

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

BALTIMORE DIVISION

JUDICIAL WATCH, INC.,)	
)	
<i>Plaintiff,</i>)	
)	Civil Action No. 17-cv-02006 (ELH)
v.)	
)	
LINDA H. LAMONE, <i>et al.</i>)	
)	
<i>Defendants.</i>)	
_____)	

**RESPONSES AND OBJECTIONS OF PLAINTIFF JUDICIAL WATCH, INC. TO
DEFENDANT’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Fed. R. Civ. P. 26 and 34, Plaintiff Judicial Watch, Inc. (“Plaintiff” or “Judicial Watch”), by its undersigned counsel, hereby responds and objects to Defendant Linda Lamone’s First Request for Production of Documents to Plaintiff Judicial Watch, Inc. as follows:

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

Plaintiff objects to these requests for production to the extent that they exceed the discovery scope and limits described in Fed. R. Civ. P. 26(b); to the extent that they seek information protected by the attorney-client, work-product, or other privileges; and to the extent that they purport to impose any obligation beyond what is prescribed by federal or court rules. The following responses are subject to Plaintiff’s right to supplement or alter them to conform with documents subsequently obtained during the course of discovery or trial. In making these responses, Plaintiff does not waive any right to object to the admissibility at trial of any fact, statement, or document, or to object to any future request for the production of documents.

RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION

Subject to and without waiving the foregoing objections, Plaintiff responds to

Defendant's requests for production as follows:

REQUEST FOR PRODUCTION NO. 1:

All documents that you may use to support your claims in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Plaintiff objects to this request on the ground that it calls for the disclosure of information that is not otherwise required to be disclosed until 30 days before trial, pursuant to Fed. R. Civ. P. 26(a)(3)(B). Plaintiff will supplement its responses, if necessary, within the timeframe permitted by Fed. R. Civ. P. 26(a)(3)(B) or by order of the Court.

Plaintiff also objects that it has not fully decided which documents it may use to support its claims and so cannot provide an answer now. Any dispositive motion likely will cite the documents filed in this case as ECF Doc. Nos. 1-1, 1-2, and 24-2, but beyond that Plaintiff does not know.

REQUEST FOR PRODUCTION NO. 2:

All documents relating to your request for a copy of the list of registered voters in Montgomery County, Maryland that is the subject matter of this lawsuit, including all documents relating to your decision to request the voter list, the reasons you made the request, the purposes for which you intend to use the list, and any broader effort to obtain copies of similar lists from other jurisdictions of which your request for a copy of the list of registered voters in Montgomery County, Maryland, is a part.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Plaintiff objects to this request on the ground that the requested discovery is not proportional to the needs of the case, considering the parties' relative access to relevant information, the undue burden imposed, which outweighs the likely benefit of the requested

discovery, and on the ground that it seeks confidential and protected documents under the attorney-client privilege.

Judicial Watch's mission includes promoting transparency, integrity, and accountability in government and fidelity to the rule of law; protecting the rights of Judicial Watch members who are lawfully registered to vote in Montgomery County (and elsewhere); and ensuring compliance with the NVRA. In pursuit of these goals, Judicial Watch requests and reviews records from state and local governments to determine whether they are complying with the NVRA, and, if necessary, sues to enforce compliance. Just in the past two years, Judicial Watch has sent more than 150 letters to jurisdictions in 13 states, including Montgomery County, Maryland. Judicial Watch has filed five federal lawsuits alleging violations of the NVRA, four of which are still active to various degrees.

Simply put, Defendant's request necessarily refers to a large proportion of what Judicial Watch does in pursuit of its core mission. Searching for and producing all documents concerning all of these efforts is unreasonably burdensome and not proportional to the needs of this case. Further, the requested documents are irrelevant to the issues in this case. Judicial Watch's efforts to obtain voter registration lists either from Maryland or from other jurisdictions have nothing to do with the claims in the complaint or the defenses in Defendants' answer. Further, providing the lists themselves would violate state laws. Judicial Watch has obtained voter registration lists under Section 8(i) of the NVRA from California, Georgia, Illinois, New Jersey, New York, North Carolina, and Vermont. The laws of these jurisdictions variously prohibit the sharing and distribution of their voter registration lists.

