

# SUPREME COURT OF THE UNITED STATES

---

IN THE SUPREME COURT OF THE UNITED STATES

-----  
SERGIO FERNANDO LAGOS, )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) No. 16-1519  
 )  
 ) UNITED STATES, )  
 )  
 ) Respondent. )  
 )  
-----

Pages: 1 through 69

Place: Washington, D.C.

Date: April 18, 2018

---

## 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  
- - - - -  
SERGIO FERNANDO LAGOS, )  
Petitioner, )  
v. ) No. 16-1519  
UNITED STATES, )  
Respondent. )

- - - - -  
Washington, D.C.  
Wednesday, April 18, 2018

The above-entitled matter came on for oral  
argument before the Supreme Court of the United  
States at 10:07 a.m.

APPEARANCES:  
DANIEL L. GEYSER, ESQ., Dallas, Texas; on behalf of  
the Petitioner.  
MICHAEL R. HUSTON, Assistant to the Solicitor  
General, Department of Justice, Washington, D.C.;  
on behalf of the Respondent.

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	DANIEL L. GEYSER, ESQ.	
4	On behalf of the Petitioner	3
5	ORAL ARGUMENT OF:	
6	MICHAEL R. HUSTON, ESQ.	
7	On behalf of the Respondent	32
8	REBUTTAL ARGUMENT OF:	
9	DANIEL L. GEYSER, ESQ.	
10	On behalf of the Petitioner	64
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

2 (10:07 a.m.)

3 CHIEF JUSTICE ROBERTS: We'll hear  
4 argument first this morning in Case 16-1519,  
5 Lagos versus the United States.

6 Mr. Geysler.

7 ORAL ARGUMENT OF DANIEL L. GEYSER

8 ON BEHALF OF THE PETITIONER

9 MR. GEYSER: Thank you, Mr. Chief  
10 Justice, and may it please the Court:

11 The Mandatory Victims Restitution Act  
12 covers the cost of lost income and necessary  
13 child care, transportation, and other expenses,  
14 while participating in the investigation or  
15 prosecution of the offense or attending  
16 proceedings related to that offense.

17 That language does not cover the cost  
18 of hiring four law firms, a consulting firm,  
19 and forensic experts for a private  
20 investigation in bankruptcy litigation. The  
21 government's theory does not fit Section  
22 3663A's plain text, and it cannot explain the  
23 clear and obvious differences between this  
24 statute and other restitution provisions,  
25 which, unlike here -- where, unlike here,

1 Congress did provide make-whole relief.

2 The government tries to make up for  
3 these deficiencies by citing statements in the  
4 legislative history, broad declarations of  
5 Congress's purpose, and the ordinary definition  
6 of restitution. None of these appear anywhere  
7 in the statute.

8 The government looks everywhere but  
9 the statutory text because the language and  
10 logic of the provision is directly at odds with  
11 the government's reading. For multiple --

12 JUSTICE GINSBURG: If we -- if we  
13 accept your view, wouldn't there be a perverse  
14 incentive? We would be telling creditors don't  
15 -- don't investigate immediately.

16 MR. GEYSER: No, Your Honor. The --  
17 first, companies have incentives independent of  
18 the possibility of getting a restitution award  
19 to investigate potential misconduct. And this  
20 is not saying even if it's not covered as  
21 restitution, that it's the only mechanism to --  
22 to get recompense. They can file civil  
23 actions.

24 The key here is what Congress had in  
25 mind when it detailed four specific provisions

1 in subsection (b) of the Mandatory Victims  
2 Restitution Act. And the term there that's  
3 very important is "mandatory." Congress  
4 realized it was requiring restitution in these  
5 cases, and there are tens of thousands of  
6 sentencing proceedings each year under this  
7 provision.

8 JUSTICE KENNEDY: Is there a  
9 difference -- excuse me. Is there a difference  
10 under -- under the bankruptcy law? I -- I  
11 assume that if the government's correct in this  
12 case, it's not dischargeable in bankruptcy. I  
13 just assume that.

14 MR. GEYSER: I -- I think Section 523  
15 of Title 11 may make a civil order  
16 non-dischargeable. The restitution amount  
17 itself is non-dischargeable. That's true.

18 JUSTICE KENNEDY: Do you -- do you  
19 know if the costs incurred in this case would  
20 be also -- also non-dischargeable in a civil  
21 action filed by the employer?

22 MR. GEYSER: I think under Section 523  
23 of -- of the Bankruptcy Code, it may not be  
24 dischargeable. I think it is a close question.  
25 It depends on the nature of the offense and --

1 and the underlying basis of the civil judgment.

2 CHIEF JUSTICE ROBERTS: What -- what  
3 if the government approached GE and said, look,  
4 this is a very complicated financial fraud,  
5 we're busy with some other stuff, we'd like you  
6 to go ahead and investigate it to the extent  
7 you can, and they'd used the results of their  
8 investigation in their prosecution?

9 MR. GEYSER: That's still not covered,  
10 Mr. Chief Justice, because, if you look at the  
11 specific enumeration of expenses, Congress here  
12 invoked the classic ejusdem generis  
13 formulation. It has specific expenses, child  
14 care and transportation, followed by a general  
15 residual clause that looks absolutely nothing  
16 like attorneys' fees. Where Congress wanted to  
17 include attorneys' fees and investigation  
18 expenses, it did that, as we see in Sections  
19 2248 and Sections 2259.

20 CHIEF JUSTICE ROBERTS: It's a pretty  
21 open phrase, "other expenses incurred during  
22 participation in the investigation." I don't  
23 know why, if the government's essentially  
24 delegating its responsibility, that those  
25 expenses wouldn't be covered.

1           MR. GEYSER: Well, two reasons, Your  
2 Honor. Again, under -- under ejusdem generis,  
3 you don't simply say look at the -- the  
4 capacious residual phrase. It's necessarily  
5 limited to like expenses. Attorneys' fees and  
6 private investigation expenses don't look like  
7 child care and transportation. When Congress  
8 wanted it to --

9           JUSTICE KAGAN: How would you define  
10 the common denominator of those expenses?

11           MR. GEYSER: I think the common  
12 denominator is clear from both the context and  
13 the terms used. It shows this is exactly what  
14 happens when a victim is dislodged from their  
15 daily life and they have to go and meet with  
16 the government or testify at a hearing.

17           If they miss work, they have lost  
18 income. They have to get from wherever they  
19 are to the hearing or to meet with the FBI  
20 agents. That's transportation. If they leave  
21 home, they might have child care expenses.  
22 These are the indirect, incidental,  
23 out-of-pocket expenses that someone incurs when  
24 they're meeting with the government.

25           JUSTICE GORSUCH: Well, what about



1 hiring a lawyer to be a witness in a  
2 governmental investigation? Would that be  
3 covered in your view?

4 MR. GEYSER: We don't think it is  
5 under our broader argument, Justice Gorsuch,  
6 because, again, hiring a lawyer is not like  
7 child care, transportation. And Congress,  
8 again, when it wanted to include attorneys'  
9 fees, it said so expressly, as it did in  
10 Section 2259.

11 JUSTICE KENNEDY: Well, maybe this is  
12 the same question as Justice Gorsuch had, but  
13 suppose the FBI -- they're a federal  
14 investigating agency -- say we're coming in and  
15 we want statements from all of your officers  
16 and we're going to be questioning all of your  
17 officers; and the company then hires an  
18 attorney to assist. Would those be covered?

19 MR. GEYSER: Again, Your Honor, under  
20 our broad --

21 JUSTICE KENNEDY: I mean, it -- it  
22 sounds to me like this is another expense  
23 incurred during participation in the  
24 investigation.

25 MR. GEYSER: Again, under our broader

1 theory, no, because it's not the kind of  
2 expense that Congress had in mind. But we do  
3 have the alternative theory that, at least in  
4 that case, you have someone who is incurring an  
5 expense during the participation of the  
6 government's investigation.

7 That's very different than a private  
8 investigation operated entirely apart from the  
9 government's investigation; indeed, one that  
10 occurs before the government has even started  
11 its investigation. No one thinks of an expense  
12 that is occurring before as an expense that's  
13 happening during an investigation that hasn't  
14 yet started. And --

15 JUSTICE BREYER: Well, does it --  
16 that's the -- I think it's difficult. Think of  
17 a simple example. A small company thinks the  
18 bookkeeper is taking money off the top, hires  
19 Sam Spade, a private eye, and says I'd like you  
20 to look into this. He does look into it. He  
21 says it's the bookkeeper, all right. And then  
22 they go to the police, and the police says,  
23 thank you, that's very helpful, Sam. And they  
24 investigate further; arrest him. That's the  
25 facts, all right?

1 MR. GEYSER: Sure.

2 JUSTICE BREYER: Okay. Now,  
3 previously, there was a statute called the  
4 discretionary restitution statute, and it  
5 allowed -- discretionary -- expenses related to  
6 participation in the investigation. Well, I  
7 would have said that, quite likely, Sam's  
8 pre-investigation expense was related to the  
9 necessary -- the later.

10 Now they've changed the wording of the  
11 statute to what you read. Did Congress intend  
12 to change that?

13 MR. GEYSER: I -- I believe Congress  
14 did because --

15 JUSTICE BREYER: Why?

16 MR. GEYSER: Well, they -- they didn't  
17 just stumble across the language in subsection  
18 (4). They --

19 JUSTICE BREYER: No, no, no, but I'm  
20 asking you why would someone, taking a statute  
21 that previously allowed restitution to Sam for  
22 Sam's expense, want to stop that in a statutory  
23 change, by the way, that was meant to expand  
24 the scope of restitution?

25 MR. GEYSER: A -- a few points, Your

1 Honor. First, it's expanding it by making it  
2 mandatory. It's not expanding it by making it  
3 make-whole relief. Congress knew how to do  
4 that. They have other examples where they did  
5 do that.

6 In this case too, I think once you  
7 have expenses incurred during the  
8 investigation, you get the government's input.  
9 They can cooperate with the company. They can  
10 give them direction. They can prevent  
11 duplicative redundant expenses.

12 JUSTICE BREYER: Is there anything --  
13 since I'm interested in history, is there  
14 anything in the legislative history that  
15 suggests that this change of language was  
16 intended to diminish the scope of the  
17 restitution?

18 MR. GEYSER: The -- I don't think  
19 there's anything either way on that particular  
20 point, but what there is, and I do think this  
21 is important, Congress specifically raised  
22 concerns about things like attorneys' fees that  
23 would end up leading to protracted,  
24 complicated, fact-intensive disputes that would  
25 slow the efficiency of sentencing proceedings.

1           This statute, because it's mandatory,  
2     applies in tens of thousands of proceedings  
3     every year. And if you look at subsection  
4     (c) (3) (B) of the Act, Congress specifically  
5     said that restitution is not authorized where  
6     it would delay the sentencing proceeding.

7           And that makes perfectly good sense  
8     that Congress then would limit the expenses to  
9     the kind of incidental out-of-pocket expenses  
10    that are very easy to calculate.

11          Fee disputes are notoriously difficult  
12    to calculate. When you have people operating,  
13    especially independently of the government,  
14    they're conducting their own resource --  
15    they're conducting their own investigation,  
16    hiring whoever they wish to hire, and that's  
17    perfectly fine, and there might be other  
18    mechanisms that Congress would have deferred to  
19    in the civil venue to resolve those sorts of  
20    disputes.

21          But that's very different than saying  
22    in a mandatory statute that these -- that  
23    sentencing judges, and, again, tens of  
24    thousands of proceedings every year, have to go  
25    through and entertain, you know, disputes about

1     how much was actually necessary, was it proper  
2     to hire four law firms, were the expenses  
3     devoted just to proving innocence and guilt or  
4     were they also devoted for business reasons or  
5     economic reasons.

6             Most internal investigations, as Judge  
7     Kavanaugh pointed out in his opinion in  
8     Papagno, they extend far beyond just  
9     identifying the guilty party.  They --

10            JUSTICE ALITO:  Suppose the -- suppose  
11     the statute did not refer to lost income and  
12     necessary child care, transportation expenses,  
13     and simply authorized restitution for "other  
14     expenses incurred during participation in the  
15     investigation."

16            Would you still have this -- would you  
17     still win?

18            MR. GEYSER:  We -- in this case, we  
19     would, Your Honor, because GE Capital's  
20     expenses predated the government investigation.  
21     So any expenses were not incurred during  
22     participation in the government's  
23     investigation.

24            JUSTICE ALITO:  Well, how -- you're  
25     reading a word into that text, in the

1 government's investigation.

2 MR. GEYSER: I think that that word is  
3 apparent by the context, Your Honor. The --  
4 the phrase is "the investigation or prosecution  
5 of the offense." There are lots of textual  
6 cues there that what Congress had in mind was  
7 the government's investigation.

8 They didn't have to say government,  
9 just as they didn't have to say the  
10 government's prosecution.

11 CHIEF JUSTICE ROBERTS: You seem to  
12 suggest that there's a very sharp line where  
13 you can tell the precise point at which the  
14 government is beginning investigation and the  
15 prior -- prior times when they hadn't.

16 I mean, it's more of a fluid  
17 situation, right? The government gets a  
18 report. They put it in the file. They'll  
19 start investigating as soon as they finish up  
20 these three more serious offenses.

21 I mean, isn't it going to be a  
22 difficult determination of when precisely the  
23 government investigation began?

24 MR. GEYSER: I --

25 CHIEF JUSTICE ROBERTS: I mean, does

1 it begin when they get a complaint?

2 MR. GEYSER: Well, again, Your Honor,  
3 under our broader theory, I think that actually  
4 would avoid those problems because it wouldn't  
5 include things like private investigation and  
6 private investigatory work. It would simply  
7 include witnesses who are going to meet with  
8 the FBI and they incur out-of-pocket incidental  
9 expenses.

10 CHIEF JUSTICE ROBERTS: Right. But  
11 I'm talking about your other theory --

12 MR. GEYSER: Sure.

13 CHIEF JUSTICE ROBERTS: -- which is it  
14 has to be during the government investigation.

15 MR. GEYSER: Well, it -- it still has  
16 to be during the -- at a minimum, you think an  
17 investigation has to be opened. In this case,  
18 it's -- it's quite clear this happened before  
19 the government even knew about this offense.

20 CHIEF JUSTICE ROBERTS: Well, they --

21 JUSTICE ALITO: Well, why does it have  
22 to be the government -- the federal government?  
23 What if the offense is initially investigated  
24 by state authorities and then, at a later  
25 point, it's determined that it will be



1 prosecuted by the federal government? Would  
2 you say that the expenses incurred during the  
3 participation in the state investigation are  
4 not covered?

5 MR. GEYSER: We would say that, Your  
6 Honor. And, again, this is a -- this is a  
7 provision of Title 18. It's a federal  
8 provision. It's talking about federal offenses  
9 of conviction.

10 The investigation is of the offense.  
11 The offense, if you look back to subsection (a)  
12 of 3663A, is talking about a conviction under  
13 federal law.

14 And it is in the singular: The  
15 investigation or prosecution of the offense.  
16 It -- the entire contextual clue here goes back  
17 to the federal government.

18 Now, granted, the --

19 JUSTICE ALITO: The investigation.  
20 But you're -- I mean, you're reading a lot out  
21 of this statute and you're reading a lot into  
22 it.

23 MR. GEYSER: Well --

24 JUSTICE ALITO: -- the investigation.  
25 What -- what -- suppose it's initially

1 investigated by one U.S. Attorney's office and  
2 then it's taken over by another U.S. Attorney's  
3 office. Does it apply only to the -- the  
4 latter office that actually prosecutes the  
5 case?

6 MR. GEYSER: In -- in that case, I  
7 don't think so, Your Honor. There -- there's a  
8 unitary executive theory, and I think that it's  
9 the same federal government doing the same  
10 federal investigation. How they divide it up  
11 is up to them.

12 What's quite clear, though, is they're  
13 talking about a governmental investigation here  
14 because, again, this is investigation of the  
15 offense. Private parties don't conduct  
16 criminal investigations. If a corporate --

17 JUSTICE GINSBURG: But did --

18 JUSTICE BREYER: State, federal.

19 JUSTICE GINSBURG: -- did I understand  
20 your response correctly that, if this were a  
21 case where the government did request an  
22 internal investigation, if it came -- it was  
23 done at the government's request, then the  
24 attorneys' fees would be included?

25 MR. GEYSER: No, Your Honor, because,

1 again, under ejusdem generis, we don't think  
2 that Congress meant for attorneys' fees to be  
3 included in this provision.

4 If you reject that proposition, then,  
5 in this case, at least it would be closer to an  
6 expense incurred during participation in the  
7 government's investigation. But there still is  
8 a problem even there.

9 Participation does not simply mean to  
10 help or support. It's not aid and abet. This  
11 is what the Court said in the Reves case,  
12 construing a provision of RICO. Participating  
13 means taking part in someone's work.

14 And you don't participate in your own  
15 investigation. That's not how people talk.  
16 You investigate -- you participate in someone  
17 else's investigation.

18 So Congress clearly -- and if you take  
19 a step back and read the section holistically,  
20 as the government suggests, and you should,  
21 this statute lines up perfectly if what you  
22 have in mind is what it naturally suggests.

23 If Congress was thinking of victims  
24 who had to go and meet with the FBI agents and  
25 go and testify at the criminal hearing,

1 everything here makes perfect sense.

2 The expenses they'll incur will be the  
3 incidental out-of-pocket expenses of traveling  
4 to meet with the government and having the  
5 opportunity costs of doing whatever else they'd  
6 ordinarily be doing. The expenses, of course,  
7 are during participation in the investigation,  
8 because they're meeting with an active, ongoing  
9 investigation.

