

**IN UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 15-cv-20782-Martinez

DENNIS MONTGOMERY,

Plaintiff,

v.

RISEN, ET AL.

Defendants.

MOTION TO AMEND THE COMPLAINT

Plaintiff Dennis Montgomery hereby moves this honorable Court to file an Amended Complaint (Attached as Exhibit 1) and as grounds therefore would show:

Subsection (a)(2) of Rule 15 of the Federal Rules of Civil Procedure (FRCP) provides that leave to amend shall be freely given when justice requires. "Leave to amend a complaint should be freely given in the absence of undue delay, bad faith, undue prejudice to the opposing party, repeated failure to cure deficiencies, or futility." See *Richardson v. United States*, 193 F.3d 545, 548-549 (D.C. Cir. 1999) citing *Foman v. Davis*, 371 U.S. 178, 182, 9 L. Ed. 2d 222, 83 S. Ct. 227 (1962).

In determining whether to grant leave to amend, the court may consider undue delay, bad faith or dilatory motive, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party, and the futility of the amendment. *Grayson v. Kmart Corp.*, 79 F.3d 1096, 1110 (11th Cir. 1996) (citing *Espey*, 734 F.2d at 748 and *Dussouy*, 660 F.2d at 594).

Here, Plaintiff has identified a new Defendant, Houghton Mifflin Harcourt Company, which Defendants allege is the proper Defendant in the vast corporate structure of the publishing company. In an abundance of caution, Plaintiff has inserted Houghton Mifflin Harcourt Company as a Defendant in the amended complaint.

In addition, Plaintiff seeks to amend the complaint in order to add additional facts relevant to the pursuit of his claims against Defendants for their defamatory and other tortious conduct. More facts have become available to Plaintiff through their investigation of this lawsuit and by virtue of Defendants' own pleadings have now been incorporated into the proposed Amended Complaint in order to further show the common law and constitutional malice that existed when Defendants made their defamatory statements about Plaintiff.

No prejudice will result to Defendants, as the amendments concern matters raised by them in their pleadings and this case is in its early stages.

Plaintiff sought consent for this motion from Defendants. Defendants neither consent nor object to the filing of an amended complaint.

WHEREFORE, Plaintiff respectfully requests that leave be granted for him to file the Amended Complaint that has been attached as Exhibit 1.

Dated: April 27, 2015

Respectfully submitted,

/s/ Larry Klayman
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of April, 2015, a true and correct copy of the foregoing (Case No. 15-cv-20782) was filed via CM/ECF and served upon the following:

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/s/ Larry Klayman

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