

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' MOTION TO EXCEED PAGE LIMITATIONS FOR MOTION FOR
SUMMARY JUDGMENT AND STATEMENT OF MATERIAL FACTS**

In accordance with Local Rule 7.1(c)(2), Defendants James Risen, Houghton Mifflin Harcourt Publishing Company, and Houghton Mifflin Harcourt Company (collectively, "Defendants"), request that the Court enter an order granting them leave to exceed the page limitations for their upcoming motion for summary judgment and statement of material facts.

1. In this action for libel, Plaintiff Dennis L. Montgomery alleges that Defendants defamed Plaintiff by writing and publishing in a chapter of the book *Pay Any Price: Greed, Power, and Endless War* (the "Book") that Plaintiff sought to get rich off the federal government in the post-September 11 era by selling bogus counterterrorism software. *See* Am. Compl., ECF No. 44.

2. In accordance with Federal Rule of Civil Procedure 56 and Local Rule 56.1, Defendants will be moving for summary judgment by the dispositive-motion deadline, which is December 14, 2015. ECF No. 131.

3. Defendants will request that summary judgment be entered in their favor and against all Plaintiff's claims because—in addition to certain of the grounds set forth in

Defendants' pending Motion to Dismiss or Transfer, ECF No. 52—there is no genuine dispute about whether any of the alleged defamatory statements is false (none is) and no genuine dispute about whether Defendants acted with actual malice (they did not). In their motion for summary judgment and statement of material facts, Defendants will endeavor to be as concise as possible. But because of the length of the Amended Complaint—it contains 268 paragraphs, three exhibits, and is, in total, 271 pages long—the necessary choice-of-law analysis, and the numerous, complex issues that must be addressed, Defendants will likely need to exceed the presumptive page limitations set forth in Local Rules 7.1(c)(2) and 56.1(a)(1) for their motion for summary judgment by 15 pages and their statement of material facts by 10 pages.

4. The Court has twice before entered orders granting Defendants leave to exceed the page limitation for their motions to dismiss. ECF Nos. 20, 50.

5. As required by Local Rule 7.1(a)(3), Defendants' counsel has conferred with Plaintiff's counsel about the relief requested herein, and Defendants' counsel has offered that Plaintiff likewise be permitted to exceed the page limitation by 15 pages for his memorandum of law in opposition to Defendants' motion for summary judgment and 10 pages for his statement of material facts. Plaintiff opposes the relief sought.

6. A proposed order is attached hereto as Exhibit A.

WHEREFORE, Defendants respectfully request that the Court enter an order granting Defendants leave to exceed the Court's page limitation for their motion for summary judgment by 15 pages and for their statement of material facts by 10 pages.

**Certificate of Good-Faith Conference;
Conferred but Unable to Resolve the Issues Presented in the Motion**

In accordance with Local Rule 7.1(a)(3)(A), I certify that counsel for the movant has conferred with all parties or nonparties who may be affected by the relief sought in this motion in a good-faith effort to resolve the issues but has been unable to resolve the issues.

s/Brian W. Toth

Dated: December 8, 2015

Respectfully submitted,

s/Brian W. Toth
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CERTIFICATE OF SERVICE

I certify that on December 8, 2015, I filed this document with the Clerk of Court using CM/ECF, which will serve this document on all counsel of record.

s/Brian W. Toth