

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

JUDICIAL WATCH, INC.,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	Civil Action No. 13-00772 (CKK)
)	
U.S. DEPARTMENT OF STATE,)	
)	
<i>Defendant.</i>)	
_____)	

**PLAINTIFF’S OPPOSITION TO DEFENDANT’S
MOTION TO STAY**

Plaintiff Judicial Watch, Inc. (“Judicial Watch”), by counsel, respectfully submits this opposition to Defendant’s Motion to Stay Pending Resolution of Its Motion for Designation of Coordinating Judge. As grounds therefor, Judicial Watch states as follows:

STATEMENT OF POINTS AND AUTHORITIES

1. Defendant U.S. Department of State (“State Department” or “agency”) seeks to stay – and further delay – at least a portion of its response to the nearly 4½ year old Freedom of Information Act (“FOIA”) request at issue in this litigation.¹ The proposed stay would appear to encompass any issues regarding the emails of former Secretary of State Hillary Clinton and certain emails and records of at least four of Secretary Clinton’s top aides, Huma Abedin, Cheryl Mills, Philippe Reines, and Jacob Sullivan. It would not appear to encompass the State Department’s review and production of responsive records located as a result of a further search of the Office of the Executive Secretariat, referenced by the State Department in a letter dated July 27, 2015. The State Department previously asserted that its initial search of the Executive Secretariat yielded no responsive records, but a further search apparently located an unknown

¹ The request at issue was served on the State Department on May 2, 2011.

quantity of responsive or potentially responsive records. The State Department refuses to identify (1) where specifically these records were located; (2) when they were located; (3) why they were not located previously; (4) the volume of the records at issue; and (5) when their review and production will be completed. The State Department has committed to continued, rolling productions of undisclosed quantities of these records for an unspecified period of time. Accordingly, the stay would not apply to whatever the State Department is doing with respect to this unknown tranche of unidentified records that have yet to be produced nearly 4½ years after Judicial Watch requested them.

2. Judicial Watch raised several issues about Secretary Clinton's emails in the parties' most recent Supplemental Status Report. *See* Supplemental Joint Status Report, Sep. 3, 2015 (ECF No. 28) ("Supp. Status Rpt.") at 5-18. Judicial Watch possesses even less information about the emails and records of Ms. Abedin, Ms. Mills, Mr. Reines, and Mr. Sullivan than it possesses about Secretary Clinton's emails because the State Department has been even less forthcoming about these other officials' records. Judicial Watch has been able to piece together the following information from different State Department filings in different cases:

- On July 9, 2015, the State Department received 338 electronic and hard copy records from Ms. Abedin. *See* Defendant's Motion for Enlargement of Time to File its Motion for Summary Judgment, *Citizens United v. U.S. Dep't of State*, 15-cv-374 (EGS) (D.D.C.) (Sept. 16, 2015) (ECF No. 13) at 2.
- On August 7, 2015, the State Department received one pdf file containing 2,185 pages of records from Ms. Abedin. *Id.*

- On September 1, 2015, the State Department received 348 pages of records and 6,714 emails from Ms. Abedin in electronic format. *Id.*
- On June 25, 2015, the State Department received 30 pages of hard copy records from Ms. Mills. *Id.*
- On August 10, 2015, the State Department received 666 emails records and 106 attachments from Ms. Mills in electronic format. *Id.*
- On August 12, 2015, the State Department received 100 megabytes of electronic files and hard copy documents, consisting of one cubic foot of paper records, from Ms. Mills. *Id.*
- On July 28, 2015, the State Department received approximately 70,000 pages of “hard copy” of records from Mr. Reines, a large portion of which are press clippings assembled by the State Department on a daily basis and forwarded to Mr. Reines’ personal email account. Approximately 16,000 pages of these records “are *not* press clippings,” but the State Department has not identified them in any greater detail. *See* Defendant’s Status Report, *Leopold v. U.S. Dep’t of State*, Case No. 15-123 (RC) (D.D.C.) (Sept. 18, 2015) at para. 5.²
- On June 26, 2015, the State Department received an unknown quantity of records from Mr. Sullivan. *See* Declaration of John F. Hackett Regarding Exemptions Taken in Responsive Documents, *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 14-1242 (RCL) (D.D.C.) (July 7, 2015) (ECF No. 19-2) at ¶¶ 18-20.

