

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:

25-md-3143 (SHS) (OTW)

OPENAI, INC.,

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LITIGATION

This Document Relates To:
News Cases

1:23-cv-11195-SHS-OTW
1:24-cv-01515-SHS-OTW
1:24-cv-03285-SHS-OTW
1:24-cv-04872-SHS-OTW
1:25-cv-04315-SHS-OTW

**DECLARATION OF DAVIDA BROOK IN SUPPORT OF NEWS PLAINTIFFS’
OMNIBUS MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANTS’ MOTIONS FOR SUMMARY JUDGMENT**

1. I, Davida Brook, hereby declare as follows:
2. I am a Partner at Susman Godfrey L.L.P. located at 1900 Avenue of the Stars, Suite 1400, Los Angeles, CA 90067. I represent Plaintiff The New York Times Company (“The Times”) in this case and I am also News Plaintiffs’ Liaison Counsel.
3. I make this declaration in support of News Plaintiffs’ Opposition to OpenAI’s and Microsoft’s Motions for Summary Judgment.
4. Attached as Exhibit 1273 is a true and correct copy of a capture of the webpage for OpenAI’s description of GPT-4, available at [https://developers.openai.com/api/docs/models/gpt-](https://developers.openai.com/api/docs/models/gpt-4)

4.

5. Attached as Exhibit 1274 is a true and correct copy of an article titled, “Measuring Non-Adversarial Reproduction of Training Data in Large Language Models,” M. Aerni, et al.

6. Attached as Exhibit 1275 is a true and correct copy of the excerpted transcript of the deposition of Microsoft’s expert On Amir, dated July 14, 2026.

7. Attached as Exhibit 1276 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of The Center for Investigative Reporting’s corporate designee Monika Bauerlein, dated January 26, 2026.

8. Attached as Exhibit 1277 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of The Center for Investigative Reporting’s corporate designee Monika Bauerlein, dated January 27, 2026.

9. Attached as Exhibit 1278 is a true and correct copy of an article titled, “Believe it or not, ChatGPT gets over 1 billion messages every single day,” PCWorld, December 5, 2024, [<https://www.pcworld.com/article/2546712/believe-it-or-not-chatgpt-gets-over-1-billion-messages-every-single-day.html>].

10. Attached as Exhibit 1279 is a true and correct copy of the excerpted transcript of the deposition of The New York Times’s expert Emily Bell, dated July 17, 2026.

11. Attached as Exhibit 1280 is a true and correct copy of an article titled, “Benchmarking Python Content Extraction Algorithms: Dragnet, Readability, Goose, and Eatht,” Matt McDonell, January 29, 2015, [<https://moz.com/devblog/benchmarking-python-contentextraction-algorithms-dragnet-readability-goose-and-eatht>].

12. Exhibit 1281 is intentionally skipped.

13. Attached as Exhibit 1282 is a true and correct copy of the excerpted transcript of the deposition of OpenAI's expert Taylor Berg-Kirkpatrick, Ph.D., dated August 4, 2026.

14. Attached as Exhibit 1283 is a true and correct copy of the excerpted transcript of the 30(b)(1) deposition of Daily News Plaintiffs' witness Rowan Briggs, dated February 20, 2026.

15. Attached as Exhibit 1284 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of The Center for Investigative Reporting's corporate designee Madeleine Buckingham, dated December 18, 2025.

16. Attached as Exhibit 1285 is a true and correct copy of Plaintiff The Center for Investigative Reporting, Inc.'s Supplemental Responses to Defendant Microsoft Corporation's Interrogatories (Nos. 5, 6, 21), dated September 5, 2025.

17. Attached as Exhibit 1286 is a true and correct copy of the excerpted transcript of the deposition of The Intercept Media's and The Center for Investigative Reporting's expert Sue Cross, dated July 27, 2026.

18. Attached as Exhibit 1287 is a true and correct copy of Defendant OpenAI, L.L.C.'s Reply Brief in Support of Motion for Summary Judgment, No. 23-A-04860-2 (Ga. Sup. Ct.), dated April 7, 2025.

19. Attached as Exhibit 1288 is a slipsheet for the document bearing Bates DNP-00571423. A true and correct copy of the produced document bearing Bates DNP-00571423 is being provided via flash drive.

