

FILED

MAR 04 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Mostowfi v. 12 Telecom International, Inc., No. 06-15597

NOONAN, Circuit Judge, concurring in part and dissenting in part:

I concur in the court's opinion except for its holding that the complaint "sounded in fraud" and was fatally unspecific. At the heart of the complaint are allegations that are specific as to time, place, the statements made, and the defendants who made them. These are allegations as to the stockholders' meeting of 9/16/02. They allege a viable RICO claim for extortion. It is unmistakably alleged that Arena threatened Lim with death.