

# **EXHIBIT 27**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

Case No. 15-cv-20782-MARTINEZ/GOODMAN

DENNIS L. MONTGOMERY,

Plaintiff,

v.

JAMES RISEN, HOUGHTON MIFFLIN  
HARCOURT PUBLISHING CO., HMH  
HOLDINGS, INC.,

Defendants.

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**DEFENDANTS' INITIAL DISCLOSURES**

Defendants James Risen (“Risen”), Houghton Mifflin Harcourt Publishing Company (“HMH”), and Houghton Mifflin Harcourt Company (“HMHC”), improperly sued as HMH Holdings, Inc. (together “HMH Companies”), through undersigned counsel, hereby provide their Initial Disclosures under Federal Rule of Civil Procedure 26(a)(1)(A) and this Court’s scheduling order (ECF No. 16). These Initial Disclosures are made upon information currently and reasonably available to Defendants as of the date of this disclosure and Defendants reserve the right to supplement or amend their disclosures as additional information becomes available.

**A. Potential Witnesses and Individuals Likely to Have Discoverable Information**

Based upon information known to Defendants as of this date, the following individuals are potential witnesses or are likely to have discoverable information that Defendants may use to support their defenses:

1. Dennis Montgomery.

*Subjects of Discoverable Information:* the factual basis for his claims and asserted damages in the Complaint, including, but not limited to: whether the software he provided to the federal government was a hoax; whether he staged phony demonstrations of his software to government officials; whether he was an “incorrigible gambler”; Montgomery’s residences in Nevada, California, Washington, and Florida; Risen’s interview of Montgomery; employment or contractor positions and opportunities from 2008 to the present; information about Montgomery’s interview with Lisa Myers from NBC News about Gibbons; Montgomery’s health claim of damages.

2. Brenda Montgomery.

*Subjects of Discoverable Information:* the Montgomery residences in Nevada, California, Washington, and Florida; Montgomery’s health claim of damages.

3. James Risen. Risen may be contacted through Defendants’ counsel, Davis Wright Tremaine LLP.

*Subjects of Discoverable Information:* newsgathering regarding Chapter 2 of *Pay Any Price: Greed, Power, and the Endless War* (“Chapter 2”); Risen’s reliance on court records, reputable news reports, interviews with sources, including Montgomery, for statements about Montgomery; Risen’s belief in the truth of the statements in Chapter 2 about Montgomery.

4. Bruce Nichols, Senior Vice President, Trade & Reference at HMH. Nichols may be contacted through Defendants’ counsel, Davis Wright Tremaine LLP.

*Subjects of Discoverable Information:* information regarding HMH’s editorial review of Chapter 2 on Montgomery and information about Risen’s independent contractor status.

5. John Brennan, Director of the CIA, former head of the Terrorist Threat Integration Center, located in or near Washington, D.C.

*Subjects of Discoverable Information:* the Terrorist Threat Integration Center’s use of Montgomery’s information and decision to pass Montgomery’s information on to senior government officials; senior government official’s use of Montgomery’s information; and the basis for testimony in his confirmation hearings for Director of the CIA that Montgomery’s software “was determined not to be a source of accurate information.” (Chapter 2 at 47.)

6. Jose Rodriguez, former head of the CIA Counterterrorism Center, located in or near Washington, D.C.

*Subjects of Discoverable Information:* information showing that Montgomery’s software was revealed to be a hoax, and that the Counterterrorism Center “very skeptical” of Montgomery’s intelligence and viewed it as “crazy.”

7. Saxby Chambliss, former U.S. Senator and vice chairman of the Senate Intelligence Committee, and relevant former staff members.

*Subjects of Discoverable Information:* information regarding written questions Senator Chambliss sent Brennan in his confirmation hearings about Montgomery's intelligence and documents the senator and staff reviewed showing that "CIA officials derided" Montgomery's information and that Montgomery's intelligence was "bogus."

8. George Tenet, former Director of the CIA, located in or near Washington, D.C.

*Subjects of Discoverable Information:* information showing that Montgomery's software was revealed to be a hoax; that senior government officials considered shooting down passenger jets based on the software; and that Tenet "allowed [scientists] to circumvent the CIA's normal reporting and vetting channels, and rushed the raw material fed to the agency by Montgomery directly to the president." (Chapter 2 at 43-44, 46.)

9. Samantha Ravich, former advisor to Vice President Dick Cheney, located in or near Washington, D.C.

*Subjects of Discoverable Information:* information about her meeting with Montgomery about his software, and information showing that Risen interviewed her. (Chapter 2 at 51.)

