

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DWAYNE FURLOW et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No.: 4:16-cv-00254-JAR
)	
JON BELMAR et al.,)	
)	
Defendants.)	
)	

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS’ MOTION TO COMPEL
AND TO REOPEN DEPOSITION**

Pursuant to Federal Rule of Civil Procedure 37, Plaintiffs Dwayne Furlow, Ralph Torres, Howard Liner, and all others similarly situated, by and through their counsel, hereby move this Court to enter the Proposed Order, attached hereto, compelling third-party The Regional Justice Information Service Commission (“REJIS”) to produce certain documents, information, and data. In support of this motion, Plaintiffs state the following:

Significance of Third-Party REJIS to the Present Litigation

1. According to the Federal Rules of Civil Procedure, “Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1).

2. Further, it is well-settled that the burden is on the party resisting discovery to

explain why discovery should be limited because the rules of discovery are broad. *Jo Ann Howard & Assoc. P.C. v. Cassity*, 303 F.R.D. 539, 542 (E.D. Mo. 2014). After the proponent of discovery makes a threshold showing of relevance, the party opposing a motion to compel has the burden of showing its objections are valid by providing specific explanations or factual support as to how each discovery request is improper. *Id.* The party must demonstrate "that the requested documents either do not come within the broad scope of relevance defined pursuant to Rule 26(b)(1) or else are of such marginal relevance that the potential harm occasioned by discovery would outweigh the ordinary presumption in favor of broad disclosure." *Id.*

3. There is no question that the discovery sought from REJIS is relevant to Plaintiffs' claims. According to its website, REJIS is a government entity created to provide information technology products and services to criminal justice and government agencies. According to its website, REJIS was founded under a cooperative agreement between St. Louis City and Defendant St. Louis County. REJIS operates a regional interface system used by many different municipal, county, state and federal agencies to store and access various information related to the use of Wanted. *See* Declaration of Timothy J. Holland ("Holland Decl."), Ex. H at 23:12-25:11; *See Id.* Ex. B at 21:20-23:24. It is undisputed that Defendants in this action use REJIS to both enter information relating to Wanted and access information relating to Wanted entered by other jurisdictions. *See Id.*, Ex. C at 198:15-199:9; Ex. D at 102:21-103:23; Ex. E at 108:10-25; Ex. F at 60:12-20; and Ex. G at 130:8-11. In fact, according to one of the REJIS employees deposed in this action, REJIS is St. Louis County's preferred interface system for storing and accessing information relating to Wanted. *See Id.*, Ex. H at 111:14-113:31.

4. The use of Wanted by Defendants is at the core of Plaintiffs' claims in this action. Further, the documents, information and data that are the subject of Plaintiffs' requests to REJIS are highly relevant to the issue of class certification, which is a focus of the Phase 1

discovery authorized by this Court. *See* ECF Nos. 11, 31, 41, 47, 51, 53. In particular, these materials are crucial to Plaintiffs' efforts to not only develop and fully understand the Class of similarly situated individuals who, like the named Plaintiffs, have been injured by Defendants' Wanted's practice, but also to fully understand the strength of the claims of that Class.

5. Neither Defendants nor REJIS can demonstrate that the burden of producing the requested discovery outweighs the expected benefit to Plaintiffs and the putative Class. In fact, according to REJIS's own 30(b)(6) witness there isn't any meaningful burden to compiling the data Plaintiffs are most interested in: In the course of his 30(b)(6) deposition, Marc Meschke, REJIS's then-director of client services, stated that it would only take REJIS's developers "[a]bout three days or so" to produce a report that would satisfy Plaintiffs' request. *See* Holland Decl., Ex. B at 80:16-25. Additionally, and in an effort to reduce the financial burden to REJIS, Plaintiffs' counsel offered to pay the expense associated with running the data report needed to fulfill Plaintiffs' Request. *Id.*, Ex. R.

