Litigation History of Dennis L. Montgomery, 1993-present

September 1993: A former research assistant, Penne Page, at 3Net Systems, Inc. sues her former supervisor, Dennis Montgomery, the company's vice president holding partial ownership in the company, for sexual harassment.

Court records show Page, who was employed as a research assistant, would level the following accusations against Montgomery in her lawsuit:

"On many occasions during plaintiff's employment, Montgomery asked plaintiff to orally copulate him. During the last six months of her employment, plaintiff was required to travel to job sites in the United States and Canada. Several times, Montgomery told plaintiff he was going to show up at one of the jobsites and have sexual relations with her. On two occasions, Montgomery masturbated in plaintiff's presence during working hours, demanded that plaintiff watch him, asked to touch her breasts, and asked if it " 'turned her on' " to watch him. During one such incident, the plaintiff ran from the office to her car, but Montgomery followed her, grabbed her arm, attempted to grab her breasts, and tried to prevent her from getting into her car."

Montgomery's attorneys would take a position claiming he could not be held personally liable. While initially Montgomery prevailed on this theory, Montgomery's legal victory was short-lived. Page will appeal the decision and is ultimately granted a "writ of mandate" reversing the lower court's decision, reinstating Montgomery's legal liability, and Page is also awarded attorney's fees. While this ruling does not determine guilt or innocence, it indicated the appellate panel's disagreement with the premise upon which Montgomery maintained he could not be held liable under California law.

https://law.justia.com/cases/california/court-of-appeal/4th/31/1206.html

July 26, 1995: An SEC filing indicates Page and 3Net reached a settlement:

> 10.39 Settlement Agreement dated July 26, 1995 between the Registrant and Penne M. Page (incorporated by reference to Exhibit 10.70 to Form 10QSB for the quarter ended September 30, 1995).

https://www.secinfo.com/duhPy.91d.htm#2ndPage

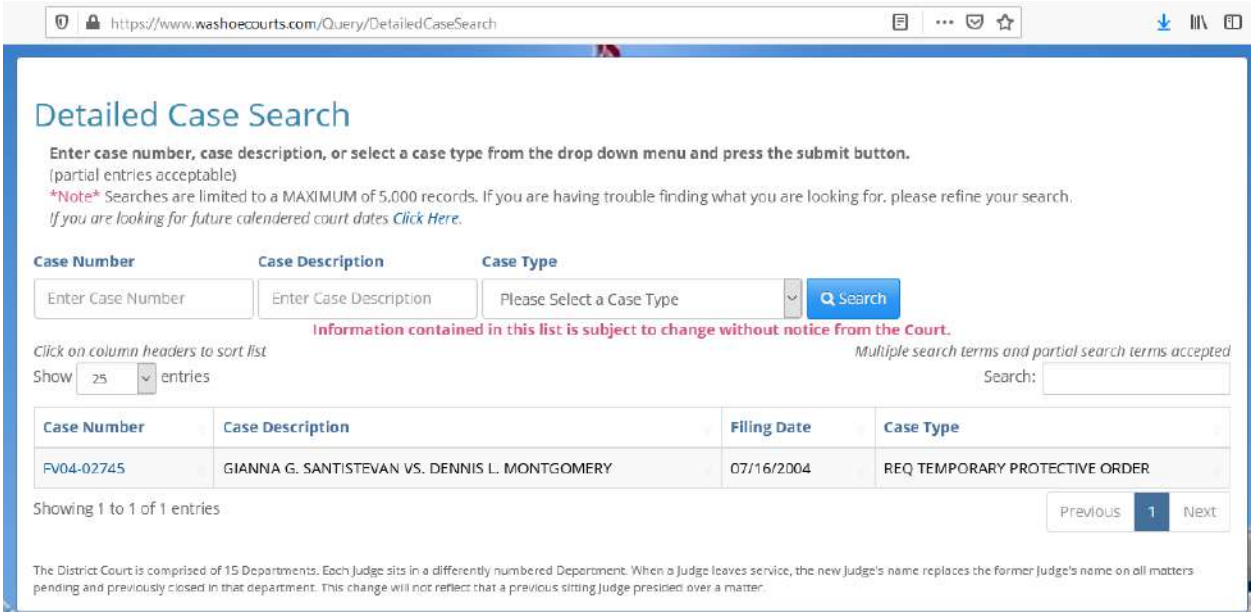
September 30, 1996: In an administrative action, the Securities and Exchange Commission (SEC) issues a "cease-and-desist proceeding" against 3Net Systems, Inc. after discovering "FALSE AND MISLEADING DISCLOSURES IN 3NET'S FORM S-18 AND FISCAL 1992 FORM 10-KSB" associated with software, "FAILSAFE," which did not perform as billed or was not provided as contracted.

https://www.sec.gov/litigation/admin/337344.txt

September 28, 1998: Montgomery and Warren Trepp form "Intrepid Technologies, LLC," later renamed eTreppid Technologies (p. 6 of referenced PDF), with Montgomery designated as "Chief Technology Officer and Committee Member" (p. 103).

https://www.scribd.com/document/276963425/ET-v-DM-State-644-11-Thru-19-Feb-7-2006-Hearing-Exhibits

July 16, 2004: Gianna G. Santistevan files for a temporary restraining order for "domestic violence" against Dennis L. Montgomery which is granted and maintained for approximately 14 months. Case No. FV04-02745, Washoe County, NV



https://www.washoecourts.com/Query/DetailedCaseSearch

61. 1120 - Amended ...	08/27/2004	Extra Text: AMENDED ORDER RESCHEDULING HEARING, ORDER CONFIRMING TEMPORARY ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE, ORDER TO COMPENSATE APPLICANT; ORDER GRANTING REQUEST FOR PRIVATE HEARING AND DENYING REQUEST TO SEAL FILE.
62. 3370 - Order ...	08/27/2004	Extra Text: ORDER RESCHEDULING HEARING, ORDER CONFIRMING TEMPORARY ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE, ORDER TO COMPENSATE APPLICANT; ORDER GRANTING REQUEST FOR PRIVATE HEARING AND DENYING REQUEST TO SEAL FILE.
63. 2520 - Notice of Appearance	08/23/2004	Extra Text: OF COUNSEL FOR ADVERSE PARTY; MOTION TO ASSIGN MATTER TO HON. CHARLES M. MCGEE; MOTION FOR PRIVATE HEARING AND TO SEAL FILE; AND MOTION FOR CONTINUANCE OF HEARING.
64. MIN - ***Minutes	08/23/2004	Extra Text: MOTION WORKSHEET
65. MIN - ***Minutes	08/10/2004	Extra Text: MOTION WORKSHEET
66. 1067 - Affidavit of Service	07/28/2004	Extra Text: TPO 7/22/04
67. 4165 - Temporary Protective Order	07/16/2004	Extra Text: TEMPORARY ORDER FOR PROTECTION AGAINST DOMESTIC VIOLENCE.
68. 1479 - **CMS Related Cases	07/16/2004	Extra Text: NO CMS CASES FOUND
69. MIN - ***Minutes	07/16/2004	Extra Text: TPO WORKSHEET
70. MIN - ***Minutes	07/16/2004	Extra Text: CONF CALL
71. 1255 - Application for TPO	07/16/2004	Extra Text:
72. 2937 - Ord for Hrg to Ext/Mod/Dis TPO	07/16/2004	Extra Text: ORDER FOR HEARING TO EXTEND, MODIFY OR DISSOLVE THE PROTECTION ORDER.

Full case docket:
https://www.washoecourts.com/Query/CaseInformation/FV04-02745

January 10, 2006: Montgomery abruptly leaves eTreppid and an FBI investigation is launched into missing source code and classified information (p. 6).

https://www.thepostemail.com/wp-content/uploads/2019/08/275559455-DM-FBI-Search-70-Gov-Docs-Unsealed-D-nev-3-06-Cv-00263.pdf

In early February 2006, eTreppid files suit against him for allegedly stealing source code necessary to fulfill the company's Air Force contract

Later that year, Montgomery countersues eTreppid for allegedly failing to compensate him for his "copyrighted" inventions while he worked there.

https://www.scribd.com/document/276963247/ET-v-DM-State-644-21-22-Feb-7-2006-Transcript-Vol-2#download

During his testimony, Warren Trepp accuses Montgomery of "lying" to him (p. 101)

https://www.scribd.com/document/276963247/ET-v-DM-State-644-21-22-Feb-7-2006-Transcript-Vol-2#download

January 31, 2006: Trepp tells the FBI that Montgomery "has a bad temper and has been verbally abusive to employees and known to throw objects."

https://www.thepostemail.com/2019/09/02/fake-news-in-the-age-of-the-internet-part-5/

February 7, 2006: In a hearing in *eTreppid v. Montgomery*, Montgomery testifies that the year 1994 was "after 3net" and that he was

“self-employed as a consultant” with a company named “Pacific Consulting” between 1993 and 1998 (pp. 127-129 of transcript.)

https://www.scribd.com/document/276963247/ET-v-DM-State-644-21-22-Feb-7-2006-Transcript-Vol-2

Trepp testified that Montgomery’s attorney and CPA had recommended that Montgomery be paid as a contractor as a result of "tax loss carry-forwards from prior lawsuits where he had losses in them and that he didn't need to get the deductions…"

https://www.scribd.com/document/276963247/ET-v-DM-State-644-21-22-Feb-7-2006-Transcript-Vol-2

4 of 8

“pattern recognition” and “anomaly detection” software. These programs are completely unrelated to the software compression technology referred to in the Contribution Agreement, and were expressly excluded. I have never, either on my own or as trustee of the Montgomery Family Trust, transferred or assigned any of that technology to eTreppid.

10. From September 1998 through December 2003, I was paid by eTreppid Technologies solely as an independent contractor and received Form 1099's. I received no employee benefits, had separate health insurance, often worked at home, and worked on my own projects as I saw fit, other than working to refine the software compression technology that I had transferred to eTreppid in return for 50% of the company.

11. During that time period, Trepp began to dilute my shares in eTreppid f/k/a Intrepid Technologies, and used his majority interest in Intrepid to obtain favorable treatment for himself as a majority shareholder at my expense. In particular, he would “loan” me money, then sell my shares to friends of his *and* make me pay him back virtually all of the money that he “bought” my shares with. While my shares were devalued, his and those of his friends were increased in value.

https://www.scribd.com/document/279996067/eTreppid-v-DM-26-2-Montgomery-Mar-13-2006-Declaration

March 13, 2006: In *eTreppid v. Montgomery*, defendant Montgomery submits a sworn "Declaration" stating that "From September 1998 through December 2003," he was "paid by eTreppid Technologies solely as an independent contractor" at the company despite having provided "software compression technology" to eTreppid "in return for 50% of the company" (p. 4).

"As of January 2004, I became an employee of eTreppid," Montgomery then stated.

September 11, 2006: A former coworker of Montgomery's at eTreppid, Sloan Venables, tells Air Force investigators Haraldsen and Smith that he found Montgomery "nuts and a crazy compulsive liar," "abusive to subordinates," and "would threaten subordinates and instruct them to not engage with TREPP" (co-founder of eTreppid).

Case 3:06-cv-00263-PMP-VPC *SEALED* Document 70-3 Filed 09/11/2006 Page 11 of 40

A... FORCE OFFICE OF SPECIAL INVESTIGATIONS
REPORT OF INVESTIGATIVE ACTIVITY

1. DATE OF INVESTIGATIVE ACTIVITY	2. PLACE	3. FILE NUMBER
23 JAN 2006	eTreppid LLC, Reno NV	

4. REMARKS

On 23 Jan 2006, SAs HARALDSEN and SMITH interviewed VENABLES at eTreppid LLC. In addition to reiterating the information from his declaration, VEANABLES related the following information:

He has known SUBJECT since December 1999 and had both a professional and personal relationship with him. He believed SUBJECT was "nuts and a crazy compulsive liar." SUBJECT was unwilling to share his work with others and kept employees in the dark about company projects. SUBJECT was abusive to subordinates and created an atmosphere of fear. SUBJECT created fictitious stories about TREPP and claimed that he (SUBJECT) was the actual majority owner of the company. SUBJECT would threaten subordinates and instruct them to not engage with TREPP. Consequently, problems or issues within the company were not elevated to TREPP.

VENABLES questioned SUBJECT's technical capabilities. His suspicion was reinforced when he discovered SUBJECT's workstation did not have the necessary applications installed to develop source code. VENABLES found this peculiar since this was purportedly SUBJECT's primary responsibility as the Chief Technical Officer. Additionally, VENABLES designed the dual Zeon processors used by SUBJECT to operate as a cluster. However, when SUBJECT changed the operating system to Windows XP this required the computers to work as independent systems. VENABLES said SUBJECT's actions were irrational and divergent since i caused the network of computers to operate inefficiently.

Trepp told investigators that eTreppid gave Montgomery $1.3 million and a 50% ownership in the company at the outset in 1998. Trepp also said that since 1991, eTreppid loaned Montgomery "a total of about $1.5 million" due to financial difficulties and that approximately one month before Montgomery departed eTreppid, "7-8 Dec 2005," Montgomery requested a loan of $270,000 "to pay down casino and other debts."

On 28 September 1998 SUBJECT was hired by eTreppid to become the Chief Technology Officer. SUBJECT was paid $1,300,000 and made a 50% partner in eTreppid in exchange for the data compression Source Code that he developed prior to his employment with eTreppid. During SUBJECT's ownership - SUBJECT required some liquidity and sold a two percent of stock in the company for $1.5 million. This stock was sold to two of TREPP's associates for $750,000 each. With the sale of the stock and other capital call dilutions SUBJECT reduced his stake in the company to 30%. TREPP was aware that SUBJECT was having financial difficulties and since Jan 1999, TREPP loaned SUBJECT a total of about $1.5 million to assist him with his financial burden. On 7 or 8 Dec 2005, SUBJECT asked to borrow an additional $270,000. When asked what the additional money was for, SUBJECT told TREPP that it was "to pay down casino and other debts." TREPP said he discovered through informal sources that SUBJECT owed $300,000 to various casinos.

https://www.scribd.com/document/275559455/DM-FBI-Search-70-Gov-Docs-Unsealed-D-nev-3-06-Cv-00263

Trepp said disks expected to contain "all data on the Source Server" were found to be "blank or contained no data relevant to eTreppid's development efforts."

Trepp advised that he required Montgomery to provide him a copy of all data on the Source Server once every year to protect both himself and Montgomery should something ever happen to this data. Trepp advised that when he learned that the Source Server had been deleted and Montgomery refused to return to work, he looked at the copies provided by Montgomery over the years, and found that these disks were blank or contained no data relevant to eTreppid's development efforts.

October 30, 2006: In *Montgomery v. eTreppid*, Montgomery accuses former business partner and defendant Warren Trepp and then-U.S. Rep. Jim Gibbons of "illegal physical and electronic surveillance," "eavesdropping and wiretapping" and states that he plans to file additional legal actions.
Montgomery testifies that Gibbons and Trepp were seeking to "initiate criminal action against me."

5. More recently, notwithstanding the unconstitutional raid perpetrated on my home and storage by Warren Trepp using his political influence with James Gibbons, (Gibbons has admitted making "phone calls" to initiate criminal action against me on behalf of Trepp), Daniel Bogden and

the basis for Trepp's political influence in Nevada and within the Air Force. In November, 2005, in one of my many fights with Trepp over licensing my technology used in the special Government contracts, Trepp threatened to " bury me" with his political influence over Bath and Gibbons. I believe the FBI/Air Force raid on my home and property was the result of that influence to steal my technology for Trepp. Gibbons has admitted that he initiated the criminal investigation against me.

Claims I Intend to Bring Not Yet Filed

35. The fact that Trepp and Gibbons improperly influenced the FBI to raid my home and that they have continued to conduct "surveillance" on me, including what I believe to be illegal physical and electronic surveillance, including eavesdropping and wiretapping, leads me to believe that they have used their secret surveillance program on AT&T customers to intercept my phone records. I have been an AT&T customer. If this litigation is to proceed, I will intervene in the case of *Hepting* v *AT&T* as a Plaintiff against AT&T and the Government. I will also bring claims similar to those brought in the AT&T case in this Court. In that action, I understand that the Government intervened

https://www.scribd.com/document/277361190/Montgomery-v-eTreppid-228-Oct-30-2006-Montgomery-Declaration

In the same case, Montgomery claimed he possessed "no classified information" (p. 4):

the local FBI, I have provided the "output" from my decoding programs, without compensation, to our Government in order to stop terrorist attacks and save American lives. My source codes for this decoding technology which derives from my "ODS" are what Trepp and several Government officials were attempting to steal from me when they raided my home.

6. The Government has now held my computers and storage media for over six months knowing I do not have possession of any "classified information" and knowing that all of the source codes used on the special Government contracts worked on by me at eTreppid Technologies are owned by me. No other person within our Government or at eTreppid has ever had access to the source codes used on the special Government contracts. Anyone who swears under oath to the contrary is lying and/or committing perjury. Obviously, if they did have access to this technology, Trepp would have licensed and/or sold it to the Government for hundreds of millions of dollars. I completely and zealously guarded the secrecy and confidentiality of my source codes used on the

https://www.scribd.com/document/277361190/Montgomery-v-eTreppid-228-Oct-30-2006-Montgomery-Declaration

November 1, 2006: *The Wall Street Journal* reports Montgomery's allegation against U.S. Rep. Jim Gibbons of accepting a bribe from Warren Trepp while on a cruise which an FBI investigation two years later found to be unsubstantiated.

https://web.archive.org/web/20150829013604/http://www.wsj.com/articles/SB116234941031409783

https://lasvegassun.com/news/2008/nov/02/attorney-gibbons-cleared-fbi-probe/

December 14, 2006: Montgomery files a Qui Tam lawsuit against Trepp, eTreppid, several of its employees, Gibbons, an FBI agent, Air Force investigator and others "for violation of the False Claims Act" with the claim that Trepp was attempting to steal Montgomery's software source code and "defraud the Government."

https://ia601304.us.archive.org/8/items/gov.uscourts.nvd.52186/gov.uscourts.nvd.52186.2.0.pdf

Qui Tam allows for the "whistleblower" to collect a financial award if successful.

https://legaldictionary.net/qui-tam/

At the time, Montgomery claims to be the sole owner of software and source code "valued in the hundreds of millions of dollars and critical to the war on terror" (p. 2). He also claims to have been a potential whistleblower and levels a bribery claim against Trepp involving then-U.S. Rep. Jim Gibbons (p. 2).

https://ia801304.us.archive.org/8/items/gov.uscourts.nvd.52186/gov.uscourts.nvd.52186.2.0.pdf

ownership of valuable software exclusively owned, controlled, and solely possessed by relator Dennis Montgomery used on said contracts. In sum, Trepp's scheme to defraud the Government was part and parcel of his scheme to defraud Montgomery. Montgomery's software is valued in the hundreds of millions of dollars and is critical to the war on terror. In order to perpetrate his scheme, defendant Trepp paid hundreds of thousands of dollars to defendant United States Congressman James Gibbons for the purpose of: (i) procuring numerous military contracts requiring the use of Montgomery's software; and (ii) for the corrupt manipulation of the justice system by both Gibbons and Nevada U.S. Attorney Daniel Bogden. Gibbons was instrumental in securing Bogden his job as U. S. Attorney through his substantial influence within the Nevada Republican Party.

2. At the behest of Trepp and Gibbons, Bogden directed and authorized the Reno office of the FBI to conduct a patently illegal and unconstitutional raid on Montgomery's home and storage facility for the purpose of seizing, in effect, "stealing," the "source codes" to Montgomery's software; and also to prevent Montgomery from blowing the whistle on Trepp, Gibbons, and other federal officials involved with them.

3. One of these officials is defendant U.S. Air Force special agent Paul Haraldsen, who had worked with Montgomery on several of the contracts, and represented to Montgomery that he, (Haraldsen) had become the designated Government liaison to Montgomery replacing other individuals from [redacted] and other US Agencies. Based on Haraldsen's statements, Montgomery believed that Haraldsen was working for USSOCOM (United States Special Operations Command) with direct access to Secretary of Defense Rumsfeld and other high level Defense Department officials. Between early 2004 and January,

2006: Edra Blixseth launches software-development company Opspring, later renamed Blxware, hiring Montgomery to serve as a partner. Blxware would enter a government contract lasting only four months due to the software at the center of it failing to meet expectations

June 22, 2007: A sworn affidavit from a forensic expert reports that an email Montgomery submitted to the court as "true and accurate" in litigation with Warren Trepp was altered.

18. Based on the foregoing analysis, it is my expert opinion that the original email, as sent from Mr. Glogauer to Mr. Trepp on September 25, 2003, did not contain the sentence "We need to take care of him like we discussed."

19. I am informed and believe that a "txt" file was submitted to the Court by Mr. Dennis Montgomery on June 12, 2006 as a "true and accurate" copy of the September 25, 2003 Len Glogauer email. This "txt" document is not a verifiable or accurate copy of the original email as I found it in several locations in the eTreppid facility.

https://www.scribd.com/document/274988566/Montgomery-v-eTreppid-199-Declaration-of-Jonathan-Karchmer

May 29, 2008: Magistrate Judge Valerie P. Cook orders Montgomery to produce the source code at issue in *Montgomery v eTreppid*

https://www.scribd.com/document/275664852/Montgomery-v-ETreppid-645-Order-Re-Source-Code-D-nev-3-06-Cv-00056

July 3, 2008: In *Montgomery v eTreppid*, Montgomery is questioned at a Show Cause hearing by a defendant's attorney, who summarizes and confronts Montgomery on documents and materials requested by the court but not produced over a lengthy period of time.

https://www.scribd.com/document/272718716/Montgomery-v-eTreppid-731-6-24-OSC-Hearing-Transcript

Magistrate Judge Cook also overrules Montgomery's objections to her order to produce the source code at the heart of Montgomery's claim to ownership (p. 1). Cook states that "Judge Perry" found in 2006 that Montgomery "took or deleted source code from eTreppid's computers" (pp. 1-2)

On June 27, 2008, Magistrate Judge Cooke entered an Order (Doc. #707) granting a Stay of the June 30, 2008 deadline for filing a plan for production of the source code contained in her Order (Doc. #645), pending further Order of this Court (Doc. #707). On June 30, 2008, Defendants eTreppid Technologies, LLC and Warren Trepp filed a Response to the Montgomery Parties' objections (Doc. #715).

In accord with the provisions of 28 U.S.C. § 636, and Local Rule 1B3-1 and 3-2, the Court has reviewed the proceedings before Magistrate Judge Cooke which resulted in the entry of the Order Regarding Source Code Discovery (Doc. #645). The Court finds that the Montgomery Parties' objections to Magistrate Judge Cooke's Order must be overruled, and the Order Regarding Source Code Discovery (Doc. #654) entered by Magistrate Judge Cooke must be affirmed.

July 24, 2008: Magistrate Judge Cook berates Montgomery and his counsel, Deborah A. Klar, for failing to produce the source code and orders a "Show Cause" hearing:

15 In drafting the Source Code Order, this court was very aware of the complicated
16 undertaking it was requiring of the Montgomery parties, and it endeavored to be reasonable about
17 the Montgomery parties' compliance. However, even if the court were to construe as genuine the
18 Montgomery parties interpretation of the Source Code Order as merely requiring a timeline, the
19 notice before the court would be completely deficient. The Montgomery parties' notice does not
20 set a proposed timetable or a plan delineating steps and intermediate deadlines by which they
21 would successfully comply with Source Code Order. Their notice simply states their
22 interpretation of the Source Code Order and successive court orders, and then sets their own
23 deadline for production. The Montgomery parties have been on notice that these documents
24 might be subject to discovery since mid-2006, but at the very least, by November 2007 (#431).
25 Once again, they protest that they do not have enough time.
26 Moreover, in complete defiance of *three* court orders requiring the production of source

26 Moreover, in complete defiance of *three* court orders requiring the production of source
27 code related to object tracking, pattern recognition, and anomaly detection, the Montgomery
28 parties state that they "respectfully" disagree. Notably, the Montgomery parties have continually

1 informed this court that they "intend" to file a Writ with the Ninth Circuit to vacate the Source
2 Code Order. To this court's knowledge, this has not been done. Further, although they have
3 already sought and been denied a stay from the District Court pending appeal to the Ninth Circuit,

the Montgomery parties purport to grant themselves a stay in their notice by stating that they will not produce any documents related to object tracking, pattern recognition, and anomaly detection until after the Ninth Circuit has made a determination on their unfiled Writ. Finally, the court notes that despite their assertions, the Montgomery parties have yet to request a modification of the protective order.