10 JUSTICE ALITO: Suppose the federal --  
11 the -- the -- the federal investigators request  
12 the company to bring officers or employees who  
13 are located in other parts of the country to a  
14 particular office to be questioned, or suppose  
15 they ask them to go through the company's  
16 records to find certain documents, and the  
17 company does that and incurs expenses.

18 Are -- is that covered?

19 MR. GEYSER: The -- the former would  
20 be covered. If they had other employees of the  
21 company come in, that's under transportation.  
22 They'd be coming in to meet with the  
23 government.

24 If they have professional fees going  
25 into identifying documents, again, I don't

1 think that's what Congress had in mind. And we  
2 know that Congress knew the difference between  
3 the narrow provision it authorized in 3663A and  
4 broader provisions because, in those broader  
5 offense-specific provisions, Congress  
6 specifically referenced the MVRA. It said that  
7 those broader terms apply notwithstanding  
8 3663A.

9 JUSTICE ALITO: I -- I don't quite  
10 understand that answer, that if someone at the  
11 request of the FBI goes through company records  
12 and incurs perhaps quite an expense in doing  
13 that, that is not participation in the  
14 government's investigation?

15 MR. GEYSER: Well, again, Your Honor,  
16 there it would be participation during the  
17 government's investigation. I'm referring to  
18 our broader theory that professional fees  
19 simply aren't covered.

20 But, again, if you reject that  
21 proposition, then maybe that type of work would  
22 be covered, but only in the case of the  
23 government telling or asking someone to do it.

24 In this case, you have a private  
25 investigation where no one was told or asked to

1 do it by the government. The government wasn't  
2 even aware of the potential crime. And so, in  
3 our case, this clearly fits outside the natural  
4 language of 3663A.

5 And since we've been talking about the  
6 investigation, I do want to make clear that  
7 there are actually two pockets of expenses  
8 here, and one was the pocket for the bankruptcy  
9 litigation. The bankruptcy litigation is  
10 simply exactly like every other ordinary civil  
11 litigation designed to recoup damages for a  
12 crime.

13 And I don't see any way that that  
14 falls within the phrase "attendance at  
15 proceedings" related to the offense. I think  
16 there are two reasons --

17 JUSTICE SOTOMAYOR: Why not? Meaning,  
18 it is a proceeding, bankruptcy. It's related  
19 to the offense. The bankruptcy was caused by  
20 the offense essentially. And they attended  
21 through a representative. So why aren't those  
22 recoverable?

23 MR. GEYSER: Well, I -- I have two  
24 responses to that, Your Honor.

25 The -- the first is that the fees here

1 were not just for attending hearings, attending  
2 the proceedings. These were for participating  
3 in the proceedings.

4 Surely, when Congress said  
5 "attendance," they're -- they're thinking of  
6 physical attendance. And, again, we know that  
7 because, if you read the -- the sentence in its  
8 entirety, they're talking about things like  
9 lost income because you're not physically at  
10 your job, you're somewhere else, or they're  
11 talking about child care because you're not  
12 watching your child, you're at the hearing, or  
13 transportation.

14 So I think it's too much to read  
15 "attendance" out of the statute. That reading  
16 would make more sense if it said any losses  
17 incurred during proceedings related to the  
18 offense. But attendance is right there. And I  
19 don't see any plausible reading that says  
20 attendance includes the entirety of litigating  
21 a case.

22 JUSTICE SOTOMAYOR: Is there something  
23 --

24 JUSTICE GINSBURG: What about the  
25 government's alternative theory that -- that

1 is, that the professional fees fit under the  
2 3663A(b)(1) category, property lost as a result  
3 of the offense?

4 MR. GEYSER: A -- a -- a few responses  
5 there, Your Honor. First, we don't think it's  
6 really properly before the Court. This was not  
7 pressed or passed upon below. The government  
8 did not try to preserve the authority to uphold  
9 the restitution award on an entirely different  
10 statutory provision.

11 This isn't just saying that there's an  
12 alternative rationale that supports an award  
13 under (b)(4). This is saying that we will  
14 enforce part of a criminal sentence on a  
15 statutory ground that wasn't even raised below.

16 But if the Court does choose to reach  
17 it, I don't think the government's theory  
18 works. It suggests that it -- it's really  
19 reading (b)(1) not to say "an offense resulting  
20 in damage to or loss or destruction of  
21 property," but an offense resulting in any  
22 damage or loss.

23 It's true that property can be money,  
24 but I think it stretches it too far to say that  
25 money is property, so any offense that causes



1 me in some future, you know, proceeding or  
2 event to spend money is then spending property,  
3 and, therefore, I've lost property as a result  
4 of the offense.

5 If you look at the actual language and  
6 progression of (b) (1), it's quite clearly  
7 thinking of property. First, it's really the  
8 target of the offense, because the very first  
9 step is, if you've taken the property, you have  
10 to return the property. Money spent on things  
11 like bankruptcy litigation doesn't remotely fit  
12 within the -- the confines of (b) (1).

13 And under the government's view, this  
14 also would read out of the statute subsections  
15 (b) (2) through (b) (4), because anytime that  
16 someone, say, is injured by a physical crime,  
17 they have to go get healthcare; then they're  
18 spending money, which is property, on the  
19 healthcare, and that would be a result of the  
20 offense. So (b) (2) is gone. If there's an  
21 offense resulting in death, then the money  
22 spent on the funeral would be property lost as  
23 a result of the offense. So (b) (3) is  
24 unnecessary. And the same would fall for  
25 (b) (4).

1           So I -- I don't think (b)(1) is a  
2 grounds for upholding the award generally or,  
3 in this case, specifically, where this is  
4 separate collateral civil litigation trying to  
5 seek damages for the offense, and that's -- I'm  
6 not even sure that's proximately caused by the  
7 crime. But, again, going --

8           JUSTICE SOTOMAYOR: Are the expenses  
9 for bankruptcy here related to the work of the  
10 attorneys or the attendance of corporate  
11 officers at the hearing?

12           MR. GEYSER: Oh, Your Honor, if you  
13 look at pages 28 and 29 of the Joint Appendix,  
14 you'll see that these are the professional  
15 fees, including pretty hefty charges, in the  
16 millions, for providing consulting advice on  
17 whether they think Dry Van, the company that  
18 was the -- the subject of the fraud -- whether  
19 they could survive as a going concern.

20           This is trying to decide how to  
21 litigate and recover the case in bankruptcy.  
22 It's not even clear that there were hearings  
23 that people attended. And, surely, it wouldn't  
24 run, you know, in the millions of dollars to  
25 show up for a single hearing.

1 JUSTICE KAGAN: Well, what about that  
2 small subset of fees, if there were any like  
3 that, the fees that we charge because we sat in  
4 a -- a courtroom during a proceeding?

5 MR. GEYSER: That -- that would at  
6 least satisfy the term "attendance," but I was  
7 -- my second reason that -- that I didn't get  
8 to is that it's still attendance, we think, at  
9 criminal proceedings. And I think that's  
10 clear, again, from the context of the statute.

11 JUSTICE KAGAN: But why isn't a  
12 bankruptcy related to the criminal -- I mean,  
13 it's -- it's -- it's related to the offense,  
14 right? So why is it related to the offense?

15 MR. GEYSER: Well, I -- I think if you  
16 read the statute as a whole and you look at  
17 (b) (4) with all of its terms -- and this is a  
18 point that Judge Higginson made below under  
19 noscitur a sociis -- all the terms here are  
20 talking about proceedings related to the  
21 criminal action. So you have the investigation  
22 and prosecution of the offense. You have  
23 attendance at proceedings related to the  
24 offense. It wouldn't make -- make much sense  
25 to cover civil proceedings, and this is why.

1           If Congress wanted to have recovery  
2 for victims just for showing up at a civil  
3 hearing, presumably, they would also want to  
4 cover the fees for the hearing, the filing fee  
5 for the case, or maybe the attorneys' fees or  
6 expert fees, all the normal expenses that  
7 people incur in civil proceedings.

8           It would be passing strange to say  
9 that Congress thought, you know what, when the  
10 victim has to show up to testify, that we'll --  
11 we'll cover, but we're not going to cover  
12 anything else.

13           And it does make sense, though, if you  
14 look at this as proceedings related to the  
15 criminal action, when a victim has to testify  
16 at a criminal proceeding, the only expenses  
17 they incur are those out-of-pocket expenses.  
18 The government bears everything else because  
19 it's their case. They're the ones paying for  
20 the prosecutors. They're the ones that -- that  
21 have spent the time in court. So it really all  
22 lines up.

23           It's only when you try to shoehorn the  
24 government's attempt to get these private  
25 investigation fees in these civil proceedings

1 into the statute that you see any anomalies.  
2 When you read the statute and think what did  
3 Congress have in mind here in this narrow  
4 provision -- which, again, is not a provision  
5 for make-whole relief. Congress knew how to do  
6 that. This is not an attempt to cover every  
7 single expense that a victim unfortunately  
8 suffers, you know, regrettably, from crime.  
9 This is a --

10 JUSTICE ALITO: What are -- what are  
11 proceedings related to the offense, other than  
12 proceedings in the prosecution of the offense?

13 MR. GEYSER: I think, Your Honor, that  
14 the proceedings could be things like a grand  
15 jury hearing before they've, say, had -- issued  
16 an indictment. It could be any of the other  
17 proceedings for like a bail hearing.

18 JUSTICE ALITO: Well, those -- those  
19 would be proceedings in the prosecution.

20 MR. GEYSER: Well, it -- it could be  
21 in the prosecution, but I think Congress there  
22 was trying to make sure that any proceeding  
23 related to the criminal prosecution would be  
24 covered. And --

25 JUSTICE ALITO: Well, they used the

1 term "prosecution" earlier in the provision.  
2 If they wanted to limit it to proceedings in  
3 the prosecution, why wouldn't they use the same  
4 term again? Why would they use this broader  
5 formulation, "related to the offense"?

6 MR. GEYSER: Well, again, Your Honor,  
7 I -- I could see someone thinking there's a  
8 distinction between a hearing that is  
9 determining if there's sufficient evidence to  
10 issue an indictment, so the prosecution hasn't  
11 yet commenced, and proceedings after the  
12 indictment, where it has commenced.

13 JUSTICE ALITO: Okay. So you -- maybe  
14 you've got the grand jury proceeding, but you  
15 have nothing else, right? That's it?

16 MR. GEYSER: There -- there could be,  
17 depending on the offense, other types of  
18 proceedings, but, again, I think this is  
19 Congress trying to make sure that if a witness  
20 has to show up and testify to advance the  
21 government's work, then their expenses are  
22 covered when they're those incidental  
23 out-of-pocket expenses.

24 If Congress wanted to, again, cover  
25 things like attorneys' fees or provide a full

1 amount of restitution, they knew exactly how to  
2 do it. They did --

3 JUSTICE KENNEDY: At the outset, you  
4 said that there are -- I forget if you said  
5 tens of thousands or thousands of these  
6 proceedings a year?

7 MR. GEYSER: If you look to page 17 of  
8 the government's brief, they say there are tens  
9 of thousands of proceedings under the MVRA  
10 every year, which is exactly a reason that  
11 Congress would not want to burden district  
12 judges and burden the sentencing process with  
13 these fact-intensive disputes.

14 CHIEF JUSTICE ROBERTS: The -- one of  
15 the items that you're entitled to recover as  
16 the victim is lost income. Here, the victim  
17 was a corporate entity. How -- how do you  
18 measure lost income in that context?

19 MR. GEYSER: In that, I think it would  
20 depend on the situation and what exactly the  
21 corporation is doing in the proceeding. I  
22 assume that if you had a corporate officer, say  
23 it's a -- an employee who has to testify who  
24 otherwise would be out selling something, and  
25 you know that the employee would -- would get a

1 certain amount of profit that day had they not  
2 had to show up in court, I presume that would  
3 be the lost income.

4 JUSTICE BREYER: Can you say  
5 participation includes participation where the  
6 government investigation doesn't start until  
7 after you've finished, but they incorporate  
8 everything you've done? Sam Spade puts on his  
9 resume: I participated in their -- in their  
10 investigation, the government's. What? They  
11 didn't start until November; you finished in  
12 October. But I participated. All my findings,  
13 all my witness reports were taken over by the  
14 government and used. Perhaps you can.

15 MR. GEYSER: I don't think that's -- I  
16 don't think that's an expense incurred during  
17 participation. And I still don't think that's  
18 participating.

19 It might be very useful. Sam Spade's  
20 work could have saved the government a lot of  
21 time. It could have aided the government or  
22 abetted the government or supported them, but  
23 those aren't the phrases that Congress used.  
24 Participation means working in someone else's  
25 job. It's helping the government.



1                   If I could reserve the balance of my  
2 time.

3                   CHIEF JUSTICE ROBERTS: Thank you,  
4 counsel.

5                   Mr. Huston.

6                   ORAL ARGUMENT OF MICHAEL R. HUSTON

7                   ON BEHALF OF THE RESPONDENT

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

10                  The Mandatory Victims Restitution Act  
11 enables the victim of a crime to recover for  
12 its participation in the investigation of the  
13 defendant's offense. The statute is not  
14 limited to participation in the government's  
15 investigation of the offense.

16                  Most of petition --

17                  JUSTICE SOTOMAYOR: You have to read  
18 the investigation or prosecution -- you have to  
19 read them together, not singularly.

20                  MR. HUSTON: Well, I think, Your  
21 Honor, the statute reflects the fact that from  
22 the standpoint of a victim, it encompasses the  
23 ordinary chronology of events in which a victim  
24 would be expected to participate. There's  
25 going to be an investigation of offense,

1 there's going to be a prosecution, there might  
2 be proceedings in --

3 JUSTICE SOTOMAYOR: Actually, that  
4 does happen the reverse way. There are times  
5 the police get information and they go to the  
6 company.

7 MR. HUSTON: I --

8 JUSTICE SOTOMAYOR: I think it's a  
9 closer call on whether in that situation -- and  
10 if they ask the company to look into something  
11 it wasn't aware of, whether that's  
12 participation.

13 Putting that aside, it doesn't  
14 necessarily follow that an investigation by a  
15 company always precedes the prosecution.

16 MR. HUSTON: It doesn't always  
17 precede. That's true, Your Honor, but I think,  
18 again, the statute is just thinking about the  
19 typical way in which a victim --

20 JUSTICE SOTOMAYOR: The typical way is  
21 the government prosecutes -- investigates.

22 MR. HUSTON: I think -- well, I --  
23 it's true, but it's not always true, Your  
24 Honor. And I think the cases that we  
25 demonstrate in our brief reveal what Justice

1 Breyer's example -- example earlier this  
2 morning illustrated, which is that it is  
3 extremely common, and Congress would have  
4 understood, that victims routinely play an  
5 indispensable role in the investigation.

6 JUSTICE BREYER: That's why I don't  
7 understand the statute, because you have a big  
8 problem, I think, with the language of the  
9 statute. If, in fact, it's an investigation by  
10 the company before the police investigation  
11 begins, do they get child care? I mean, child  
12 care, transportation? I mean, what do you do  
13 about that? And -- and so I'm stuck.

14 Now you're, of course, going to get me  
15 out of being stuck.

16 (Laughter.)

17 MR. HUSTON: Your Honor, I think that  
18 what the statute reflects, again, is the fact  
19 that victims routinely incur expenses in  
20 internal investigations that uncover invaluable  
21 evidence of crimes. It -- it is very common --  
22 most rest -- fraud cases make up a larger  
23 category of restitution awards than any other  
24 type of offense. And Congress would understand  
25 that in fraud cases, the way that frauds are

1 discovered very often is internal  
2 investigations of the company.

3 JUSTICE KENNEDY: Is it --

4 JUSTICE KAGAN: Mr. Huston --

5 JUSTICE KENNEDY: -- is it your  
6 contention that all of the \$4 million spent on  
7 this internal investigation was necessary for  
8 the prosecution of the case or just part of it?

9 MR. HUSTON: Well, necessary for the  
10 investigation or prosecution or proceedings  
11 related to the offense, Your Honor. All three.  
12 Some of the expenses were for various portions  
13 of the case; some of it was for the  
14 investigation.

15 JUSTICE KENNEDY: Well, if that's so,  
16 what -- what's there to limit extreme  
17 expenditures?

18 MR. HUSTON: The word --

19 JUSTICE KENNEDY: You want to say,  
20 well, let's -- let's -- let's -- hire two law  
21 firms, this is a big case.

22 MR. HUSTON: Certainly, Your Honor.  
23 The word "necessary" is also in the statute.  
24 The expenses have to be necessary. Sentencing  
25 courts discuss -- discuss all the time

1 restitution awards that are cut or adjusted in  
2 various ways because they make exactly those  
3 sort of determinations --

4 JUSTICE GORSUCH: Counsel, you say  
5 that the bankruptcy was a proceeding related to  
6 the offense because fraud was at issue there  
7 too.

8 And -- and maybe this is a clearer-cut  
9 case, but there are going to be plenty where  
10 the reasons for the bankruptcy are going to be  
11 in dispute, and we're going to invite district  
12 judges to engage in long collateral proceedings  
13 over whether something is or isn't related  
14 enough to the offense.

15 What do we do about that? And,  
16 relatedly, you know, this statute covers a lot  
17 of different kinds of crimes, including violent  
18 crimes. So I -- I can imagine someone saying:  
19 My divorce proceedings are related to the crime  
20 of violence, and I should get my attorneys'  
21 fees for my divorce proceeding too, and -- and  
22 child care and all the other things Justice  
23 Breyer enumerated.

