

**IN UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 9:15-cv-80388-DMM

LARRY KLAYMAN,

Plaintiff,

v.

HILLARY CLINTON, ET AL.,

Defendants.

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**MOTION TO HAVE COURT TAKE INTO CUSTODY**  
**“THUMB DRIVE” OF HILLARY CLINTON IN CURRENT POSSESSION OF**  
**HER COUNSEL DAVID KENDALL**

Plaintiff hereby moves to have this Court take into custody the “thumb drive<sup>1</sup>” of Defendant Hillary Clinton that is currently in the possession of her counsel David Kendall, on the following grounds:

In recent days, it has been disclosed that Defendants’ counsel, David Kendall, has in his possession a thumb drive of the missing emails of Defendant Hillary Clinton which are the subject of predicate acts under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.*, as pled in the Second Amended Complaint. This thumb drive apparently contains, according to reports (Exhibit 1), not only government information but also classified government information. (Not coincidentally, some of the predicate acts alleged in the Second Amended Complaint concern Defendant Hillary Clinton’s unauthorized release, in exchange for

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<sup>1</sup> A “thumb drive” is the term commonly used to refer to removable digital storage devices. These are also referred as “flash drives.”

financial gain, of classified information concerning U.S.- Israeli war planning to wage a preempted strike on Iranian nuclear facilities and the joint U.S.-Israeli cyber-attack on Iranian nuclear centrifuges with a virus named Stuxnet.) As a result, the FBI has opened a criminal investigation into this illegal conduct. This is most remarkable given that the FBI is under the arm of the Obama Justice Department and thus, for the FBI to be forced into action under the watchful eye of Attorney General Loretta Lynch, there must be merit to these new revelations.

Plaintiff has previously requested this Court to secure evidence in this case in the interest of not only Plaintiff and this Court's power to preserve evidence, but also in the interest of the public. This Court has a responsibility to preserve evidence and must do so to avoid its destruction. Importantly, Plaintiff has not requested to see the documents, hard and thumb drives at this time, but simply asked that this Court take them into its custody for safekeeping. Further, Plaintiff would have no objection with the Court's in sharing this documentation and hard and thumb drives with any U.S. Government authority that wished to make a copy of them to further the interests of justice and pursuant to the FBI's criminal investigation of Defendant Hillary Clinton.

In conclusion, as Plaintiff's prior motions in this regard have not, after many months, not been considered and ruled upon at this time, Plaintiff respectfully requests that this Court now take immediate action by taking into custody what has been requested. To delay further would aid Defendants in furtherance of what has alleged to be an ongoing criminal enterprise.

There is a perception furthered by all political spectra of the media, not suggested by Plaintiff, that this Court, having been appointed by Defendant former President Bill Clinton, will not allow this case to proceed, much less take into the custody the hard drives and thumb drive in

Mr. Kendall's possession (Exhibit 2). Plaintiff raises this not to criticize this Court, but to underscore the importance of this lawsuit for all Americans, which is being followed carefully by them.

No prejudice will result to Defendants by the Court taking into custody the evidence at issue. Defendants oppose this motion, as they have all other motions in this regard.

Dated: August 5, 2015

Respectfully submitted,

/s/ Larry Klayman  
Larry Klayman, Esq.  
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Freedom Watch, Inc.  
2020 Pennsylvania Avenue N.W.  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 5th day of August, 2015, a true and correct copy of the foregoing (Case No. 9:15-cv-80388) was filed via CM/ECF and served upon the following:

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*/s/ Larry Klayman* \_\_\_\_\_

Larry Klayman, Esq.

# Exhibit 1

# THE WALL STREET JOURNAL.

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<http://www.wsj.com/articles/fbi-is-looking-at-security-of-hillary-clintons-email-system-1438806426>

U.S.

## FBI Is Looking at Security of Hillary Clinton's Email System

Inquiry comes after a referral by the inspector general



Democratic presidential candidate Hillary Clinton, at the National Urban League conference in the Fort Lauderdale last week, used a private email account tied to a server kept at her home in Chappaqua, N.Y. PHOTO: JOE RAEDLE/GETTY IMAGES

By **PETER NICHOLAS** And **DEVLIN BARRETT**

Aug. 5, 2015 4:27 p.m. ET

WASHINGTON—The FBI is examining security issues surrounding the private email system Hillary Clinton used when she served as secretary of state, a government official said Wednesday.

The inquiry follows a referral to the Justice Department by the inspector general, or in-house watchdog, of the federal intelligence agencies, who found that at least four emails out of a sample of 40 from Mrs. Clinton's personal email account contained classified information. The information wasn't marked as classified at the time.

A spokeswoman for the Federal Bureau of Investigation declined to comment.

The FBI's scrutiny was first reported by the Washington Post.

As the nation's top diplomat, Mrs. Clinton exclusively used a private email account tied to a server kept at her home in Chappaqua, N.Y. She didn't use an official State Department account, an arrangement that was discouraged by the Obama administration but wasn't illegal.

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- Hillary Clinton Sent Classified Information Over Email While at State Department, Review Finds (<http://www.wsj.com/articles/investigation-sought-into-hillary-clintons-emails-1437714369>) (July 24)

practices have emerged as a persistent issue in her nearly four-month-old presidential bid.

When approached by the State Department in late 2014, nearly two years after stepping down as secretary of state, Mrs. Clinton turned over about 55,000 pages of emails covering her tenure. She also has said she deleted more than 30,000 emails that contained personal information, such as her yoga routines, and didn't relate to her government work.

After reviewing the emails, the State Department publicly released thousands of pages and is planning to disclose more in coming months. Some of the released emails have been heavily redacted, with sections blocked out for security, privacy or other reasons.

**The emails containing classified material, along with other emails from her private server, are also on a thumb drive in the possession of Mrs. Clinton's attorney, David Kendall, who has been representing her in her dealings with lawmakers looking into the email controversy.**

“Quite predictably, after the [inspector general] made a referral to ensure that materials remain properly stored, the government is seeking assurance about the storage of those materials,” Mr. Kendall said in a statement provided Wednesday by the Clinton campaign. “We are actively cooperating.”

In a separate statement, a Clinton campaign spokesman didn't address the FBI inquiry

directly. “She did not send nor receive any emails that were marked classified at the time,” he said. “We want to ensure that appropriate procedures are followed as these emails are reviewed while not unduly delaying the release of her emails.”

In a March news conference, Mrs. Clinton also stressed that she didn’t knowingly mishandle secret information. “I did not email any classified material to anyone on my email,” she said. “There is no classified material. So I’m certainly well-aware of the classification requirements and did not send classified material.”

Still, political opponents of Mrs. Clinton seized on the report of the FBI’s involvement.

“After learning that Secretary Clinton possessed classified emails on her secret email server, it is welcome news that the FBI is looking into this situation,” said Emily Schillinger, spokeswoman for House Speaker John Boehner (R., Ohio). “Her server and the thumb drive need to be secured immediately to ensure that this information is finally in a safe, secure place.”

—*Byron Tau contributed to this article.*

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# Lawyer: Gov't investigating security of devices on which Hillary Clinton's email was stored



Democratic presidential candidate Hillary Rodham Clinton greets supporters before speaking at a campaign rally at La Rumba, a Denver dance club and restaurant, Tuesday, Aug. 4, 2015. (AP Photo/Brennan Linsley)

Associated Press | Aug. 5, 2015 | 12:46 p.m. EDT + More



By ERIC TUCKER, Associated Press

WASHINGTON (AP) — Federal investigators have begun looking into the security of devices on which Hillary Rodham Clinton's private email was stored when she was secretary of state, Clinton's attorney confirmed Wednesday.

"We are actively cooperating" with the investigation, attorney David Kendall said in a statement.

The inspector general of the U.S. intelligence community alerted the FBI last month to concerns that classified information was included in emails that went through Clinton's personal home server. The referral to the Justice Department did not seek a criminal probe and did not specifically target Clinton.

"Quite predictably, after the ICIG made a referral to ensure that materials remain properly stored, the

government is seeking assurance about the storage of those materials," Kendall said in his statement.

The Washington Post, which first reported the FBI's involvement, said that the FBI has asked Kendall about the security of a thumb drive containing copies of Clinton's work emails sent during her tenure as secretary of state, which is in his possession. The Post cited two anonymous government officials, who said that the FBI was not targeting Clinton.

