



## 1 APPEARANCES CONTINUED:

2

3 For the Defendant: SHAW, BRANSFORD, VEILLEUX & ROTH  
4 James Sherman 1100 Connecticut Avenue, N.W.  
Suite 900  
Washington, D.C. 20036

5

BY: DEBRA L. ROTH, ESQ.

6

7

8 For the Defendant: DENNIS C. BARGHAAN, JR.  
A.G. Ashcroft Office of the U.S. Attorney  
Eastern District of Virginia  
Civil Division  
2100 Jamieson Avenue  
10 Alexandria, Virginia 22314

11

12

13 For the Defendant: CROWELL MORING  
Dennis Hasty 1001 Pennsylvania Avenue, N.W.  
Washington, DC 20004

14

BY: DAVID BELL, ESQ.  
MICHAEL L. MARTINEZ, ESQ.

15

16

17 For the Defendant: WILLIAM ALDEN McDANIEL, JR., ESQ.  
James Ziglar 118 West Mulberry Street  
Baltimore, Maryland 21201

18

19

20 For the Defendant: DUVAL & STACHENFELD LLP  
Michael Zenk 101 Park Avenue  
New York, N.Y. 10178

21

BY: JOSHUA KLEIN, ESQ.

22

23

24 Pro Se: JOSEPH J. CUCITI  
US Dept of Homeland Security  
26 Federal Plaza  
25 New York, N.Y. 10278

1 Court Reporter: Gene Rudolph  
2 225 Cadman Plaza East  
3 Brooklyn, N.Y. 11201

4 Proceedings recorded by mechanical stenography, transcript  
5 produced by computer-aided transcription.

6

7

8

\*\*\*\*\*

9

10

11

12 THE CLERK: Turkmen v. Ashcroft.

13 THE COURT: Okay. Good morning, everyone.

14 Would the people who intend to argue in support of  
15 and in opposition to the motions -- it has been awhile,  
16 welcome back, nice to see you all, a lot of water under the  
17 bridge -- for my benefit, starting with the defendants' table,  
18 people who are going to argue, just stand and say your name,  
19 please.

20 MR. BARGHAAN: Good morning, Your Honor.

21 Dennis Barghaan from the US Attorney's Office in  
22 Alexandria, Virginia, on behalf of Attorney General Ashcroft.

23 THE COURT: Good morning.

24

25 MR. LAWRENCE: Good morning, Your Honor.

1           Assistant United States Attorney Craig Lawrence on  
2 behalf of Director Muller.

3           THE COURT: Good morning.

4

5           MR. BELL: Good morning, Your Honor.

6           David Bell from Crowell Moring in Washington, on  
7 behalf of former warden Dennis Hasty, along with Michael  
8 Martinez, who is here as well.

9           THE COURT: Good morning.

10          MR. McDANIEL: Good morning, Your Honor.

11          William McDaniel on behalf of the defendant James  
12 Ziglar.

13          THE COURT: Good morning, sir.

14          MS. ROTH: Good morning.

15          Debra Roth on behalf the defendant James Sherman.

16          THE COURT: Good morning, Ms. Roth.

17          MR. KLEIN: Good morning, Your Honor.

18          Joshua Klein on behalf of the former warden Michael  
19 Zenk.

20          THE COURT: Say your last name again, sir.

21          MR. KLEIN: Klein, Your Honor.

22          THE COURT: Klein. Good morning, Mr. Klein.

23          MR. KLEIN: Good morning.

24          MS. MEEROPOL: Good morning, Your Honor.

25          Rachel Meeropol for the Center for Constitutional

1 Rights on behalf of plaintiffs.

2 THE COURT: Good morning.

3 All right. Who is going first?

4 MR. BARGHAAN: I'll volunteer, Your Honor.

5 THE COURT: Okay. Come on up.

6 MR. BARGHAAN: Good morning, Your Honor.

7 Once again, may it please the Court, my name is  
8 Dennis Barghaan. I am here on behalf of attorney -- former  
9 Attorney General John Ashcroft in his individual capacity.

10 Your Honor, the parties collectively I know have  
11 submitted something on the nature of 250 pages of briefing on  
12 these subjects and I certainly will not pretend that the Court  
13 has not read them, analyzed and digested them and that the  
14 Court needs me to recitate all of our arguments writ large to  
15 you this morning. If it pleases the Court, I will simply  
16 provide a précis of our motion on what I think is the most  
17 contentious position, that being personal involvement and the  
18 application of the teachings of Iqbal and the Supreme Court to  
19 the fourth amended complaint. I will do so very briefly.

20 Your Honor, Iqbal now teaches and explains that a  
21 government official may only be subjected to the burdens of  
22 suit given the qualified immunity doctrine that provides  
23 extensive protection from civil liability through, quote, his  
24 own actions and that those actions have to have violated the  
25 Constitution.

1           Nothing that the plaintiffs have alleged in this  
2 case with respect to the former Attorney General's own actions  
3 come close to meeting the significant hurdle. The only  
4 allegation that is with respect to the Attorney General's own  
5 actions that relates to the plaintiffs' remaining claims avers  
6 that the former Attorney General developed a policy, that the  
7 detainees who were -- the individuals who were detained as a  
8 part of the PENTTBOM investigation were to be subjected to  
9 maximum pressure to obtain their cooperation by any means  
10 possible. That is the extent of their complaint with respect  
11 to the Attorney General's own actions.

12           Plaintiffs do not even attempt in their opposition  
13 to suggest that this vague policy on its own violates the  
14 Constitution of the United States. Rather, they say that the  
15 true unconstitutional conduct, the specific conditions  
16 themselves, were developed by others at another time, at  
17 another place. Indeed, the inspector general's report which  
18 is attached and incorporated into the plaintiffs' complaint  
19 says the very same thing, that other individuals developed  
20 those conditions.

21           Indeed, plaintiffs even concede in their opposition  
22 that it was left to others to implement that vague policy.  
23 So, at bottom, Your Honor, the plaintiffs' complaint and the  
24 plaintiffs' position here is that it is acceptable to hold the  
25 Attorney General of the United States liable in his individual

1 capacity for a policy that is constitutionally neutral on its  
2 face, that was allegedly morphed into an unconstitutional  
3 application later on down the road. That, Your Honor, asks  
4 this Court to ignore Iqbal. It asks this Court to say  
5 good-bye to the Supreme Court and return to the Conley against  
6 Gibson any set of facts rubric, which the Supreme Court  
7 destroyed in Twombly and applied in the Bivens context in  
8 Iqbal. But not only does that violate the generic rubric of  
9 Rule 12 analysis, but it also runs afoul of what Iqbal  
10 requires this Court to do, which is to apply its own judicial  
11 experience and common sense to the allegations of the  
12 complaint.

13           Your Honor, what informs Iqbal is that leaders have  
14 to make -- be able to make general pronouncements and expect  
15 to rely on the constitutional oath, a similar oath that your  
16 clerk just provided to these attorneys, to uphold the  
17 Constitution of the United States. Otherwise, government  
18 grinds to a halt. It grinds to a halt because in order to  
19 avoid personal financial ruin, leaders, such as the Attorney  
20 General of the United States, will have to look over their  
21 shoulder at all times, to make sure that every minute detail  
22 of their policies is being applied in an appropriate fashion.

23           The Supreme Court has rejected that notion for well  
24 over a century. In Robinson against Sichel, in 1888, Your  
25 Honor, the Supreme Court said that the -- what would become

1 the qualified immunity doctrine ensured that individuals were  
2 not held liable because of things that they could not  
3 possibly, given the hours in the day, protect against.

4 At the end, Your Honor, that is exactly what the  
5 plaintiffs ask this Court to do, is to ensure that future  
6 leaders, our present Attorney General, our other present  
7 cabinet members and other leaders in government who are  
8 looking at this case, say when I give a general policy,  
9 apprehend this fugitive by any means possible, that the  
10 Attorney General of the United States can be held liable when  
11 a Deputy United States Marshal breaks into the wrong house.

12 THE COURT: What if the allegation here, and I am  
13 intending to quote from the complaint when I say that -- the  
14 complaint currently says that the people in the MDC needed to  
15 be -- quote -- needed to be encouraged in any way possible to  
16 cooperate. What if instead of saying that -- I understand  
17 your argument. Your argument is that that's not illegal,  
18 correct?

19 MR. BARGHAAN: Correct.

20 THE COURT: What if the allegation were, in any way  
21 possible, legal or illegal, would that change the outcome?

22 MR. BARGHAAN: I think it might. I think that it  
23 might.

24 THE COURT: When you argue -- when you say that  
25 Ashcroft and Mueller -- you are representing only Ashcroft?

1 MR. BARGHAAN: That is correct.

2 THE COURT: You say he could be held responsible  
3 only for his own actions. You don't mean he has to literally  
4 himself have subjected the detainees to the kinds of abuse  
5 that are alleged in this complaint?

6 MR. BARGHAAN: Not at all.

7 The case law that we cite in our reply memorandum I  
8 think bears that out. For instance, there is a case in the  
9 Tenth Circuit, I think it's called Minx, in which a prosecutor  
10 was alleged to have violated the Fourth Amendment when agents  
11 executed a search warrant at a house based upon an affidavit  
12 that lacked probable cause. The allegations were that the  
13 prosecutor had drafted the affidavit. The Tenth Circuit said,  
14 the prosecutor could be held liable for that, assuming, of  
15 course, no absolute immunity is applied, because they clearly  
16 were the cause, they clearly were -- their conduct was the  
17 reason for the constitutional violation. That is to say, that  
18 it was the affidavit that lacked probable cause that led to  
19 the search. Her own actions were unconstitutional seeking a  
20 warrant based upon no probable cause.

21 Here, we don't have that.

22 THE COURT: Just so I am clear, because I think  
23 there is -- it is possible to conflate two separate questions  
24 here, which is what Iqbal did to supervisory liability --

25 MR. BARGHAAN: Yes.

1 THE COURT: -- on the one hand, and whether the  
2 allegations here satisfy the new world of pleading  
3 requirements, Iqbal and Twombly, as opposed to Conley versus  
4 Gibson.

5 On the first of those two, it sounds to me like you  
6 are not subscribing to the view that others may subscribe to,  
7 that supervisory liability, and particularly the five ways  
8 that the Second Circuit's Colon case describe how a supervisor  
9 can be held liable, you are not saying all of that is  
10 eviscerated by Iqbal, I take it?

11 MR. BARGHAAN: I am not.

12 Let me clarify what I am saying so that the record  
13 is clear.

14 There is no doubt that Iqbal altered what we might  
15 have already known as supervisory liability. Nothing in Iqbal  
16 says that a supervisor can never be held liable simply because  
17 they are a supervisor.

