IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, et al.

Plaintiffs,

v.

No. 14-cv-1589 (EGS)

UNITED STATES DEPARTMENT OF DEFENSE, et al.,

Defendants.

DEFENDANT FBI'S RESPONSE TO PLAINTIFFS' STATEMENT OF MATERIAL FACTS NOT IN DISPUTE

Pursuant to Local Civil Rule 7(h) and paragraph 13 of the Court's Standing Order, ECF No. 62, Defendant, the Federal Bureau of Investigation, a component of the United States Department of Justice ("FBI"), hereby submits this response¹ to Plaintiffs' Statement of Material Facts Not in Dispute, *see* ECF No. 98-3.

Plaintiffs' Undisputed Material Facts	Defendant FBI's Response
1. Plaintiffs' February 21, 2014, FOIA request	Admit.
seeks "September 15th or 16th FBI 302	
Interview Reports, and corresponding	
handwritten notes, of interviews conducted in	
Germany of United States personnel who had	
been in the Benghazi mission and the	
Benghazi CIA annex during the September	
11th and 12th attacks on those facilities."	
<i>Compl.</i> , ECF 31 ¶ 126 (8).	

¹ In response to Defendant FBI's Statement of Material Facts Not In Dispute, Plaintiffs deny that the FBI's investigative files regard "pending matters." *See* Pls.' Response to Def. FBI's Statement of Material Facts Not In Dispute ¶ 22, ECF No. 98-4. Plaintiffs, however, provide no basis for their dispute of this fact, and the Seidel Declaration explains that the FBI "contacted the case agents for the responsive investigative files" who confirmed that the "investigation into the 2012 Benghazi Attack remains ongoing." Decl. of Michael G. Seidel ¶ 13, ECF No. 97-2.

3. By letter dated February 17, 2021, the FBI informed Plaintiffs that it had identified records responsive to their request. Seidel Decl., ECF 97-2 ¶ 8. 4. In September of 2014, Hatchette Book Group published "13 Hours, The Inside Account of what Really Happened in Benghazi" ("13 Hours") by "Mitchell Zuckoff with the Annex Security Team." 13 Hours excerpts, ECF 25-1 Ex 1 at 4-5. 5. The main sources of 13 Hours were members of the CIA's Quick Reaction Force ("QRF") Dave Benton, Mark Geist, Kris Paronto, Jack Silva, and John Tiegen. 13 Hours excerpts, ECF 25-1 Ex 1 at 4-5. 5. The main sources of 13 Hours were members of the CIA's Quick Reaction Force ("QRF") Dave Benton, Mark Geist, Kris Paronto, Jack Silva, and John Tiegen. 13 Hours excerpts, ECF 25-1 Ex 1 at 4-5. 5. The main sources of 13 Hours were members of the CIA's Quick Reaction Force ("QRF") Dave Benton, Mark Geist, Kris Paronto, Jack Silva, and John Tiegen. 13 Hours excerpts, ECF 25-1 Ex 1 at 4-5. 6. 13 Hours recounts that, after being ordered to stay in place three times, the CIA's QRF disobeyed that order. 13 Hours excerpts, ECF 25-1 Ex 1 at 4-5.	2. The Dec. 30, 2012 Report by the Senate Committee on Homeland Security And Governmental Affairs, Flashing Red: A Special Report On The Terrorist Attack At Benghazi relates: "On September 15th and 16th, officials from the FBI conducted face-to-face interviews in Germany of the U.S. personnel who had been on the compound in Benghazi during the attack Information from those interviews was shared on a secure video conference on the afternoon of the 16th with FBI and other IC officials in Washington."	Disputed to the extent that this paragraph does not set forth uncontroverted facts that are material to the outcome of this suit. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986) ("Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.").
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	under the governing law will properly
	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
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7. On January 15, 2016, Dames Pieter	unnecessary will not be counted.").
7. On January 15, 2016, Paramount Pictures	Disputed to the extent that this paragraph
released the movie, 13 Hours: The Secret	does not set forth uncontroverted facts that
Soldiers of Benghazi ("Secret Soldiers").	are material to the outcome of this suit. See
	Anderson v. Liberty Lobby, Inc., 477 U.S.
This fact is in the public record.	242, 247-48 (1986) ("Only disputes over
	facts that might affect the outcome of the suit
	under the governing law will properly
	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
	unnecessary will not be counted.").
8. On January 15, 2016 the Wash. Post.	Disputed to the extent that this paragraph
Published Former CIA Chief in Benghazi	does not set forth uncontroverted facts that
Challenges the Story Line of the New Movie	are material to the outcome of this suit. See
"13 Hours"	Anderson v. Liberty Lobby, Inc., 477 U.S.
	242, 247-48 (1986) ("Only disputes over
This fact is in the public record.	facts that might affect the outcome of the suit
	under the governing law will properly
	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
	unnecessary will not be counted.").
9. On Dec. 2, 2014, Breitbart published	Disputed to the extent that this paragraph
Benghazi Heroes Debunk House Intel Report	does not set forth uncontroverted facts that
as 'Full of Inaccuracies' with Firsthand	are material to the outcome of this suit. See
Account.	Anderson v. Liberty Lobby, Inc., 477 U.S.
	242, 247-48 (1986) ("Only disputes over
This fact is in the public record.	facts that might affect the outcome of the suit
	under the governing law will properly
	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
	unnecessary will not be counted.").
10. The Senate Select Intelligence	Disputed to the extent that this paragraph
Committee's Jan. 15, 2014 Review of the	does not set forth uncontroverted facts that
Terrorist Attack on U.S. Facilities in Benghazi,	are material to the outcome of this suit. See
Libya, September 11-12, 2012, states:	Anderson v. Liberty Lobby, Inc., 477 U.S.
	242, 247-48 (1986) ("Only disputes over
According to informal notes obtained	facts that might affect the outcome of the suit
from the CIA, the security team left for	under the governing law will properly
the Annex [sic] without the formal	preclude entry of summary judgment.
approval of the Chief of Base, see	Factual disputes that are irrelevant or
attachments to e-mail from CIA staff	unnecessary will not be counted.").
[redacted] to CIA staff [redacted]	,
September 23, 2012.	
Deptember 23, 2012.	

