

JENNIFER A. BORG, ESQ. #035131990
PASHMAN STEIN WALDER HAYDEN
A Professional Corporation
Court Plaza South
21 Main St., Suite 200
Hackensack, NJ 07601
201-488-8200
jborg@pashmanstein.com

Attorneys for Plaintiff,
The New York Times Company

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

DIVISION OF TAXATION OF THE
DEPARTMENT OF TREASURY OF THE
STATE OF NEW JERSEY; JOHN OR JANE
DOE, in their capacity as OPRA Custodian for
the Department of Treasury; DIVISION OF
ADMINISTRATION OF THE
DEPARTMENT OF TREASURY OF THE
STATE OF NEW JERSEY; and CYNTHIA
JABLONSKI, in her capacity as Manager of
the Government Records Access Unit of the
Division of the Administration of the
Department of the Treasury,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY

Docket No.:

Civil Action

VERIFIED COMPLAINT

Plaintiff, The New York Times Company, by way of its Verified Complaint against Defendants,
states as follows:

1. This is an action alleging violation of the New Jersey Open Public
Records Act, N.J.S.A. 47:1A-1, *et seq.*, and the common law right of access to public records.
2. This action is being brought because Defendants have unlawfully denied
Plaintiff access to public records, including, but not limited to, information and communications

pertaining to the taxation settlement between several New Jersey casinos affiliated with and/or bearing the name of our current President Donald J. Trump ("Trump Casinos") and the State of New Jersey during the time period of September 1, 2011, through December 31, 2011.

PARTIES

3. Plaintiff is the New York Times Company with an address of 620 Eighth Avenue, NY, NY 10018. Plaintiff is a New York corporation that publishes a daily print newspaper, The New York Times ("The Times"). The Times has won 125 Pulitzer Prize awards, more than any other news organization, and is the second most circulated newspaper in the United States. Plaintiff's primary business is the gathering, editing, and reporting of information for the publication of news stories.

4. Defendant is Division of Taxation of the Department of Treasury of the State of New Jersey with an address of 50 Barrack Street, Trenton, NJ 08695. Defendant Division of Taxation of the Department of Treasury of the State of New Jersey is a state office tasked with formulating and managing the state's budget, generating and collecting revenues, disbursing the appropriations used to operate New Jersey state government, managing the state's physical and financial assets, and providing statewide support services to state and local government agencies as well as the citizens of New Jersey.

5. Defendant is John or Jane Doe with an address, upon information and belief, of either 50 Barrack Street, Trenton, NJ 08695 or 50 West State Street, Trenton, NJ 08625. Defendant John or Jane Doe is the custodian of public records and/or employee, official, agent and servant of Defendant Division of Taxation of the Department of Treasury of the State of New Jersey. The identity of the John or Jane Doe is not currently known to Plaintiff. The John or Jane Doe is being sued in his or her professional capacity.

6. Defendant is Division of Administration of the Department of Treasury of the State of New Jersey with an address of 50 West State Street, Trenton, NJ 08625. Defendant Division of Administration of the Department of Treasury provides administrative support to all divisions of the Department of Treasury of the State of New Jersey.

7. Defendant is Cynthia Jablonski with an address of NJ Department of Treasury, Division of Administration, 50 West State Street, Trenton, NJ 08625. Defendant Jablonski is the Manager of the Department of Treasury Government Records Access Unit. She is being sued in her professional capacity.

VENUE

8. Venue is properly laid in Mercer County because Defendants are public entities located in Mercer County and because the cause of action arises in Mercer County. R. 4:3-2(a).

FACTUAL ALLEGATIONS

Background

9. As a daily newspaper that circulates globally, including within New Jersey, The Times devotes significant time and resources to covering the State of New Jersey and the conduct of its public officials and employees. The Times provides important news coverage on critical topics relating to the State of New Jersey to help citizens better understand the issues affecting the public welfare as well as the conduct of public officials and employees. (Certification of Russell Buettner in support of Plaintiff's Verified Complaint (hereinafter "Buettner Cert.") at ¶2).