Clinton's emails have been under scrutiny since The Associated Press revealed in March that she used a private "homebrew" server traced to her Chappaqua, New York, home while she was the top U.S. diplomat. Government and congressional investigators have been trying to determine whether she sent or received classified information on unsecured email.

Last month, the inspector general of the intelligence community revealed that he had found four emails containing classified information while reviewing a limited sample of 40 of the tens of thousands of emails provided by Clinton. Those four messages were not marked as classified but should have been handled as such because they contained classified information at the time they were sent, the inspector general said.

"This classified information should never have been transmitted via an unclassified personal system," according to a joint statement from the inspectors general

The inspector general has also expressed concerns about the security of the thumb drive in Kendall's possession, and has sought copies of the 30,000 emails in State Department possession so that it can make sure that enough controls are in place to protect national security information.

Clinton has maintained that she never sent classified information on her personal email account, which she said in March she used as a matter of convenience to limit her number of electronic devices. She has also repeatedly defended her email usage, saying her private server had "numerous safeguards" and placing responsibility for releasing the documents on the State Department.

A spokesman for Clinton's presidential campaign tweeted Tuesday that news of the FBI's interest in the email set-up "doesn't change anything ... IG sent ask to DOJ to confirm emails are secure."

"IG request was noncriminal & didnt accuse Clinton of wrongdoing," spokesman Brian Fallon tweeted. "FBI is 'not targeting her.'"

An FBI spokesman contacted Tuesday night by The Associated Press declined to comment.


State Department spokesman Mark Toner was asked last week whether the department would be "open" to having the FBI examine the thumb drive. "We've made sure that the documents at her lawyers' are in a secure setting, but I'm not going to speak to what the FBI should or shouldn't do," Toner responded.

Follow Eric Tucker on Twitter at <http://www.twitter.com/etuckerAP>

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FBI Investigates Security of Clinton Emails

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# Clinton depositions blocked by judge



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Democratic presidential candidate, former Secretary of State Hillary Rodham Clinton, and former President Bill Clinton, right gesture to supporters Saturday, June 13, 2015, on Roosevelt Island in New York. (AP Photo/Frank Franklin II) more > (/multimedia/image/4\_dem-2016-clintonjpeg-03905jpg/)

## Exclusive Washington Times Daily Briefing (July 22, 2015)

Washington Times



By S.A. Miller (/staff/sa-miller/) - The Washington Times - Tuesday, July 21, 2015

A federal judge in Florida has blocked a scheduled deposition of Democratic presidential candidate Hillary Rodham Clinton (/topics/hillary-rodham-clinton/) and her husband, former President Bill Clinton, in a civil lawsuit claiming the Clinton Foundation operated as a criminal enterprise.

The conservative watchdog group Freedom Watch (/topics/freedom-watch/), which brought the lawsuit against the Clintons, had scheduled separate videotaped depositions next week in Washington for the former president and first lady.

U.S. District Court Judge Donald Middlebrooks (/topics/donald-middlebrooks/) on Tuesday granted a protective order requested by the Clintons' lawyers that blocked the depositions until the court resolves their pending motion to dismiss the case and halt discovery. The judge's order did not include the reasoning for his decision.

Judge Middlebrooks (/topics/donald-middlebrooks/) was appointed to the U.S. District Court for the Southern District of Florida by Mr. Clinton (/topics/hillary-rodham-clinton/) in 1997.

The judge did not immediately respond to a phone call by The Washington Times asking why he did not recuse himself from the case.

The lawsuit, filed by Freedom Watch (/topics/freedom-watch/) founder and former federal prosecutor Larry Klayman (/topics/larry-klayman/) alleges the Clintons committed criminal violations under the Racketeer Influenced and Corrupt Organizations Act (RICO), and that Mrs. Clinton (/topics/hillary-rodham-clinton/) covered up the crimes destroying her personal emails sent during her time as secretary of state.

She would have given a deposition on the morning of July 28 in Washington, and Mr. Clinton (/topics/hillary-rodham-clinton/) would have give his the following morning, according to copies of the notices of deposition reviewed by The Washington Times.

