UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 16-12563-GAO

SOLOMON UPSHAW,
Plaintiff,

v.

WMB CONSTRUCTION, INC., WILLIAM M. BRANDON, JR., KARA L. BRANDON,
OFFICER MIKE DOMBROSKY, AVON POLICE DEPARTMENT,
Defendants.

OPINION AND ORDER
September 28, 2017

O'TOOLE, D.J.

The plaintiff purports to bring claims against the defendants that he asserts arise from the unlawful "seizure" of a tractor and trailer belonging to him.

His claims against the defendants WMB Construction, Inc., William M. Brandon, Jr., and Kara L. Brandon are alleged to arise under a federal civil forfeiture statute, 18 U.S.C. § 983, and the Federal Tort Claims Act, 28 U.S.C. §§ 2671–2680. Neither of the cited federal statutes authorizes an action against non-governmental persons or entities. Consequently, the complaint contains no claim against these defendants upon which relief can be granted. Accordingly, their Motion to Dismiss Complaint Pursuant to F.R.C.P. Rule 12 (dkt. no. 17) is GRANTED, and the complaint is dismissed as to them.

To the extent the complaint purports to allege claims under those federal statutes against the defendants Officer Mike Dombrosky and the Avon Police Department, it similarly fails to state a viable cause of action against Dombrosky, the Avon Police Department, or the Town of Avon. The complaint appears also to allege claims against these defendants under the Massachusetts Tort

Claims Act. For the reasons both procedural and substantive set forth in the defendants' memorandum, the tort claims are not viable, and their Motion to Dismiss (dkt. no. 9) is GRANTED as well.

The Motion for Sanctions filed by the defendants WMB Construction, Inc. and William M. Brandon, Jr. (dkt. no 19) is DENIED WITHOUT PREJUDICE at this time. The plaintiff is warned that further attempts to assert in this Court claims similar to those set forth in the present complaint may well result in the imposition of appropriate sanctions.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge