

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:22-cv-01539-JSR**

The New York Times Company et al v. United States
Department of Justice
Assigned to: Judge Jed S. Rakoff
Cause: 05:552 Freedom of Information Act

Date Filed: 02/24/2022
Date Terminated: 02/05/2024
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

The New York Times Company

represented by **Al-Amyn Shiraz Sumar**
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TERMINATED: 03/27/2023

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Plaintiff

Mark Mazzetti

represented by **Al-Amyn Shiraz Sumar**
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TERMINATED: 03/27/2023

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V.

Defendant

United States Department of Justice

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Date Filed	#	Docket Text
02/24/2022	<u>1</u>	COMPLAINT against United States Department of Justice. (Filing Fee \$ 402.00, Receipt Number ANYSDC-25775753) Document filed by The New York Times Company, Mark Mazzetti..(McCraw, David) (Entered: 02/24/2022)
02/24/2022	<u>2</u>	NOTICE OF APPEARANCE by Sum Yi Jessica Hui on behalf of Mark Mazzetti, The New York Times Company..(Hui, Sum Yi Jessica) (Entered: 02/24/2022)
02/24/2022	<u>3</u>	CIVIL COVER SHEET filed..(McCraw, David) (Entered: 02/24/2022)
02/24/2022	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of Justice, re: <u>1</u> Complaint. Document filed by Mark Mazzetti, The New York Times Company..(McCraw, David) (Entered: 02/24/2022)
02/24/2022	<u>5</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by The New York Times Company..(McCraw, David) (Entered: 02/24/2022)
02/25/2022		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above-entitled action is assigned to Judge Jed S. Rakoff. 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: 02/25/2022)
02/25/2022		Magistrate Judge Stewart D. Aaron 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: 02/25/2022)
02/25/2022		Case Designated ECF. (vf) (Entered: 02/25/2022)
02/25/2022	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to United States Department of Justice. (vf) (Entered: 02/25/2022)
02/25/2022	<u>7</u>	NOTICE OF COURT CONFERENCE: DATE AND PLACE OF CONFERENCE: 3-3-2022, ON A TELECONFERENCE LINE AT 11:15 am. The dial-in information for the call will be as follows: USA Toll-Free (888) 363-4735; USA Caller Paid/International Toll: (215) 446-3657; Access Code: 1086415. Initial Conference set for 3/3/2022 at 11:15 AM before Judge Jed S. Rakoff. (Signed by Judge Jed S. Rakoff on 2/25/2022) (kv) (Entered: 02/25/2022)
02/28/2022		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 2/28/2022, (Initial Conference set for 3/25/2022 at 11:00 AM before Judge Jed S. Rakoff.). The Court granted the joint motion to adjourn the telephonic initial pre-trial conference from 3/3/22 to 3/25/22 at 11:00 a.m. using the same connection information previously posted. Plaintiffs shall file by 3/23/22 at 12:00 p.m. any

		amended complaint concerning the related FOIA request discussed with the Court. The parties shall provide the Court by email with their proposed case management plan by no later than 3/24/22 at 12:00 p.m. (Kotowski, Linda) Modified on 2/28/2022 (Kotowski, Linda). (Entered: 02/28/2022)
03/01/2022	<u>8</u>	NOTICE OF APPEARANCE by Peter Max Aronoff on behalf of United States Department of Justice..(Aronoff, Peter) (Entered: 03/01/2022)
03/23/2022	<u>9</u>	AMENDED COMPLAINT amending <u>1</u> Complaint against United States Department of Justice.Document filed by The New York Times Company, Mark Mazzetti. Related document: <u>1</u> Complaint..(McCraw, David) (Entered: 03/23/2022)
03/25/2022		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 3/25/2022.Court reporter Eve Giniger present and counsel for both sides. The Court orders the parties to make a conference call to the chambers phone number on April 25, 2022 at 1:00pm. Written submissions must be filed before 10:30am on that day. (Kotowski, Linda) (Entered: 03/25/2022)
04/25/2022		Minute Entry for proceedings held before Judge Jed S. Rakoff: (Telephone Conference set for 4/26/2022 at 01:00 PM before Judge Jed S. Rakoff.)The status conference set for 4/25/22 is hereby adjourned to 4/26/22 at 1:00 p.m. The parties are directed to place a joint call to chambers at that time. (Kotowski, Linda) (Entered: 04/25/2022)
04/27/2022	<u>10</u>	ORDER: After consideration of the arguments of counsel presented in the status conference, and in view of its experience managing litigation over a wide variety of FOIA requests, the Court hereby orders that DOJ shall complete all processing and production to the Times of any records that are responsive to the two FOIA requests upon which the Times has sued by no later than August 31, 2022. This is a final and binding deadline that will not be adjourned. The Court will presumptively treat any failure to adhere to that schedule as an instance of civil contempt. Should any disputes remain after that disclosure, the parties may brief motions for summary judgment on the following schedule: Motion, filed by DOJ on or before 9/14/2022 Opposition to motion and cross-motion, filed by the Times on or before 9/28/2022 Reply in support of motion and opposition to cross-motion, filed by DOJ on or before 10/12/2022 Reply in support of cross-motion, filed by the Times on or before 10/19/2022 The Court will hold oral argument on any motions for summary judgment on November 2, 2022, at 4:00 p.m. in Courtroom 14B, 500 Pearl Street. Should DOJ seek to employ procedures for the filing of classified materials, it should convene a joint phone conference with the Court as soon as practicable and in no event after August 31, 2022. SO ORDERED. Motions due by 9/14/2022. Cross Motions due by 9/28/2022. Responses due by 10/12/2022 Replies due by 10/19/2022. Oral Argument set for 11/2/2022 at 04:00 PM in Courtroom 14B, 500 Pearl Street, New York, NY 10007 before Judge Jed S. Rakoff. (Signed by Judge Jed S. Rakoff on 4/26/2022) (kv) (Entered: 04/27/2022)
08/08/2022	<u>11</u>	MOTION for S.Y. Jessica Hui to Withdraw as Attorney . Document filed by Mark Mazzetti, The New York Times Company..(Hui, Sum Yi Jessica) (Entered: 08/08/2022)
09/19/2022	<u>12</u>	MOTION for Summary Judgment . Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 09/19/2022)
09/19/2022	<u>13</u>	MEMORANDUM OF LAW in Support re: <u>12</u> MOTION for Summary Judgment . . Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 09/19/2022)
09/19/2022	<u>14</u>	DECLARATION of Michael G. Seidel in Support re: <u>12</u> MOTION for Summary Judgment .. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit Jan. 10, 2022 FOIA request, # <u>2</u> Exhibit Jan. 13, 2022 FBI acknowledgment letter, # <u>3</u> Exhibit Jan. 13, 2022 FBI letter, # <u>4</u> Exhibit Feb. 7, 2022 eFOIA request, # <u>5</u> Exhibit Feb. 14, 2022 FBI acknowledgment and denial letter, # <u>6</u> Exhibit Feb. 22, 2022 appeal, # <u>7</u> Exhibit Feb. 27, 2022 OIP appeal acknowledgment, # <u>8</u> Exhibit May 27, 2022 OIP closing letter, # <u>9</u> Exhibit Aug. 31, 2022 FBI determination and release letter, # <u>10</u> Exhibit Sep. 7, 2022 FBI supplemental release letter, # <u>11</u> Exhibit Index).(Aronoff, Peter) (Entered: 09/19/2022)

