

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 15-cv-20782-MARTINEZ/GOODMAN

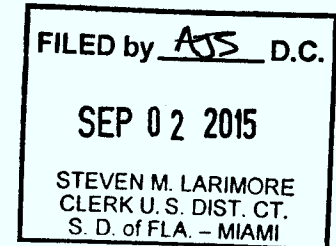
DENNIS MONTGOMERY,

Plaintiff,

v.

JAMES RISEN et al.,

Defendants.



DEFENDANTS' UNOPPOSED MOTION TO SEAL

Under the Protective Order (ECF No. 89), Defendants file this unopposed motion to seal an exhibit to Defendants' Notice of Supplemental Authority Concerning Defendants' Motion to Dismiss ("Notice") and the unredacted Notice that refers to the exhibit. The exhibit contains excerpts of Plaintiff's August 20, 2015 deposition that are currently confidential under the Protective Order and the references to the exhibit in the Notice paraphrase the confidential transcript.

Under the Protective Order, "all deposition transcripts must be treated as Confidential Information for ten (10) days after receipt of the transcript, within which time counsel for any party . . . may designate a portion or all of the transcript as Confidential Information in writing to all counsel." (ECF No. 89, ¶ 4, at 6.) At the deposition, Plaintiff's counsel designated the entire transcript as confidential. This confidential designation remains in effect for 10 days after receipt of the transcript. This 10-day period has not elapsed. On August 31, 2015, counsel for Defendants sent a copy of the deposition excerpts to Plaintiff's counsel and asked Plaintiff's counsel to indicate on September 1 whether he intends to designate any portion of the transcript

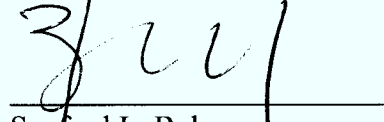
excerpts as confidential. Plaintiff's counsel stated on September 1 that he would not respond before we filed and that Defendants should file a motion to seal. Thus, the deposition transcript, including the excerpts, remains designated as confidential under the Protective Order.

Under the Protective Order, when, as here, "Confidential Information is included with, or the contents thereof are disclosed, in any pleading, motion, or other paper filed with the Clerk of this Court," Defendants as "the filing party must move to have such pleading, motion, or other paper sealed by the Clerk in accordance with Federal Rule of Civil Procedure 26 and with Local Rule 5.4." (ECF No. 89, ¶ 8, at 8.) But, as here, "if a party files under seal any document disclosing Confidential Information under this Protective Order, the party seeking to preserve the secrecy of any such document," which is the Plaintiff, "must make the showing required by law in order to maintain the Protective Order as to such document." (*Id.*) Here, because "the party filing a pleading, motion, or other paper under seal is not also the same party seeking to preserve the secrecy of the document, the pleading, motion, or other paper must initially be filed under seal, and" Plaintiff who is the "the party seeking to preserve the secrecy of the document will have three (3) calendar days⁴ from the date the pleading, motion, or other paper is filed in which to make the showing required by law in order to maintain the Protective Order as to such document." (*Id.* ¶ 8, at 8-9.)

For these reasons, Defendants respectfully request that the Clerk file the exhibit to the Notice containing deposition excerpts, and the unredacted Notice that refers to the exhibit, under seal.

Dated: September 2, 2015

Respectfully submitted,



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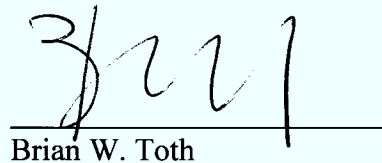
– and –

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CERTIFICATE OF SERVICE

I certify that on September 2, 2015, I filed this document conventionally with the Clerk of Court, and also that I e-mailed this document on all counsel of record.



Brian W. Toth