

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

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

**PLAINTIFF’S STATUS REPORT (REDACTED)**

Plaintiff Judicial Watch, Inc., by counsel and pursuant to the Court’s August 14, 2019 Order (ECF No. 126), respectfully submits this status report. The parties met and conferred as ordered by the Court but could not reach agreement on the additional discovery Plaintiff seeks. Counsel for Defendant represented that the State Department opposes additional discovery. Therefore, Plaintiff submits this report separately.

1. The Court previously ordered discovery into three areas: (i) whether Secretary Clinton’s use of a private email server was intended to stymie FOIA; (ii) whether the State Department’s effort to settle this case in late 2014 and early 2015 amounted to bad faith; and (iii) whether the State Department has adequately searched for records responsive to Judicial Watch’s request. Dec. 6, 2018 Memo. Opinion (Dec. 6, 2018 Memo.) (ECF No. 54); Jan. 15, 2019 Memo. & Order (Jan. 15, 2019 Memo.) (ECF No. 65).

2. Plaintiff has completed the initial discovery as ordered by the Court. As a result of the discovery, Plaintiff has learned new facts that require further, limited discovery.

3. These facts include:

a. The identities of the three State Department officials referenced in the FBI's interview notes of Bryan Pagliano. ECF No. 62-1, p. 4 of the FBI's Notes. The State Department identified these officials in response to an interrogatory the Court authorized Plaintiff to serve on the agency.<sup>1</sup> Jan. 15, 2019 Memo. at p. 6 (ECF No. 65).

b. In January 2013, State Department Records Officer Tasha Thian worked with Secretary Clinton, Cheryl Mills, and senior officials leaving the State Department to review procedures for removing personal papers and provide guidance on records retention. Ex. 11 (Walter Tr., pp. 76-82) (a complete copy of the deposition transcript is also available at <https://www.judicialwatch.org/wp-content/uploads/2019/07/JW-v-State-Sheryl-Walter-depo-01242-1.pdf>, last accessed Aug. 21, 2019); Ex. 12 & 13 (Walter Ex. 7 & 8).

c. In June 2013, FOIA requests related to Clinton's emails became a "concern of focus" for the Office of Information and Program Services (IPS) when then-IPS Deputy Director John F. Hackett saw a photograph on the WTOP's website of Clinton sitting on a military plane holding a BlackBerry. Ex. 1 (Hackett Tr., pp. 29-36) (a complete copy of the deposition transcript is also available online at <https://www.judicialwatch.org/wp-content/uploads/2019/07/JW-v-State-Hackett-deposition-01242.pdf>, last accessed Aug. 21, 2019). According to Hackett's testimony, the picture raised questions: "What was that BlackBerry? Was it a government BlackBerry? And if so, where were the e-mails relating to that BlackBerry?" Hackett Tr. at p. 30. Hackett raised concerns with IPS Director Sheryl Walter and A/GIS Deputy Assistant Secretary Margaret Grafeld. Hackett Tr. at pp. 30-31. An inquiry

---

<sup>1</sup> The officials' identities are subject to the Court's June 10, 2019 Protective Order. ECF Nos. 115 & 116. Plaintiff has redacted identifying information about these officials from the public version of this Status Report and is seeking leave to file an unredacted version under seal.

was launched into Clinton's BlackBerry and "e-mailing habits" as a result. Hackett Tr. at p. 32. Records Officer Thian was tasked with the inquiry. Hackett Tr. at p. 34.

d. In August 2013, FOIA officials reviewed all FOIA requests relating to Clinton's emails. Ex. 1 (Hackett Tr. at pp. 54-60). IPS issued a directive to stop issuing any further "No Record Located" responses to FOIA requests related to Clinton's emails until IPS "[came] to ground about what was known about the former Secretary's e-mailing habits." Hackett Tr. at p. 32. According to Hackett's testimony, IPS Office of Policy and Programs Chief Patrick Scholl sent the directive to the FOIA Branch analysts. Hackett Tr. at pp. 32-34. Hackett testified that Scholl "was going to redistribute it to all of the analysts [] through his [] organization." Hackett Tr. at pp. 32-34.