² This same status report, the most recent submission by the State Department, also includes descriptions of the volume and types of records provided by Ms. Abedin and Ms. Mills, but uses different metrics. *Id.* at paras. 4 and 6. Based on this status report, the State Department now estimates that Ms. Abedin returned approximately 23,000 pages of records to the agency and Ms. Mills returned an estimated 11,870 pages of records. *Id.* All 23,000 pages of records from Ms. Abedin, approximately 2,045 documents (not pages) from Ms. Mills, and the 16,000 pages of non-press clipping materials from Mr. Reines have been loaded onto a State Department network and are now electronically searchable. *Id.* at paras. 4-6.

3. In the parties' most recent supplemental status report, Judicial Watch asked that it be provided, or be allowed to obtain, certain information about Secretary Clinton's emails and the emails and other records of these top advisors. Supp. Status Rpt. at 14-16. Judicial Watch believes this information is essential to determining whether the State Department has satisfied its FOIA obligations under the extraordinary, unprecedented circumstances created by Secretary Clinton's exclusive use of a "clintonemail.com" email server to conduct official State Department business, and, if not, how that failure might be remedied.³ Instead of providing the requested information, which is necessary to resolve the host of legal questions raised by the State Department's failure to records manage Secretary Clinton's emails properly, the State Department filed its motion to stay. The motion guarantees that resolution of these issues will be delayed further.

4. The parties recently agreed on search terms for the approximately 30,490 federal records returned to the State Department by Mrs. Clinton. The only issue that remains with respect to these federal records is when the search will be conducted. Judicial Watch has asked that it be conducted expeditiously given that the State Department has acknowledged that the records are now readily searchable and have been searched in response to other FOIA requests, which was not the case when the parties filed their June 22, 2015 joint status report. *See* Supp. Status Rpt. at 13; *see also id.* at 17-18. The State Department prefers to wait until January 2016 to commence the search. *Id.* Judicial Watch offered to meet with the State Department to try to reach agreement on a schedule for completing searches of Secretary Clinton's emails that would take into account other FOIA cases and other FOIA requestors, but the State Department did not

³ Ms. Abedin also used a "clintonemail.com" email account to conduct official, State Department business. The State Department has not disclosed whether other agency officials did so as well.

respond.⁴ *See* Exhibit 1. Regardless, neither a “coordinating judge” nor a stay pending the designation of a “coordinating judge” is necessary to resolve this relatively simple scheduling dispute.

5. The State Department has asserted in other litigation that it has no obligation to search records returned by Secretary Clinton’s top aides. *See* Joint Status Report, *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 15-692 (APM) (D.D.C.) (July 29, 2015) (ECF No. 11) at 7 n.3. (“Defendant maintains that a reasonable search . . . only requires a search of the Clinton emails. While it is true that Defendant has agreed to an additional discrete search – specifically, to search any emails that . . . it has received from Ms. Mills, Mr. Sullivan, and Ms. Abedin – it did not do so because it believes the FOIA requires such a search.”); Defendant’s Opposition to Plaintiff’s Motion to Allow Time for Limited Discovery Pursuant to Rule 56(d), *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 14-1242 (RCL) (D.D.C.) (Sept. 18, 2015) (ECF No. 27) at 3 (“Despite the fact that it had no obligation under FOIA to do so, State was willing to stay summary judgment briefing and ask the Court to set a schedule to allow it to search those documents for records responsive to the FOIA request, notwithstanding that those records were not in State’s possession and control at the time the FOIA search was conducted.”); *see also* Defendant’s Motion to Stay Pending Resolution of Its Motion for Designation of Coordinating Judge, *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 14-1511(ABJ) (D.D.C.) (ECF No. 17) at 4 (“State is willing to search [these records] if Plaintiff so wishes, notwithstanding that those records were not in State’s possession and control at the time the FOIA search was conducted.”).