Excerpts ECF 15-7 Ex 7 at 6.	
11. The CIA Chief-of-Base testified before the House Select Committee on Events Surrounding the 2012 Terrorist Attack in Benghazi ("Select Committee"), "I did not tell anybody to stand down."	Disputed to the extent that this paragraph does not set forth uncontroverted facts that are material to the outcome of this suit. <i>See Anderson v. Liberty Lobby, Inc.</i> , 477 U.S. 242, 247-48 (1986) ("Only disputes over facts that might affect the outcome of the suit
Clarke Decl. Transcript ECF 71-1 at 58.	under the governing law will properly preclude entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.").
12. CIA Director David Petraeus testified to	Disputed to the extent that this paragraph
the House Intelligence Committee that he was	does not set forth uncontroverted facts that
unaware that any order to stand down had been	are material to the outcome of this suit. See
given.	Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986) ("Only disputes over
ECF 71-1 at 36.	facts that might affect the outcome of the suit
ECF /1-1 at 50.	_
	under the governing law will properly
	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
	unnecessary will not be counted.").
13. The DOD ordered its forces in Tripoli to	Disputed to the extent that this paragraph
stand down.	does not set forth uncontroverted facts that
	are material to the outcome of this suit. See
House Oversight and Government Reform	Anderson v. Liberty Lobby, Inc., 477 U.S.
Committee testimony of Deputy Chief of	242, 247-48 (1986) ("Only disputes over
Mission Gregory Hicks, ECF 71-1 at 61-64.	facts that might affect the outcome of the suit
	under the governing law will properly
	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
	unnecessary will not be counted.").
14. Senate Select Intelligence Committee's	Disputed to the extent that this paragraph
Jan. 15, 2014 Review of the Terrorist Attack on	does not set forth uncontroverted facts that
U.S. Facilities in Benghazi, Libya, September	are material to the outcome of this suit. See
11-12, 2012, states:	Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247-48 (1986) ("Only disputes over
The Committee explored claims that	facts that might affect the outcome of the suit
there was a "stand down" order given	under the governing law will properly
to the security team at the Annex	preclude entry of summary judgment.
the Committee found no evidence of	Factual disputes that are irrelevant or
	<u> </u>
intentional delay or obstruction by the	unnecessary will not be counted.").
Chief of Base or any other party.	
Excerpts ECF 15-7 Ex 7 at 6.	

15 0 D 0 0014 D 11 1 111 1	
15. On Dec. 2, 2014, Breitbart published	Disputed to the extent that this paragraph
Benghazi Heroes Debunk House Intel Report	does not set forth uncontroverted facts that
as 'Full of Inaccuracies' with Firsthand	are material to the outcome of this suit. See
Account.	Anderson v. Liberty Lobby, Inc., 477 U.S.
	242, 247-48 (1986) ("Only disputes over
This fact is in the public record.	facts that might affect the outcome of the suit
	under the governing law will properly
	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
	unnecessary will not be counted.").
16. The FBI interviewed John Tiegen on	The FBI will neither confirm nor deny this
September 15 or 16, 2011, regarding the	fact because to do so would reveal
Benghazi attacks.	information that is properly exempt from
	disclosure under Exemption 7(A).
Tiegan Aff. Exhibit 1.	
17. John Tiegan memorialized his waiver of	The FBI admits that Plaintiffs attached to
any privacy interest he may have in the subject	their opening memorandum an affidavit
Reports.	signed by John Tiegan on August 9, 2023,
	that states he was interviewed by the FBI on
Tiegan Aff. Exhibit 1.	September 15 or 16, 2011 [sic], regarding the
	Benghazi attacks.
	The FBI disputes this paragraph to the extent
	that it draws a legal conclusion regarding
	whether John Tiegan's affidavit effectively
	waived any interest he may have in the
	subject FD-302 Interview Reports, which
	memorialize interviews the FBI conducted
10 F G (1 11 2012 1	on September 15 and 16, 2012.
18. From September 11, 2012 through	Disputed to the extent that this paragraph
February 8, 215, 52,404 news articles were	does not set forth uncontroverted facts that
published regarding the Benghazi attack,	are material to the outcome of this suit. See
32,185 newswires & press releases were	Anderson v. Liberty Lobby, Inc., 477 U.S.
issued, and the record of news transcripts is	242, 247-48 (1986) ("Only disputes over
14,698.	facts that might affect the outcome of the suit
T 400 ECE 15 0	under the governing law will properly
Tappan Aff. ECF 15-8.	preclude entry of summary judgment.
	Factual disputes that are irrelevant or
	unnecessary will not be counted.").

Dated: September 14, 2023

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/s/ Kristina A. Wolfe

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