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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWN

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

JUDICIAL WATCH, INC.,)
))
Plaintiff,)
))
vs.)
))
THE OFFICE OF THE MAYOR)
OF THE CITY OF CHICAGO)
))
and)
))
RAHM EMANUEL, in his)
official capacity as Mayor of the)
city of Chicago)
Defendants.)
_____)

Case No.: 16 CH 00462

Honorable Judge Demacopoulos

**PLAINTIFF'S SECOND PETITION FOR RULE TO SHOW CAUSE
WHY DEFENDANTS SHOULD NOT BE HELD IN CONTEMPT**

NOW COMES Plaintiff Judicial Watch, Inc. ("Plaintiff"), by counsel, and petitions this Court to enter an order for rule to show cause why Defendants The Office of the Mayor of the City of Chicago and Rahm Emanuel, in his official capacity as Mayor of the City of Chicago, should not be held in contempt, and in support thereof states as follows:

1. On September 23, 2016, after a full hearing on Defendants' Motion to Dismiss Plaintiff's Complaint, this Honorable Court concluded as follows:

- (a) that Mayor Emanuel is a proper party to this cause,
- (b) denied Defendants' motion to dismiss as to Counts I and II of Plaintiff's Complaint;
- (c) did not rule on Defendant's motion to dismiss as to Count III of Plaintiff's Complaint;

- (d) ordered that “the parties are to decide the search terms, and Defendants’ response shall come from the FOIA officer for the Officer of the Mayor.”

See Attached Exhibit A, Order of September 23, 2016).

2. This Court further stated in open court that the parties are to meet and confer and agree upon search terms, saying that it would be “up to the parties to decide how they wish to define the search terms,” (See Attached Exhibit B, transcript of proceedings of September 23, 2016, p. 27) and for a “new search to be done.” (See p. 39).

3. Subsequent to the Court’s order, the parties met and conferred. Plaintiff proposed 7 search terms and asked that the email accounts of 58 specific employees of the Office of the Mayor be searched for those specific terms for the time period of October 20, 2014 to December 2, 2015. Plaintiff also asked Defendants for information about how searches could be conducted so that Plaintiff could narrow the search parameters.

4. On November 3, 2016, Defendants informed Plaintiff’s counsel that the searches yielded a result of over 900,000 emails. Defendants did not identify the methods it used or what its capabilities are.

5. Later that day, Plaintiff again asked Defendants about how searches could be conducted so that it could narrow the search parameters. For example, Plaintiff wants to know if Defendants can conduct searches with AND clauses or w/NUMBER OF WORDS clauses. In addition, Plaintiff asked Defendants if it is possible to break down the search results by terms and/or email accounts. Plaintiff believes such information may also allow it to narrow the search results.

6. On November 8, 2016, Plaintiff requested that Defendants confirm that they are searching the non-government email accounts of the 58 employees to the extent those employees

were using other accounts besides their official government accounts to conduct official government business.

7. Plaintiff subsequently followed up with Defendants by email on November 16, 2016, November 28, 2016, and December 6, 2016 relative to all of the above issues.

8. Because Defendants had failed to respond to Plaintiff's inquires, Plaintiff filed its first Petition for Rule to Show Cause Why Defendants Should Not be Held in Contempt on January 9, 2017.

9. The parties conferred on January 25, 2017. At that time, Defendants informed Plaintiff that they would be providing the number of "hits" for the specific words as well as a list of the employees of Mayor's Office with their job titles. (See Attached Group Exhibit C, emails between counsel).

10. On February 28, 2017, Defendants provided Plaintiff with a list of all employees at the Mayor's Office from October 2014 through December 2015, with colloquial job descriptions. See Group Exhibit C.

11. That same day, Plaintiff once again narrowed the number of email accounts to be searched from 58 employees to 21 employees. See Group Exhibit C.

12. On March 2, 2017, Defendants asked Plaintiff to further narrow the search parameters. Plaintiff agreed. See Group Exhibit C.

13. Based on email communications on March 3, 2017, the parties agreed on a two-prong search. First, Defendants were to search 5 custodians that were not part of the original December 2015 search using the original search terms. Second, Defendants were to search the 21 identified custodians for the following terms/combinations:

- Releas! (to allow for both release or released and releasing) and recording

- Releas! and video
- Releas! and dash
- Releas! and camera
- Recording and video
- Recording and dash
- Recording and camera
- Dash and Camera
- Dashcam

See Group Exhibit C.

14. On March 29, 2017, Defendants informed Plaintiff that records were to be produced the following day. See Group Exhibit C.

15. No records were produced the next day. Defendants finally provided records to Plaintiff on June 15, 2017. The records were produced on a CD without any cover letter. See Group Exhibit C.

16. Based on a June 14, 2017 email from Defendants it appears that the CD contained records solely in response to the first-prong of the agreed upon search. However, without a cover letter, Plaintiff does not know this for certain or if records are being withheld in full. Nor does Plaintiff know if this is a final production in relation to that first-prong of the search.

17. On June 2, 2017, Plaintiff emailed Defendant asking what was searched, if any records are being withheld in full, and whether this is a final production. In addition, Plaintiff requested a status update concerning the second-prong of the search. See Group Exhibit C.

18. Plaintiff has followed up with Defendants by email on June 28, 2017, July 10, 2017, and July 17, 2017 relative to all of the above issues. Defendants did not respond to any of

these emails. See Group Exhibit C.

19. In the July 17, 2017 email, Plaintiff informed Defendants that it would be forced to file this petition if Defendants did not respond by close of business on July 24th. See Group Exhibit C.

20. As of today, Defendants still have not informed Plaintiff about what was searched, if any records are being withheld in full, and whether this is a final production. In addition, Defendants have not provided any information whatsoever concerning the second-prong of the search the parties agreed upon in March 2017.

21. Because Defendants continue to fail to respond to Plaintiff's inquiries, Plaintiff cannot comply with the Court's September 23, 2016 order. In addition, Defendants' failure to respond to Plaintiff's inquiries violates the Court's order.

22. The conduct of the Defendants is willful and malicious and in contempt of the order previously entered in this cause.

23. The conduct of the Defendants in failing to comply with the terms and conditions of the previous court order is without compelling cause or justification.

WHEREFORE, Plaintiff petitions this Court to enter an order for a rule to show cause why Defendants should not be held in contempt and to order Defendants to comply with the Court's September 23, 2016 order.

Dated: July 24, 2017

Respectfully submitted,

/s/ A. Christine Svenson
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

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CIRCUIT COURT OF
COOK COUNTY, ILLINOIS
CHANCERY DIVISION
CLERK DOROTHY BROWNJudicial Watch, Inc

v.

No.

16 CH 462Office of Mayor & Rahm Emanuel

ORDER

This matter came to be heard on Δ's 2615 and 2619 Motion To dismiss, all parties duly represented by counsel, arguments heard before the Court, it is hereby ordered that:

- ① Mayor Rahm Emanuel is a proper party;
- ② Δ's motion to dismiss is denied as to Counts I and II;
- ③ The Court is not ruling on Count III;
- ④ The parties are to decide the search terms, and Δ's response shall come from the FOIA officer for the Office of the Mayor.

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44505

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C. Swenson

Atty. for:

IT

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ENTERED:

Judge Anna Helen Demacopoulos

Dated:

SEP 23 2016

Circuit Court - 2002

Judge

Judge's No.

Judicial Watch vs Office of Mayor

16 CH 462

Report of Proceeding

Taken on: September 23, 2016

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1 THE COURT: Good morning, Counsel.

2 MR. SANTELL: Good morning, your Honor. My name is
3 Phillip Santell, S A N T E L L. This is corporation
4 counsel for the City of Chicago representing defendant
5 in this matter.

6 THE COURT: Good morning.

7 MS. SVENSON: Good morning, your Honor. Christine
8 Svenson, S V E N S O N, on behalf of plaintiff, Judicial
9 Watch, Inc.

10 THE COURT: You may be seated. I'm going to ask
11 that you all argue from counsel table. I just ask that
12 you stand so that you can be clearly heard. I know it's
13 easier to spread out your paperwork at the table. We're
14 here today on defendant's motion to dismiss.

15 MR. SANTELL: That's correct, your Honor.

16 THE COURT: I have read -- I have the amended
17 complaint, the defendant's motion, plaintiff's response,
18 defendant's reply in supporting affidavit, and then
19 plaintiff's sur-reply. I just have a question before we
20 begin.

21 In the defendant's reply in supporting
22 affidavit, there is a mention that in June of 2016,
23 there was a subsequent response to the FOIA request.
24 Does the plaintiff have that?

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1 MS. SVENSON: No. I'm glad you brought that up,
2 your Honor, because we are not in possession of that.
3 So I was surprised to see that in the affidavit.
4 Counsel did produce to me yesterday a response, and it
5 is dated with yesterday's date.

6 MR. SANTELL: Your Honor, if I may.

7 THE COURT: Please.

8 MR. SANTELL: This is a matter that I discussed
9 with my supervisor who handled --

10 THE COURT: You need to be clearer.

11 MR. SANTELL: This is matter that I discussed with
12 my supervisor, Amber Ritter, and this is a matter that
13 came to my attention, and I wasn't sure whether or not
14 there was a subsequent response that went out -- a
15 clarified response that went out. It is true that in
16 the reply it is mentioned. I looked for it. I could
17 not find it. Therefore, I reached out to counsel to
18 ensure she had it. She indicated to me that she
19 couldn't find it.

20 Therefore, to ensure that everything was taken
21 care of, I sent the one dated yesterday to her. It is
22 exactly the same as the reply that went out on
23 January 7th. The only thing that is different is that
24 it is addressed from the Mayor's office as opposed to

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1 from the Chicago Police Department. All the exemptions
2 are the same. The records that were produced are the
3 same. It is exactly the same.

4 THE COURT: Except for the cover letter, the words,
5 Chicago Police Department are replaced with Office of
6 the Mayor.

7 MR. SANTELL: That is correct, your Honor.

8 THE COURT: And is it dated July 14th?

9 MR. SANTELL: Well, I'm not entirely sure if there
10 was one dated July 14th that was sent out. I would not
11 have sent it out, but I did send one to counsel
12 yesterday, and I have a copy of it with me today.

13 THE COURT: Do you have it now?

14 MS. SVENSON: I do.

15 THE COURT: Does that change anything for today?

16 MS. SVENSON: I don't think that it does.

17 THE COURT: Okay. At least we're clear that you
18 have a second response to the FOIA request.

19 MS. SVENSON: As of yesterday, yes.

20 THE COURT: All right. Counsel, go ahead.

21 MR. SANTELL: Thank you.

22 Your Honor, today we're up on defendant's
23 motion to dismiss plaintiff's amended complaint pursuant
24 to Section 2619.1, which combines both Section 2615 and

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1 2619. Here it's the defendant's contention that
2 plaintiff's complaint fails under both 2615 and 2619
3 because it is excessively vague and without specific
4 factual allegations. And looking at the face of the
5 complaint, it is clear that the city has met its
6 obligation under FOIA, which therefore both of these
7 defeat the plaintiff's claim.

8 Starting with Section 2615, generally
9 Section 2615 deals with the legal sufficiency of the
10 complaint based upon defects that are apparent on the
11 face. It is important to note that Illinois is a fact
12 pleading jurisdiction. Therefore, a plaintiff must
13 allege specific facts not mere conclusions or
14 conjecture. Legal conclusions and factual conclusions
15 that are unsupported by allegations and specific fact
16 will be disregarded in ruling on a motion to dismiss.
17 That was in the case of Cummings versus City of
18 Waterloo, which is available at 289 Ill. App 3rd, which
19 I believe was the First District appellate case.

20 Generally speaking, the plaintiff must allege
21 specific facts that allow a defendant to be essentially
22 placed on notice of the claims that are against them and
23 allow them to form a defense to those claims. Here in
24 this case after amending their pleadings, plaintiffs

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1 still have not alleged specific facts that would enable
2 them to survive a 2615 motion to dismiss.

3 Specifically, in Count 1, plaintiff alleges
4 that they did not receive a response to the FOIA
5 request. Looking at the face of the complaint and the
6 documents that are attached to the subsequent findings,
7 it is clear that this is simply not supported by the
8 defendant's complaint. Plaintiff acknowledges in
9 Paragraph 10 of their amended complaint that they
10 received a response from the city dated January 7, 2016,
11 and they have attached that response to their filings
12 with this Court.

13 Now, plaintiff is arguing that this is somehow
14 nonresponsive, but that's not the case, your Honor.
15 It's simply the fact that this was a simple clerical
16 error, that Chicago Police Department was listed when it
17 should have been the Mayor's office.

18 THE COURT: But, counsel, everything that has been
19 attached --

20 MR. SANTELL: Yes, your Honor.

21 THE COURT: -- and even the question that the Court
22 had before we even began today and even your own
23 admission that you yourself were unclear whether or not
24 there was a specific response from the Mayor's office to

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1 this FOIA was unclear even as of yesterday.

2 MR. SANTELL: Now, my response to that, Judge,
3 would be essentially -- it's not to be dismissive -- but
4 I believe that it's a distinction without indifference.
5 And the reason that I say that is because the FOIA
6 response that went out to the plaintiff, I believe it
7 was just over 3,000 documents, including documents from
8 the City Law Department, from the Mayor's office, from
9 CPD. It was a city wide search. I believe there are
10 more than 20 e-mail inboxes that were searched.

11 Therefore, whether or not it's entitled from
12 the Mayor's office or from CPD or from the Law
13 Department or whatever it is, that's unimportant because
14 if you look at the substance of the letter, it's clear
15 that the Mayor's office inbox -- the Mayor's office --
16 the Mayor's e-mail, his personal e-mail, was searched as
17 well as his staff.

18 THE COURT: That's not clear. And the Mayor's
19 office website itself -- and I'm going to quote it.
20 "Each city department is a separate agency responsible
21 for maintaining its own records. Requests should be
22 submitted to the department that maintains the records
23 you want."

24 MR. SANTELL: Yes. That's entirely true.

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1 THE COURT: So if you're demanding as a city that
2 the requester make a request of the specific department,
3 why is it okay then for the city to respond generically?

4 MR. SANTELL: Well, the city's position, Judge, is
5 that this was a special instance. We had more than 30
6 requests from the same material covering the
7 October 2014 shooting of Laquan McDonald. We had
8 numerous different requesters asking for different
9 things.

10 Therefore, in order to conserve resources and
11 try to answer everyone's FOIA request in the truncated
12 period of time that's required by FOIA, the city did
13 something that might be unusual. What the city did is
14 that we tried to come up with search terms and search --
15 and places to search that would essentially cover all of
16 the requests and provide, in many cases, like this one,
17 a lot more information than would have been provided if
18 the individual searches were run.

19 For instance, if we would have simply searched
20 the Mayor's office, all the information that was
21 provided to plaintiff from the CPD, from the Law
22 Department, that would have been excluded. So in this
23 case, we kind of -- to deal with the exigency that's
24 required by FOIA and to try to get the response out

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1 since there were so many in demand, we kind of -- for
2 lack of a better term -- we try to come up with a group
3 of search terms and inboxes in which to search to get
4 these communications that would cover all of the
5 requests. Given the fact that there's such a limited
6 time and given the fact city resources were limited,
7 this is a solution that was come up with.

8 THE COURT: Collectively.

9 MR. SANTELL: Essentially, yes.

10 THE COURT: And doesn't that defeat the whole
11 purpose of individual public bodies under FOIA?

12 MR. SANTELL: No. We don't believe it does. We
13 believe that this situation is different than your usual
14 FOIA request. The usual FOIA request, if I may, let's
15 say --

16 THE COURT: There is no usual in FOIA.

17 MR. SANTELL: That's correct, your Honor. Maybe a
18 more typical FOIA request is a better way to put it.

19 A more typical FOIA request would say to the
20 Department of Revenue, please, you know, tell me -- give
21 me documentation related to how many boots the
22 department maintains.

23 In this instance, this FOIA request and all
24 these other requests were for documents from different

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1 city departments involving the same item. So
2 essentially, all these FOIA requests taken together it
3 kind of forced us to look beyond just one department in
4 order to try to fulfill the request, and that's what we
5 tried to do, your Honor. We tried to fulfill the
6 requests and tried to provide everyone with the
7 documentation that is needed and documentation that they
8 are asking for.

9 THE COURT: Look, I understand that in hindsight
10 now when we're talking in a courtroom it's different
11 than the time constraints as a public relations issue
12 that the city was managing at the time to answer and
13 respond to all of these FOIA requests. This may have
14 been the expeditious and cost effective way to respond
15 to the multiple FOIA requests. I get that, but now when
16 we're in court and we're looking at the law
17 specifically, it's very clear that the Mayor's office is
18 different than the Chicago Police Department and the Law
19 Department.

20 MR. SANTELL: Yes, absolutely. That's true.

21 THE COURT: So up until yesterday when it was very
22 clear that the response was coming from the Mayor's
23 office, Count No. 1 was -- you did not respond. The
24 Mayor's office did not respond.

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1 MR. SANTELL: Well, your Honor, again, without
2 being dismissive --

3 THE COURT: I understand.

4 MR. SANTELL: -- I would argue.

5 THE COURT: You're in a difficult position standing
6 here in this courtroom having to answer this question
7 for other people that made that decision.