18 What Iqbal says and what it does to Colon is  
19 to -- is to mandate that only a supervisor's own actions, only  
20 his own conduct, his own affirmative conduct, can give rise to  
21 individual capacity liability. So --

22 THE COURT: I had misunderstood your position on  
23 this. I am not sure that's right. If you look at this list  
24 of -- there is a list of five ways in which prior to  
25 Iqbal -- and a question before me is whether this remains

1 true -- prior to Iqbal a supervisor could be held liable. You  
2 know the list in Colon, correct?

3 MR. BARGHAAN: Sure.

4 THE COURT: What remains of that list according to  
5 John Ashcroft?

6 MR. BARGHAAN: I don't know the exact list off the  
7 top of my head, Your Honor. I apologize.

8 THE COURT: Directly participated in the violation,  
9 we can all agree that that remains.

10 MR. BARGHAAN: Certainly remains.

11 THE COURT: Failed to remedy the violation after  
12 being informed of it by report or appeal.

13 MR. BARGHAAN: I think that's -- I think that Iqbal  
14 causes the death knell of that.

15 THE COURT: Third, created a policy or custom under  
16 which the violation occurred. You agree that remains?

17 MR. BARGHAAN: I would agree, that that  
18 is -- assuming of course, Your Honor -- I apologize for  
19 interrupting you.

20 THE COURT: That's okay.

21 MR. BARGHAAN: Assuming, of course, that the policy  
22 itself was unconstitutional, not that there was a policy and  
23 that others applied it in an unconstitutional fashion.

24 THE COURT: Understood.

25 Your argument here is that what's alleged is that a

1 constitutional policy was implemented in an unconstitutional  
2 way.

3 MR. BARGHAAN: That is correct.

4 THE COURT: That's the essence of your pleading  
5 claim?

6 MR. BARGHAAN: That's exactly right, Your Honor.

7 THE COURT: All right.

8 Four, was grossly negligent in supervising  
9 subordinates who committed the violation.

10 MR. BARGHAAN: Gone.

11 THE COURT: Five, was deliberately indifferent to  
12 the rights of others by failing to act on information that  
13 constitutional rights are being violated.

14 MR. BARGHAAN: That is the most controversial of  
15 them all and I believe that Iqbal destroys that as well. I  
16 think that there are a number of decisions both in this Court  
17 and in the Southern District of New York that holds just that.  
18 We understand there are cases that go the other way.

19 THE COURT: If a warden is walking down the hallway  
20 of the prison and sees someone who is handcuffed behind his  
21 back, face down, being beaten by guards and doesn't intervene,  
22 there is no more supervisor liability?

23 MR. BARGHAAN: As a matter of law, I think the  
24 answer to that is yes. I do not believe --

25 THE COURT: You can't be serious when you say that.

1 A warden walks down the mall and sees someone being beaten and  
2 there is no longer supervisory liability for a failure to  
3 intervene when intervention is possible?

4 MR. BARGHAAN: I think there is --

5 THE COURT: You are saying that?

6 MR. BARGHAAN: In your hypothetical, the warden  
7 actually sees the conduct?

8 THE COURT: Yes.

9 MR. BARGHAAN: Yes. Then in that circumstance,  
10 where the warden sees the conduct, I would concede, that it is  
11 possible for supervisory liability present.

12 THE COURT: That doesn't fall under either of the  
13 two prongs of Colon that you say are left.

14 MR. BARGHAAN: I think that's right.

15 THE COURT: So which is it? What's your argument?

16 MR. BARGHAAN: I think -- Your Honor, I am  
17 struggling here because I haven't thought of that issue much  
18 in this case because I don't believe it's pressed with respect  
19 to my client. I don't believe that there is an allegation in  
20 this complaint that --

21 THE COURT: I am trying --

22 MR. BARGHAAN: I understand.

23 THE COURT: I am trying to see what the contours of  
24 your legal argument are though. You said two things that are  
25 irreconcilable.

1 MR. BARGHAAN: At bottom, what Iqbal says, and I am  
2 not trying to be squirrely with you, Your Honor, in any way,  
3 shape or form.

4 THE COURT: I believe you.

5 MR. BARGHAAN: I am struggling with where the end  
6 line is. I think the Courts are struggling with it.

7 THE COURT: There are other examples, right?

8 MR. BARGHAAN: Sure.

9 THE COURT: A credible threat that one inmate is  
10 going to kill another inmate, it's brought to the warden's  
11 attention. It's credible. The warden decides to do nothing  
12 about it. Under your theory, there is no liability if that  
13 threat is carried out and the inmate is killed. That can't be  
14 right.

15 MR. BARGHAAN: Your Honor, I -- I don't agree with  
16 the Court's analysis. Whether it is right as a matter of what  
17 the law should be or what the law shouldn't be, I believe that  
18 that is what Iqbal is saying.

19 THE COURT: Why isn't Iqbal just saying that when  
20 the underlying tort requires invidious discriminatory intent,  
21 the supervisor has to share that intent before there can be  
22 supervisor liability? That's what your adversary says.

23 That's what Iqbal must mean. Why isn't that the sensible way  
24 of reading the supervisor -- I understand what Justice Scalia  
25 wrote. But as far as dissenters are concerned, the sky is

1 always falling. The majority opinion can easily be read to  
2 say that what was needed there was a sharing of the invidious  
3 discriminatory intent, nothing more; no hands-on activity in  
4 the tort.

5 MR. BARGHAAN: I wouldn't disagree with you. I  
6 don't think it harms my argument for my own client to say that  
7 perhaps Your Honor is right about that distinction. But at  
8 the end of the day I cannot, in my own mind, from a purely  
9 baldly legal perspective, square that with what the Iqbal  
10 majority specifically said, which is that it has to be the  
11 official's own actions, not the official's own misactions, not  
12 the official's own omissions, but the official's own actions  
13 that violate the Constitution.

14 But once again, Your Honor, I am not trying to  
15 circumvent your question, but for purposes of my own client's  
16 conduct that is alleged in this complaint, which is --

17 THE COURT: I understand that. You have a good  
18 argument, I think. That's why I think these are two separate  
19 issues. I think -- Ms. Meeropol will speak for herself on the  
20 sufficiency of the allegation that this pleading that just  
21 says any way possible gets her where she needs to get.  
22 Obviously, I don't think the limitations on supervisory  
23 liability advanced by the defendants, they can't be right.

24 MR. BARGHAAN: I accept Your Honor's view. I  
25 respectfully disagree.

1           Again, I would -- I would come back to whether or  
2 not that is right as a matter of where the law should be, I  
3 cannot square that with Iqbal's specific language that it has  
4 to be the official's own actions, not in actions, that cause  
5 the individual capacity liability.

6           THE COURT: Why couldn't the action be possessing  
7 the requisite discriminatory intent?

8           MR. BARGHAAN: I think that reads Iqbal too  
9 narrowly. Especially -- and I understand, Your Honor. I  
10 don't think I will make much headway here and I certainly  
11 don't want to beat my head up against the wall, nor be  
12 obstreperous. But I think I stated our position.

13          THE COURT: All right.

14          MR. BARGHAAN: Thank you. I thank the Court for its  
15 time today.

16          THE COURT: Thank you.

17          Who is next?

18          MR. LAWRENCE: May it please the Court, Assistant  
19 United States Attorney Craig Lawrence on behalf of Director  
20 Muller.

21                 I have little to add to Mr. Barghaan's argument and  
22 the papers that have been filed. I would just like to make a  
23 couple of points.

24                 First of all, the only independent things I believe  
25 that Director Muller is alleged to have done that haven't been

1 really covered by the direct pleadings, he ordered the -- that  
2 all tips be investigated. He ordered CIA name trace on those  
3 individuals, on individuals before they were either released  
4 or deported, and certainly neither of those elements are  
5 unconstitutional on their face, and in the context of  
6 qualified immunity, certainly there is no clearly established  
7 law that would say that Director Muller violated anyone's  
8 constitutional rights by ordering that all -- all individuals,  
9 all tips be investigated and that name traces be run on those  
10 individuals before they are cleared.

11           Beyond that, Your Honor, again, in the qualified  
12 immunity area, I would just point out that in the qualified  
13 immunity analysis, if the Court reaches that, in context of  
14 this case, the necessary predicate is context and the context  
15 has been deemed by the Supreme Court, and a very important  
16 element. That context as addressed in this case specifically  
17 by the Supreme Court endorsing, whether it was Judge Cabranes'  
18 opinion in the Second Circuit, that a national and  
19 international emergency unprecedented in the history of the  
20 American republic was what created the events here.

21           If that is context, it certainly -- if it is  
22 unprecedented in the eyes of the Supreme Court, then there is  
23 no clearly established law that would govern the processes  
24 which followed.

25           Now, that's fairly broad, but it is also the context

1 that both -- that Director Muller and the other individuals  
2 were operating in.

3 We join and urge the adoption of the special factors  
4 under the Immigration and Nationality Act, barring a Bivens  
5 suit, and we urge affirmance -- a dismissal on that ground and  
6 we also urge protection of qualified immunity.

7 I specifically join Mr. Barghaan's argument here  
8 this morning and in the briefs on the individual action that  
9 is required in order to get supervisory liability in the  
10 context of this case and we would ask that the claims against  
11 Director Muller be dismissed.

12 THE COURT: I think one of the difficult things  
13 about these motions is figuring out how far this context that  
14 you rely on travels in the case. I mean, we are dealing now  
15 with conditions of confinement. There was a time in the past  
16 when we were dealing with hold until clear and other aspects  
17 of the initial pleadings and I am not so sure that the  
18 resolution of those claims really depended on context so much  
19 as on Supreme Court law that was formulated extrinsic of this  
20 context, Whren, the ability of law enforcement officers to  
21 take actions that are supported by undisputed facts.

22 Right here the fact that these detainees had  
23 overstayed their visas, which on an objectively reasonable  
24 basis allowed the -- allowed federal law enforcement officers  
25 to take them into custody, even though they were only

1 interested in whether they were terrorists. That's all behind  
2 us. But it seems like for their part the defendants seek to  
3 have that feature of the case, the post 9/11, permeate  
4 everything else in the case, including conditions of  
5 confinement. Hang on a second. Because this -- part of this  
6 is directed at Ms. Meeropol as well. She will speak later.

7           It looks to me like the defendants contend that  
8 these detainees have lesser rights than the people in the cell  
9 next door at the MDC because of the context. I can't tell for  
10 sure but it looks like the plaintiffs might be suggesting they  
11 even have greater rights, page 24 of the plaintiffs' briefs  
12 there is a reference to there not being any legitimate  
13 justification for holding civil immigration detainees, not  
14 accused of crimes or terrorism, for whom there is no evidence  
15 of dangerousness, in the most restrictive conditions  
16 authorized, even if those conditions might lawfully be imposed  
17 in other situations on other prisoners.

