U.S. District Court Southern District of New York (Foley Square) CIVIL DOCKET FOR CASE #: 1:15-cv-05740-ER

The New York Times Company, et al v. United States

Department of the Treasury

Assigned to: Judge Edgardo Ramos

Cause: 05:552 Freedom of Information Act

Date Filed: 07/22/2015 Date Terminated: 10/20/2016

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

The New York Times Company (10018)

620 Eighth Avenue New York, NY 10018 (212) 556–4031 Fax: (212) 556–1009

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

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Plaintiff

Charlie Savage

represented by David Edward McCraw

(See above for address) *LEAD ATTORNEY*

ATTORNEY TO BE NOTICED

Jeremy Alexander Kutner

(See above for address)
TERMINATED: 02/16/2016
LEAD ATTORNEY

Tali Ravit Leinwand

(See above for address) *TERMINATED: 09/12/2016*

V.

Defendant

United States Department of the Treasury

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Date Filed	#	Docket Text
07/22/2015	1	COMPLAINT against United States Department of the Treasury. (Filing Fee \$ 400.00, Receipt Number 0208–11182712)Document filed by The New York Times Company,, Charlie Savage.(Kutner, Jeremy) (Entered: 07/22/2015)
07/22/2015	2	CIVIL COVER SHEET filed. (Kutner, Jeremy) (Entered: 07/22/2015)
07/22/2015	<u>3</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by Charlie Savage, The New York Times Company,.(Kutner, Jeremy) (Entered: 07/22/2015)
07/22/2015	4	REQUEST FOR ISSUANCE OF SUMMONS as to United States Department of the Treasury, re: 1 Complaint. Document filed by Charlie Savage, The New York Times Company,. (Kutner, Jeremy) (Entered: 07/22/2015)
07/22/2015	<u>5</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUESTED FILED AS TO PARTY ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Preet Bharara, re: 1 Complaint. Document filed by Charlie Savage, The New York Times Company,. (Kutner, Jeremy) (Entered: 07/22/2015)
07/22/2015	<u>6</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUESTED FILED AS TO PARTY ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to Loretta Lynch, re: 1 Complaint. Document filed by Charlie Savage, The New York Times Company,. (Kutner, Jeremy) (Entered: 07/22/2015)
07/23/2015		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above—entitled action is assigned to Judge Edgardo Ramos. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . 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 http://nysd.uscourts.gov/ecf filing.php. (ky) (Entered: 07/23/2015)
07/23/2015		Magistrate Judge James L. Cott is so designated. (ky) (Entered: 07/23/2015)
07/23/2015		Case Designated ECF. (ky) (Entered: 07/23/2015)
07/23/2015	7	ELECTRONIC SUMMONS ISSUED as to United States Department of the Treasury. (ky) (Entered: 07/23/2015)
07/23/2015		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney to RE-FILE Document No. <u>5</u> Request for Issuance of Summons, <u>6</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): request of issuance of summons as to party error. (ky) (Entered: 07/23/2015)
08/14/2015	8	NOTICE OF APPEARANCE by Dominika Natalia Tarczynska on behalf of United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 08/14/2015)
08/21/2015	9	LETTER MOTION for Extension of Time to File Answer addressed to Judge Edgardo Ramos from Dominika Tarczynska dated August 21, 2015. Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 08/21/2015)
08/24/2015	10	ORDER granting <u>9</u> Letter Motion for Extension of Time to Answer re <u>1</u> Complaint. United States Department of the Treasury answer due 9/25/2015. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (Ramos, Edgardo) (Entered:

