

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:11-cv-09336-CM**

The New York Times Company et al v. United States
Department of Justice
Assigned to: Judge Colleen McMahon
Related Case: [1:12-cv-00794-CM](#)
Cause: 05:552 Freedom of Information Act

Date Filed: 12/20/2011
Date Terminated: 10/31/2014
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**The New York Times Company**

represented by **David Edward McCraw**
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Plaintiff**Charlie Savage**

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Plaintiff**Scott Shane**

represented by **David Edward McCraw**
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V.

Defendant**United States Department of Justice**

represented by **Sarah Sheive Normand**
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Date Filed	#	Docket Text
12/20/2011	<u>1</u>	COMPLAINT against United States Department of Justice. (Filing Fee \$ 350.00, Receipt Number 4996) Document filed by The New York Times Company, Charlie Savage, Scott Shane.(ama) (Entered: 12/22/2011)
12/20/2011		SUMMONS ISSUED as to United States Department of Justice, U.S. Attorney and U.S. Attorney General. (ama) (Entered: 12/22/2011)
12/20/2011		Magistrate Judge James C. Francis IV is so designated. (ama) (Entered: 12/22/2011)

12/20/2011		Case Designated ECF. (ama) (Entered: 12/22/2011)
12/20/2011	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Charlie Savage, Scott Shane, The New York Times Company.(ama) (Entered: 12/22/2011)
01/10/2012	<u>3</u>	ORDER SCHEDULING AN INITIAL PRETRIAL CONFERENCE: Initial Conference set for 2/24/2012 at 11:30 AM in Courtroom 14C, 500 Pearl Street, New York, NY 10007 before Judge Colleen McMahon. Additional relief as set forth in this Order. (Signed by Judge Colleen McMahon on 1/10/12) (pl) (Entered: 01/10/2012)
01/13/2012	<u>4</u>	NOTICE OF APPEARANCE by Sarah Sheive Normand on behalf of United States Department of Justice (Normand, Sarah) (Entered: 01/13/2012)
01/23/2012	<u>5</u>	ANSWER to <u>1</u> Complaint. Document filed by United States Department of Justice.(Normand, Sarah) (Entered: 01/23/2012)
02/24/2012		Minute Entry for proceedings held before Judge Colleen McMahon: Initial Pretrial Conference held on 2/24/2012. Decision: Initial conference held. A briefing schedule was entered. The Government must move before April 13, 2012; responses to its motion are due May 11, 2012, at which time the opponents are free to cross-move; and the Governments reply and, if appropriate, opposition to the cross-motion is due May 25, 2012. Cross-movants should not file a reply unless instructed to do so by the Court. (Submitted By Scott Danner). (mde) (Entered: 02/24/2012)
04/09/2012	<u>6</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Sarah S Normand dated 4/9/2012 re: Request for a ten day extension of time to file a motion for summary judgment and to file a consolidated brief of up to 40 pages in both cases. ENDORSEMENT: Ok, but dont ask for any more time. If government official can give speeches about this matter without creating security problem, any involved agency can. (Signed by Judge Colleen McMahon on 4/9/2012) (cd) (Entered: 04/09/2012)
04/23/2012	<u>7</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Stuart Delery and Preet Bharara dated 4/23/2012 re: We write respectfully on behalf of the Department of Justice, the Department of Defense and the Central Intelligence Agency (collectively, the "Government") to seek a further extension, until May 21, 2012, of the Government's deadline to file its consolidated motion for summary judgment. ENDORSEMENT: I have read Director Clapper's declaration (which must remain under seal - believe me, I appreciate the irony) and I will grant the extension requested by the government. The time to file its motion is extended to May 21, 2012. (Motions due by 5/21/2012.) (Signed by Judge Colleen McMahon on 4/23/2012) (rjm) (Entered: 04/23/2012)
04/23/2012	<u>8</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Stuart Delery and Preet Bharara dated 4/23/12 re: Counsel for the defendant requests a further extension, until 5/21/12, of the Government's deadline to file his consolidated motion for summary judgment. ENDORSEMENT: I have read Director Clepper's declaration (which must remain under seal-believe me, I appreciate the irony) and I will grant the extension requested by the government. The time to file its motion is extended to May 21, 2012. (Motions due by 5/21/2012.) (Signed by Judge Colleen McMahon on 4/23/2012) (mro) (Entered: 04/24/2012)
05/21/2012		Minute Entry for proceedings held before Judge Colleen McMahon: Telephone Conference held on 5/21/2012. Decision: Phone conference held. Defendants must move on or before June 20, 2012. Plaintiffs have four weeks thereafter to file responses.(Submitted By Benjamin T. Alden). (mde) (Entered: 05/21/2012)
06/19/2012	<u>9</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Susan S. Normand dated 6/18/12 re: Counsel for the Government seeks leave to file a consolidated brief of up to fifty pages in both cases in support of the Government's motion for summary judgment. ENDORSEMENT: Ok. (Signed by Judge Colleen McMahon on 6/19/2012) (mro) (Entered: 06/19/2012)
06/20/2012	<u>10</u>	MOTION for Summary Judgment. Document filed by United States Department of Justice.(Normand, Sarah) (Entered: 06/20/2012)