6. Judicial Watch seeks no less and no more than what FOIA requires. If it is the State Department’s position that it must search these materials to satisfy its FOIA obligations,

⁴ The lack of a response by the State Department constitutes a failure to meet and confer. LCvR 7(m).

the agency should say so. Judicial Watch would then be amenable to discussing a reasonable schedule for completion of this task. If the State Department disputes that it has an obligation to search these materials, it should say so as well. Staying this action indefinitely so that a “coordinating judge” can be appointed to oversee the completion of a task the agency disputes it has any obligation to undertake puts the cart before the horse.⁵ It also demonstrates that the motion to stay is unfounded.

7. As of September 17, 2015, the State Department had filed motions to stay in only 26 lawsuits, not the 32 it identified in its “consolidation motion.” Of those 26 motions, 6 have been denied. *See* Minute Order, *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 13-1363 (EGS) (D.D.C.) (Sept. 11, 2015); Minute Order, *Bauer v. Central Intelligence Agency*, Case No. 14-963 (APM) (D.D.C.) (Sept. 16, 2015); Minute Order, *Joseph v. U.S. Dep’t of State*, Case No. 14-1896 (RJL) (D.D.C.) (Sept. 10, 2015); Minute Order, *Citizens United v. U.S. Dep’t of State*, Case No. 15-374 (EGS) (D.D.C.) (Sept. 11, 2015); Minute Order, *Judicial Watch, Inc. v. U.S. Dep’t of State*, 15-692 (APM) (D.D.C.) (Sept. 16, 2015); Minute Order, *Citizens United v. U.S. Dep’t of State*, Case No. 15-1031 (EGS) (D.D.C.) (Sept. 11, 2015). Only one motion has been granted, and that ruling was issued before the requestor even filed a response. *See* Minute Order, *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 14-1511 (ABJ) (D.D.C.) (Sept. 10, 2015). A second was granted in part and denied in part. *See* Minute Order, *Citizens United v. U.S. Dep’t of State*, Case No. 15-518 (ABJ) (D.D.C.) (Sept. 18, 2015). A third is being held in abeyance. *See* Minute Order, *Judicial Watch, Inc. v. U.S. Dep’t of Justice*, Case No. 15-321 (CKK) (D.D.C.) (Sept. 9, 2015).

⁵ If the State Department disputes that it has an obligation to search these materials, but asserts that it will do so voluntarily, it has provided no assurances to this effect. A voluntary search also would raise substantial questions about this Court’s jurisdiction to adjudicate issues about the scope of the agency’s search and any claims of exemption.

8. Although the State Department downplays it in its motion, the agency not only seeks an order designating a “coordinating judge,” but also an order transferring 32 ongoing FOIA cases pending before 16 district judges to whomever is designated as the “coordinating judge.” This “coordinating judge” will then decide “common legal, factual, and procedural issues.” The law could not be any clearer that one district judge cannot order another district judge to take action in a case pending before that judge. *See, e.g., Klayman v. Kollar-Kotelly*, 2013 U.S. App. LEXIS 10148 (D.C. Cir. May 20, 2013); *In re McBryde*, 117 F.3d 208 (5th Cir. 1997). It makes no difference if the district judge issuing the order is the chief judge or the order is an order of reassignment. *In re McBryde*, 117 F.3d at 225 (“[N]ot one case upholds reassignment of a pending case by a chief judge without the consent of the presiding judge.”). As a result, it is highly unlikely that the State Department will prevail on its coordination/transfer motion. There is no reason to stay this action pending a ruling in the State Department’s meritless miscellaneous action. *See also* Respondent Judicial Watch, Inc.’s Motion to Dismiss, or, in the Alternative, Opposition to Designation/Transfer Motion, *In re U.S. Dep’t of State FOIA Litigation Regarding Emails of Certain Former Officials*, Case No. 15-ms-1188 (Unassigned) (D.D.C.) (ECF No. 24) (Sept. 14, 2015).

WHEREFORE, Judicial Watch respectfully requests that the motion to stay be denied.

Dated: September 21, 2015

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ Paul J. Orfanedes
PAUL J. ORFANEDES
D.C. Bar No. 429716

/s/ Jason B. Aldrich
JASON B. ALDRICH
D.C. Bar No. 495488

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Attorneys for Plaintiff

EXHIBIT 1

TO

**PLAINTIFF'S OPPOSITION TO DEFENDANT'S
MOTION TO STAY**

Paul Orfanedes

From: Shapiro, Elizabeth (CIV) <Elizabeth.Shapiro@usdoj.gov>
Sent: Thursday, September 03, 2015 11:17 AM
To: Paul Orfanedes; Berman, Marcia (CIV)
Subject: RE: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Paul,
I asked Rob, and he simply forgot to send the follow up message he had written. Apologies.

