

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUDICIAL WATCH, INC.,

Plaintiff,

vs.

U.S. DEPARTMENT OF JUSTICE,

Defendant.

Civil Action

No. 1:16-cv-2369-RDM

Washington, DC
February 7, 2017

10:06 a.m.

TRANSCRIPT OF STATUS CONFERENCE HEARING
BEFORE THE HONORABLE RANDOLPH D. MOSS
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES

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Proceedings recorded by realtime stenographic shorthand;
transcript produced by computer-aided transcription.

P R O C E E D I N G S

1
2 **DEPUTY CLERK:** Civil action 16-2369, Judicial
3 Watch, Incorporated versus U.S. Department of Justice.
4 Would counsel please approach the podium and identify
5 yourself for the record.

6 **MR. BEKESHA:** Good morning, your Honor. Michael
7 Bekesha on behalf of Judicial Watch. Along with me at
8 counsel table is Tom Fitton, president of Judicial Watch,
9 and David Rothstein, a fellow attorney.

10 **THE COURT:** Okay, thank you. Good morning.

11 **MR. LOPEZ-MORALES:** Good morning, your Honor.
12 Cesar Lopez-Morales on behalf of U.S. Department of Justice.
13 With me at counsel's table is Marcia Berman also from the
14 Department of Justice and Kristin Ellis of the FBI.

15 **THE COURT:** Good morning to all of you. So
16 Mr. Bekesha, why don't you start things off and just let me
17 know where we stand.

18 **MR. BEKESHA:** Sure. Thank you, your Honor. So
19 after the last time we were here, we went back and we looked
20 at our active -- or what we believe were our active FOIA
21 requests to see what was open, if we could shift any
22 resources. We had some difficulty figuring out where to
23 shift resources because we didn't quite know where the FOIA
24 requests were in the processing stage.

25 So I reached out to counsel for the FBI asking

1 some information about how the FOIA requests were being
2 processed. And in response, the FBI said that they've
3 concluded that swapping FOIA resources is not a viable
4 option here. I think they can probably explain it a little
5 bit better, but it's my understanding that because of the
6 knowledge needed to review the Clinton investigative file,
7 really the only people that can process it are those that
8 are currently working on it. Therefore, there was no way to
9 shift or swap resources from other FOIA requests. So that's
10 where we are.

11 I guess we haven't -- we've had some progress but
12 not much. We do know -- the FBI did provide us with a
13 little bit more information. There are approximately 785
14 remaining pages that may contain -- that are part of where
15 Datto was located when a search was conducted. So we're
16 talking about 785 pages. Our position doesn't change. We
17 don't think that we -- it makes sense to wait the entire two
18 years and have them trickle out one by one. We'd like some
19 of these processed more quickly.

20 One possible way to do that is the FBI has stated
21 in this court in front of Judge Chutkan that they are
22 processing 500 pages a month. They could for the next two
23 months process these 785 pages. They would satisfy their
24 intent to process 500 pages a month, and then I think
25 everybody goes home somewhat happy.

1 So, you know, maybe that's the solution as we were
2 talking -- as I was talking with my colleagues, maybe that's
3 one solution that we could come up with.

4 **THE COURT:** Alright, thank you. Anything further?

5 **MR. BEKESHA:** Thank you, that's it for right now.

6 **THE COURT:** Alright, Mr. Lopez-Morales.

7 **MR. LOPEZ-MORALES:** Your Honor, I think that's an
8 accurate summary. But there is some other information that
9 I would like to provide to the Court that was provided to
10 Judicial Watch in our last communication. So as counsel
11 mentioned, there's 785 pages left. That's 33 serials. But
12 that -- and out of those 785 pages, many of the serials are
13 large. There are 55, 94 pages, one is over 300 pages. The
14 problem is that those 33 serials as we indicated to counsel
15 for Judicial Watch do not include serials that contain the
16 word Datto in them that were not recognized through the
17 Optical Character Recognition function.

