

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

JUDICIAL WATCH, INC.,)	
)	
<i>Plaintiff,</i>)	
)	Civil Action No. 12-cv-2034-RBW
v.)	
)	
U.S. DEPARTMENT OF STATE,)	
)	
<i>Defendant.</i>)	
)	

PLAINTIFF’S NOTICE OF FILING PROPOSED PRESERVATION ORDER

Pursuant to the Court’s September 3, 2015 Order, plaintiff Judicial Watch, Inc. by and through counsel, respectfully submits the attached Proposed Preservation Order. In connection therewith, plaintiff briefly highlights certain issues which demonstrate the need for this Preservation Order:

1. The August 12, 2015 letter from David Kendall only specified that copies of the paper records already turned over to the Defendant were being preserved.¹
2. A separate letter from Mr. Kendall to the State Department indicates neither former Secretary Clinton nor Mr. Kendall believes they are under a current obligation to preserve records they deem personal, or to return such records to the Defendant for a formal determination.²
3. Although the original physical server itself is now in the possession of the FBI and is subject to other preservation obligations, that server was reportedly “wiped” to erase all data, and it

¹ August 12, 2015 Letter from David E. Kendall to the Honorable Ron Johnson, available at http://pdfserver.amlaw.com/nlj/kendall_letter_20150812.pdf .

² August 21, 2015 Letter from David E. Kendall to the Honorable Patrick Kennedy, p. 3, available at <http://www.judicialwatch.org/wp-content/uploads/2015/08/08-26-15-JW-v-State-Kendall-ltr-01363.pdf> (“Under the FRA and implementing regulations, she had no obligation to include in that set her personal e-mails, or to retain such personal e-mails.”).

is currently unknown whether that server contains any recoverable data or how many potentially responsive records from 2009-2013 remain on it.³

Dated: September 4, 2015

Respectfully submitted,

s/ Chris Fedeli _____

Chris Fedeli

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³ March 27, 2015 Letter from David E. Kendall to the Honorable Trey Gowdy, p. 6, available at http://democrats.benghazi.house.gov/sites/democrats.benghazi.house.gov/files/documents/2015_03_27_Kendall_to_TG_re_Response_to_March_4_Subpoena.pdf.