10. Frances Townsend, former counterterrorism official on the National Security Council.

*Subjects of Discoverable Information:* information showing that Townsend discussed with a National Security Council lawyer that the president had authority to shoot down airplanes believed to be terrorist threats and that Townsend considered whether it might have been time to exercise that authority in late 2003 based on Montgomery's intelligence. (Chapter 2 at 45.)

11. Current and former staff members, U.S. Senate Select Committee on Intelligence.

*Subjects of Discoverable Information:* information showing that committee staff contacted the CIA about Montgomery's technology and the CIA was "very skeptical of it at the time."

12. Current and former CIA officials, located in or near Washington, D.C.

*Subjects of Discoverable Information:* information about working with Montgomery regarding his purported software and the use of Montgomery's information; information showing that that the purported software was fake; and that senior government officials considered shooting down passenger jets based on the software.

13. Current and former U.S. Special Operations Command officials.

*Subjects of Discoverable Information:* information about working with Montgomery regarding his purported software; information showing that that the purported software was fake; information showing that Montgomery's technology did not meet the requirements for U.S. Special Operations Command.

14. Current and former Pentagon officials, located in or near Washington, D.C.

*Subjects of Discoverable Information:* information about working with Montgomery regarding his purported software; information showing that that the purported software was fake; and information showing that the Air Force awarded a contract to Montgomery's company in 2009.

15. Lisa Meyers, former NBC Senior Investigative Correspondent.

*Subjects of Discoverable Information:* information about Meyers' interview of Montgomery regarding then Congressman Jim Gibbons and Montgomery's company, eTreppid Technologies.

16. Eric Lichtblau, Washington, D.C. bureau reporter for the *New York Times*, located in or near Washington, D.C.

*Subjects of Discoverable Information:* the newsgathering efforts, interviews, documents relied upon by Risen and Lichtblau for their *New York Times* article about Montgomery that served as the basis for Chapter 2 and their belief that the article was accurate.

17. Steve Crisman, filmmaker who oversaw business operations for Montgomery and a former business partner.

*Subjects of Discoverable Information:* information regarding his belief that Montgomery's technology was not real and information confirming that he was a source and quoted in the *New York Times* article regarding Montgomery.

18. Conrad Burns, former U.S. Senator.

*Subjects of Discoverable Information:* information regarding Montgomery's presentation about his software Senator Burns observed; information confirming that that Burns was a source and quoted in the *New York Times* article regarding Montgomery.

19. Asa Hutchinson, former Undersecretary for Border & Transportation Security at the U.S. Department of Homeland Security, Governor of Arkansas.

*Subjects of Discoverable Information:* information regarding the government's decision to ground airplanes and raise the terror alert around Christmas 2003 in response to Montgomery's intelligence; and information confirming that he was a source and quoted in the *New York Times* article regarding Montgomery.

20. Aram Roston, former *Playboy* and *Defense News* reporter, located in Washington, D.C.

*Subjects of Discoverable Information:* information regarding the *Playboy* and *Defense News* articles about Montgomery and his software, including, but not limited to, whether those articles were subject to retraction.

21. Michael Flynn, Montgomery's former lawyer, located in California.

*Subjects of Discoverable Information:* information showing that Montgomery's software was revealed to be a hoax; that Montgomery staged phony demonstrations of his software to government officials, that Montgomery was a "fraud" and "con-man"; and that he provided information to Risen before publication. (Chapter 2 at 36.)

22. Tim Blixseth, located in Washington.

*Subjects of Discoverable Information:* his belief that Montgomery's software was not real; his observation of a demonstration of Montgomery's software in Palm Springs, California; and information showing that he provided information to Risen before publication. (Chapter 2 at 50-52.)

23. Edra Blixseth, Montgomery's former business partner in Blxware, located in California.

*Subjects of Discoverable Information:* Blixseth's business dealings with Montgomery and information showing that Montgomery's software was revealed to be a hoax. (Chapter 2 at 50-52.)

24. Paul L. Haraldsen, Special Agent, Air Force Office of Special Investigations.

*Subjects of Discoverable Information:* information regarding the investigation by the Air Force Office of Special Investigations into Montgomery's software at eTreppid.

25. Thomas A. Smith, Special Agent, Air Force Office of Special Investigations.

*Subjects of Discoverable Information:* information regarding the investigation by the Air Force Office of Special Investigations into Montgomery's software at eTreppid.

26. Michael A. West, FBI Special Agent.

*Subjects of Discoverable Information:* information regarding the FBI investigation into Montgomery's software at eTreppid

27. Warren Trepp, Montgomery's former partner in eTreppid.

*Subjects of Discoverable Information:* interviews with the FBI and Air Force Office of Special Investigations discussing the phony demonstrations Montgomery staged for government officials and his belief that Montgomery's software was not real.