Mrs. Clinton (/topics/hillary-rodham-clinton/) has been dogged by questions about her handling of email as America's top diplomat, when she exclusively used a private email account to conduct official business and then, years later, deleted about half of the messages rather than turn them over to the Department of State.

At some point, she also wiped clean the server, permanently erasing all the messages.

Her use of private email account shielded her official correspondence from House investigators and from requests under the Freedom of Information Act.

The Freedom Watch (/topics/freedom-watch/) lawsuit alleges that the Clintons — through mail and wire fraud, and various false statements — misappropriated documents that he requested under the Freedom of Information concerning the Mrs. Clinton (/topics/hillary-rodham-clinton/)'s involvement in releasing Israeli war and cyber-warfare plans and practices.


The lawsuit, filed in March, claims that Mrs. Clinton (/topics/hillary-rodham-clinton/) orchestrated the release to thwart Israeli plans to preemptively attack Iranian nuclear sites.

• *Kellan Howell contributed to this report.*

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Why was the judge being a Clinton appointee left out of the article?

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**fastboat** → **ArmchairMike** · 14 days ago

"In 1997 he was appointed by President Bill Clinton to serve as a United States District Judge .....". Hey you liberal piece of camel dung, does the word "recuse" mean anything to you?

Judicial disqualification, also referred to as recusal, refers to the act of abstaining from participation in an official action such as a legal proceeding due to a conflict of interest of the presiding court official or administrative officer. With the Clintons and the Obamas it is becoming more and more clear there is no end to their corruption.

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**TheDude** → **fastboat** · 14 days ago

Just like Justices Ruth Bader Ginsburg and Elena Kagan, both of whom had already officiated at homosexual marriages, should have recused themselves from the same-sex marriage ruling.

Never going to happen. Liberals can't let little things like rules, laws, and morality get in the way of their America-destroying agenda.

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Liberals? Or just plain criminals?

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is there a differance?

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Depends on the Liberal.

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Both

^ | v · Reply · Share >

**DrRisk** → **TheDude** · 14 days ago

**BINGO!!**

4 ^ | v · Reply · Share >

**RedMeatState** → **TheDude** · 14 days ago

yeah, no conflict of interest here either!!!

1 ^ | v · Reply · Share >

**publius** → **TheDude** · 14 days ago

Kagan, in her '09 confirmation hearing, testified that there was no Constitutional basis for SSM. Like all leftists and jihadists, Kagan is guilty of taqiyya.

1 ^ | v · Reply · Share >

[k\\_billy](#) → [TheDude](#) · 14 days ago

What law school did you go to?

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The one you were ineligible for with your 600 SAT score.

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Dude (that's you), Bet you were home schooled.

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yeah, no conflict of interest there!!

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But he is a demoRAT and laws mean nothing to a demoRAT.

^ | v · Reply · Share >

[chuckinva](#) → [fastboat](#) · 14 days ago

Or the people that they own!

^ | v · Reply · Share >

[boa1956](#) → [ArmchairMike](#) · 14 days ago

This will be another round of "but they haven't proven anything" by the libs. I really did not expect this, I knew these depositions would hang them up. So did this judge. In m own mind this proves a lot.

8 ^ | v · Reply · Share >

[TheDude](#) → [boa1956](#) · 14 days ago

Liberals: "Missing emails and Benghazi are old news. Let's focus on modern day problems like Confederate battle flags from 1865 and Christian atrocities during the Crusades!"

4 ^ | v · Reply · Share >

[k\\_billy](#) → [TheDude](#) · 14 days ago

DUDE (that's you), No judge can take your Benghazi which hunt away, I pray. America loves the Benghazi clown car with Trig Gowdy at the wheel.

^ | v · Reply · Share >

[DOCWRIGHT](#) → [ArmchairMike](#) · 14 days ago

My bet is a bought Judge. Obamas no-justice department protecting it's own.

3 ^ | v · Reply · Share >

[June Smith](#) → [ArmchairMike](#) · 14 days ago

Might be misconstrued as a conflict -- quid pro quo

1 ^ | v · Reply · Share >

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Yea can't you just see our wonderful AG Loretta Lynch looking into this? Didn't think so, neither can I.