8 MR. SANTELL: Well, the reason I would say that
9 that's perhaps a distinction without indifference is
10 because the Mayor's staff, the Mayor's e-mail,
11 everything was searched in response to her request. And
12 it is not the instance where Judicial Watch in this case
13 is alleging that they sent a request to CPD, they sent a
14 request to the Chicago Fire Department, they sent a
15 request to the office of Emergency Management &
16 Communications, and they only received this one request
17 back. There are no other requests. They didn't make a
18 request of CPD. So when they received the request, it
19 should have been clear that it was simply an error that
20 Chicago Police Department was listed at the top.

21 THE COURT: Then there's the subsequent e-mails to
22 Ms. Ritter identifying it specifically. And I
23 understand that in her position at the time I'm sure
24 that it was chaos. I totally understand that, that it

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1 must have been chaos with all of the requests the
2 various city departments were being inundated. But at
3 some point in time, now that things have kind of
4 settled, we still have to -- I'm still kind of
5 restricted to what the FOIA statute says, and each
6 individual agency in which each individual department of
7 the city is an individual entity -- public body.

8 MR. SANTELL: Yes, absolutely. That's entirely
9 true, your Honor, but the city's position is that
10 although -- Let me phrase this another way.

11 That although each individual entity is its
12 own body that in this particular instance, the request
13 would have not been answered fully if these other bodies
14 weren't involved.

15 THE COURT: So, in other words, the response still
16 would have been the same. In other words, the documents
17 that were turned over would still be the same.

18 MR. SANTELL: The documents from the Mayor's office
19 would be exactly the same. Our position is that we
20 gave -- we essentially went above and beyond. We gave a
21 lot more documents in the interest of transparency to
22 the plaintiff than their request they requested. Given
23 the fact that the plaintiffs made no other requests of
24 any other city agency --

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1 THE COURT: I don't know that, though. I don't
2 know that based on these pleadings.

3 MR. SANTELL: Well, that's true, your Honor. Their
4 allegations are they submitted a FOIA request on
5 December 2nd and that they subsequently received a
6 response on January 7th, but the response was entitled
7 from the Chicago Police Department. Those are the
8 allegations, if I'm not mistaken them.

9 Therefore, the city feels that we did respond.
10 There was a clerical error in the response that had
11 subsequently been cleared up. The responsive documents,
12 everything, all the e-mails are identical. The
13 exemptions that are asserted are identical. It's the
14 same response essentially. It's just fashioned from the
15 Mayor's office as opposed to CPD.

16 THE COURT: Let's move on to Count No. 2 as to the
17 sufficiency of the search terms.

18 MR. SANTELL: Now, in the second count, plaintiff
19 is alleging that the search was insufficient. As
20 explained in Amber Ritter's affidavit, there were many
21 requests for the same --

22 THE COURT: We just lost that. I want the record
23 clear. Do you want to repeat that?

24 MR. SANTELL: As explained in Amber Ritter's

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1 affidavit, which is attached to our reply, the city had
2 received many different requests for essentially the
3 same information. Therefore, what the city did is we
4 came up with inboxes to be searched and search terms to
5 be used. We use the terms Laquan, Van Dyke, Van Dyke
6 with a different spelling, and also LM, the abbreviation
7 for Laquan McDonald. So, therefore, we came up with the
8 terms that would be universally applicable and would
9 pick out the relevant information and the relevant
10 documents.

11 And, in addition, the responsive letter
12 clearly states that, quote, we believe this production
13 fulfills the terms of the FOIA request. To the extent
14 you are seeking additional material, please direct a
15 renewed FOIA request to the appropriate city department.

16 In this case, plaintiff did not submit a
17 subsequent FOIA request. Instead, they filed a lawsuit
18 against the city. They're arguing that the search was
19 inadequate because the terms, dash-camera and recording,
20 were not used in the terms that were searched. It's not
21 clear from their request, which is very general, and is
22 attached to their sur-reply. I believe it is Exhibit A.

23 Their request is for any and all records --

24 THE COURT: Counsel, slow down.

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1 MR. SANTELL: Okay. I apologize.

2 THE COURT: You want a clean record.

3 MR. SANTELL: There request was for, quote, any and
4 all records of communications sent to or from officials
5 in the office of the Mayor, including but not limited
6 to, Mayor Rahm Emanuel, regarding, concerning or
7 relating to police dash-camera recording of the
8 October 20, 2014 shooting of Laquan McDonald, including
9 but not limited to the release of any such video
10 recordings to the public.

11 Now, plaintiff is attempting to argue that
12 since the terms camera, recording or dash were not used,
13 that the search is inadequate. Well, your Honor,
14 there's a couple problems with that. First being that
15 the generalized terms camera, dash, or recording would
16 not gather materials responsive to this request. The
17 generalized terms that were not set out as search terms
18 to be searched in the request -- there was no requests
19 basically saying that please search the Mayor's staff or
20 Mayor Rahm Emanuel's e-mail for these specific key
21 words. That was not done. This generalized request was
22 for material that dealt with the release of the material
23 related to the shooting of Laquan McDonald.

24 THE COURT: You skipped the words police

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1 dash-camera.

2 MR. SANTELL: Yes, your Honor, because that's what
3 was released. The police dash-camera was released.
4 That was the information that was released. So whether
5 or not -- to gather responsive documents, the terms that
6 were used were specific to this instance, Van Dyke, two
7 spellings, Laquan, LM, those items. If we were to
8 search CPD e-mails for dash or CPD e-mails for camera or
9 recording or the Mayor's office, we would come up with
10 perhaps a lot of things that would be irrelevant to
11 these proceedings.

12 THE COURT: But there is more than one dash-cam
13 video recording in this instance of the October 20th
14 shooting; isn't there?

15 MR. SANTELL: I believe there were -- now I can't
16 remember an exact number.

17 THE COURT: And that's exactly the point. If you
18 limited the search to just Van Dyke, which is a officer,
19 and you limited the search to the victim, Laquan
20 McDonald or LM, and you limited the search to just
21 those, you are excluding all of those other possible
22 dash-cams that were involved.

23 MR. SANTELL: Well --

24 THE COURT: Because if those e-mails did not

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1 contain the victim's name, a single officer's name, then
2 you are excluding all of those e-mails.

3 MR. SANTELL: Well, the e-mails that we excluded
4 were e-mails that are not related at all to this
5 proceeding. As your Honor can certainly imagine, there
6 are hundreds of dash-cams in different vehicles all
7 across the city of the Police Department. Whether or
8 not there are communications that deal with those, they
9 would have nothing at all to do with the Laquan McDonald
10 instance for the period of time it was searched.

11 By using these expansive, open-ended terms, we
12 would be bringing in perhaps -- I can't even guess as to
13 how many additional e-mails, but they would not be
14 relevant e-mails. The relevance would be Laquan
15 McDonald, LM, Van Dyke as was searched. Those would be
16 the relevant terms.

17 THE COURT: How did the terms -- The affidavit says
18 that we -- I want to use the exact words -- gleaned from
19 the many requests and then calculated to produce the
20 broader set of relevant records.

21 Who made that decision, and if that was the
22 case, were other requesters involved in making that
23 decision excluding Judicial Watch?

24 MR. SANTELL: I don't believe that other requesters

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1 were involved. I think what occurred is that looking at
2 the great number of requests the city received, that in
3 order to answer them, perhaps terms were taken from
4 certain letters. Again, I was not involved in that
5 process. So I can't say definitively, but looking at
6 the affidavit, I believe that's what it indicates, is
7 that there wasn't necessarily a give and take so to
8 speak with the requesters, but that looking at the
9 request, these terms were used.

10 THE COURT: Okay. I understand, and I mean this
11 sincerely that you standing in front of me having to
12 answer these questions is very difficult, but these are
13 questions that I have to ask as required by the statute.
14 The statute is very specific that every single body must
15 have a FOIA officer.

16 Who is the FOIA officer for the Office of the
17 Mayor?

18 MR. SANTELL: At this time, I believe it was Chloe
19 Rasmus.

20 THE COURT: Who?

21 MR. SANTELL: Chloe Rasmus I believe it was.

22 THE COURT: And we don't have any documents from
23 her or him.

24 MR. SANTELL: What happened, your Honor, is the

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1 City of Chicago Department of Law represents basically
2 all the agencies that were involved here. So this
3 was -- my understanding is that this was handled through
4 the Department of Law given the large number of requests
5 and the different bodies that were involved -- different
6 city entities that were involved.

7 THE COURT: Okay.

8 MR. SANTELL: So going ahead with Count 3, failure
9 to produce all nonexempt information. Here, the
10 plaintiff alleges that simply because there were
11 redactions, that the production is incomplete. In this
12 case, there were more than 3,000 e-mails that were
13 produced. There were, I believe, five or six different
14 exemptions that were cited.

15 Here, plaintiff doesn't allege any specifics
16 as to what they take issue with. There is no indication
17 that they take issue with, say, (d)(iv), for example, or
18 (c), for example -- I'm sorry -- 7(1)(c) or
19 (7)(1)(d)(iv) or any of the different FOIA exemptions.
20 They basically state that this production was incomplete
21 simply because it contained redactions. Judge, this
22 doesn't give the city anything to go on so to speak in
23 which to form a defense.