20. Attached as Exhibit 1289 is a true and correct copy of Ex. 130 (NYT_00941750) to the deposition of The New York Times's witness Samantha Felix.

21. Attached as Exhibit 1290 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of Microsoft's corporate designee Padma Gaggara, dated January 28, 2026.

22. Attached as Exhibit 1291 is a true and correct copy of an article titled, "A warning about 'model welfare,'" Mustafa Suleyman, September 16, 2026, [<https://mustafa-suleyman.ai/a-warning-about-model-welfare>].

23. Attached as Exhibit 1292 is a true and correct copy of the cover of "Power and Prediction – The Disruptive Economics of Artificial Intelligence," which is Ex. 11 to the deposition of OpenAI's expert Avi Goldfarb.

24. Attached as Exhibit 1293 is a true and correct copy of OpenAI's expert Avi Goldfarb's Opening Expert Report regarding The Center for Investigative Reporting, dated April 24, 2026.

25. Attached as Exhibit 1294 is a true and correct copy of an article titled, "How ChatGPT Kicked Off an A.I. Arms Race," The New York Times, February 3, 2023, [<https://www.nytimes.com/2023/02/03/technology/chatgpt-openai-artificial-intelligence.html>].

26. Attached as Exhibit 1295 is a true and correct copy of an article titled, "How We Uncovered the True Story of 40 Acres and a Mule," Mother Jones, June 13, 2024, [<https://www.motherjones.com/politics/2024/06/40-acres-methodology/>].

27. Attached as Exhibit 1296 is a true and correct copy of a capture of the webpage for Microsoft's Bing Webmasters Tools help & how-to page on IndexNow, available at <https://www.bing.com/webmasters/help/indexnow-0z209wby>.

28. Attached as Exhibit 1297 is a true and correct copy of “Search Task Force,” dated May 12, 2023 and Ex. 34 to the deposition of Daily News Plaintiffs’ witness CJ Jacobs.

29. Attached as Exhibit 1298 is a true and correct copy of the excerpted transcript of the 30(b)(1) deposition of OpenAI’s witness Chris Koch, dated April 10, 2026.

30. Attached as Exhibit 1299 is a true and correct copy of Letter to Suzanne V. Wilson, General Counsel and Associate Register of Copyrights, from Tom Rubin, Chief of Intellectual Property and Content at OpenAI, June 4, 2024, [<https://www.copyright.gov/policy/artificial-intelligence/ex-parte-communications/letters/OpenAI-June-4-2024.pdf>].

31. Attached as Exhibit 1300 is a true and correct copy of the excerpted transcript of the 30(b)(1) deposition of Daily News Plaintiffs’ witness Wayne Lown, dated January 9, 2026.

32. Attached as Exhibit 1301 is a true and correct copy of a capture of the webpage for the 2026 Pulitzer Prize Winner in Opinion Writing award to M. Gessen of The New York Times, available at <https://www.pulitzer.org/winners/m-gessen-new-york-times>.

33. Attached as Exhibit 1302 is a true and correct copy of the excerpted transcript of the deposition of The New York Times, Daily News Plaintiffs, and Ziff Davis’ expert James E. Malackowski, dated July 15, 2026.

34. Attached as Exhibit 1303 is a true and correct copy of the excerpted transcript of the deposition of The New York Times, Daily News Plaintiffs, and Ziff Davis’ expert James E. Malackowski, dated July 16, 2026.

35. Attached as Exhibit 1304 is a true and correct copy of March 27, 2026 email correspondence between Charles Nagggar, counsel for Ziff Davis, and Emily Wang, counsel for OpenAI, cc'ing all counsel for News Plaintiffs and OpenAI.

36. Attached as Exhibit 1305 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of Ziff Davis's corporate designee Christine Mattheis, dated January 26, 2026.

37. Attached as Exhibit 1306 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of The New York Times's corporate designee Mariam Melikadze, dated April 16, 2026.

38. Attached as Exhibit 1307 is a true and correct copy of the produced document bearing Bates MSFT_AI_MDL_000170197.

39. Attached as Exhibit 1308 is a true and correct copy of the produced document bearing Bates MSFT_AI_MDL_000640527.

40. Attached as Exhibit 1309 is a slipsheet for the document bearing Bates MSFT_AI_MDL_000925607. A true and correct copy of the produced document bearing Bates MSFT_AI_MDL_000925607 is being provided via flash drive.

