

# SUPREME COURT OF THE UNITED STATES

---

IN THE SUPREME COURT OF THE UNITED STATES

-----  
COCHISE CONSULTANCY, INC.,                    )  
ET AL. ,    )  
  Petitioners,                                        )  
  v.    ) No. 18-315  
UNITED STATES,                                        )  
EX REL. BILLY JOE HUNT,                            )  
  Respondent.                                        )  
-----

Pages: 1 through 64

Place: Washington, D.C.

Date: March 19, 2019

---

## HERITAGE REPORTING CORPORATION

*Official Reporters*  
1220 L Street, N.W., Suite 206  
Washington, D.C. 20005  
(202) 628-4888  
[www.hrccourtreporters.com](http://www.hrccourtreporters.com)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE SUPREME COURT OF THE UNITED STATES

- - - - -

COCHISE CONSULTANCY, INC., )

ET AL. , )

Petitioners, )

v. ) No. 18-315

UNITED STATES, )

EX REL. BILLY JOE HUNT, )

Respondent. )

- - - - -

Washington, D.C.

Tuesday, March 19, 2019

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 10:31 a.m.

1 APPEARANCES:

2 THEODORE J. BOUTROUS, JR., ESQ., Los Angeles,  
3 California; on behalf of the Petitioners.

4 EARL N. MAYFIELD III, ESQ., Fairfax, Virginia; on  
5 behalf of the Respondent.

6 MATTHEW GUARNIERI, Assistant to the Solicitor General,  
7 Department of Justice, Washington, D.C.; on behalf  
8 of the United States, as amicus curiae, in support  
9 of the Respondent.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

	C O N T E N T S	
1		
2	ORAL ARGUMENT OF:	PAGE:
3	THEODORE J. BOUTROUS, JR., ESQ.	
4	On behalf of the Petitioners	4
5	ORAL ARGUMENT OF:	
6	EARL N. MAYFIELD III, ESQ.	
7	On behalf of the Respondent	32
8	ORAL ARGUMENT OF:	
9	MATTHEW GUARNIERI, ESQ.	
10	On behalf of the United States,	
11	as amicus curiae, in support of	
12	the Respondent	54
13	REBUTTAL ARGUMENT OF:	
14	THEODORE J. BOUTROUS, JR., ESQ.	
15	On behalf of the Petitioners	60
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S

2 (10:31 a.m.)

3 CHIEF JUSTICE ROBERTS: We'll hear  
4 argument this morning in Case 18-315, Cochise  
5 Consultancy versus the United States, ex rel.  
6 Billy Joe Hunt.

7 Mr. Boutrous.

8 ORAL ARGUMENT OF THEODORE J. BOUTROUS, JR.

9 ON BEHALF OF THE PETITIONERS

10 MR. BOUTROUS: Mr. Chief Justice, and  
11 may it please the Court:

12 The Eleventh Circuit held that a  
13 relator who waited seven years to file suit  
14 after witnessing an alleged fraud against the  
15 United States Government was entitled to rely  
16 on the equitable tolling principle, the  
17 discovery rule, that is established by  
18 Section 3731(b)(2) of the False Claims Act,  
19 even though the government declined to  
20 intervene in the suit.

21 Under this approach, a relator could  
22 conceal from the United States and could wait  
23 to sue for a decade and still take advantage of  
24 the principle of equitable tolling. This  
25 reading of Section 3731(b)(2) contradicts this

1 Court's interpretive approach in the Graham  
2 case, it defies default tolling rules, and it  
3 would produce counterintuitive results that  
4 Congress cannot possibly have intended.

5 Let me begin with the text. In this  
6 Court's decision in Graham, interpreting the  
7 False Claims Act, it held that these provisions  
8 must be interpreted in context, not in  
9 isolation. And, in particular, it -- it  
10 focused on the language under -- under Section  
11 3730, which is contained in Section 3731(b)(2).  
12 And, here, the statutory context confirms that  
13 that language, "action under Section 3730," as  
14 incorporated into subsection (b)(2), is limited  
15 to those actions where the United States is a  
16 party, either because it's intervened or it  
17 filed a complaint.

18 And Graham said --

19 JUSTICE GINSBURG: Isn't the United  
20 States in some sense a party even if it hasn't  
21 intervened? After all, it's going to get the  
22 lion's share of the recovery, and, if I  
23 understand correctly, it -- the suit can't be  
24 dismissed without notice and -- and approval by  
25 the United States.

1           MR. BOUTROUS: The government does  
2 have certain rights, Your Honor, when it does  
3 not intervene, but it is not a party. This  
4 Court held that in Eisen -- the Eisenstadt  
5 case, and -- and the -- the key here, Your  
6 Honor, is, if we look at the text of the  
7 statute, it -- there are multiple textual cues.

8           The first are that the provision,  
9 Section 3731(b)(2), only refers to the United  
10 States. And the statute refers to relators and  
11 the United States separately throughout. But  
12 it only refers to the United States.

13           And as Judge Wilkinson in the Sanders  
14 case from the Fourth Circuit noted, it makes no  
15 sense to apply this tolling provision to a  
16 relator where the United States is not  
17 involved. The language is that the knowledge  
18 of the official of the United States charged  
19 with responsibility to act in the circumstances  
20 triggers the statute of limitations.

21           So knowledge of a third party that's  
22 not a party to the case would somehow put the  
23 plaintiff who's -- who's the -- the relator,  
24 who's not an injured party, on notice that  
25 there's a claim, it could start the clock

1 ticking without the relator even knowing it.

2 JUSTICE GORSUCH: Mr. Boutrous, I  
3 understand your argument that a  
4 non-intervention case is not a civil action  
5 under Section 3730 for purposes of (b)(2). And  
6 the arguments you've just given us, I -- I  
7 acknowledge those and -- and your response to  
8 Justice Ginsburg.

9 But I believe you still take the  
10 position that the very same case is a civil  
11 action under 3730 for purposes of (b)(1). And  
12 so you'd have us interpret that introductory  
13 language to (b) in two different ways, one for  
14 (b)(1) and the other for (b)(2). How do we  
15 manage that? That's quite a feat, don't you  
16 think?

17 MR. BOUTROUS: I don't think it's --  
18 it's difficult at all, Your Honor, and in -- in  
19 Graham, the Court said --

20 JUSTICE GORSUCH: But Graham -- let --  
21 let -- sorry to interrupt you there.

22 MR. BOUTROUS: Yes.

23 JUSTICE GORSUCH: But I just put my  
24 cards on the table so you can -- you can play  
25 them as you wish. In Graham, we held that



1 retaliation claims just simply aren't covered  
2 by this provision at all, and they don't  
3 qualify under that introductory language for  
4 either purposes of (b)(1) or (b)(2).

5 Here, you're asking us to split the  
6 baby, as it were. And we normally don't read  
7 the same language to mean two different things.  
8 And I believe that's a problem you face that we  
9 did not face in Graham.

10 MR. BOUTROUS: Well, actually, Your  
11 Honor, in Graham, that exact issue was  
12 presented. The Court said, in discussing  
13 Section 3731(d), which at the time was  
14 subsection (c), that the language "action  
15 brought under Section 3730" meant only actions  
16 brought under the United States in that  
17 provision.

18 And the Court said it was the --  
19 basically the exact same language in Section  
20 3731(b)(1), which is what the Court was talking  
21 about. The Court said that Congress spoke  
22 imprecisely, used the term "actions under  
23 Section 3730" imprecisely, and it sometimes  
24 used that phrase to refer to only a subset of  
25 actions under Section 3730.

1           And in interpreting Section --  
2 subsection (d), it said that subset were  
3 actions only involving the United States.  
4 That's exactly what we're arguing here.

5           So -- and the Court has, Your Honor,  
6 in many instances interpreted the same phrase  
7 in a statute to mean different things. In the  
8 Utility Regulatory Air case, for example, the  
9 Court said you have to look at what is the  
10 language doing in a particular provision. How  
11 is it interacting with the other provisions?

12           Here, section -- subsections (b)(1)  
13 and (b)(2) are very different provisions. It's  
14 not like just a word following a defined term;  
15 (b)(1) is triggered by a violation of Section  
16 3729.

17           JUSTICE GORSUCH: Just so I understand  
18 your argument, and we can -- we can put it in a  
19 nutshell and then you can move it on. You read  
20 that language, a civil action under 3730, to  
21 mean cases where there's no intervention when  
22 we come to (b)(1) but not (b)(2), is that  
23 right?

24           MR. BOUTROUS: In (b)(2), we read it  
25 to mean there -- yes, that's correct, Your

1 Honor.

2 JUSTICE GORSUCH: Yeah.

3 MR. BOUTROUS: That there must be  
4 intervention under (b)(2). In Section  
5 (b)(1) --

6 JUSTICE GORSUCH: So -- so the United  
7 States is a party for purposes of (b)(1) but  
8 not (b)(2) --

9 MR. BOUTROUS: It -- (b) --

10 JUSTICE GORSUCH: -- put differently?

11 MR. BOUTROUS: -- (b) -- (b)(1) does  
12 not refer -- does not distinguish between the  
13 United States and the relator.

14 JUSTICE GORSUCH: Right.

15 MR. BOUTROUS: (b)(2) does. It  
16 specifically calls out the United States. And  
17 -- and the statute of limitations is triggered  
18 based on the knowledge of the official of the  
19 United States charged with responsibility to  
20 act under the circumstances.

21 JUSTICE KAGAN: But does that mean,  
22 Mr. Boutrous, that the statute of limitations  
23 can change in the middle of the lawsuit if the  
24 government decides to intervene?

25 MR. BOUTROUS: It doesn't change, Your

1 Honor. For a relator, the statute of  
2 limitations would be six years after the  
3 violation occurred, and -- and that -- that  
4 would end it. For the United States, if the  
5 relator, for example, sued and -- on -- on its  
6 own and the government didn't intervene and it  
7 was more than six years, the claim would be  
8 barred.

9 But that doesn't mean the statute of  
10 limitations is changing. The United States  
11 would still have the opportunity to intervene  
12 and, if it -- if the official charged with  
13 responsibility to act had learned less than  
14 three years after -- before the filing of the  
15 suit, the claim would be timely. So the  
16 statute of limitations stays the same. I don't  
17 think it's at all complicated.

18 But think of the reverse. Here,  
19 equitable tolling -- and this goes to the  
20 default rules. Equitable tolling is meant to  
21 protect the injured party who's seeking  
22 recompense. That's what the Court said in  
23 Gabelli, where it's talking about civil  
24 enforcement penalties brought -- sought by the  
25 SEC. And -- and this Court said it had never

1 applied equitable tolling or the discovery rule  
2 where the government is seeking penalties and  
3 not seeking compensation for itself.

4 That's what the relator is doing here.

5 JUSTICE SOTOMAYOR: But you see, the  
6 problem I have is that I know that it appears  
7 to give the relator more of a statute of  
8 limitations than the government, but, if you  
9 look at this statute more broadly, which is  
10 that its purpose is to ensure that when some  
11 fraud has occurred against the U.S., that there  
12 is recovery for the United States, and the qui  
13 tam actions, whether it's the relator or the  
14 U.S. prosecuting it, the recovery in bulk, as  
15 Justice Ginsburg mentioned, goes to the  
16 government.

17 So there is a purpose to this and one  
18 that makes logical sense, which is why should  
19 it matter that it's the government's knowledge  
20 that is at issue when it's the government who  
21 stands to benefit from a longer statute of  
22 limitations?

23 MR. BOUTROUS: Well, the -- Your  
24 Honor, the government would benefit from the  
25 longer statute of limitations. It would have

1 the opportunity to --

2 JUSTICE SOTOMAYOR: No, but you're  
3 forcing it to do something that the statute  
4 clearly doesn't want to force the government to  
5 do, which is you're forcing it to step into the  
6 shoes of the relator, but the statute clearly  
7 gives the government the option not to.

8 And you're saying read this in a way  
9 that forces the government to do it.

10 MR. BOUTROUS: Well, it wouldn't be  
11 forced, Your Honor. It would consider the fact  
12 that the claim would be rendered untimely as  
13 part of the suite of factors it normally would  
14 consider.

15 Here, the government was not forced  
16 into filing -- intervening. It decided that  
17 based on its evaluation of the merits and of  
18 cost and other factors it wouldn't do that.

19 But it -- Your Honor, there's -- it's  
20 not just the recovery for the government. It's  
21 rapid exposure of fraud.

22 Congress and this Court said it way  
23 back when in the Marcus versus Hess case, the  
24 False Claims Act was meant to spur rapid  
25 ferreting out of fraud by privateers or bounty

1 hunters or people who were on the scene. This  
2 would do the opposite.

3 So it's inconsistent with the purposes  
4 of the False Claims Act and with the purpose of  
5 statutes of limitations, which are meant --

6 JUSTICE SOTOMAYOR: Well, no longer,  
7 because, in 1996, Congress made one of the  
8 factors relevant to how much a relator recovers  
9 whether they were dilatory in bringing the  
10 action.

11 I know that has little to do with the  
12 original interpretation, but that's not a  
13 consequence today.

14 MR. BOUTROUS: But --

15 JUSTICE SOTOMAYOR: There's still a  
16 direct incentive.

17 MR. BOUTROUS: It can have an effect.  
18 And I think one of the cases that was cited by  
19 the other side showed that there was a modest  
20 reduction.

21 But the -- the principle here that a  
22 relator, for example, Mr. Hunt waited seven  
23 years, and one of the cases that creates the  
24 conflict that brings us here was eight or nine  
25 years. It is so contrary to the very essence

1 of equitable tolling to allow someone to lie in  
2 the weeds and conceal from the United States --

3 CHIEF JUSTICE ROBERTS: Well, that's  
4 -- that's really more of an academic concern.  
5 The relators, for example, they know if they  
6 don't move promptly, another relator might  
7 preempt them. They know that if they don't  
8 move promptly, the government itself might find  
9 out before they have a chance to file, and that  
10 would preempt their action as well.

11 The theory of a relator just sort of,  
12 as you say, waiting in the weeds I think is not  
13 a realistic one.

14 MR. BOUTROUS: Well, Your Honor, that  
15 -- this case proves the opposite. It's not  
16 academic. Here, the relator waited seven  
17 years. In other cases, in the Sanders case, I  
18 think it was seven or eight years.

19 But think of it this way: If a  
20 relator's case is baseless, if it's a concocted  
21 claim, if it can -- if it's a meritless claim,  
22 those incentives about moving quickly don't  
23 spark the relator to do anything.

24 They're better off just waiting,  
25 letting damages that they're going to claim



1 pile up, treble damages, and there they -- they  
2 can amass whatever evidence they have while the  
3 defendant has no idea that someone is going to  
4 bring this claim.

5 JUSTICE GINSBURG: But you just -- you  
6 just -- you prefaced this by saying if the  
7 claim is baseless. So none of that is going to  
8 happen if the claim is baseless.

9 MR. BOUTROUS: Well, but -- but, Your  
10 Honor, these False Claims Act, I think the  
11 amicus briefs demonstrate, they do present a  
12 problem potentially of abuse, and -- and  
13 throughout history, qui tam actions have  
14 created such problems. I'm not saying they all  
15 are.

16 But what I am saying is that the  
17 incentives don't necessarily cause people to  
18 file quickly, as this case and many others  
19 demonstrate.

20 JUSTICE KAVANAUGH: You're --

21 MR. BOUTROUS: But the point is, even  
22 if the incentives are -- there are incentives  
23 there, this is another thing that a relator  
24 could consider. They can wait.

25 That's flatly contrary to equitable

1 tolling, and that's the background rule that  
2 Congress was thinking of.

3 JUSTICE KAVANAUGH: You're not arguing  
4 that it would be absurd to read it as  
5 Respondent and the Solicitor General read it?

6 MR. BOUTROUS: We are not. We are  
7 arguing that it's counterintuitive, just like  
8 the rule in Graham that was rejected.

9 JUSTICE KAVANAUGH: Counterintuitive,  
10 Congress likely did not mean what it said, it  
11 seems to be what you're suggesting?

12 MR. BOUTROUS: No, Your Honor. We  
13 mean that Congress did mean what it said, that  
14 where the United States official who's charged  
15 with responsibility for filing a timely action,  
16 when the government --

17 JUSTICE GINSBURG: Except it didn't  
18 say that. It has a statute. It says civil  
19 action. And then it says, one, or two,  
20 whichever is later, and makes no distinction in  
21 the text between the United States stepping in  
22 as intervenor or the qui tam plaintiff going it  
23 alone.

24 MR. BOUTROUS: Justice Ginsburg, I  
25 think we crossed that bridge in Graham, the

1 fact that -- that that language --

2 JUSTICE GINSBURG: But Graham was --  
3 Graham was a retaliation claim. And there it  
4 was a case where, to bring a retaliation claim,  
5 you don't have to prove there was any fraud at  
6 all, just that you were retaliated against, and  
7 the retaliation could occur after the statute  
8 of limitations ran.

9 So that, if there are absurd results,  
10 it seems to me that would -- would fit, that  
11 you don't even have a claim that you can sue on  
12 until the statute of limitations has already  
13 run.

14 MR. BOUTROUS: That was one aspect of  
15 Graham. But the way the Court got there -- and  
16 the dissent in Graham did not think it was an  
17 absurd position. That it was counterintuitive  
18 is what the majority said.

19 But, Your Honor, it -- Graham didn't  
20 just talk about the retaliation provision,  
21 subsection (h). It talked about 3731(d) that  
22 provides in an action under Section 30 --  
23 brought under Section 3730, the United States  
24 must prove the elements by a preponderance of  
25 the evidence.

1           And the Court held that that provision  
2           only applied to actions brought by the United  
3           States or where they intervened, even though it  
4           was even broader. It said any action under  
5           Section 3730.

6           And the Court held that Congress was  
7           imprecise. It's not that they didn't mean what  
8           they said. They were imprecise when they --

9           JUSTICE KAVANAUGH: Why is this  
10          imprecise? It seems very clear. Now you then  
11          argue it doesn't make a ton of sense in terms  
12          of the policy objectives, tolling principles, I  
13          get all that, but it -- it seems very clear as  
14          written.

15          MR. BOUTROUS: Well, Your Honor, I  
16          think that, one, we have to -- it's -- it's --  
17          it's -- you can only interpret the statute by  
18          understanding or viewing the language "action  
19          under Section 3730" as appearing in both  
20          provisions.

21          It really does. It can't be that the  
22          decision turns on the fact that, as a drafting  
23          technique, Congress said it once and it goes  
24          into two very different provisions.

25          So, when we get to Section 3731(b)(2),

1 the question is, which actions is Congress  
2 talking about? And the fact -- it's not that  
3 it didn't mean what it said. But it was  
4 imprecise in the sense that it didn't button  
5 down absolutely clearly that a relator couldn't  
6 take advantage of that provision.

7 But everything else -- common sense,  
8 logic, the structure of the provision, the --  
9 the -- the derivation of the --

10 JUSTICE KAVANAUGH: Let's talk about  
11 common sense.

12 JUSTICE GORSUCH: What do you do --

13 JUSTICE KAVANAUGH: I'm sorry. Go  
14 ahead.

15 JUSTICE GORSUCH: No, please.

16 JUSTICE KAVANAUGH: Go ahead.

17 (Laughter.)

18 JUSTICE GORSUCH: Your question is  
19 probably better than mine.

20 This common sense we keep coming back  
21 to, I guess I'm struggling to get my head  
22 around it.

23 Congress, you suggest, wants to  
24 encourage relators to act quickly, but it has a  
25 number of other tools for ensuring that, as the

1 Chief Justice pointed out.

2 And, in any event, it really boils  
3 down to these last three years, seven through  
4 ten, and whether Congress would have thought  
5 that we want relators to -- we want to  
6 outsource work to relators years one through  
7 six, but not seven through ten, for the reasons  
8 that we want to encourage relators to act  
9 quickly.

10 But couldn't a rational Congress  
11 think, well, we want to outsource the work to  
12 relators seven through ten as well, and why is  
13 that absurd or unlikely or why does that defy  
14 common sense? I guess I'm just struggling to  
15 understand that argument.

16 MR. BOUTROUS: Because, Your Honor,  
17 first, six years is a long time for a statute  
18 of limitations for fraud, number one.

19 Number two, we're talking about  
20 equitable tolling that is pegged on diligence  
21 and that the -- that the party who is bringing  
22 the case acted diligently.

23 As the Court said in Credit Suisse,  
24 it's inequitable to continue to toll a statute  
25 of limitations once the plaintiff knows there's

1     been an injury and they have a claim.  It's  
2     inequitable.

3                 So Congress would never have thought  
4     that if it was -- in putting an equitable  
5     principle -- tolling principle into the  
6     statute, that it would allow the plaintiff to  
7     just lay back and wait for years and years and  
8     years to file the lawsuit.  It's contrary to  
9     the very essence of what equitable tolling is.

10                JUSTICE ALITO:  Well, Congress --  
11     Congress certainly could have wanted to give  
12     relators ten years to file suit, but that's not  
13     really the question.

14                The question is did they want relators  
15     to file suit between years seven and ten in  
16     those cases where, A, the government didn't  
17     know about the fraud until year seven and the  
18     government chooses not to bring the case on its  
19     own.