28. Sloan Venables, former e-Treppid employee.

*Subjects of Discoverable Information:* interviews with the FBI and Air Force Office of Special Investigations discussing the phony demonstrations Montgomery staged for government officials and his belief that Montgomery's software was not real.

29. Patty Gray, former e-Treppid employee.

*Subjects of Discoverable Information:* interviews with the FBI and Air Force Office of Special Investigations discussing the phony demonstrations Montgomery staged for government officials and her belief that Montgomery's software was not real.

30. Jesse Anderson, former e-Treppid employee.

*Subjects of Discoverable Information:* interviews with the FBI and Air Force Office of Special Investigations discussing the phony demonstrations Montgomery staged for government officials and his belief that Montgomery's software was not real.

31. James Bauder, former e-Treppid employee.

*Subjects of Discoverable Information:* interviews with the FBI and Air Force Office of Special Investigations discussing the phony demonstrations Montgomery staged for government officials.

32. Joseph Liberatore, Air Force official, located in or near Washington, D.C.

*Subjects of Discoverable Information:* information about the government contracts Montgomery received from the Air Force, and information regarding Montgomery's purported software. (Chapter 2 at 52.)

33. Donald Kerr, former chief of the CIA's Science and Technology Directorate and Deputy Director of National Intelligence, located in or near Washington, D.C.

*Subjects of Discoverable Information:* information regarding Montgomery's purported software. (Chapter 2 at 42.)

34. Jim Gibbons, former member of the House Intelligence Committee and Governor of Nevada.

*Subjects of Discoverable Information:* information regarding Gibbons' early advocacy for Montgomery's software; Montgomery's charges of bribery against Gibbons in connection with the sale of Montgomery's software (from which Gibbons was cleared); and the email Montgomery allegedly fabricated to support his allegations against Gibbons. (Chapter 2 at 38-39, 49-50.)

35. Abbe Lowell, former Congressman Jim Gibbons' attorney, located in Washington, D.C.

*Subjects of Discoverable Information:* Montgomery's charges of bribery against Gibbons in connection with the sale of Montgomery's software (from which Gibbons was cleared); and the email Montgomery allegedly fabricated to support his allegations against Gibbons. (Chapter 2 at 50.)

36. Porter Goss, former chairman of the House Intelligence Committee, former CIA Director, located in or near Washington, D.C.

*Subjects of Discoverable Information:* meetings with Gibbons to discuss eTreppid and Montgomery's technology. (Chapter 2 at 39.)

37. Letitia White, a lobbyist, located in Washington, D.C.

*Subjects of Discoverable Information:* information regarding her work for eTreppid to obtain government contracts for Montgomery's software. (Chapter 2 at 38.)

38. Any individual disclosed by Plaintiff Dennis Montgomery as a potential witness or person who may have discoverable information in this matter.

Defendants reserve the right to amend or supplement the foregoing response with the names and addresses of additional individuals likely to possess discoverable information that may be used to support Defendants' defenses and whose identities may be revealed during the course of discovery.

## **B. Documents Supporting Defenses**

Based upon information known to Defendants as of this date, the following categories of documents or tangible things in Defendants' possession, custody or control may be used to support their defenses:

1. Exhibits attached to Defendants' motion to dismiss or transfer for lack of personal jurisdiction, motion to dismiss or transfer for improper venue, motion to transfer under 28 U.S.C. § 1404(a), motion to dismiss for failure to state a claim, and special motion to dismiss. (ECF Nos. 25, 25-1 to 25-24, 26)
2. Documents Risen relied upon to write Chapter 2 and the 2011 article in the *New York Times* about Montgomery, which include: court records; news reports; emails with sources; emails among and between individuals mentioned in Chapter 2; emails with Lichtblau; interview notes; and other documents obtained in newsgathering. These documents are being retained by Risen and/or Davis Wright Tremaine LLP.



3. Court records, news reports, and publicly available statements about or by Montgomery or his software. These documents are being retained by Davis Wright Tremaine LLP and are publicly-available on PACER or other websites.
4. HMH editorial documents regarding Chapter 2 on Montgomery and documents evidencing that Risen is an independent contractor. These documents are being retained by HMH.

Defendants reserve the right to amend or supplement the foregoing response with other categories of documents or tangible things which may be revealed during the course of discovery.

**C. Computation of Damages**

Defendants do not claim damages.

**D. Insurance Agreement**

HMH Companies' insurance agreement relevant to this proceeding is attached hereto and hereby produced under Fed. R. Civ. P. 34.

Dated: April 24, 2015

Respectfully submitted,

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*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that on April 24, 2015, I served this document on all counsel of record by email.

s/Micah J. Ratner