06/20/2012	<u>11</u>	DECLARATION of Sarah S. Normand in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J)(Normand, Sarah) (Entered: 06/20/2012)
06/20/2012	<u>12</u>	MEMORANDUM OF LAW in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 06/20/2012)
06/21/2012	<u>13</u>	DECLARATION of John F. Hackett in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 06/21/2012)
06/21/2012	<u>14</u>	DECLARATION of John Bennett in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Normand, Sarah) (Entered: 06/21/2012)
06/21/2012	<u>15</u>	DECLARATION of John E. Bies in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I)(Normand, Sarah) (Entered: 06/21/2012)
06/21/2012	<u>16</u>	DECLARATION of Robert R. Neller in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J)(Normand, Sarah) (Entered: 06/21/2012)
06/21/2012	<u>17</u>	DECLARATION of Douglas R. Hibbard in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F)(Normand, Sarah) (Entered: 06/21/2012)
06/21/2012	<u>18</u>	NOTICE of Classified Filing re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 06/21/2012)
07/18/2012	<u>19</u>	CROSS MOTION for Summary Judgment. Document filed by Charlie Savage, Scott Shane, The New York Times Company.(McCraw, David) (Entered: 07/18/2012)
07/18/2012	<u>20</u>	MEMORANDUM OF LAW in Support re: <u>19</u> CROSS MOTION for Summary Judgment.. Document filed by Charlie Savage, Scott Shane, The New York Times Company. (McCraw, David) (Entered: 07/18/2012)
07/18/2012	<u>21</u>	DECLARATION of NABIHA SYED in Support re: <u>19</u> CROSS MOTION for Summary Judgment.. Document filed by Charlie Savage, Scott Shane, The New York Times Company. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit)(McCraw, David) (Entered: 07/18/2012)
07/20/2012	<u>22</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Sarah S. Normand dated 7/20/2012 re: We write respectfully on behalf of defendants the Department of Justice and its component, the Office of Legal Counsel; the Department of Defense and its component, the United States Special Operations Command; and the Central Intelligence Agency (collectively, the "Government") in the above-named related cases brought pursuant to the Freedom of Information Act ("FOIA") to request that the Court set a deadline of August 8, 2012, for the filing of the Government's reply and opposition to plaintiffs' respective cross-motions in these cases. ENDORSEMENT: OK., (Responses due by 8/8/2012., Replies due by 8/8/2012.) (Signed by Judge Colleen McMahon on 7/20/2012) (lmb) (Entered: 07/20/2012)
08/08/2012	<u>23</u>	REPLY MEMORANDUM OF LAW in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 08/08/2012)
08/08/2012	<u>24</u>	DECLARATION of Douglas Hibbard in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah)

		(Entered: 08/08/2012)
08/09/2012	<u>25</u>	DECLARATION of Mark Herrington in Support re: <u>10</u> MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 08/09/2012)
08/09/2012	<u>26</u>	MEMORANDUM OF LAW in Opposition re: <u>19</u> CROSS MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 08/09/2012)
08/09/2012	<u>27</u>	DECLARATION of Mark Herrington in Opposition re: <u>19</u> CROSS MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 08/09/2012)
08/09/2012	<u>28</u>	DECLARATION of Douglas Hibbard in Opposition re: <u>19</u> CROSS MOTION for Summary Judgment.. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 08/09/2012)
08/27/2012	<u>29</u>	REPLY MEMORANDUM OF LAW in Support re: <u>19</u> CROSS MOTION for Summary Judgment.. Document filed by Charlie Savage, Scott Shane, The New York Times Company. (McCraw, David) (Entered: 08/27/2012)
09/21/2012	<u>30</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from David McCraw dated 9/21/2012 re: Plaintiffs and Defendant respectfully ask for permission to submit on or before October 1, 2012 three–page letters discussing the significance of the new decision for the pending summary judgment motions. ENDORSEMENT: Excellent idea – we have been reading the decision carefully. (Signed by Judge Colleen McMahon on 9/21/2012) (rjm) (Entered: 09/21/2012)
10/02/2012	<u>31</u>	ENDORSED LETTER addressed to Judge Colleen McMahon, from Sarah S. Normand, dated 10/1/2012, re: on behalf of defendants, request an unopposed extension of time, until October 10, 2012, for the parties to submit simultaneous supplemental letter briefs addressing the Second Circuit's recent decision in Brennan Center v. Department of Justice, No. 11–4599 (2d Cir. Sept. 20, 2012). ENDORSEMENT: OK. (Signed by Judge Colleen McMahon on 10/2/2012) (ja) (Entered: 10/02/2012)
01/02/2013	<u>32</u>	ORDER: #102747 terminating <u>10</u> Motion for Summary Judgment; terminating <u>19</u> Motion for Summary Judgment. The Government's motion for summary judgment is granted except to the extent of permitting the DoD to submit a supplemental and more fulsome justification for why the deliberative process privilege applies to the two Unclassified Memos on its Vaughn Index. Plaintiffs' cross motions for summary judgment are denied except as to the open issue described above. This constitutes the decision and order of the Court. The Clerk of the Court is directed to remove the motions at Docket 11 Civ. 9336 # 10 and 19 and Docket 12 Civ. 794 # 24 and 34 from the Court's list of open motions.(Signed by Judge Colleen McMahon on 1/2/2013) (ago) (Additional attachment(s) added on 1/2/2013: # <u>1</u> Order) (mde). Modified on 1/7/2013 (jab). (Entered: 01/02/2013)
01/03/2013	<u>33</u>	CORRECTED OPINION GRANTING THE GOVERNMENT'S MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFFS' CROSS MOTION FOR SUMMARY JUDGMENT: #102747 The Government's motion for summary judgment is granted except to the extent of permitting the DoD to submit a supplemental and more detailed justification for why the deliberative process privilege applies to the two Unclassified Memos on its Vaughn Index. Plaintiffs' cross motions for summary judgment are denied except as to the open issue described above. This constitutes the decision and order of the Court. The Clerk of the Court is directed to remove the motions at Docket 11 Civ. 9336 # 10 and 19 and Docket 12 Civ. 794 # 24 and 34 from the Court's list of open motions. (Signed by Judge Colleen McMahon on 1/3/2013) Copies Sent By ECF By Chambers. (cd) Modified on 1/7/2013 (jab). (Entered: 01/03/2013)
01/15/2013	<u>38</u>	INTERNET CITATION NOTE: Material from decision with Internet citation re: <u>33</u> Memorandum & Opinion. (Attachments: # <u>1</u> Internet Citation, # <u>2</u> Internet Citation, # <u>3</u> Internet Citation, # <u>4</u> Internet Citation, # <u>5</u> Internet Citation, # <u>6</u> Internet Citation, # <u>7</u> Internet Citation, # <u>8</u> Internet Citation, # <u>9</u> Internet Citation, # <u>10</u> Internet Citation, # <u>11</u> Internet Citation, # <u>12</u> Internet Citation, # <u>13</u> Internet Citation, # <u>14</u> Internet

		Citation, # <u>15</u> Internet Citation) (sj) (Entered: 02/13/2013)
01/18/2013	<u>36</u>	ORDER: The Government has until 6 PM on February 1, 2013 to submit supplemental declarations justifying the applicability of the deliberative process privilege to the two Unclassified Memos on the Department of Defense's Vaughn Index. (Signed by Judge Colleen McMahon on 1/18/2013) Copies Sent By ECF TO ALL COUNSEL (pl) (Entered: 01/30/2013)
01/22/2013	<u>34</u>	DECISION AND ORDER: Accordingly, the Government's motion for summary judgment with respect to the Unclassified Memos is granted and Plaintiffs' cross motions for summary judgment are denied. The Clerk of the Court is directed to enter judgment for the Government and to close both cases. This constitutes the decision and order of the Court. (Signed by Judge Colleen McMahon on 1/22/2013) (djc) (Entered: 01/22/2013)
01/22/2013		Transmission to Judgments and Orders Clerk. Transmitted re: <u>34</u> Order, to the Judgments and Orders Clerk. (djc) (Entered: 01/22/2013)
01/24/2013	<u>35</u>	CLERK'S JUDGMENT That for the reasons stated in the Court's Decision and Order dated January 22, 2013, the Governments motion for summary judgment with respect to the Unclassified Memos is granted and Plaintiffs cross motions for summary judgment are denied; accordingly, both of the cases are closed. (Signed by Clerk of Court Ruby Krajick on 1/24/13) (Attachments: # <u>1</u> Notice of Right to Appeal)(dt) (Entered: 01/24/2013)
02/01/2013	<u>37</u>	NOTICE OF APPEAL from <u>35</u> Clerk's Judgment, <u>33</u> Memorandum & Opinion,, <u>34</u> Order,. Document filed by Charlie Savage, Scott Shane, The New York Times Company. Filing fee \$ 455.00, receipt number 0208-8196082. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (McCraw, David) (Entered: 02/01/2013)
02/01/2013		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>37</u> Notice of Appeal,. (nd) (Entered: 02/01/2013)
02/01/2013		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>32</u> Order on Motion for Summary Judgment,,,,, <u>13</u> Declaration in Support of Motion filed by United States Department of Justice, <u>35</u> Clerk's Judgment, <u>11</u> Declaration in Support of Motion, filed by United States Department of Justice, <u>23</u> Reply Memorandum of Law in Support of Motion filed by United States Department of Justice, <u>21</u> Declaration in Support of Motion, filed by The New York Times Company, Scott Shane, Charlie Savage, <u>9</u> Endorsed Letter, <u>16</u> Declaration in Support of Motion, filed by United States Department of Justice, <u>15</u> Declaration in Support of Motion, filed by United States Department of Justice, <u>19</u> CROSS MOTION for Summary Judgment. filed by The New York Times Company, Scott Shane, Charlie Savage, <u>12</u> Memorandum of Law in Support of Motion filed by United States Department of Justice, <u>14</u> Declaration in Support of Motion, filed by United States Department of Justice, <u>22</u> Endorsed Letter, Set Deadlines,,,,, <u>6</u> Endorsed Letter, <u>28</u> Declaration in Opposition to Motion filed by United States Department of Justice, <u>17</u> Declaration in Support of Motion, filed by United States Department of Justice, <u>3</u> Order for Initial Pretrial Conference, <u>27</u> Declaration in Opposition to Motion filed by United States Department of Justice, <u>24</u> Declaration in Support of Motion filed by United States Department of Justice, <u>7</u> Endorsed Letter, Set Deadlines,,,,, <u>2</u> Rule 7.1 Corporate Disclosure Statement filed by The New York Times Company, Scott Shane, Charlie Savage, <u>36</u> Order, <u>8</u> Endorsed Letter, Set Deadlines,,,,, <u>1</u> Complaint filed by The New York Times Company, Scott Shane, Charlie Savage, <u>5</u> Answer to Complaint filed by United States Department of Justice, <u>29</u> Reply Memorandum of Law in Support of Motion filed by The New York Times Company, Scott Shane, Charlie Savage, <u>10</u> MOTION for Summary Judgment. filed by United States Department of Justice, <u>26</u> Memorandum of Law in Opposition to Motion filed by United States Department of Justice, <u>37</u> Notice of Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage, <u>25</u> Declaration in Support of Motion filed by United States Department of Justice, <u>4</u> Notice of Appearance filed by United States Department of Justice, <u>18</u> Notice (Other) filed by United States Department of Justice, <u>30</u> Endorsed Letter, <u>20</u> Memorandum of Law in Support of Motion filed by The New York Times Company, Scott Shane, Charlie Savage, <u>33</u> Memorandum & Opinion,,, <u>31</u> Endorsed Letter, <u>34</u> Order, were transmitted to the U.S. Court of Appeals. (nd)

