

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:22-cv-03590-JPO**

The New York Times Company v. Federal Bureau of Investigation
Assigned to: Judge J. Paul Oetken
Cause: 05:552 Freedom of Information Act

Date Filed: 05/04/2022
Date Terminated: 01/29/2024
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**The New York Times Company**

represented by **Sum Yi Jessica Hui**
United States Court of Appeals for the Second Circuit
157 Church Street
New Haven, CT 06510
203-773-7986
Email: jess.hui@nytimes.com
TERMINATED: 08/22/2022

David Edward McCraw
The New York Times Company (10018)
620 Eighth Avenue
New York, NY 10018
(212) 556-4031
Fax: (212) 556-1009
Email: mccraw@nytimes.com
ATTORNEY TO BE NOTICED

V.

Defendant**Federal Bureau of Investigation**

represented by **Christine Schessler Poscablo**
U.S. Attorney Office SDNY
86 Chambers Street
New York, NY 10007
(212)-637-2674
Fax: (212)-637-0033
Email: christine.poscablo@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/04/2022	<u>1</u>	COMPLAINT against Federal Bureau of Investigation. (Filing Fee \$ 402.00, Receipt Number ANYSDC-26098288) Document filed by The New York Times Company..(McCraw, David) (Entered: 05/04/2022)
05/04/2022	<u>2</u>	NOTICE OF APPEARANCE by Sum Yi Jessica Hui on behalf of The New York Times Company..(Hui, Sum Yi Jessica) (Entered: 05/04/2022)
05/04/2022	<u>3</u>	CIVIL COVER SHEET filed..(McCraw, David) (Entered: 05/04/2022)
05/04/2022	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Federal Bureau of Investigation, re: <u>1</u> Complaint. Document filed by The New York Times Company..(McCraw, David) (Entered: 05/04/2022)
05/04/2022	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by The New York Times Company..(McCraw, David) (Entered: 05/04/2022)

05/05/2022		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge J. Paul Oetken. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district–judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf–related–instructions..(vf) (Entered: 05/05/2022)
05/05/2022		Magistrate Judge Gabriel W. Gorenstein is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018–06/AO–3.pdf . (vf) (Entered: 05/05/2022)
05/05/2022		Case Designated ECF. (vf) (Entered: 05/05/2022)
05/05/2022	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to Federal Bureau of Investigation. (vf) (Entered: 05/05/2022)
05/25/2022	<u>7</u>	NOTICE OF APPEARANCE by Christine Schessler Poscablo on behalf of Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 05/25/2022)
06/03/2022	<u>8</u>	ANSWER to <u>1</u> Complaint. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 06/03/2022)
06/07/2022	<u>9</u>	ORDER: Counsel for all parties are directed to appear telephonically for an initial pretrial conference with the Court on July 7, 2022, at 2:30 p.m. Counsel should call (888) 557–8511 at the scheduled time. The access code is 9300838. Initial Conference set for 7/7/2022 at 02:30 PM before Judge J. Paul Oetken. (Signed by Judge J. Paul Oetken on 6/7/2022) (ate) (Entered: 06/07/2022)
06/30/2022	<u>10</u>	LETTER addressed to Judge J. Paul Oetken from Christine S. Poscablo dated June 30, 2022 re: Request for Adjournment of July 7, 2022 Conference and Permission to Submit Status Update on or before September 6, 2022. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 06/30/2022)
07/05/2022	<u>11</u>	ORDER: THE PARTIES' REQUEST TO ADJOURN THE PRE–TRIAL CONFERENCE AND TO BE RELIEVED OF THE OBLIGATION TO SUBMIT A PROPOSED CASE MANAGEMENT PLAN IS GRANTED. THE PARTIES ARE DIRECTED TO FILE A JOINT STATUS LETTER ON OR BEFORE SEPTEMBER 6, 2022. THE PARTIES MAY REQUEST A CONFERENCE BEFORE THE COURT IF A DISPUTE ARISES. SO ORDERED. (HEREBY ORDERED by Judge J. Paul Oetken) (Text Only Order) (lar) (Entered: 07/05/2022)
08/11/2022	<u>12</u>	MOTION for S.Y. Jessica Hui to Withdraw as Attorney . Document filed by The New York Times Company..(Hui, Sum Yi Jessica) (Entered: 08/11/2022)
08/18/2022	<u>13</u>	STATUS REPORT. <i>and Request for Permission to Submit Further Status Report on or before September 23, 2022</i> Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 08/18/2022)
08/19/2022	<u>14</u>	ORDER: THE PARTIES SHALL SUBMIT A FURTHER STATUS UPDATE ON OR BEFORE SEPTEMBER 23, 2022. (HEREBY ORDERED by Judge J. Paul Oetken) (Text Only Order) (lar) (Entered: 08/19/2022)
08/22/2022	<u>15</u>	MEMO ENDORSEMENT granting <u>12</u> Motion to Withdraw as Attorney. ENDORSEMENT: SO ORDERED. Attorney Sum Yi Jessica Hui terminated. (Signed by Judge J. Paul Oetken on 8/22/2022) (ate) (Entered: 08/22/2022)
09/23/2022	<u>16</u>	STATUS REPORT. <i>and Request for Entry of Proposed Briefing Schedule</i> Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 09/23/2022)
09/27/2022	<u>17</u>	ORDER: THE SCHEDULE AT DOCKET NUMBER <u>16</u> IS APPROVED. DEFENDANTS SHALL MOVE FOR SUMMARY JUDGMENT BY NOVEMBER 4, 2022; PLAINTIFFS THALL FILE THEIR OPPOSITION AND CROSS–MOTION BY DECEMBER 5, 2022; DEFENDANTS SHALL FILE THEIR OPPOSITION AND REPLY BY DECEMBER 19, 2022; AND PLAINTIFFS SHALL REPLY BY DECEMBER 29, 2022. (HEREBY ORDERED by Judge J. Paul Oetken) (Text Only

