

1 think, is fantasy, and there has been certainly no evidence  
2 in the record to support that, and I am confident there will  
3 never be any evidence in the record to support that, and I  
4 just think it's important to make that clear for the record.

5 THE COURT: All right. I'm going to take a short  
6 recess and decide the scheduling issues.

7 THE DEPUTY CLERK: All rise. This Court will now  
8 stand in a brief recess.

9 (Brief recess taken.)

10 THE COURT: All right.

11 First, let me clarify the Government's  
12 misunderstanding. We're not reopening discovery here.  
13 Discovery never closed. Back in January, I said, quote, The  
14 Government will -- the Court will hold a post-discovery  
15 hearing to ascertain the adequacy of State's searches; to  
16 determine if Judicial Watch needs to depose additional  
17 witnesses, including Hillary Clinton or her former Chief of  
18 Staff, Cheryl Mills; and to schedule dispositive motions,  
19 unquote. So June 19th was a checkpoint, not a finish line.  
20 And whether Judicial Watch previously knew about some of the  
21 other individuals it now wants to depose is beside the  
22 point. They tailored their initial discovery request to the  
23 facts and questions then before the Court.

24 Now we know more, but we have even more questions  
25 than answers. So I won't hold it against Judicial Watch for

1 expanding their initial discovery request now.

2 Remember what got us started down this path in the  
3 first place. In late 2014 and early 2015, at least some  
4 State Department officials knew Secretary Clinton's emails  
5 were missing; they knew Judicial Watch didn't know that;  
6 they knew the Court didn't know that, but the Department  
7 pressed forward trying to settle this case. So I authorized  
8 discovery into whether these settlement efforts amounted to  
9 bad faith.

10 Now, the Government says, quote, There is simply  
11 no factual basis to justify any further discovery on that  
12 subject, unquote, but Judicial Watch's most recent  
13 submission lays out the following:

14 It appears that in the middle of 2013, State's  
15 Office of Information and Program Services launched an  
16 inquiry into Clinton's email practices.

17 It appears that in August 2013, that office  
18 directed FOIA responders to stop issuing, quote, No record  
19 located, unquote, responses to FOIA requests for Clinton's  
20 emails.

21 It appears that by the summer of 2014, State knew  
22 a large volume of Clinton's emails had never been searched,  
23 potentially violating FOIA and record management  
24 obligations. It turns out State had a standing meeting  
25 every Wednesday afternoon during the summer of 2014 to

1 discuss Clinton-related FOIA inquiries. Attendees included  
2 Secretary Kerry's Chief of Staff; his Deputy Chief of Staff;  
3 the Deputy Secretary for Management and Resources; the  
4 Assistant Secretary for Legislative Affairs; several  
5 attorneys; and Patrick Kennedy, the Under Secretary for  
6 Management. That's every Wednesday afternoon.

7 It appears that in August 2014, State began  
8 planning for media investigations into Clinton's emails.

9 It appears that in November 2014, State told  
10 Judicial Watch it performed a legally adequate search and  
11 tried to settle. In fact, I think, in my original opinion  
12 on authorizing discovery, I noted that State had given a  
13 draft Vaughn index to Judicial Watch at that time. I don't  
14 think I have ever seen that, but I think it was given to --  
15 I think, in my opinion, I said that it had been given to  
16 Judicial Watch. Indeed, State spent the next three  
17 months from November 2014 trying to make this case  
18 disappear. They kept doing it even after they came into the  
19 possession of Clinton's emails.

20 Judicial Watch wants to follow up with the State  
21 attorney assigned to this FOIA request to participate in  
22 settlement discussions and negotiations. That seems  
23 reasonable to me.

24 State wants to ask the Department official  
25 responsible for overseeing FOIA requests more about why he