24 Where -- where is the stopping point  
25 here?

1           MR. HUSTON: Justice Gorsuch, I think  
2           that we expect the proceedings related to the  
3           offense clause of this statute to be narrow,  
4           outside the context of criminal proceedings.  
5           That is certainly the mine-run placeholder --

6           JUSTICE GORSUCH: Well, I mean, this  
7           is a civil bankruptcy proceeding. That's not  
8           very narrow. And I don't see how it's any  
9           different than my divorce hypothetical.

10          MR. HUSTON: It's -- it's different in  
11          this respect, Your Honor: GE Capital was  
12          really dragged into these bankruptcy  
13          proceedings. This is not equivalent to a civil  
14          proceeding that is initiated --

15          JUSTICE GORSUCH: What if they  
16          initiated involuntary bankruptcy proceedings  
17          for the very same reason? Same result, I  
18          assume, in the government's view because you --  
19          you take such a purposivist account of the  
20          statute, you know, and let's make sure  
21          everybody gets everything.

22          MR. HUSTON: Well, I -- I -- Your  
23          Honor, I think the statute reflects that that  
24          is its purpose. And, as the Court described in  
25          Dolan, the statute is express that its

1 substantive purpose is --

2 JUSTICE GORSUCH: I understand that.  
3 But I was kind of surprised to see a brief from  
4 the government of the United States go on for  
5 so many pages about purpose in very generic  
6 terms before actually getting to the terms of  
7 the statute, the language.

8 And I -- I -- I -- again, why -- why  
9 wouldn't my divorce case or the involuntary  
10 bankruptcy meet the same purpose test you've  
11 articulated here?

12 MR. HUSTON: I don't think the test is  
13 strictly purposivist, Your Honor. The question  
14 is, were the expenses incurred as a direct and  
15 proximate result of the crime? And I think  
16 that sentencing courts are very accustomed to  
17 making those sorts of determinations. I am  
18 happy --

19 JUSTICE SOTOMAYOR: So what do I do  
20 with the fact that statutes of restitution  
21 passed at an identical time to this statute  
22 used your words, used the words: The victim's  
23 entitled to the damages proximately caused by  
24 the offense. Yet Congress here, instead of  
25 using those very simple and direct words that

1 would cover everything that's happened here,  
2 decided to break it up into four categories and  
3 very specifically told courts what those  
4 categories encompass.

5           There's a recent proposal that's being  
6 considered now, I think it's by either the  
7 Sentencing Commission or some congressional  
8 committee, that's saying should we change this  
9 statute and all the others to simply say "make  
10 the victim whole." They would get to where  
11 you're going very directly.

12           So what do I do with those  
13 differences?

14           MR. HUSTON: Your Honor, I want to be  
15 very --

16           JUSTICE SOTOMAYOR: I have -- I think  
17 I have to give different meaning to different  
18 statutory terms that were passed at the  
19 identical time.

20           MR. HUSTON: We agree, Your Honor. I  
21 want to be very clear about our position,  
22 because this is in some respect a  
23 misrepresentation by my friend about what --  
24 what our position is.

25           Our position is not that, for example,



1 in the case of child pornography victims who  
2 are entitled to recover all of the losses that  
3 are proximately caused by the offense. Our  
4 submission is not that a victim like GE Capital  
5 gets everything that's proximately caused. A  
6 victim does need to fit within one of the  
7 categories in section (b).

8 What we do think, though, is that  
9 Congress borrowed the key term from those  
10 offense-specific restitution statutes and said  
11 the full amount of the losses is what is to be  
12 awarded. And so I think it -- it is absolutely  
13 true --

14 JUSTICE SOTOMAYOR: That's what those  
15 other statutes said.

16 MR. HUSTON: They -- well, that's --  
17 they say that, Your Honor, but in the MVRA,  
18 Congress incorporated the exact same text,  
19 Section 3664(f)(1)(A), which is incorporated  
20 into this statute, the MVRA, by Section  
21 3663A(d).

22 Those -- that -- that provision of  
23 Section 3664 is what expresses that in each  
24 case of restitution, restitution is to be  
25 awarded for the full amount of the victim's

1 losses.

2 Now, again, it's not the case that  
3 it's the full amount, full stop. You have to  
4 fit into one of the categories in (b).

5 JUSTICE SOTOMAYOR: All right. I --

6 JUSTICE GINSBURG: But what about the  
7 -- the general premise of our system that  
8 expenses doesn't include attorneys' fees, that  
9 people who incur attorneys' fees, that's their  
10 expense, that doesn't get shifted away?

11 There is the general presumption that  
12 if Congress wants attorneys' fees to be  
13 awarded, it will not say something like  
14 expenses; it will be specific that attorneys'  
15 fees are covered.

16 MR. HUSTON: If I might make two  
17 points about that, Your Honor.

18 The first is that I don't really think  
19 the American rule of attorneys' fees has much  
20 bearing on this case because that's a rule  
21 about structuring correct incentives in civil  
22 litigation. And that just doesn't translate to  
23 the criminal context where Petitioner is the  
24 wrongdoer.

25 And the second point is that the Crime

1 Victims' Rights Act, which is cited in our --  
2 in our brief at Section -- at page 14A of the  
3 gray brief, makes it explicit that Congress  
4 contemplated victims would have a right to the  
5 assistance of counsel in order to do things  
6 like participate in a crime -- a criminal  
7 defendant's sentencing proceeding.

8           If you think, for example, about the  
9 case of -- if my accountant calls me up and  
10 says that I owe \$5,000 to the IRS, but,  
11 actually, I only owe \$1,000 and he just pockets  
12 the whole amount, when that crime is  
13 discovered, I'm going to need the assistance of  
14 a second accountant in order to figure out how  
15 much I'm defrauded, in order to be able to do  
16 things like participate in the criminal  
17 defendant's sentencing proceeding, file a  
18 victim impact statement, and seek restitution.

19           JUSTICE BREYER: You're also going to  
20 get all of the child care and transportation.  
21 Is that your opinion?

22           MR. HUSTON: Yes, Your Honor. If I  
23 incurred those expenses, I would have those.  
24 And I think -- but I think that actually  
25 illustrates --

1 JUSTICE BREYER: Well, it seems odd  
2 that this investigation could go on for quite a  
3 while, and during that time, it's the company's  
4 investigation, it goes on for several months,  
5 child care -- child care for, I guess, anybody  
6 called up, and transportation. That is all --  
7 all covered?

8 MR. HUSTON: It is, Your Honor. But,  
9 again, that's because of the breadth of this  
10 statute. It covers a great deal of crimes.  
11 And I think the -- the apparent oddity is  
12 explained by the fact that Congress wanted to  
13 make sure that even the stuff that wouldn't  
14 readily come to your mind is covered.

15 But Congress would have understood  
16 that in fraud offenses --

17 JUSTICE BREYER: Lunches?

18 MR. HUSTON: I think, Your Honor,  
19 perhaps, yes, absolutely. I think that that  
20 would, if it -- you know, if you can make the  
21 case that they're proximately caused.

22 JUSTICE KAGAN: Mr. Huston, one of the  
23 things that strikes me about the statute, and  
24 it's -- it's -- it's, I think, the thing that  
25 is giving you problems on several dimensions,

1 is that this statute is pretty clearly written  
2 with an individual victim in mind.

3 And I don't know exactly how that  
4 cuts. But everything that's giving you a  
5 problem with the language of this statute is --  
6 is because it's thinking about individuals who  
7 have necessary child care, who have lost  
8 income, who participate in only a single  
9 investigation, which is the government's  
10 investigation, who actually attend proceedings.

11 You know, all these things make sense  
12 when you're talking about an individual, and  
13 make no sense when you're talking about a  
14 corporation. And I'm -- I'm just wondering  
15 which way that cuts and what we're supposed to  
16 do with that.

17 MR. HUSTON: Well, I think I would say  
18 this, Your Honor: It's clear -- there's no  
19 dispute that a company that's a victim of a  
20 fraud, as in this case, can be a victim for  
21 purposes of the MVRA. That's acknowledged.

22 I think you're right that that's what  
23 Congress had in mind when it wrote this  
24 statute, but, again, I think that that's  
25 because it would have been concerned that, you

1 know, a child -- child care expenses are not  
2 the sort of thing that come to your mind when  
3 you think most naturally about restitution.  
4 But Congress wanted to express the breadth of  
5 this provision by making --

6 JUSTICE GORSUCH: Well, if -- if  
7 that's the case, if you agree that the purpose  
8 here is all about individual victims, doesn't  
9 that really pose a serious problem for you?  
10 Because it seems that the government's effort  
11 here is really to externalize the costs of its  
12 own investigations in corporate -- in corporate  
13 situations.

14 MR. HUSTON: Your Honor, I -- I  
15 respectfully disagree for this reason: Again,  
16 Congress would have been aware of the many,  
17 many cases that illustrate the principle that  
18 we -- that we discuss in our brief, which is it  
19 is very common in fraud cases against  
20 corporations for the fraud to be discovered  
21 through an internal investigation.

22 So this is really the heartland of an  
23 investigation. This is exactly the sort of  
24 thing that Congress would --

25 JUSTICE GORSUCH: I understand that.

1 You -- you conceded, I believe, to Justice  
2 Kagan that Congress's purpose here had to do  
3 with individual victims. And if that's the  
4 case, it certainly had nothing to do with the  
5 government leveraging private internal  
6 investigations in -- in -- in corporate --

7 MR. HUSTON: Your Honor --

8 JUSTICE GORSUCH: -- cases, right?

9 MR. HUSTON: Your Honor, I did not  
10 mean to suggest that only --

11 JUSTICE GORSUCH: Ah.

12 MR. HUSTON: -- individual victims are  
13 covered. I agree that, certainly, when you're  
14 thinking about child care expenses, Congress  
15 has individual victims in mind. Again, I think  
16 -- my response with -- to Justice Kagan was  
17 meant to say that that's -- the sort of --  
18 those types of situations, even those less  
19 obvious things, are what Congress would have  
20 wanted to cover.

21 JUSTICE SOTOMAYOR: Let -- let's say  
22 we --

23 CHIEF JUSTICE ROBERTS: We have talked  
24 --

25 JUSTICE SOTOMAYOR: I'm sorry. Go

1 ahead.

2 CHIEF JUSTICE ROBERTS: We have talked  
3 about two investigations: GE's investigation  
4 and the government's investigation. The  
5 statute talks about participation in the  
6 investigation, only one.

7 And it seems to me if you're talking  
8 about only one, it obviously has to be the  
9 government's.

10 MR. HUSTON: I respectfully disagree,  
11 Your Honor, for this reason: I think that if  
12 you were to describe all of GE Capital's  
13 efforts in this case, the hiring of forensic  
14 experts that preserved crucial evidence to the  
15 prosecution, the time that they spent with  
16 financial consultants unraveling Petitioner's  
17 two years of fraudulent accounting practices,  
18 if you went to a person on the street and  
19 described everything that GE Capital did in  
20 this case and then asked did GE Capital  
21 participate in the investigation of this  
22 offense, we think the answer would absolutely  
23 be yes.

24 And that --

25 JUSTICE KAGAN: I think we wouldn't



1 use the word "participate," would we? We would  
2 say GE conducted the investigation.

3 MR. HUSTON: Well, I think that the --  
4 that "participation" is a very sensible term  
5 here because it reflects the fact that the  
6 amount -- the victim's participation is going  
7 to vary at various times.

8 The investigation of a crime happens  
9 ordinarily in phases. Sometimes it starts with  
10 a state-level -- investigation. Sometimes it  
11 starts, for example, in the SEC, in a civil  
12 administrative proceeding. And then that is  
13 what discovers a federal fraud, and it's passed  
14 over to the government.

15 And sometimes victims are the ones who  
16 conduct an internal investigation, as in  
17 Justice Breyer's example about the bookkeeper,  
18 that reveals the fraud, and then the victim is  
19 the one that hands the investigation over.

20 JUSTICE BREYER: That's all true, but  
21 what I'm thinking is, I look back, now this is  
22 expenses related to participation. That seems  
23 to me, intuitively as a judge, excellent  
24 because there are vast numbers of circumstances  
25 and the trial judge will figure out what's

1 appropriate. Now Congress is going to change  
2 that, and instead of it being discretionary, it  
3 becomes mandatory.

4 Well, if you're going to make  
5 something mandatory, you say we better narrow  
6 it and be specific. And then that would  
7 explain why this is limited to the government's  
8 investigation, particularly when you think of  
9 hundreds of billions of dollars in restitution  
10 that is owed by people who commit crimes that  
11 is not dischargeable in bankruptcy, which is  
12 never collected, and throughout the rest of  
13 their lives is simply there as uncollected  
14 debt, really causing a problem.

15 So, if Congress was aware of all this  
16 and really thought let's narrow it, well, that  
17 would explain the differences. But the problem  
18 for me is it doesn't say a word, does it? So  
19 do you have a view?

20 MR. HUSTON: Your Honor, we do. And  
21 if I could just take those two points, I think,  
22 in your question, in reverse order.

23 The first is that it's -- to the  
24 extent that much restitution was awarded in  
25 this case and that restitution -- there are

1 many unpaid restitution awards in this country,  
2 that's a fact of Congress's explicit,  
3 deliberate choice in Section 3664(f)(1)(A) to  
4 award restitution without regard to the  
5 economic circumstances of the defendant.  
6 That's the one thing that everyone agrees on,  
7 is that that shouldn't be taken into account.

8 Now we don't quibble with Your Honor's  
9 point that it has to be incurred during the  
10 investigation of the offense, but as I was  
11 saying earlier, we think that the investigation  
12 of a criminal offense is ordinarily understood  
13 to include phases. And some of those phases  
14 take place before the government gets involved  
15 because that's --

16 JUSTICE ALITO: If the -- if Congress  
17 intended to cover an investigation conducted by  
18 a company, wouldn't it -- wouldn't it use a  
19 term like "reasonable," reasonable expenses  
20 incurred?

21 MR. HUSTON: Your Honor, I think that  
22 the word "necessary" in this statute functions  
23 in -- in a -- in -- in a similar way.

24 JUSTICE ALITO: Well, there's a big  
25 difference between necessary -- well, how would

1 you determine whether the scope of an internal  
2 investigation is necessary? What does that  
3 mean? It would make much more sense to ask  
4 whether it was reasonable in scope.

5 MR. HUSTON: I think, Your Honor, that  
6 "necessary" in this statute plays a function  
7 similar to the word "necessary" in the statute  
8 that the Court recently considered in *Ayestas*.  
9 It means ordinary, reasonable, expected.

10 And I want to stress that district  
11 courts make those sort of determinations all  
12 the time. They cut down restitution orders or  
13 requested restitution orders because they find  
14 that the expenses requested were  
15 disproportionate to the task or that they  
16 weren't actually focused on the specific  
17 offense of conviction and that they were  
18 looking into something else.

19 Petitioner's rule is categorical. He  
20 wants to say that even in a circumstance where  
21 it's undisputed that the victim's investigation  
22 is extremely helpful to the government, even  
23 where it's a perfectly reasonable  
24 investigation, even where the victim takes  
25 steps to minimize its expenses, they still

1 cannot get restitution in those cases if it's  
2 -- the investigation happens to occur before  
3 the government kicks off its case.

4 CHIEF JUSTICE ROBERTS: Well, I'm not  
5 sure that GE took steps to limit its expenses.  
6 I mean, it -- it hired very expensive law firms  
7 to conduct the investigation. And -- and  
8 you're going to have the district judge in all  
9 of these cases being asked to do that, did they  
10 really have to, you know, have partners work on  
11 this as opposed to associates? Did they have  
12 to hire this law firm? Couldn't they have done  
13 this?

14 And it's not clear to me that the  
15 Congress would want the district courts to  
16 spend a lot of time on that sort of restitution  
17 litigation.

18 MR. HUSTON: So -- so two -- Your --  
19 Your Honor, I think that the statute equips  
20 district courts to make exactly those type of  
21 determinations in Section 3664(f). The  
22 probation office will prepare a report  
23 summarizing the expenses. That report is  
24 subject to adversarial testing. The government  
25 bears the burden of proof to demonstrate that

1 the amount of the losses were caused and by a  
2 preponderance of the evidence. And in cases  
3 where necessary, district courts can refer  
4 disputed issues out to a magistrate judge.

5 So district courts simply have not had  
6 trouble, in the 22 years that this statute has  
7 been on the books, making those sort of  
8 determinations. I --

9 JUSTICE GORSUCH: Well, here's another  
10 tricky one, for me, along the lines of what the  
11 Chief Justice was just asking. It seems to me  
12 you're making the case.

13 How do we determine whether an  
14 internal investigation is even necessary for  
15 the government's work? I mean, presumably, the  
16 government can do its own investigation too.  
17 So how is an internal investigation that  
18 precedes the government's ever necessary in  
19 that -- in any sense? And don't companies also  
20 conduct internal investigations for their own  
21 reasons? They have to worry about shareholder  
22 derivative suits, they have to worry about  
23 class action suits, they have to worry about  
24 compliance with SEC regulations, among many  
25 other things.

1           How is a district judge ever going to  
2     be able to determine whether an internal  
3     investigation was necessary for the criminal  
4     investigation by the government?

5           MR. HUSTON: Your Honor, you're  
6     absolutely right that companies conduct those  
7     sort of investigations all the time. But it's  
8     those kinds of investigations that discover  
9     frauds and that reveal the evidence that we use  
10    to prosecute people every day.

11          JUSTICE GORSUCH: You're not answering  
12    my question, counsel.

13          How is -- how is a district judge, the  
14    poor district judge, supposed to make a  
15    determination which one's necessary for the  
16    government's investigation and which one's not?  
17    I don't doubt they help the government. I  
18    don't doubt the government's happy to receive  
19    that information and use the resources, the  
20    private resources, to conduct its public  
21    business. But how is a district judge supposed  
22    to decide what was necessary?