Judicial Watch also objects to this request insofar as it seeks documents that are attorney work product and is withholding the following documents on that basis. In June 2015 and again

in June 2017, Dr. Stephen A. Camarota, the Director of Research for the Center for Immigration Studies, conducted paid studies for Judicial Watch. These studies compared the survey data from a biennial report released by the Election Assistance Commission (EAC) regarding state and county voter registration totals with data provided by the Census Bureau to determine the adult citizen registration rates for U.S. counties. These studies also collected various other statistics that were publicly available from the EAC concerning state and county compliance with the NVRA, including, for example, the number of confirmation notices sent pursuant to 52 U.S.C. § 20507(d)(2), and the number of registrations placed in an “inactive” status. Judicial Watch relied on these studies to determine which states and jurisdictions should receive a “notice of violation” letter pursuant to 52 U.S.C. § 20510(b) and which should be sued for failing to comply with the NVRA. These studies have not been made public. Judicial Watch does not intend to call Dr. Camarota as a witness at trial. Dr. Camarota is an expert employed by Plaintiffs only to prepare for trial. Accordingly, there is no basis for requiring production of these proprietary studies.

REQUEST FOR PRODUCTION NO. 3:

All documents reflecting or relating to any communications you had with any third party, including any actual or potential financial supporters of Judicial Watch, other than your attorneys, concerning your request for the list of registered voters in Montgomery County, Maryland that is the subject of this lawsuit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Plaintiff objects to this request on the grounds that none of the requested documents are relevant to any party’s claims or defenses, and that the requested discovery is not proportional to the needs of the case, considering the parties’ relative access to relevant information, the parties’

resources, the importance of the discovery in resolving the issues in the case, and the undue burden imposed, which outweighs the likely benefit of the requested discovery.

Plaintiff objects to searching for and producing any requested “communications” in the form of press releases, on the ground that there is a large volume of press releases and that Defendants easily can search and review these press releases by other means, namely, online. Without waiving its objections to the relevance of this discovery, Judicial Watch notes that all of its press releases are available, in a searchable format, at <https://www.judicialwatch.org/press-room/press-releases/>.

Plaintiff objects to producing any fund-raising materials and other communications with its membership regarding its request for the list of registered voters in Montgomery County, Maryland because, besides having no bearing on the issues in this case, these materials are proprietary and were produced at a considerable cost to Plaintiff, and because it would be extraordinarily burdensome and probably impossible to search for and produce them all. Plaintiff has many hundreds of thousands of contributors, depending on how one measures the size and recency of contributions, and Plaintiff communicates with them, and with many more prospective contributors, both concerning fundraising appeals and current news, on a regular basis, meaning once or twice per day by email, and also frequently by regular mail. For example, statistics show that in a recent month Judicial Watch sent 1.5 million pieces of mail to its contributors, 2.3 million pieces of mail to prospective contributors, and 58 million emails. Indeed, Plaintiff cannot at present determine whether, even if it possessed unlimited resources and time, it could ever reconstruct how many unique messages were sent, let alone how many refer to or concern voting, voter registration, this lawsuit, Maryland, or related issues. Defendant’s request is not only irrelevant and objectionable as requesting proprietary

information, on information and belief it is impossible to comply with it.

REQUEST FOR PRODUCTION NO. 4:

All documents reflecting or relating to any communications you had with any third party, other than your attorneys, concerning this lawsuit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Plaintiff objects to this request on the grounds set forth in response to Request for Production No. 3 and incorporates that response here, in its entirety, by reference.

REQUEST FOR PRODUCTION NO. 5:

All documents reflecting or relating to any communications you had with any third party, including any actual or potential financial supporters of Judicial Watch, other than your attorneys, relating to the purposes for which you are seeking the Montgomery County voter list.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Plaintiff objects to this request on the grounds set forth in response to Request for Production No. 3 and incorporates that response here, in its entirety, by reference.