18           I don't think they are arguing -- Ms. Meeropol will  
19 correct me if I am wrong -- I don't think they are arguing  
20 that the detainees had greater rights than the other guests at  
21 the MDC, most of them are pretrial detainees, but it seems  
22 pretty clear to me the defendants are arguing they had lesser  
23 rights, at least when it comes to qualified immunity.

24           MR. LAWRENCE: I mean --

25           THE COURT: Let me finish.

1 MR. LAWRENCE: Certainly. Excuse me.

2 THE COURT: I think once they are in custody, once  
3 they are there in the MDC, I am having difficulty with any  
4 rubric except one that says they have exactly the same rights  
5 as the other people who are being detained in the MDC. I am  
6 finding it difficult because I recall from the Second  
7 Circuit's decision, this context you rely upon seeped into the  
8 qualified immunity I think on a procedural due process point.

9 Anyway, I don't think it is cut and dried, what you  
10 say. I am not sure what the boundaries of your qualified  
11 immunity argument are. Are they qualifiedly immune as long as  
12 there is a suspicion that these folks are either terrorists or  
13 no terrorists? Does qualified immunity that extends to all of  
14 these abusive practices that are alleged? What are the  
15 boundaries of your qualified immunity argument?

16 MR. LAWRENCE: Part of -- one boundary, Your Honor,  
17 is the fact that there is a distinction, obviously, in the  
18 qualified immunity analysis between what is clearly  
19 established in the context and whether it's unconstitutional.  
20 It may very well be, if it is determined to be  
21 unconstitutional, the question is whether it was clearly  
22 established that it was unconstitutional in that context.

23 So that it could still -- this Court could still  
24 find that the conditions of confinement and I will -- I will  
25 turn to briefly on that in just a minute, a little bit more,

1 but to find them unconstitutional but in the context not  
2 clearly established. The Supreme Court has done that in any  
3 number of cases as it goes through and reaches its analysis.

4 THE COURT: What do you mean by the context? You  
5 can always make the spotlight, you can always tinker with the  
6 breadth of the -- how tight the spotlight is in a way affects  
7 the qualified immunity analysis.

8 Are you saying that it has to be clearly established  
9 that you can't beat somebody's head against the wall after a  
10 couple of skyscrapers have been bombed by terrorists? Is that  
11 what you are saying?

12 MR. LAWRENCE: Your Honor, I don't believe it goes  
13 to that specific level. But what I am saying here, and it's  
14 the analysis the Supreme Court employed in Wilson against  
15 Layne that dealt with the right on with the -- of police  
16 officers executing search warrants. The Supreme Court had no  
17 problem concluding that the -- that practice was  
18 unconstitutional, but they further had no problem concluding  
19 that it was not clearly established at the time so that  
20 the -- there is no personal liability of the officers.

21 Now, one element -- let's look briefly to some of  
22 the facts here -- and one of the claims is that the witness  
23 security procedures that were put in place with regard to  
24 these individuals was unconstitutional.

25 Well, it's the same procedure that they use in

1 attempting to protect witnesses that they have in custody and  
2 certainly in the context of an international -- national,  
3 international investigation, limiting the contacts with  
4 outside people of individuals who are being investigated at  
5 this point for possible connection to the terrorist attacks,  
6 even were this Court to conclude that that would be  
7 unconstitutional, certainly in the context of 9/11 it would  
8 not be clearly so because there has been nothing approaching  
9 that kind of context to guide Director Muller, Attorney  
10 General Ashcroft and the senior officials who looked at ways  
11 to protect the investigation.

12 In the context here, what we really are getting at  
13 is that, especially for the senior officials, Director Muller  
14 in particular, my client, nothing that has been alleged that  
15 he has been engaged in got to the level, as Mr. Barghaan  
16 pointed out with regard to General Ashcroft, got to the level  
17 of what was going on on the ground in the prison. Instead, it  
18 was a step removed and it was the hold until cleared policy,  
19 which Your Honor has already pointed out we are not really  
20 dealing with here.

21 THE COURT: How many of these alleged abuses -- you  
22 picked the one where -- where you -- probably the strongest  
23 argument for you, the communication of evidence. How many of  
24 these other abuses are you claiming it wasn't sufficiently  
25 clearly established?

1 MR. LAWRENCE: Your Honor, for Director Muller we  
2 don't have to get down to that level because Director Muller  
3 is not alleged to have directed, gotten -- engaged in any acts  
4 at MDC.

5 THE COURT: I am asking you to get down there. I am  
6 asking you whether or not you think because of this setting,  
7 Director Muller, if he's otherwise in the case, allegations  
8 are sufficient, he's qualifiedly immune from charges that  
9 there were unnecessary strip searches or there was  
10 air-conditioning in the winter and heat in the summer, people  
11 were placed on the roof with T-shirts in the wintertime? Is  
12 he qualifiedly immune from all of those abuses?

13 MR. LAWRENCE: Your Honor, I don't believe those  
14 allegations are specifically factually directly tied to  
15 Director Mueller. He is not alleged --

16 THE COURT: I am asking you -- I am trying again to  
17 define the limits, the contours of the argument you are  
18 advancing. I am asking you whether in this setting, Mueller  
19 or Ashcroft or any of these defendants, will be qualifiedly  
20 immune because this happened post 9/11 from liability for  
21 those abuses?

22 MR. LAWRENCE: Your Honor, in the context of the  
23 factual allegations in this Fourth Amendment complaint, I  
24 believe they would be, whether you look at it in terms of  
25 personal involvement, which is not adequately pleaded for

1 those violations, or for -- no facts are alleged as far as  
2 Director Mueller is concerned.

3 THE COURT: Suppose personal involvement were  
4 adequately pleaded and facts were alleged. Your position is  
5 because this happened post 9/11, there would be no qualified  
6 immunity for the most egregious abuses alleged in this  
7 complaint?

8 MR. LAWRENCE: I am not sure that you can go quite  
9 that far with qualified immunity, Your Honor.

10 THE COURT: How far do you go? Where does it go?

11 MR. LAWRENCE: It's a difficult line to draw.

12 Obviously, our point is that for Director Muller we  
13 need not draw it because of the factual allegations here. But  
14 as you get down to those individualized allegations, the claim  
15 that goes along with them is one that has to be examined very  
16 carefully to make that determination, whether it is  
17 sufficiently unique in the context as not to be covered by any  
18 clearly established law.

19 THE COURT: Does a case that the plaintiff would say  
20 establishes the law clearly, that case has to involve like the  
21 aftermath of a terrorist attack? Is that your point?

22 MR. LAWRENCE: Not necessarily. I am not sure that  
23 it would have to be quite that close. But it is going to take  
24 an analytical look at where that line has to be parsed because  
25 of the nature and the extraordinary nature of the situation

1 post 9/11.

2 THE COURT: All right.

3 MR. LAWRENCE: For these reasons we would ask that  
4 Director Muller be dismissed.

5 Thank you.

6 THE COURT: Thank you, Mr. Lawrence.

7 MR. McDANIEL: Good morning, Your Honor.

8 THE COURT: Good morning.

9 MR. McDANIEL: May it please the Court, William  
10 McDaniel for defendant James Ziglar who was head of the  
11 Immigration and Naturalization Service.

12 I would like to focus on the -- with regard to  
13 Mr. Ziglar on the prong of Iqbal that Your Honor did not  
14 address with Mr. Barghaan, which is the adequate pleading of  
15 facts of Mr. Ziglar's involvement in these activities.

16 Mr. Ziglar tends to get lumped in in the pleadings  
17 and even in some of the opinions that have been issued in this  
18 case by the appellate courts with the Director of the FBI and  
19 the Attorney General. But he is sued individually for what he  
20 did individually and I ask the Court please to focus on the  
21 allegations in the latest complaint regarding what Mr. Ziglar  
22 did or did not do.

23 In the plaintiffs' opposition papers to our motion,  
24 they identified specific paragraphs where they claimed that  
25 they had alleged Mr. Ziglar's involvement personally. We

1 addressed each of those in our reply papers. I think when it  
2 comes to conditions of confinement, which is what we are  
3 focused on here with this complaint, Mr. Ziglar is far  
4 removed, the most removed from that and the implementation of  
5 that policy.

6 He is involved in the decision to hold until cleared  
7 and that is about as specific as they get in their pleadings  
8 regarding Mr. Ziglar.

9 We just ask the Court to focus please upon the  
10 specific allegations regarding him, and our primary reliance  
11 in this motion is on the failure to allege specific acts of  
12 involvement by Mr. Ziglar.

13 THE COURT: Okay. Thank you, sir.

14 MR. McDANIEL: Thank you, Your Honor.

15 MR. BELL: Good morning, Your Honor.

16 Again, David Bell for the former warden Dennis  
17 Hasty.

18 THE COURT: Good morning.

19 MR. BELL: We focus a lot here on the conditions of  
20 confinement and I want to speak about a few issues.

21 First I will say that I think the issues are well  
22 briefed. I will try not to repeat everything in our papers.

23 THE COURT: If you don't say so yourself, you wrote  
24 a great brief.

25 MR. BELL: I'm sorry, Your Honor. I meant the

1 collective briefing by all counsel.

2 THE COURT: I am just needling you.

3 MR. BELL: Fair enough.

4 I will incorporate the arguments that have been made  
5 already by my fellow defense counsel this morning. There are  
6 some issues that are more focused on the wardens and Mr. Hasty  
7 in particular. I would like to kind of highlight for some of  
8 those this morning.

9 THE COURT: Sure.

10 MR. BELL: We separate our motion to dismiss into  
11 sort of two categories of claims. The first category is those  
12 that are based on policies that were set above Mr. Hasty's  
13 level. They are actually set at the BOP level. Some of these  
14 claims -- some of these -- some of these claims are based on  
15 policy such as the decision to create an ADMAX SHU. The  
16 decision --

17 THE COURT: Can I ask a question? I know I can. I  
18 am going to ask you a question.

19 Part of the wardens' claims is, includes we should  
20 be off the hook because we are just doing what we are told to  
21 do; right?

22 MR. BELL: Not quite that simple. That's the basic  
23 gist of it. They have to be facially valid orders. You can't  
24 just follow anything.

25 THE COURT: Right. But we are following facially

1 valid orders.

2 MR. BELL: Yes, Your Honor.

3 THE COURT: Okay. The defendants above -- I don't  
4 mean above in any sense other than they are out of the  
5 facility.

6 MR. BELL: Chain of command.

7 THE COURT: The Washington defendants say, we  
8 will -- we didn't tell them to do this. We told him to do  
9 something lawful. They implemented it in an allegedly  
10 unlawful way. They haven't said it this way, but may be they  
11 are on the hook but we are not. If they are right about the  
12 insufficiency of the allegations, then the case is dismissed  
13 against them.

14 Are you making this argument because you are taking  
15 at face value the allegations of the complaint, or is it the  
16 position of the wardens that what -- of Warden Hasty, is it  
17 the position of Warden Hasty that he was told, he was in  
18 essence implementing a direction to treat these inmates, these  
19 detainees in this fashion?

20 Do you understand what I am saying?

21 MR. BELL: I think so.

22 I think there is a difference between the different  
23 types of claims. The claims I am referring to in this section  
24 of the brief are more of the, for example, claims four and  
25 five, communications blackout claims.

1 THE COURT: Let's go to the more egregious ones.

2 MR. BELL: Okay. So I think -- you are probably  
3 referring more to the physical abuse type claims.

4 THE COURT: Right.

5 MR. BELL: These we would assert -- in our brief we  
6 discussed that plaintiffs have not established Mr. Hasty's  
7 personal involvement as to these claims. We are not making  
8 the -- we are just following --

9 THE COURT: You are just doing that as to four and  
10 five?

11 MR. BELL: Four and five and part of one and two,  
12 the part that rely on kind of the strict conditions, not the  
13 abusive conditions.

14 THE COURT: Okay.

15 MR. BELL: And if I may just go back briefly?

16 The reason we state these were -- Hasty's entitled  
17 to qualified immunity because he was acting in an objectively  
18 reasonable manner following facially valid orders, we base  
19 this on the IG report, that June 2003 IG report which  
20 explicitly states who created these policies. They were  
21 created at the senior BOP level. That's Director Cathleen  
22 Hawk Sawyer, Assistant Director Michael Cooksey, one of the  
23 regional directors David Rardin.

24 The IG reports goes into great detail about this and  
25 even interviews them and they talk about these policies, for

1 example the communication blackout policy.

2 Now, plaintiffs for some reason have not sued any of  
3 those officials and, as you know, Your Honor, in the  
4 Elmaghraby case those officials were sued and they are not  
5 sued here. That creates a big gap in the chain of command.  
6 You have the Washington defendants and you have the Brooklyn  
7 defendants with nobody in-between. Plaintiffs would suggest  
8 that it was actually Hasty who created the decision to do a  
9 communications blackout. We would suggest that's completely  
10 contracted by the OIG report.

11 THE COURT: Do you think -- obviously you do. I am  
12 saying this so you can address my concern. I understand these  
13 arguments that are being advanced but it seems to me they are  
14 so bound up in what the actual facts were, precisely what the  
15 policies were that the warden was asked to implement,  
16 precisely what happened, how they were implemented, and  
17 sometimes issues regarding qualified immunity just can't be  
18 determined at the 12(b)(6) stage because you need to know  
19 precisely what was in the mind of the actor. It is hard to  
20 say whether people, reasonable folks, could disagree as to  
21 whether their conduct was lawful until you know exactly what  
22 the facts are.

23 That's my problem with the qualified immunity  
24 arguments that are advanced by the wardens.

25 MR. BELL: Right. It is an understandable concern.

1           But as we briefed in our briefs, there are a number  
2 of cases that have at the motion to dismiss level reached the  
3 objective reasonableness prong.

4           THE COURT: Understood.

5           I don't mean to suggest that qualified immunity is  
6 never available at this stage.

7           MR. BELL: Right.

8           THE COURT: But these strike me as not hopelessly  
9 but inevitably fact bound qualified immunity claims and I take  
10 it you want me to take as, not gospel but as our facts of the  
11 case what's in the IG report?

12          MR. BELL: We do, Your Honor.

13          The reason why is that they have been attached to  
14 the complaint. They are actually part of the pleadings in  
15 this case. It's not something that we have tried to submit as  
16 an exhibit. It is something they have put in.

17          THE COURT: Okay.

18          MR. BELL: Just briefly on that point, I do want to  
19 address the issue of how we -- how we use the OIG report in  
20 this case.

21          Plaintiffs have suggested that they can attach the  
22 complaint to their pleadings and then only adopt the facts  
23 that are good for them. We asserted that's not appropriate at  
24 all. They have attached them. They are part of the  
25 pleadings.

1 THE COURT: I understand.

2 MR. BELL: If you don't like them, you can take them  
3 as well. Just real briefly --

4 THE COURT: They don't have to take them but you can  
5 hold their feet to the fire.

6 MR. BELL: We assert the Court should adopt the  
7 facts that are in the IG report.

8 Counsel Barghaan addressed the personal involvement  
9 issue fairly well and fairly thoroughly. I don't want to go  
10 into it too far. But I just want to notify the Court that  
11 this --

12 THE COURT: Do you subscribe to that view, by the  
13 way, that -- you represent a warden. The warden can walk down  
14 the hall, observe a constitutional tort, not intervene even  
15 though he has the opportunity and now after Iqbal has got no  
16 liability?

17 MR. BELL: I think that would fall under Colon  
18 Category five which is the deliberate indifference?

19 THE COURT: What's the answer?

20 MR. BELL: And as the Bellamy case has held, and as  
21 eleven other cases in the Second Circuit have held, that  
22 factor is out the door after Iqbal.

23 THE COURT: So there is no liability if the warden  
24 walks down the hall, watches someone get beaten to a pulp, has  
25 a chance to intervene but decides not to? That's the --

1           MR. BELL: Your Honor, I would create a distinction  
2 between whether it's another inmate or whether it's a  
3 correctional officer. Because the reason why -- it might seem  
4 confusing. The reason why is there is no subordinate -- there  
5 is no supervisor-subordinate relationship between the warden  
6 and another inmate. So --

7           THE COURT: So the supervisor could be held liable  
8 if who is being beating up who?

9           MR. BELL: I think -- in our brief we said -- we  
10 don't have any -- any problem with -- with the Farmer case.  
11 We are not saying that Iqbal overruled farmer. They didn't  
12 say that they did and I am not sure that they did.

13           But in Farmer there was no supervisory liability at  
14 all. There was an inmate on inmate offense. Whereas Colon  
15 was not. Colon was a supervisor-subordinate relationship and  
16 the issue was whether the subordinate correctional officer  
17 committed an offense.

18           THE COURT: Which of the two fights, which of the  
19 two beatings, can the warden walk away from with impunity?

20           MR. BELL: Your Honor, I believe Iqbal and numerous  
21 other cases have said that if it's a supervisor-subordinate  
22 relationship, then the deliberate indifference prong of the  
23 Colon test has been eliminated.

24           THE COURT: What's the answer to my question?

25           MR. BELL: So if it's a correctional officer who is

1 the subordinate, you may be committing an offense because  
2 the -- because the warden is a supervisor over that  
3 individual, he doesn't have supervisory liability.

4 THE COURT: So to summarize, the warden is walking  
5 down the hall of a facility. A corrections officer is beating  
6 an inmate to a pulp. The warden can walk away from that even  
7 though he had an opportunity to intervene without liability?  
8 But if it is an inmate beating an inmate, he can't?

9 MR. BELL: Your Honor, I think that's correct under  
10 the law that's been established both by Iqbal and by a number  
11 of courts. The list keeps growing.

12 Judge Scheindlin in Bellamy was the first, and right  
13 after Iqbal she reaffirmed herself, just in November.  
14 Actually just a few weeks ago, on February 17th, was the first  
15 case in the Eastern District, Judge Matsumoto in Warrender v  
16 United States, 2011 WL 703927. She said, I agree with the  
17 courts which have found that most of the Colon categories have  
18 been superseded by Iqbal. She included in that category Colon  
19 number five. So it -- Bellamy is not --

20 THE COURT: It doesn't mean it is right.

21 MR. BELL: Fair enough. But Bellamy is not a total  
22 outlier. There have been six judges in the Second Circuit  
23 that have done it now, eleven different cases. We submit,  
24 that's the correct reading of Iqbal.

25 THE COURT: Okay.

1 MR. BELL: If I might add, one final thought is even  
2 if the five Colon factors still exist, we would submit that  
3 plaintiffs still have not established the personal involvement  
4 of Dennis Hasty. The reason why is that Iqbal teaches us that  
5 threadbare recitals of the elements of a cause of action  
6 supported by mere conclusory statements are not enough to  
7 create personal involvement.

8 If you look at, for example, claim six, which is the  
9 excessive strip search claim, they said, defendants  
10 were -- defendants referring to Hasty -- were grossly  
11 negligent and were deliberately indifferent in their  
12 supervision. This is classic recitation of the Colon factors.  
13 They basically cited the Colon factor number four, Colon  
14 factor number five. They just recited the elements of the  
15 case. Under Iqbal that's not enough.

16 We would assert that personal involvement has not  
17 been established.

18 THE COURT: Thank you.

19 MR. BELL: Thank you.

20 THE COURT: Your colleague wants to have you say  
21 something else.

22 (Pause.)

23 MR. BELL: A few final thoughts?

24 THE COURT: Go ahead.

25 MR. BELL: Even in that situation, the hypothetical

1 that seems to be troubling you a lot, which is understandable,  
2 there are a few other facets --

3 THE COURT: I am actually not troubled by it all. I  
4 think there is a very easy answer to it.

5 But go ahead. You can address it.

6 MR. BELL: Just a few final thoughts.

7 The government itself still could be held liable and  
8 the actual correctional officer who was committing the offense  
9 can be held liable.

10 THE COURT: That's good.

11 MR. BELL: That's --

12 THE COURT: I am happy to hear that.

13 MR. BELL: That is a difference. If another inmate  
14 is beating somebody up, there is no one else -- there is no  
15 government official that can be held responsible, whereas a  
16 correction officer can be.

17 Thank you.

18 THE COURT: Thank you, sir.

19 MR. KLEIN: Good morning, Your Honor.

20 THE COURT: Good morning.

21 MR. KLEIN: Joshua Klein on behalf of the former  
22 warden Michael Zenk.

23 Your Honor, I will be brief.

24 I just wanted to highlight one point which we have  
25 highlighted in our briefs, which is the fact that Warden

1 Zenk's tenure at the MDC began on April 22, 2002.

2 THE COURT: Understood.

3 A lot of that is admitted by the plaintiffs.

4 MR. KLEIN: It is admitted.

5 Plaintiff's counsel attached an appendix to their  
6 opposition which now clearly delineates which claims have been  
7 brought against -- by each individual plaintiff against which  
8 defendants. Unfortunately, those claims in the complaint  
9 itself are grouped together, either on behalf of all MDC  
10 plaintiffs or all plaintiffs, and I would just respectfully  
11 ask, Your Honor, that any decision issued here clearly set  
12 forth that those claims brought on behalf of those detainees  
13 who are either not housed at the ADMAX SHU at the time Warden  
14 Zenk began or never housed at the ADMAX SHU be dismissed with  
15 prejudice.

16 That's it, Your Honor.

17 THE COURT: Okay.

18 MR. KLEIN: Thank you very much.

19 MS. ROTH: Good morning, Your Honor.

20 Debra Roth for defendant Sherman.

21 THE COURT: Good morning.

22 MS. ROTH: At this point I am going to defer to the  
23 positions and arguments of my colleagues above me, including  
24 Warden Hasty and Warden Zenk.

