

**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.

**MODIFIED NOTICE OF TELEPHONIC HEARING BEFORE
MAGISTRATE JUDGE JONATHAN GOODMAN**

On October 27, 2015, Plaintiff filed a Notice of Hearing before Magistrate Judge Jonathan Goodman for November 4, 2015 at 2:30 p.m. E.S.T.

Plaintiff hereby gives Magistrate Judge Jonathan Goodman and this Court notice that an urgent matter has arisen involving the claim of reporter's privilege with regard to the depositions of Simon & Schuster, Priscilla Painton, and Tina Bennet. Defense counsel has raised objections which will prevent Plaintiff's counsel from questioning these witnesses about Simon & Schuster's decision not to initially publish Defendant Risen's book, *Pay Any Price: Greed, Power, and Endless War*, which was discovered during recent depositions of the corporate Defendants' FRCP 30(b)(6) representatives. The depositions are currently scheduled to take place on November 9th and 10th, 2015.

Plaintiff wishes to utilize the time allocated for the hearing of November 4, 2015 to address this and related matters regarding the reporter's privilege, which does not apply in these circumstances where Defendants counsel has taken the position that Plaintiff must prove actual malice with its defamation claims. *News-Journal Corp v. Carson*, 741 So. 2d 572 (Fla. 5th DCA

1999); *Gadsen County Times, Inc. v. Horne*, 426 So. 2d 1234, 1240 (Fla. 1st DCA 1983).

Plaintiff will send the Magistrate Judge all source materials today as required by Magistrate Judge Goodman's discovery hearing procedures.

If sufficient time remains after the issue of the reporter's privilege is heard before the Magistrate Judge, Plaintiff will then briefly discuss the issues which were originally on the Notice of Hearing.

Pursuant to S.D. Fla. L. R. 7.1 (A)(3), Plaintiff hereby certifies in good faith that the parties met and conferred regarding this discovery dispute and a reasonable effort was made to resolve this issue however the parties were unable to reach an agreement.

Dated: November 3, 2015

Respectfully Submitted,

/s/ Larry Klayman
Larry Klayman, Esq.
FL Bar No. 246220
7050 W Palmetto Park Rd.
Suite 15-287
Boca Raton, FL 33433

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of November, 2015, a true and correct copy of the foregoing was served via email and U.S. Mail 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

Attorneys for Defendants

/s/ Larry Klayman

Larry Klayman, Esq.