

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

**IN RE APPLICATION OF THE NEW YORK
TIMES CO. & REPORTERS COMMITTEE
FOR FREEDOM OF THE PRESS TO
UNSEAL JUDICIAL RECORDS ANCILLARY
TO GRAND JURY SUBPOENA OF
MATTHEW COLE**

Misc. Action No. _____

**APPLICATION TO UNSEAL JUDICIAL RECORDS ANCILLARY
TO GRAND JURY SUBPOENA OF MATTHEW COLE**

The New York Times Company (“The Times”) and the Reporters Committee for Freedom of the Press (“Reporters Committee”) (together, “Applicants”) respectfully move this Court for an order unsealing judicial records ancillary to a grand jury subpoena issued from this district to Matthew Cole, a freelance reporter, in or about February 2026, seeking information about his confidential sources (the “Subpoena”). In particular, Applicants seek to unseal any motion to quash or contest the Subpoena by Mr. Cole, any associated briefing, any transcripts of hearings and judicial orders related to such motions, any motions and briefing on sealing such records and proceedings, and the associated docket sheet(s) (collectively, the “Subpoena Materials”). Applicants are informed and believe that these materials are currently sealed in their entirety on the docket of this Court.

This Court has the authority to unseal the Subpoena Materials pursuant to Federal Rule of Criminal Procedure 6(e), its supervisory authority over ancillary grand jury matters, *In re Grand Jury Subpoena John Doe No. 05JG1318*, 584 F3d 175, 177 n.1 (4th Cir. 2009), and its local rules controlling the sealing of judicial documents, *see* L. Crim. R. 49; L. Civ. R. 5. Federal Rule of Criminal Procedure 6(e)(6) allows certain “[r]ecords, orders, and subpoenas relating to grand-jury

proceedings” to be kept under seal “to the extent and as long as necessary to prevent the unauthorized disclosure of a matter occurring before a grand jury.” Fed. R. Crim. P. 6(e)(6). But as to the Subpoena Materials at issue here, “the cat is out of the bag.” *In re Grand Jury Subpoena to Judith Miller*, 493 F.3d 152, 155 (D.C. Cir. 2007); *see also In re Charlotte Observer*, 921 F.2d 47, 50 (4th Cir. 1990). Mr. Cole has publicized that he was subpoenaed by the grand jury and that he is contesting the Subpoena. *See, e.g., Matthew Cole, I’ve Been Subpoenaed By The Government*, The Cole Report (Aug. 6, 2026), <https://matthewcole.substack.com/p/ive-been-subpoenaed-by-the-government>; Devlin Barrett, *Justice Dept. Subpoenas Times Freelancer in Effort to Identify Sources*, N.Y. Times (Aug. 1, 2026), <https://www.nytimes.com/2026/08/01/us/politics/times-subpoena-reporter-trump-north-korea.html>. A recipient of a grand jury subpoena has the right to disclose such facts. *Cf.* Fed. R. Crim. P. 6(e)(6)(2) (identifying limited number of persons who are not allowed to disclose a matter occurring before the grand jury). And when they do so there is little, if any, secrecy left in the ancillary proceedings for Rule 6(e)(6) to protect.¹

Transparency is particularly important in this matter because the Subpoena, and Mr. Cole’s challenge to it, implicate significant constitutional and policy questions concerning protection for reporters’ confidential sources. *See Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 287 (4th Cir. 2000) (recognizing such protection is “necessary to ensure a free and vital press, without which an open and democratic society would be impossible to maintain”); *United States v. Sterling*, 724 F.3d 482, 498 (4th Cir. 2013) (declining to recognize constitutional reporter’s privilege but emphasizing First Amendment nevertheless prohibits process seeking a reporter’s information “issued in bad

¹ To the extent any information in the Subpoena Materials remains lawfully subject to sealing it should be redacted and the remainder of the materials released.

faith or for the purposes of harassment”). Those questions underlie the pronounced interest Applicants have in unsealing the Subpoena Materials. As set forth in the accompanying memorandum, the Subpoena stems from the publication of an article in *The Times* and represents the second effort by the Department of Justice in recent months to use a grand jury to compel testimony from reporters in connection with stories published therein. *See* Michael M. Grynbaum, *Times Journalists Subpoenaed as Trump Escalates Pressure on Media*, N.Y. Times (Jul. 11, 2026), <https://www.nytimes.com/2026/07/11/business/media/new-york-times-trump-subpoenas.html>.

