

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

JUDICIAL WATCH, INC.,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No. 14-1242 (RCL)
)	
U.S. DEPARTMENT OF STATE,)	
)	
<i>Defendant.</i>)	
)	

**PLAINTIFF JUDICIAL WATCH, INC.’S NOTICE
OF PROPOSED ORDER FOR DISCOVERY**

Plaintiff Judicial Watch, Inc. (“Judicial Watch”), by counsel, respectfully submits the attached [Proposed] Order for Discovery, pursuant to the Court’s March 29, 2016 Order (DKT No. 39).

As the Court is aware, this case relates to records of the Office of the Secretary pertaining to talking points provided to Ambassador Susan Rice following the September 11, 2012 attacks on the U.S. Consulate in Benghazi, Libya and communications surrounding the talking points. *See* Compl., ¶ 5. The discovery requested herein is tailored to this case and is in addition to the scope of discovery in the case before Judge Emmet G. Sullivan, captioned *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 13-1363 (D.D.C.) (EGS) (DKT No. 73) (also referred to as “State 13-1363”).¹

¹ In the State 13-1363 case, Judge Sullivan ordered the scope of permissible discovery to be the creation and operation of “clintonemail.com” for State Department business, as well as the State Department’s approach and practice for processing FOIA requests that potentially impacted emails of Secretary Clinton and Huma Abedin, and State’s processing of the FOIA request at issue in State 13-1363. *See* May 4, 2016 Order, pp. 12-13, *Judicial Watch, Inc. v. U.S. Dep’t of State*, Case No. 13-1363 (D.D.C.) (DKT No. 73). Plaintiff will initially depose seven individuals: Stephen D. Mull, Lewis Lukens, Patrick F. Kennedy, Cheryl D. Mills, Huma

As stated in the attached proposed Order, Plaintiff intends to conduct discovery pursuant to the relevant Federal Rules of Civil Procedure. In regards to Document Request Nos. 1, 2 and 3 therein, Plaintiff respectfully requests the Court to shorten the time period for Defendant to fully respond to Plaintiff's document requests to 21 days. Plaintiff intends to depose the individuals identified therein within 12 weeks from the first day following the Court's Order. In the event conflicts exist for scheduling third-party depositions, Plaintiff will seek leave from the Court to conduct those depositions on specific proposed dates outside the approved discovery period that are mutually available to all parties and third-parties.

Dated: May 16, 2016

Respectfully submitted,

JUDICIAL WATCH, INC.

/s/ Ramona R. Cotca

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Attorneys for Plaintiff

Abedin, Bryan Pagliano and a corporate designee. *Id.* at pp. 13-14. Defendant's answers to four interrogatories are also due within 21 days, by May 25, 2016.

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U.S. DEPARTMENT OF STATE,)	
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<i>Defendant.</i>)	
)	

[PROPOSED] ORDER FOR DISCOVERY

Pursuant to the Court’s March 29, 2016 Order, Plaintiff, Judicial Watch, Inc.’s Notice of Proposed Order for Discovery, any response, and the record herein, it is hereby **ORDERED** that Plaintiff shall take the following discovery in this case:

Document Requests

1. All documents that concern or relate to the processing of any and all searches of the Office of the Secretary for emails relating to the September 11, 2012 Benghazi attack and its aftermath, including but not limited to:
 - a. searches for records for the Accountability Review Board;
 - b. searches in response to congressional inquiries (including requests from the House Committee on Oversight and Government Reform dated September 20, 2012, October 2, 2012, October 29, 2012, and November 1, 2012);
 - c. searches in preparation of Secretary Clinton’s testimony before Congress on January 23, 2013; and
 - d. searches in response to FOIA requests, including but not limited to the FOIA request submitted by Plaintiff in this case.

Such documents would include the tasking, tracking and reporting records for such searches. Forms DS-1748 and any “search slips,” “search tasker,” “search details,” shall also be considered responsive.

2. All communications that concern or relate to the processing of all searches referenced in Document Request No. 1 above, including directions or guidance about how and

where to conduct the searches, whether and how to search Secretary Clinton's email, and issues, problems, or questions concerning the searches and/or search results.

3. All records that concern or relate to the State Department's policies, practices, procedures and/or actions (or lack thereof) to secure, inventory, and/or account for all records, including emails, of Secretary Clinton, Cheryl Mills, Huma Abedin and Jacob Sullivan prior to their termination of employment with the State Department.

