

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

JUDICIAL WATCH, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 13-cv-1363 (EGS)
)	
U.S. DEPARTMENT OF STATE,)	
)	
Defendant.)	

**PLAINTIFF JUDICIAL WATCH’S NOTICE OF
ADDITIONAL RELEVANT EVIDENCE**

1. The State Department time and again has informed this Court that it only requested via a November 2014 letter, a version of which was sent to several former secretaries of state, that Mrs. Clinton return records to the State Department. *See* July 31, 2015 Transcript at pp. 18-22 (The State Department sent letters “to the former secretaries requesting that they provide all documents that may be federal records including e-mails on a non-state.gov account. The former secretary provided 55,000 pages.”); *see also* Defendant’s Notice of Filing (Aug. 6, 2015) (ECF No. 18) (only submitting the November 2014 letter); Declaration of John F. Hackett (Aug. 14, 2016) (ECF No. 26-1) at ¶ 13 (stating that the State Department received approximately 55,000 pages of emails from Mrs. Clinton “in response to a request from the [State] Department that . . . former Secretaries or their representatives” return certain records to the State Department); Defendant’s Response to Plaintiff’s Notice of Pertinent Information (Oct. 6, 2015) (ECF No 43); Defendant’s Motion for Summary Judgment (Nov. 13, 2015) (ECF No. 47-1) at 4 (“In November 2014, [the State Department] wrote to the representative of former Secretary Clinton, as well as to representatives of other former Secretaries of State, and asked

them to assist State in fulfilling its obligations under the Federal Records Act.”); Third Declaration of John F. Hackett (Nov. 13, 2015) (ECF No. 47-2) at ¶ 42 (“On December 5, 2014, former Secretary Clinton provided the Clinton emails in response to a request from the [State] Department that . . . former Secretaries or their representatives” return certain records to the State Department.).

2. In its Motion for Discovery, Plaintiff provided evidence suggesting that the State Department has been less than forthright with the Court concerning when and how it requested that Mrs. Clinton return records. *See* Motion for Discovery at 20-22.

3. Specifically, Plaintiff referenced records produced by Platte River Networks to the Select Committee showing that, in July 2014, Mrs. Clinton asked Platte River Networks to copy Mrs. Clinton’s emails located on the “clintonemail.com” system onto a DVD and that Platte River Networks complied with the request. *Id.* at 20. Plaintiff also cited to testimony provided by Ms. Mills to the Select Committee in which she stated that in “late summer” she learned that “the State Department was ‘going to be needing to augment their records and would be making a request to do that.’” *Id.* (quoting Mills Interview at pp. 250-51).

4. Because of the apparent conflict between the State Department’s repeated assertion and the limited available evidence, Plaintiff sought discovery, in part, to uncover specific facts about the State Department’s request for the return of records from the “clintonemail.com” record system. Motion for Discovery at 26. Such facts include:

- Prior to October 2014, did the State Department request that Mrs. Clinton and Ms. Abedin return all federal records located on the “clintonemail.com” system;
- When and under what circumstances did the State Department realize it did not have all federal records from the “clintonemail.com” system; and

- Once the State Department realized it did not have all federal records from the “clintonemail.com” system, what steps did it take to gain possession of them.

Id.

5. Plaintiff just recently received additional evidence that demonstrates that the State Department has been less than forthright with the Court concerning when and how it requested that Mrs. Clinton return records.

6. On August 22, 2014, in an email to David E. Wade, then Chief of Staff to Secretary of State John F. Kerry, Ms. Mills stated:

I wanted to follow up on your request last month about getting hard copies of Secretary Clinton’s emails to/from accounts ending in “.gov” for her tenure at the Department. I will be able to get that to you, to the best of its availability. Given the volume, it will take some time to do but I wanted to let you know that I am working to get it to you.¹

7. This email indisputably shows that the State Department first asked Mrs. Clinton to return records as late as July 2014, not November 2014 as the State Department would have this Court and Plaintiff believe.

8. Plaintiff should not have to rely on the dribs and drabs of information it receives from the State Department as it slowly processes the various FOIA requests submitted by Plaintiff and other requesters. This is even more so since the Court specifically asked the State Department about how and when it requested that Mrs. Clinton return records. *See* July 31, 2015 Transcript at pp. 18-22; *see also* July 31, 2016 Minute Order.

9. This newly discovered email again demonstrates that discovery is necessary for Plaintiff to once-and-for-all uncover and present all, relevant admissible evidence to the Court about whether the State Department and Mrs. Clinton deliberately thwarted FOIA.

¹ Plaintiff received this record in response to another FOIA request to the State Department. The entire email chain as received by Plaintiff is attached as Exhibit A.

Dated: February 16, 2016

Respectfully submitted,

/s/ Michael Bekesha

Michael Bekesha

D.C. Bar No. 995749

JUDICIAL WATCH, INC.

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Counsel for Plaintiff Judicial Watch, Inc.

Exhibit A

Drake, Jerry C

From: Visek, Richard C
Sent: Tuesday, August 26, 2014 6:43 AM
To: McLeod, Mary; Keller, Andrew N
Subject: Re: Following Up

RELEASE IN PART
B5, B6

[Redacted]

B5
B6

From: Visek, Richard C
Sent: Sunday, August 24, 2014 11:55 AM Eastern Standard Time
To: McLeod, Mary
Subject: FW: Following Up

fysa

From: Visek, Richard C
Sent: Sunday, August 24, 2014 11:55 AM
To: Wade, David E
Cc: Keller, Andrew N
Subject: RE: Following Up

REVIEW AUTHORITY: Frank Tumminia, Senior
Reviewer

David [Redacted] Regards, Rich

B5

From: Visek, Richard C
Sent: Friday, August 22, 2014 3:58 PM
To: Wade, David E
Cc: Keller, Andrew N
Subject: FW: Following Up

David [Redacted]

B5

Let me know if you have any questions. Regards, Rich

B6

From: Cheryl Mills [mailto:cheryl.mills@state.gov]
Sent: Friday, August 22, 2014 9:20 AM
To: Wade, David E
Cc: Visek, Richard C; Philippe Reines
Subject: Following Up

Dear David (and Rich)

I wanted to follow up on your request last month about getting hard copies of Secretary Clinton's emails to/from accounts ending in ".gov" for her tenure at the Department.

I will be able to get that to you, to the best of its availability. Given the volume, it will take some time to do but I wanted to let you know that I am working to get it to you.

Hope you are having a great end to your summer.

Best.

cdm

(Sorry for not copying Jen, I don't have her email).