10. This matter arises from a series of requests for public records that were submitted to Defendants by The Times through Russell Buettner. Mr. Buettner is an investigative

reporter for The Times. In this capacity, he has investigated and reported on matters of public interest in the tri-state area and the New York City region for over two decades. Of particular relevance, Mr. Buettner has investigated and reported on a tax debt owed by Trump Casinos and on an eventual settlement entered into between the State and Trump. (See Exhibit (“Ex.”) A to Buettner Cert.; Buettner Cert. at ¶¶ 1-2).

11. As reported in Fortune, Donald J. Trump (“Trump”) served as Chairman of Trump Hotels and Casino resorts (renamed Trump Entertainment Resorts in 2004) from mid-1995 to early 2009. (See Ex. A. to Borg Cert.) Trump held the CEO title for 5 years (mid-2000 to mid-2005). (Id.) During Trump’s 13-year tenure as chairman, the casino empire lost a total of \$1.1 billion while paying Trump a staggering \$83 million by Fortune’s estimates. (Id.)

12. Between 2002 and 2006, Trump Casinos failed to satisfy their full tax obligations to the State of New Jersey. The State’s auditors and lawyers spent several years trying to collect these long-overdue taxes, which, including interest, represented a debt of over \$30 million. (See Ex A to “Buettner Cert.”). In 2011, the State agreed to settle a \$30 million obligation of the Trump Casinos for just \$5 million dollars – only 17 cents on the dollar. (Id.; see also Ex. B to Borg Cert.)

13. The tax debt at issue arose from a failure by the Trump Casinos to pay a state corporate tax that went into effect in 2002 and that was designed, in part, as an attempt to prevent businesses from avoiding taxes through accounting maneuvers. Id. The new tax, called the alternative minimum assessment, raised the state tax liability for most Atlantic City casinos. (Id.)

14. It was only after the Trump Casinos filed for bankruptcy protection in 2004 for the third time that State officials noticed that the entities had not been filling out the

required schedule for the new minimum tax assessment. *Id.* The State of New Jersey filed claims and objections in the bankruptcy proceedings in an effort to recoup the large tax debts owed to the State. (See Ex. B to Borg Cert).

15. State auditors assessed that the Trump Casino should have paid a total of \$8.8 million in alternative minimum taxes for 2002 and 2003, when these Trump Casinos paid at total of only \$601,500 in State taxes for those two years. (*See* Ex. A to Buettner Cert.)

16. The State's claims still had not been resolved in early 2009, when Trump Casinos filed for bankruptcy again. According to the State, the total amount due, with interest, had by then risen to \$29.4 million. (*Id.*)

17. In the course of the bankruptcy proceedings, the State also accused Trump Casinos of filing false reports regarding the amount of taxes that they had paid. (*Id.*)

18. For example, as reported by Mr. Buettner: "In February 2007, Heather Lynn Anderson, a deputy attorney general who specializes in tax cases, filed papers in court saying auditors had discovered discrepancies that raised 'numerous additional questions regarding the accuracy' of the Trump casinos' tax returns. The company had reported lower revenue figures on its tax returns, for example, than on filings with the State Casino Control Commission. Ms. Anderson also wrote that Mr. Trump's flagship casino, the Taj Mahal, had reported to the casino commission that it paid \$2.2 million in alternative minimum assessment tax in 2003, which was not true. The company had paid only \$500 in income taxes." (*Id.*)

19. Mr. Christie's name appeared several times in the bankruptcy case between 2004 and 2009, while he was the United States Attorney for New Jersey and representing the federal Internal Revenue Service in its own claims against Trump Casinos.

However, the case was handled by a lawyer for the I.R.S. and not by Mr. Christie personally. (Id).

20. The bankruptcy lawsuits contain numerous financial disclosures on behalf of Trump Casinos. (See Ex. C to Borg Cert.). Trump Casinos also files detailed financial reports with the State's Casino Control Commission. Financial information about Trump Casinos is available to the public online. (See Exs. D and E to Borg Cert.).