20                MR. BOUTROUS:  Correct.  And -- and  
21     that's exactly right, Your Honor.  When we're  
22     getting to seven and ten years, the -- the  
23     memories are fading, the government that has --  
24     which has this, you know, a special  
25     responsibility to ensure justice is done,

1 statutes of limitations serve important  
2 purposes.

3 In Gabelli, the Court repeated that  
4 this -- they're vital to the welfare of  
5 society. They're important for justice.

6 JUSTICE ALITO: I mean, this is a --  
7 this is an interesting case because it really  
8 does create a statutory interpretation dilemma.

9 This is a -- a terribly-drafted  
10 statute. It may serve wonderful purposes, but  
11 if -- if -- if I were to grade whoever drafted  
12 it -- anyway, I'll pass that.

13 (Laughter.)

14 JUSTICE ALITO: But you have a real --  
15 you have a real problem in trying to fit this  
16 into the statutory text.

17 The other side I think has a real  
18 problem if they want to argue that this --  
19 their argument makes that Congress really --  
20 anybody in Congress really intended the result  
21 that they -- that they're advocating.

22 So what's your best shot at fitting  
23 this into the statutory text?

24 MR. BOUTROUS: My best shot, Your  
25 Honor, is that the -- the -- the language



1 "action under Section 3730" is incorporated  
2 into Section 3731(b)(2), and that provision is  
3 triggered when -- when the official who is  
4 charged with responsibility to file a timely  
5 action had knowledge and they must do so within  
6 three years.

7 And that's what the Fourth Circuit  
8 said in Sanders. The -- the -- the -- it can  
9 only mean that we're talking about a case where  
10 -- it cannot only mean. I agree with you this  
11 statute's a mess, but -- but a totally  
12 reasonable meaning is that it means that that's  
13 the official who was charged with getting a  
14 timely claim on file, timely action under  
15 Section 3730.

16 And to say that it's the relator when,  
17 in the history of this -- this country, we've  
18 never had a statute of limitations discovery  
19 rule triggered by the knowledge of a third  
20 party or we -- and we've never had this Court  
21 apply the discovery rule to someone seeking  
22 penalties on behalf of an uninjured -- an  
23 injured third party. That was Gabelli. Here,  
24 the relator is in that role.

25 CHIEF JUSTICE ROBERTS: Well, but, I

1 mean, this --

2 MR. BOUTROUS: We think our --

3 CHIEF JUSTICE ROBERTS: These types of  
4 actions are exceptional in many -- many ways,  
5 but the -- the concerns you raise about delay  
6 and all that, aren't -- aren't they at least  
7 significantly addressed with the ten-year  
8 statute of repose?

9 MR. BOUTROUS: No, Your Honor. Ten  
10 years is -- is a lifetime when we're talking  
11 about litigation. Six years is a long time.  
12 And in these cases, the -- the Washington Legal  
13 Foundation brief documents how the government  
14 will sometimes intervene -- will come in when  
15 they get the complaint. The complaint will  
16 remain under seal. And it will seek extension,  
17 extension, extension.

18 Here, it was over a year. So it can  
19 be 10 years; it could be 12 years. So 10 years  
20 in civil litigation, memories fade, people --  
21 witnesses die. They disappear. And so that is  
22 -- the difference between six years and 10  
23 years is a -- is a very long time.

24 And in going back to --

25 CHIEF JUSTICE ROBERTS: Well, we have

1 quite a few cases that started, you know, ten  
2 years ago.

3 MR. BOUTROUS: But they weren't filed  
4 at the ten-year mark. They were filed and they  
5 -- they go through all sorts of processes and  
6 you can take discovery and you can find out the  
7 information and the litigation has commenced.

8 And -- and -- and back to Justice  
9 Alito's question about my best argument, the  
10 other piece of it is we know that Congress  
11 adopted this tolling provision directly from  
12 Section 2416, which is the -- the tolling  
13 provision that only applies to actions brought  
14 by the United States in tort and contract  
15 actions.

16 So that's another, I think, flashing  
17 red light that, at a bare minimum, this  
18 language is not clear. It's as ambiguous as  
19 the language was viewed to be in Graham. And  
20 then the question is, what is it most likely  
21 that Congress intended? What did it --

22 JUSTICE KAVANAUGH: Well, the state --  
23 the states have an amicus brief that says no  
24 state has a statute of limitations that  
25 explicitly adopts the rules reflected in -- the

1 rule reflected in Petitioners' tortured  
2 interpretation of the FCA; it is Petitioners'  
3 proposed rule, not the FCA's plain meaning,  
4 that is absurd. So that is from 20 states.

5 Your response to their assessment?

6 MR. BOUTROUS: Their assessment really  
7 has no bearing on what Congress intended in  
8 1986. And some of the --

9 JUSTICE KAVANAUGH: Their assessment  
10 does have some bearing on how we think about  
11 how it fits into the overall context of these  
12 kinds of cases, and that's been really the  
13 thrust of your argument, I think.

14 MR. BOUTROUS: Well, I -- I -- I think  
15 that the -- that it does not have any bearing.  
16 I think it's incorrect because, again, I go  
17 back to the point that it's -- it's not  
18 equitable, it's not fair, it's -- it's contrary  
19 to the purposes of the False Claims Act, which  
20 are meant to incentivize in all ways relators  
21 coming forward. So I -- we simply disagree  
22 with that assessment.

23 There's -- there's -- and I didn't see  
24 any real clear examples in -- in -- in that  
25 brief or from the government that our rule

1 would cause any problems whatsoever. Our rule  
2 is consistent with history. It's consistent  
3 with Gabelli, Credit Suisse, with Graham, and  
4 in basic principles governing statutes of  
5 limitations. The --

6 JUSTICE KAGAN: It seems to me that,  
7 you know, this statute reflects a Congress that  
8 just decided that it did not want the  
9 government's decision whether to intervene to  
10 affect the statute of limitations. And that  
11 might be a bad policy choice, but -- but it's  
12 -- it's -- you can imagine reasons why Congress  
13 would have made that choice, just to say:  
14 Look, we actually think that this is a very  
15 special kind of case, and we want to, you know,  
16 have a statute of limitations that, it's true,  
17 it's not -- it's not ordinary for a rule like  
18 this to be triggered by a third party, but this  
19 is a special kind of third party, which is  
20 going to get most of the money from the suit.  
21 And we actually think it's just easier,  
22 simpler, better for any number of reasons, that  
23 nothing turn on whether the government  
24 intervenes or not.

25 MR. BOUTROUS: Theoretically, Congress

1 could have thought through that carefully, Your  
2 Honor, and gone through that analysis, but  
3 there's no indication that it did.

4 JUSTICE KAGAN: Well, the indication  
5 is that they wrote a provision where nothing  
6 turns on intervention.

7 MR. BOUTROUS: Well, Your Honor, I  
8 would respectfully submit that it's ambiguous.  
9 It's not clear, because the Congress used the  
10 language "action under Section 3730"  
11 imprecisely --

12 JUSTICE KAVANAUGH: What --

13 MR. BOUTROUS: -- to sometimes refer  
14 to subsets of -- of those claims. And, here,  
15 it's the actions by the only party mentioned in  
16 the provision.

17 JUSTICE ALITO: Well, why do you --  
18 why do you argue that (b)(2) applies when the  
19 government intervenes? Why don't you just  
20 argue that (b)(2) applies only when the  
21 government itself brings suit?

22 MR. BOUTROUS: That -- that would be  
23 another way to look at it, Your Honor. I think  
24 that the government ultimately files a  
25 complaint in intervention, if it intervenes,

1 and then that relate back -- relates back. So  
2 I think it -- it -- it gets us, you know, to  
3 the same place, but I -- I do think that it's  
4 -- it's really over-reading Graham to suggest  
5 that this has been decided, that actions under  
6 Section 3730 necessarily covers (b)(2).

7 The Court -- the government repeatedly  
8 cites and quotes Graham, suggesting that the  
9 Court held that, but it leaves out the fact  
10 that the Court very carefully said the text of  
11 Section 3731(b)(1) means all actions.

12 JUSTICE KAVANAUGH: Where -- where is  
13 the ambiguity? I'm not seeing ambiguity.  
14 Where exactly is the phrase that you think is  
15 ambiguous?

16 MR. BOUTROUS: Well, it's -- it's a  
17 combination of things, Your Honor. It's, as  
18 Graham said, Congress used that language,  
19 "action under Section 3730," imprecisely to  
20 refer to different groupings of cases.

21 And when we -- when we look at that  
22 language as incorporated into (b)(2), and the  
23 only party referenced there is the United  
24 States, and it's triggered off the official of  
25 the United States charged with responsibility

1 to act, we say the better reading is that that  
2 means it's an action where the United States  
3 brought the action or intervened in the action.

4 The government is reading in the  
5 notion that the -- that the decision to act or  
6 responsibility to act includes the -- the  
7 decision not to act, which we think is not  
8 clear from the text. So it's ambiguous.

9 JUSTICE KAVANAUGH: If it's -- if it's  
10 not ambiguous, then I don't think there is a  
11 statutory interpretation canon any longer that  
12 says we can conclude that Congress didn't mean  
13 what it said. The only avenues are the  
14 absurdity canon or maybe scrivener's error, but  
15 you're not arguing any of those.

16 So, if we conclude that it's not  
17 ambiguous, is there anything left?

18 MR. BOUTROUS: There is, Your Honor.  
19 The Court's decision in Barnhart, which  
20 Respondents cite in their brief at page 20,  
21 says that if the text is -- if the -- the  
22 inquiry ceases if the statutory language is  
23 unambiguous and the statutory scheme is  
24 coherent and consistent. This statutory scheme  
25 is neither of those.



1           And I'll reserve the rest of my time.  
2 Thank you, Your Honor.

3           CHIEF JUSTICE ROBERTS: Thank you,  
4 counsel.

5           Mr. Mayfield.

6           ORAL ARGUMENT OF EARL N. MAYFIELD III  
7           ON BEHALF OF THE RESPONDENT

8           MR. MAYFIELD: Mr. Chief Justice, may  
9 it please the Court:

10           Section 31 -- 3731(b) is an  
11 event-based statute of limitations that makes  
12 no distinction as to the party to whom it  
13 applies. It applies equally to both the United  
14 States and to relators who bring suits on  
15 behalf of the United States.

16           In keeping with this Court's decision  
17 in Vermont Agency, in every case, the real  
18 party in interest is the United States. And as  
19 many justices have just recognized, at all  
20 times, the United States maintains ultimate  
21 control over the suit and it is the ultimate  
22 beneficiary of the suit.

23           Approximately 70 percent of qui tam  
24 suits are initiated by private relators. The  
25 Department of Justice intervenes in only about

1 a fifth of those. But, in every case where the  
2 result is successful, either by settlement or  
3 by judgment, the United States is the ultimate  
4 beneficiary. In every case, the United States  
5 gets at least 70 percent of the proceeds.

6 And this is in keeping with the entire  
7 rational purpose of the statute, which, as a  
8 number of the Court members have noted, is the  
9 only reason to deviate from the plain language  
10 of the statute.

11 JUSTICE GORSUCH: Well, counsel, your  
12 argument would have a lot more appeal if we  
13 didn't have Graham County knocking around out  
14 there. So what do we do about that? You --  
15 you're encouraging us to read that introductory  
16 language to the statute to mean what it seems  
17 to mean.

18 MR. MAYFIELD: Yes, Your Honor.

19 JUSTICE GORSUCH: But, in Graham  
20 County, we held it didn't mean what it seems to  
21 mean. It wasn't as plain as we -- as you  
22 argue.

23 So what's your best argument for  
24 addressing -- how would you have us best  
25 distinguish Graham County?

1                   MR. MAYFIELD: Yes, Justice Gorsuch.  
2           In Graham County, we had the anomalous  
3           situation where Congress simply forgot to  
4           provide an applicable statute of limitations to  
5           the retaliation provision that it had added in  
6           1986.

7                   If one reads part (b)(1) and part  
8           (b)(2), both of those refer by their terms to  
9           false claims. A retaliation suit is not a  
10          false claim, nor under the 1986 amendment is  
11          the United States ever a party to a retaliation  
12          suit. It is brought solely by the private  
13          person retaliated against.

14                   So we had an ambiguity there and the  
15          Court recognized that ambiguity. It had to  
16          choose between either the six years, which was  
17          the only solid number that was presented in  
18          terms of years at (b)(1), or, in the  
19          alternative, the default statute of limitations  
20          that the states had, which is the avenue the  
21          Court took.

22                   But, here, by contrast, we have plain  
23          language that applies on its face, a civil  
24          action under 3730.

25                   It doesn't differentiate whether or

1 not a party is intervening, which the Congress  
2 could easily have done. In point of fact, the  
3 Congress did do so in the very next section.  
4 In part C, it says: If the government elects  
5 to intervene and proceed with an action  
6 under -- brought under 3730(b), Congress could  
7 have simply taken that phrase and put it at the  
8 beginning of part (b)(2).

9 That is what Petitioners are asking  
10 the Court to do today.

11 But, as this Court has repeatedly  
12 held, that's improper because there is no  
13 absurdity. The absurdity here would be if the  
14 statute didn't result in the United States  
15 obtaining more funds or if there was some  
16 anomalous result.

17 But even Petitioner admits that their  
18 reading, the literal one, results in an outcome  
19 where, as they said at the very end of the  
20 reply brief, the government obtains more money.

21 That was the point of the 1986  
22 amendments. This Court has said in both Clark  
23 and Reno that when looking at a statutory  
24 provision, if that provision uses the same term  
25 in the very same sentence, it means the same

1 thing every time.

2 Statutes are not ephemeral. They are  
3 not shape shifters. We do not give them  
4 different meanings because we would prefer a  
5 different outcome.

6 CHIEF JUSTICE ROBERTS: Your friend  
7 relied on the, if I'm remembering right, the  
8 United Air Regulatory case.

9 MR. MAYFIELD: Yes, Your Honor.

10 CHIEF JUSTICE ROBERTS: How do you  
11 distinguish that?

12 MR. MAYFIELD: Your Honor, in this  
13 case, we have a mechanism by which the  
14 Department always screens the cases. It's  
15 somewhat unique. The relevant official of the  
16 United States is always going to be a member of  
17 the Department of Justice.

18 Very few other statutes act like that.  
19 In Vermont Agency, the Court pointed out there  
20 were four qui tam statutes. But, in this case,  
21 the Department, the official charged with  
22 responsibility, is a designee of the Attorney  
23 General.

24 Other statutes don't function like  
25 that, but there is a good reason for this, and

1 that is Congress wanted the Department to have  
2 the first bite at the apple, to qualitatively  
3 pick the very best cases, to have the optimal  
4 use of the Department's resources.

5 And then, when the Department decides  
6 not to intervene in those cases where it makes  
7 that decision, we have these other cases on the  
8 side, the vast majority of them, as it would  
9 happen.

10 And the question which Petitioner  
11 never answers is, why would Congress want those  
12 cases to go fallow? Why would it want those  
13 frauds to go unredeemed?

14 JUSTICE ALITO: I think Congress could  
15 have done a lot of things. It could have done  
16 other things so that there could -- those could  
17 be actionable. It could have had a ten-year  
18 statute of limitations for everybody. It could  
19 have had a discovery rule for the relator.

20 Let me give you two cases, and you  
21 explain to me why Congress would have wanted a  
22 different result in these two cases.

23 Case A: Government does not want to  
24 intervene in the case. It knows about the  
25 fraud before year seven.

1           Case B: Government doesn't want to  
2           intervene. It doesn't know about the fraud  
3           before year seven.

4           What is the reason for allowing B to  
5           go forward but not A?

6           MR. MAYFIELD: Well, Your Honor, in  
7           all cases, the tolling provision would act to a  
8           defendant's benefit. So, if a defendant could  
9           litigate the issue at the outset of the lawsuit  
10          and prevent the case from going forward, if it  
11          could show the government had not acted in a  
12          timely manner either based on real knowledge or  
13          constructive knowledge, but within that scheme,  
14          let's take year seven.

15          If the government didn't act in year  
16          seven, and the relator brought the suit, at any  
17          time after that, the United States would still  
18          have the option of taking over the lawsuit.

19          The intervention is always available  
20          to the government. It doesn't depend on when  
21          the relator brings the suit.

22          JUSTICE ALITO: Well, the government  
23          could always bring this within ten years, could  
24          it not?

25          MR. MAYFIELD: It would depend, Your

1 Honor, on the tolling provision. If its -- if  
2 its actor, the relevant government official,  
3 for instance, an AUSA or someone in the Civil  
4 Division, had known about the lawsuit, then no.

5 JUSTICE ALITO: Right. Okay. Okay.  
6 But I still don't quite understand your reason  
7 for saying Congress would have treated those  
8 two cases differently.

9 MR. MAYFIELD: Well, the reason, Your  
10 Honor, it's -- it's both to spur the  
11 Department, the '86 amendments make clear that  
12 the Department said it wanted more time because  
13 these frauds were often hidden.

14 But it also put an outer limit on it.  
15 Congress could have said five years or ten  
16 years for the tolling provision. It thought  
17 three was reasonable. But that also, Your  
18 Honor, affects relators.

19 For instance, a relator might have an  
20 impediment to bringing a suit, such as not  
21 knowing about the False Claims Act.

22 JUSTICE ALITO: Yeah, well, then you  
23 have a discovery rule for the relator.

24 MR. MAYFIELD: Which Congress elected  
25 not to do, Justice Alito.



1 JUSTICE ALITO: Right. Exactly.

2 MR. MAYFIELD: And so the question is  
3 why would that be rational, and the reason it  
4 would be --

5 JUSTICE ALITO: Yeah. That's what I'm  
6 struggling with.

7 MR. MAYFIELD: The reason it would be  
8 rational, Your Honor, is because the government  
9 ultimately benefits from the relator's action.  
10 If there is no knowledge issue and the relator  
11 is timely, he brings a suit, the government  
12 gets the money.

13 JUSTICE ALITO: Yeah, I understand the  
14 government benefits, but that would argue in  
15 favor of a ten-year statute of limitations.

16 If the government chooses not to bring  
17 suit, why does it matter whether the government  
18 knew about this fraud before year seven or  
19 didn't know about the year -- about it before  
20 year seven? That's what I'm trying to get at.

21 MR. MAYFIELD: I think Congress  
22 created a balancing to protect defendants,  
23 Justice Alito. I mean, this -- this doesn't  
24 allow every suit to go forward. If the  
25 Department -- if the relevant government

1 official knows in year, say, year six and  
2 doesn't act, for whatever reason, the  
3 Department may decide its resources are best  
4 meant somewhere else, it may decide that this  
5 case isn't meritorious, and let's say the  
6 relator then brings the suit, the Congress --  
7 rather, the Department can always change its  
8 mind.

9           It could in year ten, if the case is  
10 still going on, come and take it over. And  
11 that is to its benefit. But, if the three-year  
12 tolling applies, because, if we want defendants  
13 to get a protection against the Department  
14 sitting and doing nothing, the Department was  
15 the institutional actor that testified before  
16 Congress, and Congress said, okay, we're going  
17 to give you more time than you had before, but  
18 you've got to do something. You can't just not  
19 do anything once you know about it.

20           But the Department wouldn't have that  
21 option if it didn't know. And as the -- a  
22 number of Justices have pointed out, a relator  
23 has every incentive to bring it to the  
24 Department's attention quickly, although the  
25 relator may not be the only person who provides

1 that information. It could well be a witness.  
2 It could be the audit by the government.

3 JUSTICE ALITO: Why didn't your client  
4 bring it to the government's attention sooner?

5 MR. MAYFIELD: It's not in the record,  
6 Your Honor, but my client was -- first, he was  
7 serving in Iraq. Second, when he got back to  
8 the United States, he was not aware of the  
9 False Claims Act. But then he was arrested.

10 And at the time of his arrest, he told  
11 the FBI about facts regarding this fraud, which  
12 was different from the matter that then  
13 resulted in him going to jail.

14 JUSTICE SOTOMAYOR: So what inducement  
15 is there -- I'm taking that you're agreeing  
16 with the United States that officials of the  
17 United States, you believe, also are just the  
18 Department of Justice official.

19 MR. MAYFIELD: That is correct, Your  
20 Honor.

21 JUSTICE SOTOMAYOR: It's sort of  
22 interesting that this statute doesn't define  
23 who officials are. I don't know where you get  
24 it other than pointing to other statutes. But  
25 we could -- that wasn't dealt with below.

1           What inducement is there for the FBI  
2           to pass the information to the right officials?  
3           And how do we know in this case it wasn't done,  
4           that there wasn't a U.S. Attorney that this was  
5           discussed with in some way?

6           MR. MAYFIELD: Well, ultimately, it  
7           was, Your Honor. That happened after the  
8           initial meeting with the FBI. It's not in the  
9           record, again, because that was not developed,  
10          and the court below did not consider it to be  
11          particularly relevant.

12          But it's for that reason, Your Honor,  
13          that it's -- the official charged is cabined to  
14          the Department of Justice.

