

FOR IMMEDIATE RELEASE
JULY 24, 2014

CONTACT: Eric Christensen
(703) 554-6100
(703) 554-6119 (fax)
contact@landmarklegal.org
<http://www.landmarklegal.org>

**LANDMARK LEGAL FOUNDATION SEEKS SANCTIONS ON EPA
FOR DESTROYING EMAILS, TEXT MESSAGES**

(LEESBURG, VA)...Landmark Legal Foundation today asked Federal District Judge Royce Lamberth to sanction the Environmental Protection Agency (EPA) for destroying or failing to preserve emails and text messages that may have helped document suspected Agency efforts to influence the 2012 presidential election.

Landmark's request is the latest move in the Foundation's Freedom of Information Act (FOIA) lawsuit to force the Agency to release emails, text messages and other materials from former EPA Administrator Lisa Jackson and others who may have delayed the release dates for hot button environmental regulations until after the November 6, 2012, presidential election. Jackson, Deputy Administrator Robert Perciasepe, and other Agency officials admitted in depositions that they used their personal, nongovernmental email accounts and text messages sent and received on government-issued BlackBerries and smart phones to conduct official EPA business. The EPA was obligated under federal law to preserve and search those private emails and text messages for information Landmark is seeking, but the Agency failed to do so.

"The EPA is a toxic waste dump for lawlessness and disdain for the Constitution," said Landmark President Mark Levin. "When any federal agency receives a FOIA request, the statute says it must preserve every significant repository of records, both paper and electronic, that may contain materials that could be responsive to that request. When an agency gets sued it must also notify everyone who might be involved in the suit to preserve everything in their possession that could be discoverable in the litigation. But the people at the EPA, from the Administrator on down, think they're above the law, that no one has the right to question what or how they do their jobs. Well, they're wrong. The laws apply to everyone, even federal bureaucrats."

Landmark's original FOIA request was filed on August 17, 2012, and the Foundation cooperated with the Agency to narrow the focus of the request to cover materials from several senior officials, including the Administrator and Deputy Administrator. It soon became clear, however, that the Agency was not conducting good faith searches for responsive materials, or that it was even preserving text messages or private emails relating to official business that Landmark sought. The Foundation filed suit in federal district court on October 22, 2012.

This is the second time Landmark has sought sanctions against the EPA in FOIA litigation. In 2003, the Agency was held in contempt by Judge Lamberth for destroying email backup tapes in a similar suit over “midnight” regulations hurried into law in the final days of the Clinton Administration. In that instance, the EPA was held in contempt and fined nearly \$300,000. Landmark is currently asking the Court to impose a fine and to appoint an independent monitor who would ensure that the Agency is properly preserving and searching all record repositories in response to Landmark’s original FOIA request. The Foundation is also asking the Court to direct the EPA to inform parties in other lawsuits that it may have destroyed or failed to preserve records they had a legal right to receive in their litigation.

“The EPA has to learn that you can’t save the planet by destroying the rule of law,” Levin said. “It also must understand that some of our most precious resources are the principles of limited government and official accountability enumerated in the Constitution. If we don’t protect those, saving the snail darter or the spotted owl won’t mean a thing.”

Landmark Legal Foundation is a nonprofit, public interest law firm founded in 1976 in Kansas City, Missouri. The Foundation has offices in Kansas City and Leesburg, VA.