		(Entered: 02/01/2013)
05/03/2013	<u>39</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from David McCraw dated 5/3/2013 re: The Times respectfully seeks the Court's permission to file a corrected version of the Syed Declaration in order to perfect the record for the purposes of the on-going appeal. All parties have consented to this request. ENDORSEMENT: Application granted. (Signed by Judge Colleen McMahon on 5/3/2013) (cd) (Entered: 05/03/2013)
05/06/2013	<u>40</u>	DECLARATION of Nabaha Syed – Amended in Support re: <u>19</u> CROSS MOTION for Summary Judgment.. Document filed by Charlie Savage, Scott Shane, The New York Times Company. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L)(McCraw, David) (Entered: 05/06/2013)
04/21/2014	<u>41</u>	OPINION of USCA as to <u>37</u> Notice of Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage. USCA Case Number 13-422(L). Appeal from the January 24, 2013, judgment of the United States District Court for the Southern District of New York (Colleen McMahon, District Judge), dismissing, on motion for summary judgment, a suit under the Freedom of Information Act seeking documents relating to targeted killings of United States citizens carried out by drone aircraft. We conclude that (1) a redacted version of the OLC-DOD Memorandum must be disclosed, (2) a redacted version of the classified Vaughn index (described below) submitted by OLC must be disclosed, (3) [redacted], (4) the Glomar and "no number, no list" responses are insufficiently justified, (5) DOD and CIA must submit Vaughn indices to the District Court for in camera inspection and determination of appropriate disclosure and appropriate redaction, and (6) the OIP search was sufficient. We therefore affirm in part, reverse in part, and remand. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Certified: 04/21/2014. (nd) (Entered: 04/21/2014)
06/26/2014	<u>42</u>	[PARTIAL] MANDATE of USCA (Certified Copy) as to <u>37</u> Notice of Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage. USCA Case Number 13-422(L). The appeal in the above captioned case from a judgment of the United States District Court for the Southern District of New York was argued on the district court record and the parties' briefs. Upon consideration thereof, IT IS HEREBY ORDERED, ADJUDGED and DECREED that a partial judgment is entered and the matter is REMANDED as directed in the Court's order of June 26, 2014, and consistent with paragraph (3) of the "Conclusion" section of the Court's June 23, 2014, revised opinion. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Issued As Mandate: 06/26/2014. (nd) Modified on 6/27/2014 (nd). (Additional attachment(s) added on 6/27/2014: # <u>1</u> Revised Opinion, # <u>2</u> Opinion of rehearing) (nd). (Entered: 06/27/2014)
06/30/2014	<u>43</u>	ORDER: 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. US. 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 the following requests as set forth herein this Order. The Government has 21 days to comply. SO ORDERED. (Signed by Judge Colleen McMahon on 6/30/2014) (ja) Modified on 6/30/2014 (ja). (Entered: 06/30/2014)
07/07/2014	<u>44</u>	FIRST LETTER MOTION for Extension of Time to File <i>Motion in Response to 6/30/14 Order</i> addressed to Judge Colleen McMahon from AUSA Sarah S. Normand dated 07/07/14. Document filed by United States Department of Justice.(Normand, Sarah) (Entered: 07/07/2014)
07/08/2014	<u>45</u>	LETTER REPLY to Response to Motion addressed to Judge Colleen McMahon from AUSA Sarah S. Normand dated 07/08/14 re: <u>44</u> FIRST LETTER MOTION for Extension of Time to File <i>Motion in Response to 6/30/14 Order</i> addressed to Judge Colleen McMahon from AUSA Sarah S. Normand dated 07/07/14. . Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 07/08/2014)