e. In December 2013 or January 2014, IPS located a record in response to a FOIA request submitted by Gawker Media that identified Clinton's email account. Ex. 1 (Hackett Tr. at pp. 59-60, 86); see J.K. Trotter, *This is Hillary Clinton's Secret Email: HDR22@ClintonEmail.com*, Gawker (March 3, 2015, 1:25 PM), available at <https://gawker.com/this-is-hillary-clinton-s-secret-email-hdr22-clintonem-1689178736> (last accessed Aug. 19, 2019). The Office of the Legal Advisor attempted to get "to the ground truth of what that ... e-mail address meant." Hackett Tr. at 97. According to Hackett, a Public Affairs official wrote in an email to another State Department official, "[R]emember, you're not supposed to use that e-mail" or used words to that effect. Hackett Tr. at pp. 93-94, 96.

f. In August 2014, Jamie Bair, an attorney in the Office of the Legal Advisor Attorney, was assigned Plaintiff's FOIA request and, later, this lawsuit. Ex. 1 (Hackett Tr. at pp. 122-124). At the time, Bair already had knowledge of or had been involved in the State Department's production of documents to the U.S. House of Representatives Benghazi Select

Committee, which included emails concerning Benghazi sent to or from Clinton's hdr22@clintonemail.com account. Bair alerted Hackett that the State Department may receive media inquiries about Clinton's emails. Hackett Tr. at pp. 36-42, 136-137; Ex. 2 (Hackett Ex. 1 at p. 3). According to Hackett, "they thought there was going to be press about Hillary Clinton's emails." Hackett Tr. at pp. 135-36. Hackett then asked Bair, "[W]ell, why don't we just go ask Hillary Clinton for, you know, her e-mails. And I – and I don't remember his response." Hackett Tr. at pp. 136-137.

g. In the summer of 2014, Bair met with State Department attorneys Gene Smilanksy, Katherine Duval, and Andrew Keller and discussed Clinton's email account, the 2012 FOIA request served by Citizens for Responsibility and Ethics (CREW) concerning Clinton's email accounts, and the Department's "legal obligations under FOIA and records management obligations, and possibly among others." Ex. 10 (Smilansky Tr., pp. 35-37, 39, 40-44). Bair was also involved in meetings around that time about a "larger volume of Hillary Clinton's e-mails." Smilansky Tr. at pp. 117-21.

h. In late summer or early fall of 2014, IPS Deputy Director Hackett and Executive Secretariat Staff Deputy Director Clarence Finney were asked to brief Public Affairs about Clinton's email account because Public Affairs "wanted to be prepared to answer questions about the former Secretary's records/e-mails" in response to the document production to the Benghazi Select Committee. Ex. 1 (Hackett Tr. at pp. 36-42, 65-67). The State Department's Rule 30(b)(6) witness, Elissa Guitron Pitterle, provided an outline prepared by her attorneys for her deposition that referenced an email about the briefing. The email was marked as an exhibit. Ex. 5 (Pitterle Tr., pp. 245-51); Ex. 6 (Pitterle Ex. 15). The email includes a reference to Bair.

i. In approximately August 2014, an unidentified attorney in the Office of the Legal Advisor contacted an A/GIS official to inquire whether Clinton emails existed in a PST file from an earlier FOIA request. Ex. 1 (Hackett Tr. at pp. 191-94); Ex. 4 (Hackett Ex. 21). Hackett identified the A/GIS official as Eric Stein, but did not have any further knowledge about the identity of the attorney or the PST file, or any details about the communication between the attorney and Stein. This same exchange between the attorney and Stein is referenced in FBI interview notes marked as an exhibit at Hackett's deposition. Hackett Ex. 21 at p. 1. According to the notes, the attorney, whose name has been redacted, told Stein "there were CLINTON-related emails in the [redacted] .pst file." *Id.*

j. After receiving paper copies of Clinton's emails, Hackett advised Under Secretary of Management Patrick Kennedy and possibly Deputy Assistant Secretary Margaret Grafeld or Acting Legal Advisor Richard Visek in or around December 2014 that the State Department needed to obtain whatever criteria Clinton's attorneys used to separate the Secretary's personal from her official State Department emails. Ex. 1 (Hackett Tr. at pp. 180-81). Hackett described his tone as "emphatic," stating he felt strongly that the criteria should be provided to the State Department:

Well, we heard that there were 50,000 or 60,000 e-mails, and that they had – "they" being the Secretary's team – had culled out 30,000 of these. And which is – so we wanted to know what criteria they used. The standard from the National Archives is very strict. If there was – if there were mixed records, that would be considered a federal record. If it was mixed personal and mentioned a discussion, that would be – under the narrow National Archives rules, it would be considered a federal record.

