

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION**

**LEE YOUNG and CHARLES MIKHAIL**

**PLAINTIFFS**

**VS.**

**CIVIL ACTION NO. 1:09cv669-KS-MTP**

**RICHARD SCRUGGS, individually; SMDB, INC.,  
Directly and as successor in interest to SCRUGGS,  
MILLETTE BOZEMAN AND DENT a/k/a SMDB,  
and as successor in interest to SCRUGGS LEGAL,  
P.A.; and DOE DEFENDANTS 1-20**

**DEFENDANTS**

**PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS**

Plaintiffs Lee Young and Charles Mikhail file this Opposition Brief to the Defendants' Motion to Dismiss, as follows:

1. Plaintiffs have sufficiently served process on Defendant Richard F. Scruggs under the Federal Rules of Civil Procedure, the Mississippi Rules of Civil Procedure, and the Kentucky Rules of Civil Procedure. See Exhibit "A" (return receipt for certified mail on Defendant Scruggs at FCI Ashland-Federal Correctional Institution in Ashland, Kentucky).

2. Plaintiffs have stated a claim upon which relief can be granted under the Racketeer Influenced and Corrupt Organizations Act (RICO):

- a. Plaintiffs have sufficiently alleged that Defendants engaged in a pattern of racketeering activity;
- b. Plaintiffs have sufficiently alleged that the predicate acts committed by Defendants were related to the conduct of a RICO enterprise; and
- c. Plaintiffs have standing to assert their RICO claims.

3. In the alternative, should this Court find that Plaintiffs have failed to sufficiently allege a claim under RICO, Plaintiffs request leave to file an Amended Complaint.

4. Plaintiff's claims regarding payment of the judgment in *Luckey v. Scruggs* are not barred by the statute of limitations.

5. Should this Court dismiss the Plaintiffs' federal claims, the Court should nevertheless retain jurisdiction over Plaintiffs' remaining state-law claims.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that the Defendants' Motion to Dismiss be denied. In the alternative, Plaintiffs request leave to amend their Complaint should the Court find any of Plaintiffs' claims are insufficiently pled.

Respectfully submitted, this the 4<sup>th</sup> day of January, 2010.

LEE YOUNG and CHARLES MIKHAIL,  
Plaintiffs

BY: /s/ James R. Reeves, Jr.

JAMES R. REEVES, JR. (MSB #9519)  
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**CERTIFICATE OF SERVICE**

I, undersigned counsel, do hereby certify that I have this 4<sup>th</sup> day of January, 2010, electronically filed the foregoing with the Clerk of Court using the ECF system which sent notification of such filing to the following counsel of record:

J. Cal Mayo, Jr.  
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/s/ James R. Reeves, Jr. \_\_\_\_\_

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Richard F. Scruggs  
FCI Ashland  
Federal Correctional Institution  
Reg. No. 12734-042  
State Route 718  
P.O. Box 6001  
Ashland, KY 41105

2. Article Number

(Transfer from service label)

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