

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK TIMES COMPANY,
CHARLIE SAVAGE, and SCOTT SHANE,

Plaintiffs,

11 Civ. 9336 (CM)

-against-

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant.

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
JULY 1 2014
6/30/14

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AMERICAN CIVIL LIBERTIES UNION and
THE AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

12 Civ. 794 (CM)

-against-

U.S. DEPARTMENT OF JUSTICE, including its
component the Office of Legal Counsel, U.S.
DEPARTMENT OF DEFENSE, including its
Component U.S. Special Operations Command,
and CENTRAL INTELLIGENCE AGENCY,

Defendants.

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ORDER

McMahon, J.:

This court has received a partial mandate from the United States Court of Appeals for the
Second Circuit, directing that, at this time:

- (3) other legal memoranda prepared by OLC and at issue here must be submitted to the District Court for in camera inspection and determination of waiver of privileges and appropriate redaction;

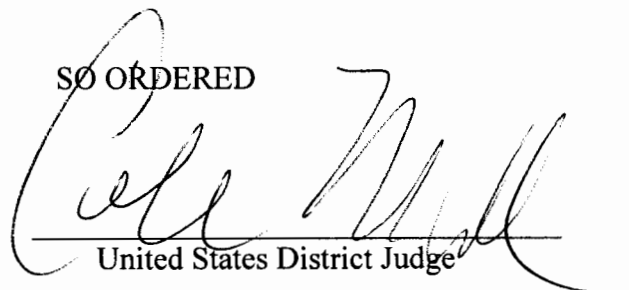
New York Times Co. v. U.S. Dep't of Justice, 13-422 L, 2014 WL 2838861 (2d Cir. June 23, 2014) (Mandate issued on June 26, 2014).

Accordingly, the Government is directed to comply with Paragraph 3 of the conclusion of the Second Circuit's amended opinion of June 23, 2014, by providing this court with:

- (1) Unredacted copies of the "other legal memoranda prepared by OLC and at issue here" that are the subject of the Mandate (hereinafter "The OLC Opinions");
- (2) A memorandum under seal in which, for each such OLC Opinion, the Government:
 - a. Explains why, in its view, said OLC Opinion need not be disclosed at all because there has been no waiver of any applicable privilege; and
 - b. If the Government concedes that certain portions of said OLC Opinion must be disclosed consistent with the Second Circuit's already articulated findings on waiver of privileges, provides the court with a list of proposed redactions, and as to each such proposed redaction (discussed individually):
 - (i) Explains why that proposed redaction should not be disclosed; and
 - (ii) Explains, with specific reference to the various speeches, interviews, leaks and publicly-released documents that are discussed in the Second Circuit's opinion, why the Government has not waived disclosure of the proposed redacted material.

The Government has 21 days to comply.

SO ORDERED



United States District Judge

6/30/14

BY ECF TO ALL COUNSEL