Plaintiff also objects to this request on the ground that the use of the term “purposes” in the request is vague, ambiguous, and overbroad, and is not subject to an interpretation that would allow Plaintiff to understand or respond to this request.

REQUEST FOR PRODUCTION NO. 6:

All documents reflecting or relating to any communications you had with any third party, including any actual or potential financial supporters of Judicial Watch, other than your attorneys, relating to any broader effort to obtain copies of lists of registered voters from other jurisdictions of which your request for a copy of the list of registered voters in Montgomery County, Maryland, is a part.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

Plaintiff objects to this request on the grounds set forth in response to Request for Production No. 3 and incorporates that response here, in its entirety, by reference.

Plaintiff also objects to this request on the grounds that the “broader effort” the request refers to has been undertaken in support of Judicial Watch’s core mission of promoting transparency, integrity, and accountability in government and fidelity to the rule of law; protecting the rights of Judicial Watch members who are lawfully registered to vote in other counties and states; and ensuring compliance with the NVRA. Interpreted literally, this request will require production of even more of the millions of communications referred to in response to Request for Production No. 3.

REQUEST FOR PRODUCTION NO. 7:

All documents relating to your use of any copy of a list of registered voters actually obtained from another jurisdiction.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Plaintiff objects to this request on the ground that none of the requested documents are relevant to any claim stated in Plaintiff’s complaint or any defense stated in Defendants’ answer, neither of which document refers in any way to lists acquired from another jurisdiction; and on the grounds that the requested discovery is not proportional to the needs of the case, considering the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues in the case, and the undue burden imposed, which outweighs the likely benefit of the requested discovery.

Further, Plaintiff objects that providing the lists themselves would violate state laws. Judicial Watch has obtained voter registration lists under Section 8(i) of the NVRA from

California, Georgia, Illinois, New Jersey, New York, North Carolina, and Vermont. The laws of these jurisdictions variously prohibit the sharing and distribution of their voter registration lists.

REQUEST FOR PRODUCTION NO. 8:

All documents reflecting any alleged admission and/or declaration against interest by any of the defendants in the case relating to any claims or defenses involved in this lawsuit.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Plaintiff objects to this request on the grounds that it seeks documents that are equally available to Defendants. Responsive documents, if any, would be from Defendants' Section 8(i) response on July 7, 2017, Defendants' pleadings in this case, Defendants' most recent October 10, 2018 response to Plaintiff's first set of requests for production, or any emails between Plaintiff and Defendants prior to filing this lawsuit. All of these documents may or may not contain admissions that Plaintiff's may use. Plaintiff also objects that responding to this request with any greater specificity would reveal the thought processes of Plaintiff's attorneys, which Defendants are not entitled to discover.

REQUEST FOR PRODUCTION NO. 9:

All documents that you provided to actual or potential financial supporters of Judicial Watch relating to this lawsuit, to your request for the list of registered voters in Montgomery County, Maryland, or to any broader effort to obtain copies of lists of registered voters from other jurisdictions of which your request for a copy of the list of registered voters in Montgomery County, Maryland, is a part.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Plaintiff objects to this request on the grounds set forth in response to Request for Production No. 3 and incorporates that response here, in its entirety, by reference.

Plaintiff also objects to this request on the grounds that the “broader effort” the request refers to has been undertaken in support of Judicial Watch’s core mission of promoting transparency, integrity, and accountability in government and fidelity to the rule of law; protecting the rights of Judicial Watch members who are lawfully registered to vote in other counties and states; and ensuring compliance with the NVRA. Interpreted literally, this request will require production of even more of the millions of communications referred to in response to Request for Production No. 3.

Further, Plaintiff objects that providing voter registration lists it has acquired would violate state laws. Judicial Watch has obtained voter registration lists under Section 8(i) of the NVRA from California, Georgia, Illinois, New Jersey, New York, North Carolina, and Vermont. The laws of these jurisdictions variously prohibit the sharing and distribution of their voter registration lists.

