

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 REPLY IN
SUPPORT OF MOTION FOR SUMMARY JUDGMENT AND REPLY TO
PLAINTIFF'S STATEMENT OF ADDITIONAL MATERIAL DISPUTED 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 reply brief in support of their motion for summary judgment and their reply to Plaintiff's statement of additional material disputed 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* 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 timely moved for summary judgment. *See* Pl.'s Summ. J. Mot., ECF No. 201.

3. Before filing their motion, the Court granted Defendants' motion to exceed the page limitations for their motion for summary judgment and statement of materials facts. *See also* Pl's Mot. to Exceed Page Limitations, ECF No. 189. Pursuant to the court's order, both

Defendants and Plaintiff were granted fifteen additional pages for their summary judgment briefing, for a total of 35 pages for each brief. ECF No. 195.

4. Plaintiff filed his brief in opposition to Defendants' motion for summary judgment out of time on January 13, 2016. ECF No. 233. Plaintiff's brief is 35 pages long, and is accompanied by a 25-page Statement of Disputed Facts. *Id.*; ECF No. 234.

5. Defendants' reply brief in support of their motion for summary judgment is due January 25, 2016.

6. Defendants will endeavor to be as concise as possible but because of the length of the 271-page Amended Complaint, the fifteen additional pages of Plaintiff's summary judgment opposition brief, Plaintiff's 47 additional material disputed facts necessitating reply, 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 reply brief in support of summary judgment by 7 pages for a total of 17 pages, and their reply to Plaintiff's Statement of Additional Material Disputed Facts (¶¶ 62-109) by 5 pages for a total of 15 pages.

7. As required by Local Rule 7.1(a)(3), Defendants' counsel has conferred with Plaintiff's counsel about the relief requested herein. Plaintiff opposes the relief sought.

8. 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 reply brief in support of their motion for summary judgment by 7 pages and for their reply to Plaintiff's statement of additional material disputed facts by 5 pages.

Dated: January 20, 2016

Respectfully submitted,

s/Brian W. Toth

Sanford L. Bohrer

Florida Bar No. 160643

sbohrer@hklaw.com

Brian W. Toth

Florida Bar No. 57708

brian.toth@hklaw.com

HOLLAND & KNIGHT LLP

701 Brickell Avenue, Suite 3300

Miami, Florida 33131

Telephone: (305) 374-8500

Fax: (305) 789-7799

– and –

Laura R. Handman (admitted *pro hac vice*)

laurahandman@dwt.com

Lisa B. Zycherman (admitted *pro hac vice*)

lisazycherman@dwt.com

DAVIS WRIGHT TREMAINE LLP

1919 Pennsylvania Ave., NW, Suite 800

Washington, D.C. 20006

Tel.: (202) 973-4200

Fax: (202) 973-4499

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on January 20, 2016, 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