Hackett Tr. at 181-182. Kennedy informed Hackett that he would ask Clinton's team for the search parameters. When Hackett left the State Department in March 2016, the search parameters had not been provided. Hackett Tr. at 181-82.

k. In or around December 2014, Heather Samuelson created an “after action memo” to memorialize the Clinton team’s search for and processing of the Clinton emails returned to the State Department. Ex. 7 (Samuelson Tr., pp. 184, 188-89) (a complete copy of the deposition transcript is also available at <https://www.judicialwatch.org/wp-content/uploads/2019/07/JW-v-State-Heather-Samuelson-deposition-01242-1.pdf>, last accessed Aug. 21, 2019).

l. According to the State Department’s January 2016 Office of Inspector General Report, in September 2014 IPS tasked the Executive Secretariat (S/ES) with conducting the search for records responsive to the FOIA request at issue in this litigation. S/ES initially identified five records as potentially responsive but only turned over four “because it did not view the fifth document, an email, as responsive.” *See Evaluation of the Department of State’s FOIA Processes for Requests Involving the Office of the Secretary*, at p. 15 (Jan. 2016), available at <https://www.stateoig.gov/system/files/esp-16-01.pdf> (last accessed August 18, 2019). The four records were produced to Plaintiff on or about November 12, 2014. In the course of summary judgment briefing in 2015, the fifth record was determined to be responsive, but was withheld in full at the time. On April 18, 2016, the State Department produced to Plaintiff a September 29, 2012 email chain it identified as having been withheld in full, but “may now be released in part.” Ex. 3 (Hackett Ex. 17). Plaintiff believes the email chain, which includes an email from what is believed to be Jacob Sullivan’s official email address to the Secretary at her “hdr22@clintonemail.com” email address, may be the fifth record located by S/ES in the fall of 2014, but withheld from Plaintiff, first as non-responsive, then as exempt in full. If so, it may indicate the State Department knew as early as the fall of 2014 that the Secretary’s email practices affected and would be revealed by its response to Plaintiff’s FOIA request. Plaintiff asked potentially knowledgeable witnesses at their depositions whether the email chain was the

fifth record identified by S/ES in the fall of 2014. They were unable to confirm that the email chain was the fifth record.

4. It is apparent from the discovery taken to date that State Department officials knew about Clinton's email use by August 2014. Substantial questions remain, however, and the limited, additional discovery Plaintiff seeks is necessary to fill in gaps and answer questions raised by the discovery taken to date.

5. As described below, Plaintiff requests permission to take nine additional depositions and serve three additional interrogatories and four additional requests for the production of documents:

**A. DEPOSITIONS**

i. Jamie Bair (Attorney, Office of the Legal Advisor).

Plaintiff's ability to question Bair directly is paramount to Plaintiff's claims. As the attorney in the Office of the Legal Advisor assigned to Plaintiff's FOIA request and this lawsuit, Bair has first-hand knowledge about the State Department's responses to Plaintiff's FOIA request over time, including the review of the records located in response to the initial search conducted in the fall of 2014. Bair also has first-hand knowledge of State's settlement conduct. Until the discovery taken in this case, Plaintiff was unaware that Bair had alerted then-IPS Acting Director Hackett to potential media inquiries about Clinton's email practices when the department produced records to the Benghazi Select Committee. Plaintiff also was unaware that Hackett and Bair discussed asking the Secretary for her email, that Bair had discussed Clinton's email account and the CREW request with others in the Office of the Legal Advisor, and that Bair appears to have been involved in briefing Public Affairs about Secretary Clinton's email account. Plaintiff should have the opportunity to question Bair directly about (ii) whether the

State Department's intent to settle this case in late 2014 and early 2015 amounted to bad faith and (iii) whether the State Department has adequately searched for records responsive to Judicial Watch's request. Plaintiff requests that it also be permitted to ask questions about (i) whether Clinton's use of a private email server was intended to stymie FOIA if it learns in the course of the deposition or discovery that Bair has first-hand knowledge about this subject.

ii. Patrick Scholl (Chief, Office of Policy and Programs, IPS).