		08/24/2015)
09/25/2015	<u>11</u>	ANSWER to 1 Complaint. Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 09/25/2015)
10/13/2015	<u>12</u>	NOTICE OF INITIAL COURT CONFERENCE: Initial Conference set for 11/13/2015 at 12:10 PM in Courtroom 619, 40 Centre Street, New York, NY 10007 before Judge Edgardo Ramos. (As further set forth in this Order.) (spo) (Entered: 10/14/2015)
11/10/2015	<u>13</u>	JOINT LETTER addressed to Judge Edgardo Ramos from Jeremy Kutner dated November 10, 2015 re: Initial Case Management and Scheduling Conference. Document filed by Charlie Savage, The New York Times Company,.(Kutner, Jeremy) (Entered: 11/10/2015)
11/13/2015		Minute Entry for proceedings held before Judge Edgardo Ramos: Initial Pretrial Conference held on 11/13/2015. Plaintiffs' counsel present. Defendant's counsel present. Parties granted leave to file their motions for summary judgment with the following briefing schedule: government's moving papers due December 18, 2015; plaintiffs' cross—motion due January 22, 2016; government's response and reply due February 12, 2016; and plaintiffs' reply due February 26, 2016. (Motions due by 12/18/2015. Cross Motions due by 1/22/2016. Responses due by 2/12/2016. Replies due by 2/26/2016.) (Court Reporter Eve Giniger) (jar) (Entered: 11/13/2015)
11/30/2015	<u>14</u>	LETTER addressed to Judge Edgardo Ramos from Dominika Tarczynska dated November 30, 2015 re: In Camera Review of Document At Issue In Litigation. Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 11/30/2015)
12/16/2015	<u>15</u>	CONSENT LETTER MOTION for Extension of Time to File <i>Motion for Summary Judgment</i> addressed to Judge Edgardo Ramos from Dominika Tarczynska dated December 16, 2015. Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 12/16/2015)
12/17/2015	16	ORDER granting <u>15</u> Letter Motion for Extension of Time to File Motion for Summary Judgment. Defendant's time to file its motion for summary judgment is extended to Wednesday, December 23, 2015. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (Ramos, Edgardo) (Entered: 12/17/2015)
12/23/2015	<u>17</u>	MOTION for Summary Judgment . Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 12/23/2015)
12/23/2015	<u>18</u>	MEMORANDUM OF LAW in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 12/23/2015)
12/23/2015	<u>19</u>	DECLARATION of Bradley T. Smith in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Tarczynska, Dominika) (Entered: 12/23/2015)
12/24/2015	<u>20</u>	NOTICE OF APPEARANCE by David Edward McCraw on behalf of Charlie Savage The New York Times Company,. (McCraw, David) (Entered: 12/24/2015)
01/07/2016	<u>21</u>	MOTION for Conference <i>Re: Proposed Motion to Take Discovery</i> . Document filed by Charlie Savage, The New York Times Company, (McCraw, David) (Entered: 01/07/2016)
01/08/2016	22	ORDER entered <u>21</u> Motion for Conference. The Government is directed to respond by Friday, January 15, 2016. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (Ramos, Edgardo) Modified on 1/8/2016 (jar). (Entered: 01/08/2016)
01/15/2016	<u>23</u>	TRANSCRIPT of Proceedings re: CONFERENCE held on 11/13/2015 before Judge Edgardo Ramos. Court Reporter/Transcriber: Eve Giniger, (212) 805–0300. Transcrip may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/8/2016. Redacted Transcript Deadline set for 2/19/2016. Release of Transcript Restriction set for 4/18/2016.(McGuirk, Kelly) (Entered: 01/15/2016)

01/15/2016	<u>24</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 11/13/15 has been filed by the court reporter/transcriber in the above—captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days(McGuirk, Kelly) (Entered: 01/15/2016)
01/15/2016	<u>25</u>	LETTER addressed to Judge Edgardo Ramos from Dominika Tarczynska dated January 15, 2016 re: Response to Plaintiffs' January 7, 2016 letter seeking pre–motion conference. Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 01/15/2016)
01/19/2016	<u>26</u>	ORDER granting 21 Letter Motion for Conference. The Court has reviewed Plaintiffs' request for leave to file a motion for further discovery (Doc. 21), and Defendant's letter response thereto (Doc. 25). The Court will forego a pre-motion conference, and hereby ORDERS the following schedule for briefing on the sole question of whether further depositions are required to ascertain the substance and consistency of Defendant's justifications for withholding the single document at issue under Exemption 5: Plaintiffs' motion, limited to ten (10) pages, is due February 2, 2016; Defendant's opposition, limited to ten (10) pages, is due February 16, 2016; Plaintiffs reply, limited to five (5) pages, is due February 23, 2016. The Court's previous briefing schedule for the parties' cross-motions for summary judgment (see Minute Entry for Nov. 13, 2015 conference, and Doc. 16), is hereby STAYED pending the Court's resolution of the discovery issue. (Signed by Judge Edgardo Ramos on 1/19/2016) (lmb) (Entered: 01/19/2016)
01/19/2016		Set/Reset Deadlines: Motions due by 2/2/2016. Responses due by 2/16/2016. Replies due by 2/23/2016. (lmb) (Entered: 01/19/2016)
02/02/2016	<u>27</u>	MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> . Document filed by Charlie Savage, The New York Times Company, (McCraw, David) (Entered: 02/02/2016)
02/02/2016	<u>28</u>	MEMORANDUM OF LAW in Support re: <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> . Document filed by Charlie Savage, The New York Times Company, (McCraw, David) (Entered: 02/02/2016)
02/02/2016	<u>29</u>	DECLARATION of David E. McCraw in Support re: <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> Document filed by Charlie Savage, The New York Times Company,. (McCraw, David) (Entered: 02/02/2016)
02/10/2016	<u>30</u>	CONSENT LETTER MOTION for Extension of Time to File Response/Reply as to <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> . addressed to Judge Edgardo Ramos from Dominika Tarczynska dated February 10, 2016. Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 02/10/2016)
02/14/2016	<u>31</u>	NOTICE of Withdrawal of Counsel. Document filed by Charlie Savage, The New York Times Company,. (McCraw, David) (Entered: 02/14/2016)
02/16/2016	32	ORDER granting <u>30</u> Letter Motion for Extension of Time to File Response/Reply re <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> . Responses due by 2/23/2016. Replies due by 3/1/2016. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (Ramos, Edgardo) (Entered: 02/16/2016)
02/16/2016	<u>33</u>	MEMO ENDORSEMENT on re: <u>31</u> NOTICE of Withdrawal of Counsel Jeremy Alexander Kutner. ENDORSEMENT: SO ORDERED. (Attorney Jeremy Alexander Kutner terminated.) (Signed by Judge Edgardo Ramos on 2/16/2016) (adc) (Entered: 02/17/2016)
02/23/2016	<u>34</u>	MEMORANDUM OF LAW in Opposition re: <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> . Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 02/23/2016)
02/23/2016	<u>35</u>	DECLARATION of Marshall H. Fields, Jr. in Opposition re: <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> Document filed by United States Department of the Treasury. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Tarczynska, Dominika) (Entered: 02/23/2016)