23          MR. HUSTON: Well, Your Honor, we  
24    don't think that the investigation of the  
25    offense in this statute refers to the

1 government's work. And we think that the  
2 reason why Congress would not have so limited  
3 it is for exactly the reason that I just gave,  
4 because of the value that internal  
5 investigations add.

6 What we think "necessary" does in this  
7 statute is exclude the sort of unreasonable  
8 investigations that -- that everyone would  
9 think ought to be outside the realm of  
10 possibility. And to the extent --

11 JUSTICE GINSBURG: What do you do with  
12 the argument that the -- in the end, all that  
13 this does is to assure that the wrongdoer's  
14 life will be miserable after he finishes his  
15 prison sentence because he will never be able  
16 to pay these huge attorney fee restitution  
17 awards and you're not going to help the victim  
18 because the award will be uncollectible?

19 MR. HUSTON: Your Honor, to the extent  
20 that the restitution award in this case is  
21 large, it is large because Petitioner conducted  
22 a massive fraud. He stole \$25 million in less  
23 than two years. And so I think he really has  
24 nobody to blame but himself for the amount of  
25 the award.



1           But to your point about the fact that  
2           restitution awards often go uncollected, again,  
3           I think that really is just a function of  
4           Congress's deliberate choice in the MVRA to say  
5           that restitution should be focused exclusively  
6           on the losses that the victim incurred without  
7           regard to the economic circumstances of the  
8           defendant.

9           JUSTICE SOTOMAYOR: I'm sorry --

10          CHIEF JUSTICE ROBERTS: But he --

11          JUSTICE SOTOMAYOR: -- the fraud here  
12          was \$25 million? And how much was spent that  
13          was awarded by the court below in restitution?  
14          Was it 10 or \$15 million?

15          MR. HUSTON: Eleven million dollars  
16          was the amount of restitution that was  
17          remaining that GE Capital was not able to  
18          collect. And Petitioner does not dispute  
19          restitution for that amount.

20          What we're talking --

21          JUSTICE SOTOMAYOR: But the full  
22          amount was, to collect 25, they spent 15.

23          MR. HUSTON: No --

24          JUSTICE SOTOMAYOR: Does the judge  
25          decide what's necessary at what point?

1 MR. HUSTON: I'm sorry, Your Honor. I  
2 just want to just be clear about this. The  
3 \$11 million is the amount of unpaid loans that  
4 GE Capital was not able to recover. And,  
5 again, that's not disputed.

6 JUSTICE SOTOMAYOR: I see, okay.

7 MR. HUSTON: What -- what we're  
8 talking about here this morning are the  
9 investigation and bankruptcy expenses.

10 JUSTICE SOTOMAYOR: Which were how  
11 much?

12 MR. HUSTON: That was a little less  
13 than \$5 million, \$4.9 million.

14 JUSTICE SOTOMAYOR: Together --

15 MR. HUSTON: Combined.

16 JUSTICE SOTOMAYOR: -- it's more than  
17 that. Maybe my memory has them --

18 MR. HUSTON: The total restitution  
19 award is -- is just a shade under \$16 million,  
20 Your Honor --

21 JUSTICE SOTOMAYOR: That's what I  
22 thought.

23 MR. HUSTON: -- but, again,  
24 \$11 million of that is not disputed. What  
25 we're talking about today is about

1       \$4.9 million.

2                   CHIEF JUSTICE ROBERTS:  And it seems  
3       pretty clear the government would never have  
4       done that on its own, try to figure out whether  
5       the restitution ought to be \$4 million or  
6       \$8 million from a guy who's never going to pay  
7       any of it.  They would have said, I think,  
8       instead we'll spend a little time on the mass  
9       murder down the street.

10                   And I'm just wondering if you're  
11       talking about expenses that the private party  
12       incurred for its own purposes to find out how  
13       to adjust its books, what it had lost, why  
14       should the victim be compelled to pay that or,  
15       as Justice Ginsburg suggests, just carry it on  
16       -- on his own back, when it's something that  
17       the government would never have done on its  
18       own?

19                   MR. HUSTON:  Congress was aware, Your  
20       Honor, and what the legislative history of the  
21       MVRA says is that it recognizes that frauds  
22       like this one impose costs on victims that are  
23       more than just the property that's taken.

24                   Although the award in this case is  
25       substantial, again, that's just a function of

1 the complexity of the -- the investigation that  
2 was necessary. And that's not been challenged  
3 in this case. So we're really not -- it's far  
4 too late for Petitioner to go in and claim that  
5 any of these particular expenses were too much  
6 and they should have hired a less -- a law firm  
7 with less expensive fees, although when  
8 district courts do make those -- or, excuse me,  
9 when -- when defendants do make those sort of  
10 challenges, courts hear them all the time.

11 Both the Cuti case and the Amato case,  
12 that are discussed in our brief, involve  
13 examples of restitution awards being challenged  
14 and then adjusted by district courts in those  
15 ways.

16 CHIEF JUSTICE ROBERTS: Well, I'm not  
17 sure if that --

18 JUSTICE SOTOMAYOR: Is the criminal --  
19 I'm sorry.

20 CHIEF JUSTICE ROBERTS: I'm not sure  
21 if that helps you. I mean, then your -- your  
22 answer seems to be, well, they can always  
23 litigate these things. So now, not only is the  
24 government going to be conducting an  
25 investigation over money that nobody's ever

1 going to pay, but they're going to be  
2 litigating about it, taking the district court  
3 time to figure out whether the attorneys' fees  
4 should be \$2 million or \$1.5 million, again,  
5 when no one's going to get the money anyway.

6 MR. HUSTON: Your -- Your -- Your  
7 Honor, that is because Congress made a very  
8 deliberate choice in the MVRA to say that  
9 restitution should be focused exclusively on  
10 the amount of loss that the victim incurred.

11 And even in a case where everyone  
12 realizes that the defendant is never going to  
13 be able to pay it back, which I think, to be  
14 fair, is not this case, Petitioner was quite a  
15 wealthy man before this -- before his crime,  
16 and there's reason to believe that, you know,  
17 the government is -- believes that he has  
18 assets that we'll -- that we will attempt to  
19 collect afterwards.

20 So it's not the case that nothing will  
21 ever be collected. But, in any event, I think  
22 that even in cases where restitution goes  
23 uncollected, it's just a function of Congress's  
24 deliberate choice that the restitution system  
25 we have should measure the amount of the

1 victim's loss. And the amount of the victim's  
2 loss in this case includes these -- these  
3 expenses. If you were --

4 JUSTICE SOTOMAYOR: May I ask you a  
5 question about the criminal conviction? Can it  
6 be used to prove liability in the -- in a civil  
7 suit?

8 MR. HUSTON: Yes, Your Honor. There's  
9 an estoppel provision in -- in the MVRA that  
10 functions that way.

11 JUSTICE SOTOMAYOR: All right. So  
12 that means that a corporation, which, as  
13 Justice Kagan pointed out, corporate losses of  
14 these kind are not specified anywhere in this  
15 provision. They can go into civil court.  
16 Liability is taken as a given. All they have  
17 to do is prove their restitution amount.  
18 Correct?

19 MR. HUSTON: That's basically correct,  
20 Your Honor.

21 JUSTICE SOTOMAYOR: So tell me why  
22 Congress would have been worried about that  
23 when it seemed more worried about the  
24 individual expenses that people are unlikely to  
25 go to civil court for.

1 MR. HUSTON: Well, again, there's  
2 really no dispute at all that corporations are  
3 victims of frauds and that they are entitled to  
4 recover.

5 JUSTICE SOTOMAYOR: They're entitled  
6 to their losses, but you're asking for  
7 something more than what's specified here,  
8 according to your adversary.

9 MR. HUSTON: Well -- well, I think  
10 what we're asking for -- they are a victim, and  
11 the statute says that victims who incur  
12 expenses during the investigation or  
13 prosecution of the offense are entitled to  
14 recover. And the other --

15 JUSTICE SOTOMAYOR: Yes, except that  
16 Congress, unlike other provisions that  
17 specified attorneys' fees, putting the victim  
18 whole, proximate causation, Congress in --  
19 instead chose very specific categories here.

20 MR. HUSTON: And we -- I think we fit  
21 into this category, Your Honor. We fit into  
22 (b)(4). But the -- the other thing I want to  
23 say about the civil lawsuits is that's really  
24 not an effective remedy because the action  
25 moment is not about getting the judgment; it's

1 about collection.

2 And offering -- getting a criminal  
3 restitution award offers substantial advantages  
4 as against attempting to pursue civil  
5 litigation in terms of the ability to recover.  
6 The government has all sorts of tools that we  
7 use to attempt to recover criminal restitution  
8 awards that are not available to judgment  
9 holders.

10 JUSTICE SOTOMAYOR: This company you  
11 told me earlier got \$15 million back without  
12 the government.

13 MR. HUSTON: In the bankruptcy --  
14 well, they got -- in the bankruptcy proceeding,  
15 Your Honor.

16 JUSTICE SOTOMAYOR: It wasn't the  
17 government who helped them do that. It was  
18 themselves.

19 MR. HUSTON: That's right, Your Honor,  
20 but I think that only illustrates Congress's  
21 wisdom in allowing these -- these restitution  
22 expenses. If you were to pay back GE Capital  
23 the \$11 million that Petitioner does not  
24 contest, it would not be made whole because, in  
25 order to get to this point, GE Capital had to



1 incur substantial investigation expenses, and  
2 participating in the bankruptcy proceedings,  
3 those are losses that are real to this company,  
4 which is a victim of the fraud within the  
5 meaning of the MVRA.

6 And they were proximately caused by  
7 the defendant's offense, which is the  
8 definition of victim that's in Section  
9 3663A(a).

10 So I think for all of these reasons it  
11 makes sense that Congress would design a  
12 restitution system that would focus on  
13 restoring the victim to its position before the  
14 offense. As the Court said in Dolan, the  
15 substantive purpose of this statute is to award  
16 full restitution.

17 Unless there are further questions,  
18 we'd ask that the judgment be affirmed.

19 CHIEF JUSTICE ROBERTS: Thank you,  
20 counsel.

21 Four minutes, Mr. Geyser.

22 REBUTTAL ARGUMENT OF DANIEL L. GEYSER

23 ON BEHALF OF THE PETITIONER

24 MR. GEYSER: Thank you, Mr. Chief  
25 Justice. A few quick points.

1           My very able friend has referred  
2 repeatedly to a statute providing for  
3 make-whole relief to provide the full amount of  
4 restitution.

5           Of course, that is not what subsection  
6 (b) (4) says, as Justice Sotomayor pointed out.  
7 That's what other statutes say. The  
8 offense-specific provisions provide that kind  
9 of relief when Congress wanted to.

10           If Congress were concerned about  
11 overlooking expenses like child care and  
12 transportation, it would have phrased this  
13 entirely differently. It would have said that  
14 you can recover necessary expenses, including  
15 child care and transportation. And that, in  
16 fact, is what Congress did in the  
17 offense-specific statutes.

18           It said you get the full amount of  
19 recovery, and the full amount includes the  
20 following categories, including their  
21 attorneys' fees and the kind of expenses  
22 provided here. Congress chose the polar  
23 opposite formulation here, invoking the classic  
24 ejusdem generis formulation.

25           My friend has suggested that

1 3664(f)(1)(A) somehow controls the amount of  
2 restitution here. This Court rejected the  
3 identical proposition in Hughey when it looked  
4 at the Victim and Witness Protection Act. It  
5 said that (f)(1)(A) is a procedural statute.  
6 It does not dictate the outer bounds of a  
7 permissible restitution award. You have to  
8 look to subsection (b) in this case in order to  
9 do that.

10 Mr. Chief Justice, you are absolutely  
11 correct that trying to figure out what expenses  
12 are necessary here is an incredibly difficult  
13 task. The government may not think this is  
14 imposing a burden on district judges. It's  
15 interesting that the judges themselves  
16 disagree.

17 Judge Higginson in his concurrence  
18 cited different articles and studies showing  
19 the -- the incredible burden and the complexity  
20 of determining exactly these sorts of  
21 restitution amounts.

22 And if you look at the record here, we  
23 have a great example of how difficult this is  
24 to parse out. Page 28 of the Joint Appendix  
25 shows that one of the expenses that Winston &

1 Strawn incurred -- incurred, was looking at  
2 potential third-party liability against Dry  
3 Van's auditors. That, of course, has nothing  
4 to do with investigating the Petitioner's  
5 offense.

6           These are exactly the kinds of  
7 expenses that a corporation reasonably incurs  
8 in an internal investigation, and it's  
9 incredibly hard to disaggregate those expenses  
10 from the expenses that would be necessary for  
11 the government to incur or that the government  
12 even would have bothered to do in the first  
13 place.

14           JUSTICE SOTOMAYOR: Did your client  
15 point that out to the district court judge  
16 here?

17           MR. GEYSER: No, Your Honor. And to  
18 be clear, we're not challenging the -- that  
19 specific line item, where it just illustrates  
20 the difficulty of engaging in these sorts of  
21 inquiries in the first place.

22           In terms of private investigations, a  
23 private investigation that starts before the  
24 government's investigation begins, if that's  
25 fully covered, it leads to deep anomalies in

1 the statute.

2           It would mean that the private  
3 investigation could occur and they don't -- the  
4 corporation doesn't even have to disclose  
5 results to the government because it would be  
6 an expense incurred during participation in  
7 that private investigation.

8           There is no statutory hook even  
9 requiring the corporation to turn over what  
10 they found. Surely, Congress did not have that  
11 in mind in a statute that's talking about the  
12 investigation and prosecution of the offense  
13 with those terms in the singular.

14           A final point is for the bankruptcy  
15 litigation. Again, my -- my friend, who is a  
16 very able advocate, repeatedly referred to it  
17 as expenses in the proceedings related to the  
18 -- to the offense. Never once did it -- did my  
19 friend use the term attendance at proceedings  
20 related to the offense because there's simply  
21 no plausible construction of this statute that  
22 would include in the -- the term "attendance"  
23 the entirety of expenses of litigating a  
24 bankruptcy case.

25           If the Court has no further questions.

1 CHIEF JUSTICE ROBERTS: Thank you,  
2 counsel. The case is submitted.

3 (Whereupon, at 11:05 a.m., the case  
4 was submitted.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## Official

