

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

FREEDOM WATCH, INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,

Defendant.

Case No. 1:14-cv-01832 (JEB)

**PLAINTIFF FREEDOM WATCH'S REPLY TO DEFENDANT DEPARTMENT OF  
STATE'S SUPPLEMENTAL OPPOSITION TO PLAINTIFF'S RULE 60(b) MOTION**

Plaintiff renews its request for discovery concerning the search for the requested records with regard to the grant of waivers by the U.S. Department of State to do business with the Islamic Republic of Iran. Just today, it was disclosed that the U.S. Department of State engaged in further illegal and criminal acts to suppress information, attempt to alter records, and obstruct justice concerning Mrs. Hillary Clinton's emails sent on her private email server. *See* Exhibit 1 (U.S. State Dept. official 'pressured' FBI to declassify Clinton email: FBI Documents); *see also* <http://abcnews.go.com/Politics/wireStory/state-aide-sought-change-classification-clinton-email-42860301>, *FBI Records: Effort to Reduce Clinton Email Classification*, *ABC News*, October 17, 2016. This supports the consensus among FOIA requesters, in addition to Plaintiff, as well as the media, that the U.S. Department of State has been running interference for, and protecting, Mrs. Clinton in order that she may win the presidency.

Plaintiff has asked on many occasions to take discovery of the individuals who signed affidavits attesting to an adequate search. Under the totality of the circumstances in this and other cases of which this Court is aware, this request is neither unreasonable nor frivolous. Should the

Court continue to refuse to allow for this limited discovery, it creates the appearance that it also wants to delay this case past the November elections.

The perception of the American people is that our justice system has not been able to address any alleged matter concerning Mrs. Clinton and that she is above the law. Plaintiff therefore respectfully requests this Court to help dispel this widespread and general perception by simply allowing Plaintiff to depose the individuals who signed affidavits on behalf of the U.S. Department of State.

This case concerns documents about Mrs. Clinton's granting waivers to do business with the Islamic Republic of Iran. Given the sensitivity of this matter, it is likely that she used her private server to communicate. This underscores the importance of today's disclosures.

Dated: October 17, 2016

Respectfully submitted,

/s/ Larry Klayman  
Larry Klayman, Esq.  
Freedom Watch, Inc.  
D.C. Bar No. 334581  
2020 Pennsylvania Ave. NW, Suite 345  
Washington, DC 20006  
Tel: (310) 595-0800  
Email: leklayman@gmail.com

*Attorney for Plaintiffs*

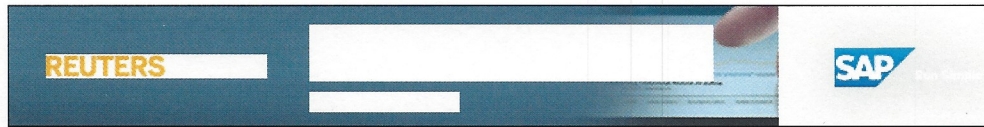
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17<sup>th</sup> day of October, 2016, a true and correct copy of the foregoing Request for Expedited Status Conference was filed and served via CM/ECF and served upon the following:

Sam M. Singer  
U.S. Department of Justice  
20 Massachusetts Ave, NW, #7145  
Washington, DC, 20530  
[Samuel.m.singer@usdoj.gov](mailto:Samuel.m.singer@usdoj.gov)

# EXHIBIT 1

Business Markets World Politics Tech Commentary Breakingviews Money Life



POLITICS | Mon Oct 17, 2016 | 7:12pm EDT

## U.S. State Dept official 'pressured' FBI to declassify Clinton email: FBI documents



U.S. Democratic presidential nominee Hillary Clinton speaks at a fundraiser in Seattle, Washington, U.S., October 14, 2016. REUTERS/Lucy Nicholson

By Jonathan Allen | NEW YORK

A senior State Department official sought to shield Hillary Clinton last year by pressuring the FBI to drop its insistence that an email on the private server she used while secretary of state contained classified information, according to records of interviews with FBI officials released on Monday.

The accusation against Patrick Kennedy, the State Department's most senior manager, appears in the latest release of interview summaries from the Federal Bureau of Investigation's year-long investigation into Clinton's sending and receiving classified government secrets via her unauthorized server.

Although the FBI decided against declassifying the email's contents, the claim of interference added fuel to Republicans' belief that officials in President Barack Obama's administration have sought to protect Clinton, a Democrat, from criminal liability as she seeks to succeed Obama in the Nov. 8 election. The FBI recommended against bringing any charges in July and has defended the integrity of its investigation.

Clinton has said her decision to use a private server in her home for her work as the U.S. secretary of state from 2009 to 2013 was a mistake and has apologized.

One FBI official, whose name is redacted, told investigators that Kennedy repeatedly "pressured" the various officials at the FBI to declassify information in one of Clinton's

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U.S. State Dept. official 'pressured' FBI to declassify Clinton email, FBI documents | Reuters  
emails. The email was about the deadly 2012 attack on a U.S. compound in Benghazi, Libya, and included information that originated from the FBI, which meant that the FBI had final say on whether it would remain classified.

A State Department spokesman, Mark Toner, said Kennedy was not pressuring the FBI but was just trying to understand better how the FBI's classification process worked.

The dispute began in the summer of 2015 as officials were busy reviewing the roughly 30,000 emails Clinton returned to the State Department ahead of their court-ordered public release in batches in 2015 and 2016.

The official said the State Department's office of legal counsel called him to question the FBI's ruling that the information was classified, but the FBI stood by its decision.

Soon after that call, one of the official's FBI colleagues received a call from Kennedy in which Kennedy "asked his assistance in altering the email's classification in exchange for a 'quid pro quo.'"

The FBI official said he also joined at least two discussions in which Kennedy "continued to pressure" the FBI about the email. The official said Kennedy appeared to be trying to protect Clinton by minimizing the appearance of classified information in emails from the server that Clinton used while she was the country's most senior diplomat.

#### AGENCIES SAY NO 'QUID PRO QUO'

In a separate interview summary among the 100 pages released on Monday, another unnamed FBI official confirmed a discussion of a "quid pro quo." He said Kennedy told him in a phone call that the FBI's classification of the email "caused problems" for Kennedy. The official said he told Kennedy he would look into the email, which he had not yet seen, if the State Department would consider allowing more FBI agents to be posted in Iraq in exchange.

The State Department and the FBI both confirmed that a conversation about the email's classification and an increase in FBI slots in Iraq took place, but both agencies said there was no "quid pro quo."

After a year-long FBI investigation into the server, FBI Director James Comey said in July he found that while laws governing classified information may have been broken no reasonable prosecutor would bring charges. He said, however, that Clinton and her staff had been "extremely careless" in handling information that had been classified to protect national security.

Toner, the State Department spokesman, said there was "no quid pro quo," and told reporters that it was the FBI official who raised the possibility with Kennedy of allowing more agents in Iraq during the conversation about the email.

"After the conversation took place about the upgrading classification, at the end of that, there was a kind of, 'Oh, by the way, hey, we're looking at how we want more slots' in Iraq, Toner said, calling it a "clear pivot" in the topic of conversation. "No increase in FBI Iraq slots resulted from this conversation," he said.

The FBI also confirmed both topics were raised in the same conversation, and that the FBI official who discussed the email and Iraq with Kennedy had since retired. "Although there was never a quid pro quo, these allegations were nonetheless referred to the appropriate officials for review," the FBI said in its statement, which did not say what the outcome of the review was.

#### TRUMP CALLS IT "COLLUSION"

Other officials have made similar complaints to investigators of unusual pressure not to mark information as classified in Clinton's emails last year. According to earlier documents the FBI released last month, at least one official at the State Department told investigators that there was pressure by senior department officials to mislead the

#### EDITOR'S PICK



LIVE: Election 2016

public about the presence of classified information in Clinton's emails ahead of their public release.

A summary released on Monday showed another official in the office of the State Department's inspector general making similar allegations. The State Department has said these allegations are also false.

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Ultimately, the FBI told Kennedy that declassification was not possible, according to the interview summaries, and the State Department posted it online last year marked as classified, with heavy redactions.

**North Carolina police probe  
arson, graffiti threat at  
Republican office**

Clinton's Republican rival for the White House, Donald Trump, has accused her of jeopardizing national security and told her at a debate this month, "You'd be in jail" if he is elected president.

He posted a video online on Monday in which he said the FBI documents showed "corruption at the highest levels."

"This is collusion between the FBI, Department of Justice and the State Department to try and make Hillary Clinton look like an innocent person when she's guilty of very high crimes," Trump said.

Several Republican lawmakers called on Obama to investigate Kennedy and remove him from the department. Toner of the State Department said Kennedy "has the full confidence" of John Kerry, Clinton's successor as secretary of state.

Reince Priebus, the Republican National Committee's chairman, said in a statement that Obama, who is campaigning for Clinton to become his successor as president, was trying to "shield" Clinton and that she "cannot be trusted" with classified information.

Paul Ryan, the most senior Republican in the U.S. Congress, referred to the FBI summaries on Twitter. "This bears all the signs of a cover-up," he wrote.

In 2015, Clinton repeatedly said she never sent or received classified information via her server, but since the release of the FBI report in July she has said she relied on the judgment of her subordinates at the department.

Robby Mook, her campaign manager, downplayed the account from the FBI interview summary, telling reporters it was "not uncommon for officials within a department to fight over classification."

(Additional reporting by Julia Edwards, Emily Stephenson, Arshad Mohammed and Luciana Lopez; Writing by Jonathan Allen; Editing by Frances Kerry and Leslie Adler)

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**Trump foundation stops  
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WASHINGTON Republican presidential nominee Donald Trump's charitable foundation has stopped fundraising in New York state, the state attorney general's office said on Monday, weeks after the office warned that a failure to do so would constitute a "continuing fraud."

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