10/03/2022	<u>15</u>	CROSS MOTION for Summary Judgment . Document filed by Mark Mazzetti, The New York Times Company..(McCraw, David) (Entered: 10/03/2022)
10/03/2022	<u>16</u>	MEMORANDUM OF LAW in Support re: <u>15</u> CROSS MOTION for Summary Judgment . . Document filed by Mark Mazzetti, The New York Times Company..(McCraw, David) (Entered: 10/03/2022)
10/03/2022	<u>17</u>	DECLARATION of MARK MAZZETTI in Support re: <u>15</u> CROSS MOTION for Summary Judgment .. Document filed by Mark Mazzetti, The New York Times Company. (Attachments: # <u>1</u> Exhibit January 2022 NYT Article, # <u>2</u> Exhibit May 2022 NYT Article, # <u>3</u> Exhibit FBI Letter to Sen. Wyden, # <u>4</u> Exhibit FBI Production Bates 516).(McCraw, David) (Entered: 10/03/2022)
10/04/2022	<u>18</u>	NOTICE OF APPEARANCE by Al–Amyr Shiraz Sumar on behalf of Mark Mazzetti, The New York Times Company..(Sumar, Al–Amyr) (Entered: 10/04/2022)
10/12/2022		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 10/12/2022, without transcription or recording. David McCraw for the New York Times and Peter Aronoff for the Government were present. The Governments unopposed application for a two–week extension of briefing schedules is granted; the Governments reply in support of its motion for summary judgment and opposition to the New York Times cross motion is now due 10/31/22, and the New York Times reply in support of its cross motion will now be due 11/7/22. The argument previously set for 11/2/22 is adjourned until 11/17/22 at 4:00 PM. The Government is directed to produce a revised Vaughn Index no later than 10/17/22, and to make any further productions as soon as possible — and no absolutely no later than 10/31/22. The Court will not grant any further extensions under any circumstances whatsoever.(Oral Argument set for 11/17/2022 at 04:00 PM before Judge Jed S. Rakoff.). (Kotowski, Linda) (Entered: 10/12/2022)
10/31/2022	<u>19</u>	NOTICE of lodging of classified declaration. Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 10/31/2022)
10/31/2022	<u>20</u>	DECLARATION of Joseph E. Bender, Jr. in Support re: <u>12</u> MOTION for Summary Judgment .. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit Revised Vaughn Index).(Aronoff, Peter) (Entered: 10/31/2022)
10/31/2022	<u>21</u>	REPLY MEMORANDUM OF LAW in Support re: <u>12</u> MOTION for Summary Judgment . <i>and in opposition to plaintiffs' cross–motion</i> . Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 10/31/2022)
11/01/2022	<u>22</u>	REPLY MEMORANDUM OF LAW in Support re: <u>12</u> MOTION for Summary Judgment . <i>and in opposition to plaintiffs' cross–motion (corrected)</i> . Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 11/01/2022)
11/14/2022	<u>23</u>	DECLARATION of Michael G. Seidel in Support re: <u>12</u> MOTION for Summary Judgment .. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B).(Normand, Sarah) (Entered: 11/14/2022)
11/14/2022	<u>24</u>	REPLY MEMORANDUM OF LAW in Support re: <u>15</u> CROSS MOTION for Summary Judgment . . Document filed by Mark Mazzetti, The New York Times Company..(McCraw, David) (Entered: 11/14/2022)
11/14/2022	<u>25</u>	DECLARATION of Al–Amyr Sumar in Support re: <u>15</u> CROSS MOTION for Summary Judgment .. Document filed by Mark Mazzetti, The New York Times Company. (Attachments: # <u>1</u> Exhibit FBI Production – Part 1, # <u>2</u> Exhibit FBI Production – Part 2).(McCraw, David) (Entered: 11/14/2022)
11/16/2022	<u>26</u>	DECLARATION of Al–Amyr Sumar in Support re: <u>15</u> CROSS MOTION for Summary Judgment .. Document filed by Mark Mazzetti, The New York Times Company. (Attachments: # <u>1</u> Exhibit FBI Production).(McCraw, David) (Entered: 11/16/2022)
11/17/2022		Minute Entry for proceedings held before Judge Jed S. Rakoff: Oral Argument held on 11/17/2022 re: <u>12</u> MOTION for Summary Judgment . filed by United States Department of Justice, <u>15</u> CROSS MOTION for Summary Judgment . filed by The New York Times Company, Mark Mazzetti. (Kotowski, Linda) (Entered: 11/21/2022)

