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IRS Email Hunt Shows Lerner Switched To Texts, Which Aren't Kept....'Perfect'

U.S. District Judge Emmet G. Sullivan has ordered the IRS to explain what happened to Lois Lerner's emails. [Judicial Watch](#) sued when the IRS refused to provide them. The DOJ tried hard to block it but lost. The legal wrangling is just one more seedy chapter in a scandal that casts further doubt on the tax system.

Still, it may bring a smile to the face of more than a few American taxpayers who have ever had to hunt for a receipt to hand over to the IRS. Will the IRS comply? It is harder to end-run a Judge than Congressional investigators. Yet the IRS seems pretty savvy at stalling. Besides, there's a new wrinkle: Texts aren't emails.

Remember the old saying, "if you don't ask (for exactly the right thing), you don't get?" Oh, you mean there are texts too? Yes, some of the real juice may be in text or instant messages. Indeed, in 2013 when the IRS targeting scandal was already brewing, Ms. Lerner asked an IRS IT specialist if the IRS saved texts? No, they are not automatically saved, came back the response.

The IT person went on to say that saving them was *possible*, though, so be careful. "Perfect," was Ms. Lerner's response. Congressional investigators, Judicial Watch and others doubtless *want* those texts, especially since it now appears that there was a little more off-the-grid mentality when it came to texts.

Meanwhile, IRS Commissioner John Koskinen is beginning to look a little like Sergeant Schulz on [Hogan's Heroes](#). The latter was beloved for his outbursts of, "I know nothing!" Many Republicans think former IRS official Lois Lerner knows a lot. But Mr. Koskinen seems not to.

He was unaware of the instant-messaging system, he testified. With a kind of thousand yard stare, the top U.S. tax official still professed to a House committee that he didn't think this interchange of IT question and answer meant Ms. Lerner was happy that the instant messages weren't saved. It may be that 'perfect' means different things to different people.

In any case, the IRS wants to let the Inspector General finish his investigation of the computer failures. Then, the IRS can decide what further steps it should take. Hopefully that will be a bit more than an effort to ["Round Up The Usual Suspects!"](#)

Ms. Lerner's lawyer continues to state that his client did nothing wrong. The IRS probably would like to forget her, and her emails too. Oh, and her texts too. She is retired now on a government pension, but conceivably could still face prosecution.

She refused to testify on multiple occasions, and she was eventually held in [contempt of Congress](#) for it. After making a statement in which she said she had done nothing wrong, Ms. Lerner invoked her constitutional right against self-incrimination. But some Republicans say her statement amounted to a waiver. Her case was turned over to the U.S. Attorney for the District of Columbia. [IRS Official Lerner Could Face 11 Years In Prison For Tea Party Scandal.](#)

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.