24 THE COURT: Has there ever been a request for an

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1 index yet?

2 MR. SANTELL: Not from Judicial Watch, your Honor,
3 as far as I'm aware. I'm sure counsel will be able to
4 correct that if it's incorrect.

5 In addition, your Honor, Mayor Rahm Emanuel
6 personally should be dismissed from the suit as well
7 pursuant to Section 2615.

8 THE COURT: Why?

9 MR. SANTELL: Because looking at the authority to
10 sue, which is found in 5 ILCS 140/11, which indicates
11 denial of a request for public records injunctive or
12 declaratory relief. It indicates that any person denied
13 access to inspect or copy any public records by a public
14 body may file suit for injunctive or declaratory relief.

15 If you switch to the definition section, which
16 is found on 5ILCS140/2, public body is a defined term.
17 It's found under A. "Public body means all legislative,
18 executive, administrative or advisory bodies of the
19 State, State universities and colleges, counties,
20 townships, cities, villages, incorporated towns, school
21 districts or any other municipal corporations, boards,
22 bureaus, committees or commissions of the State and any
23 subsidiary bodies of any of the foregoing, et
24 cetera."

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1 Your Honor, there is no -- given this
2 definition and given the fact that the language that
3 allows someone to bring a suit for declaratory
4 injunctive relief specifically lists a public body. We
5 don't believe that the Mayor as an individual is an
6 appropriate defendant in this matter.

7 Now, in opposition to this point --

8 THE COURT: The suit is in Rahn Emanuel in his
9 official capacity. It's not his unofficial capacity.

10 MR. SANTELL: That is correct. Our position is
11 that it should be simply against the Office of the
12 Mayor, not against Rahn Emanuel.

13 In support of their argument that the Mayor is
14 a proper party, counsel cites to an opinion from the
15 First District Appellate Court in the matter of Quincy
16 Stone (phonetic), which was decided in 1991. And I have
17 a copy for your Honor if your Honor does not have one.
18 This deals with the instance where --

19 THE COURT: Hold on just a second.

20 Go ahead

21 MR. SANTELL: This deals with the instance where
22 someone is trying to bring injunctive suit against an
23 alderman. And the issue before the Court is whether or
24 not that alderman can be sued, whether or not the

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1 individual alderman is a public body. And in this
2 lawsuit, the Court described FOIA as it used to be
3 before the 2010 amendment. Before 2010, if you were
4 denied anything from a public body, you had to appeal to
5 the head of that public body. And essentially after you
6 would receive a denial from the head of the public body,
7 you would receive -- to use a phrase -- key to the
8 courtroom, that essentially this was a prerequisite that
9 had to be met prior to the ability to bring a suit.

10 Now, in this matter, there is language that
11 indicates that this person should have brought suit
12 against the Mayor and the city counsel. Now, the Mayor
13 is the head of the city counsel, and they were together
14 as a public body. Given the fact that this opinion is
15 not as broad as the plaintiff's set it out to be, and we
16 believe that it's distinguishable being the fact that it
17 works with an older version of FOIA, and it's also
18 dealing with an entirely different set of facts, which
19 deals with alderman, city counsel and Mayor as head of
20 city counsel. We believe this case is distinguishable.

21 We believe the FOIA definition of public body
22 is clear under Section A as it was read and indicated
23 into the record as well as the authority to sue a public
24 body. We believe there is no authority to argue that

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1 the Mayor as an individual is an appropriate defendant
2 under FOIA. Thank you.

3 THE COURT: Counsel.

4 MS. SVENSON: Thank you, your Honor.

5 At the outset, I would point out that
6 defendant's motion to dismiss states plaintiff fails to
7 plead facts showing that the city failed to respond.
8 That's Argument A. Argument B, plaintiff has not pled
9 facts showing that the city failed to conduct a
10 sufficient search. Argument C, plaintiff has not pled
11 facts showing the city failed to produce all nonexempt
12 information.

13 So that's just false. We pled that the office
14 of the Mayor did not respond, that the office of the
15 Mayor failed to conduct a sufficient search, that the
16 office of the Mayor failed to produce all nonexempt
17 information. That was addressed in counsel's argument,
18 but I think it's important to note that they are trying
19 to mislead the Court in saying that it's the city that's
20 involved here. It's the Office of the Mayor. And
21 simply put, the Office of the Mayor did not respond to
22 our FOIA request.

23 The January 7th, 2016 letter by Ms. Ritter
24 clearly states that she was responding to a FOIA request

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1 directed to the Chicago Police Department. She also
2 states in your request you sought, quote, any and all
3 records of communication sent to or from officials in
4 the CPD, including but not limited to superintendant
5 Garry McCarthy, regarding, concerning or relating to
6 police dash-camera recording of the October 20, 2014
7 shooting of Laquan McDonald. That's false. That's not
8 what we were seeking at all. It's very clear from our
9 FOIA request what we were seeking.

10 So in our amended complaint, we specifically
11 note that --

12 THE COURT: So now having received yesterday's
13 response that clearly identifies the Office of the
14 Mayor, does that satisfy the request?

15 MS. SVENSON: It does not. It did not come from
16 the FOIA officer from the Office of the Mayor. We know
17 that now. It does not provide us with -- the search was
18 not accurate -- I'm sorry -- not complete.

19 THE COURT: Forget that. Let's stick with the
20 issue of whether or not the Office of the Mayor has
21 responded because that's a big issue.

22 MS. SVENSON: Right. We do not believe so.
23 There's no affidavit attached to the request, I don't
24 believe.

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1 THE COURT: Do you have the request that was sent
2 yesterday for the Court to view?

3 MS. SVENSON: Yes.

4 THE COURT: Or the response. I'm sorry. The
5 response to the request.

6 (Document tendered.)

7 THE COURT: Can I have one minute to read it?

8 MS. SVENSON: Sure.

9 THE COURT: So the body of it is exactly the same.
10 The only difference is it now says the Office of the
11 Mayor.

12 MS. SVENSON: I believe that's correct.

13 THE COURT: Okay. And the letter is signed by
14 Mr. Santell as assistant corporation counsel.

15 MR. SANTELL: That is correct, your Honor. I sent
16 it to counsel yesterday.

17 THE COURT: Go ahead, Counsel.

18 MS. SVENSON: So, yes, we do not believe this was
19 properly responsive because there is -- it does not come
20 from the FOIA officer from the Office of the Mayor, and
21 there are no affidavits attached showing that they did a
22 complete search.

23 THE COURT: Go ahead.

24 MS. SVENSON: Relating to the actual search, the

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1 search was inadequate, and they are trying to change the
2 law or misread the law. It's not the requester's burden
3 to show that they conducted an accurate search. It's
4 their burden, and they just simply didn't do it. This
5 is not about the shooting of Laquan McDonald. This is
6 about the dash-cam recording. There was absolutely no
7 search as we know for the term, quote, dash, unquote,
8 quote, camera, unquote, quote, recording or any variance
9 thereof.

10 THE COURT: So you get this response in January
11 of 2016, and you see that it doesn't have those search
12 terms. Is there any subsequent follow-up request?

13 MS. SVENSON: Yes.

14 THE COURT: I get there were some e-mails to
15 Ms. Ritter that say, hey, we FOIA the Mayor's office,
16 not CPD. Was there any follow up saying we want dash,
17 slash, camera, dash-camera request? Was there ever,
18 ever a second request?

19 MS. SVENSON: Yes, via e-mail. Those were in my
20 client's e-mails to Ms. Ritter who specifically note
21 those search terms weren't used, and we requested that
22 they be used. I believe that those e-mails were
23 attached to one of the --

24 THE COURT: They are. Just give me one second.

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1 MS. SVENSON: Sure.

2 THE COURT: Go ahead.

3 MS. SVENSON: We're alleging that the search was
4 not adequate, there was no affidavit containing facts
5 that they conducted a thorough search. We did get the
6 affidavit from Ms. Ritter. However, there were
7 inaccuracies because we never received the July 2016
8 response that she claimed that she had sent. They
9 failed to produce by clear and convincing evidence that
10 the information fell -- falls within the FOIA exemption.
11 The information was redacted. There's no index, and
12 there's no indication with the redacted information as
13 to which exemption applies to what was redacted to.

14 THE COURT: So I haven't seen the redactions, and
15 I'm not going to look at 3,000 e-mails. I'm telling you
16 right now. So my question to Judicial Watch is this:
17 The redactions that I have seen in other cases, when the
18 redaction appears, it actually identifies which section
19 it's being redacted under. In other words, personal
20 information, deliberative process, attorney/client
21 privilege, whatever. Do those redactions have the
22 section cites?

23 MS. SVENSON: I believe not. I should have double
24 checked that yesterday, but I'm certainly correct in

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1 saying that. Maybe counsel knows the answer to that.

