

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' NOTICE OF FILING SUPPLEMENTAL AUTHORITY IN SUPPORT
OF DEFENDANTS' MOTION TO STAY DISCOVERY**

On July 23, 2015, in *Klayman v. Clinton*, No. 15-cv-80388-DMM (S.D. Fla. filed Mar. 24, 2015), Judge Middlebrooks entered the attached Order Granting Motion to Stay, which stayed all discovery in that case pending resolution of the defendants' motions to dismiss. Judge Middlebrooks rejected Plaintiff Larry Klayman's argument that "the pendency of a motion to dismiss is not sufficient good cause to stay discovery," noting that Mr. Klayman had failed to cite "any persuasive Eleventh Circuit authority that supports his argument." Instead, Judge Middlebrooks wrote, "in certain circumstances, it is appropriate to stay discovery while evaluating a motion to dismiss where, if the motion is granted, discovery would be futile." Observing that the motions to dismiss in that case raised "substantial questions as to Plaintiff's standing and the legal sufficiency of the [a]mended [c]omplaint," Judge Middlebrooks stayed all discovery pending his ruling on the motions to dismiss.

The same result should occur here. As in *Klayman v. Clinton*, Plaintiff, represented by Mr. Klayman, has failed to cite any persuasive Eleventh Circuit authority that supports a denial of Defendants' Motions to Stay Discovery Pending Resolution of Their Motions to Dismiss. ECF

No. 55. And, as in *Klayman v. Clinton*, Defendants' Motion to Dismiss or Transfer, ECF No. 52, raises substantial threshold questions as to the Court's jurisdiction over Defendants James Risen and Houghton Mifflin Harcourt Company, whether venue is proper in this district, and as to the legal sufficiency of Plaintiff's Amended Complaint.

Dated: July 24, 2015

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
Micah J. Ratner (admitted *pro hac vice*)
micahratner@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 July 24, 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