03/27/2023	<u>27</u>	MEMO ENDORSEMENT on <u>11</u> granting Motion to Withdraw as Attorney. ENDORSEMENT: SO ORDERED. Attorney Sum Yi Jessica Hui terminated. (Signed by Judge Jed S. Rakoff on 3/27/2023) (ama) (Entered: 03/27/2023)
03/28/2023	<u>28</u>	NOTICE OF APPEARANCE by Sarah Sheive Normand on behalf of United States Department of Justice..(Normand, Sarah) (Entered: 03/28/2023)
07/07/2023	<u>29</u>	MEMORANDUM ORDER granting in part <u>12</u> Motion for Summary Judgment; granting in part <u>15</u> Motion for Summary Judgment. For the reasons described above, the Government's motion for summary judgment is granted in part and the Times' motion is granted in part. Any additional productions required by this order must be made no later than 14 days following the issuance of this Order. SO ORDERED. (Signed by Judge Jed S. Rakoff on 7/7/2023) (jca) (Entered: 07/07/2023)
07/20/2023		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 7/20/2023, without transcription or recording, during which counsel for all parties was present. The Court orders that any party wishing to file a motion for reconsideration of the Courts order concerning the parties motions for summary judgment (Dkt. 29) must do so by no later than July 27, 2023; briefs in response to any such motion must be filed no later than August 3, 2023. Reply briefing or oral argument are not anticipated. The defendants obligation to produce documents in response to the Courts summary judgment order (Dkt. 29) is stayed pending resolution of any such motion for reconsideration. The Court disagrees that its summary judgment order (Dkt. 29) constitutes an appealable final judgment and, accordingly, the defendants request that the deadline for compliance with the Courts order be extended on that basis is denied without prejudice; if defendant wishes to press this argument, it is invited to submit additional authority and/or argumentation in its motion for reconsideration submission. Any other requests by either party concerning the time to appeal or to file a motion for attorneys fees may be presented in the respective parties moving papers on the motion for reconsideration.. (Kotowski, Linda) (Entered: 07/21/2023)
07/21/2023	<u>30</u>	***EX-PARTE***NOTICE of providing document 49 for in camera review. Document filed by United States Department of Justice. Motion or Order to File Under Seal: <u>29</u> .(Aronoff, Peter) (Entered: 07/21/2023)
07/21/2023	<u>31</u>	NOTICE of filing of redacted document 49 and provision of unredacted document 49 for in camera review. Document filed by United States Department of Justice. (Attachments: # <u>1</u> Exhibit redacted document 49).(Aronoff, Peter) (Entered: 07/21/2023)
07/27/2023	<u>32</u>	MOTION for Reconsideration re; <u>29</u> Order on Motion for Summary Judgment,,, <i>in part</i> . Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 07/27/2023)
07/27/2023	<u>33</u>	DECLARATION of Michael G. Seidel in Support re: <u>32</u> MOTION for Reconsideration re; <u>29</u> Order on Motion for Summary Judgment,,, <i>in part</i> .. Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 07/27/2023)
07/27/2023	<u>34</u>	MEMORANDUM OF LAW in Support re: <u>32</u> MOTION for Reconsideration re; <u>29</u> Order on Motion for Summary Judgment,,, <i>in part</i> . . Document filed by United States Department of Justice..(Aronoff, Peter) (Entered: 07/27/2023)
08/03/2023	<u>35</u>	MEMORANDUM OF LAW in Opposition re: <u>32</u> MOTION for Reconsideration re; <u>29</u> Order on Motion for Summary Judgment,,, <i>in part</i> . . Document filed by Mark Mazzetti, The New York Times Company..(McCraw, David) (Entered: 08/03/2023)
11/06/2023	<u>36</u>	MEMORANDUM ORDER granting <u>32</u> Motion for Reconsideration re <u>32</u> MOTION for Reconsideration re; <u>29</u> Order on Motion for Summary Judgment <i>in part</i> . filed by United States Department of Justice. For the reasons described above, the Government's motion for partial reconsideration, Dkt. 32, is hereby granted. Plaintiffs also requests that the deadline to file any motion for attorney's fees be extended until after all appeals have been exhausted, so that plaintiffs may file one, consolidated fee application. See Dkt. 35, at 6–7. That motion is hereby granted. The parties are directed to jointly call in to chambers within 14 days of the exhaustion of all rights of appeal to set a briefing schedule for any such fees motion. (Signed by Judge Jed S. Rakoff on 11/6/2023) (ate) (Entered: 11/06/2023)