It is quite clear to both this court and the District Court that the Montgomery parties' "notice of compliance" represents their intent to defy the court's orders by any means necessary.

III. CONCLUSION

Based on the foregoing and for good cause appearing:

IT IS HEREBY ORDERED that a hearing to show cause as to why the Montgomery parties and Deborah A. Klar, counsel for the Montgomery parties, should not be held in contempt for failure to comply with the Source Code Order is set for **Monday, August 18, 2008, at 10:00 a.m.**;

IT IS FURTHER ORDERED that Dennis Montgomery shall appear in person at the hearing to show cause and be prepared to testify as to the matters at issue in this order;

https://www.scribd.com/document/275665451/Montgomery-v-ETreppid-769-OSC-Re-Source-Code-Nev-3-06-Cv-00056

July 25, 2008:

September 3, 2008: In his case against eTreppid, Montgomery is questioned as to his inconsistent testimony regarding whether or not he possessed information which could have been covered by the "State Secrets Privilege" in connection with an FBI search of his home in March 2006. Upon request, Montgomery reads from his own earlier testimony stating he did not possess classified information but is confronted on his claim (May 14, 2008) that he cannot produce certain documents because they are classified (pp. 105-113):

2 Now, you also testified that the FBI seized
3 material may or may not contain State Secret Privilege.
4 Do you recall that testimony.
5 A The FBI --
6 Q The FBI seized material may or may not contain State
7 Secrets Privilege?
8 A Yes.
9 Q And that's been one of the reasons why you haven't
10 produced it, isn't that correct?
11 A Are you talking about the 21 hard drives?
12 Q 21 hard drives, the CDs, everything that the FBI seized.
13 From time to time, you claimed that it contains FBI -- excuse
14 me, State Secret Privilege. And you have, therefore, been at
15 a loss on how to get it produced quickly.

13 over six months, you say they took it knowing you did not have
14 possession of classified information, correct?
15 A That's correct.
16 Q And now you've taken the position that there is
17 classified information on that seized material, correct?
18 A No. I believe it's States Secrets Privilege.
19 Q Okay. Not classified information.
20 A I don't know the distinction between the two.
21 Q Okay. I want to ask another few questions. I believe
22 that there is a request to you that requires you to produce
23 all efforts to market, sell your -- or sell the Source Code
24 for the data compression, anomaly detection and the like.
25 A Right.

(Sept. 3, 2008)

https://www.scribd.com/document/272718760/Montgomery-v-eTreppid-833-8-18-OSC-Hearing-Transcript

A substantial percentage, i.e., sixty to eighty, of the Technology Data consists of files that the Montgomery Parties reasonably believe could fall within the provision of the U.S. Protective Order (Docket #253) and/or Non-Disclosure Agreements executed by Dennis Montgomery ("Montgomery") in connection with work he performed for the Government (the "Protected Data").

Montgomery, on his own, is physically incapable of segregating the Protected Data from other Technology Data by May 19, 2008. The files are not organized in a manner which enables Montgomery to be able to identify and segregate Protected Data from Technology Data with absolute certainty and confidence without actually looking at each file.

In communications with the Government, the Montgomery Parties have proposed to give all of the Technology Data to the Government and let the Government identify the Protected Data. Montgomery would then produce to eTreppid all Technology Data not designated as Protected Data by the Government. The Government is not amenable to this approach. The Government

(May 14, 2008)

https://ia800904.us.archive.org/14/items/gov.uscourts.nvd.46642/gov.uscourts.nvd.46642.604.0.pdf

August 18, 2008: At a case management conference, Trepp attorney Peek states that numerous documents have still not been produced by Montgomery and that "I certainly do have numerous hard drives from Mr. Montgomery. Most of which, Your Honor, contain what I would refer to as garbage in; garbage out…" (pp. 12-13)

https://www.scribd.com/doc/275665561/Montgomery-v-ETreppid-832-TRANSCRIPT-of-Aug-18-OSC-Hearing-D-nev-3-06-Cv-00056

2 Sandoval or Blixseth.
3 So, yes, I want to take the depositions. I am
4 concerned, however, about proceeding with those depositions
5 wherein fact I have produced over 310,000 pages of documents,
6 I have a little less than that. I have nothing from Atigeo,
7 Sandoval or Blixseth. I certainly do have numerous hard
8 drives from Mr. Montgomery. Most of which, Your Honor,
9 contain what I would refer to as garbage in; garbage out.
10 And that will be the subject matter of the follow-up hearing
11 today.
12 JUDGE PRO: Right.

During the same hearing, Judge Cooke says she is "troubled" by Montgomery and his attorneys' perceived attitude of, "So, we're certainly not going to do it," referring to her orders to produce evidence.

September 23, 2008: A settlement conference is convened by Judge Cook between Montgomery and Trepp.

https://www.leagle.com/decision/infdco20080924747

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16 JUDGE COOKE: I do.

17 First of all, the Order to Show Cause, the subject

18 of today's Order to Show Cause hearing is not the supplement

19 that was filed, I believe it was on the 11th, or thereabouts,

20 of August. It was the -- the report, as Judge Pro has

21 indicated that basically said you're wrong; we aren't going

22 to do what the Court has ordered. Moreover, we plan to file

23 a motion for protective order, and appoint a special master

24 and so on, which the Montgomery parties subsequently had,

25 that's what we're here -- that's the subject of the Order to

1 Show Cause today. And this is what really disturbs me --

2 apart from, I'll tell you, any judge reading this order would

3 have the same, I suspect, reaction that Judge Pro and I did

4 the morning that we conferred about what was filed by the

5 Montgomery parties -- but what really troubles me is that

6 since the inception of this litigation, first, Mr. Montgomery

7 had Mr. Flynn. Then he and Mr. Flynn had a problem, so the

8 Liner firm comes in. Then Ms. Klar and Ms. Pham are on board.

9 And then what -- what we're getting, as time passes, and

10 trouble comes, is different lawyers stepping in and coming in

11 to say, well, you know, we can't -- we're sorry. We want to

12 turn the page and so forth. But the fact is, that this is
13 where we are today.
14 We have an order that was issued by this Court.
15 And I have, utterly, no problem with any party objecting,
16 filing an objection and taking it up to Judge Pro. That's
17 everybody's right. If you wish to do that, that's perfectly
18 fine with me. And if you want to go to the Ninth Circuit -- I
19 said in July, when Ms. Klar announced the intention to take
20 this matter up to the Circuit, that was fine. Go ahead. But,
21 do it. Don't come into this court and, well, this is what
22 we're going to do. And, by the way, you are in error. And we
23 simply are not -- are going to just completely disregard this
24 Court's order.
25 That is inexcusable. That is inexcusable. And

1 because this pattern that I'm seeing has recurred time and
2 again -- you know, I appreciate very much, Mr. Sunshine, your
3 statement here today about how the Montgomery parties and your
4 law firm intends to proceed. But, the fact is -- and then,

5 you know, you file this supplement. And I've got problems
6 with the supplement.
7 Again, I find it sort of breathtaking that -- let's
8 see, the supplemental order appears to me, appears to me, to
9 try to rewrite the request for production of documents that
10 were the source of this whole piece of discovery litigation,
11 number one. And then we're told, well, this -- it's going to
12 really take too much time. And a lot of the computer software
13 and so forth that would be necessary, or the hardware, I
14 don't know, to respond to some of these. Well, it's just too
15 expensive. It's outmoded. So, we certainly aren't going to

19 Mr. Montgomery is not going to do it.
20 And then, then there's a statement that, in addition
21 to that, well, we're going to wait until, until 30 days
22 after the Court makes its determination on the motion for
23 appointment of a special master.
24 I am here to tell you that nobody is waiting
25 anymore. This court has really reached the limits of its

1 patience in terms of the Montgomery parties and counsel
2 dictating to this Court when its orders will be complied with,
3 and when it -- and, and continually -- this is another issue,
4 sir -- continually, well, no, we're now going to call the --
5 let's see, the requests for production, set one, numbers 3,
6 4, 6, 8, and 9, we're now calling that a new thing. And we're
7 just kind of recasting that.

The other judge at the conference, Judge Pro, imposed sanctions on Montgomery for his failure to comply with the court's orders (p. 63).

11 That did not occur here. The time was July 23. It
12 was not complied with. And as a result, I'm going to impose
13 a sanction, contempt sanction, monetarily, of $2,500 per day,
14 from July 23rd, through the date of the production, whenever
15 that occurs. And if you can beat the 8th of September, that
16 will save your client no small degree of resources.
17 I think that that's -- while that's not an
18 insignificant penalty, I think that's a fair penalty given
19 the failures of Montgomery, and those representing, to comply
20 with clear unambiguous orders of the Court that were final
21 for purposes of this litigation. So, that will be the order.

September 27, 2008: Montgomery is charged with six felony counts for passing checks with insufficient funds at a Las Vegas casino:

Skip to Main Content Logout My Account Search Menu New District Civil/Criminal Search Refine Search Back — Location : District Court Civil/Criminal Help

REGISTER OF ACTIONS
CASE NO. C-10-268764-1

State of Nevada vs Dennis Montgomery

Case Type: Felony/Gross Misdemeanor
Date Filed: 11/03/2010
Location: Department 10
Cross-Reference Case Number: C268764
Defendant's Scope ID #: 2733877
Grand Jury Case Number: 10GJ003

PARTY INFORMATION

		Lead Attorneys
Defendant	Montgomery, Dennis Lee	Public Defender *Public Defender*
Plaintiff	State of Nevada	Steven B Wolfson 702-671-2700(W)

CHARGE INFORMATION

Charges: Montgomery, Dennis Lee	Statute	Level	Date
1. DRAWING AND PASSING A CHECK WITHOUT SUFFICIENT FUNDS IN DRAWEE BANK WITH INTENT TO DEFRAUD	205.130.1	Felony	09/27/2008
2. THEFT (FELONY)	205.0832	Felony	09/27/2008
3. NON SUFFICIENT FUNDS/CHECKS	205.130	Felony	09/27/2008
4. OBTAIN MONEY UNDER FALSE PRETENSES	205.380	Felony	09/27/2008
5. THEFT (FELONY)	205.0832	Felony	09/27/2008
6. NON SUFFICIENT FUNDS/CHECKS	205.130	Felony	09/27/2008

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

01/09/2014 **Disposition** (Judicial Officer: Walsh, Jessie)
2. THEFT (FELONY)
Amended Information Filed/Charges Not Addressed
3. NON SUFFICIENT FUNDS/CHECKS
Amended Information Filed/Charges Not Addressed
4. OBTAIN MONEY UNDER FALSE PRETENSES
Amended Information Filed/Charges Not Addressed
5. THEFT (FELONY)
Amended Information Filed/Charges Not Addressed
6. NON SUFFICIENT FUNDS/CHECKS
Amended Information Filed/Charges Not Addressed

https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=8698813

The charges are followed by indictments on **November 3, 2010**:

PARTY INFORMATION

		Lead Attorneys
Defendant	Montgomery, Dennis Lee	Public Defender *Public Defender*
Plaintiff	State of Nevada	Steven B Wolfson 702-671-2700(W)

CHARGE INFORMATION

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5. THEFT (FELONY)	205.0832	Felony	09/27/2008
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4. OBTAIN MONEY UNDER FALSE PRETENSES
Amended Information Filed/Charges Not Addressed
5. THEFT (FELONY)
Amended Information Filed/Charges Not Addressed
6. NON SUFFICIENT FUNDS/CHECKS
Amended Information Filed/Charges Not Addressed

OTHER EVENTS AND HEARINGS

11/03/2010 **Indictment**
11/03/2010 **Notice**
Notice and Order to Transfer Bail
11/03/2010 **Grand Jury Indictment** (11:45 AM) (Judicial Officer Cadish, Elissa F.)
Minutes
Result: Matter Heard
11/05/2010 **Amended Notice**
Amended Notice and Order to Transfer Bail
11/17/2010 **Initial Arraignment** (9:00 AM) (Judicial Officer Bonaventura, Joseph T.)
Parties Present
Minutes
Result: Matter Continued

January 2009: Montgomery goes to work for Blxware, LLC, formed by Edra Blixseth in 2008, to further develop pattern-recognition software he claims to have invented while working at eTreppid. Blxware was preceded by Opspring in 2006.

https://www.dandb.com/businessdirectory/blxwarellc-bellevue-wa-3620202.html

https://www.courtlistener.com/opinion/4734191/in-re-edra-d-blixseth/

Blixseth declared bankruptcy in March 2009.

https://www.nytimes.com/2009/06/14/business/14yellow.html

According to a future filing on the part of defendant United States in *Klayman v. Obama* in which Montgomery was the plaintiff (April 13, 2015, . (p. 2 footnote)

> Mr. Montgomery is a self-described inventor and software developer, and co-founder of a now-defunct company named eTreppid Technologies, LLC. See Exh. 1 at 5. From 2003 to 2005 he performed work under a contract between eTreppid and the Air Force involving image-identification technology. Exh. 2; see Exh. 1 at 5–6; Exh. 3 ¶ 4.a. In 2009, Mr. Montgomery's then-employer, Blxware, LLC, entered into a short-term agreement with the Air Force for purposes of evaluating "video compression and anomaly detection and tracking" software, developed by Mr. Montgomery, that reportedly "would enable the advanced processing and exploitation of multi-media files." Exh. 4 § 1.0. Blxware's work under the contract terminated in mid-2009. Plaintiffs do not explain how Mr. Montgomery, while employed on such matters, acquired information germane to the NSA bulk metadata collection or PRISM programs

And (p. 7 footnote):

> The discrepancies between Mr. Montgomery's prior statements and the claims now being made on his behalf perhaps should come as no surprise. In the eTreppid litigation, the court imposed sanctions against Mr. Montgomery for perjuring himself in a September 2007 declaration. See Montgomery, supra, 2010 WL 1416771, at *11, *16-18.

March 31, 2009: In deciding to grant sanctions requested by Montgomery's former attorney, Mike Flynn, in his attempt to collect fees owed, Magistrate Judge Valerie P. Cooke concludes Montgomery committed perjury and "Mr. Montgomery's September 2007 declaration contained untrue statements which he knew were untrue, and that this declaration was filed in bad faith and for the improper purposes of attempting to manipulate these proceedings, to gain a tactical advantage, to harass Mr. Flynn, his former counsel, and to subvert orders of this court." (pp. 1-2)

https://www.scribd.com/document/275423222/Montgomery-v-eTreppid-985-ORDER-Granting-Sanctions-Re-Montgomery-Perjury-D-nev-3-06-Cv-00056-985

The New York Times (Feb. 19, 2011) reports that in May 2009, the Air Force canceled its temporary contract with Blxware for not meetings its expectations:

https://www.nytimes.com/2011/02/20/us/politics/20data.html?_r=1

December 2009: Aram Roston of *Playboy Magazine*, formerly of NBC News, publishes "The Man Who Conned the Pentagon" about Dennis Montgomery for the January 2010 issue

https://www.npr.org/templates/story/story.php?storyId=121667905?storyId=121667905

November 18, 2010: Montgomery is deposed for his bankruptcy filing during which strong accusations are made. In response to some questions, Montgomery invokes his Fifth Amendment right to remain silent.

https://www.scribd.com/document/270829649/Dennis-Montgomery-Nov-2010-Deposition-Transcript

December 15, 2010: Montgomery appears in court to enter a plea of "not guilty" to the six indictments. His public defender states he is making payments toward restitution.

12/01/2010 **Arraignment Continued** (10:00 AM) (Judicial Officers Wall, David, Loehrer, Sally)
12/01/2010, 12/15/2010

Minutes

12/01/2010 10:00 AM

- Mr. Schonfeld asked for another continuance in order for Defendant Montgomery to finalize representation. COURT SO ORDERED. SUMMONS (BOND)
  12/15/2010 9:00 AM ARRAIGNMENT CONTINUED

12/15/2010 9:00 AM

- Mr. Schonfeld advised his firm could not confirm as counsel and requested Court appoint counsel for Deft. Colloquy regarding confirmation of the Public Defender's Office in this case and case C260373. Further colloquy on whether one of the two cases would be dismissed. Ms. Hoffman requested Court continue matter for Confirmation of Counsel. COURT ORDERED Mr. Schonfeld and his firm WITHDRAWN as counsel for Deft. in this case and in C260373. FURTHER, Ms. Hoffman's request DENIED; Public Defender APPOINTED as counsel for Deft. Montgomery in both cases. COURT NOTED if a conflict arises, counsel may bring it to Court's attention at that time. Ms. Hoffman further requested trial set in C260373 be continued further out. Mr. Schonfeld advised the District Attorney's Office will provide the Public Defender's Office with discovery, and he would provide anything else required. Mr. Schonfeld further noted Deft. was making payments on restitution for bad checks. COURT ORDERED 02/28/11 trial in C260373 STANDS; Court may be inclined to grant a continuance in either case if the Deputy Public Defender assigned to Deft. has a valid conflict. Ms. Hoffman noted she received a copy of the Indictment and waived its reading. Deft. Montgomery ARRAIGNED, PLED NOT GUILTY, and WAIVED the 60-DAY RULE. COURT ORDERED matter SET for trial with case C260373. BOND 02/23/11 9:00 AM CALENDAR CALL 02/28/11 1:30 PM TRIAL BY JURY (COUNTS 1-6) CLERK'S NOTE: COURT ORDERED Clerk to prepare Minute Order in case C260373. lmw

https://www.clarkcountycourts.us/Anonymous/CaseDetail.aspx?CaseID=8698813&HearingID=119552783&SingleViewMode=Minutes

February 19, 2011: As referenced earlier, *The New York Times* publishes "Hiding Details of Dubious Deal, U.S. Invokes National Security" asserting that "Mr. Montgomery's former lawyer, Michael Flynn who now describes Mr. Montgomery as a "con man" says he believes that the administration has been shutting off scrutiny of Mr. Montgomery's business for fear of revealing that the government has been duped…Justice Department officials declined to discuss the government's dealings with Mr. Montgomery, 57, who is in bankruptcy and living outside Palm Springs, Calif. Mr. Montgomery is about to go on trial in Las Vegas on unrelated charges of trying to pass $1.8 million in bad checks at casinos, but he has not been charged with wrongdoing in the federal contracts, nor has the government tried to get back any of the money it paid. He and his current lawyer declined to comment."

https://www.nytimes.com/2011/02/20/us/politics/20data.html

August 2013: Montgomery representative Tim Blixseth contacts the Maricopa County, AZ Sheriff's Office (MCSO) relating Dennis Montgomery's claims of a government super-computer, "The Hammer" allegedly used to spy on Americans and illegally harvest data

https://www.phoenixnewtimes.com/news/joe-arpaios-posse-investigator-mike-zullos-secret-recordings-7823417

September 2013: Montgomery contacts the MCSO and meets with investigator Mike Zullo and Det. Brian Mackiewicz at his home in Washington State, describing mass surveillance of Americans by "The Hammer" and purporting to possess evidence that approximately 153,000 Maricopa County residents were victims of government-instigated bank-account breaches. Montgomery also speaks directly with Maricopa County Sheriff Joseph Arpaio:
https://www.thepostemail.com/2019/07/07/zullo-on-the-hammer-dennis-montgomery-and-changing-narratives/

September 7, 2013: Radio host Carl Gallups suggests a new line of investigation by the Cold Case Posse:

https://www.youtube.com/watch?v=1aXNwiWcVz0

November 22, 2013: In sworn testimony in a case in which he is a defendant, Montgomery states he went to work for Opspring, launched by Michael Sandoval, on April 6, 2006, three months after leaving eTreppid, with a "multimillion dollar employment contract."

He admits to establishing websites to allegedly expose "fraudulent and misleading business practices of Michael Sandoval and his company, Atigeo."

> 9. Plaintiffs' complaint and the declaration of Michael Sandoval allege that I attempted to extort money from Michael prior to putting up the websites at issue in this litigation. These accusations are completely false and without merit. I created the subject websites to alert the public as to the fraudulent and misleading business practices of Michael Sandoval and his company, Atigeo. In doing so, it was my hope to prevent further individuals from being victimized or injured from these deceptive business practices. In no way was I motivated by an alleged extortion scheme. In my opinion (and others), Michael has been defrauding investors and business partners for the last seven years.

https://www.scribd.com/document/271353176/Atigeo-37-Montgomery-Nov-13-Declaration-W-D-Wash-2-13-cv-01694-37

Early 2014: Arpaio hires Montgomery as a confidential informant to provide the evidence he claims to have on residents' bank-account intrusions.

November 3, 2014: As documented in court documents the following year, emails between Mackiewicz and Montgomery demonstrate Montgomery had not produced the claimed evidence despite having been paid to do so and that Mackieiwicz believed Montgomery had "lied" to the MCSO.

Sent from my iPhone

On Nov 3, 2014, at 10:25, Larry Klayman <lklayman@gmail.com> wrote:

This is inappropriate! I asked Mike to have us talk after my oral argument in the NSA case. I do not appreciate this lack of respect! More later...

On Mon, Nov 3, 2014 at 8:16 AM, Brian Mackiewicz <detmack@gmail.com> wrote:
Gentleman,

MELC202173

Case 2:07-cv-02513-GMS Document 1166 Filed 07/10/15 Page 18 of 61

I guess I will take a minute and respond to some of the issues at hand. Dennis you have no problem defending the work because you truly believe your the only person on the face of the earth that knows what your talking about. It is easy to hide behind, "we have a lack of understanding of software development and programs" but do you really think we would ever take your word as gospel? I will admit we did take your word as gospel for some time time but that time ended when you grossly misrepresented the work that you said was completed.

It would have not been such a big deal Dennis but Mike and I represented the fact the work was complete and it wasn't. Look I am not stupid you have lied to me several times over the past 12 months. I have caught you in you lies and chosen to move forward and look past the fact you lied. I always kept hope and believed when it came to your work product and your "STORY" you were always being truthful. The problem now is were do the lies end and the truth start. I am not even sure you know the answer to that Dennis.

From day one I thought we all had a common goal in mind when it came to this investigation. If your "STORY" was based on facts and the information you provided was all truthful Mike, I, and the Office was dedicated do anything in our powers LEGALLY to help bring your story forward and expose the TRUTH. I

https://www.scribd.com/document/271194289/Melendres-1166-D-Ariz-2-07-cv-02513-1166

November 7, 2014: At Arpaio's request, former NSA program developers J. Kirk Wiebe, William Binney and Thomas Drake examine 47 hard drives Montgomery provided to the MCSO purported to contain

evidence of government surveillance. An email from Mackiewicz to Montgomery's attorney, Larry Klayman, copied to Zullo, Montgomery and one other party states, "After reviewing all the hard drives our experts concluded that Dennis Montgomery deliberately complied [sic] massive amounts of data on to these drives for the purpose of obfuscating the fact the data itself contained no evidence to support Dennis Montgomery's claims."

https://www.scribd.com/document/271194289/Melendres-1166-D-Ariz-2-07-cv-02513-1166

November 14, 2014: As Mackiewicz reported, Drake and Wiebe sign a report to Arpaio claiming the drives contain no useful data and further, label the data Montgomery provided "evidence of an outright and fraudulent con perpetrated on the government for personal gain and cover."

https://www.scribd.com/document/289508561/PX-2531-2013-11-13-Drake-Wiebe-Letter-Re-Montgomery-Hard-Drives

December 16, 2014: In an email chain, Zullo chastises Montgomery, who was using the screen name "David Webb," for turning over "worthless" information on hard drives to the MCSO as adjudged by former NSA program developers J. Kirk Wiebe and Thomas Drake.

From: Mike [mailto:1tick@earthlink.net]
Sent: Tuesday, December 16, 2014 2:54 PM
To: 'David Webb'
Subject: RE: Arpaio

LOL every time you don't like it when you get told the facts you call them threats.. What a joke.. Always the victim aren't you..

LOL!!!! You mean the phony information you handed MCSO about Snow.... LOL Dennis you don't fool me.. You think you do...Making up emails as you went along.. Please!!! Thought I did not catch on did you.. Just like the cut a paste crap you handed us on those worthless drives.. All smoke and mirrors. It sucks when all the smoke clears...

Ex NSA guys we used to expose you..... Took them 17 munities...

From: David Webb [mailto:dwebb605@gmail.com]
Sent: Tuesday, December 16, 2014 2:41 PM
To: 'Mike'
Subject: Arpaio

Stop making threats against me. I am tired of these abuses. I have been left disabled as a result of your

https://www.scribd.com/document/289321096/PX-2935-2014-12-16-Zullo-Mont-Mack-Email-Chain

July 17, 2014: An email from then-Fox News reporter Carl Cameron to Dennis Montgomery (aka David Webb) reveal Montgomery did not provide the evidence he promised to Cameron to support his claims. Cameron blames Montgomery for Fox News's declination to run the story:

https://www.thepostemail.com/2020/12/14/fox-news-considered-montgomery-story-but-passed/

February 24, 2015: Represented by Atty. Larry Klayman, Montgomery sues former *New York Times* author James Risen for defamation as a result of his book, "Pay Any Price" which contains a chapter (Chapter 2) about Montgomery's work as a government contractor.