		Order) (lar) (Entered: 09/27/2022)
11/01/2022	<u>18</u>	FIRST LETTER MOTION for Extension of Time <i>to File Motion for Summary Judgment</i> addressed to Judge J. Paul Oetken from Christine S. Poscablo dated November 1, 2022. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 11/01/2022)
11/02/2022	19	ORDER granting <u>18</u> Letter Motion for Extension of Time: GRANTED. THE BRIEFING SCHEDULE IS EXTENDED AS PROPOSED IN DOCKET NO. <u>18</u> . (HEREBY ORDERED by Judge J. Paul Oetken)(Text Only Order) (lar) (Entered: 11/02/2022)
11/10/2022	<u>20</u>	MOTION for Summary Judgment . Document filed by Federal Bureau of Investigation. Responses due by 12/9/2022.(Poscablo, Christine) (Entered: 11/10/2022)
11/10/2022	<u>21</u>	DECLARATION of Michael G. Seidel in Support re: <u>20</u> MOTION for Summary Judgment .. Document filed by Federal Bureau of Investigation. (Attachments: # <u>1</u> Exhibit A (Plaintiff's FOIA Request dated December 9, 2021)), # <u>2</u> Exhibit B (FBI Acknowledgment Letter dated December 15, 2021), # <u>3</u> Exhibit C (FBI Response Letter dated September 15, 2022)).(Poscablo, Christine) (Entered: 11/10/2022)
11/10/2022	<u>22</u>	MEMORANDUM OF LAW in Support re: <u>20</u> MOTION for Summary Judgment . . Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 11/10/2022)
11/10/2022	<u>23</u>	NOTICE of Notice of Lodging of Classified Declaration re: <u>20</u> MOTION for Summary Judgment .. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 11/10/2022)
12/09/2022	<u>24</u>	CROSS MOTION for Summary Judgment . Document filed by The New York Times Company..(McCraw, David) (Entered: 12/09/2022)
12/09/2022	<u>25</u>	MEMORANDUM OF LAW in Support re: <u>24</u> CROSS MOTION for Summary Judgment . . Document filed by The New York Times Company..(McCraw, David) (Entered: 12/09/2022)
12/09/2022	<u>26</u>	DECLARATION of Dana R. Green in Support re: <u>24</u> CROSS MOTION for Summary Judgment .. Document filed by The New York Times Company. (Attachments: # <u>1</u> Exhibit 1 – ARB Report, # <u>2</u> Exhibit 2 – New Yorker Article, # <u>3</u> Exhibit 3 – Belfer Report, # <u>4</u> Exhibit 4 – JASON Report, # <u>5</u> Errata 5 – CDC Report, # <u>6</u> Exhibit 6 – DNI/CIA Report, # <u>7</u> Exhibit 7 – State Dep't Transcript, # <u>8</u> Exhibit 8 – NASEM Report).(McCraw, David) (Entered: 12/09/2022)
12/09/2022	<u>27</u>	MEMORANDUM OF LAW in Opposition re: <u>20</u> MOTION for Summary Judgment . . Document filed by The New York Times Company..(McCraw, David) (Entered: 12/09/2022)
12/14/2022	<u>28</u>	LETTER MOTION for Extension of Time <i>for Remainder of Briefing Schedule for Parties' Cross-Motions for Summary Judgment</i> addressed to Judge J. Paul Oetken from Christine S. Poscablo dated December 14, 2022. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 12/14/2022)
12/15/2022	29	ORDER granting <u>28</u> Letter Motion for Extension of Time: GRANTED. DEFENDANT'S OPPOSITION AND REPLY SHALL BE DUE JANUARY 13, 2023, AND PLAINTIFF'S REPLY SHALL BE DUE JANUARY 30, 2023. SO ORDERED. (HEREBY ORDERED by Judge J. Paul Oetken)(Text Only Order) (lar) (Entered: 12/15/2022)
01/13/2023	<u>30</u>	REPLY MEMORANDUM OF LAW in Support re: <u>20</u> MOTION for Summary Judgment . <i>and in Opposition to Plaintiff's Cross-Motion for Summary Judgment</i> . Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 01/13/2023)
01/13/2023	<u>31</u>	DECLARATION of Michael G. Seidel in Support re: <u>20</u> MOTION for Summary Judgment .. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 01/13/2023)