2 MR. SANTELL: Judge, I don't believe -- To be
3 totally honest with the Court --

4 THE COURT: I don't want anyone lying.

5 MR. SANTELL: -- I can't say. It's been so long
6 since I looked at it, your Honor. I don't recall.
7 Sorry.

8 MS. SVENSON: I'm 80 percent sure I'm right about
9 that.

10 THE COURT: All right.

11 MS. SVENSON: Again, I don't believe we had any
12 explanation for the redactions.

13 As I sit here today, we feel they have not
14 responded properly, that they are trying to put the
15 burden back on us, that they have disregarded the law.
16 The law is clear that they have to show they conducted
17 an exhaustive search pursuant to our FOIA request, and
18 they haven't done so.

19 THE COURT: When you say that they have not claimed
20 the appropriate exemption, but yet you can't tell me if
21 the redactions have that, I mean, are you going to be
22 objecting to a redaction when it relates to somebody's
23 date of birth or Social Security number or personal
24 information?

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1 MS. SVENSON: No.

2 THE COURT: Okay. So if the redactions are
3 claiming an exemption that go to something specific,
4 like a deliberative process or anything like that, that
5 has to be specifically pled so that the Court can make a
6 determination whether or not to do an in-camera
7 inspection, which is probably more likely to happen, but
8 if you're not going to be objecting to the exemption of
9 some redactions, then we're just wasting our time. So
10 those need to be specifically pled.

11 Any other argument?

12 MS. SVENSON: No.

13 THE COURT: Mr. Santell.

14 MR. SANTELL: If I may follow up.

15 THE COURT: Sure.

16 MR. SANTELL: The city takes issue with the
17 characterization that anything the city has done has
18 made an attempt to mislead the Court. We believe that,
19 as your Honor said earlier, we've been entirely up front
20 with the Court at all times. And we will take -- we
21 take issue with the characterization that anything we've
22 done is intended to mislead.

23 In this case, your Honor, plaintiff takes
24 issue with the fact that there was no affidavit that was

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1 attached to the FOIA response. Your Honor, we never
2 include affidavits as part of FOIA response.

3 THE COURT: But the statute says that the only
4 person that can respond is the FOIA officer.

5 MR. SANTELL: Well, Judge, in this case,
6 individuals with the Department of Law who are trained
7 as FOIA officers with the Illinois Attorneys General's
8 office responded to this request. Therefore, FOIA
9 officers working for the Department of Law responded to
10 the request, given the fact that the Department of Law
11 represents all the agencies whose emails were produced
12 with the request as part of the responsive documents.

13 Now, as to whether or not a subsequent FOIA
14 request was made, your Honor, we don't believe that the
15 attachment to the exhibit -- to the plaintiff's
16 sur-reply establishes that a subsequent FOIA request was
17 made.

18 THE COURT: A what? We can't hear you clearly when
19 you read looking down.

20 MR. SANTELL: I'm sorry.

21 We don't believe that the attachments to
22 plaintiff's sur-reply establish that a subsequent FOIA
23 request was made. This lawsuit was filed on January 20.
24 As of April 4, after the filing of the lawsuit, there is

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1 communications between a gentleman from Judicial Watch,
2 Michael Bekesha and Amber Ritter and Christine Svenson,
3 and it specifically references the lawsuit.

4 So, therefore, the lawsuit was already filed
5 and was ongoing at that point in time regarding the
6 response. Therefore, we don't believe there was a
7 subsequent FOIA request made.

8 THE COURT: But, Mr. Santell, again, I give you --
9 I know that this is difficult because you're standing
10 here having to answer for people who made decisions that
11 you may not have been a part of. I understand that.
12 And so, I don't mean any ill-feelings towards you
13 personally, but, again, I'm here to make a decision, all
14 right.

15 Somebody created the search terms, and those
16 search terms traditionally with FOIA requests, people
17 come together and it's the requester and the public body
18 that create what search terms are going to be used.
19 That's a common practice, isn't it?

20 MR. SANTELL: Absolutely.

21 THE COURT: And so, I understand that in January
22 of 2016 or in December of 2015 that the city was in a
23 crisis situation that is a public relation issue that
24 the Mayor's office, the city Law Department, the Chicago

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1 Police Department, everybody made a decision that, you
2 know what, we're just going to give everything. But now
3 that we're here in court in a lawsuit, I'm bound by the
4 statute. And my question is is that in other cases,
5 it's common that people get together, the requester and
6 the public body, that come up with the search terms.
7 That's what was done informally with these e-mails.
8 It's not uncommon that that happens. So it doesn't
9 require a second FOIA request.

10 MR. SANTELL: That's true. That is correct.
11 However, again, as your Honor has clearly said on the
12 record, this was a situation that didn't necessarily
13 afford the city time given the truncated -- given the
14 five-day requirements set up by FOIA that we necessarily
15 didn't have the luxury of time to do that with all the
16 requesters.

17 And, finally, a detail factual basis for all
18 the exemptions that were cited and relied upon is sent
19 out in the letters that were provided on January 7th and
20 yesterday to the plaintiff indicating what it was that
21 was redacted and the basis for it. Therefore, we
22 believe that we have shown in that correspondence the
23 applicability of all of the exemptions.

24 That's all I have. Thank you, your Honor.

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1 THE COURT: All right. This is a motion to dismiss
2 that has been filed by the Office of the Mayor. First
3 off, I want to address whether or not the Mayor himself,
4 Rahn Emanuel, is a proper party to the lawsuit. I do
5 believe that the FOIA statute requires that it's a
6 public body that can be the subject of a FOIA request,
7 and therefore any subsequent filings in a Circuit Court
8 to review the response to that FOIA response would name
9 the public body and the named official. In the case of
10 People versus Stone, although I believe that the city is
11 asking this Court to consider it as dicta, in that
12 particular case, it was a lawsuit filed against the
13 alderman. And in that specific case, it specifically
14 states that the plaintiff there pursued the request of
15 the records to the wrong person. Instead of suing the
16 defendant individually, she must pursue her remedy
17 against the head of the public body pursuant to the act.
18 The act defines head of the public body as the
19 president, mayor, chairman, president, officer and so
20 on.

21 Therefore, plaintiff must pursue her remedy in
22 the Circuit Court by filing an injunction, injunctive or
23 declaratory relief against the Mayor and against the
24 city counsel.

1 MR. SANTELL: Yes your Honor.

2 THE COURT: I understand that is under the old
3 statute, but that specific part of the statute hasn't
4 changed. So I do believe that the Mayor is a proper
5 party.

6 MR. SANTELL: If I may interject. The requirement
7 that an individual who was therefore -- whose FOIA
8 request was denied appeal to the head of the public body
9 has been thrown away as of the 2010 amendment, so FOIA
10 has in fact changed.

11 THE COURT: I understand, but I still think that
12 the Mayor is a proper named party, so he will remain as
13 a named party.

14 This specific request was only to the Mayor's
15 office. I do not know if Judicial Watch issued a FOIA
16 request to other individuals or not or other bodies. I
17 don't know. The only one that's in front of me at this
18 time is the one that was sent to the Office of the Mayor
19 of the city of Chicago. As of three minutes before we
20 start this hearing, it was still unclear whether or not
21 a response from the Office of the Mayor has been sent to
22 Judicial Watch. And, again, I've said it repeatedly
23 through this hearing, I completely understand, and it's
24 understandable and it's reasonable how the city

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1 collectively responded to the multitude of FOIA requests
2 after the release of the Laquan McDonald video by
3 Judge Valderrama.

4 However, at this stage, we do have to look at
5 the statute. So as it relates to Count No. 1, I do
6 believe that the motion to dismiss under 2615 and 2619
7 will be denied. It may be a proper motion for summary
8 judgment now that that subsequent response has been
9 filed, but at this stage of the proceedings, I believe
10 that they have stated a claim that the Office of the
11 Mayor has not responded.

12 As to Count No. 2, the sufficiency of the
13 search terms, again, collectively at that time, it may
14 have been appropriate or they thought public
15 relations-wise that's the way it should have been
16 responded. Again, the statute is very clear that every
17 single public body must have an officer. In this
18 specific case, the responses come from Mr. Santell, even
19 if we take the response that we're talking about that
20 was tendered yesterday. Specifically the -- Just give
21 me one second.

22 Each of the individual city departments are
23 subsidiary bodies of Chicago, and public bodies is
24 defined by FOIA. And the Court is citing Duncan Pub

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1 versus the City of Chicago at 709 N.E. 2d 1281, citing
2 the Board of Regents of Regency University System versus
3 Reynard, 292 Ill. App. 3d. Individual departments,
4 which are city funded and city controlled are public
5 bodies, and each individual is subject to the mandates
6 of FOIA.