From: Paul Orfanedes [mailto:POrfanedes@JUDICIALWATCH.ORG]
Sent: Thursday, September 03, 2015 11:07 AM
To: Shapiro, Elizabeth (CIV); Berman, Marcia (CIV)
Subject: FW: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Elizabeth/Marcia:

Further to our conversation this morning, the last communication I received from Robert Prince was at 11:01 a.m. yesterday. I sent him this email at 1:51 p.m. and a second at 4:04 p.m., which I'm sending you separately. I received no response to either email.

PJO

From: Paul Orfanedes
Sent: Wednesday, September 02, 2015 1:51 PM
To: 'Prince, Robert (CIV)'
Subject: RE: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Robert:

We'd also like to see these cases move forward more efficiently and expeditiously, but I'm not sure how your proposal does that. Maybe I'm not understanding your concerns.

Your proposed order would have the coordinating judge "resolve and manage" all "issues of law, fact, and procedure" regarding the "search and production of responsive records within the recently provided documents." If your concern is coming up with an order for completing searches of the 55,000 Clinton emails between now and the January 29, 2016 date set by Judge Contreras, we're happy to do that for our cases, and we would try to do so in a way that accommodates the other requestors as well. The same would be true for the Abedin, Mills, Reines, and Sullivan materials. At this point however, I'm not sure we have enough information about these latter sets of materials to have an informed discussion, but I'm sure we could work something out. Off the top of my head, I'm not even sure which (or how many) of our 16 cases you listed might implicate these latter sets of materials such that it makes sense to include them all in your proposal. I'm sure the judges in our various cases also would not object to reasonable, agreed, coordinated production schedules.

If your concern is something broader than completing searches of the 55,000 Clinton emails and the Abedin, Mills, Reines, and Sullivan materials, what would your proposal leave for the originally assigned judges to decide? For example, in 14-1242, which is before Judge Lamberth, State moved for summary judgment and we filed Rule 56(d) motion in response. Would your proposal take those motions away from Judge Lamberth and put them on hold? If so,

for how long? What about Judge Sullivan's order in 13-1363 requiring State to ask the FBI for information about what the FBI recovers from the server? Is that within or outside your proposal? You say it's not feasible to have a detailed discussion about how each case might proceed under your proposal, but as I'm sure you can imagine, that is a very important issue, at least for us. In some of our cases, we've been trying to obtain records for more than four years.

If your concern is about requests for information or discovery about the "Clinton server" and related issues – it's not clear to me if that is within or outside your proposal or if it is even an issue in all 16 of our cases, or all 30 + cases you seek to include in your proposal – we might be able to work something out there as well. If the State Department would work with us to enable us to get answers to some of our basic questions in one case, that same information could be used in other cases as well. We wouldn't need to make requests for information or discovery in multiple lawsuits. I'm not aware of any non-Judicial Watch cases in which have these issues have been raised. I'm not asserting that it hasn't; I'm just not aware of any. How many others are there?

In the end, and without more time for us to discuss logistics and think about these question, I could see a fair amount of disputes – and more delay – about what is within or outside the scope of the referral to the coordinating judge, what is still within the purview of the originally assigned judge, how these disputes will be resolved, etc. We could end up wasting or at least diminishing the substantial progress made to date and the substantial efforts expended by the courts. If you'd like to sit down and discuss your concerns, how we might try to accommodate them, and the status of our various cases, as I offered Ms. Shapiro in early July, we'd be happy to do so.

Finally, one more concern about your proposed procedure, under LCvR 40.3, miscellaneous cases are assigned on a random basis. How do you propose getting your motion in front of the Chief Judge in light of the Court's rule?

PJO

From: Prince, Robert (CIV) [<mailto:Robert.Prince@usdoj.gov>]

Sent: Wednesday, September 02, 2015 11:01 AM

To: Paul Orfanedes

Subject: RE: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Paul,

The plan is to seek to coordinate 30+ cases (a specific list will be included in the motion).

