

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

JUDICIAL WATCH, INC.,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil Action No. 13-1559-EGS
)	
INTERNAL REVENUE SERVICE,)	
)	
<i>Defendant.</i>)	

PLAINTIFF’S RESPONSE TO DEFENDANT’S JUNE 12, 2015 RESPONSE

Plaintiff Judicial Watch, Inc. (“Judicial Watch”), by counsel, respectfully submits this response to Defendant’s Response to Notice, dated June 12, 2015.

1. Defendant Internal Revenue Service (“IRS”) does not refute in its seven-page Response that the Treasure Inspector General for Tax Administration (“TIGTA”) was able to locate the Lois Lerner backup tapes within one day of its investigation or that the IRS never requested the backup tapes from its technicians before declaring that the emails were lost forever. *See* Pltf.’s Response to Def.’s Notice at ¶ 4 (DKT No. 45); *See generally* IRS’s Response to Notice (hereinafter “IRS Response”) (DKT No. 46).

2. IRS has still not disclosed whether TIGTA has produced to the IRS all emails it forensically recovered and when the IRS expects to produce them to Plaintiff in response to the FOIA requests submitted more than two years ago.

3. Rather, it affirmed that the “Service is in the process of conducting further manual deduplication of the 6,400 forensically-recovered emails to supplement the automated deduplication conducted by TIGTA.” IRS Response at ¶ 16 (DKT No. 46). This is after TIGTA had already identified and removed emails that are duplicates of the recovered emails or those which the IRS had already produced to Congressional Committees. *Id.* According to its

Response, the IRS does not intend to begin producing any of the 6,400 emails until after it has completed its review and production of the Lerner emails that were not forensically recovered.

Id. at ¶ 17.

4. The IRS has a statutory duty to search for and produce documents responsive to Plaintiff's FOIA requests in the shortest amount of time. 5 U.S.C. § 552(a)(6)(A); Order, *Jason Leopold v. U.S. Department of State*, Case No. 15-0123-RC (D.D.C. May 27, 2015) (DKT No. 17) (ordering the State Department to start producing Hillary Clinton's emails every thirty days, rather than waiting to produce them at one time in January 2016).

5. Plaintiff's counsel is not concerned about receiving duplicate emails in this case. Lois Lerner's emails are at the heart of Plaintiff's FOIA requests. Plaintiff has waited more than two years to receive them and the IRS should start producing them now.

6. Also, the IRS's uncited statement that it is premature for TIGTA to publically disclose the status of its investigation in greater detail is directly contradictory to Congressman Chaffetz's statement on June 12, 2015 that TIGTA is preparing to release the conclusion of its investigation about the Lois Lerner's emails in the next several days. *Id.* at ¶ 14; see <http://www.c-span.org/video/?326524-1/newsmakers-representative-jason-chaffetz-rut>. The fact that TIGTA's conclusion of its investigation is expected in the next few days indicates (1) that the investigation is complete and (2) the report is basically in final form.

7. Judicial Watch respectfully requests that the Court order the IRS to start producing any non-exempt, responsive emails contained within the 6,400 emails immediately and disclose whether they are all or a subset of the recovered emails from the 1,268 backup tapes.

8. Further, Judicial Watch respectfully requests that the Court order the IRS to file monthly status reports about its progress of the production of non-exempt, responsive emails that

were placed in the Congressional database two years ago, the 6,400 recovered emails and any additional emails that may be recovered by TIGTA from the 1,268 backup tapes. If the Court deems that a status conference on this issue would be helpful, Plaintiff's counsel is available June 22, 2015 through July 10, 2015, except the afternoon of June 25, 2015 and July 3, 2015.

Dated: June 15, 2015

Respectfully submitted,

/s/ Ramona R. Cotca
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