21. In December 2011, the protracted and previously unsuccessful settlement discussions between Trump Casinos and the State progressed. At some point before December 5, 2011, a \$5 million settlement for the disputed \$29,443,612.18 debt was agreed to. This sum amounts to roughly 17 cents on the dollar of Trump Casinos' debt, as reported by the auditors. (See Ex. A to Buettner Cert.; see also Ex. B to Borg Cert.).

22. The settlement was memorialized in a Stipulation and Order that was signed by Heather Lynn Anderson, Deputy Attorney General of the State of New Jersey, and Charles A. Stanziale, Counsel for Reorganized Debtors, on November 28, 2011, and November 30, 2011, respectively, and the settlement was filed by the parties and entered by the Court on December 5, 2011. (See Ex. B to Borg Cert.).

23. When Mr. Christie assumed office in 2010, he and Mr. Trump had a long-standing personal friendship. After first meeting in 2002, while Mr. Christie was serving as the United States Attorney for the District of New Jersey, the two became close friends. Mr. Christie attended Mr. Trump's third wedding in 2005; Mr. Trump attended Mr. Christie's inauguration in 2010. They and their wives have gone out together socially. Mr. Trump has made sizeable financial contributions to organizations close to Mr. Christie, such as the Republican Governor's Association, of which Mr. Christie was chairman at the time, and the Drumthwacket Foundation,

which sponsors improvements to the New Jersey governor's residence. After winning the 2016 Presidential Election, Mr. Trump tapped his "good and loyal friend" Mr. Christie to lead his transition committee. The close relationship between Mr. Christie and Mr. Trump led some to question whether the settlement of Trump organizations' debts in 2011, under Mr. Christie's governorship, was the result of preferential treatment. (See Ex. A to Buettner Cert.). Indeed, a story in the International Business Times reported that the "2011 settlement followed Trump pumping \$170,000 into the Republican Governors Association -- which backed Christie's election campaign -- in 2009 and 2010. (See Ex. P to Borg Cert.)

24. When Mr. Buettner reported on the tax settlement during the presidential campaign of 2016, Mr. Christie's spokesman, Brian Murray, stated that the governor had not been aware of the tax dispute and therefore could not comment on the terms of the settlement. (Id.).

25. Mr. Murray also reportedly made the following statement to another news outlet: "The New York Times was told repeatedly that the governor was unaware and uninvolved in a bankruptcy matter which began in 2005 while he was United States Attorney and was settled, without the governor's involvement, in 2011 by the New Jersey Department of Treasury and the Office of The Attorney General as a matter of course." (See Ex.F to Borg Cert.).

**Plaintiff's OPRA Requests to Division of Taxation
of the Department of Treasury, W130116 and W130117**

26. Mr. Buettner is currently working on a story about the tax settlement for The Times. In furtherance of his newsgathering, Mr. Buettner made fifteen records requests pursuant to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1, et seq., ("OPRA") and the common law. This lawsuit concerns the State's responses to two (2) of these Requests.

27. In the course of filing the OPRA requests, Mr. Buettner worked closely with the Media Freedom and Information Access Clinic at Yale Law School (“MFIA”). MFIA is a law student clinic that often provides litigation support to newsgatherers. Attorneys and law student interns from MFIA have assisted in drafting Plaintiff’s OPRA requests, and have worked alongside counsel for The Times to communicate with the State regarding these requests. They have also researched and drafted the pleadings in the instant lawsuit.

28. On March 3, 2018, Mr. Buettner submitted on behalf of Plaintiff a request for public records to the Division of Taxation of the Department of Treasury of the State of New Jersey. (See Ex B to Buettner Cert.; Buettner Cert. at ¶4).

29. Specifically, he requested copies of correspondence, dated from the time period of September 1, 2011 to December 31, 2011, between certain current or former employees of Treasury and other specific individuals about the “settlement of Claim No. 1181 and Claim No. 1251 between the Division of Taxation and various Trump organizations in the U.S. Bankruptcy Court for the District of New Jersey with the caption In re TCI 2 Holdings, LLC et al., Case No. 09-13654 (JHW).” (Request #W130116) (See Ex. B to Buettner Cert.).