Although *The Times* has not been subpoenaed in connection with the story at issue here, it maintains a strong interest in understanding when and how the government uses compulsory processes to target its reporting.

As for the Reporters Committee, a core component of its mission is the protection of journalists’ confidential work product and communications against compelled disclosure. *Our History*, Reps. Comm. for Freedom of the Press, <https://www.rcfp.org/our-history/> (noting RCFP was founded in order to defend against government subpoenas seeking reporters’ confidential sources). The Reporters Committee has therefore played a leading role in shaping federal policy on the use of investigative tools to obtain information from reporters and news organizations. *See New Justice Department Policy Marks ‘Historic Shift’ in Press Protection*, Reps. Comm. for Freedom of the Press (Oct. 26, 2022), <https://www.rcfp.org/doj-news-media-guidelines-policy/> (describing the Reporters Committee’s long-standing role in coordinating dialogue between the U.S. Department of Justice and leading news organizations on the Department’s “news media guidelines,” which govern obtaining information from, or records of, members of the press). In connection with that mission, the Reporters Committee regularly moves to unseal judicial records in leak investigations to better understand the circumstances in which the government seeks

information from journalists, as well as orders that implicate journalists' sources and work product, including in matters before this Court.²

For these and for the reasons set forth more fully in the accompanying brief, Applicants respectfully request that the Court grant this application and unseal the Subpoena Materials. Applicants have met and conferred with counsel for Mr. Cole and the United States Attorney's Office for the Eastern District of Virginia regarding the relief requested herein. Mr. Cole consents to the relief sought by the application; the United States Attorney's Office indicated that it could not take a position on a "question that pertains to grand jury—including any confirmation or denial of the existence of any such matter."

Applicants request oral argument on this application.

Dated: August 14, 2026

Respectfully submitted,

/s/ Lin Weeks

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REPORTERS COMMITTEE FOR

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² See, e.g., Joint Stip. of Dismissal, ECF No. 10, *In re Appl. of Reps. Comm. for Freedom of the Press*, No. 1:26-mc-00001 (E.D. Va. Feb. 4, 2026) (noting government's motion to unseal search warrant materials related to search of reporter's home in response to application by the Reporters Committee); Joint Stip. of Dismissal, *In re Appl. of Reps. Comm. for Freedom of the Press*, ECF No. 10, No. 1:17-mc-00002 (E.D. Va. Mar. 23, 2017) (noting government's unsealing of warrant materials related to the investigation of John C. Kiriakou in response to application by the Reporters Committee); Order, ECF No. 18, *In re Appl. of Reps. Comm. for Freedom of the Press*, No. 17-cv-169 (D. Md. June 26, 2017) (granting application for access to records related to investigation of Thomas Drake).

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**Pro Hac Vice Application Forthcoming*

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CERTIFICATE OF SERVICE

I, Lin Weeks, hereby certify that on August 14, 2026, a copy of the foregoing was filed electronically using this Court's CM/ECF system, and sent via email to:

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

The New York Times Company & Reporters Committee for Freedom of the Press

(b) County of Residence of First Listed Plaintiff New York, NY (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

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DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Fed. R. Crim. P. 6(e)
Brief description of cause:
Application to unseal court records

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE August 14, 2026 SIGNATURE OF ATTORNEY OF RECORD /s/ Lin Weeks

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RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE