

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

FREEDOM WATCH, INC.

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant

Civil Action No. 1:16-cv-00516-EGS

**PLAINTIFF’S EMERGENCY RENEWED MOTION TO PARTICIPATE IN
DISCOVERY BY RECALLING FOR DEPOSITION HUMA ABEDIN AND REQUEST
FOR EMERGENCY TELEPHONIC HEARING ON NOVEMBER 2, 2016**

Plaintiff, Freedom Watch, Inc., (“Plaintiff”) hereby renews its Motion to Participate in Discovery in the identical styled *Judicial Watch, Inc. v. U.S. Department of State*, 1:13-cv-01363. (“Judicial Watch Case”) On August 29, 2016, this Court issued a Minute Order, staying this matter pending the completion of discovery in the Judicial Watch Case. Now, given that Judicial Watch has deposed Ms. Huma Abedin—in a less than thorough manner—Plaintiff respectfully requests that this court lift the stay, and allow Plaintiff to participate in discovery. Specifically, Plaintiff requests that this Court allow counsel for Plaintiff, Mr. Larry Klayman, to depose Ms. Abedin in the public’s interest. Counsel for Judicial Watch, Inc., Mr. Paul Orfanedes, has declined to consent to Plaintiff’s motion.

Upon review of the deposition transcript from Judicial Watch’s deposition of Ms. Abedin, it is clearly evident that Judicial Watch attorney who questioned Ms. Abedin, Ms. Ramona Cotca, gave her a pass when it came to hard questioning. Not once in the deposition of

June 28, 2016, did Ms. Cocta question and probe Abedin specifically about the devices that she owned or used to communicate with then Secretary Clinton and the State Department. To the contrary, all that Ms. Abedin offered was that she “looked for all devices that may have had any of my State Department work on it and...gave them to my attorneys....” **Exhibit A**. Despite the fact that this answer was clearly non-responsive, since giving the devices in question to Ms. Abedin’s attorneys is not the same as turning them over to the State Department, there was little to no follow-up questioning. Furthermore, Ms. Cotca merely asks, open-endedly, “Do you know why the Clintonemail.com system was set up...” with little to no follow-up questioning. **Exhibit A**. This same lack of hard probing questioning is inexplicably apparent throughout the deposition transcript.

The deposition of Ms. Abedin did not even use up and inexplicably fell far short of using all of the allotted time under the district court’s local rules, shows that Hillary Clinton’s top aide and confidante was treated with ‘kid gloves’ and only lightly questioned in general. For this reason, Plaintiff Freedom Watch, Inc. had urged this Court to allow Mr. Klayman to participate and ask questions, as he has much more experience in hard hitting and probing questioning, after nearly 40 years of litigation practice.

The need for an experienced litigator to depose Ms. Abedin has been underscored given the recent revelation that roughly 650,000 emails found on the laptop of former Rep. Anthony Weiner, who is married to Ms. Abedin, potentially contained new classified information or important new evidence in the ongoing Hillary Clinton email investigation.¹ It is in the public’s interest, and in the interest of a candid and transparent government, to allow an experienced litigator such as Mr. Klayman to intervene in the Judicial Watch Case, and take Ms. Abedin’s

¹ *Report: FBI Agents to Examine 650,000 Emails on Anthony Weiner’s Computer*, Brietbart, October 30, 2016, available at <http://www.breitbart.com/2016-presidential-race/2016/10/30/report-fbi-agents-examine-650000-emails-anthony-weiners-computer/>

deposition given these new revelations. Only an experienced, tough litigator such as Mr. Klayman would be able to effectively depose Ms. Abedin and extract the truth. Mr. Klayman would be amenable to even allowing Judicial Watch, Inc. to participate in the deposition of Ms. Abedin, so long as Mr. Klayman is the attorney asking the questions.

Lastly, any attempt by Ms. Abedin to now assert her Fifth Amendment right against self-incrimination is meritless, as she has clearly waived those rights by testifying at her June 28, 2016 deposition by Judicial Watch. As Ms. Abedin was also being investigated for criminal conduct along with Ms. Clinton, she should have asserted her right against self-incrimination before her June 28, 2016 deposition. Now, she has waived any right against self-incrimination. As this Court has held, “[t]here is no doubt that a waiver of the Fifth Amendment's privilege against self-incrimination may, in an appropriate case, be inferred from a witness's prior statements with respect to the subject matter of the case, without an inquiry into whether the witness, when he made the statements, actually knew of the existence of the privilege and consciously chose to waive it.” *In re Vitamins Antitrust Litig.*, 120 F. Supp. 2d 58, 66 (D.D.C. 2000). *See also Klein v. Harris*, 667 F.2d 274, 287 (2d Cir. 1981).

Based on the foregoing, Plaintiff respectfully requests that this Court lift the stay, and grant Plaintiff's Motion to Participate in Discovery in the public's interest and in the interest of a candid and transparent government. Furthermore, it is essential that Ms. Abedin be deposed prior to the upcoming presidential election, as she has worked closely with Ms. Hillary Clinton. For that reason, Plaintiff respectfully requests this Court expedite the scheduling of Ms. Abedin's deposition and set it for Friday, November 4, 2016. In order to do so, Plaintiff respectfully requests a telephonic conference no later than Wednesday, November 2, 2016.

Dated: November 1, 2016

Respectfully submitted,

/s/ Larry Klayman
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CERTIFICATE OF SERVICE

I, Larry Klayman, counsel for Plaintiffs hereby certify that on this day, November 1, 2016, a copy of the foregoing was filed via this Court's ECF system and served upon all parties and/or counsel of record.

/s/ Larry Klayman
Larry Klayman

EXHIBIT A



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Transcript of **Huma Abedin**

Date: June 28, 2016

Case: Judicial Watch, Inc. -v- U.S. Department of State

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Videotaped Deposition of Huma Abedin
Conducted on June 28, 2016

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1 said, You should consult with Bryan, yes. I don't 09:42:55
2 remember the time frame. And I don't believe Bryan 09:42:58
3 was -- well, I know Bryan wasn't really involved 09:43:00
4 in -- in anything related to IT for the Clintons 09:43:05
5 until the -- until the campaign, the 2008 09:43:09
6 presidential campaign. 09:43:12
7 Q Okay. And when he -- when Mr. Cooper told 09:43:12
8 you -- advised you to go and consult with 09:43:19
9 Mr. Pagliano, do you recall the issues? 09:43:21
10 A It was usually if our e-mail wasn't 09:43:23
11 working, you know, there was a delay, can't figure 09:43:25
12 out what's going on. I would call Justin. Usually 09:43:29
13 Justin would just fix it over the phone. And then, 09:43:32
14 but were there periods where he said, Call Bryan? 09:43:36
15 Absolutely. 09:43:38
16 Q Do you know why the Clintonemail.com 09:43:41
17 system was set up? 09:43:43
18 A I -- the system -- the system? I'm sorry, 09:43:48
19 can you explain, ask the question? 09:43:53
20 Q Sure. Why was the e-mails with the 09:43:56
21 Clinton @Clintonemail.com created? 09:44:01
22 MR. BRILLE: Objection. Form. 09:44:05

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1 A Well, as I -- as I mentioned earlier, 09:44:06
2 we -- I was losing both my e-mail addresses at the 09:44:09
3 end of the presidential campaign and the Senate. So 09:44:12
4 both my, you know, Clinton e-mail addresses were 09:44:15
5 going. I needed a new e-mail. 09:44:21
6 I remember just reaching out and saying, 09:44:23
7 what should I do. I'm no longer going to have 09:44:25
8 HillaryClinton.com, and he suggested 09:44:28
9 @Clintonemail.com being an option. 09:44:32
10 Q Okay. At that time did Secretary Clinton 09:44:36
11 already have an e-mail account associated with the 09:44:41
12 @Clintonemail.com? 09:44:44
13 MS. WOLVERTON: Objection. Lack of 09:44:47
14 foundation. 09:44:47
15 MR. BRILLE: That's ... 09:44:49
16 A She had an e-mail account, yes. It was 09:44:50
17 not @Clinton e-mail. It was another e-mail that it 09:44:52
18 was associated with the BlackBerry she was using 09:44:55
19 during the presidential campaign. 09:45:00
20 Q And what was that e-mail address? 09:45:01
21 A It was -- I think it was 09:45:02
22 HR15@AT&T.BlackBerry.net. 09:45:07

Videotaped Deposition of Huma Abedin
Conducted on June 28, 2016

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1	MR. BRILLE: I'll -- I'll have the same	14:31:41
2	objection.	14:31:42
3	You can answer it.	14:31:43
4	A I -- I looked for all the devices that may	14:31:46
5	have any of my State Department work on it and	14:31:55
6	returned -- returned -- gave them to my attorneys	14:31:59
7	for them to review for all relevant documents. And	14:32:02
8	gave them devices and paper.	14:32:06
9	Q Okay. And what devices did you return for	14:32:09
10	your attorneys to look through with respect to	14:32:13
11	federal records you may have had in your possession	14:32:15
12	to be returned to the State Department?	14:32:18
13	MS. WOLVERTON: Objection. Beyond the	14:32:19
14	scope.	14:32:20
15	A My -- if my memory serves me correctly, it	14:32:22
16	was two laptops, a BlackBerry, and some files that I	14:32:27
17	found in my apartment.	14:32:33
18	Q Okay. The BlackBerry that you returned,	14:32:34
19	is that a BlackBerry that was associated with your	14:32:38
20	Clintonemail.com account?	14:32:40
21	A Yes.	14:32:42
22	MS. WOLVERTON: Objection. Beyond the	14:32:43

Videotaped Deposition of Huma Abedin
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1	scope of discovery.	14:32:44
2	THE WITNESS: Sorry.	14:32:45
3	MR. BRILLE: That's okay. Just take a	14:32:46
4	second.	14:32:47
5	THE WITNESS: Sorry.	14:32:47
6	MR. BRILLE: That's okay. You're okay.	14:32:48
7	You're doing fine. Just take a little bit of a	14:32:49
8	pause.	14:32:52
9	Q Was your answer yes, Ms. Abedin?	14:32:52
10	A The answer is yes.	14:32:55
11	Q Okay. Thank you.	14:32:56
12	And the two laptops that you returned, or	14:32:58
13	you gave to -- provided to your attorneys to look	14:33:01
14	through, did they have e-mails from the	14:33:03
15	Clintonemail.com account?	14:33:06
16	MS. WOLVERTON: Objection. Beyond the	14:33:09
17	scope of authorized discovery.	14:33:10
18	A I was not involved in the process. I -- I	14:33:15
19	provided them with the devices and the materials and	14:33:17
20	asked them to find whatever they thought was	14:33:22
21	relevant and appropriate, whatever was their	14:33:24
22	determination as to what was a federal record, and	14:33:30