30. Also on March 3, 2018, Mr. Buettner submitted a second, similar request to the Division of Taxation of the Department of Treasury of the State of New Jersey. The second request sought correspondence between the same current or former employees identified in Request #W130116, but with different individuals, concerning the same settlements of Claim No 1181 and Claim No 1251 and during the same time-period (Request #W130117). (See Ex. C to Buettner Cert.; Buettner Cert. at ¶5).

31. On March 20, 2018, Cynthia Jablonski, the Manager of the Government Records Access Unit, sent letters to Mr. Buettner requesting a twenty-day extension, until April 18, 2018, for both of these requests. (See Ex. D and Ex. E to Buettner Cert.;).

32. On April 18, 2018, Ms. Jablonski sent Mr. Buettner two letters responding to each of these two requests. (See Ex. F and Ex. G to Buettner Cert; Buettner Cert. at ¶¶8-9). With respect to Request #W130116, Ms. Jablonski provided three pages of responsive records, one of which contained redactions. She stated that other responsive records were being withheld on the basis of the attorney-client privilege, settlement negotiations privilege, and deliberative process privilege. Those records provided by Ms. Jablonski are not the subject of this lawsuit. (Id.).

33. With respect to Request #W130117, Ms. Jablonski stated that all responsive documents were being withheld on the basis of the settlement negotiations privilege and the deliberative process privilege. (See Ex. G to Buettner Cert.)

34. Between April 24, 2018, and May 24, 2018, Jennifer Borg, counsel for Plaintiff, and Raymond Chance, Assistant Attorney General for the State of New Jersey, were in communication via phone and email regarding Mr. Buettner's requests, and were amicably working to resolve the outstanding disputes. (See Ex. G to Borg Cert.; see Borg Cert at ¶9). The parties agreed to keep the requests open and pending while they worked to resolve the issues.

35. On May 24, 2018, Mr. Chance emailed Ms. Borg, stating that in re-reviewing Request #W130116, the State had found an additional responsive document. (See Ex. G to Borg Cert.; Borg Cert. at ¶9). That document (Bates No. 61) is a one-page email thread that was produced with several redactions for which a confidential settlement negotiations privilege was asserted. (See Ex. H to Borg Cert.; Borg Cert at ¶10).

36. In particular, that document contains a communication dated October 6, 2011, between Richard Mroz and Craig Domalewski, Senior Counsel for the Governor’s Office. (Id.). Upon information and belief, Mr. Mroz was a private citizen at the time. (See Borg Cert. ¶ 10). The redactions to that document are part of this lawsuit.

37. Additionally, on May 24, Mr. Chance sent Ms. Borg a document labeled “Privilege Log in response to OPRA request number W130116 and W130117 Buettner” (“Privilege Log”). That document is 81 pages long, and details the date, sender, recipients, and general subject matter of the documents withheld and of the redactions made to Bates No. 61. (See Ex. I to Borg Cert.; Borg Cert. at ¶11). It also included a brief description of the privileges being asserted. (Id.). In an effort to assist Plaintiff in its evaluation of the Privilege Log, the State included a list of people whose names were referenced in the Privilege Log and identified them by their job title. This list appears on the last two pages of that document. (See Ex. I to Borg Cert at 80-81).

38. On June 15, 2018, after reviewing the Privilege Log sent by Mr. Chance, law student intern Jeff Guo from MFIA contacted Mr. Chance on behalf of Mr. Buettner to request further details about the documents being withheld and the privileges asserted. (See Ex. J to Borg Cert.; see also Ex.K to Borg Cert. for the attachment to that message). First, Plaintiff requested that Mr. Chance review any records for which the confidential taxpayer information privilege was claimed that involved either high-level officials or others distant from the negotiations over the tax debt, and provide a list of such individuals. Second, Plaintiff requested the release of any records that date from after the settlement was signed. Third, Plaintiff requested further clarification as to how the “advisory, consultative and deliberative process” and “attorney client” privileges applied to each of the withheld records. Finally, Plaintiff requested

that the non-privileged portions of each document in the privilege log be disclosed, and that only the privileged material be redacted. Plaintiff specifically mentioned that disclosure of the time that messages were transmitted would be useful. (See Ex. K to Borg Cert.).