02/23/2016	<u>36</u>	DECLARATION of John E. Smith in Opposition re: <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> Document filed by United States Department of the Treasury. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Tarczynska, Dominika) (Entered: 02/23/2016)
03/01/2016	<u>37</u>	REPLY MEMORANDUM OF LAW in Support re: <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> . Document filed by Charlie Savage, The New York Times Company, (McCraw, David) (Entered: 03/01/2016)
04/26/2016	<u>38</u>	OPINION AND ORDER #106416 re: <u>27</u> MOTION for Discovery <i>Pursuant to Fed. R. Civ. P. 56(d)</i> filed by Charlie Savage, The New York Times Company. Treasury is hereby ORDERED to provide an affidavit or declaration from Marshall H. Fields, Jr. on or before May 13, 2016. The Times' cross—motion is due May 27, 2016. Treasury's response and reply is due June 10, 2016. The Times' reply is due June 24, 2016. The Times' motion is DENIED. The Clerk of the Court is respectfully directed to terminate the motion. Doc. 27. It is SO ORDERED. (As further set forth in this Order.) (Cross Motions due by 5/27/2016. Responses due by 6/10/2016, Replies due by 6/24/2016.) (Signed by Judge Edgardo Ramos on 4/26/2016) (kko) Modified on 5/2/2016 (ca). (Entered: 04/26/2016)
05/13/2016	<u>39</u>	DECLARATION of Marshall H. Fields, Jr. in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 05/13/2016)
05/18/2016	<u>40</u>	INTERNET CITATION NOTE: Material from decision with Internet citation re: <u>38</u> Memorandum & Opinion, Set Deadlines. (vf) (Entered: 05/18/2016)
05/26/2016	<u>41</u>	NOTICE OF APPEARANCE by Tali Ravit Leinwand on behalf of Charlie Savage, The New York Times Company,. (Leinwand, Tali) (Entered: 05/26/2016)
05/26/2016	<u>42</u>	MEMORANDUM OF LAW in Opposition re: <u>17</u> MOTION for Summary Judgment Document filed by Charlie Savage, The New York Times Company,. (McCraw, David) (Entered: 05/26/2016)
05/26/2016	<u>43</u>	DECLARATION of David E. McCraw in Opposition re: 17 MOTION for Summary Judgment Document filed by Charlie Savage, The New York Times Company,. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J)(McCraw, David) (Entered: 05/26/2016)
06/10/2016	<u>44</u>	REPLY MEMORANDUM OF LAW in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 06/10/2016)
06/10/2016	<u>45</u>	DECLARATION of Bradley T. Smith in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 06/10/2016)
06/17/2016	<u>46</u>	LETTER MOTION for Conference addressed to Judge Edgardo Ramos from David E. McCraw dated June 17, 2016. Document filed by Charlie Savage, The New York Times Company, (McCraw, David) (Entered: 06/17/2016)
06/23/2016	<u>47</u>	LETTER RESPONSE in Opposition to Motion addressed to Judge Edgardo Ramos from Dominika Tarczynska dated June 23, 2016 re: 46 LETTER MOTION for Conference addressed to Judge Edgardo Ramos from David E. McCraw dated June 17, 2016. Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 06/23/2016)
08/02/2016	<u>48</u>	OPINION AND ORDER #106662 re: 17 MOTION for Summary Judgment filed by United States Department of the Treasury, 46 LETTER MOTION for Conference addressed to Judge Edgardo Ramos from David E. McCraw dated June 17, 2016 filed by Charlie Savage, The New York Times Company. Treasury's motion for summary judgment is GRANTED as to the withholding of the Memo pursuant to FOIA Exemption 5. It is DENIED as to the adequacy of the search, with leave to renew following supplemental submissions and briefing. Treasury is directed to submit its supplemental affidavits or declarations on or before September 16, 2016. Treasury also has the option of submitting a supplemental brief on that date, but it should be no longer than fifteen (15) pages. The Times is then directed to submit its own response

