirmed the judgment of the district court. Wall v. Roman, 18 Fed. Appx. 41 (2d Cir. 2001).

In 2004, the Plaintiff, along with Cooksey and Manos, filed

²The district court had previously dismissed the original complaint and an amended complaint.

another RICO complaint, naming the Unions, various officials and agents of LIUNA, the Connecticut Laborers' Pension Fund (the "Pension Fund"), and the director of the Pension Fund as defendants. The plaintiffs in that action alleged that the defendants had violated their constitutional rights and RICO by failing to fully fund or credit their pensions and by denying them reinstatement to membership in the Union. The district court (Warren W. Eginton, Judge) concluded that the plaintiffs' claims were barred on the basis of collateral estoppel and granted the defendants' motion to dismiss. The Second Circuit affirmed the judgment of the district court. Wall v. Laborers' International Union of North America, Local 230, 276 Fed. Appx. 68 (2d Cir. 2008). In its decision, the Second Circuit stated that "[w]e have further reviewed the plaintiffs' claims of corruption and bias, and find them to be without merit. We have also reviewed the plaintiffs' motion for the disqualification of Chief Judge Jacobs as a panel member for this appeal, and deny it as moot, because the Chief Judge is not a member of this panel." Id. at 70.

On March 3, 2009, the Plaintiff filed an action styled as a "5 U.S.C. 552(a)(4)(B) Fee Waiver Complaint," relating to a Freedom of Information request for information concerning an "Operating Agreement" between the Department of Justice and LIUNA. See Wall v. Executive Office for United States Attorneys,

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