

APPEAL,CLOSED,TYPE I-FOIA

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:14-cv-01589-LLA
*Internal Use Only***

ACCURACY IN MEDIA, INC. et al v. DEPARTMENT OF
DEFENSE et al
Assigned to: Judge Loren L. AliKhan
Cause: 05:552 Freedom of Information Act

Date Filed: 09/19/2014
Date Terminated: 04/30/2024
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

ACCURACY IN MEDIA, INC.

represented by **John Harrison Clarke**
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LEAD ATTORNEY
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Plaintiff

ROGER L. ARONOFF

represented by **John Harrison Clarke**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

LARRY W. BAILEY
Captain, USN, Ret.

represented by **John Harrison Clarke**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

KENNETH BENWAY
Lieutenant Colonel, USA, Ret.

represented by **John Harrison Clarke**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

RICHARD F. BRAUER, JR
Colonel, USA, Ret.

represented by **John Harrison Clarke**
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Plaintiff

CLARE M. LOPEZ

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Plaintiff

JAMES A. LYONS, JR.
Admiral, USN, Ret.

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

KEVIN MICHAEL SHIPP

represented by **John Harrison Clarke**
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LEAD ATTORNEY
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V.

Defendant

DEPARTMENT OF DEFENSE
And its Components Department Of The Army, Navy Department, Department Of The Air Force, Marine Corps, European Command, Central Command, Africa Command, Special Operations Command, Office Of Secretary Of Defense And Joint Staff, Defense Intelligence Agency

represented by **Joshua Charles Abbuhl**
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TERMINATED: 08/28/2020
PRO HAC VICE

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Defendant

U.S. DEPARTMENT OF STATE

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Kristina Ann Wolfe
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Megan Anne Crowley
(See above for address)
TERMINATED: 08/28/2020
PRO HAC VICE

Tamra Tyree Moore
(See above for address)
TERMINATED: 08/28/2020

Defendant

U.S. DEPARTMENT OF JUSTICE
And Its Component Federal Bureau of
Investigation

represented by **Joshua Charles Abbuhl**
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Kristina Ann Wolfe
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Megan Anne Crowley
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TERMINATED: 08/28/2020
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Tamra Tyree Moore
(See above for address)

TERMINATED: 08/28/2020

Defendant

**CENTRAL INTELLIGENCE
 AGENCY**

represented by **Joshua Charles Abbuhl**
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 TERMINATED: 08/28/2020

Date Filed	#	Docket Text
09/19/2014	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-3844221) filed by CLARE M LOPEZ, LARRY W. BAILEY, JAMES A. LYONS, JR, ROGER L ARONOFF, KEVIN MICHAEL SHIPP, ACCURACY IN MEDIA, INC., KENNETH BENWAY, RICHARD F BRAUER, JR.(Clarke, John) (Entered: 09/19/2014)
09/19/2014	<u>2</u>	CIVIL COVER SHEET by ACCURACY IN MEDIA, INC. re <u>1</u> Complaint, filed by ACCURACY IN MEDIA, INC.. Related document: <u>1</u> Complaint, filed by CLARE M LOPEZ, ROGER L ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, JAMES A. LYONS, JR., ACCURACY IN MEDIA, INC., RICHARD F BRAUER, JR, KEVIN MICHAEL SHIPP.(Clarke, John) (Entered: 09/19/2014)
09/19/2014	<u>3</u>	REQUEST FOR SUMMONS TO ISSUE by ACCURACY IN MEDIA, INC. re <u>1</u> Complaint, filed by ACCURACY IN MEDIA, INC.. Related document: <u>1</u> Complaint, filed by CLARE M LOPEZ, ROGER L ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, JAMES A. LYONS, JR., ACCURACY IN MEDIA, INC., RICHARD F BRAUER, JR, KEVIN MICHAEL SHIPP. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Summons, # <u>6</u> Summons)(Clarke, John) (Entered: 09/19/2014)
09/19/2014		Case Assigned to Judge Emmet G. Sullivan. (kb) (Entered: 09/19/2014)
09/20/2014	<u>4</u>	REQUEST FOR SUMMONS TO ISSUE <i>Summons</i> by ACCURACY IN MEDIA, INC. filed by ACCURACY IN MEDIA, INC.. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons)(Clarke, John) (Entered: 09/20/2014)
09/22/2014	<u>5</u>	SUMMONS (2) Issued Electronically as to U.S. Attorney and U.S. Attorney General (td,) (Entered: 09/22/2014)

09/22/2014	<u>6</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by ACCURACY IN MEDIA, INC. (Attachments: # <u>1</u> CERTIFICATE RULE LCvR 7.1)(Clarke, John) (Entered: 09/22/2014)
09/23/2014	<u>7</u>	SUMMONS (4) Issued Electronically as to CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, DEPARTMENT OF STATE. (Attachments: # <u>1</u> Consent Form, # <u>2</u> Notice of Consent)(kb) (Entered: 09/23/2014)
12/22/2014	<u>8</u>	NOTICE of Appearance by Megan Anne Crowley on behalf of All Defendants (Crowley, Megan) (Entered: 12/22/2014)
12/22/2014	<u>9</u>	ANSWER to Complaint by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, DEPARTMENT OF STATE. (Attachments: # <u>1</u> Exhibit Attachment 1, # <u>2</u> Exhibit Attachment 2, # <u>3</u> Exhibit Attachment 3, # <u>4</u> Exhibit Attachment 4, # <u>5</u> Exhibit Attachment 5, # <u>6</u> Exhibit Attachment 6, # <u>7</u> Exhibit Attachment 7, # <u>8</u> Exhibit Attachment 8, # <u>9</u> Exhibit Attachment 9, # <u>10</u> Exhibit Attachment 10, # <u>11</u> Exhibit Attachment 11, # <u>12</u> Exhibit Attachment 12, # <u>13</u> Exhibit Attachment 13, # <u>14</u> Exhibit Attachment 14, # <u>15</u> Exhibit Attachment 15, # <u>16</u> Exhibit Attachment 16, # <u>17</u> Exhibit Attachment 17, # <u>18</u> Exhibit Attachment 18, # <u>19</u> Exhibit Attachment 19, # <u>20</u> Exhibit Attachment 20)(Crowley, Megan) (Entered: 12/22/2014)
01/06/2015	<u>10</u>	ORDER FOR MEET AND CONFER REPORT. Attorney Meet and Confer Conference by 1/28/2015. Meet & Confer Statement due by 2/11/2015. Signed by Judge Emmet G. Sullivan on 01/06/15. (mac) (Entered: 01/06/2015)
01/07/2015	<u>11</u>	Unopposed MOTION for Leave to File <i>Supplemental Complaint</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Supplement Supplemental Complaint)(Clarke, John) (Entered: 01/07/2015)
01/12/2015		MINUTE ORDER granting <u>11</u> plaintiffs' unopposed motion for leave to file supplemental complaint. The government shall answer or otherwise respond to <u>11</u> plaintiffs' supplemental complaint by no later than January 23, 2015. Signed by Judge Emmet G. Sullivan on January 12, 2015. (lcegs4) (Entered: 01/12/2015)
01/12/2015		Set/Reset Deadlines: Government Answer due by 1/23/2015. (mac) (Entered: 01/12/2015)
01/12/2015	<u>12</u>	SUPPLEMENTAL COMPLAINT against CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, DEPARTMENT OF STATE filed by CLARE M. LOPEZ, LARRY W. BAILEY, JAMES A. LYONS, JR, ROGER L. ARONOFF, KEVIN MICHAEL SHIPP, ACCURACY IN MEDIA, INC., KENNETH BENWAY, RICHARD F. BRAUER, JR.(jf,) (Entered: 01/13/2015)
01/23/2015	<u>13</u>	ANSWER to <u>12</u> Complaint, by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, DEPARTMENT OF STATE. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Crowley, Megan) (Entered: 01/23/2015)
01/26/2015	<u>14</u>	AMENDED ORDER FOR MEET AND CONFER REPORT. Attorney Meet and Confer Conference by 2/17/2015. Meet & Confer Statement due by 3/3/2015. Signed by Judge Emmet G. Sullivan on 01/26/2015. (mac) (Entered: 01/26/2015)