15          If it could just be any government  
16          official, then that screening process that  
17          Congress designed wouldn't -- wouldn't act.  
18          There isn't anyone in the FBI or the OIG or the  
19          contracting agency who's responsible for  
20          protecting the government's rights.

21          The Attorney General, however, in  
22          Section 3730(a), is the individual specifically  
23          charged with the statute to investigate every  
24          case. It's a non-discretionary duty.

25          JUSTICE SOTOMAYOR: So why didn't

1 Congress reference that? Why didn't they,  
2 instead of just saying official of the United  
3 States, say official designated under the  
4 subsection you just mentioned?

5 MR. MAYFIELD: We don't know, Your  
6 Honor. We don't know why they did that, except  
7 that they did borrow --

8 JUSTICE SOTOMAYOR: Other than Justice  
9 Alito's point that it's poorly written.

10 MR. MAYFIELD: I think that -- I think  
11 that's fair, Your Honor, it is poorly written,  
12 which is why there are the plenary -- or,  
13 rather, plethora of these cases coming to the  
14 court.

15 But they did borrow that. I think  
16 there was some shorthand from 2416, as my  
17 colleague pointed out.

18 But they borrowed only the tolling  
19 provision under 2416. They did not borrow the  
20 party limitation under 2415.

21 So, if, as Petitioners would have it,  
22 Congress had meant this provision to somehow  
23 apply only to the United States, it would have  
24 borrowed from 2415 and said in actions brought  
25 by the United States.

1           But they didn't do that. The plain  
2 language says it's a civil action under Section  
3 3730.

4           So having written it that way, the  
5 question is, why would we deviate from that?  
6 Is -- is the outcome absurd? It is not, in the  
7 sense there is a rational basis, even if any of  
8 us in here might have taken a different path in  
9 designing the statute, that is the outcome that  
10 prevails.

11           JUSTICE ALITO: And what happens if a  
12 relator brings a suit, the government chooses  
13 not to intervene, but then, as the suit goes  
14 on, the -- the -- it -- it appears that the  
15 relator is not fulfilling -- is not litigating  
16 the case in a -- in a diligent way? What can  
17 the government do at that point?

18           MR. MAYFIELD: Justice Alito, the  
19 statute specifically provides for that because,  
20 at any time, the Department of Justice can  
21 dismiss the False Claims Act suit or, in the  
22 alternative, which also happens, it can take it  
23 over.

24           It can do a -- there are -- although  
25 it does not happen frequently, there are

1 occasions where the Department looks at a suit  
2 that's been in the system for some years and  
3 says: You know what, we will -- we will take  
4 that over after all.

5 JUSTICE ALITO: So the -- the relator  
6 does have some responsibilities with respect to  
7 the prosecution of the suit in the name of the  
8 United States?

9 MR. MAYFIELD: Only with respect to  
10 his relationship to the Department. For  
11 instance, if the Department requests that he be  
12 forwarded pleadings or if the Department asks  
13 that discovery be truncated in some way, those  
14 are his responsibilities.

15 JUSTICE ALITO: No, no, that's not my  
16 point. This is an action in the name of the  
17 United States, correct?

18 MR. MAYFIELD: That's correct.

19 JUSTICE ALITO: The relator is, in  
20 effect, representing the United States. And  
21 the relator has responsibilities in that case?  
22 Otherwise, the government can intervene and  
23 take over the case?

24 MR. MAYFIELD: The government always  
25 has the ultimate ability to take over the case,

1 Justice Alito. The relator is basically a free  
2 agent within those statutory constraints.

3 JUSTICE ALITO: Yeah. Well, what I'm  
4 getting at -- I'm sure you realize this -- is  
5 why doesn't that suggest that the relator has  
6 -- is charged with responsibilities to act in  
7 the circumstances?

8 MR. MAYFIELD: Because under no  
9 circumstances could the relator, who has taken  
10 no oath to the Constitution, is not employed in  
11 any way by the government, and is not  
12 answerable to the government during the course  
13 of the litigation in terms of if he decides to  
14 take witness A or to ask for specific  
15 documents, he's not carrying out a government  
16 policy, to differentiate from Dixson, which the  
17 Petitioners relied on.

18 In that case, you had individuals who,  
19 by contract, were dispensing federal housing  
20 funds.

21 JUSTICE ALITO: Yeah. Well, are you  
22 arguing that Vermont Agency was incorrectly  
23 decided?

24 MR. MAYFIELD: Not at all, Your Honor.  
25 It's just simply the degree to which the



1 assignment gives the -- the government's agent  
2 in this case free reign.

3 The ultimate outcome of the case,  
4 whether or not it's dismissed, intervened, or  
5 settled, is always up to the government. The  
6 government always gets to make that decision,  
7 and over the relator's objections if it so  
8 chooses.

9 But, in terms of if it doesn't  
10 intervene, the relator can act like a normal  
11 litigant and make his own tactical decisions,  
12 but he's not an officer in any meaningful sense  
13 because he cannot obligate the United States.

14 If he signs a contract, he's not doing  
15 so on behalf of the United States. No one  
16 would believe he was. He's carrying out no  
17 statutory duties. And he is not answerable,  
18 ultimately, to anyone in the Department of  
19 Justice.

20 If my client decided today that he  
21 wanted to walk away from this case, he could.  
22 There's no one to make him do it. And the only  
23 thing that could save it is if the Department  
24 took it over.

25 JUSTICE KAGAN: Mr. Mayfield, am I

1 right that in certain circumstances this  
2 statute actually gives the relator a longer  
3 statute of limitations than the government has?

4 In other words, take a case where the  
5 government finds out on day one about a fraud.  
6 The government, as I read the statute, then has  
7 six years.

8 But, if the relator finds out on day  
9 one about a fraud and thinks it's the kind of  
10 fraud that the government or any -- nobody else  
11 will ever find out about, then that relator can  
12 sit on his rights for ten years, so the relator  
13 actually gets four more years than the  
14 government itself does, is that right?

15 And if it's right, why on earth does  
16 it make any sense?

17 MR. MAYFIELD: It's a -- it's a  
18 hypothetical that's not likely to happen in the  
19 real world, Justice Kagan, but it is  
20 hypothetically right. But at all times the  
21 government could still take over the case.

22 Let's say the relator in that case  
23 waits until year ten, files. At that very  
24 moment, the government can intervene. If the  
25 relator takes another five years to litigate

1 that case, and we're in year 15, the government  
2 can intervene.

3 It's always the government's case. At  
4 no point does a relator have greater rights  
5 than the government. And that makes sense.

6 CHIEF JUSTICE ROBERTS: Well, I  
7 suppose the -- I suppose the government can  
8 also find a relator, right?

9 MR. MAYFIELD: It could if it were  
10 that diligent, Your Honor.

11 CHIEF JUSTICE ROBERTS: I mean, short  
12 -- just short of year ten?

13 MR. MAYFIELD: If it -- if it were so  
14 inclined, it could, Your Honor. And if --  
15 let's assume that the United States had a  
16 maligned motive. It could also sit on its  
17 rights for ten years and pretend it didn't  
18 know, which is really the fallacy of  
19 Petitioner's position, which is the assumption  
20 that relators are sometimes -- are always  
21 acting based on maligned interests, but the  
22 government is always noble.

23 But let's assume they're both revenue  
24 maximizers. The government could sit on its  
25 rights.

1           Every harm that Petitioners point to  
2 exists in a scheme in which the relators play  
3 no role. The same discovery occurs in terms of  
4 what the government knew and when it knew it.  
5 And the government always --

6           CHIEF JUSTICE ROBERTS: Well, that's  
7 -- I don't know if that's more or less academic  
8 than your friend's hypothetical, but it  
9 certainly is academic that the United States  
10 would allow fraud to be continued to practice  
11 for, you know, nine years and 300 days or  
12 whatever.

13           MR. MAYFIELD: Well, Mr. Chief  
14 Justice, it's actually probably more likely,  
15 but the reason would be different. It might  
16 not necessarily be maligned. It might be a  
17 lack of resources.

18           But we know, indeed, that was what  
19 instigated the 1986 amendment, that the  
20 Department frequently finds itself unable to  
21 timely respond to these kinds of frauds and  
22 often doesn't know. Again, 70 percent of these  
23 cases are brought by private relators.

24           The Department and its associate  
25 agencies simply lack the investigative power to

1 discover all these frauds. So it's in the  
2 government's interest for the relator to do it.

3           If you have that bad actor who waits  
4 until year ten and assumes all along the way  
5 that the government doesn't otherwise know,  
6 which is a foolhardy assumption on the part of  
7 a relator, because the relator doesn't know  
8 what investigation the government's doing on  
9 its own, he doesn't know if another  
10 whistleblower is coming forward, he doesn't  
11 know if another witness who doesn't want to be  
12 a relator is going to come forward.

13           He controls none of these things. He  
14 does not control the government's internal  
15 knowledge or decision-making power. The only  
16 thing he controls is whether or not he comes  
17 forward.

18           And if someone else beats him to it,  
19 he's out of luck. So it would be foolhardy for  
20 him to do it and it would be malpractice for  
21 any attorney to recommend that he do it.

22           But even if -- even if someone decided  
23 to take that insane gamble, at the end of ten  
24 years, whenever that suit gets filed, and let's  
25 assume the suit is successful, he can walk into

1 court and the United States can say, when they  
2 try to settle the case, that relator sat on his  
3 rights. We don't think he deserves the full  
4 30 percent. And the court can knock it down.

5 So, on both ends, Congress has built a  
6 statutory scheme that confines the very harms  
7 that Petitioner has raised here, harms that  
8 they can't really point to exist in the real  
9 world because virtually all relators bring  
10 their suits as quick -- as soon as they get a  
11 lawyer who is able to identify the fraud and  
12 bring it forward, because otherwise they may  
13 lose. They'll lose everything.

14 It would be like taking a lottery  
15 ticket and dropping it in the toilet. No one  
16 does that. And at the end of the day, every  
17 time a relator acts, no matter when he does it,  
18 whether it be year one, year five, or year ten,  
19 it is the government that ultimately benefits.

20 Thank you. We urge the affirmance of  
21 the decision below.

22 CHIEF JUSTICE ROBERTS: Thank you,  
23 counsel.

24 Mr. Guarnieri.

25

1 ORAL ARGUMENT OF MATTHEW GUARNIERI  
2 ON BEHALF OF THE UNITED STATES, AS AMICUS CURIAE,  
3 IN SUPPORT OF THE RESPONDENT  
4 MR. GUARNIERI: Mr. Chief Justice, and  
5 may it please the Court:

6 I'd like to begin by addressing a  
7 question that Justice Kagan posed to Mr.  
8 Mayfield. In our view, the correct  
9 interpretation of the statute mandates that the  
10 relator and the United States always have the  
11 same deadlines for filing suit.

12 The six-year limitations period in  
13 (b)(1) and the three-year tolling rule in  
14 (b)(2) will expire on precisely the same date  
15 for both a potential relator and for the United  
16 States.

17 So, under the correct interpretation  
18 of the statute, a relator could never bring a  
19 timely action, unless the United States could  
20 also bring an action on the same day alleging  
21 the same fraud.

22 The second point I'd like to address,  
23 Mr. Boutros alluded repeatedly earlier to  
24 principles of equitable tolling.

25 JUSTICE ALITO: What's the textual

1 basis for that?

2 MR. GUARNIERI: Both paragraphs 2 --  
3 paragraph (b)(2) and paragraph (b)(1) both  
4 apply to a civil action under Section 3730.  
5 So, in any case, a court -- the tolling rules  
6 will be identical, whether or not the United  
7 States initiates the suit, the United States  
8 intervenes in a suit initiated by a relator, or  
9 the United States elects not to intervene in a  
10 suit initiated by a relator.

11 The statute itself draws no  
12 distinction between those three categories of  
13 cases, and, therefore, we think the tolling  
14 rule and the six-year limitations period in  
15 (b)(1) will operate in the same way in all of  
16 those suits.

17 JUSTICE KAGAN: Yeah, I guess my  
18 hypothetical was a slightly different one. It  
19 was supposing that the federal government knows  
20 on day one of the fraud, it gets six years to  
21 bring the fraud, right?

22 MR. GUARNIERI: That's correct.

23 JUSTICE KAGAN: But then I changed the  
24 case, essentially, and said, well, now we're  
25 dealing with a different case. And in this



1 case, the federal government doesn't know of  
2 the fraud. Instead, the relator knows of the  
3 fraud on day one. And assuming that the  
4 government remains in blissful ignorance, and  
5 everybody else does too, he gets ten years.  
6 Isn't that right?

7 MR. GUARNIERI: That's correct. We  
8 think that that's how the the statute would  
9 operate. Now the relator in that sense would  
10 also have more of the six-year period to bring  
11 the suit.

12 If the relator learns of the fraud on  
13 day one, the relator will have more of those  
14 six years in which to file suit than the United  
15 States will have. And we think that's of no  
16 consequence.

17 It's -- Congress adopted a different  
18 form of parallel treatment. And the form of  
19 parallel treatment that Congress adopted  
20 ensures that the -- the deadlines expire for  
21 both the United States and the relator at  
22 exactly the same point in time.

23 As I began to say earlier, Mr.  
24 Boutros alluded repeatedly to principles of  
25 equitable tolling, the kinds of principles this

1 Court encountered in -- in the Gabelli decision  
2 and in Credit -- in Credit Suisse. There is no  
3 occasion here to resort to principles of  
4 equitable tolling because there is a statute on  
5 point that dictates the tolling rule that  
6 applies in cases like this one.

7 And for all the reasons that have  
8 already been discussed this morning, the  
9 statutory text makes that tolling rule  
10 applicable even in a non-intervened suit.

11 There's also been significant  
12 discussion this morning of this Court's  
13 decision in Graham County. Graham County  
14 interpreted the exact same language that is --  
15 is at issue here, that is, the phrase "a civil  
16 action under Section 3730 as used in 3731(b),"  
17 to refer to a subset of civil actions under the  
18 False Claims Act.

19 But the subset that the Court  
20 identified in Graham County includes a  
21 non-intervened suit just like this one. The  
22 Court interpreted that language to refer to  
23 suits under 3730(a) or (b) alleging a violation  
24 of 3729. This is such a suit. This suit falls  
25 into that category regardless of whether or not

1 the United States elects to intervene in the  
2 action.

3 There's also been -- been some  
4 discussion about why this was a sensible policy  
5 result. We think the key thing to keep in mind  
6 is that respect is that a relator is permitted  
7 to sue to vindicate an interest of the United  
8 States.

9 The United States is the injured party  
10 in all of these cases. The United States is a  
11 real party in interest regardless of whether or  
12 not it elects to intervene in the action, the  
13 majority of any recovery would go to the United  
14 States. And in that context, it made good  
15 sense that Congress chose to -- to make the  
16 tolling rule in (b)(1) applicable based on the  
17 knowledge of the injured party; that is, the  
18 United States.

19 JUSTICE ALITO: Now, if the government  
20 decides it doesn't want to intervene, what  
21 difference does it make whether it knew about  
22 this fraud or not? That's what I just can't  
23 understand.

24 MR. GUARNIERI: Congress chose to make  
25 the tolling rule applicable based on the

1 knowledge of the United States. And we think a  
2 -- another way to pose a similar question,  
3 Justice Alito, would be: Why should the United  
4 States be deprived of the assistance of a  
5 private relator during that three-year tolling  
6 period?

7 Petitioners have yet to identify a  
8 sensible reason Congress would have wanted to  
9 deprive the United States of the assistance of  
10 the relator during those years. The logic --

11 JUSTICE ALITO: Well, it --

12 MR. GUARNIERI: -- and the structure  
13 --

14 JUSTICE ALITO: -- deprives them of  
15 the assistance of a relator during those years  
16 if the government knew about this on day one.  
17 That really doesn't answer my question.

18 MR. GUARNIERI: If the government  
19 knows about the fraud on day one --

20 JUSTICE ALITO: Right.

21 MR. GUARNIERI: -- Congress made a  
22 reasonable decision that the tolling period  
23 would extend only three years from that point  
24 in time. But the same is true for a relator.  
25 A relator could not rely on the tolling

1 provision to bring a suit after those three  
2 years have expired. It's a reasonable policy  
3 choice that's reflected in clear statutory text  
4 here.

5 All the Court needs to do here is --  
6 is follow the statute as written and apply the  
7 -- the language of (b), using the same  
8 construction it applied in Graham County.

9 If there are no further questions, I'd  
10 be happy to yield the balance of my time.

11 CHIEF JUSTICE ROBERTS: Thank you,  
12 counsel.

13 Three minutes, Mr. Boutrous.

14 REBUTTAL ARGUMENT OF THEODORE J. BOUTROUS, JR.

15 ON BEHALF OF THE PETITIONERS

16 MR. BOUTROUS: Thank you, Your Honor.

17 I will -- I will begin with the last  
18 point that the United States has made. They  
19 made it in their brief repeatedly, and it's  
20 just incorrect.

21 The Court did not in Graham hold that  
22 the -- the language "action under Section 3730"  
23 meant the same thing in (b)(1) and (b)(2). On  
24 page 421 and 422, which is what the government  
25 keeps citing, the Court began its sentence with

1 "Section 3731(b)(1)'s text," is talking about  
2 the text of that particular provision.

3 And if you look at the analysis on  
4 page 418, where the Court was specifically  
5 talking about the virtually identical language  
6 to what we have here in subsection (d), which  
7 was then (c), the Court made exactly the point  
8 we are making, that provision only referenced  
9 the United States, and the -- the Court said  
10 that Congress used that phrase "action under  
11 Section 37" imprecisely, sometimes to only  
12 refer to sub -- to subsets of those actions.  
13 And that's what it did here.

14 The United States is ignoring -- I  
15 didn't hear one words about the purposes of  
16 statutes of limitations from anyone on the  
17 other side.

18 Statutes of limitations serve valuable  
19 purposes. They -- they spark action quickly  
20 and more quickly, and they're meant to protect  
21 defendants, allowing a rule that allows tolling  
22 after -- basically, this is self-tolling. The  
23 relator can just decide to press the button and  
24 toll the statute of limitations and then let it  
25 loose and it -- and it goes. That's --

1 Congress would not have intended -- it's  
2 implausible that it would have intended that.

3 I'd like to briefly address the point,  
4 Justice Sotomayor, you were making, and it's  
5 really our alternative argument, about the  
6 official of the United States. I don't see why  
7 the United States should and the Respondents  
8 should have it both ways. They say the relator  
9 stands in the shoes of the United States. The  
10 relator should -- everything should be the same  
11 between the relator and the United States.

12 If that's the case, then I think our  
13 alternative argument is very appealing, that  
14 where the government doesn't involve -- doesn't  
15 intervene, and the inter -- and the relator is  
16 acting under this Court's decision in Stevens  
17 as the designated agent of the United States,  
18 and it's not an assignee when it's pursuing  
19 penalties on behalf of the United States and  
20 damages for the United States, it's the agent,  
21 it's --

22 JUSTICE SOTOMAYOR: The use of the  
23 word --

24 MR. BOUTROUS: -- the prosecutor.

25 JUSTICE SOTOMAYOR: -- "officer" is

1 very different than a "representative."

2 MR. BOUTROUS: It-- it actually --

3 JUSTICE SOTOMAYOR: Or even "agent."

4 Those are substantially different concepts.

5 And so I do think the word "official" sounds --

6 means what it sounds like, an official and not

7 a representative.

8 MR. BOUTROUS: Well, Your Honor, I

9 would point to this Court's decision two years

10 before the 1986 amendments in -- in United

11 States versus Dixson, a criminal case where the

12 Court held that the -- the words "public

13 officials" under the federal bribery statute

14 encompassed private corporate officers who were

15 performing public responsibilities.

16 And here it's -- it's not fair to say

17 that the government -- that the relator is just

18 on his own, the government does -- doesn't

19 intervene, and then argue that our rule is

20 wrong because the relator is doing this

21 important work for the government. It's acting

22 as the agent for the government.

23 JUSTICE GINSBURG: "Agent" is a

24 different word than "official."

25 MR. BOUTROUS: But -- it -- it is,



1 Your Honor. But an agent who is performing  
2 official responsibilities, I think their --  
3 their knowledge should be imputed to the  
4 government.

5 Thank you very much.

6 CHIEF JUSTICE ROBERTS: Thank you,  
7 counsel.

8 The case is submitted.

9 (Whereupon, at 11:27 a.m., the case  
10 was submitted.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## Official - Subject to Final Review

<b>1</b>	<b>abuse</b> <sup>[1]</sup> 16:12 <b>academic</b> <sup>[4]</sup> 15:4,16 51:7,9 <b>acknowledge</b> <sup>[1]</sup> 7:7 <b>Act</b> <sup>[26]</sup> 4:18 5:7 6:19 10:20 11:13 13:24 14:4 16:10 20:24 21:8 27:19 31:1,5,6,7 36:18 38:7,15 39:21 41:2 42:9 43:17 45:21 47:6 48:10 57:18 <b>acted</b> <sup>[2]</sup> 21:22 38:11 <b>acting</b> <sup>[3]</sup> 50:21 62:16 63:21 <b>action</b> <sup>[34]</sup> 5:13 7:4,11 8:14 9:20 14:10 15:10 17:15,19 18:22 19:4,18 24:1,5,14 29:10 30:19 31:2,3,3 34:24 35:5 40:9 45:2 46:16 54:19,20 55:4 57:16 58:2,12 60:22 61:10,19 <b>actionable</b> <sup>[1]</sup> 37:17 <b>actions</b> <sup>[18]</sup> 5:15 8:15,22,25 9:3 12:13 16:13 19:2 20:1 25:4 26:13,15 29:15 30:5,11 44:24 57:17 61:12 <b>actor</b> <sup>[3]</sup> 39:2 41:15 52:3 <b>acts</b> <sup>[1]</sup> 53:17 <b>actually</b> <sup>[7]</sup> 8:10 28:14,21 49:2,13 51:14 63:2 <b>added</b> <sup>[1]</sup> 34:5 <b>address</b> <sup>[2]</sup> 54:22 62:3 <b>addressed</b> <sup>[1]</sup> 25:7 <b>addressing</b> <sup>[2]</sup> 33:24 54:6 <b>admits</b> <sup>[1]</sup> 35:17 <b>adopted</b> <sup>[3]</sup> 26:11 56:17,19 <b>adopts</b> <sup>[1]</sup> 26:25 <b>advantage</b> <sup>[2]</sup> 4:23 20:6 <b>advocating</b> <sup>[1]</sup> 23:21 <b>affect</b> <sup>[1]</sup> 28:10 <b>affects</b> <sup>[1]</sup> 39:18 <b>affirmance</b> <sup>[1]</sup> 53:20 <b>agencies</b> <sup>[1]</sup> 51:25 <b>Agency</b> <sup>[4]</sup> 32:17 36:19 43:19 47:22 <b>agent</b> <sup>[8]</sup> 47:2 48:1 62:17,20 63:3,22,23 64:1 <b>ago</b> <sup>[1]</sup> 26:2 <b>agree</b> <sup>[1]</sup> 24:10 <b>agreeing</b> <sup>[1]</sup> 42:15 <b>ahead</b> <sup>[2]</sup> 20:14,16 <b>Air</b> <sup>[2]</sup> 9:8 36:8 <b>AL</b> <sup>[1]</sup> 1:5 <b>ALITO</b> <sup>[28]</sup> 22:10 23:6,14 29:17 37:14 38:22 39:5,22,25 40:1,5,13,23 42:3 45:11,18 46:5,15,19 47:1,3,21 54:25 58:19 59:3,11,14,20 <b>Alito's</b> <sup>[2]</sup> 26:9 44:9 <b>alleged</b> <sup>[1]</sup> 4:14 <b>alleging</b> <sup>[2]</sup> 54:20 57:23 <b>allow</b> <sup>[4]</sup> 15:1 22:6 40:24 51:10 <b>allowing</b> <sup>[2]</sup> 38:4 61:21 <b>allows</b> <sup>[1]</sup> 61:21 <b>alluded</b> <sup>[2]</sup> 54:23 56:24 <b>alone</b> <sup>[1]</sup> 17:23 <b>already</b> <sup>[2]</sup> 18:12 57:8 <b>alternative</b> <sup>[4]</sup> 34:19 45:22 62:5,13 <b>although</b> <sup>[2]</sup> 41:24 45:24	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>A</b>	<b>avenues</b> <sup>[1]</sup> 31:13 <b>aware</b> <sup>[1]</sup> 42:8 <b>away</b> <sup>[1]</sup> 48:21
<b>10</b> <sup>[3]</sup> 25:19,19,22 <b>10:31</b> <sup>[2]</sup> 1:18 4:2 <b>11:27</b> <sup>[1]</sup> 64:9 <b>12</b> <sup>[1]</sup> 25:19 <b>15</b> <sup>[1]</sup> 50:1 <b>18-315</b> <sup>[1]</sup> 4:4 <b>19</b> <sup>[1]</sup> 1:14 <b>1986</b> <sup>[6]</sup> 27:8 34:6,10 35:21 51:19 63:10 <b>1996</b> <sup>[1]</sup> 14:7	<b>20</b> <sup>[2]</sup> 27:4 31:20 <b>2019</b> <sup>[1]</sup> 1:14 <b>2415</b> <sup>[2]</sup> 44:20,24 <b>2416</b> <sup>[3]</sup> 26:12 44:16,19	<b>30</b> <sup>[2]</sup> 18:22 53:4 <b>300</b> <sup>[1]</sup> 51:11 <b>31</b> <sup>[1]</sup> 32:10 <b>32</b> <sup>[1]</sup> 3:7 <b>37</b> <sup>[1]</sup> 61:11 <b>3729</b> <sup>[2]</sup> 9:16 57:24 <b>3730</b> <sup>[2]</sup> 5:11,13 7:5,11 8:15,23,25 9:20 18:23 19:5,19 24:1,15 29:10 30:6,19 34:24 45:3 55:4 57:16 60:22 <b>3730(a)</b> <sup>[2]</sup> 43:22 57:23 <b>3730(b)</b> <sup>[1]</sup> 35:6 <b>3731(b)</b> <sup>[2]</sup> 32:10 57:16 <b>3731(b)(1)</b> <sup>[2]</sup> 8:20 30:11 <b>3731(b)(1)'s</b> <sup>[1]</sup> 61:1 <b>3731(b)(2)</b> <sup>[6]</sup> 4:18,25 5:11 6:9 19:25 24:2 <b>3731(d)</b> <sup>[2]</sup> 8:13 18:21	<b>2</b> <sup>[1]</sup> 55:2 <b>20</b> <sup>[2]</sup> 27:4 31:20 <b>2019</b> <sup>[1]</sup> 1:14 <b>2415</b> <sup>[2]</sup> 44:20,24 <b>2416</b> <sup>[3]</sup> 26:12 44:16,19	<b>4</b> <sup>[1]</sup> 3:4 <b>418</b> <sup>[1]</sup> 61:4 <b>421</b> <sup>[1]</sup> 60:24 <b>422</b> <sup>[1]</sup> 60:24	<b>54</b> <sup>[1]</sup> 3:12	<b>60</b> <sup>[1]</sup> 3:15	<b>70</b> <sup>[3]</sup> 32:23 33:5 51:22	<b>86</b> <sup>[1]</sup> 39:11	<b>a.m</b> <sup>[3]</sup> 1:18 4:2 64:9 <b>ability</b> <sup>[1]</sup> 46:25 <b>able</b> <sup>[1]</sup> 53:11 <b>above-entitled</b> <sup>[1]</sup> 1:16 <b>absolutely</b> <sup>[1]</sup> 20:5 <b>absurd</b> <sup>[6]</sup> 17:4 18:9,17 21:13 27:4 45:6 <b>absurdity</b> <sup>[3]</sup> 31:14 35:13,13	<b>B</b>
<b>ambass</b> <sup>[1]</sup> 16:2 <b>ambiguity</b> <sup>[4]</sup> 30:13,13 34:14,15 <b>ambiguous</b> <sup>[6]</sup> 26:18 29:8 30:15 31:8,10,17 <b>amendment</b> <sup>[2]</sup> 34:10 51:19 <b>amendments</b> <sup>[3]</sup> 35:22 39:11 63:10 <b>amicus</b> <sup>[5]</sup> 2:8 3:11 16:11 26:23 54:2 <b>analysis</b> <sup>[2]</sup> 29:2 61:3 <b>Angeles</b> <sup>[1]</sup> 2:2 <b>anomalous</b> <sup>[2]</sup> 34:2 35:16 <b>another</b> <sup>[8]</sup> 15:6 16:23 26:16 29:23 49:25 52:9,11 59:2 <b>answer</b> <sup>[1]</sup> 59:17 <b>answerable</b> <sup>[2]</sup> 47:12 48:17 <b>answers</b> <sup>[1]</sup> 37:11 <b>anybody</b> <sup>[1]</sup> 23:20 <b>anyway</b> <sup>[1]</sup> 23:12 <b>appeal</b> <sup>[1]</sup> 33:12 <b>appealing</b> <sup>[1]</sup> 62:13 <b>APPEARANCES</b> <sup>[1]</sup> 2:1 <b>appearing</b> <sup>[1]</sup> 19:19 <b>appears</b> <sup>[2]</sup> 12:6 45:14 <b>apple</b> <sup>[1]</sup> 37:2 <b>applicable</b> <sup>[4]</sup> 34:4 57:10 58:16,25 <b>applied</b> <sup>[3]</sup> 12:1 19:2 60:8 <b>applies</b> <sup>[8]</sup> 26:13 29:18,20 32:13,13 34:23 41:12 57:6 <b>apply</b> <sup>[5]</sup> 6:15 24:21 44:23 55:4 60:6 <b>approach</b> <sup>[2]</sup> 4:21 5:1 <b>approval</b> <sup>[1]</sup> 5:24 <b>Approximately</b> <sup>[1]</sup> 32:23 <b>aren't</b> <sup>[3]</sup> 8:1 25:6,6 <b>argue</b> <sup>[7]</sup> 19:11 23:18 29:18,20 33:22 40:14 63:19 <b>arguing</b> <sup>[5]</sup> 9:4 17:3,7 31:15 47:22 <b>argument</b> <sup>[20]</sup> 1:17 3:2,5,8,13 4:4,8 7:3 9:18 21:15 23:19 26:9 27:13 32:6 33:12,23 54:1 60:14 62:5,13 <b>arguments</b> <sup>[1]</sup> 7:6 <b>around</b> <sup>[2]</sup> 20:22 33:13 <b>arrest</b> <sup>[1]</sup> 42:10 <b>arrested</b> <sup>[1]</sup> 42:9 <b>asks</b> <sup>[1]</sup> 46:12 <b>aspect</b> <sup>[1]</sup> 18:14 <b>assessment</b> <sup>[4]</sup> 27:5,6,9,22 <b>assignee</b> <sup>[1]</sup> 62:18 <b>assignment</b> <sup>[1]</sup> 48:1 <b>assistance</b> <sup>[3]</sup> 59:4,9,15 <b>Assistant</b> <sup>[1]</sup> 2:6 <b>associate</b> <sup>[1]</sup> 51:24 <b>assume</b> <sup>[3]</sup> 50:15,23 52:25 <b>assumes</b> <sup>[1]</sup> 52:4 <b>assuming</b> <sup>[1]</sup> 56:3 <b>assumption</b> <sup>[2]</sup> 50:19 52:6 <b>attention</b> <sup>[2]</sup> 41:24 42:4 <b>Attorney</b> <sup>[4]</sup> 36:22 43:4,21 52:21 <b>audit</b> <sup>[1]</sup> 42:2 <b>AUSA</b> <sup>[1]</sup> 39:3 <b>available</b> <sup>[1]</sup> 38:19 <b>avenue</b> <sup>[1]</sup> 34:20	<b>b)(1)</b> <sup>[16]</sup> 7:11,14 8:4 9:12,15,22 10:5,7,11 34:7,18 54:13 55:3,15 58:16 60:23 <b>b)(2)</b> <sup>[19]</sup> 5:14 7:5,14 8:4 9:13,22,24 10:4,8,15 29:18,20 30:6,22 34:8 35:8 54:14 55:3 60:23 <b>baby</b> <sup>[1]</sup> 8:6 <b>back</b> <sup>[9]</sup> 13:23 20:20 22:7 25:24 26:8 27:17 30:1,1 42:7 <b>background</b> <sup>[1]</sup> 17:1 <b>bad</b> <sup>[2]</sup> 28:11 52:3 <b>balance</b> <sup>[1]</sup> 60:10 <b>balancing</b> <sup>[1]</sup> 40:22 <b>bare</b> <sup>[1]</sup> 26:17 <b>Barnhart</b> <sup>[1]</sup> 31:19 <b>barred</b> <sup>[1]</sup> 11:8 <b>based</b> <sup>[6]</sup> 10:18 13:17 38:12 50:21 58:16,25 <b>baseless</b> <sup>[3]</sup> 15:20 16:7,8 <b>basic</b> <sup>[1]</sup> 28:4 <b>basically</b> <sup>[3]</sup> 8:19 47:1 61:22 <b>basis</b> <sup>[2]</sup> 45:7 55:1 <b>bearing</b> <sup>[3]</sup> 27:7,10,15 <b>beats</b> <sup>[1]</sup> 52:18 <b>began</b> <sup>[2]</sup> 56:23 60:25 <b>begin</b> <sup>[3]</sup> 5:5 54:6 60:17 <b>beginning</b> <sup>[1]</sup> 35:8 <b>behalf</b> <sup>[15]</sup> 2:3,5,7 3:4,7,10,15 4:9 24:22 32:7,15 48:15 54:2 60:15 62:19 <b>believe</b> <sup>[4]</sup> 7:9 8:8 42:17 48:16 <b>below</b> <sup>[3]</sup> 42:25 43:10 53:21 <b>beneficiary</b> <sup>[2]</sup> 32:22 33:4 <b>benefit</b> <sup>[4]</sup> 12:21,24 38:8 41:11 <b>benefits</b> <sup>[3]</sup> 40:9,14 53:19 <b>best</b> <sup>[7]</sup> 23:22,24 26:9 33:23,24 37:3 41:3 <b>better</b> <sup>[4]</sup> 15:24 20:19 28:22 31:1 <b>between</b> <sup>[7]</sup> 10:12 17:21 22:15 25:22 34:16 55:12 62:11 <b>BILLY</b> <sup>[2]</sup> 1:9 4:6 <b>bite</b> <sup>[1]</sup> 37:2 <b>blissful</b> <sup>[1]</sup> 56:4 <b>boils</b> <sup>[1]</sup> 21:2 <b>borrow</b> <sup>[3]</sup> 44:7,15,19 <b>borrowed</b> <sup>[2]</sup> 44:18,24 <b>both</b> <sup>[12]</sup> 19:19 32:13 34:8 35:22 39:10 50:23 53:5 54:15 55:2,3 56:21 62:8 <b>bounty</b> <sup>[1]</sup> 13:25 <b>BOU TrouS</b> <sup>[53]</sup> 2:2 3:3,14 4:7,8,10 6:1 7:2,17,22 8:10 9:24 10:3,9,11,15,22,25 12:23 13:10 14:14,17 15:14 16:9,21 17:6,12,24 18:14 19:15 21:16 22:20 23:24 25:2,9 26:3 27:6,14 28:25 29:7,13,22 30:16 31:18 54:23 56:24 60:13,14,16 62:24 63:2,8,25 <b>bribery</b> <sup>[1]</sup> 63:13									

## Official - Subject to Final Review

<p><b>bridge</b> <sup>[1]</sup> 17:25  <b>brief</b> <sup>[6]</sup> 25:13 26:23 27:25 31:20  35:20 60:19  <b>briefly</b> <sup>[1]</sup> 62:3  <b>briefs</b> <sup>[1]</sup> 16:11  <b>bring</b> <sup>[15]</sup> 16:4 18:4 22:18 32:14  38:23 40:16 41:23 42:4 53:9,12  54:18,20 55:21 56:10 60:1  <b>bringing</b> <sup>[3]</sup> 14:9 21:21 39:20  <b>brings</b> <sup>[6]</sup> 14:24 29:21 38:21 40:  11 41:6 45:12  <b>broader</b> <sup>[1]</sup> 19:4  <b>broadly</b> <sup>[1]</sup> 12:9  <b>brought</b> <sup>[12]</sup> 8:15,16 11:24 18:23  19:2 26:13 31:3 34:12 35:6 38:16  44:24 51:23  <b>built</b> <sup>[1]</sup> 53:5  <b>bulk</b> <sup>[1]</sup> 12:14  <b>button</b> <sup>[2]</sup> 20:4 61:23</p>	<p><b>circumstances</b> <sup>[5]</sup> 6:19 10:20 47:  7,9 49:1  <b>cite</b> <sup>[1]</sup> 31:20  <b>cited</b> <sup>[1]</sup> 14:18  <b>cites</b> <sup>[1]</sup> 30:8  <b>citing</b> <sup>[1]</sup> 60:25  <b>civil</b> <sup>[12]</sup> 7:4,10 9:20 11:23 17:18  25:20 34:23 39:3 45:2 55:4 57:15,  17  <b>claim</b> <sup>[16]</sup> 6:25 11:7,15 13:12 15:  21,21,25 16:4,7,8 18:3,4,11 22:1  24:14 34:10  <b>Claims</b> <sup>[13]</sup> 4:18 5:7 8:1 13:24 14:  4 16:10 27:19 29:14 34:9 39:21  42:9 45:21 57:18  <b>Clark</b> <sup>[1]</sup> 35:22  <b>clear</b> <sup>[8]</sup> 19:10,13 26:18 27:24 29:  9 31:8 39:11 60:3  <b>clearly</b> <sup>[3]</sup> 13:4,6 20:5  <b>client</b> <sup>[3]</sup> 42:3,6 48:20  <b>clock</b> <sup>[1]</sup> 6:25  <b>COCHISE</b> <sup>[2]</sup> 1:4 4:4  <b>coherent</b> <sup>[1]</sup> 31:24  <b>colleague</b> <sup>[1]</sup> 44:17  <b>combination</b> <sup>[1]</sup> 30:17  <b>come</b> <sup>[4]</sup> 9:22 25:14 41:10 52:12  <b>comes</b> <sup>[1]</sup> 52:16  <b>coming</b> <sup>[4]</sup> 20:20 27:21 44:13 52:  10  <b>commenced</b> <sup>[1]</sup> 26:7  <b>common</b> <sup>[4]</sup> 20:7,11,20 21:14  <b>compensation</b> <sup>[1]</sup> 12:3  <b>complaint</b> <sup>[4]</sup> 5:17 25:15,15 29:25  <b>complicated</b> <sup>[1]</sup> 11:17  <b>conceal</b> <sup>[2]</sup> 4:22 15:2  <b>concepts</b> <sup>[1]</sup> 63:4  <b>concern</b> <sup>[1]</sup> 15:4  <b>concerns</b> <sup>[1]</sup> 25:5  <b>conclude</b> <sup>[2]</sup> 31:12,16  <b>concocted</b> <sup>[1]</sup> 15:20  <b>confines</b> <sup>[1]</sup> 53:6  <b>confirms</b> <sup>[1]</sup> 5:12  <b>conflict</b> <sup>[1]</sup> 14:24  <b>Congress</b> <sup>[54]</sup> 5:4 8:21 13:22 14:7  17:2,10,13 19:6,23 20:1,23 21:4,  10 22:3,10,11 23:19,20 26:10,21  27:7 28:7,12,25 29:9 30:18 31:12  34:3 35:1,3,6 37:1,11,14,21 39:7,  15,24 40:21 41:6,16,16 43:17 44:  1,22 53:5 56:17,19 58:15,24 59:8,  21 61:10 62:1  <b>consequence</b> <sup>[2]</sup> 14:13 56:16  <b>consider</b> <sup>[4]</sup> 13:11,14 16:24 43:10  <b>consistent</b> <sup>[3]</sup> 28:2,2 31:24  <b>Constitution</b> <sup>[1]</sup> 47:10  <b>constraints</b> <sup>[1]</sup> 47:2  <b>construction</b> <sup>[1]</sup> 60:8  <b>constructive</b> <sup>[1]</sup> 38:13  <b>CONSULTANCY</b> <sup>[2]</sup> 1:4 4:5  <b>contained</b> <sup>[1]</sup> 5:11  <b>context</b> <sup>[4]</sup> 5:8,12 27:11 58:14  <b>continue</b> <sup>[1]</sup> 21:24  <b>continued</b> <sup>[1]</sup> 51:10  <b>contract</b> <sup>[3]</sup> 26:14 47:19 48:14</p>	<p><b>contracting</b> <sup>[1]</sup> 43:19  <b>contradicts</b> <sup>[1]</sup> 4:25  <b>contrary</b> <sup>[4]</sup> 14:25 16:25 22:8 27:  18  <b>contrast</b> <sup>[1]</sup> 34:22  <b>control</b> <sup>[2]</sup> 32:21 52:14  <b>controls</b> <sup>[2]</sup> 52:13,16  <b>corporate</b> <sup>[1]</sup> 63:14  <b>correct</b> <sup>[9]</sup> 9:25 22:20 42:19 46:17,  18 54:8,17 55:22 56:7  <b>correctly</b> <sup>[1]</sup> 5:23  <b>cost</b> <sup>[1]</sup> 13:18  <b>couldn't</b> <sup>[2]</sup> 20:5 21:10  <b>counsel</b> <sup>[5]</sup> 32:4 33:11 53:23 60:  12 64:7  <b>counterintuitive</b> <sup>[4]</sup> 5:3 17:7,9 18:  17  <b>country</b> <sup>[1]</sup> 24:17  <b>County</b> <sup>[8]</sup> 33:13,20,25 34:2 57:13,  13,20 60:8  <b>course</b> <sup>[1]</sup> 47:12  <b>COURT</b> <sup>[47]</sup> 1:1,17 4:11 6:4 7:19 8:  12,18,20,21 9:5,9 11:22,25 13:22  18:15 19:1,6 21:23 23:3 24:20 30:  7,9,10 32:9 33:8 34:15,21 35:10,  11,22 36:19 43:10 44:14 53:1,4  54:5 55:5 57:1,19,22 60:5,21,25  61:4,7,9 63:12  <b>Court's</b> <sup>[7]</sup> 5:1,6 31:19 32:16 57:  12 62:16 63:9  <b>covered</b> <sup>[1]</sup> 8:1  <b>covers</b> <sup>[1]</sup> 30:6  <b>create</b> <sup>[1]</sup> 23:8  <b>created</b> <sup>[2]</sup> 16:14 40:22  <b>creates</b> <sup>[1]</sup> 14:23  <b>Credit</b> <sup>[4]</sup> 21:23 28:3 57:2,2  <b>criminal</b> <sup>[1]</sup> 63:11  <b>crossed</b> <sup>[1]</sup> 17:25  <b>cues</b> <sup>[1]</sup> 6:7  <b>curiae</b> <sup>[3]</sup> 2:8 3:11 54:2</p>	<p><b>defendant</b> <sup>[2]</sup> 16:3 38:8  <b>defendant's</b> <sup>[1]</sup> 38:8  <b>defendants</b> <sup>[3]</sup> 40:22 41:12 61:21  <b>defies</b> <sup>[1]</sup> 5:2  <b>define</b> <sup>[1]</sup> 42:22  <b>defined</b> <sup>[1]</sup> 9:14  <b>defy</b> <sup>[1]</sup> 21:13  <b>degree</b> <sup>[1]</sup> 47:25  <b>delay</b> <sup>[1]</sup> 25:5  <b>demonstrate</b> <sup>[2]</sup> 16:11,19  <b>Department</b> <sup>[26]</sup> 2:7 32:25 36:14,  17,21 37:1,5 39:11,12 40:25 41:3,  7,13,14,20 42:18 43:14 45:20 46:  1,10,11,12 48:18,23 51:20,24  <b>Department's</b> <sup>[2]</sup> 37:4 41:24  <b>depend</b> <sup>[2]</sup> 38:20,25  <b>deprive</b> <sup>[1]</sup> 59:9  <b>deprived</b> <sup>[1]</sup> 59:4  <b>deprives</b> <sup>[1]</sup> 59:14  <b>derivation</b> <sup>[1]</sup> 20:9  <b>deserves</b> <sup>[1]</sup> 53:3  <b>designated</b> <sup>[2]</sup> 44:3 62:17  <b>designed</b> <sup>[1]</sup> 43:17  <b>designee</b> <sup>[1]</sup> 36:22  <b>designing</b> <sup>[1]</sup> 45:9  <b>developed</b> <sup>[1]</sup> 43:9  <b>deviate</b> <sup>[2]</sup> 33:9 45:5  <b>dictates</b> <sup>[1]</sup> 57:5  <b>die</b> <sup>[1]</sup> 25:21  <b>difference</b> <sup>[2]</sup> 25:22 58:21  <b>different</b> <sup>[18]</sup> 7:13 8:7 9:7,13 19:  24 30:20 36:4,5 37:22 42:12 45:8  51:15 55:18,25 56:17 63:1,4,24  <b>differentiate</b> <sup>[2]</sup> 34:25 47:16  <b>differently</b> <sup>[2]</sup> 10:10 39:8  <b>difficult</b> <sup>[1]</sup> 7:18  <b>dilatory</b> <sup>[1]</sup> 14:9  <b>dilemma</b> <sup>[1]</sup> 23:8  <b>diligence</b> <sup>[1]</sup> 21:20  <b>diligent</b> <sup>[2]</sup> 45:16 50:10  <b>diligently</b> <sup>[1]</sup> 21:22  <b>direct</b> <sup>[1]</sup> 14:16  <b>directly</b> <sup>[1]</sup> 26:11  <b>disagree</b> <sup>[1]</sup> 27:21  <b>disappear</b> <sup>[1]</sup> 25:21  <b>discover</b> <sup>[1]</sup> 52:1  <b>discovery</b> <sup>[9]</sup> 4:17 12:1 24:18,21  26:6 37:19 39:23 46:13 51:3  <b>discussed</b> <sup>[2]</sup> 43:5 57:8  <b>discussing</b> <sup>[1]</sup> 8:12  <b>discussion</b> <sup>[2]</sup> 57:12 58:4  <b>dismiss</b> <sup>[1]</sup> 45:21  <b>dismissed</b> <sup>[2]</sup> 5:24 48:4  <b>dispensing</b> <sup>[1]</sup> 47:19  <b>dissent</b> <sup>[1]</sup> 18:16  <b>distinction</b> <sup>[3]</sup> 17:20 32:12 55:12  <b>distinguish</b> <sup>[3]</sup> 10:12 33:25 36:11  <b>Division</b> <sup>[1]</sup> 39:4  <b>Dixson</b> <sup>[2]</sup> 47:16 63:11  <b>documents</b> <sup>[2]</sup> 25:13 47:15  <b>doing</b> <sup>[6]</sup> 9:10 12:4 41:14 48:14 52:  8 63:20  <b>done</b> <sup>[5]</sup> 22:25 35:2 37:15,15 43:3  <b>down</b> <sup>[3]</sup> 20:5 21:3 53:4</p>
<b>C</b>			
<p><b>cabined</b> <sup>[1]</sup> 43:13  <b>California</b> <sup>[1]</sup> 2:3  <b>calls</b> <sup>[1]</sup> 10:16  <b>came</b> <sup>[1]</sup> 1:16  <b>cannot</b> <sup>[3]</sup> 5:4 24:10 48:13  <b>canon</b> <sup>[2]</sup> 31:11,14  <b>cards</b> <sup>[1]</sup> 7:24  <b>carefully</b> <sup>[2]</sup> 29:1 30:10  <b>carrying</b> <sup>[2]</sup> 47:15 48:16  <b>Case</b> <sup>[55]</sup> 4:4 5:2 6:5,14,22 7:4,10  9:8 13:23 15:15,17,20 16:18 18:4  21:22 22:18 23:7 24:9 28:15 32:  17 33:1,4 36:8,13,20 37:23,24 38:  1,10 41:5,9 43:3,24 45:16 46:21,  23,25 47:18 48:2,3,21 49:4,21,22  50:1,3 53:2 55:5,24,25 56:1 62:12  63:11 64:8,9  <b>cases</b> <sup>[23]</sup> 9:21 14:18,23 15:17 22:  16 25:12 26:1 27:12 30:20 36:14  37:3,6,7,12,20,22 38:7 39:8 44:13  51:23 55:13 57:6 58:10  <b>categories</b> <sup>[1]</sup> 55:12  <b>category</b> <sup>[1]</sup> 57:25  <b>cause</b> <sup>[2]</sup> 16:17 28:1  <b>ceases</b> <sup>[1]</sup> 31:22  <b>certain</b> <sup>[2]</sup> 6:2 49:1  <b>certainly</b> <sup>[2]</sup> 22:11 51:9  <b>chance</b> <sup>[1]</sup> 15:9  <b>change</b> <sup>[3]</sup> 10:23,25 41:7  <b>changed</b> <sup>[1]</sup> 55:23  <b>changing</b> <sup>[1]</sup> 11:10  <b>charged</b> <sup>[11]</sup> 6:18 10:19 11:12 17:  14 24:4,13 30:25 36:21 43:13,23  47:6  <b>CHIEF</b> <sup>[19]</sup> 4:3,10 15:3 21:1 24:25  25:3,25 32:3,8 36:6,10 50:6,11 51:  6,13 53:22 54:4 60:11 64:6  <b>choice</b> <sup>[3]</sup> 28:11,13 60:3  <b>choose</b> <sup>[1]</sup> 34:16  <b>chooses</b> <sup>[4]</sup> 22:18 40:16 45:12 48:  8  <b>chose</b> <sup>[2]</sup> 58:15,24  <b>Circuit</b> <sup>[3]</sup> 4:12 6:14 24:7</p>	<p><b>commenced</b> <sup>[1]</sup> 26:7  <b>common</b> <sup>[4]</sup> 20:7,11,20 21:14  <b>compensation</b> <sup>[1]</sup> 12:3  <b>complaint</b> <sup>[4]</sup> 5:17 25:15,15 29:25  <b>complicated</b> <sup>[1]</sup> 11:17  <b>conceal</b> <sup>[2]</sup> 4:22 15:2  <b>concepts</b> <sup>[1]</sup> 63:4  <b>concern</b> <sup>[1]</sup> 15:4  <b>concerns</b> <sup>[1]</sup> 25:5  <b>conclude</b> <sup>[2]</sup> 31:12,16  <b>concocted</b> <sup>[1]</sup> 15:20  <b>confines</b> <sup>[1]</sup> 53:6  <b>confirms</b> <sup>[1]</sup> 5:12  <b>conflict</b> <sup>[1]</sup> 14:24  <b>Congress</b> <sup>[54]</sup> 5:4 8:21 13:22 14:7  17:2,10,13 19:6,23 20:1,23 21:4,  10 22:3,10,11 23:19,20 26:10,21  27:7 28:7,12,25 29:9 30:18 31:12  34:3 35:1,3,6 37:1,11,14,21 39:7,  15,24 40:21 41:6,16,16 43:17 44:  1,22 53:5 56:17,19 58:15,24 59:8,  21 61:10 62:1  <b>consequence</b> <sup>[2]</sup> 14:13 56:16  <b>consider</b> <sup>[4]</sup> 13:11,14 16:24 43:10  <b>consistent</b> <sup>[3]</sup> 28:2,2 31:24  <b>Constitution</b> <sup>[1]</sup> 47:10  <b>constraints</b> <sup>[1]</sup> 47:2  <b>construction</b> <sup>[1]</sup> 60:8  <b>constructive</b> <sup>[1]</sup> 38:13  <b>CONSULTANCY</b> <sup>[2]</sup> 1:4 4:5  <b>contained</b> <sup>[1]</sup> 5:11  <b>context</b> <sup>[4]</sup> 5:8,12 27:11 58:14  <b>continue</b> <sup>[1]</sup> 21:24  <b>continued</b> <sup>[1]</sup> 51:10  <b>contract</b> <sup>[3]</sup> 26:14 47:19 48:14</p>	<p><b>covered</b> <sup>[1]</sup> 8:1  <b>covers</b> <sup>[1]</sup> 30:6  <b>create</b> <sup>[1]</sup> 23:8  <b>created</b> <sup>[2]</sup> 16:14 40:22  <b>creates</b> <sup>[1]</sup> 14:23  <b>Credit</b> <sup>[4]</sup> 21:23 28:3 57:2,2  <b>criminal</b> <sup>[1]</sup> 63:11  <b>crossed</b> <sup>[1]</sup> 17:25  <b>cues</b> <sup>[1]</sup> 6:7  <b>curiae</b> <sup>[3]</sup> 2:8 3:11 54:2</p> <p style="text-align: center;"><b>D</b></p> <p><b>D.C</b> <sup>[2]</sup> 1:13 2:7  <b>damages</b> <sup>[3]</sup> 15:25 16:1 62:20  <b>date</b> <sup>[1]</sup> 54:14  <b>day</b> <sup>[9]</sup> 49:5,8 53:16 54:20 55:20  56:3,13 59:16,19  <b>days</b> <sup>[1]</sup> 51:11  <b>deadlines</b> <sup>[2]</sup> 54:11 56:20  <b>dealing</b> <sup>[1]</sup> 55:25  <b>dealt</b> <sup>[1]</sup> 42:25  <b>decade</b> <sup>[1]</sup> 4:23  <b>decide</b> <sup>[3]</sup> 41:3,4 61:23  <b>decided</b> <sup>[6]</sup> 13:16 28:8 30:5 47:23  48:20 52:22  <b>decides</b> <sup>[4]</sup> 10:24 37:5 47:13 58:  20  <b>decision</b> <sup>[15]</sup> 5:6 19:22 28:9 31:5,  7,19 32:16 37:7 48:6 53:21 57:1,  13 59:22 62:16 63:9  <b>decision-making</b> <sup>[1]</sup> 52:15  <b>decisions</b> <sup>[1]</sup> 48:11  <b>declined</b> <sup>[1]</sup> 4:19  <b>default</b> <sup>[3]</sup> 5:2 11:20 34:19</p>	

## Official - Subject to Final Review

<p><b>drafted</b> <sup>[1]</sup> 23:11  <b>drafting</b> <sup>[1]</sup> 19:22  <b>draws</b> <sup>[1]</sup> 55:11  <b>dropping</b> <sup>[1]</sup> 53:15  <b>during</b> <sup>[4]</sup> 47:12 59:5,10,15  <b>duties</b> <sup>[1]</sup> 48:17  <b>duty</b> <sup>[1]</sup> 43:24</p> <hr/> <p style="text-align: center;"><b>E</b></p> <hr/> <p><b>EARL</b> <sup>[3]</sup> 2:4 3:6 32:6  <b>earlier</b> <sup>[2]</sup> 54:23 56:23  <b>earth</b> <sup>[1]</sup> 49:15  <b>easier</b> <sup>[1]</sup> 28:21  <b>easily</b> <sup>[1]</sup> 35:2  <b>effect</b> <sup>[2]</sup> 14:17 46:20  <b>eight</b> <sup>[2]</sup> 14:24 15:18  <b>Eisen</b> <sup>[1]</sup> 6:4  <b>Eisenstadt</b> <sup>[1]</sup> 6:4  <b>either</b> <sup>[5]</sup> 5:16 8:4 33:2 34:16 38:12  <b>elected</b> <sup>[1]</sup> 39:24  <b>elects</b> <sup>[4]</sup> 35:4 55:9 58:1,12  <b>elements</b> <sup>[1]</sup> 18:24  <b>Eleventh</b> <sup>[1]</sup> 4:12  <b>employed</b> <sup>[1]</sup> 47:10  <b>encompassed</b> <sup>[1]</sup> 63:14  <b>encountered</b> <sup>[1]</sup> 57:1  <b>encourage</b> <sup>[2]</sup> 20:24 21:8  <b>encouraging</b> <sup>[1]</sup> 33:15  <b>end</b> <sup>[4]</sup> 11:4 35:19 52:23 53:16  <b>ends</b> <sup>[1]</sup> 53:5  <b>enforcement</b> <sup>[1]</sup> 11:24  <b>ensure</b> <sup>[2]</sup> 12:10 22:25  <b>ensures</b> <sup>[1]</sup> 56:20  <b>ensuring</b> <sup>[1]</sup> 20:25  <b>entire</b> <sup>[1]</sup> 33:6  <b>entitled</b> <sup>[1]</sup> 4:15  <b>ephemeral</b> <sup>[1]</sup> 36:2  <b>equally</b> <sup>[1]</sup> 32:13  <b>equitable</b> <sup>[14]</sup> 4:16,24 11:19,20 12:1 15:1 16:25 21:20 22:4,9 27:18 54:24 56:25 57:4  <b>error</b> <sup>[1]</sup> 31:14  <b>ESQ</b> <sup>[6]</sup> 2:2,4 3:3,6,9,14  <b>essence</b> <sup>[2]</sup> 14:25 22:9  <b>essentially</b> <sup>[1]</sup> 55:24  <b>established</b> <sup>[1]</sup> 4:17  <b>ET</b> <sup>[1]</sup> 1:5  <b>evaluation</b> <sup>[1]</sup> 13:17  <b>even</b> <sup>[13]</sup> 4:19 5:20 7:1 16:21 18:11 19:3,4 35:17 45:7 52:22,22 57:10 63:3  <b>event</b> <sup>[1]</sup> 21:2  <b>event-based</b> <sup>[1]</sup> 32:11  <b>everybody</b> <sup>[2]</sup> 37:18 56:5  <b>everything</b> <sup>[3]</sup> 20:7 53:13 62:10  <b>evidence</b> <sup>[2]</sup> 16:2 18:25  <b>EX</b> <sup>[2]</sup> 1:9 4:5  <b>exact</b> <sup>[3]</sup> 8:11,19 57:14  <b>exactly</b> <sup>[6]</sup> 9:4 22:21 30:14 40:1 56:22 61:7  <b>example</b> <sup>[4]</sup> 9:8 11:5 14:22 15:5  <b>examples</b> <sup>[1]</sup> 27:24  <b>Except</b> <sup>[2]</sup> 17:17 44:6</p>	<p><b>exceptional</b> <sup>[1]</sup> 25:4  <b>exist</b> <sup>[1]</sup> 53:8  <b>exists</b> <sup>[1]</sup> 51:2  <b>expire</b> <sup>[2]</sup> 54:14 56:20  <b>expired</b> <sup>[1]</sup> 60:2  <b>explain</b> <sup>[1]</sup> 37:21  <b>explicitly</b> <sup>[1]</sup> 26:25  <b>exposure</b> <sup>[1]</sup> 13:21  <b>extend</b> <sup>[1]</sup> 59:23  <b>extension</b> <sup>[3]</sup> 25:16,17,17</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>face</b> <sup>[3]</sup> 8:8,9 34:23  <b>fact</b> <sup>[6]</sup> 13:11 18:1 19:22 20:2 30:9 35:2  <b>factors</b> <sup>[3]</sup> 13:13,18 14:8  <b>facts</b> <sup>[1]</sup> 42:11  <b>fade</b> <sup>[1]</sup> 25:20  <b>fading</b> <sup>[1]</sup> 22:23  <b>fair</b> <sup>[3]</sup> 27:18 44:11 63:16  <b>Fairfax</b> <sup>[1]</sup> 2:4  <b>fallacy</b> <sup>[1]</sup> 50:18  <b>fallow</b> <sup>[1]</sup> 37:12  <b>falls</b> <sup>[1]</sup> 57:24  <b>False</b> <sup>[12]</sup> 4:18 5:7 13:24 14:4 16:10 27:19 34:9,10 39:21 42:9 45:21 57:18  <b>favor</b> <sup>[1]</sup> 40:15  <b>FBI</b> <sup>[4]</sup> 42:11 43:1,8,18  <b>FCA</b> <sup>[1]</sup> 27:2  <b>FCA's</b> <sup>[1]</sup> 27:3  <b>feat</b> <sup>[1]</sup> 7:15  <b>federal</b> <sup>[4]</sup> 47:19 55:19 56:1 63:13  <b>ferreting</b> <sup>[1]</sup> 13:25  <b>few</b> <sup>[2]</sup> 26:1 36:18  <b>fifth</b> <sup>[1]</sup> 33:1  <b>file</b> <sup>[9]</sup> 4:13 15:9 16:18 22:8,12,15 24:4,14 56:14  <b>filed</b> <sup>[1]</sup> 5:17 26:3,4 52:24  <b>files</b> <sup>[2]</sup> 29:24 49:23  <b>filing</b> <sup>[4]</sup> 11:14 13:16 17:15 54:11  <b>find</b> <sup>[4]</sup> 15:8 26:6 49:11 50:8  <b>finds</b> <sup>[3]</sup> 49:5,8 51:20  <b>first</b> <sup>[4]</sup> 6:8 21:17 37:2 42:6  <b>fit</b> <sup>[2]</sup> 18:10 23:15  <b>fits</b> <sup>[1]</sup> 27:11  <b>fitting</b> <sup>[1]</sup> 23:22  <b>five</b> <sup>[3]</sup> 39:15 49:25 53:18  <b>flashing</b> <sup>[1]</sup> 26:16  <b>flatly</b> <sup>[1]</sup> 16:25  <b>focused</b> <sup>[1]</sup> 5:10  <b>follow</b> <sup>[1]</sup> 60:6  <b>following</b> <sup>[1]</sup> 9:14  <b>foolhardy</b> <sup>[2]</sup> 52:6,19  <b>force</b> <sup>[1]</sup> 13:4  <b>forced</b> <sup>[2]</sup> 13:11,15  <b>forces</b> <sup>[1]</sup> 13:9  <b>forcing</b> <sup>[2]</sup> 13:3,5  <b>forgot</b> <sup>[1]</sup> 34:3  <b>form</b> <sup>[2]</sup> 56:18,18  <b>forward</b> <sup>[8]</sup> 27:21 38:5,10 40:24 52:10,12,17 53:12  <b>forwarded</b> <sup>[1]</sup> 46:12  <b>Foundation</b> <sup>[1]</sup> 25:13</p>	<p><b>four</b> <sup>[2]</sup> 36:20 49:13  <b>Fourth</b> <sup>[2]</sup> 6:14 24:7  <b>fraud</b> <sup>[24]</sup> 4:14 12:11 13:21,25 18:5 21:18 22:17 37:25 38:2 40:18 42:11 49:5,9,10 51:10 53:11 54:21 55:20,21 56:2,3,12 58:22 59:19  <b>frauds</b> <sup>[4]</sup> 37:13 39:13 51:21 52:1  <b>free</b> <sup>[2]</sup> 47:1 48:2  <b>frequently</b> <sup>[2]</sup> 45:25 51:20  <b>friend</b> <sup>[1]</sup> 36:6  <b>friend's</b> <sup>[1]</sup> 51:8  <b>fulfilling</b> <sup>[1]</sup> 45:15  <b>full</b> <sup>[1]</sup> 53:3  <b>function</b> <sup>[1]</sup> 36:24  <b>funds</b> <sup>[2]</sup> 35:15 47:20  <b>further</b> <sup>[1]</sup> 60:9</p> <hr/> <p style="text-align: center;"><b>G</b></p> <hr/> <p><b>Gabelli</b> <sup>[5]</sup> 11:23 23:3 24:23 28:3 57:1  <b>gamble</b> <sup>[1]</sup> 52:23  <b>General</b> <sup>[4]</sup> 2:6 17:5 36:23 43:21  <b>gets</b> <sup>[8]</sup> 30:2 33:5 40:12 48:6 49:13 52:24 55:20 56:5  <b>getting</b> <sup>[3]</sup> 22:22 24:13 47:4  <b>GINSBURG</b> <sup>[8]</sup> 5:19 7:8 12:15 16:5 17:17,24 18:2 63:23  <b>give</b> <sup>[5]</sup> 12:7 22:11 36:3 37:20 41:17  <b>given</b> <sup>[1]</sup> 7:6  <b>gives</b> <sup>[3]</sup> 13:7 48:1 49:2  <b>GORSUCH</b> <sup>[14]</sup> 7:2,20,23 9:17 10:2,6,10,14 20:12,15,18 33:11,19 34:1  <b>got</b> <sup>[3]</sup> 18:15 41:18 42:7  <b>governing</b> <sup>[1]</sup> 28:4  <b>Government</b> <sup>[83]</sup> 4:15,19 6:1 10:24 11:6 12:2,8,16,20,24 13:4,7,9,15,20 15:8 17:16 22:16,18,23 25:13 27:25 28:23 29:19,21,24 30:7 31:4 35:4,20 37:23 38:1,11,15,20,22 39:2 40:8,11,14,16,17,25 42:2 43:15 45:12,17 46:22,24 47:11,12,15 48:5,6 49:3,5,6,10,14,21,24 50:1,5,7,22,24 51:4,5 52:5 53:19 55:19 56:1,4 58:19 59:16,18 60:24 62:14 63:17,18,21,22 64:4  <b>government's</b> <sup>[9]</sup> 12:19 28:9 42:4 43:20 48:1 50:3 52:2,8,14  <b>grade</b> <sup>[1]</sup> 23:11  <b>Graham</b> <sup>[29]</sup> 5:1,6,18 7:19,20,25 8:9,11 17:8,25 18:2,3,15,16,19 26:19 28:3 30:4,8,18 33:13,19,25 34:2 57:13,13,20 60:8,21  <b>greater</b> <sup>[1]</sup> 50:4  <b>groupings</b> <sup>[1]</sup> 30:20  <b>GUARNIERI</b> <sup>[12]</sup> 2:6 3:9 53:24 54:1,4 55:2,22 56:7 58:24 59:12,18,21  <b>guess</b> <sup>[3]</sup> 20:21 21:14 55:17</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>happen</b> <sup>[4]</sup> 16:8 37:9 45:25 49:18</p>	<p><b>happened</b> <sup>[1]</sup> 43:7  <b>happens</b> <sup>[2]</sup> 45:11,22  <b>happy</b> <sup>[1]</sup> 60:10  <b>harm</b> <sup>[1]</sup> 51:1  <b>harms</b> <sup>[2]</sup> 53:6,7  <b>head</b> <sup>[1]</sup> 20:21  <b>hear</b> <sup>[2]</sup> 4:3 61:15  <b>held</b> <sup>[10]</sup> 4:12 5:7 6:4 7:25 19:1,6 30:9 33:20 35:12 63:12  <b>Hess</b> <sup>[1]</sup> 13:23  <b>hidden</b> <sup>[1]</sup> 39:13  <b>history</b> <sup>[3]</sup> 16:13 24:17 28:2  <b>hold</b> <sup>[1]</sup> 60:21  <b>Honor</b> <sup>[45]</sup> 6:2,6 7:18 8:11 9:5 10:1 11:1 12:24 13:11,19 15:14 16:10 17:12 18:19 19:15 21:16 22:21 23:25 25:9 29:2,7,23 30:17 31:18 32:2 33:18 36:9,12 38:6 39:1,10,18 40:8 42:6,20 43:7,12 44:6,11 47:24 50:10,14 60:16 63:8 64:1  <b>housing</b> <sup>[1]</sup> 47:19  <b>however</b> <sup>[1]</sup> 43:21  <b>HUNT</b> <sup>[3]</sup> 1:9 4:6 14:22  <b>hunters</b> <sup>[1]</sup> 14:1  <b>hypothetical</b> <sup>[3]</sup> 49:18 51:8 55:18  <b>hypothetically</b> <sup>[1]</sup> 49:20</p> <hr/> <p style="text-align: center;"><b>I</b></p> <hr/> <p><b>idea</b> <sup>[1]</sup> 16:3  <b>identical</b> <sup>[2]</sup> 55:6 61:5  <b>identified</b> <sup>[1]</sup> 57:20  <b>identify</b> <sup>[2]</sup> 53:11 59:7  <b>ignorance</b> <sup>[1]</sup> 56:4  <b>ignoring</b> <sup>[1]</sup> 61:14  <b>Ill</b> <sup>[3]</sup> 2:4 3:6 32:6  <b>imagine</b> <sup>[1]</sup> 28:12  <b>impediment</b> <sup>[1]</sup> 39:20  <b>implausible</b> <sup>[1]</sup> 62:2  <b>important</b> <sup>[3]</sup> 23:1,5 63:21  <b>imprecise</b> <sup>[4]</sup> 19:7,8,10 20:4  <b>imprecisely</b> <sup>[5]</sup> 8:22,23 29:11 30:19 61:11  <b>improper</b> <sup>[1]</sup> 35:12  <b>imputed</b> <sup>[1]</sup> 64:3  <b>INC</b> <sup>[1]</sup> 1:4  <b>incentive</b> <sup>[2]</sup> 14:16 41:23  <b>incentives</b> <sup>[4]</sup> 15:22 16:17,22,22  <b>incentivize</b> <sup>[1]</sup> 27:20  <b>inclined</b> <sup>[1]</sup> 50:14  <b>includes</b> <sup>[2]</sup> 31:6 57:20  <b>inconsistent</b> <sup>[1]</sup> 14:3  <b>incorporated</b> <sup>[3]</sup> 5:14 24:1 30:22  <b>incorrect</b> <sup>[2]</sup> 27:16 60:20  <b>incorrectly</b> <sup>[1]</sup> 47:22  <b>indeed</b> <sup>[1]</sup> 51:18  <b>indication</b> <sup>[2]</sup> 29:3,4  <b>individual</b> <sup>[1]</sup> 43:22  <b>individuals</b> <sup>[1]</sup> 47:18  <b>inducement</b> <sup>[2]</sup> 42:14 43:1  <b>inequitable</b> <sup>[2]</sup> 21:24 22:2  <b>information</b> <sup>[3]</sup> 26:7 42:1 43:2  <b>initial</b> <sup>[1]</sup> 43:8  <b>initiated</b> <sup>[3]</sup> 32:24 55:8,10  <b>initiates</b> <sup>[1]</sup> 55:7</p>
---	---	---	---

## Official - Subject to Final Review

<p><b>injured</b> <sup>[5]</sup> 6:24 11:21 24:23 58:9, 17</p> <p><b>injury</b> <sup>[1]</sup> 22:1</p> <p><b>inquiry</b> <sup>[1]</sup> 31:22</p> <p><b>insane</b> <sup>[1]</sup> 52:23</p> <p><b>instance</b> <sup>[3]</sup> 39:3, 19 46:11</p> <p><b>instances</b> <sup>[1]</sup> 9:6</p> <p><b>instead</b> <sup>[2]</sup> 44:2 56:2</p> <p><b>instigated</b> <sup>[1]</sup> 51:19</p> <p><b>institutional</b> <sup>[1]</sup> 41:15</p> <p><b>intended</b> <sup>[6]</sup> 5:4 23:20 26:21 27:7 62:1,2</p> <p><b>inter</b> <sup>[1]</sup> 62:15</p> <p><b>interacting</b> <sup>[1]</sup> 9:11</p> <p><b>interest</b> <sup>[4]</sup> 32:18 52:2 58:7, 11</p> <p><b>interesting</b> <sup>[2]</sup> 23:7 42:22</p> <p><b>interests</b> <sup>[1]</sup> 50:21</p> <p><b>internal</b> <sup>[1]</sup> 52:14</p> <p><b>interpret</b> <sup>[2]</sup> 7:12 19:17</p> <p><b>interpretation</b> <sup>[6]</sup> 14:12 23:8 27:2 31:11 54:9, 17</p> <p><b>interpreted</b> <sup>[4]</sup> 5:8 9:6 57:14, 22</p> <p><b>interpreting</b> <sup>[2]</sup> 5:6 9:1</p> <p><b>interpretive</b> <sup>[1]</sup> 5:1</p> <p><b>interrupt</b> <sup>[1]</sup> 7:21</p> <p><b>intervene</b> <sup>[22]</sup> 4:20 6:3 10:24 11:6, 11 25:14 28:9 35:5 37:6, 24 38:2 45:13 46:22 48:10 49:24 50:2 55:9 58:1, 12, 20 62:15 63:19</p> <p><b>intervened</b> <sup>[5]</sup> 5:16, 21 19:3 31:3 48:4</p> <p><b>intervenes</b> <sup>[5]</sup> 28:24 29:19, 25 32:25 55:8</p> <p><b>intervening</b> <sup>[2]</sup> 13:16 35:1</p> <p><b>intervenor</b> <sup>[1]</sup> 17:22</p> <p><b>intervention</b> <sup>[5]</sup> 9:21 10:4 29:6, 25 38:19</p> <p><b>introductory</b> <sup>[3]</sup> 7:12 8:3 33:15</p> <p><b>investigate</b> <sup>[1]</sup> 43:23</p> <p><b>investigation</b> <sup>[1]</sup> 52:8</p> <p><b>investigative</b> <sup>[1]</sup> 51:25</p> <p><b>involve</b> <sup>[1]</sup> 62:14</p> <p><b>involved</b> <sup>[1]</sup> 6:17</p> <p><b>involving</b> <sup>[1]</sup> 9:3</p> <p><b>Iraq</b> <sup>[1]</sup> 42:7</p> <p><b>Isn't</b> <sup>[4]</sup> 5:19 41:5 43:18 56:6</p> <p><b>isolation</b> <sup>[1]</sup> 5:9</p> <p><b>issue</b> <sup>[5]</sup> 8:11 12:20 38:9 40:10 57:15</p> <p><b>itself</b> <sup>[6]</sup> 12:3 15:8 29:21 49:14 51:20 55:11</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>jail</b> <sup>[1]</sup> 42:13</p> <p><b>JOE</b> <sup>[2]</sup> 1:9 4:6</p> <p><b>JR</b> <sup>[5]</sup> 2:2 3:3, 14 4:8 60:14</p> <p><b>Judge</b> <sup>[1]</sup> 6:13</p> <p><b>judgment</b> <sup>[1]</sup> 33:3</p> <p><b>Justice</b> <sup>[112]</sup> 2:7 4:3, 10 5:19 7:2, 8, 20, 23 9:17 10:2, 6, 10, 14, 21 12:5, 15 13:2 14:6, 15 15:3 16:5, 20 17:3, 9, 17, 24 18:2 19:9 20:10, 12, 13, 15, 16, 18 21:1 22:10, 25 23:5, 6, 14 24:25 25:3, 25 26:8, 22 27:9 28:6 29:4,</p>	<p>12, 17 30:12 31:9 32:3, 8, 25 33:11, 19 34:1 36:6, 10, 17 37:14 38:22 39:5, 22, 25 40:1, 5, 13, 23 42:3, 14, 18, 21 43:14, 25 44:8, 8 45:11, 18, 20 46:5, 15, 19 47:1, 3, 21 48:19, 25 49:19 50:6, 11 51:6, 14 53:22 54:4, 7, 25 55:17, 23 58:19 59:3, 11, 14, 20 60:11 62:4, 22, 25 63:3, 23 64:6</p> <p><b>justices</b> <sup>[2]</sup> 32:19 41:22</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>KAGAN</b> <sup>[8]</sup> 10:21 28:6 29:4 48:25 49:19 54:7 55:17, 23</p> <p><b>KAVANAUGH</b> <sup>[12]</sup> 16:20 17:3, 9 19:9 20:10, 13, 16 26:22 27:9 29:12 30:12 31:9</p> <p><b>keep</b> <sup>[2]</sup> 20:20 58:5</p> <p><b>keeping</b> <sup>[2]</sup> 32:16 33:6</p> <p><b>keeps</b> <sup>[1]</sup> 60:25</p> <p><b>key</b> <sup>[2]</sup> 6:5 58:5</p> <p><b>kind</b> <sup>[3]</sup> 28:15, 19 49:9</p> <p><b>kinds</b> <sup>[3]</sup> 27:12 51:21 56:25</p> <p><b>knock</b> <sup>[1]</sup> 53:4</p> <p><b>knocking</b> <sup>[1]</sup> 33:13</p> <p><b>knowing</b> <sup>[2]</sup> 7:1 39:21</p> <p><b>knowledge</b> <sup>[13]</sup> 6:17, 21 10:18 12:19 24:5, 19 38:12, 13 40:10 52:15 58:17 59:1 64:3</p> <p><b>known</b> <sup>[1]</sup> 39:4</p> <p><b>knows</b> <sup>[6]</sup> 21:25 37:24 41:1 55:19 56:2 59:19</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>lack</b> <sup>[2]</sup> 51:17, 25</p> <p><b>language</b> <sup>[28]</sup> 5:10, 13 6:17 7:13 8:3, 7, 14, 19 9:10, 20 18:1 19:18 23:25 26:18, 19 29:10 30:18, 22 31:22 33:9, 16 34:23 45:2 57:14, 22 60:7, 22 61:5</p> <p><b>last</b> <sup>[2]</sup> 21:3 60:17</p> <p><b>later</b> <sup>[1]</sup> 17:20</p> <p><b>Laughter</b> <sup>[2]</sup> 20:17 23:13</p> <p><b>lawsuit</b> <sup>[5]</sup> 10:23 22:8 38:9, 18 39:4</p> <p><b>lawyer</b> <sup>[1]</sup> 53:11</p> <p><b>lay</b> <sup>[1]</sup> 22:7</p> <p><b>learned</b> <sup>[1]</sup> 11:13</p> <p><b>learns</b> <sup>[1]</sup> 56:12</p> <p><b>least</b> <sup>[2]</sup> 25:6 33:5</p> <p><b>leaves</b> <sup>[1]</sup> 30:9</p> <p><b>left</b> <sup>[1]</sup> 31:17</p> <p><b>Legal</b> <sup>[1]</sup> 25:12</p> <p><b>less</b> <sup>[2]</sup> 11:13 51:7</p> <p><b>letting</b> <sup>[1]</sup> 15:25</p> <p><b>lie</b> <sup>[1]</sup> 15:1</p> <p><b>lifetime</b> <sup>[1]</sup> 25:10</p> <p><b>light</b> <sup>[1]</sup> 26:17</p> <p><b>likely</b> <sup>[4]</sup> 17:10 26:20 49:18 51:14</p> <p><b>limit</b> <sup>[1]</sup> 39:14</p> <p><b>limitation</b> <sup>[1]</sup> 44:20</p> <p><b>limitations</b> <sup>[31]</sup> 6:20 10:17, 22 11:2, 10, 16 12:8, 22, 25 14:5 18:8, 12 21:18, 25 23:1 24:18 26:24 28:5, 10, 16 32:11 34:4, 19 37:18 40:15</p>	<p>49:3 54:12 55:14 61:16, 18, 24</p> <p><b>limited</b> <sup>[1]</sup> 5:14</p> <p><b>lion's</b> <sup>[1]</sup> 5:22</p> <p><b>literal</b> <sup>[1]</sup> 35:18</p> <p><b>litigant</b> <sup>[1]</sup> 48:11</p> <p><b>litigate</b> <sup>[2]</sup> 38:9 49:25</p> <p><b>litigating</b> <sup>[1]</sup> 45:15</p> <p><b>litigation</b> <sup>[4]</sup> 25:11, 20 26:7 47:13</p> <p><b>little</b> <sup>[1]</sup> 14:11</p> <p><b>logic</b> <sup>[2]</sup> 20:8 59:10</p> <p><b>logical</b> <sup>[1]</sup> 12:18</p> <p><b>long</b> <sup>[3]</sup> 21:17 25:11, 23</p> <p><b>longer</b> <sup>[5]</sup> 12:21, 25 14:6 31:11 49:2</p> <p><b>look</b> <sup>[7]</sup> 6:6 9:9 12:9 28:14 29:23 30:21 61:3</p> <p><b>looking</b> <sup>[1]</sup> 35:23</p> <p><b>looks</b> <sup>[1]</sup> 46:1</p> <p><b>loose</b> <sup>[1]</sup> 61:25</p> <p><b>Los</b> <sup>[1]</sup> 2:2</p> <p><b>lose</b> <sup>[2]</sup> 53:13, 13</p> <p><b>lot</b> <sup>[2]</sup> 33:12 37:15</p> <p><b>lottery</b> <sup>[1]</sup> 53:14</p> <p><b>luck</b> <sup>[1]</sup> 52:19</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>made</b> <sup>[7]</sup> 14:7 28:13 58:14 59:21 60:18, 19 61:7</p> <p><b>maintains</b> <sup>[1]</sup> 32:20</p> <p><b>majority</b> <sup>[3]</sup> 18:18 37:8 58:13</p> <p><b>maligned</b> <sup>[3]</sup> 50:16, 21 51:16</p> <p><b>malpractice</b> <sup>[1]</sup> 52:20</p> <p><b>manage</b> <sup>[1]</sup> 7:15</p> <p><b>mandates</b> <sup>[1]</sup> 54:9</p> <p><b>manner</b> <sup>[1]</sup> 38:12</p> <p><b>many</b> <sup>[5]</sup> 9:6 16:18 25:4, 4 32:19</p> <p><b>March</b> <sup>[1]</sup> 1:14</p> <p><b>Marcus</b> <sup>[1]</sup> 13:23</p> <p><b>mark</b> <sup>[1]</sup> 26:4</p> <p><b>matter</b> <sup>[5]</sup> 1:16 12:19 40:17 42:12 53:17</p> <p><b>MATTHEW</b> <sup>[3]</sup> 2:6 3:9 54:1</p> <p><b>maximizers</b> <sup>[1]</sup> 50:24</p> <p><b>MAYFIELD</b> <sup>[33]</sup> 2:4 3:6 32:5, 6, 8 33:18 34:1 36:9, 12 38:6, 25 39:9, 24 40:2, 7, 21 42:5, 19 43:6 44:5, 10 45:18 46:9, 18, 24 47:8, 24 48:25 49:17 50:9, 13 51:13 54:8</p> <p><b>mean</b> <sup>[22]</sup> 8:7 9:7, 21, 25 10:21 11:9 17:10, 13, 13 19:7 20:3 23:6 24:9, 10 25:1 31:12 33:16, 17, 20, 21 40:23 50:11</p> <p><b>meaning</b> <sup>[2]</sup> 24:12 27:3</p> <p><b>meaningful</b> <sup>[1]</sup> 48:12</p> <p><b>meanings</b> <sup>[1]</sup> 36:4</p> <p><b>means</b> <sup>[5]</sup> 24:12 30:11 31:2 35:25 63:6</p> <p><b>meant</b> <sup>[9]</sup> 8:15 11:20 13:24 14:5 27:20 41:4 44:22 60:23 61:20</p> <p><b>mechanism</b> <sup>[1]</sup> 36:13</p> <p><b>meeting</b> <sup>[1]</sup> 43:8</p> <p><b>member</b> <sup>[1]</sup> 36:16</p> <p><b>members</b> <sup>[1]</sup> 33:8</p> <p><b>memories</b> <sup>[2]</sup> 22:23 25:20</p>	<p><b>mentioned</b> <sup>[3]</sup> 12:15 29:15 44:4</p> <p><b>meritless</b> <sup>[1]</sup> 15:21</p> <p><b>meritorious</b> <sup>[1]</sup> 41:5</p> <p><b>merits</b> <sup>[1]</sup> 13:17</p> <p><b>mess</b> <sup>[1]</sup> 24:11</p> <p><b>middle</b> <sup>[1]</sup> 10:23</p> <p><b>might</b> <sup>[7]</sup> 15:6, 8 28:11 39:19 45:8 51:15, 16</p> <p><b>mind</b> <sup>[2]</sup> 41:8 58:5</p> <p><b>mine</b> <sup>[1]</sup> 20:19</p> <p><b>minimum</b> <sup>[1]</sup> 26:17</p> <p><b>minutes</b> <sup>[1]</sup> 60:13</p> <p><b>modest</b> <sup>[1]</sup> 14:19</p> <p><b>moment</b> <sup>[1]</sup> 49:24</p> <p><b>money</b> <sup>[3]</sup> 28:20 35:20 40:12</p> <p><b>morning</b> <sup>[3]</sup> 4:4 57:8, 12</p> <p><b>most</b> <sup>[2]</sup> 26:20 28:20</p> <p><b>motive</b> <sup>[1]</sup> 50:16</p> <p><b>move</b> <sup>[3]</sup> 9:19 15:6, 8</p> <p><b>moving</b> <sup>[1]</sup> 15:22</p> <p><b>much</b> <sup>[2]</sup> 14:8 64:5</p> <p><b>multiple</b> <sup>[1]</sup> 6:7</p> <p><b>must</b> <sup>[4]</sup> 5:8 10:3 18:24 24:5</p> <hr/> <p style="text-align: center;"><b>N</b></p> <hr/> <p><b>name</b> <sup>[2]</sup> 46:7, 16</p> <p><b>necessarily</b> <sup>[3]</sup> 16:17 30:6 51:16</p> <p><b>needs</b> <sup>[1]</sup> 60:5</p> <p><b>neither</b> <sup>[1]</sup> 31:25</p> <p><b>never</b> <sup>[6]</sup> 11:25 22:3 24:18, 20 37:11 54:18</p> <p><b>next</b> <sup>[1]</sup> 35:3</p> <p><b>nine</b> <sup>[2]</sup> 14:24 51:11</p> <p><b>noble</b> <sup>[1]</sup> 50:22</p> <p><b>nobody</b> <sup>[1]</sup> 49:10</p> <p><b>non-discretionary</b> <sup>[1]</sup> 43:24</p> <p><b>non-intervened</b> <sup>[2]</sup> 57:10, 21</p> <p><b>non-intervention</b> <sup>[1]</sup> 7:4</p> <p><b>none</b> <sup>[2]</sup> 16:7 52:13</p> <p><b>nor</b> <sup>[1]</sup> 34:10</p> <p><b>normal</b> <sup>[1]</sup> 48:10</p> <p><b>normally</b> <sup>[2]</sup> 8:6 13:13</p> <p><b>noted</b> <sup>[2]</sup> 6:14 33:8</p> <p><b>nothing</b> <sup>[3]</sup> 28:23 29:5 41:14</p> <p><b>notice</b> <sup>[2]</sup> 5:24 6:24</p> <p><b>notion</b> <sup>[1]</sup> 31:5</p> <p><b>number</b> <sup>[7]</sup> 20:25 21:18, 19 28:22 33:8 34:17 41:22</p> <p><b>nutshell</b> <sup>[1]</sup> 9:19</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>oath</b> <sup>[1]</sup> 47:10</p> <p><b>objections</b> <sup>[1]</sup> 48:7</p> <p><b>objectives</b> <sup>[1]</sup> 19:12</p> <p><b>obligate</b> <sup>[1]</sup> 48:13</p> <p><b>obtaining</b> <sup>[1]</sup> 35:15</p> <p><b>obtains</b> <sup>[1]</sup> 35:20</p> <p><b>occasion</b> <sup>[1]</sup> 57:3</p> <p><b>occasions</b> <sup>[1]</sup> 46:1</p> <p><b>occur</b> <sup>[1]</sup> 18:7</p> <p><b>occurred</b> <sup>[2]</sup> 11:3 12:11</p> <p><b>occurs</b> <sup>[1]</sup> 51:3</p> <p><b>officer</b> <sup>[2]</sup> 48:12 62:25</p> <p><b>officers</b> <sup>[1]</sup> 63:14</p>
--	---	---	--

## Official - Subject to Final Review

<p><b>official</b> <sup>[21]</sup> 6:18 10:18 11:12 17:14 24:3,13 30:24 36:15,21 39:2 41:1 42:18 43:13,16 44:2,3 62:6 63:5,6,24 64:2</p> <p><b>officials</b> <sup>[4]</sup> 42:16,23 43:2 63:13</p> <p><b>often</b> <sup>[2]</sup> 39:13 51:22</p> <p><b>OIG</b> <sup>[1]</sup> 43:18</p> <p><b>Okay</b> <sup>[3]</sup> 39:5,5 41:16</p> <p><b>once</b> <sup>[3]</sup> 19:23 21:25 41:19</p> <p><b>one</b> <sup>[28]</sup> 7:13 12:17 14:7,18,23 15:13 17:19 18:14 19:16 21:6,18 34:7 35:18 48:15,22 49:5,9 53:15,18 55:18,20 56:3,13 57:6,21 59:16,19 61:15</p> <p><b>only</b> <sup>[26]</sup> 6:9,12 8:15,24 9:3 19:2,17 24:9,10 26:13 29:15,20 30:23 31:13 32:25 33:9 34:17 41:25 44:18,23 46:9 48:22 52:15 59:23 61:8,11</p> <p><b>operate</b> <sup>[2]</sup> 55:15 56:9</p> <p><b>opportunity</b> <sup>[2]</sup> 11:11 13:1</p> <p><b>opposite</b> <sup>[2]</sup> 14:2 15:15</p> <p><b>optimal</b> <sup>[1]</sup> 37:3</p> <p><b>option</b> <sup>[3]</sup> 13:7 38:18 41:21</p> <p><b>oral</b> <sup>[7]</sup> 1:17 3:2,5,8 4:8 32:6 54:1</p> <p><b>ordinary</b> <sup>[1]</sup> 28:17</p> <p><b>original</b> <sup>[1]</sup> 14:12</p> <p><b>other</b> <sup>[17]</sup> 7:14 9:11 13:18 14:19 15:17 20:25 23:17 26:10 36:18,24 37:7,16 42:24,24 44:8 49:4 61:17</p> <p><b>others</b> <sup>[1]</sup> 16:18</p> <p><b>Otherwise</b> <sup>[3]</sup> 46:22 52:5 53:12</p> <p><b>out</b> <sup>[16]</sup> 10:16 13:25 15:9 21:1 26:6 30:9 33:13 36:19 41:22 44:17 47:15 48:16 49:5,8,11 52:19</p> <p><b>outcome</b> <sup>[5]</sup> 35:18 36:5 45:6,9 48:3</p> <p><b>outer</b> <sup>[1]</sup> 39:14</p> <p><b>outset</b> <sup>[1]</sup> 38:9</p> <p><b>outsourcing</b> <sup>[2]</sup> 21:6,11</p> <p><b>over</b> <sup>[11]</sup> 25:18 32:21 38:18 41:10 45:23 46:4,23,25 48:7,24 49:21</p> <p><b>over-reading</b> <sup>[1]</sup> 30:4</p> <p><b>overall</b> <sup>[1]</sup> 27:11</p> <p><b>own</b> <sup>[5]</sup> 11:6 22:19 48:11 52:9 63:18</p>	<p><b>people</b> <sup>[3]</sup> 14:1 16:17 25:20</p> <p><b>percent</b> <sup>[4]</sup> 32:23 33:5 51:22 53:4</p> <p><b>performing</b> <sup>[2]</sup> 63:15 64:1</p> <p><b>period</b> <sup>[5]</sup> 54:12 55:14 56:10 59:6,22</p> <p><b>permitted</b> <sup>[1]</sup> 58:6</p> <p><b>person</b> <sup>[2]</sup> 34:13 41:25</p> <p><b>Petitioner</b> <sup>[3]</sup> 35:17 37:10 53:7</p> <p><b>Petitioner's</b> <sup>[1]</sup> 50:19</p> <p><b>Petitioners</b> <sup>[11]</sup> 1:6 2:3 3:4,15 4:9 35:9 44:21 47:17 51:1 59:7 60:15</p> <p><b>Petitioners'</b> <sup>[2]</sup> 27:1,2</p> <p><b>phrase</b> <sup>[6]</sup> 8:24 9:6 30:14 35:7 57:15 61:10</p> <p><b>pick</b> <sup>[1]</sup> 37:3</p> <p><b>piece</b> <sup>[1]</sup> 26:10</p> <p><b>pile</b> <sup>[1]</sup> 16:1</p> <p><b>place</b> <sup>[1]</sup> 30:3</p> <p><b>plain</b> <sup>[5]</sup> 27:3 33:9,21 34:22 45:1</p> <p><b>plaintiff</b> <sup>[4]</sup> 6:23 17:22 21:25 22:6</p> <p><b>play</b> <sup>[2]</sup> 7:24 51:2</p> <p><b>pleadings</b> <sup>[1]</sup> 46:12</p> <p><b>please</b> <sup>[4]</sup> 4:11 20:15 32:9 54:5</p> <p><b>plenary</b> <sup>[1]</sup> 44:12</p> <p><b>plethora</b> <sup>[1]</sup> 44:13</p> <p><b>point</b> <sup>[18]</sup> 16:21 27:17 35:2,21 44:9 45:17 46:16 50:4 51:1 53:8 54:22 56:22 57:5 59:23 60:18 61:7 62:3 63:9</p> <p><b>pointed</b> <sup>[4]</sup> 21:1 36:19 41:22 44:17</p> <p><b>pointing</b> <sup>[1]</sup> 42:24</p> <p><b>policy</b> <sup>[5]</sup> 19:12 28:11 47:16 58:4 60:2</p> <p><b>poorly</b> <sup>[2]</sup> 44:9,11</p> <p><b>pose</b> <sup>[1]</sup> 59:2</p> <p><b>posed</b> <sup>[1]</sup> 54:7</p> <p><b>position</b> <sup>[3]</sup> 7:10 18:17 50:19</p> <p><b>possibly</b> <sup>[1]</sup> 5:4</p> <p><b>potential</b> <sup>[1]</sup> 54:15</p> <p><b>potentially</b> <sup>[1]</sup> 16:12</p> <p><b>power</b> <sup>[2]</sup> 51:25 52:15</p> <p><b>practice</b> <sup>[1]</sup> 51:10</p> <p><b>precisely</b> <sup>[1]</sup> 54:14</p> <p><b>preempt</b> <sup>[2]</sup> 15:7,10</p> <p><b>prefaced</b> <sup>[1]</sup> 16:6</p> <p><b>prefer</b> <sup>[1]</sup> 36:4</p> <p><b>preponderance</b> <sup>[1]</sup> 18:24</p> <p><b>present</b> <sup>[1]</sup> 16:11</p> <p><b>presented</b> <sup>[2]</sup> 8:12 34:17</p> <p><b>press</b> <sup>[1]</sup> 61:23</p> <p><b>pretend</b> <sup>[1]</sup> 50:17</p> <p><b>prevails</b> <sup>[1]</sup> 45:10</p> <p><b>prevent</b> <sup>[1]</sup> 38:10</p> <p><b>principle</b> <sup>[5]</sup> 4:16,24 14:21 22:5,5</p> <p><b>principles</b> <sup>[6]</sup> 19:12 28:4 54:24 56:24,25 57:3</p> <p><b>private</b> <sup>[5]</sup> 32:24 34:12 51:23 59:5 63:14</p> <p><b>privateers</b> <sup>[1]</sup> 13:25</p> <p><b>probably</b> <sup>[2]</sup> 20:19 51:14</p> <p><b>problem</b> <sup>[5]</sup> 8:8 12:6 16:12 23:15,18</p> <p><b>problems</b> <sup>[2]</sup> 16:14 28:1</p>	<p><b>proceed</b> <sup>[1]</sup> 35:5</p> <p><b>proceeds</b> <sup>[1]</sup> 33:5</p> <p><b>process</b> <sup>[1]</sup> 43:16</p> <p><b>processes</b> <sup>[1]</sup> 26:5</p> <p><b>produce</b> <sup>[1]</sup> 5:3</p> <p><b>promptly</b> <sup>[2]</sup> 15:6,8</p> <p><b>proposed</b> <sup>[1]</sup> 27:3</p> <p><b>prosecuting</b> <sup>[1]</sup> 12:14</p> <p><b>prosecution</b> <sup>[1]</sup> 46:7</p> <p><b>prosecutor</b> <sup>[1]</sup> 62:24</p> <p><b>protect</b> <sup>[3]</sup> 11:21 40:22 61:20</p> <p><b>protecting</b> <sup>[1]</sup> 43:20</p> <p><b>protection</b> <sup>[1]</sup> 41:13</p> <p><b>prove</b> <sup>[2]</sup> 18:5,24</p> <p><b>proves</b> <sup>[1]</sup> 15:15</p> <p><b>provide</b> <sup>[1]</sup> 34:4</p> <p><b>provides</b> <sup>[3]</sup> 18:22 41:25 45:19</p> <p><b>provision</b> <sup>[25]</sup> 6:8,15 8:2,17 9:10 18:20 19:1 20:6,8 24:2 26:11,13 29:5,16 34:5 35:24,24 38:7 39:1,16 44:19,22 60:1 61:2,8</p> <p><b>provisions</b> <sup>[5]</sup> 5:7 9:11,13 19:20,24</p> <p><b>public</b> <sup>[2]</sup> 63:12,15</p> <p><b>purpose</b> <sup>[4]</sup> 12:10,17 14:4 33:7</p> <p><b>purposes</b> <sup>[10]</sup> 7:5,11 8:4 10:7 14:3 23:2,10 27:19 61:15,19</p> <p><b>pursuing</b> <sup>[1]</sup> 62:18</p> <p><b>put</b> <sup>[6]</sup> 6:22 7:23 9:18 10:10 35:7 39:14</p> <p><b>putting</b> <sup>[1]</sup> 22:4</p>	<p><b>reason</b> <sup>[11]</sup> 33:9 36:25 38:4 39:6,9 40:3,7 41:2 43:12 51:15 59:8</p> <p><b>reasonable</b> <sup>[4]</sup> 24:12 39:17 59:22 60:2</p> <p><b>reasons</b> <sup>[4]</sup> 21:7 28:12,22 57:7</p> <p><b>REBUTTAL</b> <sup>[2]</sup> 3:13 60:14</p> <p><b>recognized</b> <sup>[2]</sup> 32:19 34:15</p> <p><b>recommmend</b> <sup>[1]</sup> 52:21</p> <p><b>recompense</b> <sup>[1]</sup> 11:22</p> <p><b>record</b> <sup>[2]</sup> 42:5 43:9</p> <p><b>recovers</b> <sup>[1]</sup> 14:8</p> <p><b>recovery</b> <sup>[5]</sup> 5:22 12:12,14 13:20 58:13</p> <p><b>red</b> <sup>[1]</sup> 26:17</p> <p><b>reduction</b> <sup>[1]</sup> 14:20</p> <p><b>refer</b> <sup>[8]</sup> 8:24 10:12 29:13 30:20 34:8 57:17,22 61:12</p> <p><b>reference</b> <sup>[1]</sup> 44:1</p> <p><b>referenced</b> <sup>[2]</sup> 30:23 61:8</p> <p><b>refers</b> <sup>[3]</sup> 6:9,10,12</p> <p><b>reflected</b> <sup>[3]</sup> 26:25 27:1 60:3</p> <p><b>reflects</b> <sup>[1]</sup> 28:7</p> <p><b>regarding</b> <sup>[1]</sup> 42:11</p> <p><b>regardless</b> <sup>[2]</sup> 57:25 58:11</p> <p><b>Regulatory</b> <sup>[2]</sup> 9:8 36:8</p> <p><b>reign</b> <sup>[1]</sup> 48:2</p> <p><b>rejected</b> <sup>[1]</sup> 17:8</p> <p><b>REL</b> <sup>[2]</sup> 1:9 4:5</p> <p><b>relate</b> <sup>[1]</sup> 30:1</p> <p><b>relates</b> <sup>[1]</sup> 30:1</p> <p><b>relationship</b> <sup>[1]</sup> 46:10</p> <p><b>relator</b> <sup>[7]</sup> 4:13,21 6:16,23 7:1 10:13 11:1,5 12:4,7,13 13:6 14:8,22 15:6,11,16,23 16:23 20:5 24:16,24 37:19 38:16,21 39:19,23 40:10 41:6,22,25 45:12,15 46:5,19,21 47:1,5,9 48:10 49:2,8,11,12,22,25 50:4,8 52:2,7,7,12 53:2,17 54:10,15,18 55:8,10 56:2,9,12,13,21 58:6 59:5,10,15,24,25 61:23 62:8,10,11,15 63:17,20</p> <p><b>relator's</b> <sup>[3]</sup> 15:20 40:9 48:7</p> <p><b>relators</b> <sup>[17]</sup> 6:10 15:5 20:24 21:5,6,8,12 22:12,14 27:20 32:14,24 39:18 50:20 51:2,23 53:9</p> <p><b>relevant</b> <sup>[5]</sup> 14:8 36:15 39:2 40:25 43:11</p> <p><b>relied</b> <sup>[2]</sup> 36:7 47:17</p> <p><b>rely</b> <sup>[2]</sup> 4:15 59:25</p> <p><b>remain</b> <sup>[1]</sup> 25:16</p> <p><b>remains</b> <sup>[1]</sup> 56:4</p> <p><b>remembering</b> <sup>[1]</sup> 36:7</p> <p><b>rendered</b> <sup>[1]</sup> 13:12</p> <p><b>Reno</b> <sup>[1]</sup> 35:23</p> <p><b>repeated</b> <sup>[1]</sup> 23:3</p> <p><b>repeatedly</b> <sup>[5]</sup> 30:7 35:11 54:23 56:24 60:19</p> <p><b>reply</b> <sup>[1]</sup> 35:20</p> <p><b>repose</b> <sup>[1]</sup> 25:8</p> <p><b>representative</b> <sup>[2]</sup> 63:1,7</p> <p><b>representing</b> <sup>[1]</sup> 46:20</p> <p><b>requests</b> <sup>[1]</sup> 46:11</p> <p><b>reserve</b> <sup>[1]</sup> 32:1</p> <p><b>resort</b> <sup>[1]</sup> 57:3</p>
<b>P</b>		<b>Q</b>	
<p><b>PAGE</b> <sup>[4]</sup> 3:2 31:20 60:24 61:4</p> <p><b>paragraph</b> <sup>[2]</sup> 55:3,3</p> <p><b>paragraphs</b> <sup>[1]</sup> 55:2</p> <p><b>parallel</b> <sup>[2]</sup> 56:18,19</p> <p><b>part</b> <sup>[6]</sup> 13:13 34:7,7 35:4,8 52:6</p> <p><b>particular</b> <sup>[3]</sup> 5:9 9:10 61:2</p> <p><b>particularly</b> <sup>[1]</sup> 43:11</p> <p><b>party</b> <sup>[23]</sup> 5:16,20 6:3,21,22,24 10:7 11:21 21:21 24:20,23 28:18,19 29:15 30:23 32:12,18 34:11 35:1 44:20 58:9,11,17</p> <p><b>pass</b> <sup>[2]</sup> 23:12 43:2</p> <p><b>path</b> <sup>[1]</sup> 45:8</p> <p><b>pegged</b> <sup>[1]</sup> 21:20</p> <p><b>penalties</b> <sup>[4]</sup> 11:24 12:2 24:22 62:19</p>	<p><b>poorly</b> <sup>[2]</sup> 44:9,11</p> <p><b>pose</b> <sup>[1]</sup> 59:2</p> <p><b>posed</b> <sup>[1]</sup> 54:7</p> <p><b>position</b> <sup>[3]</sup> 7:10 18:17 50:19</p> <p><b>possibly</b> <sup>[1]</sup> 5:4</p> <p><b>potential</b> <sup>[1]</sup> 54:15</p> <p><b>potentially</b> <sup>[1]</sup> 16:12</p> <p><b>power</b> <sup>[2]</sup> 51:25 52:15</p> <p><b>practice</b> <sup>[1]</sup> 51:10</p> <p><b>precisely</b> <sup>[1]</sup> 54:14</p> <p><b>preempt</b> <sup>[2]</sup> 15:7,10</p> <p><b>prefaced</b> <sup>[1]</sup> 16:6</p> <p><b>prefer</b> <sup>[1]</sup> 36:4</p> <p><b>preponderance</b> <sup>[1]</sup> 18:24</p> <p><b>present</b> <sup>[1]</sup> 16:11</p> <p><b>presented</b> <sup>[2]</sup> 8:12 34:17</p> <p><b>press</b> <sup>[1]</sup> 61:23</p> <p><b>pretend</b> <sup>[1]</sup> 50:17</p> <p><b>prevails</b> <sup>[1]</sup> 45:10</p> <p><b>prevent</b> <sup>[1]</sup> 38:10</p> <p><b>principle</b> <sup>[5]</sup> 4:16,24 14:21 22:5,5</p> <p><b>principles</b> <sup>[6]</sup> 19:12 28:4 54:24 56:24,25 57:3</p> <p><b>private</b> <sup>[5]</sup> 32:24 34:12 51:23 59:5 63:14</p> <p><b>privateers</b> <sup>[1]</sup> 13:25</p> <p><b>probably</b> <sup>[2]</sup> 20:19 51:14</p> <p><b>problem</b> <sup>[5]</sup> 8:8 12:6 16:12 23:15,18</p> <p><b>problems</b> <sup>[2]</sup> 16:14 28:1</p>	<b>R</b>	<p><b>raise</b> <sup>[1]</sup> 25:5</p> <p><b>raised</b> <sup>[1]</sup> 53:7</p> <p><b>ran</b> <sup>[1]</sup> 18:8</p> <p><b>rapid</b> <sup>[2]</sup> 13:21,24</p> <p><b>rather</b> <sup>[2]</sup> 41:7 44:13</p> <p><b>rational</b> <sup>[5]</sup> 21:10 33:7 40:3,8 45:7</p> <p><b>read</b> <sup>[8]</sup> 8:6 9:19,24 13:8 17:4,5 33:15 49:6</p> <p><b>reading</b> <sup>[4]</sup> 4:25 31:1,4 35:18</p> <p><b>reads</b> <sup>[1]</sup> 34:7</p> <p><b>real</b> <sup>[9]</sup> 23:14,15,17 27:24 32:17 38:12 49:19 53:8 58:11</p> <p><b>realistic</b> <sup>[1]</sup> 15:13</p> <p><b>realize</b> <sup>[1]</sup> 47:4</p> <p><b>really</b> <sup>[14]</sup> 15:4 19:21 21:2 22:13 23:7,19,20 27:6,12 30:4 50:18 53:8 59:17 62:5</p>

## Official - Subject to Final Review

<p><b>resources</b> [3] 37:4 41:3 51:17  <b>respect</b> [3] 46:6,9 58:6  <b>respectfully</b> [1] 29:8  <b>respond</b> [1] 51:21  <b>Respondent</b> [8] 1:10 2:5,9 3:7,12 17:5 32:7 54:3  <b>Respondents</b> [2] 31:20 62:7  <b>response</b> [2] 7:7 27:5  <b>responsibilities</b> [6] 46:6,14,21 47:6 63:15 64:2  <b>responsibility</b> [9] 6:19 10:19 11:13 17:15 22:25 24:4 30:25 31:6 36:22  <b>responsible</b> [1] 43:19  <b>rest</b> [1] 32:1  <b>result</b> [6] 23:20 33:2 35:14,16 37:22 58:5  <b>resulted</b> [1] 42:13  <b>results</b> [3] 5:3 18:9 35:18  <b>retaliated</b> [2] 18:6 34:13  <b>retaliation</b> [8] 8:1 18:3,4,7,20 34:5,9,11  <b>revenue</b> [1] 50:23  <b>reverse</b> [1] 11:18  <b>rights</b> [7] 6:2 43:20 49:12 50:4,17,25 53:3  <b>ROBERTS</b> [14] 4:3 15:3 24:25 25:3,25 32:3 36:6,10 50:6,11 51:6 53:22 60:11 64:6  <b>role</b> [2] 24:24 51:3  <b>rule</b> [21] 4:17 12:1 17:1,8 24:19,21 27:1,3,25 28:1,17 37:19 39:23 54:13 55:14 57:5,9 58:16,25 61:21 63:19  <b>rules</b> [4] 5:2 11:20 26:25 55:5  <b>run</b> [1] 18:13</p> <hr/> <p style="text-align: center;"><b>S</b></p> <p><b>same</b> [21] 7:10 8:7,19 9:6 11:16 30:3 35:24,25,25 51:3 54:11,14,20,21 55:15 56:22 57:14 59:24 60:7,23 62:10  <b>Sanders</b> [3] 6:13 15:17 24:8  <b>sat</b> [1] 53:2  <b>save</b> [1] 48:23  <b>saying</b> [6] 13:8 16:6,14,16 39:7 44:2  <b>says</b> [8] 17:18,19 26:23 31:12,21 35:4 45:2 46:3  <b>scene</b> [1] 14:1  <b>scheme</b> [5] 31:23,24 38:13 51:2 53:6  <b>screening</b> [1] 43:16  <b>screens</b> [1] 36:14  <b>scrivener's</b> [1] 31:14  <b>seal</b> [1] 25:16  <b>SEC</b> [1] 11:25  <b>Second</b> [2] 42:7 54:22  <b>Section</b> [38] 4:18,25 5:10,11,13 6:9 7:5 8:13,15,19,23,25 9:1,12,15 10:4 18:22,23 19:5,19,25 24:1,2,15 26:12 29:10 30:6,11,19 32:10 35:3 43:22 45:2 55:4 57:16 60:22 61:1,11</p>	<p><b>see</b> [3] 12:5 27:23 62:6  <b>seeing</b> [1] 30:13  <b>seek</b> [1] 25:16  <b>seeking</b> [4] 11:21 12:2,3 24:21  <b>seems</b> [7] 17:11 18:10 19:10,13 28:6 33:16,20  <b>self-tolling</b> [1] 61:22  <b>sense</b> [15] 5:20 6:15 12:18 19:11 20:4,7,11,20 21:14 45:7 48:12 49:16 50:5 56:9 58:15  <b>sensible</b> [2] 58:4 59:8  <b>sentence</b> [2] 35:25 60:25  <b>separately</b> [1] 6:11  <b>serve</b> [3] 23:1,10 61:18  <b>serving</b> [1] 42:7  <b>settle</b> [1] 53:2  <b>settled</b> [1] 48:5  <b>settlement</b> [1] 33:2  <b>seven</b> [16] 4:13 14:22 15:16,18 21:3,7,12 22:15,17,22 37:25 38:3,14,16 40:18,20  <b>shape</b> [1] 36:3  <b>share</b> [1] 5:22  <b>shifters</b> [1] 36:3  <b>shoes</b> [2] 13:6 62:9  <b>short</b> [2] 50:11,12  <b>shorthand</b> [1] 44:16  <b>shot</b> [2] 23:22,24  <b>show</b> [1] 38:11  <b>showed</b> [1] 14:19  <b>side</b> [4] 14:19 23:17 37:8 61:17  <b>significant</b> [1] 57:11  <b>significantly</b> [1] 25:7  <b>signs</b> [1] 48:14  <b>similar</b> [1] 59:2  <b>simpler</b> [1] 28:22  <b>simply</b> [6] 8:1 27:21 34:3 35:7 47:25 51:25  <b>sit</b> [3] 49:12 50:16,24  <b>sitting</b> [1] 41:14  <b>situation</b> [1] 34:3  <b>six</b> [11] 11:2,7 21:7,17 25:11,22 34:16 41:1 49:7 55:20 56:14  <b>six-year</b> [3] 54:12 55:14 56:10  <b>slightly</b> [1] 55:18  <b>society</b> [1] 23:5  <b>solely</b> [1] 34:12  <b>Solicitor</b> [2] 2:6 17:5  <b>solid</b> [1] 34:17  <b>somehow</b> [2] 6:22 44:22  <b>someone</b> [6] 15:1 16:3 24:21 39:3 52:18,22  <b>sometimes</b> [5] 8:23 25:14 29:13 50:20 61:11  <b>somewhat</b> [1] 36:15  <b>somewhere</b> [1] 41:4  <b>soon</b> [1] 53:10  <b>sooner</b> [1] 42:4  <b>sorry</b> [2] 7:21 20:13  <b>sort</b> [2] 15:11 42:21  <b>sorts</b> [1] 26:5  <b>SOTOMAYOR</b> [12] 12:5 13:2 14:6,15 42:14,21 43:25 44:8 62:4,22,25 63:3</p>	<p><b>sought</b> [1] 11:24  <b>sounds</b> [2] 63:5,6  <b>spark</b> [2] 15:23 61:19  <b>special</b> [3] 22:24 28:15,19  <b>specific</b> [1] 47:14  <b>specifically</b> [4] 10:16 43:22 45:19 61:4  <b>split</b> [1] 8:5  <b>spoke</b> [1] 8:21  <b>spur</b> [2] 13:24 39:10  <b>stands</b> [2] 12:21 62:9  <b>start</b> [1] 6:25  <b>started</b> [1] 26:1  <b>state</b> [2] 26:22,24  <b>STATES</b> [90] 1:1,8,18 2:8 3:10 4:5,15,22 5:15,20,25 6:10,11,12,16,18 8:16 9:3 10:7,13,16,19 11:4,10 12:12 15:2 17:14,21 18:23 19:3 26:14,23 27:4 30:24,25 31:2 32:14,15,18,20 33:3,4 34:11,20 35:14 36:16 38:17 42:8,16,17 44:3,23,25 46:8,17,20 48:13,15 50:15 51:9 53:1 54:2,10,16,19 55:7,7,9 56:15,21 58:1,8,9,10,14,18 59:1,4,9 60:18 61:9,14 62:6,7,9,11,17,19,20 63:11  <b>statute</b> [53] 6:7,10,20 9:7 10:17,22 11:1,9,16 12:7,9,21,25 13:3,6 17:18 18:7,12 19:17 21:17,24 22:6 23:10 24:18 25:8 26:24 28:7,10,16 32:11 33:7,10,16 34:4,19 35:14 37:18 40:15 42:22 43:23 45:9,19 49:2,3,6 54:9,18 55:11 56:8 57:4 60:6 61:24 63:13  <b>statute's</b> [1] 24:11  <b>statutes</b> [10] 14:5 23:1 28:4 36:2,18,20,24 42:24 61:16,18  <b>statutory</b> [14] 5:12 23:8,16,23 31:11,22,23,24 35:23 47:2 48:17 53:6 57:9 60:3  <b>steps</b> [1] 11:16  <b>step</b> [1] 13:5  <b>stepping</b> [1] 17:21  <b>Stevens</b> [1] 62:16  <b>still</b> [8] 4:23 7:9 11:11 14:15 38:17 39:6 41:10 49:21  <b>structure</b> [2] 20:8 59:12  <b>struggling</b> [3] 20:21 21:14 40:6  <b>sub</b> [1] 61:12  <b>submit</b> [1] 29:8  <b>submitted</b> [2] 64:8,10  <b>subsection</b> [6] 5:14 8:14 9:2 18:21 44:4 61:6  <b>subsections</b> [1] 9:12  <b>subset</b> [4] 8:24 9:2 57:17,19  <b>subsets</b> [2] 29:14 61:12  <b>substantially</b> [1] 63:4  <b>successful</b> [2] 33:2 52:25  <b>sue</b> [3] 4:23 18:11 58:7  <b>sued</b> [1] 11:5  <b>suggest</b> [3] 20:23 30:4 47:5  <b>suggesting</b> [2] 17:11 30:8  <b>Suisse</b> [3] 21:23 28:3 57:2  <b>suit</b> [37] 4:13,20 5:23 11:15 22:12,</p>	<p>15 28:20 29:21 32:21,22 34:9,12 38:16,21 39:20 40:11,17,24 41:6 45:12,13,21 46:1,7 52:24,25 54:11 55:7,8,10 56:11,14 57:10,21,24,24 60:1  <b>suite</b> [1] 13:13  <b>suits</b> [5] 32:14,24 53:10 55:16 57:23  <b>support</b> [3] 2:8 3:11 54:3  <b>suppose</b> [2] 50:7,7  <b>supposing</b> [1] 55:19  <b>SUPREME</b> [2] 1:1,17  <b>system</b> [1] 46:2</p> <hr/> <p style="text-align: center;"><b>T</b></p> <p><b>table</b> [1] 7:24  <b>tactical</b> [1] 48:11  <b>talked</b> [1] 18:21  <b>tam</b> [5] 12:13 16:13 17:22 32:23 36:20  <b>technique</b> [1] 19:23  <b>ten</b> [19] 21:4,7,12 22:12,15,22 25:9 26:1 38:23 39:15 41:9 49:12,23 50:12,17 52:4,23 53:18 56:5  <b>ten-year</b> [4] 25:7 26:4 37:17 40:15  <b>term</b> [3] 8:22 9:14 35:24  <b>terms</b> [6] 19:11 34:8,18 47:13 48:9 51:3  <b>terribly-drafted</b> [1] 23:9  <b>testified</b> [1] 41:15  <b>text</b> [12] 5:5 6:6 17:21 23:16,23 30:10 31:8,21 57:9 60:3 61:1,2  <b>textual</b> [2] 6:7 54:25  <b>THEODORE</b> [5] 2:2 3:3,14 4:8 60:14  <b>Theoretically</b> [1] 28:25  <b>theory</b> [1] 15:11  <b>there's</b> [11] 6:25 9:21 13:19 14:15 21:25 27:23,23 29:3 48:22 57:11 58:3  <b>therefore</b> [1] 55:13  <b>They'll</b> [1] 53:13  <b>thinking</b> [1] 17:2  <b>thinks</b> [1] 49:9  <b>third</b> [5] 6:21 24:19,23 28:18,19  <b>though</b> [2] 4:19 19:3  <b>three</b> [8] 11:14 21:3 24:6 39:17 55:12 59:23 60:1,13  <b>three-year</b> [3] 41:11 54:13 59:5  <b>throughout</b> [2] 6:11 16:13  <b>thrust</b> [1] 27:13  <b>ticket</b> [1] 53:15  <b>ticking</b> [1] 7:1  <b>timely</b> [9] 11:15 17:15 24:4,14,14 38:12 40:11 51:21 54:19  <b>today</b> [3] 14:13 35:10 48:20  <b>toilet</b> [1] 53:15  <b>toll</b> [2] 21:24 61:24  <b>tolling</b> [34] 4:16,24 5:2 6:15 11:19,20 12:1 15:1 17:1 19:12 21:20 22:5,9 26:11,12 38:7 39:1,16 41:12 44:18 54:13,24 55:5,13 56:25 57:4,5,9 58:16,25 59:5,22,25 61:21  <b>ton</b> [1] 19:11</p>
---	---	--	--

## Official - Subject to Final Review

<p><b>took</b> <sup>[2]</sup> 34:21 48:24  <b>tools</b> <sup>[1]</sup> 20:25  <b>tort</b> <sup>[1]</sup> 26:14  <b>tortured</b> <sup>[1]</sup> 27:1  <b>totally</b> <sup>[1]</sup> 24:11  <b>treated</b> <sup>[1]</sup> 39:7  <b>treatment</b> <sup>[2]</sup> 56:18,19  <b>treble</b> <sup>[1]</sup> 16:1  <b>triggered</b> <sup>[6]</sup> 9:15 10:17 24:3,19  28:18 30:24  <b>triggers</b> <sup>[1]</sup> 6:20  <b>true</b> <sup>[2]</sup> 28:16 59:24  <b>truncated</b> <sup>[1]</sup> 46:13  <b>try</b> <sup>[1]</sup> 53:2  <b>trying</b> <sup>[2]</sup> 23:15 40:20  <b>Tuesday</b> <sup>[1]</sup> 1:14  <b>turn</b> <sup>[1]</sup> 28:23  <b>turns</b> <sup>[2]</sup> 19:22 29:6  <b>two</b> <sup>[9]</sup> 7:13 8:7 17:19 19:24 21:19  37:20,22 39:8 63:9  <b>types</b> <sup>[1]</sup> 25:3</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>U.S</b> <sup>[3]</sup> 12:11,14 43:4  <b>ultimate</b> <sup>[5]</sup> 32:20,21 33:3 46:25  48:3  <b>ultimately</b> <sup>[5]</sup> 29:24 40:9 43:6 48:  18 53:19  <b>unable</b> <sup>[1]</sup> 51:20  <b>unambiguous</b> <sup>[1]</sup> 31:23  <b>Under</b> <sup>[42]</sup> 4:21 5:10,10,13 7:5,11  8:3,15,16,22,25 9:20 10:4,20 18:  22,23 19:4,19 24:1,14 25:16 29:  10 30:5,19 34:10,24 35:6,6 44:3,  19,20 45:2 47:8 54:17 55:4 57:16,  17,23 60:22 61:10 62:16 63:13  <b>understand</b> <sup>[7]</sup> 5:23 7:3 9:17 21:  15 39:6 40:13 58:23  <b>understanding</b> <sup>[1]</sup> 19:18  <b>uninjured</b> <sup>[1]</sup> 24:22  <b>unique</b> <sup>[1]</sup> 36:15  <b>UNITED</b> <sup>[88]</sup> 1:1,8,18 2:8 3:10 4:5,  15,22 5:15,19,25 6:9,11,12,16,18  8:16 9:3 10:6,13,16,19 11:4,10 12:  12 15:2 17:14,21 18:23 19:2 26:  14 30:23,25 31:2 32:13,15,18,20  33:3,4 34:11 35:14 36:8,16 38:17  42:8,16,17 44:2,23,25 46:8,17,20  48:13,15 50:15 51:9 53:1 54:2,10,  15,19 55:6,7,9 56:14,21 58:1,7,9,  10,13,18 59:1,3,9 60:18 61:9,14  62:6,7,9,11,17,19,20 63:10  <b>unless</b> <sup>[1]</sup> 54:19  <b>unlikely</b> <sup>[1]</sup> 21:13  <b>unredeemed</b> <sup>[1]</sup> 37:13  <b>until</b> <sup>[4]</sup> 18:12 22:17 49:23 52:4  <b>untimely</b> <sup>[1]</sup> 13:12  <b>up</b> <sup>[2]</sup> 16:1 48:5  <b>urge</b> <sup>[1]</sup> 53:20  <b>uses</b> <sup>[1]</sup> 35:24  <b>using</b> <sup>[1]</sup> 60:7  <b>Utility</b> <sup>[1]</sup> 9:8</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/>	<p><b>valuable</b> <sup>[1]</sup> 61:18  <b>vast</b> <sup>[1]</sup> 37:8  <b>Vermont</b> <sup>[3]</sup> 32:17 36:19 47:22  <b>versus</b> <sup>[3]</sup> 4:5 13:23 63:11  <b>view</b> <sup>[1]</sup> 54:8  <b>viewed</b> <sup>[1]</sup> 26:19  <b>viewing</b> <sup>[1]</sup> 19:18  <b>vindicate</b> <sup>[1]</sup> 58:7  <b>violation</b> <sup>[3]</sup> 9:15 11:3 57:23  <b>Virginia</b> <sup>[1]</sup> 2:4  <b>virtually</b> <sup>[2]</sup> 53:9 61:5  <b>vital</b> <sup>[1]</sup> 23:4</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait</b> <sup>[3]</sup> 4:22 16:24 22:7  <b>waited</b> <sup>[3]</sup> 4:13 14:22 15:16  <b>waiting</b> <sup>[2]</sup> 15:12,24  <b>waits</b> <sup>[2]</sup> 49:23 52:3  <b>walk</b> <sup>[2]</sup> 48:21 52:25  <b>wanted</b> <sup>[6]</sup> 22:11 37:1,21 39:12 48:  21 59:8  <b>wants</b> <sup>[1]</sup> 20:23  <b>Washington</b> <sup>[3]</sup> 1:13 2:7 25:12  <b>way</b> <sup>[13]</sup> 13:8,22 15:19 18:15 29:23  43:5 45:4,16 46:13 47:11 52:4 55:  15 59:2  <b>ways</b> <sup>[4]</sup> 7:13 25:4 27:20 62:8  <b>weeds</b> <sup>[2]</sup> 15:2,12  <b>welfare</b> <sup>[1]</sup> 23:4  <b>whatever</b> <sup>[3]</sup> 16:2 41:2 51:12  <b>whatsoever</b> <sup>[1]</sup> 28:1  <b>whenever</b> <sup>[1]</sup> 52:24  <b>Whereupon</b> <sup>[1]</sup> 64:9  <b>whether</b> <sup>[14]</sup> 12:13 14:9 21:4 28:9,  23 34:25 40:17 48:4 52:16 53:18  55:6 57:25 58:11,21  <b>whichever</b> <sup>[1]</sup> 17:20  <b>whistleblower</b> <sup>[1]</sup> 52:10  <b>who's</b> <sup>[6]</sup> 6:23,23,24 11:21 17:14  43:19  <b>whoever</b> <sup>[1]</sup> 23:11  <b>whom</b> <sup>[1]</sup> 32:12  <b>Wilkinson</b> <sup>[1]</sup> 6:13  <b>will</b> <sup>[14]</sup> 25:14,14,15,16 46:3,3 49:  11 54:14 55:6,15 56:13,15 60:17,  17  <b>wish</b> <sup>[1]</sup> 7:25  <b>within</b> <sup>[4]</sup> 24:5 38:13,23 47:2  <b>without</b> <sup>[2]</sup> 5:24 7:1  <b>witness</b> <sup>[3]</sup> 42:1 47:14 52:11  <b>witnesses</b> <sup>[1]</sup> 25:21  <b>witnessing</b> <sup>[1]</sup> 4:14  <b>wonderful</b> <sup>[1]</sup> 23:10  <b>word</b> <sup>[4]</sup> 9:14 62:23 63:5,24  <b>words</b> <sup>[3]</sup> 49:4 61:15 63:12  <b>work</b> <sup>[3]</sup> 21:6,11 63:21  <b>world</b> <sup>[2]</sup> 49:19 53:9  <b>written</b> <sup>[5]</sup> 19:14 44:9,11 45:4 60:  6  <b>wrote</b> <sup>[1]</sup> 29:5</p> <hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>year</b> <sup>[19]</sup> 22:17 25:18 37:25 38:3,  14,15 40:18,19,20 41:1,1,9 49:23</p>	<p><b>50:1,12 52:4 53:18,18,18</b>  <b>years</b> <sup>[47]</sup> 4:13 11:2,7,14 14:23,25  15:17,18 21:3,6,17 22:7,7,8,12,15,  22 24:6 25:10,11,19,19,19,22,23  26:2 34:16,18 38:23 39:15,16 46:  2 49:7,12,13,25 50:17 51:11 52:  24 55:20 56:5,14 59:10,15,23 60:  2 63:9  <b>yield</b> <sup>[1]</sup> 60:10</p>
---	---	---