In the chapter, Risen indicates he contacted Montgomery for comment before going to press and that Montgomery had never produced evidence that his software worked.

https://www.amazon.com/Pay-Any-Price-Greed-Endless/dp/0544570359

Montgomery fails to produce a copy of the software or source code, defying a court order.

April 9, 2015: Zullo states that Montgomery violated the terms of his "free talk" with the Arizona Attorney General's office (p. 25):

> With your pending litigation in FL. You are aware that both Brian and I had met with the defendant that last time we were in DC. He has our business cards. It will only be a matter of time before we are contacted by his attorney. Also in light of your most recent attempt to offer testimony as a WB and the fact that we have a videotaped Free Talk agreement you made with the AZAG and you have breached that agreements as well, this is not something I am prepared to allow to move forward without the proper notifications made on our end under these agonizing circumstances.
>
> Sixteen long months of ZERO s and just empty promises and lip service. Enough…
>
> We are going to allow you one last attempt to honor your agreement with us and set a hard date in the very near future to complete the work as agreed. I will wait to hear from you or Larry . Remember this is going to be a make or break moment.
>
> Time is of the essences Dennis…
>
> Mike

https://www.scribd.com/document/271194289/Melendres-1166-D-Ariz-2-07-cv-02513-1166

April 20, 2015: Responding to an email from Montgomery's then-attorney Larry Klayman, Mike Zullo writes that "Mr. Montgomery's behavior and lack of performance flies in the face of his numerous promises pledging to complete the work.." (p. 23):

On Apr 20, 2015 7:10 PM, "Mike" <1tick@earthlink.net> wrote:

> Larry,
>
> This is now my second request asking for a date set for the completion of the work Dennis Montgomery has been promising for over 16 months.. Mr. Montgomery's behavior and lack of performance flies in the face of his numerous promises pledging to complete the work.. This is especially concerning given the face that Mr. Montgomery needs validation like a drowning man needs oxygen. His behavior simply erodes whatever thread of credibility he may have left. In fact as of this date, our experience dealing with Mr. Montgomery mirrors what has been written about him.. It is apparent to us that this is just a game of running the clock in the hope Montgomery can position himself as a "Whistle Blower" with some jurisdiction and with your help get out from under his obligation to the us. In our opinion Montgomery does not qualify under Federal Whistle Blower protections. A risky game….
>
> I would like a response by close of business on Wednesday April 22nd, 2015. If we do not here from you or your client we will complete final reports, close the matter and make the appropriate notifications.

https://www.scribd.com/document/271194289/Melendres-1166-D-Ariz-2-07-cv-02513-1166

Week of November 2, 2015: Zullo's recordings of MCSO interviews with Montgomery are leaked to the *Phoenix New Times* and published.

https://www.thepostemail.com/2019/07/11/zullo-on-the-hammer-dennis-montgomery-and-changing-narratives-part-3/

November 12 and 13, 2015: In *Melendres v. Arpaio*, Zullo testifies in federal court as to Montgomery's role as a confidential informant to the MCSO in 2014.

https://www.thepostemail.com/2015/12/11/what-did-mike-zullo-say-in-court-on-november-12/

https://www.thepostemail.com/2019/07/09/zullo-on-the-hammer-dennis-montgomery-and-changing-narratives-part-2/

https://www.thepostemail.com/2019/08/04/the-dennis-montgomery-story-continues-to-morph-but-to-what-end/

https://www.scribd.com/document/292580127/Melendres-v-Arpaio-1548-Nov-12-2015-TRANSCRIPT-DAY-19-Evidentiary-Hearing-Amended

https://www.scribd.com/document/292578919/Melendres-v-Arpaio-1549-Nov-13-2015-TRANSCRIPT-DAY-20-Evidentiary-Hearing

November 16, 2015: Stephen Lemons of the Phoenix New Times publishes article containing the leaked recordings.

https://www.phoenixnewtimes.com/news/joe-arpaios-posse-investigator-mike-zullos-secret-recordings-7823417

May 30, 2016: Federal Judge G. Murray Snow writes in an opinion that Montgomery committed "fraud" against the Maricopa County Sheriff's Office when he worked as a confidential informant:

359. There were many reasons Sheriff Arpaio would not have wanted the hard drives and their fraudulent nature disclosed.

360. First, Mr. Montgomery committed a fraud on the MCSO. (Doc. 1417 at Tr. 1562-64; Doc. 1457 at Tr. 2455.) Having paid large sums of money to Montgomery for his investigations, the MCSO was a victim of that fraud. Disclosure could therefore bring embarrassment to Sheriff Arpaio and the MCSO.

361. Second, Sheriff Arpaio and Mr. Montgomery shared the same attorney and had shared this attorney since at least November 2014.

362. Third, Sheriff Arpaio testified that the MCSO continued to engage Mr.

https://mediaassets.abc15.com/html/pdf/Melendres.PDF.pdf?_ga=1.125221962.1714977591.1463180483

https://www.thepostemail.com/2016/05/30/report-confidential-informant-performed-forensic-analysis-of-obamas-long-form-birth-certificate-image/

July 15, 2016: In *Montgomery v. Risen*, U.S. District Court Judge Rudolph Contreras rules in favor of Risen, stating, "Several discovery disputes arose throughout this period, and were considered by Magistrate Judge Jonathan Goodman. Of most relevance to the merits of Montgomery's claims is Defendants' request that Montgomery produce the software that is the subject of the Chapter. As explained in more detail below, after initially objecting to that request, Montgomery eventually claimed that he had turned over the only copy of his software to the FBI, along with a large volume of other computer drives and electronic information, in connection with an unrelated criminal investigation. Magistrate Judge Goodman ordered Montgomery on more than one occasion to produce the software and to coordinate with the

FBI in locating the software, using his self-described right of continued access to the software. *See* Aug. 22, 2015 Post-Disc. Hr'g Order ¶ 6, ECF No. 107; Oct. 19, 2015 Post-Disc. Hr'g Order ¶¶ 2–4, ECF No. 154. Montgomery filed objections to those orders with the district court. *See* Pl.'s Obj. to Portions of Magistrate Judge's Order of Aug. 22, 2015, ECF No. 125; Pl.'s Obj. to Magistrate Judge's Order of Oct. 19, 2015 & Req. to Stay, ECF No. 164. In addition, Defendants eventually filed a motion for spoliation sanctions, arguing that Montgomery's Amended Complaint should be dismissed, and Defendants should be awarded attorneys' fees, as a consequence of his failure to produce the software. *See* Defs.' Mem. of Law Supp. Mot. for Sanctions, ECF No. 166; Pl.'s Praecipe, ECF No. 170. On January 5, 2016, Magistrate Judge Goodman held a lengthy hearing on the sanctions motion. *See* Tr. of Misc. Mot. Hr'g ("Sanctions Hr'g Tr."), ECF No. 230."

https://casetext.com/case/montgomery-v-risen-8?q=dennis%20montgomery&PHONE_NUMBER_GROUP=C&sort=relevance&p=2&type=case

March 14, 2017: Fanning and Jones have a conversation with Zullo in which Zullo states he will be breaking a story on Montgomery's allegations in the near future. Zullo asks Fanning and Jones not to divulge the contents of the conversation until after he has released the information.

https://www.thepostemail.com/2020/12/08/bringing-down-the-hammer-on-fake-news/

March 17, 2017: Rather than honoring Zullo's request, Fanning and Jones issue their first article on "The Hammer."

