SOUTHERN DISTRICT OF NEW YOR	kK			
		_	X	
THE NEW YORK TIMES COMPANY and CHARLIE SAVAGE,			:	
			:	
	Plaintiffs,			
			•	COMPLAINT
- against -			:	
DEPARTMENT OF JUSTICE			:	
	Defendant.		:	
		_X	:	

UNITED STATES DISTRICT COURT

Plaintiffs THE NEW YORK TIMES COMPANY and CHARLIE SAVAGE, by their undersigned attorney, allege for their Complaint:

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, to obtain an order for the production of agency records from Defendant Department of Justice ("DOJ") in response to a FOIA request properly made by Plaintiffs.

PARTIES

- 2. Plaintiff The New York Times Company publishes *The New York Times* newspaper and www.nytimes.com. The New York Times Company is headquartered in this judicial district at 620 Eighth Avenue, New York, New York, 10018.
- 3. Plaintiff Charlie Savage is a reporter for *The New York Times* and an employee of The New York Times Company.
- 4. Defendant DOJ is an agency of the federal government that has possession and control of the records that Plaintiffs seek.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action, pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

- 6. Venue is premised on the place of business of Plaintiffs and is proper in this district under 5 U.S.C. § 552(a)(4)(B).
- 7. Defendant DOJ has failed to meet the statutory deadline set by FOIA. *See* 5 U.S.C. § 552(a)(6)(A). Plaintiffs are therefore deemed to have exhausted all administrative remedies, pursuant to 5 U.S.C. § 552(a)(6)(C).

FACTS

- 8. On February 2, 2018, Plaintiffs submitted a FOIA request to DOJ (FOIA/PA #18-094) seeking "access to, including declassification review of as necessary, documents submitted by DOJ to the FISC, and orders or other documents issued by the FISC, in connection with the FISA order targeting Carter Page issued in October 2016, as well as its extensions, the existence of which and certain details of which were declassified by President Trump in connection to the HPSCI memo."
 - 9. On February 21, 2018, DOJ acknowledged receipt of the request.
- 10. DOJ has failed to respond to Plaintiffs' FOIA request within the statutory time frame required under FOIA.

COUNT

- 11. Plaintiffs repeat, reallege, and reincorporate the allegations in the foregoing paragraphs as though fully set forth herein.
- 12. Defendant DOJ is subject to FOIA and must therefore release in response to a FOIA request any disclosable records in its possession at the time of the request and provide a lawful reason for withholding any materials as to which it is claiming an exemption.
- 13. DOJ has failed to meet the statutory deadline set by FOIA. *See* 5 U.S.C. § 552(a)(6)(A). Accordingly, Plaintiffs are deemed to have exhausted their administrative remedies under FOIA.
- 14. DOJ has no lawful basis for declining to release the records requested by Plaintiffs under FOIA.

15. Accordingly, Plaintiffs are entitled to an order compelling DOJ to produce records responsive to their FOIA request.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- 16. Declare that the documents sought by their FOIA request, as described in the foregoing paragraphs, are public under 5 U.S.C. § 552 and must be disclosed;
- 17. Order DOJ to provide the requested documents to Plaintiffs within 20 business days of the Court's order;
- 18. Award Plaintiffs the costs of this proceeding, including reasonable attorneys' fees, as expressly permitted by FOIA; and
 - 19. Grant Plaintiffs such other and further relief as this Court deems just and proper.

Dated: New York, NY March 7, 2018

__/s/____

David E. McCraw, Esq. Legal Department The New York Times Company 620 8th Avenue New York, NY 10018

phone: (212) 556-4031 fax: (212) 556-1009

e-mail: mccrad@nytimes.com

Counsel for Plaintiffs