

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
DAVE LEVINTHAL, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 15-1624 (APM)
)	
FEDERAL ELECTION COMMISSION,)	
)	
Defendant.)	
_____)	

**DEFENDANT FEDERAL ELECTION COMMISSION'S
STATEMENT OF GENUINE ISSUES**

Pursuant to Federal Rule of Civil Procedure 56(c) and Local Civil Rule 7(h)(1), the Federal Election Commission submits the following statement of genuine issues in response to plaintiffs' Statement of Material Facts As To Which There Is No Genuine Issue (ECF No. 14-1). The Commission specifically addresses each numbered paragraph from Plaintiffs' Statement below:

1. Admitted.
2. Admitted.
3. Denied. The cited evidence in fact supports the opposite conclusion. The

Commission further objects that the sentence states an irrelevant and immaterial legal conclusion that appears to be premised on plaintiffs' misunderstanding or disregard of relevant authority explaining the scope of FOIA Exemption 7(E). (*See* FEC Summ. J. Br. at 13; FEC Reply & Opp'n at 4-6.)

4. Denied. This sentence is not supported by any record evidence, and in fact purports to cite as support portions of the Commission's Memorandum in Support of its Motion

for Summary Judgment that directly and affirmatively contradict this assertion. The cited portions of Commission's opening summary judgment brief explain that, after conducting line-by-line examinations of the NIST Study in an effort to identify any reasonably segregable, nonprivileged, nonexempt portions of the NIST Study that could be released, the Commission concluded that no portion of the NIST Study could be segregated and disclosed. (*See* FEC Summ. J. Br. at 18-20, 23-24; *see also* FEC Reply & Opp'n at 7-9; Palmer Decl. ¶¶ 25-28; Kahn Decl. ¶ 12.) Moreover, the Commission objects that this sentence states a legal conclusion.

Dated: April 28, 2016
Washington, DC

Respectfully submitted,

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