

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
ALAN M. KAUFMAN,)	
)	
Plaintiff,)	
v.)	Case No. 16-11961
)	
SOUTHWESTERN BELL MOBILE SYSTEMS,)	
LLC, <i>et al.</i>)	
)	
Defendants.)	
_____)	

DEFENDANT JOHN WILKINSON’S MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant John Wilkinson (“Arbitrator Wilkinson”) hereby moves to dismiss the Complaint of Plaintiff, Alan M. Kaufman (“Kaufman”) as against him. Based on a 2003-04 arbitration that resulted in an unfavorable award, Kaufman’s sole claim against Arbitrator Wilkinson for “Fraud Upon the Court/Bribery/ Corruption” should be dismissed for at least five reasons:

First, arbitral immunity absolutely shields Arbitrator Wilkinson from suit by Kaufman, a party to an American Arbitration Association (“AAA”) arbitration over which Arbitrator Wilkinson presided;

Second, the AAA’s rules, to which Kaufman is contractually bound, provide that Arbitrator Wilkinson cannot be liable for any act arising out of the arbitration and that he is neither a necessary nor proper party to any lawsuit based thereon;

Third, given the facts alleged, Kaufman has no independently viable cause of action for “Fraud Upon the Court/Bribery/Corruption” against Arbitrator Wilkinson;

Motion allowed. NMGorton, USDJ 2/28/17