<b>\$</b>	<b>accept</b> [1] 4:13	<b>applies</b> [1] 12:2	<b>basically</b> [1] 61:19
<b>\$1,000</b> [1] 42:11	<b>according</b> [1] 62:8	<b>apply</b> [2] 17:3 20:7	<b>basis</b> [1] 6:1
<b>\$1.5</b> [1] 60:4	<b>account</b> [2] 37:19 50:7	<b>approached</b> [1] 6:3	<b>bearing</b> [1] 41:20
<b>\$11</b> [3] 57:3,24 63:23	<b>accountant</b> [2] 42:9,14	<b>appropriate</b> [1] 49:1	<b>bears</b> [2] 27:18 52:25
<b>\$15</b> [2] 56:14 63:11	<b>accounting</b> [1] 47:17	<b>April</b> [1] 1:10	<b>becomes</b> [1] 49:3
<b>\$16</b> [1] 57:19	<b>accustomed</b> [1] 38:16	<b>aren't</b> [3] 20:19 21:21 31:23	<b>began</b> [1] 14:23
<b>\$2</b> [1] 60:4	<b>acknowledged</b> [1] 44:21	<b>argument</b> [10] 1:13 2:2,5,8 3:4,7 8:5 32:6 55:12 64:22	<b>begin</b> [1] 15:1
<b>\$25</b> [2] 55:22 56:12	<b>acknowledged</b> [1] 10:17	<b>arrest</b> [1] 9:24	<b>beginning</b> [1] 14:14
<b>\$4</b> [2] 35:6 58:5	<b>Act</b> [6] 3:11 5:2 12:4 32:10 42:1 66:4	<b>articles</b> [1] 66:18	<b>begins</b> [2] 34:11 67:24
<b>\$4.9</b> [2] 57:13 58:1	<b>action</b> [5] 5:21 26:21 27:15 53:23 62:24	<b>articulated</b> [1] 38:11	<b>behalf</b> [8] 1:17,21 2:4,7,10 3:8 32:7 64:23
<b>\$5</b> [1] 57:13	<b>actions</b> [1] 4:23	<b>aside</b> [1] 33:13	<b>believe</b> [3] 10:13 46:1 60:16
<b>\$5,000</b> [1] 42:10	<b>active</b> [1] 19:8	<b>assets</b> [1] 60:18	<b>believes</b> [1] 60:17
<b>\$8</b> [1] 58:6	<b>actual</b> [1] 24:5	<b>assist</b> [1] 8:18	<b>below</b> [4] 23:7,15 26:18 56:13
<b>1</b>	<b>actually</b> [10] 13:1 15:3 17:4 21:7 33:3 38:6 42:11,24 44:10 51:16	<b>assistance</b> [2] 42:5,13	<b>better</b> [1] 49:5
<b>10</b> [1] 56:14	<b>add</b> [1] 55:5	<b>Assistant</b> [1] 1:19	<b>between</b> [4] 3:23 20:2 29:8 50:25
<b>10:07</b> [2] 1:14 3:2	<b>adjust</b> [1] 58:13	<b>associates</b> [1] 52:11	<b>beyond</b> [1] 13:8
<b>11</b> [1] 5:15	<b>adjusted</b> [2] 36:1 59:14	<b>assume</b> [4] 5:11,13 30:22 37:18	<b>big</b> [3] 34:7 35:21 50:24
<b>11:05</b> [1] 69:4	<b>administrative</b> [1] 48:12	<b>assure</b> [1] 55:13	<b>billions</b> [1] 49:9
<b>14A</b> [1] 42:2	<b>advance</b> [1] 29:20	<b>attempt</b> [4] 27:24 28:6 60:18 63:7	<b>blame</b> [1] 55:24
<b>15</b> [1] 56:22	<b>advantages</b> [1] 63:3	<b>attempting</b> [1] 63:4	<b>bookkeeper</b> [3] 9:18,21 48:17
<b>16-1519</b> [1] 3:4	<b>adversarial</b> [1] 52:24	<b>attend</b> [1] 44:10	<b>books</b> [2] 53:7 58:13
<b>17</b> [1] 30:7	<b>adversary</b> [1] 62:8	<b>attendance</b> [12] 21:14 22:5,6,15, 18,20 25:10 26:6,8,23 68:19,22	<b>borrowed</b> [1] 40:9
<b>18</b> [2] 1:10 16:7	<b>advice</b> [1] 25:16	<b>attended</b> [2] 21:20 25:23	<b>both</b> [2] 7:12 59:11
<b>2</b>	<b>advocate</b> [1] 68:16	<b>attending</b> [3] 3:15 22:1,1	<b>bothered</b> [1] 67:12
<b>2018</b> [1] 1:10	<b>affirmed</b> [1] 64:18	<b>attorney</b> [2] 8:18 55:16	<b>bounds</b> [1] 66:6
<b>22</b> [1] 53:6	<b>afterwards</b> [1] 60:19	<b>Attorney's</b> [2] 17:1,2	<b>breadth</b> [2] 43:9 45:4
<b>2248</b> [1] 6:19	<b>agency</b> [1] 8:14	<b>attorneys</b> [1] 25:10	<b>break</b> [1] 39:2
<b>2259</b> [2] 6:19 8:10	<b>agents</b> [2] 7:20 18:24	<b>attorneys'</b> [18] 6:16,17 7:5 8:8 11:22 17:24 18:2 27:5 29:25 36:20 41:8,9,12,14,19 60:3 62:17 65:21	<b>BREYER</b> [13] 9:15 10:2,15,19 11:12 17:18 31:4 34:6 36:23 42:19 43:1,17 48:20
<b>25</b> [1] 56:22	<b>agree</b> [3] 39:20 45:7 46:13	<b>auditors</b> [1] 67:3	<b>Breyer's</b> [2] 34:1 48:17
<b>28</b> [2] 25:13 66:24	<b>agrees</b> [1] 50:6	<b>authorities</b> [1] 15:24	<b>brief</b> [7] 30:8 33:25 38:3 42:2,3 45:18 59:12
<b>29</b> [1] 25:13	<b>Ah</b> [1] 46:11	<b>authority</b> [1] 23:8	<b>bring</b> [1] 19:12
<b>3</b>	<b>ahead</b> [2] 6:6 47:1	<b>authorized</b> [3] 12:5 13:13 20:3	<b>broad</b> [2] 4:4 8:20
<b>3</b> [1] 2:4	<b>aid</b> [1] 18:10	<b>available</b> [1] 63:8	<b>broader</b> [8] 8:5,25 15:3 20:4,4,7, 18 29:4
<b>32</b> [1] 2:7	<b>aided</b> [1] 31:21	<b>avoid</b> [1] 15:4	<b>burden</b> [5] 30:11,12 52:25 66:14, 19
<b>3663A</b> [4] 16:12 20:3,8 21:4	<b>ALITO</b> [13] 13:10,24 15:21 16:19, 24 19:10 20:9 28:10,18,25 29:13 50:16,24	<b>award</b> [13] 4:18 23:9,12 25:2 50:4 55:18,20,25 57:19 58:24 63:3 64:15 66:7	<b>business</b> [2] 13:4 54:21
<b>3663A's</b> [1] 3:22	<b>allowed</b> [2] 10:5,21	<b>awarded</b> [5] 40:12,25 41:13 49:24 56:13	<b>busy</b> [1] 6:5
<b>3663A(a)</b> [1] 64:9	<b>allowing</b> [1] 63:21	<b>awards</b> [7] 34:23 36:1 50:1 55:17 56:2 59:13 63:8	<b>C</b>
<b>3663A(b)</b> (1) [1] 23:2	<b>alternative</b> [3] 9:3 22:25 23:12	<b>aware</b> [5] 21:2 33:11 45:16 49:15 58:19	<b>c)(3)(B)</b> [1] 12:4
<b>3663A(d)</b> [1] 40:21	<b>Although</b> [2] 58:24 59:7	<b>away</b> [1] 41:10	<b>calculate</b> [2] 12:10,12
<b>3664</b> [1] 40:23	<b>Amato</b> [1] 59:11	<b>Ayestas</b> [1] 51:8	<b>call</b> [1] 33:9
<b>3664(f)</b> [1] 52:21	<b>American</b> [1] 41:19	<b>B</b>	<b>called</b> [2] 10:3 43:6
<b>3664(f)(1)(A)</b> [3] 40:19 50:3 66:1	<b>among</b> [1] 53:24	<b>b)(1)</b> [4] 23:19 24:6,12 25:1	<b>calls</b> [1] 42:9
<b>4</b>	<b>amount</b> [22] 5:16 30:1 31:1 40:11, 25 41:3 42:12 48:6 53:1 55:24 56:16,19,22 57:3 60:10,25 61:1,17 65:3,18,19 66:1	<b>b)(2)</b> [2] 24:15,20	<b>came</b> [2] 1:12 17:22
<b>4</b> [1] 10:18	<b>amounts</b> [1] 66:21	<b>b)(3)</b> [1] 24:23	<b>cannot</b> [2] 3:22 52:1
<b>5</b>	<b>anomalies</b> [2] 28:1 67:25	<b>b)(4)</b> [6] 23:13 24:15,25 26:17 62:22 65:6	<b>capacious</b> [1] 7:4
<b>523</b> [2] 5:14,22	<b>another</b> [3] 8:22 17:2 53:9	<b>back</b> [8] 16:11,16 18:19 48:21 58:16 60:13 63:11,22	<b>Capital</b> [8] 37:11 40:4 47:19,20 56:17 57:4 63:22,25
<b>6</b>	<b>answer</b> [3] 20:10 47:22 59:22	<b>bail</b> [1] 28:17	<b>Capital's</b> [2] 13:19 47:12
<b>64</b> [1] 2:10	<b>answering</b> [1] 54:11	<b>balance</b> [1] 32:1	<b>care</b> [18] 3:13 6:14 7:7,21 8:7 13:12 22:11 34:11,12 36:22 42:20 43:5,5 44:7 45:1 46:14 65:11,15
<b>A</b>	<b>anybody</b> [1] 43:5	<b>bankruptcy</b> [25] 3:20 5:10,12,23 21:8,9,18,19 24:11 25:9,21 26:12 36:5,10 37:7,12,16 38:10 49:11 57:9 63:13,14 64:2 68:14,24	<b>carry</b> [1] 58:15
<b>a.m</b> [3] 1:14 3:2 69:4	<b>anytime</b> [1] 24:15		<b>Case</b> [52] 3:4 5:12,19 9:4 11:6 13:18 15:17 17:5,6,21 18:5,11 20:22, 24 21:3 22:21 25:3,21 27:5,19 35:8,13,21 36:9 38:9 40:1,24 41:2,20 42:9 43:21 44:20 45:7 46:4 47:13,
<b>abet</b> [1] 18:10	<b>apart</b> [1] 9:8		
<b>abetted</b> [1] 31:22	<b>apparent</b> [2] 14:3 43:11		
<b>ability</b> [1] 63:5	<b>appear</b> [1] 4:6		
<b>able</b> [8] 42:15 54:2 55:15 56:17 57:4 60:13 65:1 68:16	<b>APPEARANCES</b> [1] 1:16		
<b>above-entitled</b> [1] 1:12	<b>Appendix</b> [2] 25:13 66:24		
<b>absolutely</b> [6] 6:15 40:12 43:19 47:22 54:6 66:10			

## Official

<p>20 49:25 52:3 53:12 55:20 58:24 59:3,11,11 60:11,14,20 61:2 66:8 68:24 69:2,4 cases [1] 5:5 33:24 34:22,25 45: 17,19 46:8 52:1,9 53:2 60:22 categorical [1] 51:19 categories [6] 39:2,4 40:7 41:4 62:19 65:20 category [3] 23:2 34:23 62:21 causation [1] 62:18 caused [8] 21:19 25:6 38:23 40:3, 5 43:21 53:1 64:6 causes [1] 23:25 causing [1] 49:14 certain [2] 19:16 31:1 Certainly [4] 35:22 37:5 46:4,13 challenged [2] 59:2,13 challenges [1] 59:10 challenging [1] 67:18 change [5] 10:12,23 11:15 39:8 49: 1 changed [1] 10:10 charge [1] 26:3 charges [1] 25:15 CHIEF [25] 3:3,9 6:2,10,20 14:11, 25 15:10,13,20 30:14 32:3,8 46: 23 47:2 52:4 53:11 56:10 58:2 59: 16,20 64:19,24 66:10 69:1 child [21] 3:13 6:13 7:7,21 8:7 13: 12 22:11,12 34:11,11 36:22 40:1 42:20 43:5,5 44:7 45:1,1 46:14 65: 11,15 choice [4] 50:3 56:4 60:8,24 choose [1] 23:16 chose [2] 62:19 65:22 chronology [1] 32:23 circumstance [1] 51:20 circumstances [3] 48:24 50:5 56: 7 cited [2] 42:1 66:18 citing [1] 4:3 civil [20] 4:22 5:15,20 6:1 12:19 21: 10 25:4 26:25 27:2,7,25 37:7,13 41:21 48:11 61:6,15,25 62:23 63: 4 claim [1] 59:4 class [1] 53:23 classic [2] 6:12 65:23 clause [2] 6:15 37:3 clear [13] 3:23 7:12 15:18 17:12 21: 6 25:22 26:10 39:21 44:18 52:14 57:2 58:3 67:18 clearer-cut [1] 36:8 clearly [4] 18:18 21:3 24:6 44:1 client [1] 67:14 close [1] 5:24 closer [2] 18:5 33:9 clue [1] 16:16 Code [1] 5:23 collateral [2] 25:4 36:12 collect [3] 56:18,22 60:19 collected [2] 49:12 60:21 collection [1] 63:1 Combined [1] 57:15</p>	<p>come [3] 19:21 43:14 45:2 coming [2] 8:14 19:22 commenced [2] 29:11,12 Commission [1] 39:7 commit [1] 49:10 committee [1] 39:8 common [5] 7:10,11 34:3,21 45: 19 companies [3] 4:17 53:19 54:6 company [17] 8:17 9:17 11:9 19: 12,17,21 20:11 25:17 33:6,10,15 34:10 35:2 44:19 50:18 63:10 64: 3 company's [2] 19:15 43:3 compelled [1] 58:14 complaint [1] 15:1 complexity [2] 59:1 66:19 compliance [1] 53:24 complicated [2] 6:4 11:24 conceded [1] 46:1 concern [1] 25:19 concerned [2] 44:25 65:10 concerns [1] 11:22 concurrency [1] 66:17 conduct [6] 17:15 48:16 52:7 53: 20 54:6,20 conducted [3] 48:2 50:17 55:21 conducting [3] 12:14,15 59:24 confines [1] 24:12 Congress [63] 4:1,24 5:3 6:11,16 7:7 8:7 9:2 10:11,13 11:3,21 12:4, 8,18 14:6 18:2,18,23 20:1,2,5 22: 4 27:1,9 28:3,5,21 29:19,24 30:11 31:23 34:3,24 38:24 40:9,18 41: 12 42:3 43:12,15 44:23 45:4,16, 24 46:14,19 49:1,15 50:16 52:15 55:2 58:19 60:7 61:22 62:16,18 64:11 65:9,10,16,22 68:10 Congress's [6] 4:5 46:2 50:2 56:4 60:23 63:20 congressional [1] 39:7 considered [2] 39:6 51:8 construction [1] 68:21 construing [1] 18:12 consultants [1] 47:16 consulting [2] 3:18 25:16 contemplated [1] 42:4 contention [1] 35:6 contest [1] 63:24 context [6] 7:12 14:3 26:10 30:18 37:4 41:23 contextual [1] 16:16 controls [1] 66:1 conviction [4] 16:9,12 51:17 61:5 cooperate [1] 11:9 corporate [8] 17:16 25:10 30:17, 22 45:12,12 46:6 61:13 corporation [6] 30:21 44:14 61:12 67:7 68:4,9 corporations [2] 45:20 62:2 correct [5] 5:11 41:21 61:18,19 66: 11 correctly [1] 17:20 cost [2] 3:12,17</p>	<p>costs [4] 5:19 19:5 45:11 58:22 Couldn't [1] 52:12 counsel [6] 32:4 36:4 42:5 54:12 64:20 69:2 country [2] 19:13 50:1 course [4] 19:6 34:14 65:5 67:3 COURT [19] 1:1,13 3:10 18:11 23: 6,16 27:21 31:2 32:9 37:24 51:8 56:13 60:2 61:15,25 64:14 66:2 67:15 68:25 courtroom [1] 26:4 courts [11] 35:25 38:16 39:3 51:11 52:15,20 53:3,5 59:8,10,14 cover [10] 3:17 26:25 27:4,11,11 28:6 29:24 39:1 46:20 50:17 covered [17] 4:20 6:9,25 8:3,18 16: 4 19:18,20 20:19,22 28:24 29:22 41:15 43:7,14 46:13 67:25 covers [3] 3:12 36:16 43:10 creditors [1] 4:14 crime [13] 21:2,12 24:16 25:7 28:8 32:11 36:19 38:15 41:25 42:6,12 48:8 60:15 crimes [5] 34:21 36:17,18 43:10 49:10 criminal [19] 17:16 18:25 23:14 26: 9,12,21 27:15,16 28:23 37:4 41: 23 42:6,16 50:12 54:3 59:18 61:5 63:2,7 crucial [1] 47:14 cues [1] 14:6 cut [2] 36:1 51:12 Cuti [1] 59:11 cuts [2] 44:4,15</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p>D.C [2] 1:9,20 daily [1] 7:15 Dallas [1] 1:17 damage [2] 23:20,22 damages [3] 21:11 25:5 38:23 DANIEL [5] 1:17 2:3,9 3:7 64:22 day [2] 31:1 54:10 deal [1] 43:10 death [1] 24:21 debt [1] 49:14 decide [3] 25:20 54:22 56:25 decided [1] 39:2 declarations [1] 4:4 deep [1] 67:25 defendant [3] 50:5 56:8 60:12 defendant's [4] 32:13 42:7,17 64: 7 defendants [1] 59:9 deferred [1] 12:18 deficiencies [1] 4:3 define [1] 7:9 definition [2] 4:5 64:8 defrauded [1] 42:15 delay [1] 12:6 delegating [1] 6:24 deliberate [4] 50:3 56:4 60:8,24 demonstrate [2] 33:25 52:25 denominator [2] 7:10,12</p>	<p>Department [1] 1:20 depend [1] 30:20 depending [1] 29:17 depends [1] 5:25 derivative [1] 53:22 describe [1] 47:12 described [2] 37:24 47:19 design [1] 64:11 designed [1] 21:11 destruction [1] 23:20 detailed [1] 4:25 determination [2] 14:22 54:15 determinations [5] 36:3 38:17 51: 11 52:21 53:8 determine [3] 51:1 53:13 54:2 determined [1] 15:25 determining [2] 29:9 66:20 devoted [2] 13:3,4 dictate [1] 66:6 difference [4] 5:9,9 20:2 50:25 differences [3] 3:23 39:13 49:17 different [9] 9:7 12:21 23:9 36:17 37:9,10 39:17,17 66:18 differently [1] 65:13 difficult [5] 9:16 12:11 14:22 66: 12,23 difficulty [1] 67:20 dimensions [1] 43:25 diminish [1] 11:16 direct [2] 38:14,25 direction [1] 11:10 directly [2] 4:10 39:11 disaggregate [1] 67:9 disagree [3] 45:15 47:10 66:16 dischargeable [3] 5:12,24 49:11 disclose [1] 68:4 discover [1] 54:8 discovered [3] 35:1 42:13 45:20 discovers [1] 48:13 discretionary [3] 10:4,5 49:2 discuss [3] 35:25,25 45:18 discussed [1] 59:12 dislodged [1] 7:14 disproportionate [1] 51:15 dispute [4] 36:11 44:19 56:18 62: 2 disputed [3] 53:4 57:5,24 disputes [5] 11:24 12:11,20,25 30: 13 distinction [1] 29:8 district [17] 30:11 36:11 51:10 52: 8,15,20 53:3,5 54:1,13,14,21 59:8, 14 60:2 66:14 67:15 divide [1] 17:10 divorce [4] 36:19,21 37:9 38:9 documents [2] 19:16,25 doing [5] 17:9 19:5,6 20:12 30:21 Dolan [2] 37:25 64:14 dollars [3] 25:24 49:9 56:15 done [5] 17:23 31:8 52:12 58:4,17 doubt [2] 54:17,18 down [2] 51:12 58:9 dragged [1] 37:12 Dry [2] 25:17 67:2</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