02/22/2015	<u>15</u>	MOTION to Expedite , MOTION to Stay <i>CASE AGAINST CIA</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Exhibit DOD/DIA Ad–Appeal Letter, # <u>2</u> Exhibit DOD/DIA Ad–Appeal+Rpt–Q’s–Timeline, # <u>3</u> Exhibit DOD/DIA Ad–Appeal Exhibits, # <u>4</u> Exhibit State Dept Ad Appeal, # <u>5</u> Exhibit CIA Ad Appeal, # <u>6</u> Exhibit Admiral Kubic Transcript, # <u>7</u> Exhibit Intel Committee Rpt Excerpt, # <u>8</u> Exhibit LexisNexis search, # <u>9</u> Exhibit List Congressional record)(Clarke, John) (Entered: 02/22/2015)
02/26/2015	<u>16</u>	NOTICE OF WITHDRAWAL OF MOTION by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP re <u>15</u> MOTION to Expedite MOTION to Stay <i>CASE AGAINST CIA</i> (Clarke, John) (Entered: 02/26/2015)
02/26/2015		MINUTE ORDER. The plaintiffs styled one filing as a motion to expedite and motion to stay case against the CIA. The plaintiffs' filing consists of over 300 pages of materials. On February 26, 2015, the plaintiffs filed a <u>16</u> notice of withdrawal of <u>15</u> motion for expedited processing. To avoid any confusion in the record, and in the interests of judicial economy, the plaintiffs are directed to refile only the motion to stay case against the CIA by no later than March 6, 2015. Accordingly, <u>15</u> plaintiffs' motion to expedite and motion to stay case against the CIA is DENIED without prejudice. Signed by Judge Emmet G. Sullivan on February 26, 2015. (lcegs4) (Entered: 02/26/2015)
02/27/2015		Set/Reset Deadlines: Plaintiffs Refiling of Motion To Stay Case Against the CIA due by 3/6/2015. (mac) (Entered: 02/27/2015)
03/03/2015	<u>17</u>	MEET AND CONFER STATEMENT. (Clarke, John) (Entered: 03/03/2015)
03/03/2015	<u>18</u>	Unopposed MOTION for Order <i>Preserving Certain Allegations</i> by DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Declaration Hardy Decl., # <u>2</u> Text of Proposed Order)(Crowley, Megan) (Entered: 03/03/2015)
03/05/2015	<u>19</u>	MOTION to Stay <i>PARTIAL STAY AGAINST CIA</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Exhibit Intel Comittee Rpt Excerpt 1–15–14, # <u>2</u> Exhibit List Congressional Record, # <u>3</u> Exhibit Ad Charles Kubic, USN, (Ret.) transcript Press Roundtable)(Clarke, John) (Entered: 03/05/2015)
03/20/2015		MINUTE ORDER. The CIA is directed to file its response to <u>19</u> plaintiffs' motion to stay by no later than March 27, 2015. Signed by Judge Emmet G. Sullivan on March 20, 2015. (lcegs4) (Entered: 03/20/2015)
03/20/2015		Set/Reset Deadlines: CIA Response due by 3/27/2015. (mac) (Entered: 03/20/2015)
03/23/2015	<u>20</u>	NOTICE OF FILING OF PROPOSED SCHEDULING ORDER by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR re <u>17</u> Meet and Confer Statement (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 03/23/2015)
03/27/2015	<u>21</u>	RESPONSE TO ORDER OF THE COURT re Order filed by CENTRAL INTELLIGENCE AGENCY. (Crowley, Megan) (Entered: 03/27/2015)

04/03/2015	<u>22</u>	REPLY to opposition to motion re <u>19</u> MOTION to Stay <i>PARTIAL STAY AGAINST CIA</i> filed by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 04/03/2015)
04/03/2015	<u>23</u>	MOTION for Partial Summary Judgment <i>AGAINST DEFENDANT STATE DEPARTMENT ON ISSUE OF PRODUCTION IN ELECTRONIC FORMAT</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Exhibit State Dept FOIA requests, # <u>2</u> Exhibit State Dept email to plaintiffs, # <u>3</u> Text of Proposed Order)(Clarke, John) Modified event title on 4/6/2015 (znmw,). (Entered: 04/03/2015)
04/16/2015	<u>24</u>	STIPULATION re <u>23</u> MOTION for Partial Summary Judgment by DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 04/16/2015)
05/13/2015	<u>25</u>	MOTION for Partial Summary Judgment <i>against Defendant DOJ for Disclosure of Three FBI 302 Reports</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Exhibit Ex 1 13 Hours excerpts, # <u>2</u> Exhibit Ex 2 Katallah indictment, # <u>3</u> Exhibit Ex 3 Katallah docket, # <u>4</u> Text of Proposed Order)(Clarke, John). (Entered: 05/13/2015)
05/14/2015	<u>26</u>	MOTION for Extension of Time to File Response/Reply as to <u>25</u> MOTION for Summary Judgment <i>against Defendant DOJ for Disclosure of Three FBI 302 Reports</i> by DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Text of Proposed Order)(Crowley, Megan) (Entered: 05/14/2015)
05/26/2015	<u>27</u>	MOTION to Amend/Correct <i>COMPLAINT</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Exhibit Amended Complaint, # <u>2</u> Text of Proposed Order)(Clarke, John) (Entered: 05/26/2015)
05/27/2015		MINUTE ORDER granting <u>26</u> defendants' unopposed motion for extension of time. Defendants shall respond to <u>25</u> plaintiff's motion for summary judgment by no later than June 8, 2015. Signed by Judge Emmet G. Sullivan on May 27, 2015. (lcegs2) (Entered: 05/27/2015)
05/27/2015		Set/Reset Deadlines: Defendant Response to Motion for Summary Judgment due by 6/8/2015. (mac) (Entered: 05/27/2015)
05/27/2015		Set/Reset Deadlines: IRS Summary Judgment motion and Vaughn Index due by 6/15/2015. Plaintiff Opposition to Defendant's Motion, Combined With Any Cross Motion For Summary Judgment due by 7/15/2015. Defendant Reply In Further Support Of Its Motion, Combined With Its Opposition To The Plaintiff's Cross Motion due by 8/17/2015. Plaintiff Reply In Further Support Of Its Motion due by 8/31/2015. (zmac) (Entered: 05/27/2015)
06/03/2015	<u>28</u>	STATUS REPORT by DEPARTMENT OF DEFENSE, DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 06/03/2015)
06/08/2015	<u>29</u>	

		Memorandum in opposition to re <u>25</u> MOTION for Summary Judgment <i>against Defendant DOJ for Disclosure of Three FBI 302 Reports</i> filed by DEPARTMENT OF JUSTICE. (Attachments: # <u>1</u> Declaration, # <u>2</u> Declaration, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit)(Crowley, Megan) (Entered: 06/08/2015)
06/15/2015	<u>30</u>	Unopposed MOTION for Extension of Time to File Response/Reply to DOJ <i>Opposition to Motion for Partial Summary Judgment</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 06/15/2015)
06/17/2015		MINUTE ORDER granting <u>30</u> plaintiffs' unopposed motion for extension of time. Plaintiffs shall file their reply in further support of <u>25</u> their motion for summary judgment by no later than June 26, 2015. Signed by Judge Emmet G. Sullivan on June 17, 2015. (lcegs2) (Entered: 06/17/2015)
06/17/2015		Set/Reset Deadlines: Plaintiff Reply In Further Support of Motion for Summary Judgment due by 6/26/2015. (mac) (Entered: 06/17/2015)
06/23/2015		MINUTE ORDER granting <u>18</u> unopposed motion for a preservation order, granting <u>19</u> plaintiff's motion to stay certain claims against the CIA, denying <u>23</u> plaintiff's first motion for partial summary judgment, denying without prejudice <u>25</u> plaintiff's second motion for partial summary judgment. The plaintiff in this case has filed a series of motions that are, in the Court's view premature and unnecessarily piecemeal. The parties submitted <u>20</u> a proposed schedule for the production of documents in this case, but the plaintiff proceeded almost immediately to file motions for partial summary judgment on narrow issues. The plaintiff, however, chose to file this case as one civil action and it will proceed as such. First, the Court GRANTS <u>18</u> the Department of Justice's unopposed motion for an Order permitting it to move for summary judgment based on the applicability of Exemption 7(A) to certain records without waiving any allegation that those records are exempt from release for other reasons. Second, the Court grants <u>19</u> plaintiff's motion to stay the portions of its claim against the Central Intelligence Agency that, in plaintiff's view, will become ripe only upon issuance of a Report by the House Select Committee. The Court finds that judicial economy would not be served by excluding these claims entirely from this case, only to reopen them at some later date. Third, in accordance with <u>24</u> the parties' stipulation, plaintiff's <u>23</u> first motion for partial summary judgment was WITHDRAWN and is therefore DENIED. Fourth, plaintiff's <u>27</u> unopposed motion for leave to file a Second Amended Complaint is hereby GRANTED. Plaintiff's Second Amended Complaint, Exhibit 1 to <u>27</u> its motion for leave, shall be filed on the docket as a separate docket entry. Defendants shall respond to the Second Amended Complaint in accordance with the Federal Rules of Civil Procedure. In view of the filing of a Second Amended Complaint and the fact that the plaintiff has sought repeatedly to file piecemeal motions for partial summary judgment, the Court DENIES WITHOUT PREJUDICE <u>25</u> plaintiff's second motion for partial summary judgment. The plaintiff chose to file this case against a number of defendants and including a number of potential legal and factual issues, and to file it in a single case. The Court intends to treat the case as such, with the exception of the claims against the CIA that have been stayed by this Order. Accordingly, neither party shall move for summary judgment on a piecemeal basis without obtaining leave of this Court and demonstrating good cause for proceeding in that manner. The parties are directed to confer and file a joint status report setting forth the following information: (1) the current status of the House

		Select Committee's Report and any indication of when that Report may be issued, and therefore when plaintiff's stayed claims may be reopened; (2) the parties' competing proposals for a schedule for the completion of any production of any further records by each of the defendant agencies; and (3) the parties' suggestions for an appropriate schedule—to commence after every defendant has completed its production schedule—for the briefing of a single round of cross motions for summary judgment. If the parties cannot agree on any of these issues, they shall include their individual perspectives in a joint status report. The joint status report shall be filed by no later than July 3, 2015. Signed by Judge Emmet G. Sullivan on June 23, 2015. (lcegs2) (Entered: 06/23/2015)
06/24/2015	<u>31</u>	SECOND AMENDED COMPLAINT against CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, DEPARTMENT OF STATE filed by CLARE M. LOPEZ, LARRY W. BAILEY, JAMES A. LYONS, JR, ROGER L. ARONOFF, KEVIN MICHAEL SHIPP, ACCURACY IN MEDIA, INC., KENNETH BENWAY, RICHARD F. BRAUER, JR.(jf) (Entered: 06/24/2015)
06/24/2015		Set/Reset Deadlines: Joint Status Report due by 7/3/2015. (mac) (Entered: 06/24/2015)
07/03/2015	<u>32</u>	STATUS REPORT <i>JOINT</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 07/03/2015)
07/13/2015	<u>33</u>	ANSWER to <u>31</u> Amended Complaint, by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, DEPARTMENT OF STATE. Related document: <u>31</u> Amended Complaint, filed by RICHARD F. BRAUER, JR, KENNETH BENWAY, ROGER L. ARONOFF, KEVIN MICHAEL SHIPP, CLARE M. LOPEZ, LARRY W. BAILEY, ACCURACY IN MEDIA, INC., JAMES A. LYONS, JR..(Crowley, Megan) (Entered: 07/13/2015)
09/03/2015	<u>34</u>	NOTICE <i>Regarding Motion</i> by U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Exhibit A)(Crowley, Megan) (Entered: 09/03/2015)
09/03/2015	<u>35</u>	MOTION to Stay by U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Crowley, Megan) (Entered: 09/03/2015)
09/04/2015	<u>36</u>	NOTICE <i>of Court Order</i> by U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Exhibit)(Crowley, Megan) (Entered: 09/04/2015)
10/16/2015	<u>37</u>	Unopposed MOTION for Extension of Time to <i>Make Final Production</i> by U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Crowley, Megan) (Entered: 10/16/2015)
10/23/2015		MINUTE ORDER granting <u>37</u> Defendant's Unopposed Motion for Extension of Time. Defendant shall make its final production no later than December 4, 2015. Signed by Judge Emmet G. Sullivan on October 23, 2015. (lcegs4) (Entered: 10/23/2015)
10/23/2015		MINUTE ORDER denying Defendant's motion to stay as moot. Signed by Judge Emmet G. Sullivan on October 23, 2015. (lcegs4) (Entered: 10/23/2015)
12/03/2015	<u>38</u>	Unopposed MOTION for Extension of Time to <i>Make Final Production</i> by U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Crowley,

