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**Subject:** Activity in Case 1:13-cv-01363-EGS JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE Order on Motion for Relief from Judgment

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U.S. District Court

District of Columbia

### Notice of Electronic Filing

The following transaction was entered on 6/19/2015 at 11:43 AM and filed on 6/19/2015

**Case Name:** JUDICIAL WATCH, INC. v. DEPARTMENT OF STATE

**Case Number:** [1:13-cv-01363-EGS](#)

**Filer:**

**WARNING: CASE CLOSED on 03/19/2014**

**Document Number:** No document attached

**Docket Text:**

**MINUTE ORDER granting [13] Judicial Watch's motion for relief from judgment. In view of revelations that then-Secretary of State Clinton and members of her staff used personal email accounts to conduct State Department business, and that emails from those accounts may not have been covered by State Department searches for documents responsive to the FOIA request at issue in this case, the plaintiff seeks to reopen this case for further proceedings. The State Department agrees that the case should be reopened under these circumstances. Judicial Watch relies upon Federal Rule of Civil Procedure 60(b)(3), which permits relief in cases of "fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party." To obtain relief under Rule 60(b)(3), "the burden of proof of fraud is on the moving party and... fraud must be established by clear and convincing evidence." 11 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 2860 (3d ed. 2014); see also Sack v. CIA, 53 F. Supp. 3d 154, 178 (D.D.C. 2014). The State Department suggests Rule 60(b)(2), which allows for reopening due to "newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a**

new trial under Rule 59(b)." Judicial Watch indicates that it did not rely upon Rule 60(b)(2) solely because of a statement in a footnote of this Court's Opinion in Sack, which stated that Rule 60(b)(2) "address[es] defects in or changed circumstances regarding a prior Court judgment." Sack, 53 F. Supp. 3d at 179 (D.D.C. 2014). This statement in no way affects this case: The newly discovered information is a changed circumstance regarding the prior judgment in this case-- i.e. the stipulated dismissal in 2014. Because the parties agree that Rule 60(b)(2) applies, the Court will rely upon that provision, rather than spilling ink to resolve their dispute as to whether Judicial Watch has submitted clear and convincing evidence of fraud by the State Department. For that reason, the Court GRANTS Judicial Watch's motion and ORDERS that this case be REOPENED and restored to the active calendar of this Court. To the extent that the parties' pleadings regarding the reopening of this case under Rule 60(b) address issues regarding the State Department's FOIA obligations once this case is reopened, the Court finds that such arguments are not proper subjects of a Rule 60 motion. They may be raised in an appropriate motion at such time as they become relevant. The parties are directed to submit a joint status report, setting forth their individual recommendations for further proceedings in this newly reopened case, by no later than July 1, 2015. Signed by Judge Emmet G. Sullivan on June 19, 2015. (lcegs2)