18 So for example, in the last production which was
19 last Friday, production number five, there were six serials
20 that were not originally included in our 35 serial estimate
21 at the last hearing. And that was because they were
22 handwritten -- they had the word Datto handwritten, that
23 were not recognized through the Optical Character
24 Recognition function. And they were located during the
25 process, the review process by the subject matter experts.

1 So that 33 serial, 785 page count doesn't include records
2 that could contain the word Datto in them that were not
3 originally captured in the text search.

4 Also, in addition to that, in production number
5 five there were two additional 302s that contained the word
6 Datto in them in addition to the six serials. So we had
7 eight records that were produced last Friday that contained
8 the word Datto. And also before that in productions one,
9 two and three, there were 12 documents that already
10 contained the word Datto.

11 So as you can see, your Honor, there have been a
12 rolling production of responsive records since September
13 2016 before Judicial Watch even filed this request. And our
14 position as you're well aware is that the FBI should be
15 allowed to continue to do this.

16 And now in terms of why the swapping of FOIA
17 resources is not a viable option. There are two problems
18 with this. One is as opposing counsel mentioned, there are
19 limited resources. We have a good number of people that are
20 already working in the Clinton file. We have people doing
21 the processing, the classification review, the FOIA review,
22 subject matter experts, et cetera. And the fact is that a
23 lot of the Clinton investigation remains sensitive, so only
24 a limited number of FOIA -- of personnel across the FBI have
25 access to these records including the FOIA processors and

1 reviewers. And using these limited resources essentially as
2 opposing counsel is proposing now, that's an option that we
3 considered. The problem with that is that as we mentioned
4 in the last hearing, it's the equity problem. We would have
5 to prioritize Judicial Watch's request at the expense of all
6 the other requesters.

7 **THE COURT:** Let me ask you, the only question I
8 had about that is if you have a request that covers 10,000
9 records hypothetically and their request is 500 of those,
10 what is the equity interest in not producing theirs first
11 since the requester who you're working on is looking for --
12 that's included in the set of what they want as well so that
13 they'd be getting what they want on the same timetable which
14 I take it is the argument that Mr. Bekesha was making?

15 **MR. LOPEZ-MORALES:** Right, your Honor. So I think
16 there are two answers to that question. The first one is
17 the FBI is facing this unusual set of circumstances. When
18 the FBI gets a FOIA request, they usually get broad FOIA
19 requests for records in one file or very narrow FOIA
20 requests. But they have never faced a situation in which
21 you have really broad requests for an entire file and really
22 specific requests.

23 So in light of that unique set of circumstances, I
24 think what the FBI did is they were trying to come up with
25 the most efficient and equitable method. And if you -- I

1 can explain what the method is in order to I guess
2 understand the fairness behind that process. The idea is
3 that file contains a number of sub files and records within
4 those sub files. So they would have to -- in order to
5 process the Datto records, they would have to look at all
6 the sub files that contained records with the word Datto in
7 them. They would have to take those records out of those
8 sub files, move them to a separate sub file in order to
9 allow processors to go into those sub files. And there's a
10 start up cost to that.

11 Once they do that, there's a risk of missing files
12 as you're pulling out those specific records out of the
13 file. And there's also the problem that you would either
14 have to stop processing the main file or process that
15 separate file adding new people to that whole process. And
16 then you have -- the problem is you have the same subject
17 matter experts reviewing the main file and the separate
18 Datto processing file. And that's why we're explaining it's
19 not really fungible resources. The other problem --

20 **THE COURT:** So just before moving on from that, I
21 take it what you're telling me is that in essence, to go
22 look for the handful of documents in the larger set would be
23 sufficiently time consuming that it would delay the broader
24 production, because it just takes more time to go and pick
25 through and look for the subset of documents?

1 **MR. LOPEZ-MORALES:** Exactly, your Honor.

2 **THE COURT:** So it's not as though there's just a
3 flow of 500 documents that's coming through the pipeline
4 every day and it's a question of just what -- every month,
5 and it's not a question of simply which 500 are going to go
6 through first, the reorganization takes time and resources?

7 **MR. LOPEZ-MORALES:** Exactly, your Honor. And
8 there's a big start up cost. The other two things is one,
9 as Judicial Watch is aware, a lot of these responsive
10 records are also 302s which are the records being sought by
11 Judicial Watch in Judge Chutkan's case. So you would have
12 this I guess weird scenario in which Judge Chutkan
13 ordered -- allowed the FBI to process the 500 pages a month,
14 the entire file. And they would -- a lot of the responsive
15 records would also be responsive to that request as well.

16 And the other thing is that OIP recognizes two
17 processing queues, the simplex -- sorry, a simple processing
18 queue and a complex processing queue. The simple queue,
19 it's really for requests of documents that are between zero
20 and 51 pages. So even then this would fall in the complex
21 processing queue even though it's a more targeted request
22 for records in the Clinton file.

23 **THE COURT:** There other question -- or a couple of
24 other questions I had for you is do you know offhand how
25 many requests are currently pending with the Department of

1 Justice, how many FOIA requests?

2 **MR. LOPEZ-MORALES:** I have that information, your
3 Honor. I have the information for fiscal year 2016. There
4 were 22,222 total requests pending. That accounts for an
5 18 percent increase in FOIA requests for that fiscal year.
6 That doesn't take into account all the FOIA requests that
7 the FBI received between September and November, especially
8 after the announcement of the investigation in October.
9 And the --

10 **THE COURT:** That's the fiscal year?

11 **MR. LOPEZ-MORALES:** That's a fiscal year, yes,
12 your Honor. The FBI is processing around 1,852 requests per
13 month, and that is around 85,000 pages per month. The FBI
14 has also increased -- has also experienced in the last
15 fiscal year a 41 percent increase in litigation.

16 And I think what's important to take into account
17 is that that is the same -- the group of people that work at
18 RIDS, the FBI FOIA processing, is the same group of people
19 that handle the FOIA requests and the processing for
20 administrative requests and requests that are in litigation.
21 So basically every time that there's a lawsuit, you would
22 have to take those people away from the administrative
23 requests and deal with the requests that are in litigation
24 to manage the court ordered processing schedule.

25 **THE COURT:** And has the FBI or Department of

1 Justice filed an Open America declaration of exceptional
2 circumstances in any of the pending cases?

3 **MR. LOPEZ-MORALES:** Your Honor, not that I'm
4 aware. It's something that the FBI could potentially
5 consider. However, given that what the lawsuit really does
6 is to provide judicial oversight over a production of
7 documents responsive to a request, we think that -- and
8 especially in practice given that the courts take a look at
9 what the status of the request is, what are the resources
10 available. And the Court then orders a production schedule
11 or allows the production schedule that is in place to go on.
12 The FBI would prefer to just allow this process to go on.

13 And something that I forgot to add, in the last
14 hearing I said that it was going to take around 20 months to
15 process the whole file. We took a look at the documents
16 that have already been produced, and we said that it was --
17 we concluded -- sorry. So 1,350 pages have been released
18 approximately of the entire file. And we concluded that it
19 will be closer to 17 months as opposed to the 20 month
20 estimate that we had mentioned in the prior hearing.

21 **THE COURT:** Seventeen months from now?

22 **MR. LOPEZ-MORALES:** From now, yes.

23 **THE COURT:** Okay. Anything further?

24 **MR. LOPEZ-MORALES:** No, your Honor.