What we're proposing is actually very simple. We plan to leave the involved questions to the coordinating judge, whom I assume would seek input from the parties. I've attached the proposed order and, as you can see, it simply asks for the designation of a coordinating judge to "to resolve and manage issues of law, fact, and procedure arising in the Coordinated Cases from the search and production of responsive records within the recently provided documents" ("recently provided documents" is defined in the order). That is the relief we're requesting.

In the email I sent yesterday morning, I gave some specific examples of what those issues would include ("scheduling of searches of the recently provided documents, requests for information and discovery about those documents, and requests for orders relating to preservation"); the motion explains why the Court and the parties would benefit from coordination of these issues that have arisen in multiple cases in the district. But we are not specifically asking the Court to manage those issues in a particular way. So the motion we're addressing here does not seem particularly involved.

Given that there are 12 other plaintiffs (all but one of whom have responded with a position statement to include in the motion), it is not feasible to engage in detailed discussions about how these cases will proceed once coordinated. This is one of the reasons that our motion contemplates that the coordinating judge resolve the detailed, involved questions, with input from all parties. We've described the relief we are seeking; discussing questions not addressed by the motion are not necessary to meaningfully confer.

Regarding the use of a miscellaneous action, there is no precise rule that provides for what we are seeking, which is not traditional consolidation. Since we will be filing a notice with the motion attached in each case, all 17 judges and 13 plaintiffs will receive notice, and the Court will be able to respond as it sees fit. We will, of course, follow direction from the Court if it turns out a miscellaneous action is inappropriate.

Rob

Robert Prince

Trial Attorney

U.S. Department of Justice, Civil Division

Federal Programs Branch

(202) 305-3654

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From: Paul Orfanedes [<mailto:POrfanedes@JUDICIALWATCH.ORG>]

Sent: Tuesday, September 01, 2015 9:26 PM

To: Prince, Robert (CIV)

Subject: RE: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Robert:

I'm familiar with miscellaneous actions relating to discovery subpoenas, administrative subpoenas, judgment enforcement, registration of foreign judgments, etc. Frankly, I've never heard of a party to an ongoing lawsuit opening a miscellaneous action in the same court to move for the designation of a "coordinating judge." In order to better understand what you propose, can you explain, as a preliminary matter, how you settled on this particular procedure? What rule or statute are you relying on? I recall that a coordinating judge was designated for the Guantanamo Bay detainee cases, but it was my understanding that was done administratively by the court – I think it was by resolution of the Executive Session – not by a party or motion. Also, which other cases do you propose to include in this miscellaneous action? All 35 or so? As I indicated previously, what you propose is a involved question and it's going to take some time for us to even understand it. I'm sure we'll have more question, but don't think we can say we've "met and conferred" unless we understand it better.

Elizabeth Shapiro told Judge Contreras on July 9th, "And there are approximately 35 at various stages and in various forms. There are difficulties in terms of how they would be consolidated, and since some of them are different claims, there are different parties, there are different stages. So the mechanics of that have eluded us to date, but we haven't given up on the idea." I asked her after the hearing if DOJ wanted to try to talk about it. There was no real response, and we never heard anything further until your email of this morning. Not only do I not understand what you are proposing, but I don't understand why there seems to be a sudden rush to file something.

PJO

From: Prince, Robert (CIV) [<mailto:Robert.Prince@usdoj.gov>]

Sent: Tuesday, September 01, 2015 3:44 PM

To: Paul Orfanedes; Ramona Cotca; Michael Bekesha; Jason Aldrich; Lauren Burke; Chris Fedeli

Cc: Elliott, Stephen (CIV); Edney, Marsha (CIV); Wechsler, Peter (CIV); Todd, James (CIV); Thurston, Robin F. (CIV); Carmichael, Andrew E. (CIV); Anderson, Caroline J. (CIV); Olson, Lisa (CIV); Riess, Daniel (CIV)

Subject: RE: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Paul, can I put your position down as "has not yet taken position" (or, if you prefer, "needs to see motion before taking position")?