7 In this specific case, the Court is also
8 looking at the attorney general's public access
9 counselor and their recommendation. There they
10 specifically define the FOIA officer and specifically
11 define public records and who is required to respond to
12 those public records. The response did not come from
13 the office of the Mayor's FOIA officer. It came from
14 the corporation counsel, which does represent the
15 Mayor's office and the Mayor, but the FOIA statute is
16 very clear that it must come from the FOIA officer.

17 In this specific case, there was multiple
18 communications between the parties about the specific
19 search term that was used. The Law Department through
20 the corporation counsel representing the Office of the
21 Mayor and the Mayor did not alter or change the requests
22 of the search terms, even though the plaintiff here,
23 Judicial Watch, had specifically asked them to do that.
24 It very well may be that the 3,000 pages of e-mails that

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1 have already been tendered will include an additional --
2 Strike that. That was very unclear.

3 It very well may be that the 3,000 e-mails
4 that have already been tendered are all inclusive of
5 everything that relates to the October 20, 2014
6 shooting. However, we all know that there's more than
7 one dash-cam involved in the shooting that happened on
8 October 20th of 2014 than just the one released by Judge
9 Valderrama. I don't know if the search was inclusive
10 enough as it relates to this specific request. And so,
11 the defendant's motion to dismiss Count No. 2 is going
12 to be denied.

13 Usually in FOIA requests we're dealing with
14 motions for summary judgment. Here we are dealing with
15 a motion to dismiss, which is different, but I think
16 it's one in the same. So I think that the search is
17 insufficient just using the search terms Laquan
18 McDonald, Van Dyke spelled two different ways and LM.
19 I'm going to leave it up to the parties to decide how
20 they wish to define the search terms. I am not going to
21 do that. You all decide how the search terms -- because
22 I don't know what you're looking for. However,
23 plaintiff, you are going to be limited to what your
24 original request was. You cannot expand it anymore from

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1 today's date. So the motion to dismiss Count No. 2 is
2 going to be denied.

3 Count No. 3, I don't know what the new search
4 is going to reveal. If it's going to be the same
5 e-mails or different e-mails. So I'm going to not rule
6 on Count No. 3. You may want to amend your complaint
7 based on the new responses that you get. However, if
8 there's going to be a new amended complaint that is
9 going to allege that they haven't sufficiently claimed
10 nonexempt information, then it needs to be specifically
11 pled.

12 In other words, e-mail NO. 2055 claims an
13 exemption of deliberative process, and we don't think
14 that's true, then that will at least refine the search
15 for me to do an in-camera inspection. And I will be
16 willing to do the in-camera inspection at that time of
17 the unredacted e-mails to make that determination.

18 Mr. Santell, if you could please make sure --
19 and I can't imagine, unless the city is doing it
20 differently than any other case -- every other case that
21 I've done with a FOIA request and the city has redacted
22 information, on the redaction it gives the specific
23 section that is being used for that specific redaction.
24 So that would be sufficient. And if the plaintiff, I'm

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1 hoping that you're not going to be objecting to personal
2 information, because it will be an enormous task for me
3 to go through that, but you're getting to the substance,
4 and I think that's what you want.

5 So I'm going to not rule on Count No. 3 at
6 this point based on my ruling on Count No. 1 and 2
7 asking for a new search to be done.

8 MS. SVENSON: Your Honor, may I ask a question.
9 With respect to what you were saying about the plaintiff
10 is limited to the original request, are you speaking
11 about our request from our e-mails?

12 THE COURT: Your original FOIA request that was
13 filed in December of 2015 specifically states, any and
14 all records of communications sent to and from officials
15 in the Office of the Mayor, including but not limited to
16 Mayor Rahm Emanuel, comma, regarding, comma, concerning
17 or relating to police dash-camera recordings of the
18 October 20, 2014 shooting of Laquan McDonald, including
19 but not limited to the release of any video recordings
20 to the public.

21 Your subsequent e-mails specifically address
22 the search terms that were used and that it did not
23 include specific search terms.

24 MS. SVENSON: So my question is, are we relegated

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1 to just those search terms that we had suggested we use
2 because we probably have more that we would like to
3 submit?

4 THE COURT: No. But you're not going to get
5 anything more than what you've already asked for in the
6 original FOIA.

7 MS. SVENSON: Right. Okay. Thank you.

8 THE COURT: Is that clear?

9 MS. SVENSON: That answers my question.

10 THE COURT: You're not going to get anything more
11 than what your original request was. You're limited.
12 If you want more than that, then you have to file a new
13 FOIA.

14 MS. SVENSON: Right.

15 THE COURT: Have I addressed everything?

16 MS. SVENSON: I believe so.

17 MR. SANTELL: I believe so, your Honor.

18 THE COURT: Give me one minute to make sure I have
19 gone over my notes and addressed everything.

20 MS. SVENSON: Actually, I do have one more thing
21 once you're ready.

22 Are they going to be required to submit an
23 affidavit showing?

24 THE COURT: There's no requirement that they need

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1 to submit an affidavit, but the response, it's clear.
2 It should be coming from the FOIA officer.

3 Is there a problem with that?

4 MR. SANTELL: No.

5 THE COURT: At this stage now that we're tendering,
6 you know, almost a year later.

7 MR. SANTELL: No, your Honor. I don't believe
8 there's any sort of exigency involved here. I believe
9 we should be able to have the Mayor's FOIA officer
10 respond.

11 THE COURT: Since we're going to be doing a new
12 search at this point, they can file a new response from
13 the Office of the Mayor, from the Mayor's FOIA officer
14 with a new search terms.

15 Let me make sure I covered everything; I think
16 we have.

17 MS. SVENSON: Thank you, your Honor.

18 MR. SANTELL: Thank you, your Honor.

19 (Which were all the proceedings had
20 in the above-entitled cause.)
21
22
23
24

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Alexandra Szajna, being first duly sworn, on oath says that she is a Certified Shorthand Reporter and Registered Professional Reporter doing business in the City of Chicago, County of Cook and the State of Illinois;

That she reported in shorthand the proceedings had at the foregoing hearing;

And that the foregoing is a true and correct transcript of her shorthand notes so taken as aforesaid and contains all the proceedings had at the said hearing.

Alexandra Szajna

ALEXANDRA SZAJNA, CSR, RPR

CSR No. 084-004778

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before me this 3rd day of
October, A.D., 2016.

Allison L. Sedakis



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24:15,22 25:3,8,				

Michael Bekesha

From: Christine Svenson <christine@svensonlawoffices.com>
Sent: Monday, July 17, 2017 5:05 PM
To: Ritter, Amber
Cc: Santell, Phillip; Michael Bekesha
Subject: RE: Judicial Watch v. City of Chicago -- Document Production

Amber/Phil:

Following up on the below. My client sent an email to you three weeks ago asking for a response. Can you please do so? We need to get moving on this. If we don't receive a response by COB of July 24th, we shall be forced to file another Petition for Rule.

Christine

From: Michael Bekesha [mailto:MBekesha@JUDICIALWATCH.ORG]
Sent: Monday, July 10, 2017 1:36 PM
To: Ritter, Amber <Amber.Ritter@cityofchicago.org>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: Judicial Watch v. City of Chicago -- Document Production

Amber/Phil – Maybe we should set up a conference call to discuss?

Thanks.

mb

From: Michael Bekesha
Sent: Wednesday, June 28, 2017 12:29 PM
To: 'Ritter, Amber' <Amber.Ritter@cityofchicago.org>; 'Christine Svenson' <christine@svensonlawoffices.com>
Cc: 'Santell, Phillip' <Phillip.Santell@cityofchicago.org>
Subject: RE: Judicial Watch v. City of Chicago -- Document Production

Amber – Just following up.

Thanks.

mb

From: Michael Bekesha
Sent: Tuesday, June 20, 2017 11:00 AM
To: 'Ritter, Amber' <Amber.Ritter@cityofchicago.org>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: Judicial Watch v. City of Chicago -- Document Production

Amber – We have started reviewing the records. There is no cover letter.

Could you please tell us what was searched, if any records are being withheld in full, and whether this is a final production. Also, I believe the Court ordered such information to be provided by letter from the Mayor's Office.

Also, what is the status of the rest of the search? It is my understanding that we agreed on the following on March 3rd:

Search the 21 custodians for:

- Releas! (to allow for both release or released and releasing) and recording
- Releas! and video
- Releas! and dash
- Releas! and camera
- Recording and video
- Recording and dash
- Recording and camera
- Dash and Camera
- Dashcam

Thanks.

mb

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From: Ritter, Amber [<mailto:Amber.Ritter@cityofchicago.org>]

Sent: Monday, June 19, 2017 4:08 PM

To: Christine Svenson <christine@svensonlawoffices.com>

Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>; Michael Bekesha <MBekesha@JUDICIALWATCH.ORG>

Subject: RE: Judicial Watch v. City of Chicago -- Document Production

No, they did not.

From: Christine Svenson [<mailto:christine@svensonlawoffices.com>]

Sent: Monday, June 19, 2017 3:03 PM

To: Ritter, Amber

Cc: Santell, Phillip; Michael Bekesha (mbekesha@judicialwatch.org)

Subject: RE: Judicial Watch v. City of Chicago -- Document Production

Amber:

Can you confirm as to whether these searches include personal email addresses?

Best regards,

Christine

From: Ritter, Amber [<mailto:Amber.Ritter@cityofchicago.org>]

Sent: Wednesday, June 14, 2017 6:52 PM

To: Christine Svenson <christine@svensonlawoffices.com>

Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>

Subject: Judicial Watch v. City of Chicago -- Document Production

Christine:

Tomorrow in court, Phil will give you a disk containing the records responsive to our agreement. This represents a search of the emails of Mayor's Office employees Eileen Mitchell, Michael Negron, Vance Henry, Stephen Spector, and Katie Hill, for the same search words we used for our original December 2015 production ("Laquan," "Van Dyke," "Vandyke," and "LM").

This search yielded thousands of emails – but as we reviewed them, we eliminated those that had already been produced in their entirety. In other words, in many cases these new custodians were already among the recipients, or were the author of, emails that were previously produced as part of another custodians' emails. Once we eliminated these exact duplicates, we were left with several hundred unique emails, which we are now producing.

Please note that we have redacted material consistent with the redactions we made in our original production. Personal cell phone numbers and email addresses have been redacted pursuant to Section 7(1)(b) of FOIA, and talking points and other predecisional information has been redacted or withheld pursuant to Section 7(1)(f).

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Michael Bekesha

From: Christine Svenson <christine@svensonlawoffices.com>
Sent: Tuesday, April 25, 2017 3:24 PM
To: Ritter, Amber
Cc: Michael Bekesha
Subject: update on documents

Amber:

We still haven't received any...thanks.

Christine

Christine Svenson, Esq.
Svenson Law Offices
505 N. LaSalle Street
Suite 350
Chicago IL 60654
312.467.2900
christine@svensonlawoffices.com

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Michael Bekesha

From: Christine Svenson <christine@svensonlawoffices.com>
Sent: Wednesday, April 12, 2017 2:59 PM
To: Michael Bekesha; Ritter, Amber
Cc: Santell, Phillip
Subject: RE: JW v. City of Chicago -- custodian list

Amber:

Any update?

Thanks.

Christine

From: Michael Bekesha [mailto:MBekesha@JUDICIALWATCH.ORG]
Sent: Tuesday, April 04, 2017 1:33 PM
To: Ritter, Amber <Amber.Ritter@cityofchicago.org>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: JW v. City of Chicago -- custodian list

Amber – What's the status of the production?

Thanks.

From: Michael Bekesha
Sent: Wednesday, March 29, 2017 3:00 PM
To: 'Ritter, Amber' <Amber.Ritter@cityofchicago.org>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: JW v. City of Chicago -- custodian list

Amber – That's great news. Internet drop box is fine.

Thanks.

mb

From: Ritter, Amber [mailto:Amber.Ritter@cityofchicago.org]
Sent: Wednesday, March 29, 2017 2:54 PM
To: Christine Svenson <christine@svensonlawoffices.com>
Cc: Michael Bekesha <MBekesha@JUDICIALWATCH.ORG>; Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: Re: JW v. City of Chicago -- custodian list

Hi Christine. I am going to be receiving a lot of this tomorrow from my client. It will take a day to put it into producable format, so I plan to get it to you on Friday.

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Would you like it delivered on a disk or in an internet drop box?

Sent from my iPhone

On Mar 29, 2017, at 1:24 PM, Christine Svenson <christine@svensonlawoffices.com> wrote:

Amber...anything on this?

From: Michael Bekesha [<mailto:MBekesha@JUDICIALWATCH.ORG>]
Sent: Tuesday, March 21, 2017 9:20 AM
To: Ritter, Amber <Amber.Ritter@cityofchicago.org>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: JW v. City of Chicago -- custodian list

Amber – Just following up to see how the new searches are going.

Thanks.

mb

From: Ritter, Amber [<mailto:Amber.Ritter@cityofchicago.org>]
Sent: Friday, March 3, 2017 12:49 PM
To: Michael Bekesha <MBekesha@JUDICIALWATCH.ORG>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: JW v. City of Chicago -- custodian list

It does make sense. I will have them start that now.

Thanks.

From: Michael Bekesha [<mailto:MBekesha@JUDICIALWATCH.ORG>]
Sent: Friday, March 03, 2017 11:39 AM
To: Ritter, Amber; Christine Svenson
Cc: Santell, Phillip
Subject: RE: JW v. City of Chicago -- custodian list

Amber – Oh okay. So how about:

Search the 21 custodians for:

- Releas! (to allow for both release or released and releasing) and recording
- Releas! and video
- Releas! and dash
- Releas! and camera
- Recording and video
- Recording and dash
- Recording and camera
- Dash and Camera
- Dashcam

Does that make sense?

Thanks.

mb

From: Ritter, Amber [<mailto:Amber.Ritter@cityofchicago.org>]
Sent: Friday, March 3, 2017 12:04 PM
To: Michael Bekesha <MBekesha@JUDICIALWATCH.ORG>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: JW v. City of Chicago -- custodian list

Hi, Michael.

As to points 1 and 2 – ok. I have our IT folks running the search for #2 now.
As to point 4:

While we cannot do Boolean searches such as (Word A /x Word B), we can do (Word A and Word B) – in other words, we can capture emails that have both words in them somewhere. I believe this is what you mean by layered searches. If so, please give us proposed searches you'd like run, and we will get the ball rolling on that.

Thanks.

From: Michael Bekesha [<mailto:MBekesha@JUDICIALWATCH.ORG>]
Sent: Friday, March 03, 2017 8:16 AM
To: Ritter, Amber; Christine Svenson
Cc: Santell, Phillip
Subject: RE: JW v. City of Chicago -- custodian list

Amber – Thanks for this additional information.

1. We would like to keep the number of custodians the same at 21;
2. Please run the original search the 5 custodians that were not part of the original production (so that all 21 are on equal footing);
3. We will withdraw the search terms “tape” and “image”;
4. Before we narrow the 5 remaining search terms, I want to understand the system better. Although Boolean searches cannot be done, can your IT department, for example, search for the term “release” and then conduct a second search of the resulting material for the term “video”? If this can be done, we can probably come up with layered searches that may drastically decrease the number of hits that will need to be reviewed.

Thanks again.

mb

From: Ritter, Amber [<mailto:Amber.Ritter@cityofchicago.org>]
Sent: Thursday, March 2, 2017 5:49 PM

To: Michael Bekesha <MBekesha@JUDICIALWATCH.ORG>; Christine Svenson <christine@svensonlawoffices.com>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: RE: JW v. City of Chicago -- custodian list

Christine and Michael:

Our IT department has run your search terms with this narrowed list of custodians, and it still results in over 400,000 hits. That is about 75GB of data. Because of the size, they aren't even able to run a hit count per search term, because they can't load that much data into the system that provides that report.

So, you will need to either narrow your search terms, or greatly reduce the number of custodians.

Here are some thoughts and recommendations that may be helpful in narrowing the terms:

1. First, the term "release!" would be appear in many thousands of emails unrelated to the Laquan McDonald matter, because most of the people on your list are involved in the drafting, editing and distribution (plus the receipt) of press releases on a daily basis. While we're not able to do Boolean searches in our system (i.e., release! /x video!), there may be a phrase that you could suggest that would greatly reduce the volume of unrelated hits. For example, "video release," or "release of the video".
2. Likewise, your term "camera!" is likely to capture many thousands of emails related to the City's Red Light Camera program, which has been the subject of voluminous discussion and ongoing litigation for many years. Plus, the custodians on your list all receive hourly automatic news bulletins, and that program has been the subject of a great deal of press attention on a continuous basis. There are likely many thousands of automatically generated news alerts on that program alone. A suggestion I have to limit these unrelated hits would be to combine your terms "dash!" and "camera!" into the single term "dashcam," which, in my experience, is generally the way people refer to such videos.
3. As for your terms "tape!" and "image!", these don't seem narrowly tailored to finding emails in which the Laquan McDonald dashcam video was discussed, because there was no "tape" involved (it's digital), and it wasn't an "image," but rather a video.
4. Please remember also that any email containing ANY of these words, which also contains the words "Laquan," "Van Dyke," "Vandyke" or "LM" has already been captured and produced to you for all custodians on your list other than Eileen Mitchell, Kathleen Hill, Michael Negron, Stephen Spector and Vance Henry.

Based on this, I would make the following suggestion to you. For the 5 custodians you've selected who were not in our original production (listed above), we run the broad search we ran on the original 16 Mayor's Office employees – i.e., "Laquan," "Van Dyke," "Vandyke" and "LM." In addition, we run the search terms "dashcam!" and "video release" on all 21 custodians you have selected. I believe this will yield a manageable amount of emails that we can then review and produce to you.

Right now I am going to ask our IT department to run the search that I outlined above, to see how many hits it yields. I want to get the ball rolling on this because it does take them some time to conduct these searches (although this will likely take far less time because far less data will be involved.) Once I get that result, I will let you know the number. If you have other thoughts in the meantime, please reach out.

Thanks.

From: Ritter, Amber
Sent: Tuesday, February 28, 2017 6:37 PM
To: 'Michael Bekesha'; Christine Svenson
Cc: Santell, Phillip
Subject: RE: JW v. City of Chicago -- custodian list

OK, great. That is far more manageable. Our IT department is now using this list to create the hit count, which should speed up the process. I hope to get you that tomorrow.

Thanks.

From: Michael Bekesha [<mailto:MBekesha@JUDICIALWATCH.ORG>]
Sent: Tuesday, February 28, 2017 3:20 PM
To: Ritter, Amber; Christine Svenson
Cc: Santell, Phillip
Subject: RE: JW v. City of Chicago -- custodian list

Amber – Thank you so much for this. It is extremely helpful.

We have gone through the list and can narrow the list of custodians by more than half. Here is our revised list of 21 custodians to be searched:

1. Aaron Deal
2. Adam Collins
3. Clothilde Ewing
4. David Spielfogel
5. Eileen Mitchell
6. Farzin Parang
7. Forrest Claypool
8. Janey Rountree
9. Jessica Higgins
10. Kathleen Hill
11. Kenneth Williams Bennett
12. Lisa Schrader
13. Meghan Harte
14. Melissa Green
15. Michael Negron
16. Michael Rendina
17. Rahm Emanuel
18. Samantha Fields
19. Stephen Spector
20. Steven Koch
21. Vance Henry

Hopefully this narrows the number of hits.

Also, please confirm that the Mayor's office will be searching the non-government email accounts of these 21 employees to the extent they used other accounts besides their official government accounts to conduct official government business. This includes the Mayor

(<http://www.chicagotribune.com/news/local/politics/ct-rahm-emanuel-personal-email-met-1108-20161107-story.html>) as well as anyone else.

Please let us know if you have any questions.

Thank you again.

mb

Michael Bekesha
202.646.5171

From: Ritter, Amber [<mailto:Amber.Ritter@cityofchicago.org>]
Sent: Tuesday, February 28, 2017 3:48 PM
To: Christine Svenson <christine@svensonlawoffices.com>; Michael Bekesha <MBekesha@JUDICIALWATCH.ORG>
Cc: Santell, Phillip <Phillip.Santell@cityofchicago.org>
Subject: JW v. City of Chicago -- custodian list

Hi, Christine and Michael.

As we discussed, I am providing you with a list of all employees at the Mayor's Office from October 2014 through December 2015, with colloquial job descriptions for the employees you asked us to search. I hope this will help you narrow your list, as you can see that many of the folks you requested have nothing to do with police issues. I have also highlighted in green the individuals whose emails we have already searched and produced for the search terms "Laquan," "Van Dyke," "Vandyke," and "LM." Please let me know if you'd like to talk through any of these.

Please note that "LCGA" stands for Legislative Council and Governmental Affairs. This is the section of the Mayor's Office that deals with legislation and liasioning with other governmental units (the County, the State, etc.)

As for the hit count, it is taking a lot of time because, as we've discussed, your search terms with your initial custodian list have yielded over 900,000 hits. If you can narrow your custodian list based on these descriptions, it would help us narrow the hit count list.

Thanks.

Amber Achilles Ritter
Chief Assistant Corporation Counsel
Legal Information, Investigations & Prosecutions Division
City of Chicago Department of Law
30 N. LaSalle, Suite 1720
Chicago, IL 60602
(312) 744-0741

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Michael Bekesha

From: Ritter, Amber <Amber.Ritter@cityofchicago.org>
Sent: Monday, February 27, 2017 6:21 PM
To: Christine Svenson
Cc: Michael Bekesha
Subject: RE: Judicial Watch vs Office of the Mayor

My apologies, counselors. We have been working on the materials for you and will get it to you tomorrow.

Thanks.

From: Christine Svenson [mailto:christine@svensonlawoffices.com]
Sent: Thursday, February 23, 2017 12:10 PM
To: Ritter, Amber
Cc: Michael Bekesha (mbekesha@judicialwatch.org)
Subject: Judicial Watch vs Office of the Mayor

Amber:

As you know, we have emailed you a few times since the last court appearance without word one pertaining to our search terms. You are leaving us no choice but to seek to amend the Petition for Rule if we do not hear back from you COB tomorrow, Friday, February 24th.

Christine

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Michael Bekesha

From: Christine Svenson <christine@svensonlawoffices.com>
Sent: Thursday, February 9, 2017 6:18 PM
To: Ritter, Amber
Cc: Michael Bekesha
Subject: Judicial Watch vs. Office of Mayor et al.

Amber:

Were you able to get the information that we discussed in our last email? Please let me know if you'd like me to re-send.

Best regards,

Christine

Christine Svenson, Esq.
Svenson Law Offices
505 N. LaSalle Street
Suite 350
Chicago IL 60654
2467.2900
christine@svensonlawoffices.com

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Michael Bekesha

From: Christine Svenson <christine@svensonlawoffices.com>
Sent: Wednesday, January 25, 2017 12:37 PM
To: Ritter, Amber
Cc: Michael Bekesha
Subject: RE: Judicial Watch v Office of Mayor et al.

Ok thanks much.

From: Ritter, Amber [mailto:Amber.Ritter@cityofchicago.org]
Sent: Wednesday, January 25, 2017 11:33 AM
To: Christine Svenson <christine@svensonlawoffices.com>
Cc: Michael Bekesha (mbekesha@judicialwatch.org) <mbekesha@judicialwatch.org>
Subject: RE: Judicial Watch v Office of Mayor et al.

Hi, Christine.

I don't have the order yet – I had to leave my email address with the clerk, and he said he'd send it once it was signed by a judge. I'll forward it once I get it.

2. Your summary of our conversation is correct. I can get you this by Monday.

From: Christine Svenson [<mailto:christine@svensonlawoffices.com>]
Sent: Wednesday, January 25, 2017 11:30 AM
To: Twitter, Amber
CC: Michael Bekesha (mbekesha@judicialwatch.org)
Subject: Judicial Watch v Office of Mayor et al.

Amber:

Can you please forward yesterday's court order?

Also pursuant to our conversation, you will be providing the number of “hits” for the specific words that we had previously submitted including, of course, “hits” to the mayor’s personal emails. You will also provide a list of the employees that we had previously selected with their job titles. Can you provide us with a timeframe for same?

Best regards,

Christine

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

JUDICIAL WATCH, INC.,	)	
	)	
Plaintiff,	)	Case No.: 16 CH 00462
	)	
vs.	)	
	)	
THE OFFICE OF THE MAYOR	)	
OF THE CITY OF CHICAGO	)	
	)	Honorable Judge Demacopoulos
and	)	
	)	
RAHM EMANUEL, in his	)	
official capacity as Mayor of the	)	
city of Chicago	)	
Defendant.	)	
_____	)	

NOTICE OF SECOND PETITION FOR RULE TO SHOW CAUSE

To:

Amber Ritter (via email amber.ritter@cityofchicago.org)
Philip Santell (via email Philip.santell@cityofchicago.org)
Assistant Corporation Counsel
City of Chicago Department of Law
30 N. LaSalle Street
Suite 1720
Chicago IL 60602

PLEASE TAKE NOTICE that on August 8, 2017, at 9:30 am, or as soon as counsel may be heard, I shall appear before the Honorable Judge Demacopoulos or any judge sitting in her stead, the courtroom usually occupied by her in Courtroom 2008 of the Circuit Court of Cook County, Municipal Division, Daley Center, Chicago IL, and present the attached **Second Petition for Rule to Show Cause**.

_____/s/ A. Christine Svenson_____

CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalties of perjury as provided by law pursuant to 735 ILCS 5/1-109, that the above notice and attached pleading(s) were EMAILED to the addresses listed above on or before 5:00 pm on July 25, 2017.

_____/s/ A. Christine Svenson_____
A. Christine Svenson

Svenson Law Offices
505 N. LaSalle Street
Suite 350
Chicago IL 60654
T: 312.467.2900
F: 312.467.2902
Attorney code no. 44565

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Chancery DIVISION

Litigant List

Printed on 07/25/2017

Case Number: 2016-CH-00462

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Plaintiffs

Plaintiffs Name	Plaintiffs Address	State	Zip	Unit #
JUDICIAL WATCH, INC.			0000	

Total Plaintiffs: 1

Defendants

Defendant Name	Defendant Address	State	Unit #	Service By
THE OFFICE OF THE MAYOR O			0000	
EMANUEL RAHM			0000	

Total Defendants: 2