25 **THE COURT:** Mr. Bekesha, do you want to come back

1 up. So my first question for you is you had raised this
2 last time, but do you want to put the FBI to the burden of
3 producing the exceptional circumstances declaration under
4 Open America? Because it seems to the Court -- you know,
5 obviously I would want to consider it when it was submitted.
6 I would be surprised if they couldn't satisfy that. Since
7 then I've gone back and read that case, and what's at issue
8 here is vastly more obviously than was at issue in Open
9 America in terms of the number of pending FOIA requests and
10 the burden on the Government. I don't know for sure they
11 could do it. I suspect they probably could make the
12 showing.

13 I guess my question for you is do you want to put
14 them to that burden which is just another use of resources
15 unfortunately?

16 **MR. BEKESHA:** I'd like to resolve this without any
17 additional briefing. You know, I still -- I wasn't
18 completely clear why -- if they've located the sub files
19 that the records are located in, why those sub files can't
20 actually be pulled out and those sub files be reviewed
21 first. You know, I understand they don't want to go ahead
22 and pull documents out of sub files and put those documents
23 in new sub files. But you could extract those sub files.

24 Because I think last time they said there was
25 approximately nine FOIA requests made for the entire

1 investigative file. Those FOIA requesters, we haven't been
2 told, asked for specific records or specific sub files out
3 of those records. So to the extent those sub files can be
4 pulled out and reviewed first, it would not harm -- there
5 would be no equities to anybody else because no one else was
6 asking -- they were asking for everything.

7 **THE COURT:** But I think what we were just told
8 which makes some sense is that it may be that the -- that
9 they're the same documents, but to pick and choose and to
10 say okay, we're going to go and look for yours first takes
11 additional time and resources to go and do it that way.

12 **MR. BEKESHA:** But they've already --

13 **THE COURT:** I understand, but someone has to still
14 go and do this. They would have to go and pull out those
15 files, look at those files and do those files first. It's
16 just the shifting of resources. I think what the Court also
17 has to consider -- and I think this is something that's
18 explained in the Open America case, is that I can't just
19 look at this in isolation and say okay, in your case maybe
20 it will just take a handful of additional resources. The
21 Court has to sort of apply the multiplier and say okay, now
22 what happens when everyone comes in and does this.

23 At some point in time it becomes extremely
24 difficult for the FBI to get its job done, and finds that
25 it's spending more time reshuffling the chairs on the deck

1 than actually producing the documents in a way that is just
2 inefficient and unfair to other producers -- other
3 requesters. So if you had 20, 30, 40 folks -- or FOIA
4 requesters all who said, "I actually have a plan here for
5 how you can get to mine first, and this is actually a really
6 sensible plan. It's pretty smart and we can do this in a
7 way that's really efficient." Just having someone at the
8 FBI just sit down and go through all that and figure out how
9 that all works would require substantial resources.

10 **MR. BEKESHA:** I would agree with you, your Honor,
11 if some of the work hasn't already been done. They've
12 isolated -- they have identified these serials where the
13 word Datto is contained in. So they don't need to go and
14 find them, they already know where they are. And if they're
15 in sub folders -- sub files, you know, those sub files -- if
16 it's in paper form, right, it's in a Redwell, you pick up
17 that Redwell and you search that one first. And so you
18 process that --

19 **THE COURT:** But someone still has to show up on
20 Monday morning at the FBI and say, "Okay everyone, come on
21 into my office. I want to talk about what we're going to do
22 today. We had this plan in place, this is the way we're
23 doing it. Stop, we're not doing it that way here. What I
24 want you to do instead is go and look at these files first
25 and do this." Someone in the back of the room raises their

1 hand and says, "I've got a question about that. I'm doing
2 this. Do you want me to get this done first?" I mean, it's
3 taking time and resources. There's not a way to do this in
4 a manner that doesn't -- I mean that is Pareto optimal as I
5 think you were suggesting earlier in which everyone is as
6 well or better off as a result of it. Someone -- it may be
7 marginal, but someone will suffer as a result of this.
8 There will be fewer other records produced because someone's
9 going to have to organize this and get this done.

10 **MR. BEKESHA:** You know, I guess if that's where we
11 are, the Justice Department was talking about that in
12 production five which apparently was the other day.
13 Although on the FBI's website it's identified as production
14 six, so hopefully we're talking about the same things here.
15 They're not OCR, they're not electronically searchable.

16 So they sent us -- you know, to the extent they're
17 telling us that records are being produced to us that are
18 responsive to our request, they should at least identify
19 those pages on the monthly basis as it's a rolling
20 production because they're not word searchable. You know,
21 the -- in the other -- in the 302 case in front of Judge
22 Chutkan, the FBI indicated that they would be universally
23 Bates labeling all those records. Because we had a concern
24 there, we didn't know what records were being produced and
25 whatnot. The most recent production, what I think is

1 production six, maybe it's production five, has Bates stamps
2 on it. But they haven't gone back and Bates stamped the
3 other ones.

4 But if everything is being universally Bates
5 stamped and they have the ability to electronically search
6 for the word Datto -- which they said they could, at a
7 minimum they should be required to provide us with a notice
8 letter every month saying Datto appeared on these Bates
9 numbered pages. I mean, that would advance the ball a
10 little bit so then we would be able to know how many records
11 are going to be produced -- you know, are being produced in
12 response to this FOIA request. I think that's reasonable.

13 My guess is the FBI may argue that that's going to
14 take more resources away from other places. But if we're
15 going to work in this framework, we're the FOIA requester,
16 we shouldn't have to go searching for records that are
17 responsive to our request because they don't provide us with
18 searchable technology which you would think would be normal
19 course. The State Department OCR'd and produced records of
20 Secretary Clinton's e-mails, that was 55,000 pages roughly.
21 You know, those were all word searchable. So the State
22 Department at least had that technology. Maybe the FBI
23 doesn't, but it would be good to know if that would be
24 possible.

25 **THE COURT:** Remind me of how many pages we're

1 talking about here of total documents in which the Datto
2 documents will be embedded?

3 **MR. BEKESHA:** It is --

4 **THE COURT:** Is it 10,000?

5 **MR. BEKESHA:** The 10,000 pages I think is the
6 entire Clinton investigative file. And then there was
7 discussion of the different serials being a total of 785
8 pages. But if I understand correctly, Datto doesn't appear
9 on all 785 pages, it only appears on one page within those
10 serials.

11 **THE COURT:** I guess what I'm trying to get at is
12 how much work is it for you to look through the files to
13 look for the word Datto? I mean, do you have to have
14 someone on your staff read 10,000 pages in order to find it
15 or are they going to have to look at 700 pages to find it?

16 **MR. BEKESHA:** Well, they're going to have to look
17 at the total 10,000 when those are eventually produced,
18 because right now you're having some records produced. I
19 forget the total number out of the 500. I think it was
20 about 350 -- I may be wrong, pages that were produced out of
21 the 500. And then there were essentially -- it wasn't even
22 slip sheets, it was just sheets that listed page one
23 withheld, page two withheld for referral.

24 So it's possible to do, your Honor, but Judicial
25 Watch is the FOIA requester. You know, this is very similar

1 to the FBI saying, "Here are all the records, now you go
2 find it." I mean, it's like civil discovery where you
3 produce everything trying to hide the needle in the
4 haystack.

5 **THE COURT:** I don't think there's any indication
6 here that anyone's trying to hide anything.

7 **MR. BEKESHA:** But they have the ability to
8 identify what pages the Datto is, and for whatever reason --

9 **THE COURT:** I intend to ask them about it, I just
10 wanted to get your views on this first. The other question
11 I had for you is does -- I know Judicial Watch has this
12 narrower request.

13 Does Judicial Watch also have a request that
14 covers the larger set? I mean, is Judicial Watch anyway
15 going to be wanting to look at the broader set of documents
16 because they've requested those?

17 **MR. BEKESHA:** We've sent a request for the 302
18 forms as well -- I'm trying to think what was the other set
19 of records in that case, as well as general communications.

20 **THE COURT:** So is someone from Judicial Watch
21 going to have to go through these anyway because you've
22 sought the broader set in any event?

23 **MR. BEKESHA:** We've asked for narrow parts of the
24 broader set, we did not send a request for the entire file.
25 So we will be reviewing in one case for -- to locate the

1 302s, you know, going through, separating things out.
2 That's less reading every line by line because it says 302
3 at the top. Communications, most of them say official
4 communications at the top or an e-mail. So we're dividing
5 them that way.

6 So at this point, there isn't necessarily someone
7 going line by line looking for the word Datto because we're
8 looking for other parts.

9 **THE COURT:** What is there other than 302s and
10 e-mails and communications, letters and things like that?
11 What else would be in a file like this?

12 **MR. BEKESHA:** You would have to ask the FBI about
13 what they have in their investigative files.

14 **THE COURT:** But you've been looking at the stuff
15 as well.

16 **MR. BEKESHA:** I have been, and I was telling Judge
17 Chutkan I was going through and making different piles. I
18 just don't recall what the other records were because I
19 wasn't looking. I mean, to be honest, I was looking for 302
20 communications, putting that aside, putting the other stuff
21 aside that just didn't fit that. I don't know specifically
22 what those other records are.

23 My understanding is that there are a bunch of
24 other records, types of records that are in there. Because
25 the position that the FBI's taking here is the same in front

1 of Judge Chutkan. If everything was a 302 or a
2 communications, that would have been something easy to say
3 in front of Judge Chutkan, and that wasn't.

4 **THE COURT:** Is there any statutory authority or
5 case law authority for the proposition that the producing
6 agency has an obligation to identify the documents that are
7 being sought? I mean, FOIA is not like civil discovery in
8 that -- where you're propounding requests to answer
9 particular questions. It's an open government law.

10 So for example I would assume that if an agency
11 simply took all of their records and put them in their
12 library, that the agency could respond to a FOIA request by
13 saying, "This is all public already. You don't need to come
14 ask us for it, it's down in the library. We sent it to
15 every public library in the country, it's there, go find
16 it."

17 So is there any authority for the proposition that
18 an agency other than simply just making information public
19 has an obligation under FOIA to say and this is what you're
20 seeking and this is where you find it?

21 **MR. BEKESHA:** I don't know if there's any
22 authority. Nothing comes to the top of my head at the
23 moment. However, I do know in other cases Judicial Watch
24 has had with other agencies that if there's a more global
25 search -- you know, for example I'm thinking of Secretary

1 Clinton's e-mails were being released, so we're talking
2 about the State Department. And we had some specific
3 requests about specific topics such as Benghazi. If they
4 were produced on a certain day or separately, they would
5 direct us to where on the website those records were
6 produced.

7 So I think there -- I'm not sure if there's
8 authority or case law, because a lot of the time it's just
9 resolved between the parties. It's also a little bit
10 different of course than civil discovery, because in the
11 FOIA context an agency responds to a FOIA request. And so
12 I'm not sure how much case law there would be about an
13 agency that is producing more than what was just requested.
14 Because for the most part, the agency looks at the FOIA
15 request and produces those records. Everything else would
16 be non-responsive which is a whole different issue.

17 **THE COURT:** Okay, thanks. So let me just hear
18 what Mr. Lopez-Morales has to say about this.

19 So what do you say about the request that you
20 identify where the Datto records are when the Datto records
21 are produced, that you provide some notice to Judicial Watch
22 saying that they're on pages X, Y and Z?

23 **MR. LOPEZ-MORALES:** So your Honor, opposing
24 counsel is correct, and he had a similar request before
25 Judge Chutkan. What we offered to -- we agreed before Judge

1 Chutkan to include the universal Bates stamp number so that
2 it would be easier; that if there were any concerns with
3 some of the records, that they could be easily identified as
4 opposed to the PDF number.