From: Paul Orfanedes [<mailto:POrfanedes@JUDICIALWATCH.ORG>]

Sent: Tuesday, September 01, 2015 10:43 AM

To: Prince, Robert (CIV); Ramona Cotca; Michael Bekesha; Jason Aldrich; Lauren Burke; Chris Fedeli

Cc: Elliott, Stephen (CIV); Edney, Marsha (CIV); Wechsler, Peter (CIV); Todd, James (CIV); Thurston, Robin F. (CIV); Carmichael, Andrew E. (CIV); Anderson, Caroline J. (CIV); Olson, Lisa (CIV); Riess, Daniel (CIV)

Subject: RE: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Robert:

We'll give it some thought. We won't decide by your 4:00 p.m. deadline. At this point, it's a more involved question than that.

PJO

From: Prince, Robert (CIV) [<mailto:Robert.Prince@usdoj.gov>]

Sent: Tuesday, September 01, 2015 9:38 AM

To: Ramona Cotca; Paul Orfanedes; Michael Bekesha; Jason Aldrich; Lauren Burke; Chris Fedeli

Cc: Elliott, Stephen (CIV); Edney, Marsha (CIV); Wechsler, Peter (CIV); Todd, James (CIV); Thurston, Robin F. (CIV); Carmichael, Andrew E. (CIV); Anderson, Caroline J. (CIV); Olson, Lisa (CIV); Riess, Daniel (CIV)

Subject: Seeking Judicial Watch's Position on Motion to Designate a Coordinating Judge and Corresponding Stay Motions in 16 cases v. State Department

Dear counsel,

This email is in reference to the following cases:

Judicial Watch v. U.S. Dep't of State, et al., Civil No. 12-893 (JDB)

Judicial Watch v. U.S. Dep't of Defense, et al, Civil No. 14-812 (KBJ)

Judicial Watch v. U.S. Dep't of State, Civil No. 12-2034 (RW)

Judicial Watch v. U.S. Dep't of State, Civil No. 13-1363 (EGS)

Judicial Watch v. U.S. Dep't of State, Civil No. 13-772 (CKK)

Judicial Watch v. U.S. Dep't of State, Civil No. 14-1242 (RCL)

Judicial Watch v. U.S. Dep't of State, Civil No. 14-1511 (ABJ)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-1128 (EGS)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-321 (CKK)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-646 (CKK)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-684 (BAH)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-687 (JEB)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-688 (RC)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-689 (RDM)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-691 (APM)

Judicial Watch v. U.S. Dep't of State, Civil No. 15-692 (APM)

I seek your position on two motions. First, the Department of State intends to file a motion with the Chief Judge seeking designation of a coordinating judge for resolution and management of common issues of law, fact, and procedure across numerous FOIA suits, including these cases, that implicate the search and production of documents that were provided

to the Department by former Secretary of State Hillary Clinton and, to the extent applicable, certain other former employees (Cheryl Mills, Huma Abedin, Jacob Sullivan, and Phillippe Reines). In each case, the transferring judge would retain the case for all other purposes, including searches for responsive records other than the provided documents. The motion envisions coordination of common issues such as the scheduling of searches of the recently provided documents, requests for information and discovery about those documents, and requests for orders relating to preservation.

This coordination motion will be filed in a miscellaneous action. Once it is filed, the Department will file a notice in each of the above-listed cases, along with a copy of the motion itself.

Second, the Department will be filing a motion in each of the above-listed cases seeking a stay of those portions of each case addressing the documents provided to the Department by former Secretary Clinton and the other former employees until the coordination motion is decided, and, if it is granted, until the coordinating judge issues an order determining how to proceed in the cases listed in that motion. The stay sought would not affect those portions of the cases that deal with the search and production of other documents.

Could you please let me know your position with respect to each above-listed case by 4 PM today?

Best,

Rob

Robert Prince

Trial Attorney

U.S. Department of Justice, Civil Division

Federal Programs Branch

(202) 305-3654

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

JUDICIAL WATCH, INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

No. 1:13-cv-772 -CKK

PROPOSED ORDER

Upon consideration of Plaintiff's Opposition to Defendant's Motion to Stay Pending Resolution of Its Motion for Designation of Coordinating Judge, and the entire record herein, IT IS HEREBY ORDERED that:

1. Defendant's Motion is DENIED.

Hon. Colleen Kollar-Kotelly, U.S.D.J.