		Megan) (Entered: 12/03/2015)
12/06/2015		MINUTE ORDER granting <u>38</u> Defendant's Unopposed Motion for Extension of Time. It is hereby ordered that Defendant Department of State shall make its final production of documents on or before December 21, 2015. Signed by Judge Emmet G. Sullivan on December 6, 2015. (lcegs4) (Entered: 12/06/2015)
12/07/2015		Set/Reset Deadlines: Defendant Department of State Final Production Of Documents due by 12/21/2015. (mac) (Entered: 12/07/2015)
12/21/2015	<u>39</u>	Unopposed MOTION for Extension of Time to <i>Make Final Production</i> by U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Crowley, Megan) (Entered: 12/21/2015)
12/23/2015		MINUTE ORDER granting <u>39</u> Unopposed Motion for Extension of Time. Defendant Department of State shall file a status report no later than January 22, 2016 indicating the status of its search and production of any responsive, non-exempt documents. Signed by Judge Emmet G. Sullivan on December 23, 2015. (lcegs4) (Entered: 12/23/2015)
12/23/2015		Set/Reset Deadlines: Status Report due by 1/22/2016. (mac) (Entered: 12/23/2015)
01/22/2016	<u>40</u>	STATUS REPORT by U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Text of Proposed Order)(Crowley, Megan) (Entered: 01/22/2016)
02/01/2016		MINUTE ORDER directing the Defendants to complete its additional searches and file a status report no later than February 5, 2016. Signed by Judge Emmet G. Sullivan on February 1, 2016. (lcegs4) (Entered: 02/01/2016)
02/01/2016		Set/Reset Deadlines: Status Report due by 2/5/2016. (mac) (Entered: 02/01/2016)
02/05/2016	<u>41</u>	STATUS REPORT by U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 02/05/2016)
03/25/2016	<u>42</u>	STATUS REPORT by U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 03/25/2016)
05/05/2016	<u>43</u>	Unopposed MOTION for Extension of Time to <i>Make Final Production</i> by U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Crowley, Megan) (Entered: 05/05/2016)
05/18/2016		MINUTE ORDER granting <u>43</u> Motion for Extension of Time, nunc pro tunc. Signed by Judge Emmet G. Sullivan on May 18, 2016. (lcegs4) (Entered: 05/18/2016)
05/18/2016		Set/Reset Deadlines: Status Report due by 5/19/2016. (mac) (Entered: 05/18/2016)
05/19/2016	<u>44</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 05/19/2016)
05/26/2016	<u>45</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 05/26/2016)
05/27/2016	<u>46</u>	Unopposed MOTION for Extension of Time to <i>Make Final Production</i> by DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Text of Proposed Order)(Crowley, Megan) (Entered: 05/27/2016)
06/02/2016	<u>47</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 06/02/2016)

06/09/2016	<u>48</u>	Joint STATUS REPORT by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 06/09/2016)
06/13/2016	<u>49</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 06/13/2016)
06/22/2016	<u>50</u>	Joint MOTION for Extension of Time to <i>TO SUBMIT PROPOSED BRIEFING SCHEDULE</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Clarke, John) (Entered: 06/22/2016)
06/23/2016		MINUTE ORDER granting <u>46</u> Motion for Extension of Time to; granting <u>50</u> Motion for Extension of Time. Signed by Judge Emmet G. Sullivan on June 23, 2016. (lcegs4) (Entered: 06/23/2016)
06/23/2016		Set/Reset Deadlines: Briefing Schedule due by 6/24/2016 (mac) (Entered: 06/23/2016)
06/24/2016	<u>51</u>	Joint STATUS REPORT <i>and Proposed Briefing Schedule</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 06/24/2016)
06/24/2016	<u>52</u>	MEMORANDUM re <u>51</u> Status Report filed by DEPARTMENT OF JUSTICE, DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF STATE, CENTRAL INTELLIGENCE AGENCY by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 06/24/2016)
07/01/2016	<u>53</u>	MEMORANDUM re <u>51</u> Status Report filed by DEPARTMENT OF JUSTICE, DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF STATE, CENTRAL INTELLIGENCE AGENCY by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Crowley, Megan) (Entered: 07/01/2016)
07/01/2016	<u>54</u>	NOTICE of Exhibit A to Memorandum by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE re <u>53</u> Memorandum, (Crowley, Megan) (Entered: 07/01/2016)
07/22/2016	<u>55</u>	Unopposed MOTION to Lift Stay re Order on Motion for Partial Summary Judgment, Order on Motion to Amend/Correct, Order on Motion for Order, Order on Motion to Stay,,, by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 07/22/2016)
07/25/2016		MINUTE ORDER granting <u>55</u> Motion to Lift Stay. Signed by Judge Emmet G. Sullivan on July 25, 2016. (lcegs4) (Entered: 07/25/2016)
09/22/2016		

		MINUTE ORDER directing the parties to file a Joint Status Report setting forth recommendations for further proceedings no later than September 30, 2016. Signed by Judge Emmet G. Sullivan on September 22, 2016. (lcegs4) (Entered: 09/22/2016)
09/22/2016		Set/Reset Deadlines: Status Report due by 9/30/2016 (mac) (Entered: 09/22/2016)
09/27/2016	<u>56</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Moore, Tamra) (Entered: 09/27/2016)
09/28/2016		MINUTE ORDER. In view of <u>56</u> joint status report, the parties are directed to file a joint status report by no later than November 18, 2016, proposing a production schedule and a briefing schedule regarding any remaining issues. Signed by Judge Emmet G. Sullivan on 9/28/2016. (lcegs4) (Entered: 09/28/2016)
09/29/2016		Set/Reset Deadlines: Status Report due by 11/18/2016 (mac) (Entered: 09/29/2016)
11/18/2016	<u>57</u>	Joint MOTION for Extension of Time to <i>Submit Joint Status Report</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 11/18/2016)
11/21/2016		MINUTE ORDER granting <u>57</u> joint motion for extension of time to submit parties' joint status report. The parties shall file a joint status report by no later than December 1, 2016. Signed by Judge Emmet G. Sullivan on 11/21/2016. (lcegs4) (Entered: 11/21/2016)
11/22/2016		Set/Reset Deadlines: Joint Status Report due by 12/1/2016. (mac) (Entered: 11/22/2016)
12/01/2016	<u>58</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 12/01/2016)
12/14/2016		MINUTE ORDER. Upon consideration of <u>58</u> the parties joint status report, the parties are directed to comply with the following schedule: The CIA shall produce any remaining responsive, non-exempt records no later than February 28, 2017. Defendants shall file their summary judgment motion no later than March 31, 2017. Plaintiffs shall file their cross-motion for summary judgment and opposition to Defendants' motion no later than May 1, 2017. Defendants shall file their reply in support of their summary judgment motion and in opposition to Plaintiffs' cross-motion no later than May 15, 2017. Plaintiffs shall file their reply in support of their cross-motion no later than May 30, 2017. Signed by Judge Emmet G. Sullivan on 12/14/2016. (lcegs4) (Entered: 12/14/2016)
12/15/2016		Set/Reset Deadlines: Defendants Summary Judgment Motion due by 3/31/2017. Plaintiff Cross-Motion for Summary Judgment And Opposition To Defendants' Motion due by 5/1/2017. Defendants Reply In Support Of Their Summary Judgment Motion And In Opposition To Plaintiffs' Cross-Motion due by 5/15/2017. Plaintiff Reply In Support Of Their Cross-Motion due by 5/30/2017. (mac) (Entered: 12/15/2016)
03/19/2017	<u>59</u>	Joint MOTION for Briefing Schedule <i>to be Amended</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed

		Order)(Moore, Tamra) (Entered: 03/19/2017)
03/22/2017		MINUTE ORDER granting <u>59</u> joint motion to amend briefing schedule. The parties shall file a joint status report identifying what, if any, issues remain for the Court to resolve on or before May 12, 2017. In the event that the parties are unable to resolve this matter outside of litigation, the parties shall file their respective dispositive motions according to the following briefing schedule: Defendants shall file their motion for summary judgment by no later than June 2, 2017. Plaintiffs shall file their cross-motion for summary judgment by no later than June 30, 2017. Defendants shall file their reply in support of their motion, combined with their opposition to plaintiffs' cross-motion for summary judgment by no later than July 14, 2017. Plaintiffs shall file their reply in support of their cross-motion for summary judgment by no later than July 28, 2017. Signed by Judge Emmet G. Sullivan on 3/22/2017. (lcegs4) (Entered: 03/22/2017)
03/23/2017		Set/Reset Deadlines: Joint Status Report due by 5/12/2017. Defendants Motion For Summary Judgment due by 6/2/2017. Plaintiffs Cross-Motion For Summary Judgment due by 6/30/201. Defendant Reply In Support Of Their Motion, Combined With Their Opposition To Plaintiffs' Cross Motion For Summary Judgment due by 7/14/2017. Plaintiffs Reply In Support Of Their Cross-Motion For Summary Judgment due 7/28/2017. (mac) (Entered: 03/23/2017)
05/12/2017	<u>60</u>	Joint MOTION for Briefing Schedule <i>and Joint Status Report</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 05/12/2017)
05/12/2017		MINUTE ORDER. Upon consideration of the parties' joint status report, the Court grants <u>60</u> the parties' joint motion to amend the briefing schedule. The deadlines for dispositive motions will be continued as follows: defendants' motion for summary judgment shall be filed no later September 15, 2017; plaintiffs' opposition, which shall be combined with plaintiffs' cross-motion for summary judgment, shall be filed no later than October 13, 2017; defendants' reply, combined with defendants' opposition to plaintiffs' cross-motion, shall be filed no later than November 3, 2017; and plaintiffs' reply shall be filed by no later than December 17, 2017. Signed by Judge Emmet G. Sullivan on 5/12/2017. (lcegs2) (Entered: 05/12/2017)
05/12/2017		Set/Reset Deadlines: Defendants' Motion For Summary Judgment due by 9/15/2017. Plaintiff Opposition, Which Shall Be Combined With Plaintiffs' Cross-Motion For Summary Judgment due by 10/13/2017. Defendants' Reply Combined With Defendants' Opposition To Plaintiffs' Cross-Motion due by 11/3/2017. Plaintiffs' Reply due 12/17/2017 (mac) (Entered: 05/12/2017)
05/12/2017	61	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (See Docket Entry <u>60</u> to view document). (znmw) (Entered: 05/15/2017)
07/31/2017	<u>62</u>	STANDING ORDER: The parties are directed to read the attached Standing Order Governing Civil Cases Before Judge Emmet G. Sullivan in its entirety upon receipt. The parties are hereby ORDERED to comply with the directives in the attached Standing Order. Signed by Judge Emmet G. Sullivan on 7/31/2017. (Attachments: # <u>1</u> Exhibit) (lcegs1) (Entered: 07/31/2017)
09/05/2017	<u>63</u>	

		Joint MOTION for Briefing Schedule <i>to be Amended</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 09/05/2017)
09/06/2017		MINUTE ORDER granting <u>63</u> the parties' joint motion to amend the briefing schedule. The deadlines for dispositive motions will be amended as follows: defendants' motion for summary judgment shall be filed by no later than December 15, 2017; plaintiffs' opposition, which shall be combined with plaintiffs' cross-motion for summary judgment, shall be filed by no later than January 19, 2018; defendants' reply, combined with defendants' opposition to plaintiffs' cross-motion, shall be filed by no later than February 9, 2018; and plaintiffs' reply shall be filed by no later than March 2, 2018. Signed by Judge Emmet G. Sullivan on September 6, 2017. (lcegs2) (Entered: 09/06/2017)
09/07/2017		Set/Reset Deadlines: Defendants' Motion For Summary Judgment due by 12/15/2017. Plaintiffs' Opposition, Which Shall Be Combined With Plaintiffs' Cross-Motion For Summary Judgment by 1/19/2018. Defendants' Reply, Combined With Defendants' Opposition To Plaintiffs' Cross-Motion due by 2/9/2018. Plaintiffs' Reply due by 3/2/2018. (mac) (Entered: 09/07/2017)
11/29/2017	<u>64</u>	Joint MOTION for Briefing Schedule <i>to be Amended</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 11/29/2017)
12/01/2017		MINUTE ORDER granting <u>64</u> the parties' joint motion to amend the briefing schedule. The deadlines for dispositive motions will be amended as follows: defendants' motion for summary judgment shall be filed by no later than March 9, 2018; plaintiffs' opposition, which shall be combined with plaintiffs' cross-motion for summary judgment, shall be filed by no later than April 6, 2018; defendants' reply, combined with defendants' opposition to plaintiffs' cross-motion, shall be filed by no later than April 27, 2018; and plaintiffs' reply shall be filed by no later than May 18, 2018. Signed by Judge Emmet G. Sullivan on December 1, 2017. (lcegs2) (Entered: 12/01/2017)
12/01/2017		Set/Reset Deadlines: Defendant Motion For Summary Judgment due by 3/9/2018. Plaintiff Opposition, Which Shall Be Combined With Plaintiffs' Cross-Motion For Summary Judgment due by 4/6/2018. Defendants' Reply, Combined With Defendants' Opposition To Plaintiffs' Cross-Motion due by 4/27/2018. Plaintiffs' Reply due by 5/18/2018. (mac) (Entered: 12/01/2017)
03/02/2018	<u>65</u>	Joint MOTION for Briefing Schedule <i>to be Amended</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 03/02/2018)
03/07/2018		MINUTE ORDER granting <u>65</u> joint motion for briefing schedule to be amended for good cause shown. The briefing schedule set forth in the Court's December 1, 2017 Minute Order is therefore VACATED and the deadlines for dispositive motions will be amended as follows: defendants' motion for summary judgment shall be filed by April 20, 2018; plaintiffs' opposition to defendants' motion for summary judgment and any cross-motion for summary judgment shall be filed by May 18, 2018; defendants' reply in support of their motion and opposition to the plaintiffs' cross-motion shall be

		filed by June 15, 2018; plaintiffs' reply in support of their cross-motion shall be filed by July 13, 2018. Signed by Judge Emmet G. Sullivan on 3/7/2018. (lcegs3) (Entered: 03/07/2018)
04/13/2018	<u>66</u>	Consent MOTION for Extension of Time to <i>file Defendants' Summary Judgment and to Amend Briefing Schedule</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 04/13/2018)
04/15/2018		MINUTE ORDER granting <u>66</u> consent motion for briefing schedule to be amended for good cause shown. The briefing schedule set forth in the Court's March 7, 2018 Minute Order is therefore VACATED and the deadlines for dispositive motions will be amended as follows: defendants' motion for summary judgment shall be filed by May 4, 2018; plaintiffs' combined opposition to defendants' motion for summary judgment and cross-motion for summary judgment shall be filed by June 8, 2018; defendants' combined reply in support of their motion and opposition to plaintiffs' cross-motion shall be filed by July 13, 2018; and plaintiffs' reply in support of their cross-motion shall be filed by August 10, 2018. Signed by Judge Emmet G. Sullivan on April 15, 2018. (lcegs2) (Entered: 04/15/2018)
05/03/2018	<u>67</u>	Consent MOTION for Extension of Time to <i>file Defendants' Summary Judgment and to Amend Briefing Schedule</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 05/03/2018)
05/03/2018		MINUTE ORDER granting <u>67</u> defendants' consent motion for an extension of time. The parties are directed to comply with the following briefing schedule: defendants' motion for summary judgement shall be filed by May 10, 2018; plaintiffs' combined opposition to defendants' motion for summary judgment and cross-motion for summary judgment shall be filed by June 15, 2018; defendants' combined reply in support of their motion and opposition to plaintiffs' cross-motion shall be filed by July 13, 2018; and plaintiffs' reply in support of their cross-motion shall be filed by August 10, 2018. Signed by Judge Emmet G. Sullivan on May 3, 2018. (lcegs2) (Entered: 05/03/2018)
05/04/2018		Set/Reset Deadlines: Defendants' Motion For Summary Judgment due by 5/10/2018. Plaintiffs' Combined Opposition To Defendants' Motion For Summary Judgment And Cross-Motion For Summary Judgment due by 6/15/2018. Defendants' Combined Reply In Support Of Their Motion And Opposition To Plaintiffs' Cross-Motion due by 7/13/2018. Plaintiffs' Reply In Support OF Their Cross-Motion due by 8/10/2018. (mac) (Entered: 05/04/2018)
05/10/2018	<u>68</u>	MOTION for Summary Judgment by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Memorandum in Support, # <u>3</u> Defendants' Index of Declarations and Accompanying Exhibits, # <u>4</u> Herrington (DOD) Declaration, # <u>5</u> Shiner (CIA) Declaration, # <u>6</u> Stein (State) Declaration, # <u>7</u> Third Hardy (FBI) Declaration, # <u>8</u> Hardy (FBI-State Consult) Declaration, # <u>9</u> Williams (DIA) Declaration, # <u>10</u> Text of Proposed Order)(Moore, Tamra) (Attachment 7 replaced on 5/11/2018) (td). (Attachment 8 replaced on 5/11/2018) (td). Modified to replace blank documents on 5/11/2018 (td). (Attachment 8 replaced on 5/11/2018) (ztd). (Entered: 05/10/2018)

05/14/2018	<u>69</u>	ERRATA by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE <u>68</u> MOTION for Summary Judgment filed by DEPARTMENT OF JUSTICE, DEPARTMENT OF DEFENSE, CENTRAL INTELLIGENCE AGENCY, U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Declaration of Rear Admiral (upper half) James J. Malloy and exhibits)(Moore, Tamra) (Entered: 05/14/2018)
06/12/2018	<u>70</u>	Consent MOTION to Amend/Correct Set/Reset Deadlines, by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) Modified event on 6/15/2018 (znmw). (Entered: 06/12/2018)
06/15/2018		MINUTE ORDER granting plaintiffs' consent motion to amend the briefing schedule. The parties are directed to comply with the following briefing schedule: plaintiffs' combined cross-motion for summary judgment and opposition to defendants' motion shall be filed by no later than June 25, 2018; defendants' combined reply and opposition to plaintiffs' motion shall be filed by no later than July 23, 2018; and plaintiffs' reply in support of their cross-motion shall be filed by no later than August 20, 2018. Signed by Judge Emmet G. Sullivan on June 15, 2018. (lcegs2) (Entered: 06/15/2018)
06/15/2018		Set/Reset Deadlines: Plaintiffs' Combined Cross-Motion For Summary Judgment And Opposition To Defendants' Motion due by 6/25/2018. Defendants Combined Reply And Opposition To Plaintiffs Motion due by 7/23/2018. Plaintiffs' Reply In Support Of Their Cross-Motion due by 8/20/2018. (mac) (Entered: 06/15/2018)
06/25/2018	<u>71</u>	Cross MOTION for Summary Judgment by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Declaration John H Clarke, # <u>2</u> Affidavit Admiral James A. Lyons, Jr., USN, (Ret), # <u>3</u> Affidavit Rear Admiral Charles R. Kubic, CEC, USN (Ret), # <u>4</u> Statement of Facts, # <u>5</u> Exhibit Counter-Statement of Facts, # <u>6</u> Exhibit Index of Declarations, # <u>7</u> Text of Proposed Order)(Clarke, John) . (Entered: 06/25/2018)
06/25/2018	72	Memorandum in opposition to re <u>68</u> MOTION for Summary Judgment filed by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (See Docket Entry <u>71</u> to view document) (jf) (Entered: 06/27/2018)
06/25/2018	73	MOTION for Leave to Propound Interrogatory to DOD by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (See Docket Entry <u>71</u> to view document) (jf) (Entered: 06/27/2018)
06/27/2018		NOTICE OF ERROR re <u>71</u> Motion for Summary Judgment; emailed to johnhclarke@earthlink.net, cc'd 2 associated attorneys -- The PDF file you docketed contained errors: 1. Two-part docket entry, 2. DO NOT REFILE-Counsel is reminded to docket all parts of their pleading (zjf,) (Entered: 06/27/2018)
07/09/2018	<u>74</u>	RESPONSE re 73 MOTION for Leave to Propound Interrogatory to DOD filed by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE,

		DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Moore, Tamra) (Entered: 07/09/2018)
07/16/2018	<u>75</u>	REPLY to opposition to motion re 73 MOTION for Leave to Propound Interrogatory to DOD filed by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (Attachments: # <u>1</u> Exhibit FAST Commander Testimony)(Clarke, John) (Entered: 07/16/2018)
07/18/2018	<u>76</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>71</u> MOTION for Summary Judgment , <u>68</u> MOTION for Summary Judgment by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Moore, Tamra) (Entered: 07/18/2018)
07/20/2018		MINUTE ORDER granting <u>76</u> Motion for Extension of Time to File Response/Reply. Defendants shall file their reply in support of defendant's motion for summary judgment and opposition to plaintiffs' cross motion for summary judgment by no later than July 27, 2018.Signed by Judge Emmet G. Sullivan on 7/20/2018. (lcegs1) (Entered: 07/20/2018)
07/23/2018		Set/Reset Deadlines: Defendants Reply In Support Of Defendant's Motion For Summary Judgment And Opposition To Plaintiffs' Cross Motion For Summary Judgment due by 7/27/2018. (mac) (Entered: 07/23/2018)
07/27/2018	<u>77</u>	REPLY to opposition to motion re <u>68</u> MOTION for Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Supplemental Declaration of Mark H. Herrington, # <u>2</u> Supplemental Declaration of Antoinette B. Shiner)(Moore, Tamra) (Entered: 07/27/2018)
07/27/2018	<u>78</u>	RESPONSE re <u>71</u> MOTION for Summary Judgment filed by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Attachments: # <u>1</u> Supplemental Declaration of Mark H. Herrington, # <u>2</u> Supplemental Declaration of Antoinette B. Shiner, # <u>3</u> Defendants' Response to Plaintiffs' Statement of Material Facts Not In Dispute)(Moore, Tamra) (Entered: 07/27/2018)
08/20/2018	<u>79</u>	MOTION for Extension of Time to File Response/Reply by All Plaintiffs (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) Modified on 8/21/2018 to correct docket event/text (jf). (Entered: 08/20/2018)
08/21/2018		MINUTE ORDER granting <u>79</u> plaintiffs' consent motion for an extension of time to file response/reply. Plaintiffs shall file a reply by no later than August 27, 2018. Signed by Judge Emmet G. Sullivan on 8/21/2018.(lcegs2) (Entered: 08/21/2018)
08/22/2018		Set/Reset Deadlines: Plaintiff Reply due by 8/27/2018. (mac) (Entered: 08/22/2018)
08/27/2018	<u>80</u>	REPLY to opposition to motion re <u>71</u> MOTION for Summary Judgment filed by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 08/27/2018)
01/07/2019		MINUTE ORDER REFERRING CASE to a Magistrate Judge for full case management, up to but excluding trial pursuant to Local Civil Rule 72.2. This includes, with respect to pending potentially dispositive motions, the preparation of a

		report and recommendation pursuant to Local Civil Rule 72.3. The parties are reminded, that pursuant to Local Civil Rule 73.1, the parties may consent to the assignment of this action to a magistrate judge for all purposes, including trial. Consent of the district court judge is not necessary. Signed by Judge Emmet G. Sullivan on 1/7/2019. (lcegs1) (Entered: 01/07/2019)
01/07/2019		MINUTE ORDER STAYING CASE. In view of the referral of this case to a Magistrate Judge for full case management, proceedings before Judge Emmet G. Sullivan are hereby STAYED. Signed by Judge Emmet G. Sullivan on 1/7/2019. (lcegs1) (Entered: 01/07/2019)
01/07/2019		CASE RANDOMLY REFERRED to Magistrate Judge Deborah A. Robinson for full case management, up to but excluding trial. (zad) (Entered: 01/08/2019)
02/22/2019		MINUTE ORDER: Status Conference set for 3/12/2019 at 02:00 PM in Courtroom 4 before Magistrate Judge Deborah A. Robinson. So Ordered by Magistrate Judge Deborah A. Robinson on 2/22/2019. (lcdar1) (Entered: 02/22/2019)
02/22/2019		Status Conference previously set for 3/12/2019 rescheduled to 3/14/2019 at 02:00 PM before Magistrate Judge Deborah A. Robinson. The court apologizes for any confusion. So Ordered by Magistrate Judge Deborah A. Robinson on 2/22/2019. (lcdar1) (Entered: 02/22/2019)
03/14/2019		Minute Entry for proceedings held before Magistrate Judge Deborah A. Robinson: Status Conference held on 3/14/2019. No later than 3/21/2019, the parties shall jointly submit a Status Report. The report shall include all changes in status from the time briefing commenced in this matter. (Court Reporter: FTR Gold)(FTR Time Frame: 2:04 – 2:41) (zcdw) (Entered: 03/14/2019)
03/21/2019	<u>81</u>	Joint STATUS REPORT by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 03/21/2019)
08/11/2020	<u>82</u>	<p>TRANSCRIPT OF PROCEEDINGS before Magistrate Judge Deborah A. Robinson held on March 14, 2019; Page Numbers: 1–25. Date of Issuance: August 11, 2020. Court Reporter/Transcriber Lorraine Herman, Telephone number 202–354–3196, Transcripts may be ordered by submitting the <u>Transcript Order Form</u></p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 9/1/2020. Redacted Transcript Deadline set for 9/11/2020. Release of Transcript Restriction set for 11/9/2020.(Herman, Lorraine) (Main Document 82 replaced on 8/19/2020) (zjf). (Entered: 08/11/2020)</p>
08/27/2020	<u>83</u>	

		REPORT AND RECOMMENDATION re <u>71</u> MOTION for Summary Judgment filed by RICHARD F. BRAUER, JR, KENNETH BENWAY, ROGER L. ARONOFF, KEVIN MICHAEL SHIPP, CLARE M. LOPEZ, LARRY W. BAILEY, ACCURACY IN MEDIA, INC., JAMES A. LYONS, JR., <u>73</u> MOTION for Leave to Propound Interrogatory to DOD filed by RICHARD F. BRAUER, JR, KENNETH BENWAY, ROGER L. ARONOFF, KEVIN MICHAEL SHIPP, CLARE M. LOPEZ, LARRY W. BAILEY, JAMES A. LYONS, JR., ACCURACY IN MEDIA, INC., <u>68</u> MOTION for Summary Judgment filed by DEPARTMENT OF JUSTICE, DEPARTMENT OF DEFENSE, CENTRAL INTELLIGENCE AGENCY, U.S. DEPARTMENT OF STATE. Signed by Magistrate Judge Deborah A. Robinson on 8/27/2020. (lcdar3) (Entered: 08/27/2020)
08/28/2020	<u>84</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Joshua Charles Abbuhl on behalf of All Defendants Substituting for attorney Tamra Moore, Megan Crowley (Abbuhl, Joshua) (Entered: 08/28/2020)
09/09/2020	<u>85</u>	Unopposed MOTION for Extension of Time to <i>Submit Objections to Magistrate Judge's Report and Recommendation</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Text of Proposed Order)(Clarke, John) (Entered: 09/09/2020)
09/09/2020		MINUTE ORDER granting <u>85</u> Unopposed MOTION for Extension of Time to Submit Objections to Magistrate Judge's Report and Recommendation, though Plaintiffs' counsel is admonished for failing to comply with this Court's "Motions for Extension of Time" requirements as indicated in the Court's Standing Order, ECF No. <u>62</u> at 7 ("Absent extenuating circumstances, motions for... scheduling change[s] must be filed THREE business days prior to the scheduled... deadline..."). Plaintiffs shall file their objections to the Report and Recommendation by no later than September 24, 2020 at NOON. Future requests for extension will be viewed with disfavor. Signed by Judge Emmet G. Sullivan on 9/9/2020. (lcegs2) (Entered: 09/09/2020)
09/10/2020		Set/Reset Deadlines: Plaintiffs Objections To The Report and Recommendation due no later than 12:00PM on 09/24/2020. (mac) (Entered: 09/10/2020)
09/10/2020	<u>86</u>	NOTICE re <u>83</u> <i>Report and Recommendation</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Abbuhl, Joshua) Modified to add link on 9/11/2020 (znmw). (Entered: 09/10/2020)
09/23/2020	<u>87</u>	NOTICE <i>Objection to Magistrate Judge's Report and Recommendation</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, KEVIN MICHAEL SHIPP (Attachments: # <u>1</u> Exhibit DOD timeline, # <u>2</u> Exhibit EXORD)(Clarke, John) (Entered: 09/23/2020)
09/23/2020	<u>88</u>	OBJECTION to <u>83</u> Report and Recommendations filed by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, KEVIN MICHAEL SHIPP. (See Docket Entry <u>87</u> to view document) (zjf) (Entered: 09/24/2020)
10/02/2020	<u>89</u>	Unopposed MOTION for Extension of Time to File Response/Reply to <i>Plaintiffs' Objections to R&R</i> by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Abbuhl, Joshua) (Entered: 10/02/2020)

10/05/2020		MINUTE ORDER granting <u>89</u> Unopposed MOTION for Extension of Time. The Defendant shall file its Response/Reply to Plaintiffs' Objections by no later than November 9, 2020. Signed by Judge Emmet G. Sullivan on 10/5/2020. (lcegs2) (Entered: 10/05/2020)
10/05/2020		Set/Reset Deadlines: Defendant Response/Reply To Plaintiffs Objections due by 11/9/2020. (mac) (Entered: 10/05/2020)
10/30/2020	<u>90</u>	Unopposed MOTION for Extension of Time to File Response/Reply to Plaintiffs' Objections to Report & Recommendation by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE (Attachments: # <u>1</u> Text of Proposed Order)(Abbuhl, Joshua) (Entered: 10/30/2020)
11/02/2020		MINUTE ORDER granting <u>90</u> Unopposed MOTION for Extension of Time to File Response/Reply. The Defendant shall file its Response/Reply to Plaintiffs' Objections by no later than November 23, 2020. Signed by Judge Emmet G. Sullivan on 11/2/2020. (lcegs2) (Entered: 11/02/2020)
11/03/2020		Set/Reset Deadlines: Defendant Response/Reply To Plaintiffs' Objections due by 11/23/2020 (mac) (Entered: 11/03/2020)
11/23/2020	<u>91</u>	RESPONSE to Plaintiffs' 88 Objections to Magistrate's Report & Recommendation filed by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, DEPARTMENT OF JUSTICE, U.S. DEPARTMENT OF STATE. (Abbuhl, Joshua) (Entered: 11/23/2020)
11/28/2022	<u>92</u>	MEMORANDUM OPINION. Signed by Judge Emmet G. Sullivan on 11/28/2022. (lcegs2) (Entered: 11/28/2022)
11/28/2022	<u>93</u>	ORDER granting in part and denying in part <u>68</u> Motion for Summary Judgment; granting in part and denying in part <u>71</u> Motion for Summary Judgment; denying <u>73</u> Motion. Signed by Judge Emmet G. Sullivan on 11/28/2022. (lcegs2) (Entered: 11/28/2022)
11/28/2022		Set/Reset Deadlines: Joint Status Report due by 1/20/2023 (mac) (Entered: 11/28/2022)
01/20/2023	<u>94</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF STATE, US DEPT OF JUSTICE. (Abbuhl, Joshua) (Entered: 01/20/2023)
01/23/2023		MINUTE ORDER. In view of <u>94</u> joint status report, the parties shall file a joint status report with proposed briefing schedule by no later than February 16, 2023. Signed by Judge Emmet G. Sullivan on 1/23/2023. (lcegs1) (Entered: 01/23/2023)
01/23/2023		Set/Reset Deadlines: Parties Joint Status Report With Proposed Briefing Schedule due by 2/16/2023. (mac) (Entered: 01/23/2023)
02/16/2023	<u>95</u>	Joint STATUS REPORT by CENTRAL INTELLIGENCE AGENCY, DEPARTMENT OF DEFENSE, U.S. DEPARTMENT OF STATE, US DEPT OF JUSTICE. (Abbuhl, Joshua) (Entered: 02/16/2023)
02/22/2023		MINUTE ORDER. In view of <u>95</u> Joint Status Report, the following deadlines shall govern this case: (1) Defendants shall file their motion for summary judgment by no later than June 29, 2023; (2) Plaintiffs shall file a combined motion for summary

		judgment and response to Defendants' motion by no later than August 10, 2023; (3) Defendants shall file a combined response to Plaintiffs' motion and reply in support of Defendants' motion for summary judgment by no later than September 14, 2023; (4) Plaintiffs shall file a reply in support of Plaintiffs' motion for summary judgment by no later than October 13, 2023. Signed by Judge Emmet G. Sullivan on 2/22/2023. (lcegs1) (Entered: 02/22/2023)
02/22/2023		Set/Reset Deadlines: Defendants Motion For Summary Judgment due by 06/29/2023. Plaintiffs Combined motion For Summary Judgment And Response To Defendants' Motion due by 08/10/2023. Defendants Combined Response to Plaintiffs' Motion And Reply In Support Of Defendants' Motion For Summary Judgment due by 09/14/2023. Plaintiffs Reply In Support of Plaintiffs' Motion For Summary Judgment due by 10/13/2023. (mac) (Entered: 02/22/2023)
04/06/2023		Case Unstayed (mac) (Entered: 04/06/2023)
06/29/2023	<u>96</u>	NOTICE of Appearance by Kristina Ann Wolfe on behalf of All Defendants (Wolfe, Kristina) (Entered: 06/29/2023)
06/29/2023	<u>97</u>	MOTION for Summary Judgment (<i>Renewed</i>) by US DEPT OF JUSTICE. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Declaration of Michael G. Seidel, # <u>3</u> Declaration Exhibit A (First Declaration of David M. Hardy), # <u>4</u> Declaration Exhibit B (February 2021 Letter), # <u>5</u> Declaration Exhibit C (Declaration of Timothy J. Kootz), # <u>6</u> Declaration Exhibit D (Declaration of Vanna Blaine), # <u>7</u> Statement of Facts, # <u>8</u> Text of Proposed Order)(Wolfe, Kristina) (Entered: 06/29/2023)
08/10/2023	<u>98</u>	Cross MOTION for Summary Judgment <i>and OPPOSITION to Defendant FBI MOTION for Summary Judgment</i> by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, KEVIN MICHAEL SHIPP. (Attachments: # <u>1</u> Affidavit AFFIDAVIT OF JOHN TIEGAN, # <u>2</u> Exhibit INDEX OF EXHIBITS, # <u>3</u> Exhibit STATEMENT OF MATERIAL FACTS NOT IN DISPUTE, # <u>4</u> Exhibit RESPONSE TO DEFENDANT STATEMENT OF MATERIAL FACTS, # <u>5</u> Text of Proposed Order)(Clarke, John) (Entered: 08/10/2023)
08/10/2023	<u>99</u>	Memorandum in opposition to re <u>97</u> Motion for Summary Judgment, filed by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 08/10/2023)
09/14/2023	<u>100</u>	Memorandum in opposition to re <u>98</u> Motion for Summary Judgment, filed by US DEPT OF JUSTICE. (Attachments: # <u>1</u> Statement of Facts (Response), # <u>2</u> Text of Proposed Order)(Wolfe, Kristina) (Entered: 09/14/2023)
09/14/2023	<u>101</u>	REPLY to opposition to motion re <u>97</u> MOTION for Summary Judgment (<i>Renewed</i>) filed by US DEPT OF JUSTICE. (Wolfe, Kristina) (Entered: 09/14/2023)
10/13/2023	<u>102</u>	REPLY to opposition to motion re <u>98</u> Cross MOTION for Summary Judgment <i>and OPPOSITION to Defendant FBI MOTION for Summary Judgment</i> filed by ACCURACY IN MEDIA, INC., ROGER L. ARONOFF, LARRY W. BAILEY, KENNETH BENWAY, RICHARD F. BRAUER, JR, CLARE M. LOPEZ, JAMES A. LYONS, JR, KEVIN MICHAEL SHIPP. (Clarke, John) (Entered: 10/13/2023)
01/04/2024		Case directly reassigned to Judge Loren L. AliKhan. Judge Emmet G. Sullivan is no longer assigned to the case. (ztnr) (Entered: 01/04/2024)

04/26/2024	<u>103</u>	MEMORANDUM OPINION: For the reasons stated in the attached document, Defendant Federal Bureau of Investigation's Renewed Motion for Summary Judgment <u>97</u> , will be granted and Plaintiffs' Cross-Motion for Summary Judgment <u>98</u> will be denied. A separate order will issue. See document for details. Signed by Judge Loren L. AliKhan on 04/26/2024. (lc1la3) (Entered: 04/26/2024)
04/26/2024	<u>104</u>	ORDER: For the reasons stated in the court's Memorandum Opinion <u>103</u> , it is hereby ORDERED that Defendant Federal Bureau of Investigation's Renewed Motion for Summary Judgment <u>97</u> is GRANTED and Plaintiffs' Cross-Motion for Summary Judgment <u>98</u> is DENIED. The Clerk of Court is directed to close this case. See document for details. Signed by Judge Loren L. AliKhan on 04/26/2024. (lc1la3) (Entered: 04/26/2024)
06/22/2024	<u>105</u>	NOTICE OF APPEAL TO DC CIRCUIT COURT by ROGER L. ARONOFF. Filing fee \$ 605, receipt number ADCDC-10977918. Fee Status: Fee Paid. Parties have been notified. (Clarke, John) (Entered: 06/22/2024)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, INC., *et al.*,)
)
 Plaintiffs,)
)
 v.)
) Case No. 14-1589 (LLA)
 DEPARTMENT OF DEFENSE, *et al.*,)
)
 Defendants.)
 _____)

NOTICE OF APPEAL

Notice is hereby given this 22nd day of June, 2024, that plaintiff Roger Aronoff hereby appeals to the United States Court of Appeals for the District of Columbia Circuit from the final judgment of this Court entered on the 24th day of April, 2024, and all prior orders entered in this case, in favor of defendants, and against plaintiffs.