Patrick Scholl was the "head of non-litigation FOIA processing in IPS." Ex. 1 (Hackett Tr. at p. 167); Ex. 11 (Walter Tr. at pp. 24-25). Prior to former IPS Director Hackett's testimony, Plaintiff was unaware Hackett had raised concerns about Clinton's email practices with Scholl in 2013 or that, in response to those concerns, Scholl sent out a directive that no "No Record Located" responses to FOIA requests related to the Secretary's emails be issued. Hackett could not provide any further factual details regarding Scholl's directive. Scholl's testimony about the directive and knowledge of concerns about the Secretary's email practices are directly relevant to the second area of permissible discovery: (ii) whether the State Department's intent to settle this case in late 2014 and early 2015 amounted to bad faith. To the extent Scholl has first-hand knowledge about (i) whether Clinton's use of a private email server was intended to stymie FOIA or (iii) whether the State Department has adequately searched for records responsive to Judicial Watch's request, Plaintiff asks that it be permitted to question Scholl about those subjects as well.

iii. Tasha Thian (State Department Records Officer).

Prior to discovery in this case, Plaintiff was unaware of Thian's role in reviewing procedures with Clinton and her departing staff about removal of personal records and archiving of State Department records. Pltf. Mot. to Compel, Ex. 1 (ECF No. 102-1); June 12, 2019



Memo. Opinion (ECF No. 119), pp. 11-12 (II-K, Documents 1326, 1328, 3636); Ex. 11 (Walter Tr. at pp. 76-83). Plaintiff also was unaware of Thian's inquiry into Clinton's BlackBerry in 2013.

In addition, in November 2018, Thian published a book, "State Department Records & the Elections," in which she wrote about the Secretary's email practices. According to Goodreads, "Records and Information Management expert and former Department of State Records Officer Tasha Thian tells the untold, behind the scenes story with never before released material that is certain to surprise the readers." Ex. 14, also available at <https://www.goodreads.com/book/show/43191676-state-department-records-the-elections> (last accessed Aug. 20, 2019). Goodreads continues, "Tasha Thian gives an eye witness account and detailed analysis of records activities as they relate to . . . the Hillary Clinton Email server investigation." *Id.* Plaintiff requests that it be permitted to question Thian about her "eye witness" account and analysis, including Thian's work with the Secretary and her senior advisors upon their departure from the agency in 2013 and Thian's 2013 inquiry into Clinton's emails, which are relevant to all three areas into which the Court has authorized discovery.

iv. Eric F. Stein (Director, IPS).

Eric F. Stein is the current Director of IPS. He previously worked as Assistant to Deputy Assistant Secretary Grafeld. Ex. 1 (Hackett Tr. at pp. 191-92). Until Plaintiff deposed Hackett, Plaintiff was unaware Stein was the A/GIS official referenced in the FBI interview notes marked as Hackett Exhibit 21. Ex. 4. According to Hackett and the interview notes, in or around August 2014, Stein confirmed with an attorney in the Office of the Legal Advisor that Clinton emails had been located in a PST file the attorney had from a previous FOIA request. Hackett Tr. at pp.

192-95, Hackett Ex. 21. Hackett did not have any knowledge about the conversation or the name of the PST file at issue. Hackett Tr. at pp. 194-95.