REQUEST FOR PRODUCTION NO. 10:

All documents that refer, relate or pertain to any of the matters alleged in the Complaint.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Plaintiff objects to this request on the ground that the requested discovery is overbroad, vague, ambiguous, and unintelligible; and that it is not proportional to the needs of the case, considering the parties’ relative access to relevant information, the undue burden imposed, which outweighs the likely benefit of the requested discovery, and on the grounds it seeks confidential and protected documents under the attorney-client, attorney work-product, or other applicable privilege.

REQUEST FOR PRODUCTION NO. 11:

All documents that you received in response to any subpoena or discovery request issued

in this case.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Other than the documents Defendants produced to Plaintiff on October 10, 2018, in response to Plaintiff's First Request for Production of Documents, Plaintiff has no responsive documents.

REQUEST FOR PRODUCTION NO. 12:

All documents identified, reviewed, or considered by you in responding to any defendant's interrogatories.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Plaintiff objects to the request in that it calls for documents not relevant to any claims or defenses in this case. If Plaintiff "reviewed," or "considered" a document in response to Defendants' interrogatories and ultimately rejected the document as irrelevant, such document remains irrelevant to this case notwithstanding that Plaintiff reviewed it. Further, the documents that Plaintiff's attorneys reviewed or considered in responding to Defendants' interrogatories, and then rejected as irrelevant, would reveal the mental processes and thoughts of Plaintiff's attorneys, which are protected under the attorney work-product doctrine.

REQUEST FOR PRODUCTION NO. 13:

All documents you intend to introduce as exhibits at any hearing or trial in this matter in support of the allegations in the Complaint.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Plaintiff objects to this request on the ground that it calls for the disclosure of information that is not otherwise required to be disclosed until 30 days before trial, pursuant to Fed. R. Civ. P. 26(a)(3)(B). Plaintiff will supplement its responses, if necessary, within the timeframe

permitted by Fed. R. Civ. P. 26(a)(3)(B) or by order of the Court. Plaintiff also objects that it has not fully decided which documents it will introduce as exhibits at trial and so cannot provide an answer now.

REQUEST FOR PRODUCTION NO. 14:

All documents reflecting or relating to any communications you had with any Russian nationals or agents of the Russian government concerning this lawsuit, your request for the Montgomery County voter list, the purposes for which you are seeking the Montgomery County voter list, and/or any broader effort to obtain copies of lists of registered voters from other jurisdictions of which your request for a copy of the list of registered voters in Montgomery County, Maryland, is a part.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Plaintiff objects that the request violates its First Amendment rights and those of its members, in that a frivolous, baseless allegation is being used by a government agent in order to retaliate against Plaintiff, a private organization, because of its conservative political views.

This request is frivolous. There is no allegation in any pleading or document associated with this case of any “communications” Plaintiff “had with any Russian nationals or agents of the Russian government concerning” any of the topics listed in Request No. 14 (or any other topics). Nor is there an allegation, let alone any evidence, of such a communication in any other lawsuit, nor in any news report, anywhere.

In commencing this lawsuit, Judicial Watch exercised its constitutional and statutory rights to sue Defendants for failing to comply with federal law concerning voter list maintenance. Defendants’ response here is to imply that Judicial Watch may be part of an alleged criminal conspiracy with the Russian government to suborn our elective democracy. The

request is a baseless smear by a government agency directed against citizens who dared to challenge it. Request No. 14 requests documents that even Defendants do not believe to exist. Its true purpose is to punish Judicial Watch for exercising its rights, and to deter others from exercising theirs.

Notwithstanding the foregoing objection, there were no such communications, and Plaintiff has no responsive documents.

Dated: October 15, 2018

Respectfully submitted,

_____/s/_____

Robert D. Popper, No. 12607
Paul J. Orfanedes, No. 22470
Ramona R. Cotca, No. 17196
Eric W. Lee, No. 20073

JUDICIAL WATCH, INC.
425 Third Street SW, Ste. 800
Washington, DC 20024
Tel: (202) 646-5172
Fax: (202) 646-5185
rpopper@judicialwatch.org
porfanedes@judicialwatch.org
rcotca@judicialwatch.org
elee@judicialwatch.org

Attorneys for Plaintiff