07/09/2014	<u>46</u>	ORDER denying <u>44</u> Letter Motion for Extension of Time: This court has already settled on a procedure for conducting the in camera review necessitated by the mandate; the June 30 order explains that procedure to the parties. That process gives the Government an opportunity to explain, under seal and in camera, why it has not waived potentially applicable privileges with respect to all or any portion of the documents that the court is required to review. It also permits the Government to suggest other redactions that may be necessary before the opinions can be produced to plaintiffs. I expect the Government to comply with the procedure set by the Court. The parties have apparently agreed to a short postponement of the date by which the Government must produce the documents contemplated by the mandate. I am agreeable to their chosen date, which is August 15, 2014. (Signed by Judge Colleen McMahon on 7/9/2014) (tn) (Entered: 07/09/2014)
07/10/2014	<u>47</u>	OPINION of USCA as to <u>37</u> Notice of Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage. USCA Case Number 13-422(L). Accordingly, with respect to the bifurcated issues concerning the Vaughn index, we will grant the petition in part by excluding from disclosure the titles and descriptions of listings 67, 105, 118, 119, 250, 262-65, and 271, and the titles of listings 57, 62, 66, 68, 69, 70, 78, 79, 80, 88, 92,93, 97, 100, 103, 104, 108, 123-28, and 130. We will remand the case to the District Court with directions, in addition to those ordered in our Revised Opinion (Conclusion 3), 2014 WL 2838861, at *20, to order the Appellee U.S. Department of Justice to file a public version of its Vaughn index in compliance with our Revised Opinion at 64-65 (Conclusion 2 (identifying listings not required to be disclosed)), 2014 WL 2838861, at *20, and this opinion. We will amend our Revised Opinion to delete listings 244, 246, 248, and 256 from page 62, lines 9-10. Apart from these rulings and those set forth in our opinion of June 23, 2014, on the bifurcated issues concerning the OLC-DOD Memorandum, the Petition for Rehearing is DENIED, and the case is REMANDED. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Certified: 07/10/2014. (nd) (Entered: 07/10/2014)
08/15/2014	<u>48</u>	NOTICE of Lodging of Classified Documents. Document filed by United States Department of Justice. (Normand, Sarah) (Entered: 08/15/2014)
08/18/2014	<u>49</u>	MANDATE of USCA (Certified Copy) as to <u>37</u> Notice of Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage USCA Case Number 13-442(L). Ordered, Adjudged and Decreed that the final judgment is entered and the matter is REMANDED as directed in the Court's opinion of July 10, 2014. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Issued As Mandate: 08/18/2014. (Attachments: # <u>1</u> Opinion of rehearing motion, # <u>2</u> Opinion)(nd) (Entered: 08/18/2014)
08/18/2014		Transmission of USCA Mandate to the District Judge re: <u>49</u> USCA Mandate., (nd) (Entered: 08/18/2014)
09/05/2014	<u>50</u>	ENDORSED LETTER addressed to All Counsel in New York Times v. Department of Justice and ACLU v. Department of Justice from Judge McMahon dated 9/5/2014 re: Scheduling. ENDORSEMENT: I have begun work on carrying out the first mandate received from the Court of Appeals, relating to Item (3) of that court's Conclusion. I hope to have a decision well before the end of the month. Meanwhile, I have received a second mandate, this one relating to Item (5) of the Court's conclusion, which directs the production of Vaughn indices by the Department of Defense and the Central Intelligence Agency for in camera inspection. I expect to receive said Vaughn indices by September 25, 2014, together with any affidavits or briefs the agencies wish to file concerning the protectability or disclosability of particular listings on these indices. Finally, to the extent that the plaintiffs seek the production of any documents on the OLC Vaughn Index that was ordered to be disclosed in redacted form (See Item (2) of the Second Circuit's Conclusion), they must file a request for production, specifying the identifying number of each item they wish disclosed, by September 19, 2014. The Government may have until October 3, 2014 to provide the court with affidavits and briefs explaining the following herein. (Signed by Judge Colleen McMahon on 9/5/2014) (kgo) Modified on 9/5/2014 (kgo). (Entered: 09/05/2014)
10/31/2014	<u>51</u>	ORDER DIRECTING RELEASE OF UNREDACTED VERSION OF REMAND OPINION #1 (RELATING TO ITEM 3): I have received and reviewed the October 17, 2014 ex parte submission from the Department of Justice following its classification review of the court's first decision on remand from the United State