In addition, the FBI interview notes reference discussions among a “powerful group of very high-ranking State officials,” referred to as the “7<sup>th</sup> Floor Group” or “The Shadow Government.” Ex. 4 (Hackett Ex. 21 at p. 4). According to the interview notes, the group held meetings “every Wednesday afternoon to discuss the FOIA process, Congressional records, and everything CLINTON-related to FOIA/C inquiries.” *Id.* Attendees included Jonathan Finer, Chief of Staff for Secretary of State John Kerry; Jennifer Stout, Deputy Chief of Staff; Heather Higginbottom, Deputy Secretary for Management and Resources; Patrick Kennedy; Julia Frifield, Assistant Secretary for Legislative Affairs; and unidentified attorneys from the Office of the Legal Adviser. *Id.* According to Hackett, Stein attended these meetings. Hackett Tr. at pp. 195-196. Again, Plaintiff was not aware that Stein was the subject of the interview notes until Hackett’s deposition. Stein also produced the September 29, 2012 email chain, with redactions, to Plaintiff on April 18, 2016, part of which was previously withheld as “non-responsive” in September 2014. OIG Jan. 2016 Report at p. 15; Ex. 3 (Hackett Ex. 17).

Plaintiff requests that it be permitted to question Stein directly about these issues. Specifically, it seeks to depose Stein about (ii) whether the State Department’s intent to settle this case in late 2014 and early 2015 amounted to bad faith and (iii) whether the State Department has adequately searched for records responsive to Judicial Watch’s request. To the extent Stein has first-hand knowledge about (i) whether Clinton’s use of a private email was intended to stymie FOIA, Plaintiff requests that it be permitted to ask questions about this as well.

v., vi, and vii. [REDACTED], [REDACTED] and [REDACTED].

Subject to a Protective Order entered by the Court on June 10, 2019, the State Department identified [REDACTED], [REDACTED], and [REDACTED] as the State Department officials referenced in the first full paragraph on page four of the FBI's interview notes of Bryan Pagliano. ECF Nos. 115 & 116; Jan. 15, 2019 Order at p. 6 (ECF No. 65); ECF No. 62-1. According to the FBI's notes, these State Department officials raised concerns on one or more occasions about Clinton's use of a private email server and federal records retention issues in 2009 and 2010. ECF No. 62-1 at p. 4 of the FBI's notes. The notes state that Pagliano relayed their concerns to Mills in late 2009 or early 2010. *Id.*

[REDACTED]

[REDACTED] . [REDACTED] [REDACTED]

[REDACTED] . [REDACTED]

[REDACTED] . [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] . [REDACTED] [REDACTED]

---

2 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

Plaintiff deposed Pagliano in *Judicial Watch, Inc. v. Dep't of State* (Case No. 13-cv-1363-EGS) on June 22, 2016; however, it was not able to obtain any information about the facts at issue. Pagliano invoked his Fifth Amendment right or was instructed by his counsel on other grounds not to answer every question posed by Plaintiff. *Judicial Watch, Inc. v. Dep't of State*, Case No. 13-1363 (EGS) (D.D. District of Columbia) (“Case No. 13-1363”), ECF No. 128 (Pagliano Tr.). The facts alleged in the FBI’s notes go to the heart of the permitted discovery of (i) whether Clinton’s email use of a private email server was intended to stymie FOIA and (ii) whether the State Department’s intent to settle this case in late 2014 and early 2015 amounted to bad faith. Dec. 6, 2018 Memo. (ECF No. 54); Jan. 15, 2019 Memo. (ECF No. 65). To the extent any of these individuals have first-hand knowledge about the relevant system of records to Plaintiff’s FOIA request, Plaintiff requests that it be permitted to also ask questions pertaining to (iii) whether the State Department has adequately searched for records responsive to Judicial Watch’s request. Plaintiff wishes to question these officials about all three areas permitted for discovery.

viii. and ix. Hillary Rodham Clinton and Cheryl D. Mills.

Plaintiff informed the Court in its December 19, 2018 Proposed Discovery Plan that it anticipated Clinton's and Mills' depositions would be necessary but would wait until after the initial round of discovery to make a final assessment. Plf's Proposed Discovery Plan, ¶ 3 (ECF No. 62); August 14, 2019 Order (ECF No. 126). Based on the discovery Plaintiff has taken, it is apparent that both depositions are necessary.

Mills served as Chief of Staff and Counselor to Secretary Clinton from 2009 to 2013. She also served as Clinton's personal attorney for purposes of the review of the Secretary's emails that resulted in the return of thousands of public records to the State Department in December 2014. Ex. 7 (Samuelson Tr. at p. 35); Ex. 9 (Samuelson Ex. 12).

Mills was the first witness deposed in Case No. 13-1363 pending before Judge Sullivan. Since Mills' deposition on May 27, 2016, more than three years ago, Plaintiff has gained a significant amount of knowledge about Clinton's email practices, the State Department's awareness of those practices and how it impacted records requests, and the agency's response to FOIA requests for the Secretary's emails, among other subjects, that Plaintiff did not have at the time of the deposition. Plaintiff also has learned new facts since Mills' May 2016 deposition that are directly relevant to Plaintiff's claim in this case. For example, Mills testified she was not aware of anyone addressing concerns about the State Department accessing Clinton's emails in connection with FOIA requests. Case No. 13-1363, ECF No. 126, p. 190 (Mills Tr.). According to the FBI's interview notes, however, former Clinton Campaign and State Department IT Specialist Bryan Pagliano told the FBI he had had a conversation with Mills about Clinton's use of a private email server and federal records retention concerns in late 2009 or early 2010. ECF No. 62-1 at p. 4 of the FBI's Notes. Mills confirmed that she occasionally interacted with

Pagliano at the State Department. Mills Tr. at pp. 161-62. Accordingly, Plaintiff requests that it be permitted to question Mills about this conversation and, more broadly, about (i) whether Secretary Clinton's use of a private email server was intended to stymie FOIA. Because Mills was involved in the return of Clinton's emails in 2014 and because Mills' records are also at issue in this case, Plaintiff requests that it also be permitted to depose Mills on the other two areas of permitted discovery: (ii) whether the State Department's intent to settle this case in late 2014 and early 2015 amounted to bad faith and (iii) whether the State Department has adequately searched for records responsive to Plaintiff's request.

In a revised discovery plan filed with the Court more than two years ago, Plaintiff indicated it would not seek discovery about Clinton's use of her "clintonemail.com" email account for official government business because that subject was being covered in the discovery taken in Case No. 13-1363. Jan. 10, 2017 Plf.'s Notice of Revised Discovery Proposal, ¶ 4 (pp. 9-10) (ECF No. 50). Since then, Plaintiff has discovered new facts that necessitate questioning Clinton directly on this topic. On May 6, 2019, the State Department produced newly unredacted emails, dated January 10, 2009 through January 28, 2009, between the Secretary and General David Petraeus. Ex. 8 (Samuelson Ex. 3). In the emails, Clinton discussed changing her email account to the clintonemail.com domain. *Id.* Plaintiff should have the opportunity to ask Clinton directly about these emails and changes to her email use: specifically, (i) whether her use of a private email server was intended to stymie FOIA; (ii) whether the State Department's efforts to settle this case in late 2014 and 2015 amounted to bad faith; and (iii) whether the State Department has adequately searched for records responsive to Plaintiff's request. While Clinton provided written answers to some interrogatories, prepared by her attorneys, in Case No. 13-1363, they are incomplete and inadequate to answer the questions raised by the facts Plaintiff has

discovered since then and the subject areas permitted for discovery in this case. *See* Case No. 13-1363, Notice of Filing of Non-Party Hillary Rodham Clinton’s Responses to Plaintiff’s Interrogatories (ECF No. 137-1) and Notice of Filing of Non-Party Hillary Rodham Clinton’s Supplemental Responses to Plaintiff’s Interrogatories 1 and 24 (ECF No. 180-1). For example, Clinton has repeatedly stated that she believed that her emails should have been preserved by the “normal State Department processes for email retention,” but has yet to explain what her understanding of that process was. Case No. 13-1363, ECF No. 180-1 (Supplemental Response to Interrogatory No. 24). Clinton was the head of the agency, she was the user of the email account and she chose to use it exclusively for her work at the State Department. The aforementioned issues simply cannot be sufficiently addressed through the use of interrogatories and her deposition should be ordered.