39. Between June and August, 2018, Mr. Chance and Plaintiff, through counsel, worked together amicably in an attempt to resolve the remaining issues. On August 26, 2018, Plaintiff, through MFIA attorney Jennifer Pinsof, restated Plaintiff's position with respect to some of Defendants' responses and requested additional time to review the privilege log in hopes of narrowing the issues before the State issued its final decision. (See Ex. L to Borg Cert.; Borg Cert. at ¶14). Between August and October, Mr. Chance and Plaintiff, through counsel, continued to work together toward a possible resolution of the open issues. (See Borg Cert. at ¶¶ 14-5).

40. On October 5, 2018, law student interns Sarah Levine and Jake van Leer wrote to Mr. Chance on behalf of Mr. Buettner stating that Plaintiff had narrowed the issues down to only 378 of the 641 documents referenced in the Privilege Log. That letter itemized the specific documents in the Privilege Log, by their Bates numbers, about which Plaintiff had remaining questions about the privileges asserted. All of the documents still in dispute have been withheld in their entirety with the exception of Bates No. 61 which contained limited redactions. (See Ex. M to Borg Cert.).

41. The October 5, 2018 letter reiterated Plaintiff's request that the State release records that date from after the settlement was signed between New Jersey and the Trump organizations. The letter also requested a review of documents for which attorney-client privilege was claimed. Specifically, the letter identified documents on which no attorneys were identified as recipients and documents on which individuals from multiple agencies were

present. More broadly, that letter requested further information as to how the attorney-client privilege applied to each of the withheld records. The letter also reiterated Plaintiff's request that Mr. Chance review any records claiming the confidential taxpayer information privilege that involve either high-level officials or others distant from the negotiation. Finally, Plaintiff again requested that the non-privileged portions of each document in the privilege log be disclosed and that only the privileged material be redacted. (Id.).

42. Between October 2018 and February 2019, Mr. Chance and Plaintiff, through counsel, continued to work amicably in an attempt to resolve the remaining issues. (See Borg Cert. ¶15).

43. On February 6, 2019, Plaintiff received a letter from the Office of the Attorney General, Department of Law and Public Safety, signed by Heather Lynn Anderson, Deputy Attorney General, reiterating that it stood by the privileges asserted on the Privilege Log and stating that OPRA Requests #W130116 and #W130117 were closed. Mr. Chance forwarded the letter to Plaintiff's counsel on that same day. (See Ex. N to Borg Cert.; Borg Cert. at ¶16).

44. Plaintiff and counsel for the State worked together for several months to narrow the issues in this case and to reduce the number of disputed documents but were not able to come to a final agreement. This lawsuit concerns only some of the documents identified in the Privilege Log. For the convenience of the Court, Plaintiff has created new logs listing only the documents in dispute, which are attached as Exhibit A, Exhibit B, Exhibit C, and Exhibit D to the Certification of Sarah Levine in support of Plaintiff's Verified Complaint (hereinafter "Levine Cert."). These exhibits were produced by Sarah Levine of the Media Freedom and Information Access Clinic at Yale Law School. They are organized according to the privileges claimed: deliberative process privilege (Ex. A to Levine Cert.), confidential settlement

negotiations privilege (Ex. B to Levine Cert.), attorney-client privilege (Ex. C to Levine Cert.), and confidential taxpayer information privilege (Ex. D to Levine Cert.). (See Levine Cert. ¶ 2).

FIRST COUNT
(Violation of OPRA)

45. Plaintiff hereby repeats and incorporates all of the previous allegations and paragraphs set forth in this Verified Complaint and makes them a part hereof as if set forth at length.

46. OPRA broadly declares that “government records shall be readily accessible for the inspection, copying, or examination” and that “any limitation of the right of access . . . shall be construed in favor of the public’s right of access.” N.J.S.A. 47:1A-1.

47. OPRA unambiguously declares that a custodian of records shall indicate the specific basis for denying access to a requested record. N.J.S.A. 47:1A-5(g).

48. A public agency had the burden of proving that any denial of access is authorized by law. N.J.S.A. 47:1A-6.

49. OPRA requires that “if the records custodian asserts that a part of a particular record is exempted from public access, the custodian shall delete or excuse from a copy of the record that portion which the custodian asserts is exempt from access and shall promptly permit access to the remainder of the record.” N.J.S.A. 47:1A-5(g).