25 THE COURT: Okay.

1 MS. ROTH: Thank you.

2 THE COURT: Thank you.

3 Is that it?

4 Ms. Meeropol?

5 MS. MEEROPOL: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MS. MEEROPOL: I would like to begin by discussing  
8 the personal involvement of the Washington, DC defendants.

9 My opposing counsel correctly points to paragraph 61  
10 as the key paragraph against the DC defendants with respect to  
11 the conditions of confinement. But there is one portion of  
12 that paragraph that he left out, which was the fact that the  
13 allegation that the DC defendants not only mapped out a plan  
14 for maximum pressure but ordered that the detainees be  
15 isolated, that their communications be restricted and their  
16 Immigration hearings delayed. That portion of the order, we  
17 argue, is unconstitutional on its face and that is because  
18 conditions of confinement, as this Court recognized in 2006,  
19 depend on context.

20 We are looking here at civil immigration detainees  
21 for whom there has been no individualized showing of  
22 dangerousness. Holding those individuals in restrictive  
23 confinement because restricting communication requires  
24 placement in a Special Housing Unit. You can't do it within  
25 the general population. That order is directly

1 unconstitutional on its face.

2           Now looking at the other half of the allegation, the  
3 allegation to place maximum pressure and to encourage that the  
4 detainees -- and to encourage and to have the detainees  
5 encouraged in any way possible to cooperate based on the fact  
6 that they were suspected terrorists, while not conclusively  
7 unconstitutional, one can imagine a situation in which lawful  
8 pressure is placed on detainees, but it does raise a  
9 reasonable inference of an order to encourage abuse.

10           THE COURT: I think that's the hardest part of your  
11 argument. The issues are well briefed by everyone. I am  
12 grateful for that.

13           But your argument seems to suggest to me that the  
14 causation is sufficient in this new world, this new pleading  
15 world, that Twombly and then this case itself has created.  
16 That if the Washington defendants say that these folks are  
17 suspected terrorists or know who terrorists are, know some  
18 terrorists, and that they needed to be encouraged in any way  
19 possible to cooperate, your argument suggests to me that even  
20 if there is nothing unconstitutional about that, and I am a  
21 former law enforcement officer, when I read this language I  
22 think well, that's wrong with that. You want people to  
23 cooperate.

24           Your argument suggests to me that -- because you  
25 used these words yourself -- as a direct result of this

1 language or in implementing this directive -- these are your  
2 phrases -- there were unconstitutional torts committed at the  
3 MDC.

4 I am not sure that's enough. I am not sure if  
5 causation is sufficient. You haven't -- your briefs haven't  
6 persuaded me otherwise.

7 MS. MEEROPOL: Your Honor, when we look -- the Colon  
8 factor that defendants agree still exists under Iqbal,  
9 creation of a policy under which unconstitutional acts occur,  
10 that considers the possibility right there that there is a  
11 policy that is created that can be implemented  
12 unconstitutionally or constitutionally.

13 THE COURT: What if the policy is, you know, we are  
14 going to reward the warden who has the least inmate  
15 complaints. We are tired of these inmate complaints. And  
16 then in implementing that policy the warden decides to put  
17 everybody in lockdown and take away their pens and papers and  
18 they can't do -- and they can't complain anymore.

19 Does that policy then put them on the hook because  
20 it caused a tort, put them on the hook for the tort?

21 MS. MEEROPOL: There are two requirements, Your  
22 Honor, causation and that the defendant has the sufficiently  
23 culpable state of mind.

24 So with respect to the state of mind, under Iqbal,  
25 the supervisory defendant still must -- must either intend

1 that the abuse occurs under his policy or be deliberately  
2 indifferent to the fact that the abuse will occur.

3 Then, of course, there is the causation requirement  
4 as well. Did this policy cause the harm or did some other  
5 intervening act that the defendant could not possibly be  
6 expected to know about cause the harm?

7 THE COURT: What's wrong with this policy, by the  
8 way, in and of itself, before it gets implemented?

9 MS. MEEROPOL: Sure, Your Honor.

10 In the context of 9/11, telling law enforcement  
11 agencies that the individuals before them were suspected  
12 terrorists, who need to be treated -- who need to be subjected  
13 to maximum pressure and encouraged in any way possible to --

14 THE COURT: Suspected terrorists or knew people who  
15 were terrorists.

16 MS. MEEROPOL: That is correct, Your Honor. That's  
17 the full policy.

18 THE COURT: That's the deal with these people. We  
19 want you to get them in any way possible to cooperate. What's  
20 wrong with that?

21 MS. MEEROPOL: It encourages abuse, Your Honor.  
22 Especially immediately after 9/11, where there was --

23 THE COURT: Do you think the words in any way  
24 possible connote including illegal means?

25 MS. MEEROPOL: I think it encourages illegal means,

1 yes, Your Honor.

2 THE COURT: That may be where we part company.

3 MS. MEEROPOL: And if we look at how it was  
4 implemented, of course we will see that illegal abuse did  
5 occur.

6 And I will submit, Your Honor, that much more  
7 neutral policies have survived a motion to dismiss stage. We  
8 cite Brock v Wright as well as Langford v Norris, which is an  
9 Eighth Circuit decision. Langford v Norris actually involved  
10 the prison grievance system. So the prisoner in that case  
11 alleged that there was deliberate indifference to his medical  
12 needs, based on the fact that the prison grievance policy was  
13 so complicated and so long that he couldn't get medical  
14 attention quickly.

15 And the Court there held that the supervisors who  
16 created that policy, if the policy caused the delay in medical  
17 care, the deliberate indifference to medical care, and if they  
18 knew or should have known that that would occur, that they  
19 could be held liable for the deliberate indifference to  
20 medical needs.

21 Now, the -- the key question here is intent. Did  
22 the defendant Ashcroft, did the defendant Muller, intend that  
23 our clients be abused, that they be treated more harshly than  
24 the law allows? I submit that that's not a question that can  
25 be answered on a motion to dismiss.

1 All that Iqbal requires us to do on a motion to  
2 dismiss is put forward allegations that raise a fair  
3 inference, and as for causation, as for intent, they will be  
4 proven down the line or we won't be able to prove them. But  
5 in Brock v Wright the Second Circuit allowed the question to  
6 go to the jury as to whether -- I see you want to ask a  
7 question.

8 THE COURT: As long as your conduct results in,  
9 causes unconstitutional conduct at the pleading stage, you can  
10 infer an intent that that happened?

11 MS. MEEROPOL: No. I think we have to -- we have to  
12 allege allegations that plausibly suggest both the requisite  
13 culpable state of mind and causation but that don't prove  
14 those because it is impossible to prove at the motion to  
15 dismiss stage.

16 THE COURT: I understand you don't have to prove it.  
17 What if the marching orders from Washington were,  
18 needed to be encouraged in any way possible using all lawful  
19 means to cooperate, your case is done?

20 MS. MEEROPOL: I think that is a very different  
21 situation, yes, Your Honor.

22 THE COURT: So you lose?

23 MS. MEEROPOL: Any -- well, it depends on whether  
24 there is actual -- there is also a piece of the order that is  
25 specific.

1 THE COURT: So they have -- sorry.

2 MS. MEEROPOL: I am referring back --

3 THE COURT: I can't help myself. I am interrupting  
4 you.

5 They have to specifically point out they don't mean  
6 illegal methods? But once they do, then it is an insufficient  
7 pleading?

8 MS. MEEROPOL: Not if they never said anything. Of  
9 course, the Attorney General in the usual context can assume  
10 that his subordinates or her subordinates are going to  
11 implement, you know, are going to act lawfully.

12 THE COURT: Right.

13 MS. MEEROPOL: If General Ashcroft had said nothing  
14 here, had not ordered maximum pressure, had not ordered the  
15 detainees be encouraged in any way possible to cooperate and  
16 then abuses had occurred, we would have no case, or if he said  
17 something different. If he said, all lawful means without  
18 mapping out any of the actual unconstitutional policies.

19 And I do want to refer Your Honor back to the  
20 portion of our allegation which alleges that the DC defendants  
21 agreed to restrict our client's communications to the outside  
22 world. Because if that in itself is unconstitutional, then  
23 the order is unconstitutional and they can be held liable at  
24 least for that piece of our claims which placed our clients in  
25 the ADMAX SHU to restrict their communication.

1           THE COURT: I don't mean to jump around, and you  
2 will say all you want to say on all the issues. But on that  
3 issue about the communications, my question relates to  
4 qualified immunity. There is so much water under the bridge  
5 with this case, I kind of have forgotten how much I had  
6 written, how much the Circuit had written, and it went to the  
7 Supreme Court.

8           I was rereading Judge Newman's decision from 2007  
9 and in connection with the administrative requirements that  
10 attend special housing within the MDC he wrote: Prior to the  
11 instant case, neither the Supreme Court -- this is at page 167  
12 of the West version of the decision -- prior to the instant  
13 case, neither the Supreme Court nor our Court had considered  
14 whether the due process clause requires officials to provide  
15 ordinary administrative segregation hearings to persons  
16 detained under special conditions of confinement until cleared  
17 of connection with activities threatening national security.

18           So that's in a special setting, brought into the  
19 qualified immunity for procedural due process, right?

20           MS. MEEROPOL: Yes, Your Honor.

21           THE COURT: In a way that inured to the defendants'  
22 advantage.

23           Does that apply to this communications, to your  
24 communications allegations? The same sort of -- I mean, I am  
25 bound by this opinion and I certainly ought to follow its

1 logic. In that post 9/11 setting, should there be at least  
2 qualified immunity with respect to these communications  
3 blackouts that form the basis of a couple of your claims?

4 MS. MEEROPOL: You will be unsurprised to hear that  
5 my answer is no.

6 THE COURT: Right. I am really interested in the  
7 why.

8 MS. MEEROPOL: Yes, Your Honor.

9 You know, in looking at the Second Circuit's  
10 decision it is also important to see where they didn't grant  
11 qualified immunity, of course. That was with respect to the  
12 substantive due process claims regarding conditions of  
13 confinement. So really I read the procedural due process  
14 portion of the analysis to focus on what procedures are  
15 necessary in this new context. Might this new context suggest  
16 a need for different procedures that are not exactly the ones  
17 that the Bureau of Prisons has set out in the CFR?

18 But with respect to the actual conditions that can  
19 be imposed, the conditions that result regardless of what  
20 process was used, the Second Circuit was clear that the law  
21 which outlaws placing pretrial detainees, or here immigration  
22 detainees, in punitive conditions --

23 THE COURT: Fair enough.

24 MS. MEEROPOL: -- remains.

25 THE COURT: But why doesn't it follow, if a

1 reasonable officer in those circumstances could conclude,  
2 maybe even erroneously but reasonably, that the procedural due  
3 process requirements didn't have to be followed in that  
4 setting. Why wouldn't a reasonable officer also be able to  
5 conclude, maybe even erroneously, that they can cut off the  
6 telephone access or visits for those same folks?