		<p>Court of Appeals for the Second Circuit. The decision was submitted to the Government on September 30, 2014. I disagree with the Government's redaction of the bulk of the first full paragraph and the second and third paragraphs on page 9, which as drafted by this court contain not a whit of classified material (the Government does not suggest otherwise), and which I do not believe would tend to reveal any classified information. In order to preserve that issue for appellate review, I will release on the public docket the opinion with all the Government's proposed redactions today, along with this cover note indicating my conclusion about this material. Should the Second Circuit agree with the Government that the material was properly redacted, nothing will be lost; should it agree with my view that nothing the Government has redacted on page 9 should be redacted, it will so indicate. The full opinion will remain under seal. Looking to the future: I have before me the ACLU's letter of September 19, 2014, in which it indicates what additional documents from the OLC Vaughn Index it wishes disclosed, as well as the Government's sealed, ex parte response to that request and its motion for summary judgment with respect to the OLC documents. (Item 2 on Remand; Court's Order of September 5, 2014, Docket# 75; Motion for Summary Judgment dated October 3, 2014, Docket #79). Consistent with the parties' briefing schedule, I hope to have that decision out before Christmas. Finally, I will not be able to address Remand, Item 5, the Vaughn Indices from the Department of Defense and the CIA, until early next year, as briefing will not be complete until January 9. I had hoped to get all of this work done this year, as I have a heavy trial calendar for the first half of 2015. I will, therefore, not grant any extensions of the already generous briefing schedule with respect to these long-overdue Vaughn Indices. (Signed by Judge Colleen McMahon on 10/31/2014) (kgo) (Entered: 10/31/2014)</p>
10/31/2014	<u>52</u>	<p>DECISION ON REMAND WITH RESPECT TO ISSUE (3)(REDACTED): (U) This constitutes the decision and order of the court. Before releasing this decision to plaintiffs and to the public, I am providing a copy to the Government, to check classification status (which we have tried our best to get right on a paragraph by paragraph basis) and to propose redactions. (U) To the extent it should be necessary, the court certifies that an immediate entry of partial judgment as to this aspect of the case would be appropriate, pursuant to Fed. R. Civ. P.54(b), because (1) this order finally disposes of a discrete and severable issue in this action, to wit the disclosability of one specific type of legal document (legal opinions from the OLC) sought from one party defendant (the Department of Justice); and (2) there is no just reason for delay. These FOIA requests were made nearly three years ago, and it is in the public interest that any disclosable documents become public as without further delay. Also, there are many open issues in this case, which are completely severable from Remand Issue 3; and (if the parties' briefing schedule is any indication) it will take many months to resolve those issues. (U) The mandate directs that any appeal from this order and the partial judgment to be entered thereon be referred to a panel consisting of Judges Newman, Cabranes, and Pooler. (Signed by Judge Colleen McMahon on 9/30/2014) (kgo) (Entered: 10/31/2014)</p>
11/26/2014	<u>53</u>	<p>NOTICE OF INTERLOCUTORY APPEAL from <u>51</u> Order,,,,,, <u>52</u> Order,,,,,. Document filed by Charlie Savage, Scott Shane, The New York Times Company. Filing fee \$ 505.00, receipt number 0208-10354393. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. (McCraw, David) (Entered: 11/26/2014)</p>
11/26/2014		<p>Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>53</u> Notice of Interlocutory Appeal. (tp) (Entered: 11/26/2014)</p>
11/26/2014		<p>Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>53</u> Notice of Interlocutory Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage were transmitted to the U.S. Court of Appeals. (tp) (Entered: 11/26/2014)</p>
11/23/2015	<u>54</u>	<p>OPINION of USCA as to <u>53</u> Notice of Interlocutory Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage. USCA Case Number 14-4432-cv. Appeal from the October 31, 2014, decision and order of the United States District Court for the Southern District of New York (Colleen McMahon, District Judge), adjudicating, pursuant to a remand from this Court, Freedom of Information Act requests for documents prepared by the Office of Legal Counsel of the United States Department of Justice concerning targeted killings by drone aircraft. The District Court ordered disclosure of all or portions of some documents and denied disclosure of</p>