6. As the forthcoming chronology details, REJIS, through its counsel, Raymond Flojo, has, at times, exhibited a willingness to cooperate in response to Plaintiffs' discovery requests, but, in reality, has been stringing Plaintiffs along since at least March 30, 2017. The chronology will also show that Plaintiffs' counsel has exhibited an enormous amount of patience with REJIS, but, at this point, Plaintiffs are left with no choice but to seek this Court's assistance.

Scope of Plaintiffs' Discovery Requests of REJIS

7. On December 30, 2016, Plaintiffs issued a subpoena to take a 30(b)(6) deposition of REJIS, and for REJIS to produce documents relating to various topics concerning REJIS and its maintenance of Wanted. *See* Holland Decl., Ex. A.

8. On February 3, 2017, Plaintiffs deposed Mr. Meschke. Mr. Meschke was represented at the deposition by Mr. Flojo. During his deposition, Mr. Meschke was asked how

long it would take REJIS developers to produce a report that detailed the reference number for each Wanted entered by the St. Louis County Police Department over a five year span, the date each Wanted was entered, and the ultimate disposition of each Wanted. *See* Holland Decl., Ex. B at 80:16-25. Mr. Meschke testified that it would take REJIS's developers "[a]bout three days or so" to create this report. *Id.* at 81:8. When asked about the process for creating a report that detailed information on individuals who were arrested pursuant to a Wanted entered by the St. Louis County Police Department in a given year, along with how long they were held, Mr. Meschke testified that it would only take "[t]wo, three hours to come up with something like that." *Id.* at 151:12-25.

9. On February 24, 2017, Plaintiffs issued a subpoena to depose Cindy Jennings, in connection with her role as REJIS training supervisor. She was deposed on March 30, 2017.

10. On March 30, 2017, immediately following the deposition of Ms. Jennings, Plaintiffs' counsel emailed Mr. Flojo, counsel for REJIS, a list of 14 additional document requests stemming from the 30(b)(6) deposition testimony of both Mr. Meschke and Ms. Jennings. *See* Holland Decl., Ex. I. On April 2, 2017, Plaintiffs' counsel emailed Mr. Flojo three additional document requests. *See Id.*, Ex. J.

Chronology of Plaintiffs' Unsuccessful Efforts to Obtain Discovery From REJIS

11. Nearly four months after these requests were sent to counsel for REJIS, Plaintiffs have not received one document or piece of information in response to any of these 17 requests. Although Plaintiffs ideally would receive documents, information, and/or data in response to each of these requests, as detailed below, Plaintiffs eventually narrowed the focus for REJIS to a handful of priority requests, with particular focus on the first request, which is as follows:

- Electronic report (excel or csv format) of every Wanted, Stop Order, Person of Interest, and Temporary Wanted created by REJIS users within the St. Louis County Police Department, and for each record, include the following data fields:

- REJIS Record ID number
- Record creation date and time
- Date of incident
- Last name of subject
- First name of subject
- Date of Birth
- Gender
- Race/Ethnicity
- Address of subject (including city, state, zip)
- Issuing officer name/user ID/DSN
- Charges alleged
- Jurisdiction/extradition radius
- Notes/Miscellaneous text entries
- Date and time of arrest
- Arresting agency
- Booking ID
- Date and time of booking
- "Locate" information
- "Detainer" information
- Warrant application number
- Date and time of record validation
- Date and time of record termination
- Nature or reason for record termination
- Terminating user/officer ID number or DSN
- Date and time of release of arrestee

In addition to being within the scope of the subpoena served upon REJIS and the subpoenaed REJIS deposition, this request is within the scope of one of the initial requests to Defendants in this action that called for a comparable set of data relating to Wanted in St. Louis County. Defendants produced a chart in response to that request, but it was incomplete. Once Plaintiffs became more familiar with REJIS through the depositions of Mr. Meschke and Ms. Jennings, it became clear that REJIS was the source of the data that Plaintiffs are seeking.

12. REJIS did not immediately respond concerning these requests, but did soon thereafter, through counsel, express its willingness to cooperate in response to the requests.