7           It is not the same -- it's no accident when I broach  
8 this subject with you, you talk about physical abuse. When I  
9 broach the subject with your adversary, he talks about  
10 context.

11           Why doesn't it follow from the Second Circuit's  
12 opinion that there might be qualified immunity, not with  
13 regard to what I will call physical abuse but these  
14 communications blackouts and, as long as I am in the middle of  
15 my interruption, there is this other question that afflicts  
16 this setting which is whether this should be a Bivens remedy  
17 at all.

18           You might want to address that as well.

19           MS. MEEROPOL: Yes, Your Honor.

20           Turning first to the substance here, I think we  
21 can't -- we can't erase the context that plaintiffs allege  
22 here, which is that they were suspected of ties to terrorism,  
23 not based on any evidence of wrongdoing or dangerousness, but  
24 based on their race and religion. We also have factual  
25 allegations that the MDC defendants knew this was the case.

1 They were provided all the information the FBI had and that  
2 the DC defendants knew that this was the case as well.

3 THE COURT: All of that was true with regard to  
4 procedural due process waivers, the decision not to accord  
5 them their procedural due process rights regarding continued  
6 administrative segregation.

7 MS. MEEROPOL: I don't think those facts are alleged  
8 in the Iqbal complaint, Your Honor. The fact that -- that the  
9 MDC defendants and the DC defendants had the information about  
10 why our clients and all the detainees were held, that was not  
11 information that was available to us prior to discovery. We  
12 learned it in the discovery process and that's why it is a  
13 piece of the fourth amended complaint here.

14 So I will address Your Honor specifically to the  
15 information in the complaint about the attorney -- the daily  
16 Attorney General reports that went from defendant Ziglar to  
17 defendant Ashcroft, explaining who was being arrested and why,  
18 as well as the MDC intelligence reports, which listed the  
19 FBI's reasons for suspecting the 9/11 detainees. They listed  
20 sort of the information that the FBI had gathered and that  
21 information was the universe of facts.

22 Because of discovery we have been able to place  
23 before the Court the universe of facts here. The Court can see  
24 exactly why our clients were suspected. For example, that  
25 Mr. Bajracharya was perceived to be an Arab male videotaping

1 an office building that had an FBI office in it. Now, does  
2 that form a basis under -- with -- even in the context of  
3 9/11, after 9/11, when, of course, immediately after 9/11  
4 especially this is a rare situation. But does that  
5 information mean that the normal rules about when a federal  
6 prison can restrict a detainee's communication go out the  
7 window? Because of that type of suspicion, not real  
8 evidentiary based reasons to suspect that someone is  
9 dangerous, that someone might be about to communicate with  
10 other terrorists.

11 The federal prison system has many established ways  
12 to limit prisoner's communications with the outside world when  
13 there is a showing of evidence, when there is an  
14 individualized reason to assume that that is necessary.

15 THE COURT: How broad is this right if you are  
16 claiming communications blackout for months? Is it your claim  
17 that there ought to be a Bivens damage remedy?

18 Let me back up.

19 Do you agree they have the same rights as the other  
20 people in the facility, not larger rights?

21 MS. MEEROPOL: I think the Second Circuit has made  
22 it clear, that the deliberate indifference standard that  
23 applies to convicted prisoners with respect to conditions and  
24 abuse applies to civil detainees and pretrial detainees.

25 THE COURT: No. You are not suggesting that the

1 civil detainees in this case have a greater array of rights  
2 than do the other detainees in the MDC.

3 MS. MEEROPOL: It's a hard question to answer, Your  
4 Honor. I don't think as a matter of the legal standard the  
5 right is any different. So is the legitimate interests of the  
6 institution. They are all grouped in the institution  
7 together. So all of those general security interests will  
8 apply equally.

9 THE COURT: Okay.

10 MS. MEEROPOL: On the other hand, where there is a  
11 penological justification for a certain restraint, that may or  
12 may not be lawful against an immigration detainee for whom  
13 there can be no punishment because he is not convicted.

14 THE COURT: I understand.

15 I want you to tell me if it is true, not right now  
16 because I have a question for you, the extent to which you  
17 think these detainees as it relates to this case have rights  
18 that are greater in scope.

19 You are shaking your head. You don't think they do?

20 MS. MEEROPOL: I will let you finish your question,  
21 Your Honor.

22 THE COURT: Greater in scope than the person in the  
23 next cell in the MDC who is awaiting trial on a fraud case?

24 MS. MEEROPOL: No. Once they are in the facility,  
25 they have the right just like all the other prisoners and

1 pretrial detainees to only be placed in conditions of  
2 confinement that are reasonably related to an individualized  
3 basis.

4 THE COURT: All right. Back to my question. Does  
5 someone who is subjected to a communications blackout for a  
6 day have a Bivens damage remedy against the people at the MDC?

7 MS. MEEROPOL: No.

8 THE COURT: That seems to trivialize Bivens a little  
9 bit.

10 MS. MEEROPOL: I don't think there would be a cause  
11 of action there, Your Honor. In the course of prison  
12 administration, things get interrupted for a day. There is an  
13 emergency lockdown. The case law is clear, that just wouldn't  
14 present a cause of action.

15 THE COURT: Where is the line between that case and  
16 this one?

17 MS. MEEROPOL: I think we are a looking -- we are in  
18 the land of Turner analysis here, Your Honor, and we are  
19 looking at a policy under Turner. We have to identify the  
20 policy first and then determine whether reasonably related to  
21 a legitimate penological interest.

22 When we look at the communications policy as related  
23 to our clients for whom there has been no showing of  
24 dangerousness or likelihood of communicating with terrorists,  
25 there simply is no reasonable relationship here. It fails on

1 the first prong of Turner.

2 To the extent the defendants are going to be able to  
3 come forward and provide evidence to this Court that there was  
4 a reason to fear that my clients, or if a class was certified  
5 in this case, other 9/11 detainees were trying to communicate  
6 with terrorists or there was a reason to believe they might,  
7 then perhaps we will lose on Turner in summary judgment. But  
8 we are not at that point yet.

9 For the Court to say as a matter of law that there  
10 was a reasonable relation here based only on our allegations  
11 that our clients were suspected because of their race and  
12 religion means that a federal prison can treat prisoners  
13 differently based on those suspect criteria, without evidence  
14 or other reason.

15 THE COURT: If there is -- there is no degree of  
16 suspicion that would warrant even a temporary suspension of  
17 their communication rights? They come into the MDC. I mean,  
18 these people are trying to run a prison. They come into the  
19 MDC. They are told say by the Attorney General, we think  
20 these people either are terrorists or they know terrorists.  
21 There is no policy with regard to any degree of temporary  
22 communications blackout that doesn't run afoul of the  
23 Constitution?

24 MS. MEEROPOL: No.

25 THE COURT: How do they run a facility?

1 MS. MEEROPOL: It's very hard to draw the line here,  
2 Your Honor. Because, of course, there has to be some  
3 deference at a certain point.

4 In the immediate aftermath of 9/11, all  
5 communication at MDC was shut down, general population,  
6 Special Housing Unit as well. This is not in the complaint  
7 but I'm sure the OIG mentions it.

8 THE COURT: Are these things cause for hesitation in  
9 imputing -- implying a Bivens damage remedy?

10 MS. MEEROPOL: Your Honor, if that is a cause for  
11 hesitation, then you can't just take the easiest case example  
12 there and say that causes hesitation. The special factors  
13 analysis requires the Court to determine is there a special  
14 factor here, and only upon finding that there is a special  
15 factor, that's when this relatively low standard of cause for  
16 hesitation kicks in. It's not that the Court should hesitate  
17 when the Court is unsure as to whether there is or is not a  
18 special factor.

19 When we look -- what the defendants had argued with  
20 respect to special factor here is that national security  
21 concerns are intrinsically interwoven with this case and that  
22 weighing whether our clients were treated reasonably will  
23 require the Court to look into national security issues.

24 THE COURT: Right.

25 MS. MEEROPOL: But because of the benefits of

1 discovery, we have the information. We've put forward the  
2 information in our publicly filed complaint about why our  
3 clients were suspected. I am confident that this Court can  
4 consider an allegation, an allegation from the FBI that  
5 someone was filming a building in Queens, an Arab, and  
6 consider whether that in itself warrants restrictions on  
7 communication for months on end, not a temporary restriction,  
8 but for months on end, and placement in the ADMAX SHU and all  
9 the attendant, you know, policy restrictions and abuse without  
10 delving into issues of national security.

11 THE COURT: How would you articulate a rule or  
12 decision that accommodates your -- I think your admirable  
13 acknowledgment that deference is needed to the prison so the  
14 folks who are coming in there in the first few days and there  
15 is a suspicion voiced by the Attorney General of the United  
16 States that they may be terrorists or no terrorists, we are  
17 going to defer there, but over a period of months, a  
18 communications blackout based on what you claim are these  
19 threadbare facts, that's an unconstitutional policy.

20 What rule of decision would you articulate to  
21 separate one from the other?

22 MS. MEEROPOL: The deference already exists in the  
23 context of prisoners rights law, Your Honor. I mean, looking  
24 at the substantive causes of action, that deference is built  
25 in. So at the motion to dismiss stage, if you can't allege

1 facts that show that, you know, that your rights have been  
2 violated and a temporary communications restriction  
3 just -- no federal Court is going to hold that that's a  
4 prisoner's rights violation.

5 THE COURT: Right.

6 MS. MEEROPOL: The case law is rather clear.  
7 it -- in the prison context there is a lot of deference built  
8 in and we have to exist in that context.

9 THE COURT: One of the things I find challenging  
10 about this motion is the principles that affect qualified  
11 immunity also affect whether there ought to be a Bivens  
12 remedy. The merits on the qualified immunity get blended for  
13 me and the -- the question whether there out to be -- one of  
14 the undecided, one of the few things that hasn't been decided  
15 already in this case is whether there is a Bivens remedy for  
16 your -- for these causes of action. Correct?

17 MS. MEEROPOL: Yes.

18 We were just speaking -- do you mean for the First  
19 Amendment causes of action?

20 THE COURT: Yes.

21 MS. MEEROPOL: Yes.

22 That's because, of course, defendants didn't raise  
23 last time around whether some of these claims were suitable  
24 for a Bivens remedy. Although actually the access to counsel  
25 claims arising out of the First Amendment, I could be

1 corrected if I am wrong, Your Honor, but I believe the  
2 defendants did challenge --

3 THE COURT: I ruled on that.

4 MS. MEEROPOL: Yes.

5 THE COURT: Is that still the same claim?

6 MS. MEEROPOL: So --

7 THE COURT: You changed this claim. It's not access  
8 to courts. It's access to counsel.

9 MS. MEEROPOL: Right. You changed the claim, Your  
10 Honor, because you dismissed the portion of the claim that was  
11 access to courts and we accepted that ruling as we had to.