		other documents. The appeal also concerns disclosure of redacted portions of the District Court's sealed opinion and disclosure of redacted portions of the transcript of the June 23, 2015, oral argument present by the Government to the Court ex parte and in camera. Judgment AFFIRMED; redacted portions of District Court opinion to remain UNDISCLOSED, except for three paragraphs (as redacted pursuant to Part IV of this opinion) that the District Court wishes to disclose; and redacted portions of transcript of June 23, 2015, oral argument to remain UNDISCLOSED; case REMANDED.. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Certified: 11/23/2015. (nd) (Entered: 11/23/2015)
12/07/2015	<u>55</u>	LETTER MOTION for Extension of Time <i>for Motion for Award of Fees</i> addressed to Judge Colleen McMahon from David E. McCraw dated 12/07/2015. Document filed by Charlie Savage, Scott Shane, The New York Times Company.(McCraw, David) (Entered: 12/07/2015)
12/08/2015	<u>56</u>	ORDER granting <u>55</u> Letter Motion for Extension of Time. So ordered. Please settle it. Motions due by 2/16/2016. (Signed by Judge Colleen McMahon on 12/7/2015) (kgo) (Entered: 12/08/2015)
02/09/2016	<u>57</u>	CONSENT LETTER MOTION for Extension of Time <i>to File Motion for Attorney's Fees</i> addressed to Judge Colleen McMahon from David E. McCraw dated 02/09/2016. Document filed by Charlie Savage, Scott Shane, The New York Times Company.(McCraw, David) (Entered: 02/09/2016)
02/10/2016	<u>58</u>	ORDER granting <u>57</u> Letter Motion for Extension of Time. Since I am hopeful you can settle this, I grant the adjournment. Motions due by 2/29/2016. (Signed by Judge Colleen McMahon on 2/9/2016) (kgo) (Entered: 02/10/2016)
02/29/2016	<u>59</u>	STIPULATION AND ORDER REGARDING FEES: IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows: 1. DOJ shall pay to Plaintiffs the sum of \$100,000.00 (ONE HUNDRED THOUSAND DOLLARS) in attorneys' fees and litigation costs, pursuant to 5 U.S.C. § 552(a)(4)(E), which sum Plaintiffs agree to accept as full payment of any attorneys' fees and costs Plaintiffs have incurred or will incur in this action for services performed up to the date of this Stipulation and Order. 2. This Stipulation and Order does not constitute, and shall not be construed as, an admission by DOJ or any other agency or component of the United States that Plaintiffs are either eligible or entitled to recover attorneys' fees or costs in connection with this matter. 3. The parties understand and agree that this Stipulation and Order contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect. 4. Facsimile or pdf signatures shall have the same force and effect as original signatures on this Stipulation. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 2/29/2016) (kgo) (Entered: 02/29/2016)
04/21/2016	<u>60</u>	MANDATE of USCA (Certified Copy) as to <u>53</u> Notice of Interlocutory Appeal, filed by The New York Times Company, Scott Shane, Charlie Savage. USCA Case Number 14-4432(L). IT IS HEREBY ORDERED, ADJUDGED and DECREED that the judgment of the district court is AFFIRMED. The matter is REMANDED and the district court is authorized to disclose the three redacted paragraphs on page 9 of its opinion (as redacted pursuant to Part IV of this court's opinion),and maintain undisclosed the redacted portions of the District Court's opinion and the June 23, 2015, transcript. Catherine O'Hagan Wolfe, Clerk USCA for the Second Circuit. Issued As Mandate: 04/21/2016. (nd) (Entered: 04/21/2016)
05/23/2016	<u>61</u>	REVISED DECISION ON REMAND WITH RESPECT TO ISSUE (3): (U) This constitutes the decision and order of the court. Before releasing this decision to plaintiffs and to the public, I am providing a copy to the Government, to check classification status (which we have tried our best to get right on a paragraph by paragraph basis) and to propose redactions. (U) To the extent it should be necessary, the court certifies that an immediate entry of partial judgment as to this aspect of the case would be appropriate, pursuant to Fed. R. Civ. P.54(b), because (1) this order finally disposes of a discrete and severable issue in this action, to wit the disclosability of one specific type of legal document (legal opinions from the OLC) sought from one party defendant (the Department of Justice); and (2) there is no just reason for delay. These FOIA requests were made nearly three years ago, and it is in the public interest

that any disclosable documents become public as without further delay. Also, there are many open issues in this case, which are completely severable from Remand Issue 3; and (if the parties' briefing schedule is any indication) it will take many months to resolve those issues. (U) The mandate directs that any appeal from this order and the partial judgment to be entered thereon be referred to a panel consisting of Judges Newman, Cabranes, and Pooler. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 5/11/2016) (kgo) (Entered: 05/23/2016)