

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY	:	X
and CHARLIE SAVAGE,	:	
	:	
Plaintiffs,	:	
	:	
- against -	:	
FEDERAL BUREAU OF INVESTIGATION,	:	
	:	
Defendant.	:	
	:	
	:	X

COMPLAINT

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 Federal Bureau of Investigation (“FBI”) 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, in Manhattan.

3. Plaintiff Charlie Savage is a reporter for *The New York Times* and an employee of The New York Times Company.

4. Defendant FBI 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. Plaintiffs have exhausted all administrative remedies available. The FBI has failed to make an initial determination with respect to Plaintiffs' request within the timeframe set by FOIA, and Plaintiffs therefore are deemed to have exhausted all administrative remedies, pursuant to 5 U.S.C. § 552(a)(6)(C).

FACTS

8. On May 17, 2017, The Times submitted a FOIA request to the FBI, seeking “[a]ll memos, e-mails, or other documents by James Comey discussing or memorializing conversations with Donald Trump.”

9. In two letters dated May 19, 2017, the FBI acknowledged receipt of The Times's FOIA request and denied its request for expedited processing.

10. The FBI has failed to issue a response to the request within 20 business days, as required under FOIA.

COUNT I

11. Plaintiffs repeat, reallege, and reincorporate the allegations in the foregoing paragraphs as though fully set forth herein.

12. Defendant FBI 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. The FBI has failed to act on Plaintiffs' request within the 20 business days required by FOIA. *See* 5 U.S.C. § 552(a)(6)(A)(i). Accordingly, Plaintiffs are deemed to have exhausted their administrative remedies under FOIA.

14. The FBI has no lawful basis for declining to release the records requested by Plaintiffs under FOIA.

15. Accordingly, Plaintiffs are entitled to an order compelling the FBI 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 the FBI 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
June 16, 2017

_____/s/_____
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