12 THE COURT: Sounds like something I would do.

13 MS. MEEROPOL: Yes. It's an access to counsel  
14 claim, which the Court has already held last time around does  
15 state a Bivens cause of action.

16 And just looking back at the other claims with  
17 respect to Bivens, Your Honor, of course, our position there  
18 is that these claims require no extension of Bivens because  
19 they are similar in law and fact to claims for which courts  
20 frequently imply Bivens remedy and I'd be happy to answer any  
21 of the Court's question.

22 THE COURT: I understand, with respect to those  
23 other claims.

24 MS. MEEROPOL: Yes.

25 And I think, you know, really defendants primary

1 argument with respect to a Bivens cause of action for the  
2 First Amendment claims rests on the possibility of preclusion  
3 by the INA, which this Court already ruled on in 2006, and we  
4 submit has not been altered by the law since then. Looking at  
5 the INA, whether it's remedial scheme or regulatory scheme,  
6 all it remedies or regulates is entry, exit and detention of  
7 non-citizens.

8 THE COURT: What about on this communications issue,  
9 the BOP regs? Aren't there remedies that a detainee can  
10 pursue within the facility for denial of communication rights?

11 MS. MEEROPOL: Yes, there are internal remedies  
12 that, you know, any prisoner can -- actually must undertake  
13 for any constitutional violation.

14 THE COURT: Why shouldn't -- why doesn't that  
15 suggest, given the framework within which we either imply a  
16 Bivens right or not, that we shouldn't imply one here?

17 MS. MEEROPOL: First of all, Your Honor, those  
18 aren't -- those aren't Congressionally mandated. Those are  
19 internal -- internal prison regulations. So there is no  
20 reason here to think -- I mean, the inquiry in general when  
21 looking at whether to apply them as remedies, whether Congress  
22 has spoken and said that we either have already provided an  
23 adequate remedy or there is a reason to think that we chose  
24 not to provide a remedy.

25 And internal prison --

1           THE COURT: An adequate remedy provided  
2 administratively, that is not a reason to refrain from  
3 implying a Bivens damage action?

4           MS. MEEROPOL: Your Honor, there is a prison  
5 grievance system at issue in all of the Supreme Court cases  
6 that implied a Bivens remedy for convicted federal prisoners.  
7 Farmer v Brennan was a Bivens suit. Certainly the BOP  
8 regulations on internal grievance processes didn't just spring  
9 into being. The PLRA requires that prisoners follow these  
10 grievance procedures. So I see no reason to distinguish these  
11 claims or these clients.

12           If one does that, it's like saying that a prisoner  
13 who is held at the exact same facility -- it's as Your Honor's  
14 questioning pointed out earlier, that a prisoner in the next  
15 cell has the right to a Bivens claim. The Supreme Court has  
16 held this clearly, has a right to a Bivens claim for the abuse  
17 that he or she experiences. But because these individuals are  
18 civil Immigration detainees, haven't yet had the benefit of  
19 Court process, they have lesser rights. That simply makes no  
20 sense. They both have the same internal grievance remedies  
21 available to them. These, of course, aren't administrative  
22 processes that really have the potential to weigh a  
23 constitutional claim. That simply is not part of the internal  
24 grievance process.

25           Your Honor, I would like to spend a few minutes

1 talking about our equal protection claim, if you are done with  
2 questioning on this area.

3 THE COURT: If I am not done, you will hear from me.

4 MS. MEEROPOL: I guess I will.

5 Of course, in Iqbal, Mr. Iqbal advanced -- also  
6 advanced a purposeful discrimination claim. So it's most  
7 important here to point out for the Court the way in which our  
8 case is different from Iqbal and the allegations that we  
9 advanced that Mr. Iqbal didn't.

10 So in Iqbal the Supreme Court found that the only  
11 factual allegation that suggested discrimination here was the  
12 fact that so many of the individuals rounded up were Muslim  
13 and Arab and that, of course, this was consistent with  
14 discrimination but on that fact alone is not enough to suggest  
15 discriminatory intent.

16 We don't allege a neutral policy to investigate  
17 individuals, to question and place pressure on individuals  
18 suspected of involvement in the terrorist attacks that had a  
19 disparate impact. Rather, we allege that the policy was to  
20 question and place pressure on Muslims and Arabs specifically.  
21 This is an affirmative policy of targeting on which we assert  
22 factual allegations.

23 Now, the other primary point that the Supreme Court  
24 was concerned about with respect to Iqbal was that Mr. Iqbal  
25 alleged that he was discriminated against in his high interest

1 classification, that he was determined to be of high interest  
2 to the terrorism investigation based on his race and religion,  
3 that BOP officials and FBI officials, not the DC defendants  
4 but other officials made that determination, and that the DC  
5 defendants condoned the making of that determination for  
6 impermissible -- on impermissible reasons. That was where the  
7 Court said, you know, the fact that they condoned that  
8 discrimination is not enough to give rise to a plausible  
9 inference of their own discriminatory intent.

10           But here, Your Honor, we don't allege a neutral  
11 policy. We don't allege that the high interest designation  
12 had anything to do with our client's placement in the ADMAX  
13 SHU. In fact, four of our six plaintiffs were never  
14 classified as high interest by anyone and one of the two who  
15 was received that classification months after he was already  
16 placed in the ADMAX SHU.

17           So our claim is that the -- the policy to find and  
18 place pressure in any way possible on Muslims and Arabs was  
19 implemented against our clients in the ADMAX SHU without  
20 respect to the intervening act of any individual not before  
21 the Court in terms of deciding whether they were of high  
22 interest, of some interest, interest unknown.

23           We assert many factual allegations, subordinate  
24 facts, within the complaint that show just how that policy was  
25 carried out. The fact that people were treated differently

1 who weren't Muslim and Arab, the fact that when an issue arose  
2 in New York as to whether individuals for whom the FBI had not  
3 yet enunciated any basis of suspicion, whether they  
4 were -- they were to be subject to this policy of maximum  
5 pressure or not and Ashcroft ordered that yes, they be subject  
6 to the policy, they be treated as 9/11 detainees, with full  
7 knowledge of the complete lack of any FBI statement of  
8 interest at all, much less high interest.

9           Your Honor, we also put forth the facts regarding  
10 how the head of the FBI in New York interpreted this policy,  
11 which was that race and religion mattered when you were  
12 looking at suspects. For example, that individuals, that  
13 Russian tourists filming the Midtown Tunnel were not of  
14 interest to the terrorism investigation but Egyptians filming  
15 the Midtown Tunnel were.

16           Moving on from our equal protection allegations,  
17 unless Your Honor has any questions about them, I would like  
18 to spend just one moment on supervisory liability, just  
19 to -- just to point the Court's attention to the statement in  
20 Iqbal itself, that a federal official's liable -- liability  
21 can result from his neglect in not properly superintending the  
22 discharge of his subordinates' duties.

23           One moment, Your Honor, please.

24           (Pause.)

25           Unless the Court has any other questions with

1 respect to the equal protection claim -- I'm sorry. I am just  
2 reviewing my notes here. I apologize, Your Honor.

3 THE COURT: Take your time.

4 (Pause.)

5 MS. MEEROPOL: No, Your Honor. Unless the Court has  
6 any more questions?

7 THE COURT: If I agree with the DC defendants, that  
8 the pleading is insufficient under the Iqbal standard and they  
9 are dismissed, but then your discovery implicates them  
10 again -- not again but implicates them because of the  
11 statements made by the, for example, MDC wardens, is the  
12 Statute of Limitations a barrier to bringing them back in or  
13 is it tolled by the pendency of this lawsuit?

14 Do you understand my question?

15 MS. MEEROPOL: Yes.

16 My understanding is that the Statute of Limitations  
17 for those defendants would kick in again once they are  
18 dismissed from the case.

19 THE COURT: Yes.

20 MS. MEEROPOL: And that it would depend on how  
21 quickly we could get to discovery, which given that the  
22 wardens have already shown once that they intend to  
23 take -- to take -- that they intend to take interlocutory  
24 appeal on any denial of qualified immunity, I think it's  
25 extremely unlikely that we would get to that discovery within

1 the Statute of Limitations.

2 THE COURT: This is a three year limitations period?

3 MS. MEEROPOL: It is, Your Honor.

4 THE COURT: How much has run of it already?

5 MS. MEEROPOL: Approximately one year.

6 THE COURT: Okay. Thanks.

7 MS. MEEROPOL: Actually, I apologize, Your Honor,  
8 not even quite a year. We brought the case initially against  
9 the DC defendants in April of 2002.

10 Thank you, Your Honor.

11 THE COURT: Thank you.

12 Could you come up?

13 MR. BARGHAAN: Yes, sir.

14 THE COURT: What's your take on that?

15 MR. BARGHAAN: Your Honor, it's actually something I  
16 hadn't thought about. It was a striking question that I did  
17 not expect and I don't know the answer about what would happen  
18 in those circumstances.

19 I will tell you that if we were dismissed there is a  
20 possibility that my client -- I can't speak for him, I don't  
21 know what the answer will be -- would seek a rule 52 -- 54(b)  
22 certification to go to the circuit immediately.

23 He has been in this litigation now for going on nine  
24 years. He has been out of public service for seven. I think  
25 he's ready to have this behind him and I think he would want

1 definitive closure from the circuit or a judgment that if the  
2 plaintiff sought appeal they would be able to do so.

3 I would note though, Your Honor, that whether there  
4 is discovery, whether discovery might show something different  
5 or whether it will or will not is something that the Iqbal  
6 Court specifically addressed, that the question about whether  
7 the DC defendants should be dismissed is based, of course,  
8 solely on the complaint and that the possibility of discovery  
9 showing something else is antithetical to the qualified  
10 immunity doctrine.

11 THE COURT: I read Iqbal. My question pertains to  
12 something different altogether.

13 MR. BARGHAAN: I apologize if I missed it.

14 THE COURT: If they are out of the case.

15 MR. BARGHAAN: Correct.

16 THE COURT: But then -- you know, I've got the  
17 wardens saying in part, and I am not sure -- the testimony  
18 hasn't been taken, correct?

19 MR. BARGHAAN: That is correct. I believe that's  
20 correct. I can't -- I don't recall because we were not  
21 terribly involved in discovery.

22 Warden Hasty's testimony was not taken. Warden  
23 Zenk's was.

24 THE COURT: Okay. It's not outside the realm of  
25 possibility, given all the allegations here, that people in

1 the MDC or elsewhere might provide the facts, that even if you  
2 are right now, might warrant bringing Ashcroft and Muller back  
3 into the case.