50. The records sought by Plaintiff are government records and are subject to public access under OPRA.

51. In response to certain requests, Defendants have refused to identify the custodian of records. N.J.S.A. 47:1A-5(g)-(i).

52. In response to certain requests, Defendants have not identified the specific records being withheld and have refused to perform adequate searches to identify whether any responsive records even exist.

53. In response to certain requests, Defendants have improperly claimed exemptions to avoid producing documents to which these exemptions do not in fact apply, and to which Plaintiff should have access.

54. Accordingly, Defendants violated OPRA by:

- a. Failing to make the records requested by Plaintiff “readily accessible for inspection, copying, or examination,” in violation of N.J.S.A. 47:1A-1;
- b. Failing to disclose nonexempt government records or nonexempt portions of government records, in violation of N.J.S.A. 47:1A-5(g);
- c. Failing to provide a lawful basis for denying access to government records in violation of N.J.S.A. 47:1A-5(g); and
- d. Failing to identify the specific public records responsive to the request and the specific basis for withholding each of those records in violation of N.J.S.A. 47:1A-5(g).
- e. Engaging in a knowing and willful violation of OPRA in violation of N.J.S.A. 47:1A-11.

WHEREFORE, Plaintiff demands judgment against Defendants:

- a. Declaring said actions of Defendants to be in violation of OPRA, N.J.S.A. 47:1A-1, *et seq.*, by failing to provide access to the requested records, as required by OPRA;

- b. Directing Defendants to identify each record they withheld in its entirety as well as the legal justification therefore;
- c. Directing Defendants to identify their custodian of records when responding to Plaintiff's OPRA requests;
- d. Imposing a civil penalty of \$1,000.00 upon the Custodian of Records and/or any other appropriate public official, officer, or employee for his or her knowing and willful denial of access to the requested records;
- e. Directing Defendants to submit a detailed Vaughn Index which explains why each redaction is lawful, including why the claimed privilege applies to the redacted information;
- f. Directing Defendants to submit a detailed Vaughn Index which explains why each record has been withheld in its entirety, including why the claimed privilege applies to the withheld information;
- g. Ordering limited discovery as to the date the settlement negotiations ceased between Trump Casinos and the State of New Jersey;
- h. Ordering a sworn statement from any persons involved in handling Plaintiff's OPRA request, as set forth in Paff v. New Jersey Department of Labor, 392 N.J. Super. 334 (App. Div. 2007); or in the alternative, a plenary hearing to conduct discovery and resolve any factual disputes;
- i. Directing Defendants to release the requested records to Plaintiff forthwith.

Alternatively, if the Court believes that any information is exempt from public access, Plaintiff respectfully asks the Court to review the records *in camera* and then require Defendants to delete or excise from the records the portion(s) which

are exempt from public access and promptly permit access to the remainder of the records;

- j. Ordering Defendants to preserve the requested record pending resolution of these proceedings or as otherwise required by law;
- k. Awarding counsel fees and costs pursuant to N.J.S.A. 47:1A-6; and
- l. For such other relief as the Court may deem just and equitable.

SECOND COUNT
(Violation of the Common Law Right of Access)

55. Plaintiff hereby repeats and incorporates all of the previous allegations and paragraphs set forth in this Verified Complaint and makes them a part hereof as if set forth at length.

56. Defendants have violated Plaintiff's common law right of access to records by denying access to the requested records.

- a. Plaintiff has a vested right under the New Jersey common law to access and inspect the requested records.
- b. Defendants have made, maintained, or kept on file the requested public records.
- c. There exists a strong public interest in favor of disclosure of the records requested, and there is no overriding, countervailing interest in confidentiality of these records.
- d. The public, and therefore Plaintiff, has a strong interest in understanding settlements reached between the State of New Jersey and New Jersey taxpayers, and, in particular, any potential conflicts of interest or preferential treatment bearing on those settlements.