6 ^ | v · Reply · Share >

[Senor Jeb El Bushiecrat](#) → [ArmchairMike](#) · 14 days ago

Because this is the RINO Times.

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[ChangeHopelnAZ](#) → [ArmchairMike](#) · 14 days ago

It's right there in black and white...you should read the article before commenting on it unless you are an internet troll then have at it Troll!

^ | v · Reply · Share >

[ArmchairMike](#) → [ChangeHopelnAZ](#) · 14 days ago

It wasn't yesterday, but you being such a genius should have known that.

^ | v • Reply • Share >

**Tom Magee** • 15 days ago

Imagine that, a Clinton appointee has impeded justice.

21 ^ | v • Reply • Share >

**DrRisk** → Tom Magee • 14 days ago

Whoever heard of such a thing? Don Corleone, maybe?

5 ^ | v • Reply • Share >

**OldUSCGRD2** • 14 days ago

Donald Middlebrooks is an Article III federal judge for the United States District Court for the Southern District of Florida. He joined the court in 1997 after being nominated by President Bill Clinton.

[http://ballotpedia.org/Donald\\_...](http://ballotpedia.org/Donald_...)

Having been nominated by Bill, he should have recused himself from the case--But rules don't apply to Democrats.

14 ^ | v • Reply • Share >

**Edmund Long** • 15 days ago

Another bought and paid for liberal so called JUDGE . it never ends with these corrupt Arkansas Mafia Clintons .

11 ^ | v • Reply • Share >

**Tom Magee** → Edmund Long • 15 days ago

I'd wager he only receives cash payments from the Clinton crime foundation.

5 ^ | v • Reply • Share >

**Joe Blow** → Edmund Long • 15 days ago

LoL

3 ^ | v • Reply • Share >

**BurningChrome** • 14 days ago

"The judge's order did not include the reasoning for his decision." It's good to be a democrat.

10 ^ | v • Reply • Share >

**publius** • 15 days ago

The lady is waiting is radioactive. She glows in the dark. Her silence is deafening. When she does finally talk, her words will hoist her onto her own petard. I don't think she will survive her multitudinous scandals. Look for Michelle Obama to throw her hat into the ring.

10 ^ | v • Reply • Share >

**sodacrackers2** → publius • 14 days ago

Qualifications: ready, willing, and able to spend the people's money.

4 ^ | v • Reply • Share >

**DrRisk** → sodacrackers2 • 14 days ago

Her track record: \$100 a pound Kobe beef hamburgers at the White House; \$500,000.00 vacation to Spain; \$245,000.00 to fly the dog to Martha's Vineyard and back; trip to Los Angles to film a television show, \$2,225,000.00 to take a separate jet sp she doesn't have to make a stop over in Phoenix with hubby while he pretends to clean up the VA mess; \$635,000 "date night" for dinner and a show in New York; \$715,000 for—well you get the picture.

6 ^ | v • Reply • Share >

**publius** → DrRisk • 14 days ago

Obama confiscates 1.4 billion/year or \$3,835,619/day of the fruit of our labor to maintain his tawdry lifestyle.

1 ^ | v • Reply • Share >

**DrRisk** → publius • 14 days ago

Here is a statistic for you: Just the **transport costs alone** for ObamaSoetoro's vacation to Hawaii last Christmas exceeded the **annual cost** to the British taxpayers for travel by the **entire royal family**, which is about 15 people.

2 ^ | v • Reply • Share >

**publius** → DrRisk • 14 days ago

I believe that the entire Royal Family cost the Brits 57 million/year.

^ | v • Reply • Share >

**DrRisk** → publius · 14 days ago

So ObamaSoetoro could last about 2 weeks in Buckingham Palace? I doubt they would put up with him that long.

1 ^ | v · Reply · Share >

**Hobbes\_Wayne** · 14 days ago

Wake up America. These two people will put U.S. national security on the world commodity market if it gives them a tax free profit.

7 ^ | v · Reply · Share >

**Jack76** · 14 days ago

The Clintons bought a judge?

6 ^ | v · Reply · Share >

This comment was deleted.

**Culdees2020** → Guest · 14 days ago

Donald Trump is trying to buy the presidency for himself or his good friends the Clintons.

