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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY and  
MARK WALKER,

Plaintiffs,

- against -

DEPARTMENT OF THE TREASURY,

Defendant.

**ANSWER**

No. 19 Civ. 9669 (AT)

Defendant the U.S. Department of the Treasury (“Treasury”), by its attorney, Geoffrey S. Berman, United States Attorney for the Southern District of New York, answers the complaint of plaintiffs The New York Times Company and Mark Walker (collectively, “Plaintiffs”) upon information and belief as follows:

1. Paragraph 1 is Plaintiffs’ characterization of this action, to which no response is required.

**PARTIES**

2. Defendant denies knowledge or information sufficient to form a belief as to the allegations of paragraph 2.

3. Defendant denies knowledge or information sufficient to form a belief as to the allegations of paragraph 3.

4. Defendant denies except admits that the United States Department of the Treasury is an agency of the executive branch of the U.S. government, and avers that the allegation that Defendant “has possession and control of the records that Plaintiffs seek” is a conclusion of law, to which no response is required.

#### **JURISDICTION AND VENUE**

5. Paragraph 5 is a conclusion of law to which no response is required.

6. Paragraph 6 is a conclusion of law to which no response is required.

7. Paragraph 7 is a conclusion of law to which no response is required.

#### **FACTS**

8. Defendant denies except admits that it received a FOIA request from Plaintiffs dated June 11, 2019, and respectfully refers the Court to that FOIA request for a full and accurate statement of its contents.

9. Defendant respectfully refers the Court to the cited FOIA request for a complete and accurate statement of its contents.

10. Defendant respectfully refers the Court to the cited FOIA request for a complete and accurate statement of its contents.

11. Defendant admits that it responded to Plaintiffs’ FOIA request in a letter dated June 17, 2019, and respectfully refers the Court to that letter for a full and accurate statement of its contents.

12. Defendant denies except admits that it received an appeal letter from Plaintiffs dated July 3, 2019, and respectfully refers the Court to that letter for a full and accurate statement of its contents.

13. Defendant denies the allegations in the first sentence of paragraph 13. Defendant denies the allegations in the second sentence of paragraph 13, except admits that Defendant has not made a final determination on Plaintiffs' appeal. The third sentence of paragraph 13 consists of a conclusion of law, to which no response is required.

### **COUNT I**

1. Defendant re-alleges and incorporates by reference its responses to the preceding paragraphs.

2. Paragraph 2 contains conclusions of law to which no response is required.

3. Paragraph 3 contains conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegations of paragraph 3.

4. Paragraph 4 contains conclusions of law to which no response is required.

5. Paragraph 5 contains conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegations of paragraph 5.

6. Paragraph 6 contains conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegations of paragraph 6.

### **RELIEF REQUESTED**

The paragraph and subparagraphs beginning "WHEREFORE" constitute Plaintiffs' prayer for relief, to which no response is required. To the extent a response is required, Defendant denies that Plaintiffs are entitled to the relief sought or any relief.

## **AFFIRMATIVE AND OTHER DEFENSES**

Any allegations not specifically admitted, denied, or otherwise answered are hereby denied. For its further and separate defenses, Defendant alleges as follows:

### **FIRST DEFENSE**

Some or all of the requested documents and information are exempt from disclosure. *See* 5 U.S.C. § 552(b); 8 U.S.C. § 1202(f).

### **SECOND DEFENSE**

The Court lacks subject matter jurisdiction over Plaintiffs' requests for relief that exceed the relief authorized under FOIA.

### **THIRD DEFENSE**

Defendant is not required to process this FOIA request because the request is so broad as to impose an unreasonable burden on the agency.

### **FOURTH DEFENSE**

Defendant's actions or inactions did not violate FOIA or any other statutory or regulatory provision.

Defendant may have additional defenses which are not known at this time but which may become known through discovery. Accordingly, Defendant reserves the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE Defendant respectfully requests that the Court: (1) dismiss the Complaint with prejudice; (2) enter judgment in favor of Defendant; and (3) grant such further relief as the Court deems just and proper.

Date: New York, New York  
November 27, 2019

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