

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ATIGEO LLC, a Washington limited liability
company; and MICHAEL SANDOVAL, an
individual,

Plaintiffs,

vs.

OFFSHORE LIMITED D, a California
business organization, form unknown;
OFFSHORE LIMITED D, a California
partnership; DENNIS MONTGOMERY,
individually and as a partner of Offshore
Limited D; ISTVAN BURGYN,
individually and as a partner of Offshore
Limited D; DEMARATECH, LLC, a
California limited liability company; and
DOES 1-10, inclusive,

Defendant.

NO. 2:13-cv-01694

**DECLARATION OF DEFENDANT
DENNIS MONTGOMERY IN SUPPORT
OF DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER**

I, Dennis Montgomery, declare:

1. I am over the age of 18 years and I am a defendant in this lawsuit. I am of legal age and competent to testify to the matters herein, and do so of my own personal knowledge. I make this declaration in support of my Response to Plaintiffs' Motion for Protective Order.



1 2. In pursuit of their protective order and in an effort to designate certain documents
2 as “attorneys’ eyes only” (“AEO”), plaintiffs have brought up prior litigation in which I was a
3 party. Their motion clearly mischaracterizes my litigation history in order to discredit me
4 before this Court.

5 3. I was not found to have mishandled confidential information in eTrepid
6 Technologies, LLC v. Montgomery, Nos. 3:06-cv-00145-PMP-VPC and 3:06-cv-00056-PMP-
7 VPC (D. Nev. 2006). While it is true I was sued by my former business partner, Warren Trepp,
8 plaintiffs have completely misrepresented the facts of that case.

9 First of all, the eTrepid litigation involved a dispute as to whether I or Mr. Trepp
10 owned certain data compression and pattern recognition technology. Moreover, the technology
11 that I was allegedly “mishandling” in that matter was created and substantially owned by me. In
12 entering into a partnership with Mr. Trepp, I contributed a portion of this technology and he
13 contributed approximately \$1.5 million in capital. Under this agreement, Mr. Trepp and I each
14 held equal ownership of eTrepid.
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16 Plaintiffs’ brief conveniently glosses over the fact this case concluded via settlement.
17 Edra Blixseth, who was also a defendant in that matter, and controlled the financial purse
18 strings, chose to settle with Mr. Trepp by paying him certain amounts of money over time in
19 addition to granting him a percentage of a number of future government contracts.¹ In
20 exchange, Mr. Trepp assigned all of the subject technology back over to me. Given Ms.
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22 ¹ As part of my employment agreement with Opspring LLC, which was owned by Blixseth and plaintiff Michael
23 Sandoval, Opspring was to contribute up to \$3.3 million towards my litigation expenses stemming from the
24 eTrepid litigation and the FBI investigation. In March 2007, after being confronted by Ms. Blixseth as to his
25 misappropriation of her investment with his companies, Sandoval assigned all rights and ownership of Opspring
over to Ms. Blixseth. As a result, Ms. Blixseth assumed the full obligation of my litigation expenses related to the
eTrepid matter.



1 Blixseth's employment agreement with me, she assumed my entire financial obligation under
2 the settlement. Due to the fact that Ms. Blixseth was funding my defense (over \$100,000 per
3 month), I had minimal control regarding whether or not to settle.

4 As a result of the 2008 financial collapse, Blixseth filed for bankruptcy and was unable
5 to fulfill her obligations to Mr. Trepp under the agreement. Thus, she defaulted on the
6 settlement and a confession of judgment was entered against her. A confession of judgment
7 was also entered against me since I was a co-signor to the agreement. Plaintiffs' inference that I
8 was found to have mishandled or misappropriated confidential information is patently false.
9 Attached hereto as Exhibit 1 is a true and correct copy of a Confession of Judgment from
10 Montgomery v. eTrepid Technologies, LLC, et al., dated December 11, 2008.

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12 4. Plaintiffs have also mentioned that I was the subject of a criminal investigation
13 by the FBI related to my alleged mishandling of confidential information. See In re: Search
14 Warrant of the Residence Located at 12720 Buckthorne Lane, Reno, Nevada, and Storage Units
15 136, 140, 141, 142, 143, Double R Storage, 888 Maestro Drive, Reno, Nevada, No. 3:06-cv-
16 00263-PMPVPC (D. Nev. 2006). It is shocking they would use that case to discredit me in the
17 instant matter as Judge Cook issued an Order completely vindicating me, stating the FBI's
18 investigation was conducted "in callous disregard of Montgomery's rights." In essence, that
19 investigation was a witch hunt initiated by Warren Trepp. This is fully supported by Judge
20 Cook's 33-page order, dated November 28, 2006. Attached hereto as Exhibit 2 is a true and
21 correct copy of Judge Cook's Order.
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1 Notably, plaintiffs Atigeo, LLC and Michael Sandoval were parties to the eTreppid
2 litigation and were represented at the time by their current counsel, Brian Park. Thus, I assume
3 they are fully aware of the outcome of the FBI's investigation and Judge Cook's order.

