

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

JUDICIAL WATCH, INC. Plaintiff, v. IOWA SECRETARY OF STATE, Defendant.	No. PETITION
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Plaintiff Judicial Watch, Inc., by its attorneys, brings this action against Defendant Iowa Secretary of State, to compel compliance with the Open Records Law, Iowa Code § 22.1, *et seq.* Judicial Watch states as follows:

Division I – Parties, Jurisdiction, Venue

1. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization that seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Judicial Watch regularly requests records under federal and state “open records” laws, analyzes the responses and any records it receives, and disseminates its findings and the records to the public to inform them about their government.

2. Defendant Iowa Secretary of State is an entity of the State of Iowa and is therefore a “government body” for purposes of Iowa Code Chapter 22. Defendant has physical possession of the requested public records relevant to this action and is therefore the lawful custodian of the records at issue as defined by Iowa Code § 22.1.

3. The acts and omissions of the defendant complained of in this action all occurred within Polk County, Iowa. Venue against an entity of the State of Iowa is proper in this county.

Division II – Factual and Legal Background

4. On February 6, 2020, Plaintiff submitted the following Open Records Law request to Defendant:

All records concerning, referring, or relating to Judicial Watch, Inc.'s February 2, 2020 report regarding Iowa counties having total voter registration rates that exceed eligible voter population ("the JW Report").

Your response should include, but not be limited to:

- internal analyses of the JW Report;
- internal analyses performed in the response to or as a result of the JW Report;
- internal communications, including emails and text messages, concerning, referring, or relating to the JW Report;
- internal communications, including emails and text messages, concerning, referring, or relating to the Secretary's response(s) to the JW Report, including news or press releases and statements posted on Twitter or other social media;
- records relied upon, referenced, reviewed, or otherwise utilized in the Secretary's response(s) to the JW Report; and
- communications, including email and text messages, with third parties concerning, referring, or relating to the JW Report or the Secretary's response(s) to the JW Report, including but not limited to communications with the following media organizations, individuals, or purported "factchecking" entities:

Alan Duke;
Associated Press (AP);
CNN;
David Klepper;
Epoch Times;
Factcheck.org;
Iowa Standard;
Isaac Stanley-Becker;
Lead Stories;
NewsGuard;
PolitiFact;
RealClearPolitics; and
Washington Post.

The timeframe of this request is February 2, 2020 to the present. *See* Attachment A.

5. According to U.S. Postal Service records, Plaintiff's Open Records Law request was received by Defendant on February 10, 2020.

6. By email dated April 13, 2020, Defendant informed Plaintiff that Defendant would produce records responsive to Plaintiff's request on or before April 15, 2020. *See* Attachment B.

7. On April 15, 2020, Defendant produced 568 pages of responsive records to Plaintiff. The production was made without an explanatory cover letter. In addition, although no records were withheld in their entirety, Defendant redacted information contained within the produced pages.

8. By email dated April 16, 2020, Plaintiff asked Defendant to identify: (1) Whether any records have been withheld in their entirety and, if so, the reasons why; (2) The reasons why information has been redacted from the records produced; and (3) Whether the April 15, 2020 production is a complete

and final production of records to Judicial Watch's Open Records Law request. *See id.*

9. On April 20, 2020, Defendant responded to Plaintiff's email. Defendant informed Plaintiff that no records were withheld in their entirety, that the reason for the redacted information is located on the first page of the redacted record, and that the April 15, 2020 redaction is a complete and final production. In addition, Defendant asked Plaintiff to identify any redacted information that did not contain a reason and Defendant would subsequently provide such information. *See id.*

10. By email dated April 21, 2020, Plaintiff identified at least three pages that do not appear to contain reasons for redacted information. *See id.*

11. By email dated April 23, 2020, Plaintiff requested Defendant reconsider specific redactions because it cannot demonstrate that the redacted information is being withheld lawfully. *See Attachment C.*

12. As of the date of this Petition, Defendant has not responded to Plaintiff's April 21, 2020 or April 23, 2020 emails.

Count I - Failure to Produce All Non-Exempt Information

13. Plaintiff reaffirms paragraphs 1-12 as though fully restated herein.

14. As Defendant has redacted information in response to Plaintiff's Open Records Law request, Defendant has failed to produce all non-exempt information.

15. Defendant has also failed to provide legally sufficient justifications to withhold specific information from Plaintiff.

16. Judicial Watch is being irreparably harmed by Defendant's failure to produce all non-exempt information responsive to Plaintiff's Open Records Law request as Plaintiff is being denied its legal right to inspect public records. Iowa Code § 22.10(2).

17. Judicial Watch has no adequate remedy at law.

WHEREFORE, Plaintiff requests the Court:

- (1) Declare Defendant in violation of the Open Records Law;
- (2) Enjoin Defendant from continuing to withhold access to non-exempt information responsive to Plaintiff's Open Records Law request and order Defendant to produce all non-exempt information to Plaintiff;
- (3) Order the payment of all costs and reasonable attorneys' fees; and
- (4) Order such other and further relief as the Court finds just and equitable.

JUDICIAL WATCH, INC.

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