

**IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 15-cv-20782-Martinez-Goodman

DENNIS MONTGOMERY,

Plaintiff,

v.

RISEN, ET AL.

Defendants.

**NOTICE OF FILING AND CONSENT MOTION FOR EXTENSION OF TIME
TO FILE MOTION TO FILE UNDER SEAL**

Plaintiff Dennis Montgomery hereby files and gives notice of filing of documents in compliance with paragraph 2 of Magistrate Judge Jonathan Goodman's Post Discovery Hearing Administrative Order of October 19, 2015 (Docket No. 154)("Order") and respectfully moves for an additional one (1) day to file a motion to file under seal with this Court.

On October 19, 2015, Magistrate Judge Jonathan Goodman issued the following order:

Plaintiff shall, by October 20, 2015, file a Notice of Filing on CM/ECF, attaching all communications between Plaintiff (and/or Plaintiff's counsel) and the FBI and/or Assistant United States Attorney Deborah Curtis concerning the turning over of the software and the efforts to retrieve it from the FBI, including all communications in response to FBI General Counsel James Baker's request for additional information that the Court was copied on from September 8, 2015 [ECF No. 126]. All of these communications shall be turned over to defense counsel as well, even if Plaintiff attempts to file the documents under seal.

See Docket No. 154 – Post Discovery Hearing Administrative Order.

With full reservation of all rights, in accordance with Magistrate Judge Goodman's Order, the subject communications are being provided. **These documents have additionally**

been designated as confidential as provided in page 4 of Magistrate Judge Goodman's Protective Order Concerning Confidential Information (Docket No. 89).

Particularly in light of a letter/objection of Justice Department Counsel for the Central Intelligence Agency ("CIA") just obtained today by Plaintiff, after Plaintiff requested it from Defendants' counsel after Plaintiff learned of it today, out of an abundance of caution Plaintiff is moving to have the communications at issue placed under seal. This letter, which is an objection from the CIA over Defendants' subpoenas to the CIA and certain personnel, is self-explanatory, as it underscores the sensitive nature of these documents at a minimum, and sets forth the CIA's position that the software at issue in this lawsuit is not relevant under the circumstances of this case, among other compelling objections. Exhibit 1.

Given the process for filing documents under seal¹, which involves delivering the motion to seal and the relevant documents by hand to the Clerk's Office, Plaintiff requires an additional day to make arrangements to have these documents delivered. Accordingly, Plaintiff respectfully requests an additional one (1) day to move to file these documents under seal. However, the documents are being provided today by email to Defendants' counsel and the Magistrate Judge subject to a motion to seal and their being designated as Confidential as

¹ Rule 5.4(b) of the Local Rules for the Southern District of Florida provides as follows:

(b) Procedure for Filing Under Seal in Civil Cases. A party seeking to make a filing under seal in a civil case shall:

(1) Conventionally file a motion to seal that sets forth the factual and legal basis for departing from the policy that Court filings be public and that describes the proposed sealed filing with as much particularity as possible without revealing the confidential information. The motion shall specify the proposed duration of the requested sealing. The motion to seal (but not the proposed sealed filing) and the docket text shall be publicly available on the docket.

(2) Conventionally file the proposed sealed filing in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside

provided pursuant to Magistrate Judge Goodman's Protective Order Concerning Confidential Information (Docket No. 89).

Plaintiff sought consent for his motion to extend the filing of these documents under seal by one (1) day. Defendants consent to this motion.

WHEREFORE, Plaintiff respectfully requests an additional one (1) day to file a motion to file under seal with this Court.

Dated: October 20, 2015

Respectfully submitted,

/s/ Larry Klayman

Larry Klayman, Esq.

Klayman Law Firm

FL Bar No. 246220

7050 W Palmetto Park Rd.

Suite 15-287

Boca Raton, FL 33433

(310) 595-0800

leklayman@gmail.com

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of October, 2015, a true and correct copy of the foregoing (Case No. 15-cv-20782) was filed via CM/ECF and served upon the following:

Sanford Lewis Bohrer

Brian Toth

Holland & Knight, LLP

Suite 3000

701 Brickell Ave

Miami, FL 33131

Email: sbohrer@hklaw.com

Email: brian.toth@hklaw.com

Laura R. Handman

Micah Ratner

Davis Wright Tremaine LLP

1919 Pennsylvania Ave., N.W., Suite 800

Washington D.C. 20006-3401

Email: laurahandman@dwt.com

Email: MicahRatner@dwt.com

/s/ Larry Klayman _____

Larry Klayman, Esq.