

**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.

PLAINTIFF'S NOTICE OF FILING RELATED TO ALLEGED SOFTWARE

Pursuant to Magistrate Judge Goodman's Order of January 6, 2016, Plaintiff Dennis

Montgomery presents this notice:

[P]inpointing page numbers from the transcript of the August 21, 2015 Discovery Hearing [ECF Nos. 106; 110] where Plaintiff's counsel stated that Plaintiff was not sure if he actually possessed the software at issue and/or did not know if he, in fact, had turned it over to the FBI. To the extent that Plaintiff's counsel now claims that Plaintiff merely thought he possessed the software and turned it over (any equivocation -- i.e., "thought," "maybe," etc.), then Plaintiff shall pinpoint those instances from the hearing transcript.

Order of January 6, 2015 at p. 2.

Plaintiff presents the following pinpointed instances from the hearing transcript:

Page 8; line 22:

"I don't know because I never look at it [software] myself. I don't want to look at it. It's not my province."

Page 10; line 12:

"I was trying to be as precise as possible based on what is publically known at this time. It, basically, is evidence of mass surveillance of American citizens."

Page 10; line 17:

THE COURT: What exactly was turned over?

MR. KLAYMAN: It would include what you just listed.

THE COURT: And anything else?

MR. KLAYMAN: Not that I know of. I have never looked at the information.

THE COURT: And who actually turned it over, you or Mr. Montgomery?

MR. KLAYMAN: Mr. Montgomery.

Page 13; Line 21:

"I didn't look at it. Nobody looked at it, but we wanted to come forward and because Mr. Montgomery, long before he became my client had been trying, as I mentioned earlier, to come forward as a whistleblower to various government agencies and nobody wanted to listen to him.

Page 43; line 5:

"I don't know what's in it because I've never looked at it. Okay. And if we misspoke there, then, we misspoke and I will correct it, but I did not take that as a definitive determination of whether it was classified because no one has looked at it before."

Page 48; line 11:

THE COURT: And you also told her that in the civil litigation the Defense had requested the software so that their expert could examine it?

MR. KLAYMAN: I told her that we wanted continued access to this information because we have civil litigation pending.

THE COURT: That sounds to me like your way of saying, no, you did not --

MR. KLAYMAN: No, I didn't specifically talk about this matter, but we got an agreement that anything that is not classified we have access to and that would include this.

The following pinpoint cites are from the transcript of the deposition testimony of Plaintiff Dennis Montgomery, which contain relevant deposition testimony given by Plaintiff under oath. Excerpts of this transcript have been attached to this notice of filing as Exhibit 1. These portions of the transcript confirm that Plaintiff was never certain of the information that was given to the FBI.

Page 127; line 20:

Q You didn't keep any copy of your own software?

A There were -- well, first is, you're talking about software that's 12 years old. I don't recall specifically which modules I kept and didn't keep.

Page 131; line 23:

Q Wednesday you gave your Al Jazeera software to the government?

A I gave them the disc drives that I believe contain classified material.

Page 133; line 7:

Q Why were you required -- strike that. So until yesterday, you had a copy of your -- the software that you used in the Al Jazeera project?

A I'm not certain. I told you that I believe I had some information that I think you just asked me about on drives that had other sensitive information on them.

Dated: January 11, 2016

Respectfully submitted,

/s/ Larry Klayman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of January, 2016, a true and correct copy of the foregoing was filed and served via CM/ECF upon the following:

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