4 There were no criminal charges brought against me in connection to that investigation.
5 There was merely a claim I had misused classified materials. Moreover, the information that
6 led to the investigation was conveniently provided by my former business partner and then
7 litigation opponent, Warren Trepp – just after he had filed a civil suit against me. See generally
8 (Exhibit 2, Judge Cook FBI Ruling). Almost solely as a result of Trepp's statements, the FBI
9 obtained a warrant, searched my home, and confiscated a number of my personal belongings.
10 This is all supported by Judge Cook's Order. The ruling makes clear that the search warrant
11 never should have been issued in the first place and was based on inaccurate and incomplete
12 information. See id. at 14:4.

14 SA [Special Agent] West referred to the 1998 contribution
15 agreement, and he quoted an excerpt from the agreement which
16 stated that Montgomery contributed *all* of his intellectual property,
17 software programs, and source codes to eTreppid; therefore, this
18 court inferred that eTreppid owned *all* of the assets described in
19 the balance of SA West's affidavit. This inference was incorrect.
20 At the evidentiary hearing, the entire contribution agreement was
21 admitted into evidence [and made clear that this was not the case].

19 Id. at 18-19 (italics in original).

20 SA West's also led the court to draw "the incorrect inference that in addition to giving
21 all of his intellectual property to eTreppid, Montgomery had also agreed not to compete with
22 eTreppid. This is not true." Id. at 21:20-22.

23 **SA West never disclosed in his affidavit that Trepp and**
24 **Montgomery were engaged in civil litigation concerning**



1 **ownership of the trade secrets**, which are intertwined with the
2 allegation in the affidavit that Montgomery engaged in the criminal
3 theft of trade secrets.

4 Id. at 27:13-16 (emphasis added).

5 “SA West was aware that the trade secrets at issue are valued in
6 millions of dollars, but he did nothing during his pre-search
7 warrant investigations to determine the extent of Montgomery’s
8 claim to ownership.”

9 Id. at 28:1-3.

10 The court further stated that had it “been apprised of the civil litigation between Trepp
11 and Montgomery and the disputed facts summarized herein, it would have concluded – as the
12 court does now – that **there was no probable cause to issue a search warrant based upon the
13 allegation of theft of trade secrets.**” Id. at 29:9-11 (emphasis added).

14 The over-arching concern in this proceeding is that **SA West
15 became an unwitting pawn in a civil dispute, and as a result of
16 his inexperience and lack of training, he prepared search
17 warrant affidavits that are riddled with incorrect statements,
18 edited documents, and uncorroborated conclusions, which
19 caused this court to exercise its formidable power to authorize
20 the government to search Montgomery’s home and storage
21 units.**

22 Id. at 30-31 (emphasis added).

23 Judge Cook’s ruling goes on to further criticize the FBI’s handling of this matter, in
24 essence accusing SA West of acting on behalf of Trepp: “[SA West] **never appeared to
25 question whether he had become an agent, not for the government, but for private
interests engaged in litigation valued in millions of dollars.**” Id. (emphasis added).

Notably, the court also concluded that the 9 secret hard drives that were the subject of
the search did not even contain classified information. Id. at 32-33. This “investigation” was



1 initiated solely as a litigation tactic of Warren Trepp. It was based upon his false statements
2 made to the FBI and an FBI agent’s naiveté – or complicities.

3 5. As a result of the 2006 FBI investigation, I filed a lawsuit against Warren Trepp
4 and others, accusing them of fraud, conspiracy, corruption, and False Claims Act violations.
5 That matter was later consolidated as part of the eTreppid litigation. Contrary to plaintiffs’
6 statement that my claims were “dismissed and judgment entered in favor of defendants,” this
7 matter was settled in 2008 as part of the above-mentioned eTreppid settlement. Again, the only
8 judgment entered against me was the confession of judgment that resulted from Ms. Blixseth’s
9 financial collapse and failure to enter into her obligations under the settlement.

10 6. As to plaintiffs’ reference to my Wikipedia page, I did not have a Wikipedia
11 page until on or around December 24, 2012. Shortly thereafter, unidentified authors began
12 posting libelous information about me on the site. I made several attempts to correct this
13 information. However, the posters of the libelous content always return the Wikipedia page
14 back to its original form.

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1 7. In regard to my credibility, the Federal government has granted me a top secret
2 clearance at various times between 2003 and 2010. In this role, I worked at various government
3 intelligence agencies' facilities that required a top secret clearance. Attached hereto as Exhibit
4 3 are various documents relevant to my security clearance, dated on or around 2004-2005.

5 **I declare under penalty of perjury under the laws of the state of Washington that**
6 **the foregoing is true and correct.**

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8 DATED this 26 day of MARCH, 2014.

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12 Dennis Montgomery, Declarant
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