## Official

<p><b>duplicative</b> <sup>[1]</sup> 11:11  <b>during</b> <sup>[20]</sup> 6:21 8:23 9:5,13 11:7  13:14,21 15:14,16 16:2 18:6 19:7  20:16 22:17 26:4 31:16 43:3 50:9  62:12 68:6</p>	<p><b>examples</b> <sup>[2]</sup> 11:4 59:13  <b>excellent</b> <sup>[1]</sup> 48:23  <b>except</b> <sup>[1]</sup> 62:15  <b>exclude</b> <sup>[1]</sup> 55:7  <b>exclusively</b> <sup>[2]</sup> 56:5 60:9  <b>excuse</b> <sup>[2]</sup> 5:9 59:8  <b>executive</b> <sup>[1]</sup> 17:8  <b>expand</b> <sup>[1]</sup> 10:23  <b>expanding</b> <sup>[2]</sup> 11:1,2  <b>expect</b> <sup>[1]</sup> 37:2  <b>expected</b> <sup>[2]</sup> 32:24 51:9  <b>expenditures</b> <sup>[1]</sup> 35:17  <b>expense</b> <sup>[13]</sup> 8:22 9:2,5,11,12 10:  8,22 18:6 20:12 28:7 31:16 41:10  68:6  <b>expenses</b> <sup>[67]</sup> 3:13 6:11,13,18,21,  25 7:5,6,10,21,23 10:5 11:7,11 12:  8,9 13:2,12,14,20,21 15:9 16:2 19:  2,3,6,17 21:7 25:8 27:6,16,17 29:  21,23 34:19 35:12,24 38:14 41:8,  14 42:23 45:1 46:14 48:22 50:19  51:14,25 52:5,23 57:9 58:11 59:5  61:3,24 62:12 63:22 64:1 65:11,  14,21 66:11,25 67:7,9,10 68:17,23  <b>expensive</b> <sup>[2]</sup> 52:6 59:7  <b>expert</b> <sup>[1]</sup> 27:6  <b>experts</b> <sup>[2]</sup> 3:19 47:14  <b>explain</b> <sup>[3]</sup> 3:22 49:7,17  <b>explained</b> <sup>[1]</sup> 43:12  <b>explicit</b> <sup>[2]</sup> 42:3 50:2  <b>express</b> <sup>[2]</sup> 37:25 45:4  <b>expresses</b> <sup>[1]</sup> 40:23  <b>expressly</b> <sup>[1]</sup> 8:9  <b>extend</b> <sup>[1]</sup> 13:8  <b>extent</b> <sup>[4]</sup> 6:6 49:24 55:10,19  <b>externalize</b> <sup>[1]</sup> 45:11  <b>extreme</b> <sup>[1]</sup> 35:16  <b>extremely</b> <sup>[2]</sup> 34:3 51:22  <b>eye</b> <sup>[1]</sup> 9:19</p>	<p><b>filed</b> <sup>[1]</sup> 5:21  <b>filing</b> <sup>[1]</sup> 27:4  <b>final</b> <sup>[1]</sup> 68:14  <b>financial</b> <sup>[2]</sup> 6:4 47:16  <b>find</b> <sup>[3]</sup> 19:16 51:13 58:12  <b>findings</b> <sup>[1]</sup> 31:12  <b>fine</b> <sup>[1]</sup> 12:17  <b>finish</b> <sup>[1]</sup> 14:19  <b>finished</b> <sup>[2]</sup> 31:7,11  <b>finishes</b> <sup>[1]</sup> 55:14  <b>firm</b> <sup>[3]</sup> 3:18 52:12 59:6  <b>firms</b> <sup>[4]</sup> 3:18 13:2 35:21 52:6  <b>first</b> <sup>[11]</sup> 3:4 4:17 11:1 21:25 23:5  24:7,8 41:18 49:23 67:12,21  <b>fit</b> <sup>[7]</sup> 3:21 23:1 24:11 40:6 41:4 62:  20,21  <b>fits</b> <sup>[1]</sup> 21:3  <b>fluid</b> <sup>[1]</sup> 14:16  <b>focus</b> <sup>[1]</sup> 64:12  <b>focused</b> <sup>[3]</sup> 51:16 56:5 60:9  <b>follow</b> <sup>[1]</sup> 33:14  <b>followed</b> <sup>[1]</sup> 6:14  <b>following</b> <sup>[1]</sup> 65:20  <b>forensic</b> <sup>[2]</sup> 3:19 47:13  <b>former</b> <sup>[1]</sup> 30:4  <b>former</b> <sup>[1]</sup> 19:19  <b>formulation</b> <sup>[4]</sup> 6:13 29:5 65:23,  24  <b>found</b> <sup>[1]</sup> 68:10  <b>four</b> <sup>[5]</sup> 3:18 4:25 13:2 39:2 64:21  <b>fraud</b> <sup>[14]</sup> 6:4 25:18 34:22,25 36:6  43:16 44:20 45:19,20 48:13,18 55:  22 56:11 64:4  <b>frauds</b> <sup>[4]</sup> 34:25 54:9 58:21 62:3  <b>fraudulent</b> <sup>[1]</sup> 47:17  <b>friend</b> <sup>[5]</sup> 39:23 65:1,25 68:15,19  <b>full</b> <sup>[10]</sup> 29:25 40:11,25 41:3,3 56:  21 64:16 65:3,18,19  <b>fully</b> <sup>[1]</sup> 67:25  <b>function</b> <sup>[4]</sup> 51:6 56:3 58:25 60:23  <b>functions</b> <sup>[2]</sup> 50:22 61:10  <b>funeral</b> <sup>[1]</sup> 24:22  <b>further</b> <sup>[3]</sup> 9:24 64:17 68:25  <b>future</b> <sup>[1]</sup> 24:1</p>	<p><b>GINSBURG</b> <sup>[7]</sup> 4:12 17:17,19 22:  24 41:6 55:11 58:15  <b>give</b> <sup>[2]</sup> 11:10 39:17  <b>given</b> <sup>[1]</sup> 61:16  <b>giving</b> <sup>[2]</sup> 43:25 44:4  <b>GORSUCH</b> <sup>[14]</sup> 7:25 8:5,12 36:4  37:1,6,15 38:2 45:6,25 46:8,11 53:  9 54:11  <b>got</b> <sup>[3]</sup> 29:14 63:11,14  <b>government</b> <sup>[56]</sup> 4:2,8 6:3 7:16,  24 9:10 12:13 13:20 14:8,14,17,  23 15:14,19,22,22 16:1,17 17:9,21  18:20 19:4,23 20:23 21:1,1 23:7  27:18 31:6,14,20,21,22,25 33:21  38:4 46:5 48:14 50:14 51:22 52:3,  24 53:16 54:4,17 58:3,17 59:24  60:17 63:6,12,17 66:13 67:11,11  68:5  <b>government's</b> <sup>[35]</sup> 3:21 4:11 5:11  6:23 9:6,9 11:8 13:22 14:1,7,10  17:23 18:7 20:14,17 22:25 23:17  24:13 27:24 29:21 30:8 31:10 32:  14 37:18 44:9 45:10 47:4,9 49:7  53:15,18 54:16,18 55:1 67:24  <b>governmental</b> <sup>[2]</sup> 8:2 17:13  <b>grand</b> <sup>[2]</sup> 28:14 29:14  <b>granted</b> <sup>[1]</sup> 16:18  <b>gray</b> <sup>[1]</sup> 42:3  <b>great</b> <sup>[2]</sup> 43:10 66:23  <b>ground</b> <sup>[1]</sup> 23:15  <b>grounds</b> <sup>[1]</sup> 25:2  <b>guess</b> <sup>[1]</sup> 43:5  <b>guilt</b> <sup>[1]</sup> 13:3  <b>guilty</b> <sup>[1]</sup> 13:9  <b>guy</b> <sup>[1]</sup> 58:6</p>
<p style="text-align: center;"><b>E</b></p> <p><b>each</b> <sup>[2]</sup> 5:6 40:23  <b>earlier</b> <sup>[4]</sup> 29:1 34:1 50:11 63:11  <b>easy</b> <sup>[1]</sup> 12:10  <b>economic</b> <sup>[3]</sup> 13:5 50:5 56:7  <b>effective</b> <sup>[1]</sup> 62:24  <b>efficiency</b> <sup>[1]</sup> 11:25  <b>effort</b> <sup>[1]</sup> 45:10  <b>efforts</b> <sup>[1]</sup> 47:13  <b>either</b> <sup>[2]</sup> 11:19 39:6  <b>ejusdem</b> <sup>[4]</sup> 6:12 7:2 18:1 65:24  <b>Eleven</b> <sup>[1]</sup> 56:15  <b>else's</b> <sup>[2]</sup> 18:17 31:24  <b>employee</b> <sup>[2]</sup> 30:23,25  <b>employees</b> <sup>[2]</sup> 19:12,20  <b>employer</b> <sup>[1]</sup> 5:21  <b>enables</b> <sup>[1]</sup> 32:11  <b>encompass</b> <sup>[1]</sup> 39:4  <b>encompasses</b> <sup>[1]</sup> 32:22  <b>end</b> <sup>[2]</sup> 11:23 55:12  <b>enforce</b> <sup>[1]</sup> 23:14  <b>engage</b> <sup>[1]</sup> 36:12  <b>engaging</b> <sup>[1]</sup> 67:20  <b>enough</b> <sup>[1]</sup> 36:14  <b>entertain</b> <sup>[1]</sup> 12:25  <b>entire</b> <sup>[1]</sup> 16:16  <b>entirely</b> <sup>[3]</sup> 9:8 23:9 65:13  <b>entirety</b> <sup>[3]</sup> 22:8,20 68:23  <b>entitled</b> <sup>[6]</sup> 30:15 38:23 40:2 62:3,  5,13  <b>entity</b> <sup>[1]</sup> 30:17  <b>enumerated</b> <sup>[1]</sup> 36:23  <b>enumeration</b> <sup>[1]</sup> 6:11  <b>equips</b> <sup>[1]</sup> 52:19  <b>equivalent</b> <sup>[1]</sup> 37:13  <b>especially</b> <sup>[1]</sup> 12:13  <b>ESQ</b> <sup>[4]</sup> 1:17 2:3,6,9  <b>essentially</b> <sup>[2]</sup> 6:23 21:20  <b>estoppel</b> <sup>[1]</sup> 61:9  <b>even</b> <sup>[19]</sup> 4:20 9:10 15:19 18:8 21:  2 23:15 25:6,22 43:13 46:18 51:  20,22,24 53:14 60:11,22 67:12 68:  4,8  <b>event</b> <sup>[2]</sup> 24:2 60:21  <b>events</b> <sup>[1]</sup> 32:23  <b>everybody</b> <sup>[1]</sup> 37:21  <b>everyone</b> <sup>[3]</sup> 50:6 55:8 60:11  <b>everything</b> <sup>[8]</sup> 19:1 27:18 31:8 37:  21 39:1 40:5 44:4 47:19  <b>everywhere</b> <sup>[1]</sup> 4:8  <b>evidence</b> <sup>[5]</sup> 29:9 34:21 47:14 53:  2 54:9  <b>exact</b> <sup>[1]</sup> 40:18  <b>exactly</b> <sup>[12]</sup> 7:13 21:10 30:1,10,20  36:2 44:3 45:23 52:20 55:3 66:20  67:6  <b>example</b> <sup>[8]</sup> 9:17 34:1,1 39:25 42:  8 48:11,17 66:23</p>	<p style="text-align: center;"><b>F</b></p> <p><b>f(1)(A)</b> <sup>[1]</sup> 66:5  <b>fact</b> <sup>[9]</sup> 32:21 34:9,18 38:20 43:12  48:5 50:2 56:1 65:16  <b>fact-intensive</b> <sup>[2]</sup> 11:24 30:13  <b>facts</b> <sup>[1]</sup> 9:25  <b>fair</b> <sup>[1]</sup> 60:14  <b>fall</b> <sup>[1]</sup> 24:24  <b>falls</b> <sup>[1]</sup> 21:14  <b>far</b> <sup>[3]</sup> 13:8 23:24 59:3  <b>FBI</b> <sup>[5]</sup> 7:19 8:13 15:8 18:24 20:11  <b>federal</b> <sup>[13]</sup> 8:13 15:22 16:1,7,8,13,  17 17:9,10,18 19:10,11 48:13  <b>Fee</b> <sup>[3]</sup> 12:11 27:4 55:16  <b>fees</b> <sup>[29]</sup> 6:16,17 7:5 8:9 11:22 17:  24 18:2 19:24 20:18 21:25 23:1  25:15 26:2,3 27:4,5,6,25 29:25 36:  21 41:8,9,12,15,19 59:7 60:3 62:  17 65:21  <b>FERNANDO</b> <sup>[1]</sup> 1:3  <b>few</b> <sup>[3]</sup> 10:25 23:4 64:25  <b>figure</b> <sup>[5]</sup> 42:14 48:25 58:4 60:3  66:11  <b>file</b> <sup>[3]</sup> 4:22 14:18 42:17</p>	<p style="text-align: center;"><b>G</b></p> <p><b>gave</b> <sup>[1]</sup> 55:3  <b>GE</b> <sup>[13]</sup> 6:3 13:19 37:11 40:4 47:12,  19,20 48:2 52:5 56:17 57:4 63:22,  25  <b>GE's</b> <sup>[1]</sup> 47:3  <b>General</b> <sup>[4]</sup> 1:20 6:14 41:7,11  <b>generally</b> <sup>[1]</sup> 25:2  <b>generic</b> <sup>[1]</sup> 38:5  <b>generis</b> <sup>[4]</sup> 6:12 7:2 18:1 65:24  <b>gets</b> <sup>[4]</sup> 14:17 37:21 40:5 50:14  <b>getting</b> <sup>[4]</sup> 4:18 38:6 62:25 63:2  <b>GEYSER</b> <sup>[48]</sup> 1:17 2:3,9 3:6,7,9 4:  16 5:14,22 6:9 7:1,11 8:4,19,25  10:1,13,16,25 11:18 13:18 14:2,  24 15:2,12,15 16:5,23 17:6,25 19:  19 20:15 21:23 23:4 25:12 26:5,  15 28:13,20 29:6,16 30:7,19 31:  15 64:21,22,24 67:17</p>	<p style="text-align: center;"><b>H</b></p> <p><b>hands</b> <sup>[1]</sup> 48:19  <b>happen</b> <sup>[1]</sup> 33:4  <b>happened</b> <sup>[2]</sup> 15:18 39:1  <b>happening</b> <sup>[1]</sup> 9:13  <b>happens</b> <sup>[3]</sup> 7:14 48:8 52:2  <b>happy</b> <sup>[2]</sup> 38:18 54:18  <b>hard</b> <sup>[1]</sup> 67:9  <b>healthcare</b> <sup>[2]</sup> 24:17,19  <b>hear</b> <sup>[2]</sup> 3:3 59:10  <b>hearing</b> <sup>[11]</sup> 7:16,19 18:25 22:12  25:11,25 27:3,4 28:15,17 29:8  <b>hearings</b> <sup>[2]</sup> 22:1 25:22  <b>heartland</b> <sup>[1]</sup> 45:22  <b>hefty</b> <sup>[1]</sup> 25:15  <b>help</b> <sup>[3]</sup> 18:10 54:17 55:17  <b>helped</b> <sup>[1]</sup> 63:17  <b>helpful</b> <sup>[2]</sup> 9:23 51:22  <b>helping</b> <sup>[1]</sup> 31:25  <b>helps</b> <sup>[1]</sup> 59:21  <b>Higginson</b> <sup>[2]</sup> 26:18 66:17  <b>himself</b> <sup>[1]</sup> 55:24  <b>hire</b> <sup>[4]</sup> 12:16 13:2 35:20 52:12  <b>hired</b> <sup>[2]</sup> 52:6 59:6  <b>hires</b> <sup>[2]</sup> 8:17 9:18  <b>hiring</b> <sup>[5]</sup> 3:18 8:1,6 12:16 47:13  <b>history</b> <sup>[4]</sup> 4:4 11:13,14 58:20  <b>holders</b> <sup>[1]</sup> 63:9</p>