41. Attached as Exhibit 1310 is a slipsheet for the document bearing Bates MSFT_AI_MDL_001178782. A true and correct copy of the produced document bearing Bates MSFT_AI_MDL_001178782 is being provided via flash drive.

42. Attached as Exhibit 1311 is a true and correct copy of the produced document bearing Bates MSFT_AI_MDL_001379616.

43. Attached as Exhibit 1312 is a true and correct copy of the produced document bearing Bates MSFT_AI_MDL_001618003.

44. Attached as Exhibit 1313 is a true and correct copy of the produced document bearing Bates MSFT_AI_MDL_002218935.

45. Attached as Exhibit 1314 is a true and correct copy of the produced document bearing Bates NYT_00269020.

46. Attached as Exhibit 1315 is a true and correct copy of the produced document bearing Bates NYT_00467690.

47. Attached as Exhibit 1316 is a true and correct copy of the produced document bearing Bates NYT_00759576.

48. Attached as Exhibit 1317 is a slipsheet for the document bearing Bates NYT_01036107. A true and correct copy of the produced document bearing Bates NYT_01036107 is being provided via flash drive.

49. Attached as Exhibit 1318 is a true and correct copy of the produced document bearing Bates OPCO_MDL_000206874.

50. Attached as Exhibit 1319 is a true and correct copy of the produced document bearing Bates OPCO_MDL_000230700.

51. Attached as Exhibit 1320 is a true and correct copy of the produced document bearing Bates OPCO_MDL_000483654.

52. Attached as Exhibit 1321 is a true and correct copy of the produced document bearing Bates OPCO_MDL_000999220.

53. Attached as Exhibit 1322 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001699255.

54. Attached as Exhibit 1323 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001827678.

55. Attached as Exhibit 1324 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001833158.

56. Attached as Exhibit 1325 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001835955.

57. Attached as Exhibit 1326 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001841466.

58. Attached as Exhibit 1327 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001896110.

59. Attached as Exhibit 1328 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001896227.

60. Attached as Exhibit 1329 is a true and correct copy of the produced document bearing Bates OPCO_MDL_001949400.

61. Attached as Exhibit 1330 is a true and correct copy of the produced document bearing Bates OPCO_MDL_002119647.

62. Attached as Exhibit 1331 is a true and correct copy of the produced document bearing Bates OPCO_MDL_004731488.

63. Attached as Exhibit 1332 is a true and correct copy of the produced document bearing Bates OPCO_MDL_004760586.

64. Attached as Exhibit 1333 is a true and correct copy of the produced document bearing Bates OPCO_MDL_004762434.

65. Attached as Exhibit 1334 is a true and correct copy of the produced document bearing Bates OPCO_MDL_004771151.

66. Attached as Exhibit 1335 is a slipsheet for the document bearing Bates OPCO_MDL_004771490. A true and correct copy of the produced document bearing Bates OPCO_MDL_004771490 is being provided via flash drive.

67. Attached as Exhibit 1336 is a true and correct copy of the produced document bearing Bates OPCO_MDL_004820707.

68. Attached as Exhibit 1337 is a true and correct copy of the produced document bearing Bates OPCO_MDL_PD_000003457.

69. Attached as Exhibit 1338 is a true and correct copy of the produced document bearing Bates OPCO_NEWS_0838839.

70. Attached as Exhibit 1339 is a true and correct copy of the produced document bearing Bates OPCO_NEWS_0996940.

71. Attached as Exhibit 1340 is a true and correct copy of the produced document bearing Bates OPCO_OAI_OUTPUT00005545.

72. Attached as Exhibit 1341 is a true and correct copy of a capture of the webpage for OpenAI's Services Agreement, available at <https://openai.com/policies/services-agreement/>.

73. Attached as Exhibit 1342 is a slipsheet for a video titled, “OpenAI’s Sam Altman on Building the ‘Core AI Subscription’ for Your Life,” [<https://www.youtube.com/watch?v=ctcMA6chfDY>]. A true and correct native copy of this video is being provided via flash drive.

74. Attached as Exhibit 1343 is a true and correct copy of a capture of the webpage for OpenAI’s Overview of OpenAI Crawlers, available at <https://developers.openai.com/api/docs/bots>.

75. Attached as Exhibit 1344 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of Ziff Davis’ corporate designee Robert Parisi, dated February 26, 2026.