Date: June 22, 2024.

Respectfully submitted,

John H. Clarke /s/
John H. Clarke Bar No. 388599
Attorney for plaintiffs
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Washington, DC 20006
(202) 344-0776
John@johnhclarkelaw.com

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, INC., *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
DEFENSE, *et al.*,

Defendants.

Civil Action No. 14-1589 (LLA)

ORDER

For the reasons stated in the court's Memorandum Opinion, ECF No. 103, it is hereby **ORDERED** that Defendant Federal Bureau of Investigation's Renewed Motion for Summary Judgment, ECF No. 97, is **GRANTED** and Plaintiffs' Cross-Motion for Summary Judgment, ECF No. 98, is **DENIED**. The Clerk of Court is directed to close this case.

This Order constitutes a final judgment of the court within the meaning of Rule 58(a) of the Federal Rules of Civil Procedure.

SO ORDERED.

/s/ Loren L. AliKhan
LOREN L. ALIKHAN
United States District Judge

Date: April 26, 2024

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACCURACY IN MEDIA, INC., *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
DEFENSE, *et al.*,

Defendants.

Civil Action No. 14-1589 (LLA)

MEMORANDUM OPINION

This matter is before the court on a Motion for Summary Judgment by Defendant Federal Bureau of Investigation (“FBI”) and a Cross-Motion for Summary Judgment by Plaintiffs, Accuracy in Media, Inc., and seven individuals.¹ ECF Nos. 97 & 98. Plaintiffs claim that the government violated the Freedom of Information Act (“FOIA”) by unlawfully withholding certain records pertaining to the September 11, 2012 attacks on the U.S. Embassy in Benghazi, Libya. *See generally* ECF No. 31. Upon consideration of the motions and supporting documentation, the court will grant the FBI’s Motion for Summary Judgment and deny Plaintiffs’ Cross-Motion for Summary Judgment.

I. Background

In 2014, Plaintiffs submitted over forty FOIA requests to the Defendants, which are the U.S. Department of Defense, the U.S. Department of State (“State Department”), the FBI, and the Central Intelligence Agency (“CIA”). *See generally* ECF No. 31. Over the course of this

¹ The individual Plaintiffs are Roger L. Aronoff, Captain Larry W. Bailey (Ret.), Lieutenant Colonel Kenneth Benway (Ret.), Colonel Richard F. Brauer, Jr. (Ret.), Claire M. Lopez, Admiral James A. Lyons, Jr. (Ret.), and Kevin Michael Shipp.

litigation, the parties resolved many of the requests at issue without court intervention. ECF No. 83, at 2. Only one issue remains in dispute: Plaintiffs' request for certain FBI interview reports—referred to as FD-302s—and corresponding handwritten notes of interviews conducted with United States personnel who were present during the attacks. ECF No. 31 ¶ 126 (8).

The FBI initially provided a *Glomar* response to Plaintiffs' request for these records, neither confirming nor denying the existence of such records. ECF No. 83, at 23-24; *see Roth v. U.S. Dep't of Just.*, 642 F.3d 1161, 1171 (D.C. Cir. 2011) (“In a [*Glomar*] response the government neither confirms nor denies the existence of the requested records.”). In 2018, the parties cross-moved for summary judgment on this issue, among others, and the case was assigned to Magistrate Judge Deborah Robinson. *See* Jan. 7, 2019 Minute Order. Judge Robinson recommended that summary judgment be granted to Defendants on all issues, except for the FBI's *Glomar* response. ECF No. 83, at 33. Shortly thereafter, the FBI withdrew its *Glomar* response and informed the court that it would search for and process the sought-after records. ECF No. 86, at 1.

To locate pertinent records, the FBI conducted index searches of its case management systems using key terms related to the Benghazi attacks. ECF No. 97-3 ¶¶ 20-22. The FBI informed Plaintiffs that it had compiled responsive records but, after consulting with the State Department and the CIA, it had determined that the records were protected in full pursuant to FOIA exemptions 1, 3, 5, 6, 7(A), 7(C), 7(E), and 7(F). ECF No. 97-2 ¶ 8.

The court later adopted Judge Robinson's recommendations on the other outstanding issues, but it found Defendants' motion for summary judgment with respect to the *Glomar* response moot in light of the FBI's change of position. ECF No. 92, at 20, 24, 27-28. The parties informed the court that Plaintiffs intended to challenge the FBI's new justifications for withholding

the FD-302 interview reports, and the parties subsequently filed cross-motions for summary judgment. *See* ECF No. 94 at 2; Feb. 22, 2023 Minute Order; ECF Nos. 97 & 98.

II. Legal Standard

The purpose of FOIA is “to pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny.” *Am. C.L. Union v. U.S. Dep’t of Just.*, 655 F.3d 1, 5 (D.C. Cir. 2011) (quoting *Dep’t of the Air Force v. Rose*, 425 U.S. 352, 361 (1976)). Congress nonetheless included nine exemptions to disclosure that “are intended ‘to balance the public’s interest in governmental transparency against the legitimate governmental and private interests [that] could be harmed by release of certain types of information.’” *Tipograph v. U.S. Dep’t of Just.*, 83 F. Supp. 3d 234, 238 (D.D.C. 2015) (quoting *United Techs. Corp. v. U.S. Dep’t of Def.*, 601 F.3d 557, 559 (D.C. Cir. 2010)).

Most FOIA cases are appropriately resolved on motions for summary judgment. *Brayton v. Off. of the U.S. Trade Representative*, 641 F.3d 521, 527 (D.C. Cir. 2011). A court shall grant summary judgment “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The agency invoking a FOIA exemption bears the burden of demonstrating it applies. *U.S. Dep’t of Just. v. Reps. Comm. for Freedom of the Press*, 489 U.S. 749, 755 (1989). Summary judgment may be awarded to the agency if it can demonstrate that no material facts are in dispute, that it conducted an adequate search for responsive records, and that each record has either been produced or is exempt from disclosure. *Jud. Watch, Inc. v. U.S. Dep’t of Homeland Sec.*, 59 F. Supp. 3d 184, 189 (D.D.C. 2014). “To successfully challenge an agency’s showing that it complied with the FOIA, the plaintiff must come forward with specific facts demonstrating that there is a genuine issue with respect to whether the agency has improperly withheld extant agency records.” *Manna v. U.S.*

Dep't of Just., 106 F. Supp. 3d 16, 18 (D.D.C. 2015) (quoting *Span v. U.S. Dep't of Just.*, 696 F. Supp. 2d 113, 119 (D.D.C. 2010)).

In assessing a motion for summary judgment, the court affords “substantial weight” to an agency affidavit that is detailed and non-conclusory. *Jud. Watch, Inc. v. U.S. Dep't of Def.*, 715 F.3d 937, 940-41 (D.C. Cir. 2013) (quoting *Am. C.L. Union v. U.S. Dep't of Def.*, 628 F.3d 612, 619 (D.C. Cir. 2011)). The affiant must describe “the documents and the justifications for nondisclosure with reasonably specific detail [and] demonstrate that the information withheld logically falls within the claimed exemption,” and the court will credit such statements if they “are not controverted by either contrary evidence in the record nor by evidence of agency bad faith.” *Manning v. U.S. Dep't of Just.*, 234 F. Supp. 3d 26, 32 (D.D.C. 2017) (quoting *Mil. Audit Project v. Casey*, 656 F.2d 724, 738 (D.C. Cir. 1981)). “Ultimately, an agency’s justification for invoking a FOIA exemption is sufficient if it appears ‘logical’ or ‘plausible.’” *Wolf v. Cent. Intel. Agency*, 473 F.3d 370, 374-75 (D.C. Cir. 2007).

III. Discussion

FBI invokes multiple FOIA exemptions to justify its withholding, but this court need only address one: Exemption 7(A), which allows an agency to withhold “records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to interfere with enforcement proceedings.” 5 U.S.C. § 552(b)(7)(A). The court concludes that the FD-302s were properly withheld pursuant to Exemption 7(A), thereby warranting summary judgment for the FBI without the need to address the other grounds raised. *See Am. C.L. Union*, 628 F.3d at 619 n.2.

“Exemption 7(A) reflects the Congress’s recognition that ‘law enforcement agencies ha[ve] legitimate needs to keep certain records confidential, lest the agencies be hindered in their investigations or placed at a disadvantage when it [comes] time to present their case.’” *Citizens*

for Resp. & Ethics in Wash. v. U.S. Dep't of Just., 746 F.3d 1082, 1096 (D.C. Cir. 2014) (quoting *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 224 (1978)). When litigation itself threatens to reveal FOIA-exempt information, an agency may provide a categorical description of the withheld information rather than a document-by-document justification for exemption. *Id.* at 1089-90. Categorical treatment is appropriate under Exemption 7(A) when the general description supports an inference that the withheld category has a rational link to the agency's alleged interference. *See id.* at 1088-89.

“[A]n ongoing criminal investigation typically triggers Exemption 7(A).” *Id.* at 1098. “[T]o withhold documents pursuant to Exemption 7(A), an agency must show that they were compiled for law enforcement purposes and that their disclosure (1) could reasonably be expected to interfere with (2) enforcement proceedings that are (3) pending or reasonably anticipated.” *Mapother v. U.S. Dep't of Just.*, 3 F.3d 1533, 1540 (D.C. Cir. 1993) (emphasis omitted).