13. On April 17, 2017, Plaintiffs' counsel emailed Mr. Flojo and asked for an update on the status of the 17 items that Plaintiffs requested by email on March 30, 2017 and April 2,

2017. *See* Holland Decl., Ex. K. On April 19, 2017, Mr. Flojo responded, explaining that he would “attempt” to provide responses by May 1, 2017. *See Id.*, Ex. L. Later that day, noting the approaching discovery deadline, and in an effort to avoid any confusion, Plaintiffs’ counsel requested a teleconference with Mr. Flojo and Mr. Meschke to discuss the requests. *See Id.*, Ex. M. On April 24, 2017, having received no response, Plaintiffs’ counsel again emailed Mr. Flojo and left him a voice message to request a brief teleconference to clarify the pending discovery requests. *See Id.*, Ex. N. After Mr. Flojo failed, once more, to respond, Plaintiffs’ counsel emailed him again on April 28, 2017, this time proactively providing him with a spreadsheet template in the format Plaintiffs hoped to receive the information requested, and, for at least the third time, requested a teleconference to discuss the pending discovery. *See Id.*, Ex. O.

14. On May 2, 2017, having not heard from Mr. Flojo or REJIS since April 19, 2017, and having not received the data that Mr. Flojo told Plaintiffs’ counsel that he would attempt to produce by May 1, 2017, Plaintiffs’ counsel called Mr. Flojo and left him another voice message, and followed that up with another email requesting an update on the data production, noting the very limited discovery timeline. *See* Holland Decl., Ex. P. Late in the day, Mr. Flojo called Plaintiffs’ counsel, and followed the phone call with an email, explaining that he was “working with REJIS on [Plaintiffs’] follow up requests.” *See Id.*, Ex. Q. Mr. Flojo and Plaintiffs’ counsel then worked to schedule a call to discuss. *Id.*

15. On May 4, 2017, Plaintiffs’ counsel and Mr. Flojo finally spoke by telephone. Mr. Flojo apologized for the delay in his response, and noted that the delay had been caused by Mr. Meschke’s departure from REJIS, of which Mr. Flojo had only recently learned, and Mr. Flojo’s need to discuss the matter with REJIS’s new General Manager. As of the time of this telephone call, however, Mr. Flojo explained that he had not yet heard from REJIS regarding who would be the point person handling Plaintiffs’ discovery requests. During the call, Mr. Flojo

voluntarily expressed his understanding that the 17 requests, though not issued verbatim in the original subpoena, were based on subpoenaed testimony, and may be within the scope of the original subpoena. After Plaintiffs' counsel raised the June 9, 2017 discovery deadline on the call, and the fact that the requested data would be used during a May 13, 2017 deposition in this action, Mr. Flojo asked that Plaintiffs' counsel identify any documents or information that we need in advance of May 13, 2017.

16. On May 5, 2017, Plaintiffs' counsel emailed Mr. Flojo a subset of the 17 requests to respond to before the May 13, 2017 deposition (Requests 1, 7, 8, 11, 12, and 14-17). *See* Holland Decl., Ex. R. Plaintiffs' counsel also suggested that Mr. Flojo involve Ms. Jennings in the process, given Mr. Meschke's departure and Ms. Jennings's tenure of nearly 40 years at REJIS. *Id.* Lastly, Plaintiffs' counsel offered to cover the cost associated with running the data report needed to fulfill Request 1, which Plaintiffs were, and remain, most interested in. *Id.*

17. On May 10, 2017, having received no response to the May 5, 2017 email, Plaintiffs' counsel emailed Mr. Flojo to request an update on the status of the data production. *See* Holland Decl., Ex. S. On May 11, 2017, Mr. Flojo emailed Plaintiffs' counsel explaining that he met with REJIS's General Manager, and that he "had asked REJIS to assemble" the subset of Requests we asked for before May 13, 2017. *Id.* Mr. Flojo closed the email by promising to follow up with REJIS that morning. *Id.*

18. Plaintiffs' counsel conducted the May 13 deposition without having received any production in response to the requests to REJIS on March 30, 2017 and April 2, 2017.