12/19/2023		Minute Entry for proceedings held before Judge Jed S. Rakoff: Telephone Conference held on 12/19/2023 without transcription or recording during which counsel for all parties was present. The Court set the following briefing schedule for plaintiffs motion for attorneys fees: Plaintiffs fee motion shall be filed no later than February 9, 2024; defendants opposition to such motion shall be filed no later than March 8, 2024; and plaintiffs reply shall be filed no later than March 22, 2024.. (Kotowski, Linda) (Entered: 12/20/2023)
12/28/2023		***DELETED DOCUMENT. Deleted document number <u>37</u> Status Report. The document was incorrectly filed in this case. Correct Case # 22cv791. (db) (Entered: 12/29/2023)
02/05/2024	<u>37</u>	STIPULATION AND ORDER: NOW, THEREFORE, it is hereby STIPULATED and AGREED between the parties as follows: Within a reasonable time after the Court has endorsed and docketed this Stipulation and Order, Defendant shall pay to Plaintiffs the sum of thirty-three thousand, five hundred dollars and no cents (\$33,500.00) for attorneys' fees and litigation costs. This payment shall constitute full and final satisfaction of any claims by Plaintiffs for attorneys' fees and litigation costs in this matter, and is inclusive of any interest. Payment shall be made by electronic funds transfer, and counsel for Plaintiffs will provide the necessary information to counsel for the Defendant to effectuate the transfer. Plaintiffs release and discharge the Defendant and the United States of America, including its agencies, departments, officers, employees, servants, and agents, from any and all claims and causes of action that Plaintiffs asserted, or could have asserted, arising out of theRequests. This action is accordingly dismissed with prejudice and without costs or feesother than as provided in paragraph 1 of this Stipulation and Order, provided that the Court shallretain jurisdiction over any issues that might arise relating to the enforcement of this Stipulation and Order. Nothing in this Stipulation and Order shall constitute an admission that the Defendant is liable for any attorneys' fees or litigation costs, or that Plaintiffs "substantially prevailed" in this action under 5 U.S.C. § 552(a)(4)(E), or is entitled to or eligible for any attorneys' fees or litigation costs. Nor is it an admission that the amount here agreed upon covers all of the time that could, in Plaintiffs' view be compensable as attorneys' fees and litigation costs in this action. Rather, this Stipulation and Order is entered into by the parties solely for the purpose of compromising disputed claims in this case and avoiding the expenses and risks of further litigation concerning Plaintiffs' claims for attorneys' fees and litigation costs. This Stipulation and Order is non-precedential with respect to any other proceeding involving the parties, including, but not limited to, any other FOIA action or administrative proceeding, and shall have no effect or bearing on any pending or future request for records made by Plaintiffs under FOIA. This Stipulation and Order contains the entire agreement between the parties, and no statement, representation, promise, or agreement, oral or otherwise, between the parties or their counsel that is not included herein shall have any force or effect. This Stipulation and Order may be executed in counterparts. Facsimile or pdf signatures shall constitute originals. SO ORDERED. (Signed by Judge Jed S. Rakoff on 2/5/2024) (ks) (Entered: 02/05/2024)