

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<p>ELECTRONIC PRIVACY INFORMATION CENTER,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>UNITED STATES DEPARTMENT OF JUSTICE,</p> <p style="text-align: center;">Defendant.</p>

No. 1:06-CV-96 (RCL) (Lead Case)

<p>AMERICAN CIVIL LIBERTIES UNION et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>UNITED STATES DEPARTMENT OF JUSTICE,</p> <p style="text-align: center;">Defendant.</p>
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No. 1:06-CV-214 (RCL)

CONSOLIDATED CASES

PLAINTIFFS’ MOTION TO ALTER OR AMEND THE JUDGMENT

On March 31, 2014, the Court dismissed this Freedom of Information Act (“FOIA”) lawsuit based on its conclusion that the ten Office of Legal Counsel (“OLC”) memos still at issue are protected by FOIA’s Exemptions 1, 3, and 5. In arriving at that conclusion, the Court appears to have overlooked the parties’ joint status report, filed on February 24, 2014, noting the Department of Justice’s agreement to reprocess those ten OLC memos by July 21, 2014. The Department agreed to do so based on Plaintiffs’ request, which was in turn based on a series of recent and significant official declassifications of material likely similar or identical to that contained in the ten OLC memos. Those declassifications call into question the government’s

continued withholding of the ten OLC memos. For that reason, Plaintiffs contacted counsel for the Department of Justice to request reprocessing of the memos, and the Department agreed.¹

Accordingly, Plaintiffs now move the Court pursuant to Rule 59 to vacate its memorandum opinion and judgment pending the government's reprocessing of the ten OLC memos and the parties' subsequent joint status report, which the parties committed to filing two weeks after the conclusion of the reprocessing. Plaintiffs' counsel have conferred with Defendant's counsel concerning this motion, and Defendant opposes the relief sought.

April 25, 2014

Respectfully submitted,

/s/ Ginger McCall

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¹ Among other things, the government recently declassified a number of declarations describing various aspects of the Terrorist Surveillance Program as well as the broader President's Surveillance Program, both of which are likely described in the ten OLC memos at issue in this FOIA suit. *See* DNI Announces the Declassification of the Existence of Collection Activities Authorized by President George W. Bush Shortly After the Attacks of September 11, 2001 (Dec. 21, 2013), <http://icontherecord.tumblr.com/tagged/declassified>.