19. On May 15, 2017, Plaintiffs' counsel emailed Mr. Flojo to request an update on when REJIS would be responding to Plaintiffs' discovery requests, noting the approaching discovery deadline, and that "[a]t this point, we are running out of time." *See* Holland Decl., Ex. T. Two days later, on May 17, 2017, Mr. Flojo responded, indicating that he had not made any

progress because he still did not have a replacement contact for Mr. Meschke. *See Id.*, Ex. U. This contradicted what Mr. Flojo said on May 11, 2017 when he wrote that he had met with REJIS's General Manager and had "asked REJIS" to assemble the materials in response to Plaintiffs' requests. *See Id.*, Ex. S. Plaintiffs' counsel again suggested that Mr. Flojo coordinate with Ms. Jennings on some or all of the discovery requests. *See Id.*, Ex. U.

20. As discussed *infra* at paragraph 10, and based on communications with Michael Hughes, counsel for Defendants, Plaintiffs' counsel knew that there might be overlap, or at least some correlation, between documents and information responsive to their requests to Defendants and their requests to REJIS, especially in terms of data relating to Wanted, since REJIS clearly maintains the data. To avoid any duplication, and in the interest of efficiency and clarity, on May 17, 2017, Plaintiffs' counsel emailed Mr. Flojo and Mr. Hughes proposing dates and times for a joint teleconference to discuss the outstanding discovery. *See Holland Decl.*, Ex. V.

21. On May 18, 2017, counsel for Plaintiffs and Mr. Flojo spoke by telephone. Now seven weeks after Plaintiffs' requests were made, Mr. Flojo informed Plaintiffs' counsel that REJIS had not given him any documents responsive to Plaintiffs' requests, and asked Plaintiffs' counsel to send a new subpoena to REJIS's custodian of records with the 17 items requested on March 30, 2017 and April 2, 2017. This position contradicted Mr. Flojo's previous agreements on behalf of REJIS to produce documents under the existing subpoenas. Mr. Flojo offered neither an explanation for why a new subpoena was necessary, nor any assurance that REJIS would actually start producing documents, data and/or information in response to the new subpoena. Mr. Flojo added during the call that the delay in responding to Plaintiffs' discovery requests was due to not having Mr. Meschke or Ms. Jennings available, which begs the question of why a new subpoena was necessary if they would have already responded had more helpful resources been available. Either way, the unavailability of two employees is no excuse for failing to respond to

discovery requests.

22. On May 19, 2017, Plaintiffs' counsel confirmed to Mr. Flojo that they still wanted to have a joint teleconference with him and Mr. Hughes. *See* Holland Decl., Ex. W. Plaintiffs' counsel emailed Mr. Flojo and Mr. Hughes, asking which proposed date and time would work for a teleconference. *Id.* Having still received no response, on May 22, 2017, Plaintiffs' counsel called and left a voice message with Mr. Flojo and Mr. Hughes in yet another attempt to arrange the teleconference. After further follow-up by Plaintiffs' counsel on May 23, 2017, Mr. Flojo and Mr. Hughes finally responded by email, and the parties arranged a teleconference for May 24, 2017. *See* Holland Decl., Ex. X.

23. During the afternoon of May 23, 2017, Mr. Flojo returned Plaintiffs' counsel's call, and the parties discussed REJIS's recent change in position concerning the subpoena requests, as well as Plaintiffs' considerations about adding REJIS as a defendant in this action. Mr. Flojo said that he would discuss this with his client, and provide a response to Plaintiffs.

24. On May 24, 2017, Plaintiffs' counsel participated in a joint teleconference with Mr. Flojo and Mr. Hughes, with the goal being to reach an understanding about the best, most efficient and cost-effective way for REJIS and Defendants to collect the documents and data requested by Plaintiffs. At the conclusion of this productive teleconference, Plaintiffs' counsel asked Mr. Hughes to review the spreadsheet template Plaintiffs' counsel had previously sent to Mr. Flojo and Mr. Hughes on April 28, 2017, to reach out to Plaintiffs' counsel with any questions, and to propose, definitively, how St. Louis County would work with REJIS to produce the outstanding information, and on what timeline. This never happened.

25. On May 30, 2017, Plaintiffs' counsel emailed Mr. Flojo and asked when or whether Plaintiffs could expect the Wanted data that Mr. Flojo discussed with Plaintiffs' counsel during the May 24, 2017 call. *See* Holland Decl., Ex. Y. Plaintiffs' counsel asked for an update

by that afternoon, in order to determine “whether to engage the court in resolving this matter.” *Id.*

26. On May 31, 2017, Mr. Flojo, following up on the issue discussed with Plaintiffs’ counsel during the May 23, 2017 telephone call, assured Plaintiffs’ counsel that he had “advised REJIS to provide St. Louis County any and all assistance with responding to any discovery requests in *Furlow et al. v. Belmar et al.*” *See* Holland Decl., Ex. Z. Surprisingly, in light of this statement, Plaintiffs did not hear from Mr. Flojo or REJIS again for more than three weeks, and still, today, have not received any documents or data in response to the 17 requests. In this email, Mr. Flojo also expressed his understanding that REJIS could avoid being joined in the lawsuit, “if it just responds to [Plaintiffs’] additional requests.” *Id.* Mr. Flojo also asserted that on the May 24, 2017 telephone call, Plaintiffs’ counsel primarily discussed the discovery directed to the St. Louis County Defendants. *Id.* Mr. Flojo explained that he had advised REJIS to cooperate with St. Louis County in responding to the additional discovery requests. *Id.* It remained clear, however, that the data requested was maintained at, and therefore would be collected from, REJIS. Additionally, and importantly, while the parties were certainly focused on the data relating to request 1, detailed *infra* in paragraph 10, Plaintiffs never dropped their request as to the other 16 discovery requests to REJIS. Despite the assertion of cooperation, there has been no progress on these requests reported by Mr. Flojo.

27. Plaintiffs’ counsel also turned to Mr. Hughes for assistance in obtaining a response from REJIS. Given the fact that REJIS was jointly created by St. Louis City, for which Mr. Flojo is counsel, and St. Louis County, for which Mr. Hughes is counsel, and the fact that Jon Belmar, a named defendant in this action, is, according to the REJIS website, the Vice President of REJIS’s Board of Commissioners, there was reason to believe that Defendants and REJIS would be able to work together to make progress on Plaintiffs’ discovery requests. To that end, Plaintiffs’ counsel emailed Mr. Hughes on June 14, 2017, asking him to remind Mr. Flojo and

REJIS of the urgency of the requests. *See* Holland Decl., Ex. BB.

28. Meanwhile, Plaintiffs continued their parallel, and equally frustrating, efforts to obtain discovery directly from Defendants in this action, and further confirmed of the importance of obtaining the documents and data requested from REJIS. On June 1, 2017, Plaintiffs informed Defendants that, despite the fact that Plaintiffs felt that more than a handful of document requests directed at Defendants remained outstanding at least to some degree, Defendants could focus on just two of the requests that relate to certain data on Wantedes in St. Louis County. *See* Holland Decl., Ex. AA. Plaintiffs prioritized these requests in an effort to compromise, and in hope of being able to obtain the data called for by these two requests by the new discovery deadline.

29. On June 12, 2017, Plaintiffs' counsel met with Mr. Hughes for an in-person meet-and-confer to discuss (a) the precise data and information requested by Plaintiffs and (b) how best to collect and organize the data in an efficient and cost-effective manner. During this meeting, Plaintiffs' counsel asked about Defendants' ability to obtain data for individual Wantedes and, where applicable, corresponding warrant applications. Plaintiffs' counsel explained that this data—corresponding to Plaintiffs' Request for Production No. 5 served on December 30, 2016—is essential in order to fully understand and contextualize the practice of Wantedes in St. Louis County, as well as any arrests made pursuant to Wantedes. Mr. Hughes, along with a Sergeant from the St. Louis County Police Department who also attended on behalf of Defendants, explained that the information requested by Plaintiffs can be obtained through REJIS and the St. Louis County Prosecutor's Office. It was further explained that, based on a review of a REJIS Complaint/Incident Number, the St. Louis County Prosecutor's Office can report on whether a corresponding warrant was issued, refused, or designated as "under advisement." The attendees agreed that Plaintiffs would obtain the Complaint/Incident Reference Numbers for the period of 2011 to 2016 from REJIS, and that Mr. Hughes would provide Plaintiffs with the contact

information for an appropriate individual from the St. Louis County Prosecutor's Office.

30. On June 20, 2017, Plaintiffs' counsel followed up with Mr. Flojo for an update, and to further specify the data and information that Plaintiffs' counsel requested from REJIS. *See* Holland Decl., Ex. CC. On June 22, 2017, Mr. Flojo responded that he would "check with REJIS and get back [to Plaintiffs] next week." *See Id.*, Ex. DD. The next week, on June 28, 2017, Plaintiffs' counsel emailed Mr. Flojo for an update, noting the approaching July 7, 2017 discovery deadline, and requested an update by the next day. *See Id.*, Ex. EE. After two days without a response, on June 30, 2017, Plaintiffs' counsel again emailed Mr. Flojo requesting an update. *See Id.*, Ex. FF. Later that afternoon, Mr. Flojo responded explaining that he had been "away from the office," and would "check with REJIS when [he] return[ed] to the office after the holiday." *See Id.*, Ex. GG.

31. On July 5, 2017, Plaintiffs' counsel emailed Mr. Flojo to remind him that Plaintiffs were awaiting an update on the status of REJIS's response to the outstanding discovery requests. *See* Holland Decl., Ex. HH. Mr. Flojo again failed to respond, and so, Plaintiffs' counsel was forced to again follow up on July 10, 2017. *See Id.*, Ex. II. On July 12, 2017, still having not heard from Mr. Flojo since June 30, Plaintiffs' counsel called his office and learned from his voicemail message that he was out of the office and would not return until July 17, 2017. Plaintiffs followed this phone call with another email requesting an update on the status of the data production, so that Plaintiffs could "avoid having to engage the court." *See Id.*, Ex. JJ.

32. Still having received no response, on July 17, 2017, Plaintiffs' counsel again emailed Mr. Flojo, assuming he had returned to work, requesting an update on REJIS's response to Plaintiffs' discovery requests. *See* Holland Decl., Ex. KK. Mr. Flojo responded later that afternoon, stating that he had a meeting scheduled at REJIS's office on that Thursday, July 20, 2017, and that he "will be able to follow up in person with [his] contact." *See Id.*, Ex. LL. He

added that he “will also try to find out what is the status before then.” *Id.* Plaintiffs’ counsel responded by asking Mr. Flojo to keep Plaintiffs posted, and reminding him that “[Plaintiffs] urgently need to understand what exactly we will be receiving and when, to evaluate the course ahead.” *See Id.*, Ex. MM.

33. On July 20, 2017, Mr. Flojo emailed Plaintiffs’ counsel explaining that he was unable to meet with his contact while at REJIS because his contact was on vacation. *See Holland Decl.*, Ex. NN. He added that he “will be sure to follow up first thing Monday [(July 24, 2017)] upon my contact’s return.” *Id.*

34. In the late morning of July 24, 2017, Plaintiffs’ counsel followed up with Mr. Flojo for an update on what he learned from his contact. *See Holland Decl.*, Ex. OO. At the end of the next day, Mr. Flojo responded by saying that “[Plaintiffs’] request and my recommendation is now before the General Manager. As of this email, I haven’t heard anything more but will check first thing tomorrow when I get back in the office at 9 a.m. CST.” *See Id.*, Ex. PP. This response essentially mirrors the update Mr. Flojo provided back on May 11, 2017 (*see* ¶ 14), which resulted in no progress.

The Court Should Compel Production and Reopen Discovery

35. Mr. Flojo has since asserted that he will be meeting with the REJIS Board of Director and General Matter on August 2, 2017 to “specifically discuss” Plaintiffs’ requests. *See Holland Decl.*, Ex. DDD. Plaintiffs, however, simply do not have any further time to waste; the current discovery deadline is August 4, 2017. *See Holland Decl.*, Ex. QQ. Given REJIS’s record detailed above, and Plaintiffs’ desire to move this case forward, Plaintiffs request that the Court order REJIS to complete its production of the documents, data, and information responsive to Plaintiffs’ 17 requests detailed in the emails sent to REJIS on March 30 and April 2, 2017 by a date certain. *See Id.* I-J. Moreover, given its importance to Plaintiffs’ Motion for Class

Certification, Plaintiffs request that the Court order REJIS to prioritize its response to request 1, described in paragraph 10, *infra*, and to produce a chart containing a complete set of data and information, in addition to any supporting documentation, responsive to that request within 7 days of the Court's Order.

36. It has been nearly four months since these requests were made, and eight weeks since Mr. Flojo recommended that his client provide "any and all assistance" in responding to Plaintiffs' discovery requests. Despite repeated efforts by Plaintiffs to move the process along, REJIS has utterly failed to comply.

Plaintiffs' Request to Reopen the REJIS 30(b)(6) Deposition

37. In addition to asking the Court to compel the production of the requested discovery, Plaintiffs also request, pursuant to Federal Rule of Civil Procedure 30(a), that the Court allow Plaintiffs to reopen the 30(b)(6) deposition of REJIS and request additional discovery focused on the basis for REJIS's recent voluntary dissolution, in order to learn the role played by the recent criticisms of the Wanted system. On July 27, 2017, Plaintiffs learned, through their own efforts, that REJIS is in the process of dissolving as a corporation. The Articles of Dissolution filed by REJIS was authorized by the State of Missouri on March 28, 2017. *See* Holland Decl., Ex. RR. This occurred two days before Plaintiffs' counsel saw Mr. Flojo in person at the deposition of Ms. Jennings, and certainly before nearly all of the communications detailed herein above. Yet, Mr. Flojo did not once mention this fact to Plaintiffs' counsel. Importantly, the voluntary dissolution of REJIS comes on the heels of the DOJ's 2015 Report on the Ferguson Police Department, which is critical of the use of Wanted, and Plaintiffs' lawsuit in this action, which focuses on the use of Wanted. The fact that the dissolution was not affirmatively made known to Plaintiffs, coupled with the fact that REJIS has frustrated this discovery process and avoided producing anything in response to Plaintiffs' 17 requests made in

late March and early April, is concerning.

CERTIFICATE OF ATTEMPT TO RESOLVE

38. Pursuant to Federal Rule of Civil Procedure 37(a)(1) and Local Rule 37-3.04(A), the undersigned counsel certifies that they have attempted in good faith and sincere effort to meet and confer with REJIS's and Defendants' counsel about the disputes at issue in this motion by phone call with both on May 24, 2017 at 9:00 a.m. CST, and in person with Defendants' counsel on June 12, 2017 at 2:00 p.m. CST, in addition to the numerous other email and telephonic efforts to confer detailed above.

39. **WHEREFORE**, having shown good cause, Plaintiffs request that this Court enter Plaintiffs' Order compelling REJIS to complete production of the documents, information, and data requested by a date certain to be determined by the Court, and, with respect to request 1, within seven days of the Court's Order, and compelling REJIS to produce a witness to testify regarding its voluntary dissolution, and for such other and further relief as this Court deems necessary and proper.

Dated: July 28, 2017

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON
AND GARRISON LLP

By: /s/ Timothy J. Holland

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of July 2017, PLAINTIFFS served the foregoing *Motion to Compel Responses To Requests Directed at Third-Party REJIS and to Reopen Deposition* to all counsel of record via ECF and to Third Party REJIS via FedEx

/s/ Timothy J. Holland

Timothy J. Holland