Plaintiffs do not appear to contest that the FBI compiled the records for law enforcement purposes or that the Benghazi investigation remains ongoing, so the court will only briefly touch on these requirements. The FBI submitted several declarations in support of its motion, of which two are particularly relevant to these issues: the declaration of Michael G. Seidel, Section Chief of the Record/Information Dissemination Section, Information Management Division of the FBI, ECF 97-2; and the declaration of Timothy J. Kootz, Director of the Office of Information Programs and Services of the State Department, ECF 97-5. Mr. Seidel averred that the FD-302s and interview notes were compiled for law enforcement purposes. ECF No. 97-2 ¶ 10. He also stated that the investigation of the Benghazi attacks “remains ongoing.” *Id.* ¶ 13. Specifically, he explained that “[t]he FBI continues to pursue all logical leads to identify and investigate those individuals who helped perpetuate, assist, or otherwise support the 2012 attack.” *Id.* ¶ 13.

Mr. Kootz similarly testified that the relevant FD-302s were compiled during the FBI's investigation of the attacks in Benghazi and that the investigation is "ongoing." ECF No. 97-5 ¶¶ 25-26. Plaintiffs present no evidence to contradict these statements, nor do they point to anything in the record suggesting bad faith on the part of the government. Accordingly, the court credits the government's declarations, and it finds that the records were compiled for law enforcement purposes and that the relevant investigation is ongoing. *Manning*, 234 F. Supp. 3d at 33.

That leaves the question whether disclosure of the records "could reasonably be expected to interfere with" the ongoing investigation. *Mapother*, 3 F.3d at 1540. Plaintiffs raise two main arguments against the FBI's claim of interference. First, they argue that the FBI has not sufficiently explained how the specific information they seek—those portions of the FD-302s that describe a purported order to security forces at the embassy to "stand down"—could interfere with an ongoing investigation. ECF No. 98, at 16-17; ECF No. 102, at 4-5. Second, they suggest that public statements made by security forces present at the attack undercut the FBI's arguments and require disclosure because the underlying information is already public. ECF No. 98, at 12-14; ECF No. 102, at 5-6. The court is not persuaded.

Sufficiency of the explanation. As noted, an agency may invoke Exemption 7(A) on a categorical basis when "the FOIA litigation process threatens to reveal 'the very information the agency hopes to protect.'" *Citizens for Resp. & Ethics in Wash.*, 746 F.3d at 1088 (quoting *Am. C.L. Union v. Cent. Intel. Agency*, 710 F.3d 422, 432 (D.C. Cir. 2013)); see *Robbins Tire & Rubber Co.*, 437 U.S. at 224 ("[L]aw enforcement agencies ha[ve] legitimate needs to keep certain records confidential, lest the agencies be hindered in their investigations or placed at a disadvantage when it [comes] time to present their case."). "Categorical withholding is often appropriate under

Exemption 7(A).” *Citizens for Resp. & Ethics in Wash.*, 746 F.3d at 1098. It is permissible where the agency (1) defines its categories functionally, (2) conducts a document-by-document review to sort information into the proper category, and (3) explains how disclosure will interfere such that the court can “trace a rational link between the nature of the document and the alleged likely interference.” *Crooker v. Bureau of Alcohol, Tobacco, & Firearms*, 789 F.2d 64, 67 (D.C. Cir. 1986); *Citizens for Resp. & Ethics in Wash.*, 746 F.3d at 1098.

The FBI properly invoked categorical withholding here. It defined its category functionally, characterizing the FD-302s as “Evidentiary/Investigative Materials.” ECF No. 97-2 ¶ 17. Mr. Seidel explained that this category encompasses records gathered through witness interviews, and he further stated that the search was conducted on a document-by-document basis, and each covered record was placed within the functional category. *Id.* ¶¶ 16-17.

The question, then, is not whether the disclosure of any specific portions of the FD-302s would interfere with the ongoing criminal investigation, but whether the FBI sufficiently explained how categorical disclosure would interfere with the investigation. It did. Mr. Seidel explained that the FD-302s “document the FBI’s investigation of the potential crimes and/or possible threats to national security” related to the Benghazi attacks. *Id.* ¶ 10. He further explained that a document-by-document description would “undermine” the FBI investigation because disclosure could reveal “leads the FBI is pursuing and the scope of the investigation.” *Id.* ¶ 15. This, in turn, could enable the suspected “groups or individuals to change their behavior and avoid scrutiny.” *Id.* More specifically, the FBI predicts that the disclosure of persons “of investigative interest” in the matter could lead to witness tampering and the destruction of evidence. *Id.* ¶ 14.

“Such predictive judgments of harm are entitled to deference . . . especially where, as here, the investigation concerns matters of national security.” *Manning*, 234 F. Supp. 3d at 36; *see Ctr.*

for Nat. Sec. Stud. v. U.S. Dep't of Just., 331 F.3d 918, 927 (D.C. Cir. 2003) (stating that the Supreme Court and the D.C. Circuit “have expressly recognized the propriety of deference to the executive in the context of FOIA claims which implicate national security”). In light of the FBI’s predictions, this is not an edge case. The interference that the agency warns of—potential witness tampering, destruction of evidence, and revelation of the scope of investigation—is within the heartland of exemption 7(A). *See Manning*, 234 F. Supp. 3d at 36 (finding sufficient interference under Exemption 7(A) where government declarations stated that the release of information would reveal the focus and scope of the investigation, allowing suspects to destroy evidence or alter their behavior); *Leopold v. U.S. Dep't of Just.*, 301 F. Supp. 3d 13, 26 (D.D.C. 2018) (finding sufficient interference under Exemption 7(A) where a “precise description of the records being withheld would ‘reveal non-public information about the targets and scope of the investigation’ which ‘could reasonably be expected to’ interfere with it”); *Tipograph*, 83 F. Supp. 3d at 239 (explaining that Exemption 7(A) protects against “chilling and intimidation of witnesses, and revelation of the scope and nature of the Government’s investigation”).

Because there is a “rational link” between the disclosure of the FD-302s and the threat of interference, the government’s categorical approach is appropriate. *Crooker*, 789 F.2d at 67; *Tipograph*, 83 F. Supp. 3d at 240 (“Because this explanation describes the nature of the information contained in the records, rather than merely the nature of the records themselves, it permits the Court to infer a rational link between the records and an investigative purpose.”).

Public disclosure. Plaintiffs also argue that some of the information contained within the FD-302s has already been made public, thus undercutting the FBI’s warnings of potential

interference.² ECF No. 98, at 12-14; ECF No. 102, at 5-6. Specifically, they allege that the FD-302s “reflect the accounts of Mark Geist, Kris Paronto, and John Tiegen,” all of which appear in a book and a movie, and some of which are detailed in Fox News interviews.³ ECF No. 102, at 6. It is undisputed that these three individuals were not FBI employees. ECF No. 100, at 12-13; ECF No. 102, at 3.

Plaintiffs seemingly invoke the doctrine of “official acknowledgment,” which requires an agency to disclose information “even over an agency’s otherwise valid exemption claim.” *Wolf*, 473 F.3d at 378. Official acknowledgement applies when “the information requested [is] as specific as the information previously released,” “the information requested [matches] the information previously disclosed,” and the information has already “been made public through an official and documented disclosure.” *Id.* (quoting *Fitzgibbon v. Cent. Intel. Agency*, 911 F.2d 755, 765 (D.C. Cir. 1990)). Plaintiffs bear the burden of showing the doctrine applies. *Buzzfeed, Inc. v. Fed. Bureau of Investigation*, 613 F. Supp. 3d 453, 472 (D.D.C. 2020) (quoting *Mobley v. Cent. Intel. Agency*, 806 F. 3d 568, 583 (D.C. Cir. 2015)).

Plaintiffs have not established the conditions required to invoke official acknowledgement. Although Mr. Seidel acknowledged that “some information pertaining to the Benghazi attacks has been made public,” he clarified that the “FBI has not disclosed the identities of the individuals” who were interviewed as part of the government’s investigation. ECF No. 97-2 ¶ 14. Nor has the FBI revealed the “focus and content” of the FD-302 interview reports. *Id.* Thus, the information

² In their initial cross-motion, Plaintiffs suggested that State Department’s August 2018 release of video clips showing the attack also undercut the FBI’s assertion of interference. ECF No. 98, at 16. They abandon this argument in their reply, so the court does not address it. ECF No. 102, at 6 (“Plaintiffs agree [that] [t]he surveillance footage is irrelevant.”).

³ The book is titled *13 Hours: The Inside Account of What Really Happened in Benghazi*, the movie is titled *13 Hours: The Secret Soldiers of Benghazi*. ECF No. 102, at 6.

requested does not match what the government has previously disclosed. *Wolf*, 473 F.3d at 378. It does not matter that three members of the security team—Mark Geist, Kris Paronto, and John Tiegen—have publicized their recounting of events. These are statements by third parties, not the “official and documented disclosure” required by the official acknowledgement doctrine. *Id.* (quoting *Fitzgibbon*, 911 F.2d at 765); see *Frugone v. Cent. Intel. Agency*, 169 F.3d 772, 774 (D.C. Cir. 1999) (explaining that the court “do[es] not deem ‘official’ a disclosure made by someone other than the agency from which the information is being sought”). Finally, at the core, public statements by third parties about the attacks do not undercut the FBI’s invocation of Exemption 7(A) because the FBI does not seek to obscure the underlying events—instead, it seeks to protect its investigation and future law enforcement proceedings. ECF No. 97-2 ¶¶ 14-15; see *Leopold*, 301 F. Supp. 3d at 26 (D.D.C. 2018). Public accounts of the attacks thus do not undermine the FBI’s concerns of interference with an open investigation.

IV. Conclusion

For the foregoing reasons, the court will issue a contemporaneous order granting the FBI’s Renewed Motion for Summary Judgment, ECF No. 97, and denying Plaintiffs’ Cross-Motion for Summary Judgment, ECF No. 98.

/s/ Loren L. AliKhan
LOREN L. ALIKHAN
United States District Judge

Date: April 26, 2024