<p><b>holistically</b> <sup>[1]</sup> 18:19  <b>home</b> <sup>[1]</sup> 7:21  <b>Honor</b> <sup>[54]</sup> 4:16 7:2 8:19 11:1 13:19 14:3 15:2 16:6 17:7,25 20:15 21:24 23:5 25:12 28:13 29:6 32:21 33:17,24 34:17 35:11,22 37:11,23 38:13 39:14,20 40:17 41:17 42:22 43:8,18 44:18 45:14 46:7,9 47:11 49:20 50:21 51:5 52:19 54:5,23 55:19 57:1,20 58:20 60:7 61:8,20 62:21 63:15,19 67:17  <b>Honor's</b> <sup>[1]</sup> 50:8  <b>hook</b> <sup>[1]</sup> 68:8  <b>huge</b> <sup>[1]</sup> 55:16  <b>Hughey</b> <sup>[1]</sup> 66:3  <b>hundreds</b> <sup>[1]</sup> 49:9  <b>HUSTON</b> <sup>[57]</sup> 1:19 2:6 32:5,6,8,20 33:7,16,22 34:17 35:4,9,18,22 37:1,10,22 38:12 39:14,20 40:16 41:16 42:22 43:8,18,22 44:17 45:14 46:7,9,12 47:10 48:3 49:20 50:21 51:5 52:18 54:5,23 55:19 56:15,23 57:1,7,12,15,18,23 58:19 60:6 61:8,19 62:1,9,20 63:13,19  <b>hypothetical</b> <sup>[1]</sup> 37:9</p>	<p><b>independent</b> <sup>[1]</sup> 4:17  <b>independently</b> <sup>[1]</sup> 12:13  <b>indictment</b> <sup>[3]</sup> 28:16 29:10,12  <b>indirect</b> <sup>[1]</sup> 7:22  <b>indispensable</b> <sup>[1]</sup> 34:5  <b>individual</b> <sup>[7]</sup> 44:2,12 45:8 46:3,12,15 61:24  <b>individuals</b> <sup>[1]</sup> 44:6  <b>information</b> <sup>[2]</sup> 33:5 54:19  <b>initially</b> <sup>[2]</sup> 15:23 16:25  <b>initiated</b> <sup>[2]</sup> 37:14,16  <b>injured</b> <sup>[1]</sup> 24:16  <b>innocence</b> <sup>[1]</sup> 13:3  <b>input</b> <sup>[1]</sup> 11:8  <b>inquiries</b> <sup>[1]</sup> 67:21  <b>instead</b> <sup>[4]</sup> 38:24 49:2 58:8 62:19  <b>intend</b> <sup>[1]</sup> 10:11  <b>intended</b> <sup>[2]</sup> 11:16 50:17  <b>interested</b> <sup>[1]</sup> 11:13  <b>interesting</b> <sup>[1]</sup> 66:15  <b>internal</b> <sup>[15]</sup> 13:6 17:22 34:20 35:1,7 45:21 46:5 48:16 51:1 53:14,17,20 54:2 55:4 67:8  <b>intuitively</b> <sup>[1]</sup> 48:23  <b>invaluable</b> <sup>[1]</sup> 34:20  <b>investigate</b> <sup>[5]</sup> 4:15,19 6:6 9:24 18:16  <b>investigated</b> <sup>[2]</sup> 15:23 17:1  <b>investigates</b> <sup>[1]</sup> 33:21  <b>investigating</b> <sup>[3]</sup> 8:14 14:19 67:4  <b>investigation</b> <sup>[102]</sup> 3:14,20 6:8,17,22 7:6 8:2,24 9:6,8,9,11,13 10:6 11:8 12:15 13:15,20,23 14:1,4,7,14,23 15:5,14,17 16:3,10,15,19,24 17:10,13,14,22 18:7,15,17 19:7,9 20:14,17,25 21:6 26:21 27:25 31:6,10 32:12,15,18,25 33:14 34:5,9,10 35:7,10,14 43:2,4 44:9,10 45:21,23 47:3,4,6,21 48:2,8,10,16,19 49:8 50:10,11,17 51:2,21,24 52:2,7 53:14,16,17 54:3,4,16,24 57:9 59:1,25 62:12 64:1 67:8,23,24 68:3,7,12  <b>investigations</b> <sup>[13]</sup> 13:6 17:16 34:20 35:2 45:12 46:6 47:3 53:20 54:7,8 55:5,8 67:22  <b>investigators</b> <sup>[1]</sup> 19:11  <b>investigatory</b> <sup>[1]</sup> 15:6  <b>invite</b> <sup>[1]</sup> 36:11  <b>invoked</b> <sup>[1]</sup> 6:12  <b>invoking</b> <sup>[1]</sup> 65:23  <b>involuntary</b> <sup>[2]</sup> 37:16 38:9  <b>involve</b> <sup>[1]</sup> 59:12  <b>involved</b> <sup>[1]</sup> 50:14  <b>IRS</b> <sup>[1]</sup> 42:10  <b>isn't</b> <sup>[4]</sup> 14:21 23:11 26:11 36:13  <b>issue</b> <sup>[2]</sup> 29:10 36:6  <b>issued</b> <sup>[1]</sup> 28:15  <b>issues</b> <sup>[1]</sup> 53:4  <b>item</b> <sup>[1]</sup> 67:19  <b>items</b> <sup>[1]</sup> 30:15  <b>itself</b> <sup>[1]</sup> 5:17</p>	<p><b>job</b> <sup>[2]</sup> 22:10 31:25  <b>Joint</b> <sup>[2]</sup> 25:13 66:24  <b>Judge</b> <sup>[13]</sup> 13:6 26:18 48:23,25 52:8 53:4 54:1,13,14,21 56:24 66:17 67:15  <b>judges</b> <sup>[5]</sup> 12:23 30:12 36:12 66:14,15  <b>judgment</b> <sup>[4]</sup> 6:1 62:25 63:8 64:18  <b>jury</b> <sup>[2]</sup> 28:15 29:14  <b>Justice</b> <sup>[125]</sup> 1:20 3:3,10 4:12 5:8,18 6:2,10,20 7:9,25 8:5,11,12,21 9:15 10:2,15,19 11:12 13:10,24 14:11,25 15:10,13,20,21 16:19,24 17:17,18,19 19:10 20:9 21:17 22:22,24 25:8 26:1,11 28:10,18,25 29:13 30:3,14 31:4 32:3,8,17 33:3,8,20,25 34:6 35:3,4,5,15,19 36:4,22 37:1,6,15 38:2,19 39:16 40:14 41:5,6 42:19 43:1,17,22 45:6,25 46:1,8,11,16,21,23,25 47:2,25 48:17,20 50:16,24 52:4 53:9,11 54:11 55:11 56:9,10,11,21,24 57:6,10,14,16,21 58:2,15 59:16,18,20 61:4,11,13,21 62:5,15 63:10,16 64:19,25 65:6 66:10 67:14 69:1</p>	<p><b>line</b> <sup>[2]</sup> 14:12 67:19  <b>lines</b> <sup>[3]</sup> 18:21 27:22 53:10  <b>litigate</b> <sup>[2]</sup> 25:21 59:23  <b>litigating</b> <sup>[3]</sup> 22:20 60:2 68:23  <b>litigation</b> <sup>[10]</sup> 3:20 21:9,9,11 24:11 25:4 41:22 52:17 63:5 68:15  <b>little</b> <sup>[2]</sup> 57:12 58:8  <b>lives</b> <sup>[1]</sup> 49:13  <b>loans</b> <sup>[1]</sup> 57:3  <b>located</b> <sup>[1]</sup> 19:13  <b>logic</b> <sup>[1]</sup> 4:10  <b>long</b> <sup>[1]</sup> 36:12  <b>look</b> <sup>[17]</sup> 6:3,10 7:3,6 9:20,20 12:3 16:11 24:5 25:13 26:16 27:14 30:7 33:10 48:21 66:8,22  <b>looked</b> <sup>[1]</sup> 66:3  <b>looking</b> <sup>[2]</sup> 51:18 67:1  <b>looks</b> <sup>[2]</sup> 4:8 6:15  <b>loss</b> <sup>[5]</sup> 23:20,22 60:10 61:1,2  <b>losses</b> <sup>[9]</sup> 22:16 40:2,11 41:1 53:1 56:6 61:13 62:6 64:3  <b>lost</b> <sup>[12]</sup> 3:12 7:17 13:11 22:9 23:2 24:3,22 30:16,18 31:3 44:7 58:13  <b>lot</b> <sup>[5]</sup> 16:20 21:31 20 36:16 52:16  <b>lots</b> <sup>[1]</sup> 14:5  <b>Lunches</b> <sup>[1]</sup> 43:17</p>
<b>I</b>		<b>K</b>	
<p><b>identical</b> <sup>[3]</sup> 38:21 39:19 66:3  <b>identifying</b> <sup>[2]</sup> 13:9 19:25  <b>illustrate</b> <sup>[1]</sup> 45:17  <b>illustrated</b> <sup>[1]</sup> 34:2  <b>illustrates</b> <sup>[3]</sup> 42:25 63:20 67:19  <b>imagine</b> <sup>[1]</sup> 36:18  <b>immediately</b> <sup>[1]</sup> 4:15  <b>impact</b> <sup>[1]</sup> 42:18  <b>important</b> <sup>[2]</sup> 5:3 11:21  <b>impose</b> <sup>[1]</sup> 58:22  <b>imposing</b> <sup>[1]</sup> 66:14  <b>incentive</b> <sup>[1]</sup> 4:14  <b>incentives</b> <sup>[2]</sup> 4:17 41:21  <b>incidental</b> <sup>[5]</sup> 7:22 12:9 15:8 19:3 29:22  <b>include</b> <sup>[7]</sup> 6:17 8:8 15:5,7 41:8 50:13 68:22  <b>included</b> <sup>[2]</sup> 17:24 18:3  <b>includes</b> <sup>[4]</sup> 22:20 31:5 61:2 65:19  <b>including</b> <sup>[4]</sup> 25:15 36:17 65:14,20  <b>income</b> <sup>[8]</sup> 3:12 7:18 13:11 22:9 30:16,18 31:3 44:8  <b>incorporate</b> <sup>[1]</sup> 31:7  <b>incorporated</b> <sup>[2]</sup> 40:18,19  <b>incredible</b> <sup>[1]</sup> 66:19  <b>incredibly</b> <sup>[2]</sup> 66:12 67:9  <b>incur</b> <sup>[9]</sup> 15:8 19:2 27:7,17 34:19 41:9 62:11 64:1 67:11  <b>incurred</b> <sup>[20]</sup> 5:19 6:21 8:23 11:7 13:14,21 16:2 18:6 22:17 31:16 38:14 42:23 50:9,20 56:6 58:12 60:10 67:1,1 68:6  <b>incurring</b> <sup>[1]</sup> 9:4  <b>incurs</b> <sup>[4]</sup> 7:23 19:17 20:12 67:7  <b>indeed</b> <sup>[1]</sup> 9:9</p>	<p><b>investigating</b> <sup>[3]</sup> 8:14 14:19 67:4  <b>investigation</b> <sup>[102]</sup> 3:14,20 6:8,17,22 7:6 8:2,24 9:6,8,9,11,13 10:6 11:8 12:15 13:15,20,23 14:1,4,7,14,23 15:5,14,17 16:3,10,15,19,24 17:10,13,14,22 18:7,15,17 19:7,9 20:14,17,25 21:6 26:21 27:25 31:6,10 32:12,15,18,25 33:14 34:5,9,10 35:7,10,14 43:2,4 44:9,10 45:21,23 47:3,4,6,21 48:2,8,10,16,19 49:8 50:10,11,17 51:2,21,24 52:2,7 53:14,16,17 54:3,4,16,24 57:9 59:1,25 62:12 64:1 67:8,23,24 68:3,7,12  <b>investigations</b> <sup>[13]</sup> 13:6 17:16 34:20 35:2 45:12 46:6 47:3 53:20 54:7,8 55:5,8 67:22  <b>investigators</b> <sup>[1]</sup> 19:11  <b>investigatory</b> <sup>[1]</sup> 15:6  <b>invite</b> <sup>[1]</sup> 36:11  <b>invoked</b> <sup>[1]</sup> 6:12  <b>invoking</b> <sup>[1]</sup> 65:23  <b>involuntary</b> <sup>[2]</sup> 37:16 38:9  <b>involve</b> <sup>[1]</sup> 59:12  <b>involved</b> <sup>[1]</sup> 50:14  <b>IRS</b> <sup>[1]</sup> 42:10  <b>isn't</b> <sup>[4]</sup> 14:21 23:11 26:11 36:13  <b>issue</b> <sup>[2]</sup> 29:10 36:6  <b>issued</b> <sup>[1]</sup> 28:15  <b>issues</b> <sup>[1]</sup> 53:4  <b>item</b> <sup>[1]</sup> 67:19  <b>items</b> <sup>[1]</sup> 30:15  <b>itself</b> <sup>[1]</sup> 5:17</p>	<p><b>KAGAN</b> <sup>[9]</sup> 7:9 26:1,11 35:4 43:22 46:2,16 47:25 61:13  <b>Kavanaugh</b> <sup>[1]</sup> 13:7  <b>KENNEDY</b> <sup>[9]</sup> 5:8,18 8:11,21 30:3 35:3,5,15,19  <b>key</b> <sup>[2]</sup> 4:24 40:9  <b>kicks</b> <sup>[1]</sup> 52:3  <b>kind</b> <sup>[6]</sup> 9:1 12:9 38:3 61:14 65:8,21  <b>kinds</b> <sup>[3]</sup> 36:17 54:8 67:6</p>	<p style="text-align: center;"><b>M</b></p> <p><b>made</b> <sup>[3]</sup> 26:18 60:7 63:24  <b>magistrate</b> <sup>[1]</sup> 53:4  <b>make-whole</b> <sup>[4]</sup> 4:1 11:3 28:5 65:3  <b>man</b> <sup>[1]</sup> 60:15  <b>Mandatory</b> <sup>[9]</sup> 3:11 5:1,3 11:2 12:1,22 32:10 49:3,5  <b>many</b> <sup>[5]</sup> 38:5 45:16,17 50:1 53:24  <b>mass</b> <sup>[1]</sup> 58:8  <b>massive</b> <sup>[1]</sup> 55:22  <b>matter</b> <sup>[1]</sup> 1:12  <b>mean</b> <sup>[16]</sup> 8:21 14:16,21,25 16:20 18:9 26:12 34:11,12 37:6 46:10 51:3 52:6 53:15 59:21 68:2  <b>Meaning</b> <sup>[3]</sup> 21:17 39:17 64:5  <b>means</b> <sup>[4]</sup> 18:13 31:24 51:9 61:12  <b>meant</b> <sup>[3]</sup> 10:23 18:2 46:17  <b>measure</b> <sup>[2]</sup> 30:18 60:25  <b>mechanism</b> <sup>[1]</sup> 4:21  <b>mechanisms</b> <sup>[1]</sup> 12:18  <b>meet</b> <sup>[7]</sup> 7:15,19 15:7 18:24 19:4,22 38:10  <b>meeting</b> <sup>[2]</sup> 7:24 19:8  <b>memory</b> <sup>[1]</sup> 57:17  <b>MICHAEL</b> <sup>[3]</sup> 1:19 2:6 32:6  <b>might</b> <sup>[5]</sup> 7:21 12:17 31:19 33:1 41:16  <b>million</b> <sup>[17]</sup> 35:6 55:22 56:12,14,15 57:3,13,13,19,24 58:1,5,6 60:4,4 63:11,23  <b>millions</b> <sup>[2]</sup> 25:16,24  <b>mind</b> <sup>[12]</sup> 4:25 9:2 14:6 18:22 20:1 28:3 43:14 44:2,23 45:2 46:15 68:11  <b>mine-run</b> <sup>[1]</sup> 37:5  <b>minimize</b> <sup>[1]</sup> 51:25</p>
<b>J</b>		<b>L</b>	



## Official

<p><b>provided</b> [1] 65:22  <b>providing</b> [2] 25:16 65:2  <b>proving</b> [1] 13:3  <b>provision</b> [15] 4:10 5:7 16:7,8 18:3,12 20:3 23:10 28:4,4 29:1 40:22 45:5 61:9,15  <b>provisions</b> [6] 3:24 4:25 20:4,5 62:16 65:8  <b>proximate</b> [2] 38:15 62:18  <b>proximately</b> [6] 25:6 38:23 40:3,5 43:21 64:6  <b>public</b> [1] 54:20  <b>purpose</b> [8] 4:5 37:24 38:1,5,10 45:7 46:2 64:15  <b>purposes</b> [2] 44:21 58:12  <b>purposivist</b> [2] 37:19 38:13  <b>pursue</b> [1] 63:4  <b>put</b> [1] 14:18  <b>puts</b> [1] 31:8  <b>Putting</b> [2] 33:13 62:17</p>	<p>2 57:4 62:4,14 63:5,7 65:14  <b>recoverable</b> [1] 21:22  <b>recovery</b> [2] 27:1 65:19  <b>redundant</b> [1] 11:11  <b>refer</b> [2] 13:11 53:3  <b>referenced</b> [1] 20:6  <b>referred</b> [2] 65:1 68:16  <b>referring</b> [1] 20:17  <b>refers</b> [1] 54:25  <b>reflects</b> [4] 32:21 34:18 37:23 48:5  <b>regard</b> [2] 50:4 56:7  <b>regrettably</b> [1] 28:8  <b>regulations</b> [1] 53:24  <b>reject</b> [2] 18:4 20:20  <b>rejected</b> [1] 66:2  <b>related</b> [24] 3:16 10:5,8 21:15,18 22:17 25:9 26:12,13,14,20,23 27:14 28:11,23 29:5 35:11 36:5,13,19 37:2 48:22 68:17,20  <b>relatedly</b> [1] 36:16  <b>relief</b> [5] 4:1 11:3 28:5 65:3,9  <b>remaining</b> [1] 56:17  <b>remedy</b> [1] 62:24  <b>remotely</b> [1] 24:11  <b>repeatedly</b> [2] 65:2 68:16  <b>report</b> [3] 14:18 52:22,23  <b>reports</b> [1] 31:13  <b>representative</b> [1] 21:21  <b>request</b> [4] 17:21,23 19:11 20:11  <b>requested</b> [2] 51:13,14  <b>requiring</b> [2] 5:4 68:9  <b>reserve</b> [1] 32:1  <b>residual</b> [2] 6:15 7:4  <b>resolve</b> [1] 12:19  <b>resource</b> [1] 12:14  <b>resources</b> [2] 54:19,20  <b>respect</b> [2] 37:11 39:22  <b>respectfully</b> [2] 45:15 47:10  <b>Respondent</b> [4] 1:7,21 2:7 32:7  <b>response</b> [2] 17:20 46:16  <b>responses</b> [2] 21:24 23:4  <b>responsibility</b> [1] 6:24  <b>rest</b> [2] 34:22 49:12  <b>Restitution</b> [57] 3:11,24 4:6,18,21 5:2,4,16 10:4,21,24 11:17 12:5 13:13 23:9 30:1 32:10 34:23 36:1 38:20 40:10,24,24 42:18 45:3 49:9,24,25 50:1,4 51:12,13 52:1,16 55:16,20 56:2,5,13,16,19 57:18 58:5 59:13 60:9,22,24 61:17 63:3,7,21 64:12,16 65:4 66:2,7,21  <b>restoring</b> [1] 64:13  <b>result</b> [6] 23:2 24:3,19,23 37:17 38:15  <b>resulting</b> [3] 23:19,21 24:21  <b>results</b> [2] 6:7 68:5  <b>resume</b> [1] 31:9  <b>return</b> [1] 24:10  <b>reveal</b> [2] 33:25 54:9  <b>reveals</b> [1] 48:18  <b>reverse</b> [2] 33:4 49:22  <b>Reves</b> [1] 18:11  <b>RICO</b> [1] 18:12</p>	<p><b>Rights</b> [1] 42:1  <b>ROBERTS</b> [19] 3:3 6:2,20 14:11,25 15:10,13,20 30:14 32:3 46:23 47:2 52:4 56:10 58:2 59:16,20 64:19 69:1  <b>role</b> [1] 34:5  <b>routinely</b> [2] 34:4,19  <b>rule</b> [3] 41:19,20 51:19  <b>run</b> [1] 25:24</p>	<p><b>situation</b> [3] 14:17 30:20 33:9  <b>situations</b> [2] 45:13 46:18  <b>slow</b> [1] 11:25  <b>small</b> [2] 9:17 26:2  <b>sociis</b> [1] 26:19  <b>Solicitor</b> [1] 1:19  <b>somehow</b> [1] 66:1  <b>someone</b> [10] 7:23 9:4 10:20 18:16 20:10,23 24:16 29:7 31:24 36:18  <b>someone's</b> [1] 18:13  <b>Sometimes</b> [3] 48:9,10,15  <b>somewhere</b> [1] 22:10  <b>soon</b> [1] 14:19  <b>sorry</b> [4] 46:25 56:9 57:1 59:19  <b>sort</b> [10] 36:3 45:2,23 46:17 51:11 52:16 53:7 54:7 55:7 59:9  <b>sorts</b> [5] 12:19 38:17 63:6 66:20 67:20  <b>SOTOMAYOR</b> [32] 21:17 22:22 25:8 32:17 33:3,8,20 38:19 39:16 40:14 41:5 46:21,25 56:9,11,21,24 57:6,10,14,16,21 59:18 61:4,11,21 62:5,15 63:10,16 65:6 67:14  <b>sounds</b> [1] 8:22  <b>Spade</b> [2] 9:19 31:8  <b>Spade's</b> [1] 31:19  <b>specific</b> [8] 4:25 6:11,13 41:14 49:6 51:16 62:19 67:19  <b>specifically</b> [5] 11:21 12:4 20:6 25:3 39:3  <b>specified</b> [3] 61:14 62:7,17  <b>spend</b> [3] 24:2 52:16 58:8  <b>spending</b> [2] 24:2,18  <b>spent</b> [7] 24:10,22 27:21 35:6 47:15 56:12,22  <b>standpoint</b> [1] 32:22  <b>start</b> [3] 14:19 31:6,11  <b>started</b> [2] 9:10,14  <b>starts</b> [3] 48:9,11 67:23  <b>state</b> [3] 15:24 16:3 17:18  <b>state-level</b> [1] 48:10  <b>statement</b> [1] 42:18  <b>statements</b> [2] 4:3 8:15  <b>STATES</b> [5] 1:1,6,14 3:5 38:4  <b>statute</b> [53] 3:24 4:7 10:3,4,11,20 12:1,22 13:11 16:21 18:21 22:15 24:14 26:10,16 28:1,2 32:13,21 33:18 34:7,9,18 35:23 36:16 37:3,20,23,25 38:7,21 39:9 40:20 43:10,23 44:1,5,24 47:5 50:22 51:6,7 52:19 53:6 54:25 55:7 62:11 64:15 65:2 66:5 68:1,11,21  <b>statutes</b> [5] 38:20 40:10,15 65:7,17  <b>statutory</b> [6] 4:9 10:22 23:10,15 39:18 68:8  <b>step</b> [2] 18:19 24:9  <b>steps</b> [2] 51:25 52:5  <b>still</b> [8] 6:9 13:16,17 15:15 18:7 26:8 31:17 51:25  <b>stole</b> [1] 55:22  <b>stop</b> [2] 10:22 41:3  <b>stopping</b> [1] 36:24</p>
<b>S</b>			
<p><b>question</b> [6] 5:24 8:12 38:13 49:22 54:12 61:5  <b>questioned</b> [1] 19:14  <b>questioning</b> [1] 8:16  <b>questions</b> [2] 64:17 68:25  <b>quibble</b> [1] 50:8  <b>quick</b> [1] 64:25  <b>quite</b> [8] 10:7 15:18 17:12 20:9,12 24:6 43:2 60:14</p>			
<b>Q</b>			
<p><b>question</b> [6] 5:24 8:12 38:13 49:22 54:12 61:5  <b>questioned</b> [1] 19:14  <b>questioning</b> [1] 8:16  <b>questions</b> [2] 64:17 68:25  <b>quibble</b> [1] 50:8  <b>quick</b> [1] 64:25  <b>quite</b> [8] 10:7 15:18 17:12 20:9,12 24:6 43:2 60:14</p>			
<b>R</b>			
<p><b>raised</b> [2] 11:21 23:15  <b>rational</b> [1] 23:12  <b>reach</b> [1] 23:16  <b>read</b> [9] 10:11 18:19 22:7,14 24:14 26:16 28:2 32:17,19  <b>readily</b> [1] 43:14  <b>reading</b> [7] 4:11 13:25 16:20,21 22:15,19 23:19  <b>real</b> [1] 64:3  <b>realized</b> [1] 5:4  <b>realizes</b> [1] 60:12  <b>really</b> [17] 23:6,18 24:7 27:21 37:12 41:18 45:9,11,22 49:14,16 52:10 55:23 56:3 59:3 62:2,23  <b>realm</b> [1] 55:9  <b>reason</b> [8] 26:7 30:10 37:17 45:15 47:11 55:2,3 60:16  <b>reasonable</b> [5] 50:19,19 51:4,9,23  <b>reasonably</b> [1] 67:7  <b>reasons</b> [7] 7:1 13:4,5 21:16 36:10 53:21 64:10  <b>REBUTTAL</b> [2] 2:8 64:22  <b>receive</b> [1] 54:18  <b>recent</b> [1] 39:5  <b>recently</b> [1] 51:8  <b>recognizes</b> [1] 58:21  <b>recompense</b> [1] 4:22  <b>record</b> [1] 66:22  <b>records</b> [2] 19:16 20:11  <b>recoup</b> [1] 21:11  <b>recover</b> [10] 25:21 30:15 32:11 40:</p>			

## Official

<p><b>strange</b> <sup>[1]</sup> 27:8  <b>Strawn</b> <sup>[1]</sup> 67:1  <b>street</b> <sup>[2]</sup> 47:18 58:9  <b>stress</b> <sup>[1]</sup> 51:10  <b>stretches</b> <sup>[1]</sup> 23:24  <b>strictly</b> <sup>[1]</sup> 38:13  <b>strikes</b> <sup>[1]</sup> 43:23  <b>structuring</b> <sup>[1]</sup> 41:21  <b>stuck</b> <sup>[2]</sup> 34:13,15  <b>studies</b> <sup>[1]</sup> 66:18  <b>stuff</b> <sup>[2]</sup> 6:5 43:13  <b>stumble</b> <sup>[1]</sup> 10:17  <b>subject</b> <sup>[2]</sup> 25:18 52:24  <b>submission</b> <sup>[1]</sup> 40:4  <b>submitted</b> <sup>[2]</sup> 69:2,5  <b>subsection</b> <sup>[6]</sup> 5:1 10:17 12:3 16:11 65:5 66:8  <b>subsections</b> <sup>[1]</sup> 24:14  <b>subset</b> <sup>[1]</sup> 26:2  <b>substantial</b> <sup>[3]</sup> 58:25 63:3 64:1  <b>substantive</b> <sup>[2]</sup> 38:1 64:15  <b>suffers</b> <sup>[1]</sup> 28:8  <b>sufficient</b> <sup>[1]</sup> 29:9  <b>suggest</b> <sup>[2]</sup> 14:12 46:10  <b>suggested</b> <sup>[1]</sup> 65:25  <b>suggests</b> <sup>[5]</sup> 11:15 18:20,22 23:18 58:15  <b>suit</b> <sup>[1]</sup> 61:7  <b>suits</b> <sup>[2]</sup> 53:22,23  <b>summarizing</b> <sup>[1]</sup> 52:23  <b>support</b> <sup>[1]</sup> 18:10  <b>supported</b> <sup>[1]</sup> 31:22  <b>supports</b> <sup>[1]</sup> 23:12  <b>suppose</b> <sup>[6]</sup> 8:13 13:10,10 16:25 19:10,14  <b>supposed</b> <sup>[3]</sup> 44:15 54:14,21  <b>SUPREME</b> <sup>[2]</sup> 1:1,13  <b>Surely</b> <sup>[3]</sup> 22:4 25:23 68:10  <b>surprised</b> <sup>[1]</sup> 38:3  <b>survive</b> <sup>[1]</sup> 25:19  <b>system</b> <sup>[3]</sup> 41:7 60:24 64:12</p>	<p>44:18 50:24 60:16 61:8 62:1 68:20  <b>therefore</b> <sup>[1]</sup> 24:3  <b>They'll</b> <sup>[2]</sup> 14:18 19:2  <b>they've</b> <sup>[2]</sup> 10:10 28:15  <b>thinking</b> <sup>[8]</sup> 18:23 22:5 24:7 29:7 33:18 44:6 46:14 48:21  <b>thinks</b> <sup>[2]</sup> 9:11,17  <b>third-party</b> <sup>[1]</sup> 67:2  <b>though</b> <sup>[3]</sup> 17:12 27:13 40:8  <b>thousands</b> <sup>[6]</sup> 5:5 12:2,24 30:5,5,9  <b>three</b> <sup>[2]</sup> 14:20 35:11  <b>throughout</b> <sup>[1]</sup> 49:12  <b>Title</b> <sup>[2]</sup> 5:15 16:7  <b>today</b> <sup>[1]</sup> 57:25  <b>together</b> <sup>[2]</sup> 32:19 57:14  <b>took</b> <sup>[1]</sup> 52:5  <b>tools</b> <sup>[1]</sup> 63:6  <b>top</b> <sup>[1]</sup> 9:18  <b>total</b> <sup>[1]</sup> 57:18  <b>translate</b> <sup>[1]</sup> 41:22  <b>transportation</b> <sup>[13]</sup> 3:13 6:14 7:7,20 8:7 13:12 19:21 22:13 34:12 42:20 43:6 65:12,15  <b>traveling</b> <sup>[1]</sup> 19:3  <b>trial</b> <sup>[1]</sup> 48:25  <b>tricky</b> <sup>[1]</sup> 53:10  <b>tries</b> <sup>[1]</sup> 4:2  <b>trouble</b> <sup>[1]</sup> 53:6  <b>true</b> <sup>[7]</sup> 5:17 23:23 33:17,23,23 40:13 48:20  <b>try</b> <sup>[3]</sup> 23:8 27:23 58:4  <b>trying</b> <sup>[5]</sup> 25:4,20 28:22 29:19 66:11  <b>turn</b> <sup>[1]</sup> 68:9  <b>two</b> <sup>[11]</sup> 7:1 21:7,16,23 35:20 41:16 47:3,17 49:21 52:18 55:23  <b>type</b> <sup>[3]</sup> 20:21 34:24 52:20  <b>types</b> <sup>[2]</sup> 29:17 46:18  <b>typical</b> <sup>[2]</sup> 33:19,20</p>	<p><b>unreasonable</b> <sup>[1]</sup> 55:7  <b>until</b> <sup>[2]</sup> 31:6,11  <b>up</b> <sup>[16]</sup> 4:2 11:23 14:19 17:10,11 18:21 25:25 27:2,10,22 29:20 31:2 34:22 39:2 42:9 43:6  <b>uphold</b> <sup>[1]</sup> 23:8  <b>upholding</b> <sup>[1]</sup> 25:2  <b>useful</b> <sup>[1]</sup> 31:19  <b>using</b> <sup>[1]</sup> 38:25</p>	<p><b>witnesses</b> <sup>[1]</sup> 15:7  <b>wondering</b> <sup>[2]</sup> 44:14 58:10  <b>word</b> <sup>[8]</sup> 13:25 14:2 35:18,23 48:1 49:18 50:22 51:7  <b>wording</b> <sup>[1]</sup> 10:10  <b>words</b> <sup>[3]</sup> 38:22,22,25  <b>work</b> <sup>[10]</sup> 7:17 15:6 18:13 20:21 25:9 29:21 31:20 52:10 53:15 55:1  <b>working</b> <sup>[1]</sup> 31:24  <b>works</b> <sup>[1]</sup> 23:18  <b>worried</b> <sup>[2]</sup> 61:22,23  <b>worry</b> <sup>[3]</sup> 53:21,22,23  <b>written</b> <sup>[1]</sup> 44:1  <b>wrongdoer</b> <sup>[1]</sup> 41:24  <b>wrongdoer's</b> <sup>[1]</sup> 55:13  <b>wrote</b> <sup>[1]</sup> 44:23</p>
<p style="text-align: center;"><b>T</b></p> <p><b>talked</b> <sup>[2]</sup> 46:23 47:2  <b>talks</b> <sup>[1]</sup> 47:5  <b>target</b> <sup>[1]</sup> 24:8  <b>task</b> <sup>[2]</sup> 51:15 66:13  <b>tens</b> <sup>[5]</sup> 5:5 12:2,23 30:5,8  <b>term</b> <sup>[9]</sup> 5:2 26:6 29:1,4 40:9 48:4 50:19 68:19,22  <b>terms</b> <sup>[10]</sup> 7:13 20:7 26:17,19 38:6,6 39:18 63:5 67:22 68:13  <b>test</b> <sup>[2]</sup> 38:10,12  <b>testify</b> <sup>[6]</sup> 7:16 18:25 27:10,15 29:20 30:23  <b>testing</b> <sup>[1]</sup> 52:24  <b>Texas</b> <sup>[1]</sup> 1:17  <b>text</b> <sup>[4]</sup> 3:22 4:9 13:25 40:18  <b>textual</b> <sup>[1]</sup> 14:5  <b>themselves</b> <sup>[2]</sup> 63:18 66:15  <b>theory</b> <sup>[9]</sup> 3:21 9:1,3 15:3,11 17:8 20:18 22:25 23:17  <b>there's</b> <sup>[16]</sup> 11:19 14:12 17:7 23:11 24:20 29:7,9 32:24 33:1 39:5</p>	<p style="text-align: center;"><b>U</b></p> <p><b>U.S</b> <sup>[2]</sup> 17:1,2  <b>uncollected</b> <sup>[3]</sup> 49:13 56:2 60:23  <b>uncollectible</b> <sup>[1]</sup> 55:18  <b>uncover</b> <sup>[1]</sup> 34:20  <b>under</b> <sup>[19]</sup> 5:6,10,10,22 7:2,2 8:5,19,25 15:3 16:12 18:1 19:21 23:1,13 24:13 26:18 30:9 57:19  <b>underlying</b> <sup>[1]</sup> 6:1  <b>understand</b> <sup>[6]</sup> 17:19 20:10 34:7,24 38:2 45:25  <b>understood</b> <sup>[3]</sup> 34:4 43:15 50:12  <b>undisputed</b> <sup>[1]</sup> 51:21  <b>unfortunately</b> <sup>[1]</sup> 28:7  <b>unitary</b> <sup>[1]</sup> 17:8  <b>UNITED</b> <sup>[5]</sup> 1:1,6,13 3:5 38:4  <b>Unless</b> <sup>[1]</sup> 64:17  <b>unlike</b> <sup>[3]</sup> 3:25,25 62:16  <b>unlikely</b> <sup>[1]</sup> 61:24  <b>unnecessary</b> <sup>[1]</sup> 24:24  <b>unpaid</b> <sup>[2]</sup> 50:1 57:3  <b>unraveling</b> <sup>[1]</sup> 47:16</p>	<p style="text-align: center;"><b>W</b></p> <p><b>wanted</b> <sup>[10]</sup> 6:16 7:8 8:8 27:1 29:2,24 43:12 45:4 46:20 65:9  <b>wants</b> <sup>[2]</sup> 41:12 51:20  <b>Washington</b> <sup>[2]</sup> 1:9,20  <b>watching</b> <sup>[1]</sup> 22:12  <b>way</b> <sup>[10]</sup> 10:23 11:19 21:13 33:4,19,20 34:25 44:15 50:23 61:10  <b>ways</b> <sup>[2]</sup> 36:2 59:15  <b>wealthy</b> <sup>[1]</sup> 60:15  <b>Wednesday</b> <sup>[1]</sup> 1:10  <b>whatever</b> <sup>[1]</sup> 19:5  <b>Whereupon</b> <sup>[1]</sup> 69:4  <b>wherever</b> <sup>[1]</sup> 7:18  <b>whether</b> <sup>[11]</sup> 25:17,18 33:9,11 36:13 51:1,4 53:13 54:2 58:4 60:3  <b>who's</b> <sup>[1]</sup> 58:6  <b>whoever</b> <sup>[1]</sup> 12:16  <b>whole</b> <sup>[5]</sup> 26:16 39:10 42:12 62:18 63:24  <b>will</b> <sup>[12]</sup> 15:25 19:2 23:13 41:13,14 48:25 52:22 55:14,15,18 60:18,20  <b>win</b> <sup>[1]</sup> 13:17  <b>Winston</b> <sup>[1]</sup> 66:25  <b>wisdom</b> <sup>[1]</sup> 63:21  <b>wish</b> <sup>[1]</sup> 12:16  <b>within</b> <sup>[4]</sup> 21:14 24:12 40:6 64:4  <b>without</b> <sup>[3]</sup> 50:4 56:6 63:11  <b>witness</b> <sup>[4]</sup> 8:1 29:19 31:13 66:4</p>	<p style="text-align: center;"><b>Y</b></p> <p><b>year</b> <sup>[5]</sup> 5:6 12:3,24 30:6,10  <b>years</b> <sup>[3]</sup> 47:17 53:6 55:23</p>