Plaintiff also requests it be permitted to question Mills and Clinton about the preparation of talking points for former U.N. Ambassador Susan Rice’s September 16, 2012 media appearances, the advance dissemination or discussion of those talking points, the aftermath of Rice’s appearances, and the Department’s evolving understanding of the Benghazi attack. Not only will answering such questions help pinpoint whether the State Department adequately searched for records responsive to Plaintiff’s request, but, given the extraordinary circumstances of this case, it will help to preserve State’s integrity and “reassure the American people their government remains committed to transparency and the rule of law.” Dec. 6, 2018 Memo. at p. 8 (ECF No. 54).

**B. INTERROGATORIES**

i. Interrogatory to Department of State: Identify the State Department official whose FBI interview was marked as Hackett Deposition Exhibit 21, as well as the names

of the attorney, PST file, and FOIA request referenced in the third full paragraph on the first page therein. The information currently is redacted in the public version of the FBI's notes. *See* Ex. 4 (Hackett Ex. 21).

ii. Interrogatory to Department of State: Identify the "fifth document" identified by S/ES in the fall of 2014 but deemed unresponsive and, for each email recipient or sender, specify whether the email address belonged to a state.gov email account or a non-state.gov email account. *See* Ex. 3 (Hackett Ex. 17); *supra*, Jan. 2016 OIG Report at p. 15.

iii. Interrogatory to Department of Justice: Identify when Robert J. Prince first learned that (i) the State Department was going to request Clinton's emails and/or federal records in her possession; (ii) the State Department had requested Clinton's emails and/or federal records in her possession; and (iii) Clinton had provided copies of her emails to the State Department on December 5, 2014. Plaintiff does not seek attorney-client information but rather only the dates Prince learned of these facts.

### **C. DOCUMENT REQUESTS**

i. Document Request to Department of State: An unredacted version of the September 29, 2012 email exchange marked as Hackett Exhibit 17. *See* Ex. 3.

ii. Document Request to Department of State: All emails sent by IPS, IPS Office of Policy and Programs Chief Patrick Scholl, or any other State Department official in the summer of 2013 concerning the directive described by Hackett during his deposition that no further "No Record Located" responses or responses similar to that effect should be issued in response to FOIA requests related to Clinton's emails. *See* Ex. 1 (Hackett Tr. at pp. 32-34).

iii. Document Request to Department of State: Records reviewed in response to the 2013 FOIA request submitted by Gawker Media for "all correspondence,



electronic or otherwise, between Hillary Clinton and Sidney Blumenthal, including any traffic to or from any accounts controlled by Hillary Clinton, including the email address `hdr22@clintonemail.com`” from January 21, 2009 through February 1, 2013. Specifically, Plaintiff seeks all emails reviewed in response to the request in which Clinton is either a sender or recipient or which reference the use of Clinton’s “`hdr22@clintonemail.com`” email account and all emails reviewed in response to the request that stated “remember, you’re not supposed to use that e-mail” or used words to that effect. *See* Ex. 1 (Hackett Tr. at p. 93-94).

iv. Document Request to Clinton and her attorneys: The “after action memo” created by Heather Samuelson in or around December 2014, to memorialize the Clinton team’s search for and processing of the Clinton emails. *See* Ex. 7 (Samuelson Tr. at pp. 184, 188-89). Plaintiff only seeks factual portions that describe the review of Clinton’s emails. Plaintiff does not seek legal opinions or conclusions by counsel.

6. Plaintiff intends to complete the proposed depositions within 16 weeks of the Court’s order on Plaintiff’s proposed discovery plan.

7. Plaintiff requests that the Court shorten the time for Defendant and the Department of Justice to respond to Plaintiff’s written discovery to 14 days to ensure Plaintiff has all relevant information before conducting the depositions.

//

//

//

//

//

//

Dated: August 21, 2019

Respectfully submitted,

**JUDICIAL WATCH, INC.**

/s/ Ramona R. Cotca  
Ramona R. Cotca (D.C. Bar 501159)  
Paul J. Orfanedes (D.C. Bar No. 429716)  
Lauren M. Burke (D.C. Bar 1028811)  
425 Third Street SW, Suite 800  
Washington, DC 20024  
(202) 646-5172  
rcotca@judicialwatch.org  
lburke@judiicalwatch.org

*Counsel for Plaintiff*