5 With respect to identifying which of the records
6 are responsive to their specific request, what we offered in
7 Judge Chutkan's case was to do it at the end to avoid any --
8 basically reallocating resources to do that as we processed
9 the entire file.

10 But I guess given the number of records here, we
11 wouldn't oppose providing opposing counsel with identifying
12 which of the records that we're producing have the word
13 Datto in them and are responsive to Judicial Watch's
14 request.

15 **THE COURT:** And will you be doing that on a
16 rolling basis?

17 **MR. LOPEZ-MORALES:** We'll do that on a rolling
18 basis, yes, your Honor.

19 **THE COURT:** Okay. That is -- I appreciate your
20 doing that, and I'm sure that Judicial Watch appreciates
21 your doing it. So thank you for that.

22 **MR. LOPEZ-MORALES:** Yes.

23 **THE COURT:** Okay.

24 **MR. LOPEZ-MORALES:** Thank you, your Honor.

25 **THE COURT:** So Mr. Bekesha, anything else?

1 **MR. BEKESHA:** Just one last issue, your Honor, and
2 it's a minor issue that may be better addressed at a later
3 point. I found out that a couple days after our last
4 hearing that Chairman Chaffetz in the House Oversight and
5 Government Reform Committee sent a request to Director Comey
6 asking for the same records that are responsive here. You
7 know, I'm not quite sure where that came from, but the
8 letter was made available on the public's website. They
9 asked for a response by February 10th.

10 So we would just request to the extent that the
11 FBI responds to a letter from House Oversight providing the
12 records at question here, that if they're reviewed and
13 processed in response to Congress they may be available to
14 produce here quicker. But as I said, I know nothing but a
15 public letter. But I just wanted to raise it because it may
16 become an issue down the road.

17 **THE COURT:** Okay. I appreciate that, thank you.

18 **MR. BEKESHA:** Thank you.

19 **THE COURT:** Mr. Lopez-Morales, is that anything
20 you're in a position to address today?

21 **MR. LOPEZ-MORALES:** Can you give me one second,
22 your Honor?

23 **THE COURT:** Yes, of course.

24 **MR. LOPEZ-MORALES:** Your Honor, what we intend to
25 do with that request is the same. We're not going to pull

1 out the specific records that have the word Datto in them,
2 we're going to provide them to the Committee on a rolling
3 basis just like we're doing here.

4 **THE COURT:** Okay. If that issue is one that ends
5 up being revisited and you've actually collected the
6 documents and have them ready to produce and they're in a
7 form that can be publicly produced, I assume that you can
8 then work with Judicial Watch about that?

9 **MR. LOPEZ-MORALES:** Absolutely, your Honor. Thank
10 you.

11 **THE COURT:** Okay. Anything further today then?

12 **MR. BEKESHA:** No, your Honor.

13 **MR. LOPEZ-MORALES:** No, your Honor.

14 **THE COURT:** Okay. Well, thank you. If in light
15 of any of this, if there's a need to -- if you conclude that
16 you need to file a motion on any of these issues, why don't
17 you do this: Why don't you contact the Courtroom Deputy
18 jointly together -- meet and confer, and if you're unable to
19 work something out contact the Courtroom Deputy and let's
20 set up a status conference first. We can come in and we can
21 talk about it. And if we can't work it out, then you'll be
22 free to file a motion if you need to. Okay, thank you.

23 **MR. BEKESHA:** Alright, thank you.

24 **MR. LOPEZ-MORALES:** Thank you, your Honor.

25 (Proceedings adjourned at 10:38 a.m.)

C E R T I F I C A T E

I, Jeff M. Hook, CSR, RPR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

February 9, 2017
DATE



Jeff M. Hook, CSR, RPR

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