- e. Plaintiff, as the eyes and ears of the public, has a right to know the information contained in the requested records in order to provide complete and timely information to the public.
- f. Plaintiff's interest in these records outweighs the government's interest in keeping the requested records confidential.
- g. Accordingly, Defendant's failure to provide the requested records violates Plaintiff's common law right of access to public records.

57. Accordingly, Defendants' failure to provide the requested records violates the common law right of access to public records.

WHEREFORE, Plaintiff demands judgment against Defendants:

- a. Declaring said actions of Defendants to be unlawful;
- b. Ordering limited discovery as to the date the settlement negotiations ceased between Trump Casinos and the State of New Jersey;
- c. Directing Defendants to release the requested records to Plaintiff forthwith.

Alternatively, if the Court believes that any information is exempt from public access, Plaintiff respectfully asks the Court to review the records *in camera* and then require Defendants to delete or excise from the records the portion(s) which are exempt from public access and promptly permit access to the remainder of the records;
- d. Directing Defendants to submit a detailed Vaughn Index which explains why each redaction is lawful, including why the claimed privilege applies to the redacted information;

- e. Directing Defendants to submit a detailed Vaughn Index which explains why each record has been withheld in its entirety, including why the claimed privilege applies to the withheld information;
- f. Ordering Defendants to preserve the requested record pending resolution of these proceedings or as otherwise required by law;
- g. Awarding counsel fees and costs; and
- h. For such other relief as the Court may deem just and equitable.

PASHMAN STEIN WALDER HAYDEN
A Professional Corporation
Attorney for Plaintiff,
The New York Times Company

By: _____

Jennifer A. Borg

Dated: March 14, 2019

David A. Schulz
Jennifer Pinsof
Sarah Levine (law student intern)
Sara Worth (law student intern)
Simone Seiver (law student intern)
MEDIA FREEDOM AND
INFORMATION ACCESS CLINIC¹
ABRAMS INSTITUTE
Yale Law School
P.O. Box 208215
New Haven, CT 06520
Tel: (203) 436-5831
Fax: (203) 432-3034

¹ This complaint has been prepared in part by a clinic associated with the Abrams Institute for Freedom of Expression and the Information Society Project at Yale Law School, but does not purport to present the school's institutional views, if any.

CERTIFICATION PURSUANT TO R. 4:5-1

Plaintiff hereby certifies that the matter in controversy is not the subject of any other action pending in any Court and is likewise not the subject of any pending arbitration proceeding. Plaintiff further certifies that it has no knowledge of any contemplated action or arbitration proceeding regarding the subject matter of this action and that Plaintiff is not aware of any other parties who should be joined in this action.

PASHMAN STEIN
A Professional Corporation,
Attorneys for Plaintiff
The New York Times Company

Dated: March 14, 2019

By: 
JENNIFER A. BORG

CERTIFICATION PURSUANT TO R. 4:25-4

Pursuant to R. 4:25-4, Jennifer A. Borg. is hereby designated as trial counsel.

PASHMAN STEIN
A Professional Corporation,
Attorneys for Plaintiff
The New York Times Company

Dated: March 14, 2019

By: 
JENNIFER A. BORG

VERIFICATION

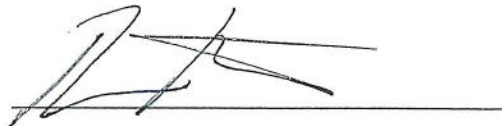
I, Russell Buettner, of full age, deposes and says:

1. I am a reporter for *The New York Times*, which is published by The New York Times Company, Plaintiff in the foregoing Verified Complaint.

2. I have read the Verified Complaint. The allegations of the Verified Complaint contained therein are true. The said Verified Complaint is based on personal knowledge and is made in truth and in good faith and without collusion, for the causes set forth herein. As to any facts alleged to be upon information and belief, I believe those facts to be true.

3. All documents attached to the Verified Complaint and Memorandum of Law are true copies and have not been redacted, changed, modified, adjusted or otherwise altered in any manner by me or my agents unless so stated.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

A handwritten signature in black ink, appearing to be 'R. Buettner', is written over a horizontal line.

RUSSELL BUETTNER

Dated: March 13, 2019