[As of 12:50 p.m. EST 01-17-2021, their website is down again]

https://www.thepostemail.com/2020/12/02/the-hammer-montgomery-the-man-in-the-middle/

March 19 and 20, 2017, early afternoon: Zullo and Dr. Jerome Corsi are guests on Alex Jones's "Infowars" to discuss data Montgomery initially provided after contacting the MCSO about alleged government-instigated bank-account breaches and identity theft:

https://www.thepostemail.com/2017/03/19/dr-jerome-corsi-mike-zullo-speak-dragnet-database/

https://www.thepostemail.com/2017/03/20/mike-zullo-dr-jerome-corsi-infowars-live-monday-afternoon/

March 19, 2017, evening: Lt. Gen. Thomas McInerney (Ret) reads article on "The Hammer" published at *The American Report* on Dave Janda's "Operation Freedom" radio program "for the first time on radio or TV," according to Janda

https://davejanda.com/?s=McInerney+March+19%2C+2017

November 17, 2017: A three-judge appellate panel upholds Contreras's ruling in *Risen*, stating:

> This is Montgomery's defamation case—he chose to bring it. To sustain it against a motion for summary judgment, he would have had to marshal sufficient evidence to create a triable issue for a jury as to each element of his claim. The district court held that he failed to take the basic steps necessary to do so. Critically, he produced virtually no evidence of the software's functionality to factually rebut Risen's statements that it never worked as Montgomery said it did.
>
> Risen's reporting is, at its core, about how authorities at the highest levels of government fell for a "ruse," *id.* at 32: software that could never be verified. This lawsuit, too, has been defined by the software's persistent absence. That lacuna in the record dooms Montgomery's case. We affirm the district court's well-reasoned grant of summary judgment in favor of Defendants.
>
> …
>
> Montgomery intimates that, if the court deems the software to be material, he should not be held to his burden because the software is classified and so he cannot produce it. *See* Appellant's Br. 48-49. As an initial matter, there is reason to doubt that the software is, in fact, classified. *See Montgomery* , 197 F.Supp.3d at 243-44 ; *see also* J.A. 806 (excluding the software from a motion for a protective order filed by the United States in litigation in federal court in Nevada between Montgomery and his former employer). Even if the software is or was classified, Montgomery failed to take any steps to join issue on whether classification impermissibly obstructed his ability to satisfy his burden. Analysis of what record evidence suffices to avoid summary judgment is context-dependent, and we need not decide here what might have been enough. But it is clear that there were multiple avenues open to

> Montgomery to try to make the required showing, either directly or indirectly. He pursued none.

https://casetext.com/case/montgomery-v-risen-6

October 20, 2020: Former Sheriff Joseph Arpaio releases a memoir, "Sheriff Joseph Arpaio: And American Legend" in which he writes extensively about Montgomery's work for the Maricopa County Sheriff's Office as a confidential informant:

"Montgomery claimed he was the architect who developed the software to 'unlock' logins and passwords to cell phones, bank records, email, and credit card accounts of millions of Americans. With Montgomery's program (known as 'Prism' in intelligence circles), intelligence agencies had the ability, through a massive government supercomputer assembled in Ft. Washington, Maryland, to do the calculations necessary to apply 10 million password combinations per minute, thus using sheer brute force computing horsepower to unlock citizens' private accounts at will. This massive supercomputer was known as 'The Hammer' and, allegedly, it is still in use today…"

"There were many times, to be perfectly frank, that he would string us along for as long as he could before giving us the information, then only to squeeze more money out of us. Zullo would frequently contact me, concerned by the self-described highly erratic computer genius that was Montgomery. Most law enforcement professionals know that paid informants are not always reliable. Montgomery would promise he was 'days away' from producing critical information, continuing to make sure his funding continued, but then would never deliver the goods. In my opinion, there were many indicators that Montgomery was potentially a con man, but there was enough truth in the evidence presented to Zullo and my detective Brian Mackiewicz that warranted us

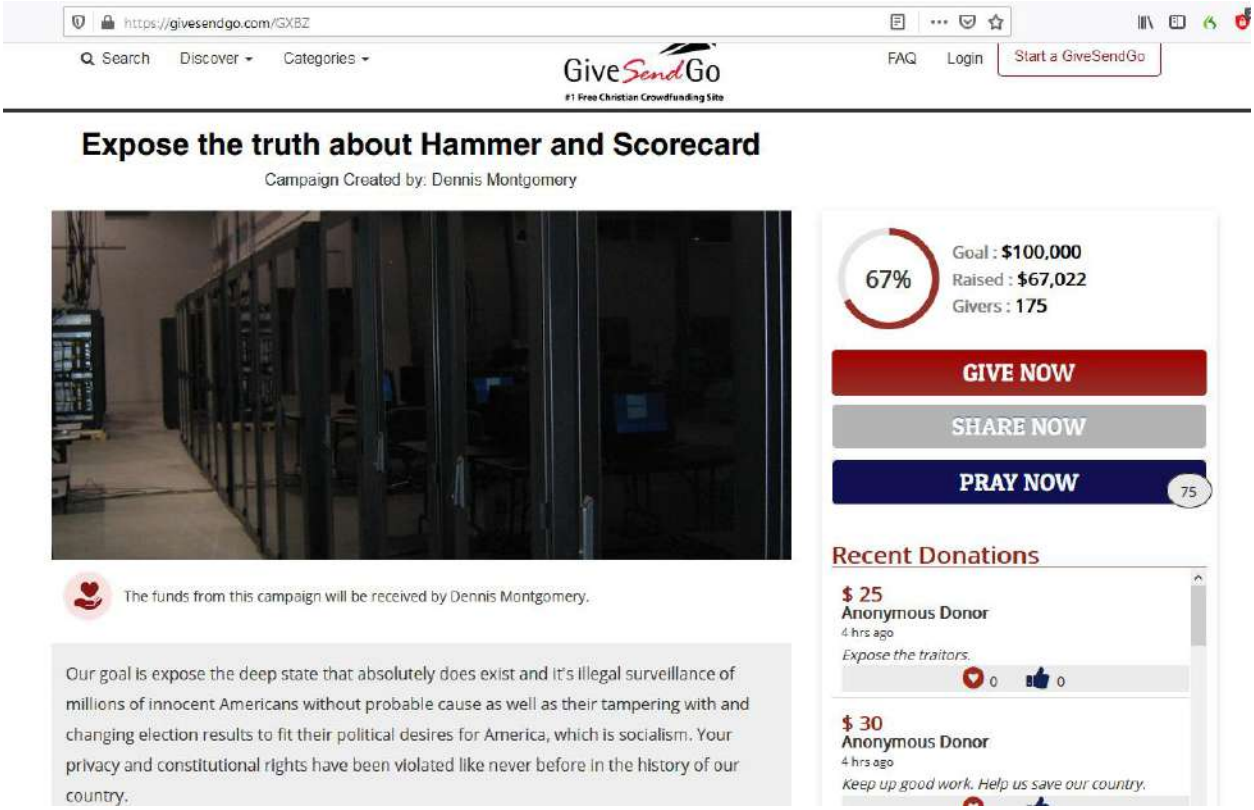
to keep paying him. He always promised the next set of deliverables days away, and it always cost the county more money than we expected.

“I’ve never trusted Montgomery—and neither did Zullo, but we knew there was enough truth in his claims to continue to pursue the facts. There’s no doubt Montgomery had ‘some’ credible information to allege ‘The Hammer’ was used on my office and my personal cell phone. In addition to those bombshell claims, Montgomery stated to us that he had collected sensitive information on 153,000 Maricopa County residents on behalf of the NSA, such as recorded telephone calls, emails, bank logins and passwords, and credit card information. Once again, I had a duty to protect my county residents.”

https://www.thepostemail.com/2020/11/11/why-is-the-hammer-resurfacing-now/

2020: Montgomery establishes the website "Blxware.org," accusing Edra Blixseth of having engaged "in illegal FBI/CIA/NSA domestic surveillance programs." Montgomery uses the site to purportedly raise money to "Expose the truth about Hammer and Scorecard," a campaign which has reportedly garnered $67,022 of a $100,000 goal as of January 18, 2021.

https://givesendgo.com/GXBZ



The GiveSendGo campaign follows a GoFundMe page wherein Montgomery raised a reported $14,000 by the time it was shut down on or about November 13, 2020.

https://www.thepostemail.com/2020/11/13/dennis-montgomery-gofundme-page-removed/

November 10, 2020: As Fanning and Jones frequently assert on their website, Janda states on his program, "The Hammer…is the key to the coup," also connecting it to the criminal prosecution of Lt. Gen. Michael T. Flynn (Ret), Trump's first national-security adviser

https://thedailycoin.org/2020/11/10/hammering-the-key-to-the-coup-videos/

November 13, 2020: McInerney interviews with OANN on "Hammer and Scorecard"

https://davejanda.com/oann-hammer-scorecard-general-tom-mcinerney/