76. Attached as Exhibit 1345 is a true and correct copy of an article titled, “Pythia: A Suite for Analyzing Large Language Models Across Training and Scaling,” S. Biderman, et al.

77. Attached as Exhibit 1346 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of The New York Times’s corporate designee Zach Seward, dated November 7, 2025.

78. Attached as Exhibit 1347 is a true and correct copy of the excerpted transcript of the 30(b)(6) deposition of The Intercept Media’s corporate designee Michael Sherrard, dated February 11, 2026.

79. Attached as Exhibit 1348 is a true and correct copy of the excerpted transcript of the deposition of OpenAI’s expert Aram Sinnreich, dated July 29, 2026.

80. Attached as Exhibit 1349 is a true and correct copy of OpenAI's expert Dr. Aram Sinnreich's Rebuttal to Expert Reports of The New York Times's experts Emily Bell and Oren Etzioni, dated May 29, 2026.

81. Attached as Exhibit 1350 is a true and correct copy of the excerpted transcript of the 30(b)(1) deposition of The New York Times's witness Jason Sobel, dated December 9, 2025.

82. Attached as Exhibit 1351 is a true and correct copy of the excerpted transcript of the deposition of The New York Times, Daily News Plaintiffs, and Ziff Davis' expert Jessie Stricchiola, dated July 30, 2026.

83. Attached as Exhibit 1352 is a true and correct copy of the Rebuttal Expert Report of Microsoft's expert Catherine Tucker, Ph.D., dated May 29, 2026.

84. Attached as Exhibit 1353 is a true and correct copy of the excerpted transcript of the deposition of Daily News Plaintiffs' witness Michael Turpin, dated February 11, 2026.

85. Attached as Exhibit 1354 is a true and correct copy of a capture of the webpage for Microsoft's Bing Webmaster Tools help & how-to page on URL Submissions, available at <https://www.bing.com/webmasters/help/URL-Submission-62f2860b>.

86. Attached as Exhibit 1355 is a true and correct copy of the excerpted transcript of the 30(b)(1) deposition of The New York Times's witness Camilla Velasquez, dated December 9, 2025.

87. Attached as Exhibit 1356 is a true and correct copy of the excerpted transcript of the deposition of The Intercept Media's and The Center for Investigative Reporting's expert Emily Wenger, Ph.D., dated July 21, 2026.

88. Attached as Exhibit 1357 is a true and correct copy of the transcript of the 30(b)(1) deposition of OpenAI's witness Tao Xu, dated January 29, 2026.

89. Attached as Exhibit 1358 is a true and correct copy of the produced document bearing Bates OPCO_MDL_000110909.

90. Attached as Exhibit 1359 is a true and correct copy of Ex. 32 to the deposition of OpenAI's former employee Alec Radford.

91. Attached as Exhibit 1360 is a true and correct copy of the excerpted transcript of the 30(b)(1) deposition of Ziff Davis's witness Joseph A. Fortuna, Jr., dated February 25, 2026.

92. Attached as Exhibit 1361 is a true and correct copy of the transcript of the deposition of Daily News Plaintiffs' expert Taylor Owen, dated July 31, 2026.

93. Attached as Exhibit 1362 is a true and correct copy of an article titled, "Extracting Training Data from Large Language Models," [<https://doi.org/10.48550/arXiv.2012.07805>].

94. Attached as Exhibit 1363 is a true and correct copy of a capture of the webpage for OpenAI's Terms of Use, available at <https://openai.com/policies/row-terms-of-use/>.

95. Attached as Exhibit 1364 is a true and correct copy of a capture of the webpage for the NYTimes.com homepage, available at <https://www.nytimes.com/>.

96. Attached as Exhibit 1365 is a true and correct copy of the excerpted transcript of the 30(b)(1) deposition of OpenAI's witness Robert McGrew, dated February 27, 2026.

97. Attached as Exhibit 1366 is a true and correct copy of the excerpted transcript of the deposition of The New York Times's and Daily News Plaintiffs' expert Tom Goldstein, Ph.D., dated July 30, 2026.

98. Attached as Exhibit 1367 is a true and correct copy of the excerpted transcript of the deposition of Microsoft's expert Christopher A. Bail, Ph.D., dated July 30, 2026.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Los Angeles, California on October 23, 2026.

/s/ Davida Brook
Davida Brook