		brief on or before October 14, 2016, to be no longer than fifteen (15) pages. Treasury's reply brief, no longer than five (5) pages, is due on or before October 28, 2016. The Clerk of the Court is respectfully directed to terminate the motion, Docs. 17, 46. It is SO ORDERED. (As further set forth in this Order.) (Signed by Judge Edgardo Ramos on 8/2/2016) (kko) Modified on 8/26/2016 (ca). (Entered: 08/03/2016)
08/02/2016		Set/Reset Deadlines: Brief due by 9/16/2016. Responses to Brief due by 10/14/2016. Reply to Response to Brief due by 10/28/2016. (kko) (Entered: 08/03/2016)
08/29/2016	<u>49</u>	INTERNET CITATION NOTE: Material from decision with Internet citation re: <u>48</u> Memorandum & Opinion. (vf) (Entered: 08/29/2016)
09/08/2016	<u>50</u>	CONSENT LETTER MOTION for Extension of Time to File <i>supplemental</i> declarations and brief addressed to Judge Edgardo Ramos from Dominika Tarczynska dated September 8, 2016. Document filed by United States Department of the Treasury.(Tarczynska, Dominika) (Entered: 09/08/2016)
09/09/2016	<u>51</u>	NOTICE of Withdrawal of Counsel. Document filed by Charlie Savage, The New York Times Company,. (McCraw, David) (Entered: 09/09/2016)
09/12/2016	<u>52</u>	MEMO ENDORSEMENT on re: <u>51</u> Notice of Withdrawal of Counsel filed by Charlie Savage, The New York Times Company. ENDORSEMENT: SO ORDERED. Attorney Tali Ravit Leinwand terminated. (Signed by Judge Edgardo Ramos on 9/12/2016) (kko) (Entered: 09/12/2016)
09/12/2016	53	ORDER granting <u>50</u> Letter Motion for Extension of Time to File <i>supplemental declarations and brief.</i> Defendant's declarations and supplemental brief are now due by September 23, 2016. Plaintiff's response brief is due by October 21, 2016. Defendant's reply is due November 4, 2016. (HEREBY ORDERED by Judge Edgardo Ramos)(Text Only Order) (Ramos, Edgardo) (Entered: 09/12/2016)
09/22/2016	<u>54</u>	SUPPLEMENTAL MEMORANDUM OF LAW in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 09/22/2016)
09/22/2016	<u>55</u>	DECLARATION of M. William Schisa in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 09/22/2016)
09/22/2016	<u>56</u>	DECLARATION of Marshall H. Fields, Jr. in Support re: <u>17</u> MOTION for Summary Judgment Document filed by United States Department of the Treasury. (Tarczynska, Dominika) (Entered: 09/22/2016)
10/20/2016	<u>57</u>	STIPULATION AND ORDER OF SETTLEMENT AND DISMISSAL: IT IS HEREBY STIPULATED AND AGREED, by and between the parties, as follows: 1. Plaintiffs no longer wish to further contest the adequacy of Treasury's search and waive any and all claims that they now have or may hereafter acquire against Treasury, any other department or agency of the United States Government, and any officer employee, or agent of Treasury or the United States Government related to or arising out of Plaintiffs' FOIA Request. 2. This action is hereby dismissed with prejudice, with each party to bear its own fees and costs, provided that the Court shall retain jurisdiction over any issues that may arise relating to this Stipulation and Order. 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. (Signed by Judge Edgardo Ramos on 10/20/2016) (mro) (Entered: 10/21/2016)
10/20/2016		Terminate Transcript Deadlines (mro) (Entered: 11/14/2016)