01/13/2023	<u>32</u>	NOTICE of Notice of Lodging of Classified Declaration re: <u>20</u> MOTION for Summary Judgment ., <u>30</u> Reply Memorandum of Law in Support of Motion. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 01/13/2023)
01/30/2023	<u>33</u>	REPLY MEMORANDUM OF LAW in Support re: <u>24</u> CROSS MOTION for Summary Judgment . . Document filed by The New York Times Company..(McCraw, David) (Entered: 01/30/2023)
07/05/2023	<u>34</u>	ORDER: In light of certain public disclosures in or around March 2023 regarding the causes of "Havana Syndrome," the parties are invited to submit letters by July 19, 2023, addressing whether and how such disclosures may affect the justiciability or the merits of this Freedom of Information Act matter. (Signed by Judge J. Paul Oetken on 7/5/2023) (ate) (Entered: 07/05/2023)
07/13/2023	<u>35</u>	LETTER addressed to Judge J. Paul Oetken from Dana R. Green dated July 13, 2023 re: Submission schedule for supplemental filings. Document filed by The New York Times Company..(Green, Dana) (Entered: 07/13/2023)
07/13/2023	<u>36</u>	MEMO ENDORSEMENT on re: <u>35</u> Letter filed by The New York Times Company. ENDORSEMENT: So ordered. (Signed by Judge J. Paul Oetken on 7/13/2023) (ate) (Entered: 07/13/2023)
07/21/2023	<u>37</u>	LETTER addressed to Judge J. Paul Oetken from Christine S. Poscablo dated July 21, 2023 re: Letter in Response to Court's July 5, 2023, Order. Document filed by Federal Bureau of Investigation. (Attachments: # <u>1</u> Exhibit Declaration of Joseph E. Bender, Jr., dated July 21, 2023).(Poscablo, Christine) (Entered: 07/21/2023)
07/26/2023	<u>38</u>	LETTER addressed to Judge J. Paul Oetken from David E. McCraw dated July 26, 2023 re: Letter in Response to Court's July 5, 2023, Order. Document filed by The New York Times Company..(McCraw, David) (Entered: 07/26/2023)
08/09/2023	<u>39</u>	OPINION AND ORDER re: <u>24</u> CROSS MOTION for Summary Judgment . filed by The New York Times Company, <u>20</u> MOTION for Summary Judgment . filed by Federal Bureau of Investigation. For the foregoing reasons, the FBI's motion for summary judgment is DENIED. The New York Times's motion for summary judgment is likewise DENIED. Both motions are denied without prejudice to renewal following the Court's review of the BAU Report. The Clerk of Court is directed to close the motions at ECF Nos. 20 and 24. (Signed by Judge J. Paul Oetken on 8/9/2023) (ate) (Entered: 08/09/2023)
08/28/2023	<u>40</u>	LETTER MOTION for Leave to File Supplemental Declaration of Paul H. Haertel Relevant to Court's In Camera Review addressed to Judge J. Paul Oetken from Christine S. Poscablo dated August 28, 2023. Document filed by Federal Bureau of Investigation..(Poscablo, Christine) (Entered: 08/28/2023)
08/29/2023	<u>41</u>	ORDER granting <u>40</u> Letter Motion for Leave to File Document. Granted. SO ORDERED.. (Signed by Judge J. Paul Oetken on 8/29/2023) (rro) (Entered: 08/29/2023)
08/30/2023	<u>42</u>	***EX-PARTE***NOTICE of Ex Parte Document Filing re: <u>39</u> Memorandum & Opinion,,. Document filed by Federal Bureau of Investigation. Motion or Order to File Under Seal: <u>39</u> .(Poscablo, Christine) (Entered: 08/30/2023)
08/30/2023	<u>43</u>	LETTER addressed to Judge J. Paul Oetken from Christine S. Poscablo dated August 30, 2023 re: Submission of Document for In Camera Review. Document filed by Federal Bureau of Investigation. (Attachments: # <u>1</u> Supplement Declaration of Paul H. Haertel).(Poscablo, Christine) (Entered: 08/30/2023)
10/05/2023		NOTICE OF REDESIGNATION TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge Gary Stein. Please note that this is a reassignment of the designation only..(kgo) (Entered: 10/05/2023)
01/29/2024	<u>44</u>	OPINION AND ORDER. For the foregoing reasons, the FBI's motion for summary judgment is GRANTED in part and DENIED in part. The New York Times's motion for summary judgment is likewise GRANTED in part and DENIED in part. The FBI is directed to produce a copy of the Report with redactions consistent with this Opinion and Order within 21 days. The Clerk of Court is directed to enter judgment and mark

		this case as closed. SO ORDERED. (Signed by Judge J. Paul Oetken on 1/29/24) (yv) Transmission to Orders and Judgments Clerk for processing. (Entered: 01/29/2024)
01/29/2024	<u>45</u>	CLERK'S JUDGMENT re: <u>44</u> Memorandum & Opinion in favor of Federal Bureau of Investigation, The New York Times Company against Federal Bureau of Investigation, The New York Times Company. It is hereby ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion and Order dated January 29, 2024, the FBI's motion for summary judgment is GRANTED in part and DENIED in part. The New York Times's motion for summary judgment is likewise GRANTED in part and DENIED in part; accordingly, the case is closed. (Signed by Clerk of Court Ruby Krajick on 1/29/2024) (Attachments: # <u>1</u> Appeal Package) (km) (Entered: 01/29/2024)