Depositions

1. 30(b)(6) witness(es) to testify about:
 - a. the searches referenced in Document Request Nos. 1 and 2 above; and
 - b. the policies, practices, procedures and/or actions referenced in Document Request No. 3 above.

2. Cheryl Mills, to the extent not included in discovery in State 13-1363, to testify about:
 - a. the searches referenced in Document Request Nos. 1 and 2 above;
 - b. the policies, practices, procedures and/or actions referenced in Document Request No. 3 above;
 - c. the use of non-state.gov email account(s) to conduct official State Department business by Cheryl Mills and other officials and staff within the Office of the Secretary; and
 - d. the subsequent "private" search of Secretary Clinton's "clintonemail.com" email account.

(Cheryl Mills was Secretary Clinton's Chief of Staff throughout her tenure and was involved in the document productions of the various inquiries related to the Benghazi attack and its aftermath. She was also identified by Defendant as an official with relevant records in this case.)

3. Jacob Sullivan to testify about:
 - a. the searches referenced in Document Request Nos. 1 and 2 above;
 - b. the policies, practices, procedures and/or actions referenced in Document Request No. 3 above; and
 - c. use of non-state.gov email account(s) to conduct official State Department

business by Jacob Sullivan and other officials and staff in the Office of the Secretary.

(Jacob Sullivan was Secretary Clinton's senior advisor and Deputy Chief of Staff during her tenure. He was also identified by Defendant as one of the officials with relevant records in this case).

4. Secretary Hillary Rodham Clinton to testify about:
 - a. the searches referenced in Document Request Nos. 1 and 2 above;
 - b. the policies, practices, procedures and/or actions referenced in Document Request No. 3 above; and
 - c. use of non-state.gov email account(s) to conduct official State Department business by Secretary Clinton and other officials and staff in the Office of the Secretary.

(Judge Sullivan noted in his May 4, 2016 Order that he may order the deposition of Secretary Clinton in State 13-1363 if he deems it necessary based on information learned during discovery of that case. In the event Judge Sullivan orders the deposition of Secretary Clinton in State 13-1363, Plaintiff will work with defense counsel and counsel for Secretary Clinton to conduct a joint deposition in both cases.) *See Landmark Legal Found. v. Env'tl. Prot. Agency*, 959 F. Supp. 2d 175 (D.D.C 2013) (permitting the deposition of a former agency head to determine use of private email account for official government business).

5. Lauren Jiloty to testify about:
 - a. the searches referenced in Document Request Nos. 1 and 2 above;
 - b. the policies, practices, procedures and/or actions referenced in Document Request No. 3 above; and
 - c. her knowledge and use of non-state.gov email accounts by persons in the Office of the Secretary during Secretary Clinton's tenure and procedures and efforts (or the lack thereof) for accessing and searching same.

(Lauren Jiloty was Special Assistant to Secretary Clinton during her tenure.)

6. Monica Hanley to testify about:
 - a. the searches referenced in Document Request Nos. 1 and 2 above;
 - b. the policies, practices, procedures and/or actions referenced in Document Request No. 3 above; and

- c. her knowledge and use of non-state.gov email accounts by persons in the Office of the Secretary during Secretary Clinton's tenure and procedures and efforts (or the lack thereof) for accessing and searching same.

(Monica Hanley was a staff member in the Office of the Secretary during Secretary Clinton's tenure.)

7. Clarence Finney to testify about:

- a. the searches referenced in Document Request Nos. 1 and 2 above;
- b. the policies, practices, procedures and/or actions referenced in Document Request No. 3 above; and
- c. his knowledge about the use of non-state.gov email accounts by persons in the Office of the Secretary during Secretary Clinton's tenure and procedures and efforts (or the lack thereof) for accessing and searching same.

(Clarence Finney is currently the Deputy Director, Executive Secretariat Staff. During Secretary Clinton's tenure he served as principal advisor and records management expert to the Executive Secretary on matters relating to the overall management and control of all correspondence and records management for the Secretary of State, Deputy Secretary of State and department Under Secretaries.)

It is hereby further **ORDERED** that:

Plaintiff shall conduct discovery pursuant to the relevant Federal Rules of Civil Procedure. Plaintiff shall conclude discovery within 12 weeks of this Order and Defendant shall serve its complete response to Plaintiff's Document Request Nos. 1, 2 and 3 above within 21 days of the Court's Order. In the event conflicts exist for scheduling third-party depositions, Plaintiff will seek leave from the Court to conduct those depositions on specific proposed dates outside the approved discovery period that are mutually available to all parties and third-parties.

Dated:

U.S. District Court Judge

Cc: All counsel of record