^ | v · Reply · Share >

This comment was deleted.

**Anscotman** → Guest · 14 days ago

Well he could hardly say that his reason was receiving a really big check from the Clinton Crime Family Foundation, could he?

2 ^ | v · Reply · Share >

**TraderJo** · 14 days ago

And did a suitcase of ca\$h from the Bubba foundation somehow find its way to Judge Middlebrook's bench?

6 ^ | v · Reply · Share >

**TOMMYHOUR** · 14 days ago

The legal system is turning into another arm of the liberal democrat party.

The judge's order did not include the reasoning for his decision.

Well, he is a democrat who was appointed by Clinton and it is the Clintons.

What other reasons does the judge need?

6 ^ | v · Reply · Share >

**Robexaminer** · 14 days ago

The judge's order did not include the reasoning for his decision. The reason was that he was appointed by clintoris.

5 ^ | v · Reply · Share >

**Garrison** → Robexaminer · 14 days ago

Is a "clintoris" one of Hillary's special no-no lady parts?

1 ^ | v · Reply · Share >

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## Judge halts depositions for Bill and Hillary Clinton and ex-aides

By **JOSH GERSTEIN** | 7/21/15 5:30 PM EDT

A federal judge has blocked a conservative activist's plans to force presidential candidate Hillary Clinton and former President Bill Clinton to testify in depositions stemming from a lawsuit claiming the Clinton Foundation operated as a racketeering enterprise shaking down donors in exchange for official favors.

U.S. District Court Judge Donald Middlebrooks issued an order barring legal gadfly Larry Klayman from proceeding with his plans to conduct videotaped depositions of the Clintons in Washington next week. Middlebrooks's order, signed Monday and made public Tuesday (posted [here](#)), does not offer a reason for the ruling.

Lawyers for the Clintons and for the foundation have asked Middlebrooks to toss out the case and to halt discovery while he considers whether the lawsuit should be dismissed. The Clinton lawyers contend Klayman has a history of filing meritless lawsuits and that he should not be allowed to demand evidence in connection with a case that is likely to be dismissed.

Klayman's lawsuit alleges that Hillary Clinton's use of a private email server while serving as secretary of state interfered with responses to Freedom of Information Act requests he filed and that the Clintons used the system to obscure a scheme to demand to trade official favors for donations to the Clinton Foundation.

In [a filing last month](#), Clinton Foundation attorneys Jamie Gorelick and Jeannie

Rhee called Klayman's allegations "fatuous" and legally defective.

A spokesman for Hillary Clinton's presidential campaign declined to comment on the decision scrubbing the planned depositions.

Middlebrooks, who was appointed by Bill Clinton and sits in West Palm Beach, Fla., has not yet ruled on the motions to dismiss the case or to halt all discovery by Klayman.

Klayman said he doesn't believe the order means the Clintons will not be deposed in the case. He also said he believes the judge ruled without seeing a new filing detailing why the discovery process should go forward.

"We're hopeful that we'll take their depositions in the near future," Klayman said in an interview Tuesday. "I've said we'd be flexible on the dates. ...Now's actually a better time for them to be deposed before the political season gets underway."

Last month, a magistrate informed the conservative attorney and Judicial Watch founder that he was free to begin seeking testimony and documents in connection with the case. Klayman has also been seeking an order to have the court seize the Clintons' private email server while the suit goes forward. There has been no ruling on that motion either.

Klayman said he has also subpoenaed former Clinton aides Cheryl Mills, Harold Ickes and Sidney Blumenthal to testify next week. However, on Tuesday, Middlebrooks signed an order (posted [here](#)) blocking depositions of those three individuals as well. In response to a motion Mills brought to quash the subpoena to her, the judge said Klayman's demand of 41 categories of documents on two weeks notice was "late" and could be overly burdensome. He put a hold on all depositions of non-parties until the motions to dismiss the suit are resolved.

*UPDATE (Wednesday, 8:38 A.M.): This post has been updated to clarify that the order regarding the Clintons' depositions was signed Monday and released Tuesday on the court docket.*

*UPDATE 2 (Wednesday, 12:14 P.M.): This post has been updated to reflect the new order regarding Mills and others.*

