

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

LARRY KLAYMAN, *et al.*,

Plaintiffs,

v.

JAMES COMEY, *et al.*,

Defendants.

**Case No: 17-cv-1074**

**PLAINTIFFS' SUPPLEMENT TO ORAL ARGUMENT AT STATUS CONFERENCE  
OF JUNE 23, 2017, CONCERNING RELATED CASE DESIGNATION PURSUANT TO  
LOCAL CIVIL RULE 40.5**

At the status conference of June 23, 2017, the Court asked the parties whether the above-styled case is related to prior lawsuits styled 13-cv-00851 (*Klayman I*), 13-cv-00881 (*Klayman II*), and 14-cv-00092 (*Klayman III*). The government attorney, Mr. James Gilligan, conceded that they are related and a copy of the transcript which has been ordered will reflect this concession. Counsel for the Plaintiffs, Larry Klayman, also explained why the cases are clearly related.

LCvR 40.5(b)(3) mandates that a party notify the judges “[w]henever and attorney for a party becomes aware of the existence of a related case[.]” Civil cases are “deemed related when the earliest is still pending on the merits in the District Court and they . . . (ii) involve common issues of fact, or (iii) grow out of the same event or transaction[.]” LCvR 40.5(a)(3).

The related case rule “rests primarily on considerations of judicial economy’ and aims to prevent the inefficiency inherent in having two judges ‘handling cases that are so related that they involve common factual issues or grow out of the same event or transaction.’” *Boyd v. Farrin*, 2012 WL 6106415, \*1 (D.D.C. Dec. 10, 2012) (quoting *Tripp v. Executive Office of the President*, 196 F.R.D. 201, 202 (D.D.C. 2000)).

First, this case involves common issues of fact with *Klayman I, II, and III*. All allege unconstitutional, Fourth Amendment violations by the government intelligence agencies and individual Defendants by illegally surveilling telephone and other communications, both domestic and foreign, as part of a continuing course of conduct. While Congress did enact the USA FREEDOM ACT, which modified prior Section 215 of the PATRIOT ACT, the Complaint in this case alleges that the illegal conduct has continued, despite the USA FREEDOM ACT and in contradiction of prior rulings by this Court, which found, inter alia, “almost Orwellian” Fourth Amendment violations. In addition, all three cases, *Klayman I, Klayman II, Klayman III*, and this case, *Klayman IV*, allege common factual issues insofar as there are continuing violations of Section 702. Thus, there is a complete commonality of factual allegations between these cases.

There is also a commonality of parties. Larry Klayman is a Plaintiff in *Klayman I, II, and III*, and Dennis Montgomery is a material witness in all three cases having been presented to the Court for *in camera* review to take discovery.<sup>1</sup> In *Klayman I, II, and III*, and this case, *Klayman IV*, the government Defendants include the same agencies.

Second, *Klayman I, II, III, IV* emanate from the same continuing event or transaction since the illegal and unconstitutional conduct is part of a continuing lawless pattern and practice of violating the U.S. Constitution and the statutory law. Indeed, the latest Order of the Foreign Intelligence Surveillance Court which, as pled in the Complaint in this case at paragraph 25,

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<sup>1</sup> Plaintiff Montgomery is put forth as a material witness and is set forth several times in all three cases (*Klayman I, Klayman II, and Klayman III*). For example, in *Klayman I* (13-cv-00851):

1. March 20, 2015 – Motion for In Chambers and Ex Parte Interview of Witness Dennis Montgomery [Dkt. # 129].
2. April 23, 2017 – Reply to Motion for In Chambers and Ex Parte Interview of Witness Dennis Montgomery [Dkt. # 134].
3. May 12, 2017 – Supplemental Memorandum re Motion for In Chambers and Ex Parte Interview of Witness Dennis Montgomery [Dkt. # 136].
4. February 11, 2016 – Order Denying Motion for In Chambers and Ex Parte Interview of Witness Dennis Montgomery.

confirms that the conduct grows out of the same event or transaction for these continuing violations of the U.S. Constitution and statutory law.

Thus, this case is related to *Klayman I, II, and III* which remain pending before this Court. Plaintiffs will supplement this pleading with the transcript of the Status Conference of June 23, 2017, which contains the concession of government counsel that this is a related case and argument by Plaintiffs counsel in support thereof. Plaintiffs' counsel requested expedited treatment of the transcript and it will become available Monday, June 26, 2017.

Dated: June 24, 2017

Respectfully submitted,

*/s/ Larry Klayman*  
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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed electronically and served through the court's ECF system to all counsel of record or parties on June 24, 2017 including:

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