4 MR. BARGHAAN: I don't like answering this question,  
5 but I guess it's not out of the realm of possibility, no.

6 THE COURT: Of course it is not.

7 MR. BARGHAAN: Yes.

8 THE COURT: If that happens, and they are brought  
9 back into the case, what happens with regard to Statute of  
10 Limitations?

11 MR. BARGHAAN: Without having done the research on  
12 the question, Your Honor, and I apologize for not knowing the  
13 answer off the top of my head, my knee jerk reaction would be  
14 to agree with Ms. Meeropol. I cannot say that definitively,  
15 and I certainly don't want to concede the question.

16 I will say, however, that if we were to seek a  
17 Rule 54(b) judgment, that this Court granted that judgment and  
18 we went to the Court of Appeals and the Court of  
19 Appeals -- and the plaintiffs took an appeal and we obtained  
20 an affirmance from the Second Circuit, then that would be a  
21 judgment that could not be -- that would not be alterable at  
22 that point. The plaintiffs would have to reopen the judgment  
23 and -- after affirmance, which is very difficult standard to  
24 meet in those circumstances.

25 THE COURT: All right. Anything else any of

1 the -- you or any of the defense counsel want to say?

2 MR. BARGHAAN: Unless Your Honor has any particular  
3 questions, I will -- we have been here long enough. I don't  
4 want to bother you any further.

5 Thank you.

6 THE COURT: What, Ms. Meeropol? You look like you  
7 want to speak again. You may briefly, yes.

8 MS. MEEROPOL: I would just like to point Your Honor  
9 to language from *Dura Pharmaceutical v Bruno*, which is the  
10 Supreme Court case that -- the precursor to *Twombly*, which  
11 states that the central question with regard to pleading is to  
12 whether the complaint leaves the Court with a reasonably  
13 founded hope that discovery will enable us to prove the  
14 defendant caused plaintiffs' injuries.

15 Thank you.

16 THE COURT: There is no rebuttal to that, I take it?  
17 Thank you all.

18 I will take the motions under advisement.

19 MS. MEEROPOL: Thank you, Your Honor.

20 THE COURT: Have a good day.

21 (Matter concludes.)  
22  
23  
24  
25

<b>1</b>	<b>9</b>	
<p><b>1001</b> [1] - 2:12  <b>10012</b> [1] - 1:21  <b>101</b> [1] - 2:20  <b>10178</b> [1] - 2:20  <b>10278</b> [1] - 2:25  <b>10:00:00</b> [1] - 1:9  <b>11</b> [1] - 1:9  <b>1100</b> [1] - 2:3  <b>11201</b> [1] - 3:2  <b>118</b> [1] - 2:17  <b>12</b> [1] - 7:9  <b>12(b)(6)</b> [1] - 30:18  <b>167</b> [1] - 45:11  <b>17th</b> [1] - 34:14  <b>1888</b> [1] - 7:24</p>	<p><b>9/11</b> [15] - 19:3, 22:7, 23:20, 24:5, 25:1, 41:10, 41:22, 46:1, 48:19, 49:3, 52:5, 53:4, 61:6  <b>900</b> [1] - 2:4</p>	<p><b>administratively</b> [1] - 58:2  <b>admirable</b> [1] - 54:12  <b>admitted</b> [2] - 37:3, 37:4  <b>adopt</b> [2] - 31:22, 32:6  <b>adoption</b> [1] - 18:3  <b>advanced</b> [6] - 15:23, 30:13, 30:24, 59:5, 59:6, 59:9  <b>advancing</b> [1] - 23:18  <b>advantage</b> [1] - 45:22  <b>adversary</b> [2] - 14:22, 47:9  <b>advisement</b> [1] - 66:18  <b>affect</b> [2] - 55:10, 55:11  <b>affects</b> [1] - 21:6  <b>affidavit</b> [3] - 9:11, 9:13, 9:18  <b>affirmance</b> [3] - 18:5, 65:20, 65:23  <b>afflicts</b> [1] - 47:15  <b>afoul</b> [2] - 7:9, 52:22  <b>aftermath</b> [2] - 24:21, 53:4  <b>agencies</b> [1] - 41:11  <b>agents</b> [1] - 9:10  <b>ago</b> [1] - 34:14  <b>agree</b> [9] - 11:9, 11:16, 11:17, 14:15, 34:16, 40:8, 49:19, 62:7, 65:14  <b>agreed</b> [1] - 44:21  <b>ahead</b> [2] - 35:24, 36:5  <b>aided</b> [1] - 3:4  <b>air</b> [1] - 23:10  <b>air-conditioning</b> [1] - 23:10  <b>AL</b> [2] - 1:3, 1:7  <b>ALDEN</b> [1] - 2:16  <b>Alexandria</b> [2] - 2:10, 3:22  <b>allegation</b> [12] - 6:4, 8:12, 8:20, 13:19, 15:20, 38:13, 39:2, 39:3, 44:20, 54:4, 59:11  <b>allegations</b> [22] - 7:11, 9:12, 10:2, 23:7, 23:14, 23:23, 24:13, 24:14, 25:21, 26:10, 28:12, 28:15, 43:2, 43:12, 45:24, 47:25, 52:10, 59:8, 59:22, 60:23, 61:16, 64:25  <b>allege</b> [8] - 26:11, 43:12, 47:21, 54:25, 59:16, 59:19, 60:10, 60:11  <b>alleged</b> [18] - 6:1, 9:5, 9:10, 11:25, 15:16, 16:25, 20:14, 22:14, 22:21, 23:3, 23:15, 24:1, 24:4, 24:6, 25:25, 42:11, 48:7, 59:25  <b>allegedly</b> [2] - 7:2, 28:9  <b>alleges</b> [1] - 44:20  <b>allowed</b> [3] - 18:24, 43:5  <b>allows</b> [1] - 42:24  <b>alone</b> [1] - 59:14  <b>alterable</b> [1] - 65:21  <b>altered</b> [2] - 10:14, 57:4  <b>altogether</b> [1] - 64:12  <b>amended</b> [2] - 5:19, 48:13  <b>Amendment</b> [5] - 9:10, 23:23, 55:19, 55:25, 57:2  <b>American</b> [1] - 17:20  <b>analysis</b> [10] - 7:9, 14:16, 17:13, 20:18, 21:3, 21:7, 21:14, 46:14, 51:18,</p>
<b>2</b>	<b>A</b>	
<p><b>20001</b> [1] - 1:25  <b>20004</b> [1] - 2:13  <b>2002</b> [2] - 37:1, 63:9  <b>2003</b> [1] - 29:19  <b>20036</b> [1] - 2:4  <b>2006</b> [2] - 38:18, 57:3  <b>2007</b> [1] - 45:8  <b>2011</b> [2] - 1:9, 34:16  <b>2100</b> [1] - 2:9  <b>21201</b> [1] - 2:17  <b>22</b> [1] - 37:1  <b>22314</b> [1] - 2:10  <b>225</b> [1] - 3:1  <b>24</b> [1] - 19:11  <b>250</b> [1] - 5:11  <b>26</b> [1] - 2:24</p>	<p><b>A.G</b> [1] - 2:8  <b>a.m</b> [1] - 1:9  <b>ability</b> [1] - 18:20  <b>able</b> [6] - 7:14, 43:4, 47:4, 48:22, 52:2, 64:2  <b>absolute</b> [1] - 9:15  <b>abuse</b> [12] - 9:4, 29:3, 39:9, 41:1, 41:2, 41:21, 42:4, 47:8, 47:13, 49:24, 54:9, 58:16  <b>abused</b> [1] - 42:23  <b>abuses</b> [6] - 22:21, 22:24, 23:12, 23:21, 24:6, 44:16  <b>abusive</b> [2] - 20:14, 29:13  <b>accept</b> [1] - 15:24  <b>acceptable</b> [1] - 6:24  <b>accepted</b> [1] - 56:11  <b>access</b> [6] - 47:6, 55:24, 56:7, 56:8, 56:11, 56:13  <b>accident</b> [1] - 47:7  <b>accommodates</b> [1] - 54:12  <b>accord</b> [1] - 48:4  <b>according</b> [1] - 11:4  <b>accused</b> [1] - 19:14  <b>acknowledgment</b> [1] - 54:13  <b>Act</b> [1] - 18:4  <b>act</b> [4] - 12:12, 41:5, 44:11, 60:20  <b>acting</b> [1] - 29:17  <b>action</b> [11] - 16:6, 18:8, 35:5, 51:11, 51:14, 54:24, 55:16, 55:19, 56:15, 57:1, 58:3  <b>actions</b> [13] - 5:24, 6:2, 6:5, 6:11, 9:3, 9:19, 10:19, 15:11, 15:12, 16:4, 18:21  <b>activities</b> [2] - 25:15, 45:17  <b>activity</b> [1] - 15:3  <b>actor</b> [1] - 30:19  <b>acts</b> [3] - 23:3, 26:11, 40:9  <b>actual</b> [5] - 30:14, 36:8, 43:24, 44:18, 46:18  <b>add</b> [2] - 16:21, 35:1  <b>address</b> [6] - 25:14, 30:12, 31:19, 36:5, 47:18, 48:14  <b>addressed</b> [4] - 17:16, 26:1, 32:8, 64:6  <b>adequate</b> [3] - 25:14, 57:23, 58:1  <b>adequately</b> [2] - 23:25, 24:4  <b>ADMAX</b> [8] - 27:15, 37:13, 37:14, 44:25, 54:8, 60:12, 60:16, 60:19  <b>administration</b> [1] - 51:12  <b>administrative</b> [4] - 45:9, 45:15, 48:6, 58:21</p>	
<b>5</b>		
<p><b>52</b> [1] - 63:21  <b>54(b)</b> [2] - 63:21, 65:17  <b>555</b> [1] - 1:24</p>		
<b>6</b>		
<p><b>61</b> [1] - 38:9  <b>666</b> [1] - 1:20</p>		
<b>7</b>		
<p><b>703927</b> [1] - 34:16  <b>7th</b> [1] - 1:20</p>		

53:13  
**analytical** [1] - 24:24  
**analyzed** [1] - 5:13  
**ANNE** [1] - 1:17  
**answer** [10] - 12:24, 32:19, 33:24, 36:4, 46:5, 50:3, 56:20, 63:17, 63:21, 65:13  
**answered** [1] - 42:25  
**answering** [1] - 65:4  
**antithetical** [1] - 64:9  
**anyway** [1] - 20:9  
**apologize** [6] - 11:7, 11:18, 62:2, 63:7, 64:13, 65:12  
**appeal** [4] - 11:12, 62:24, 64:2, 65:19  
**Appeals** [2] - 65:18, 65:19  
**APPEARANCES** [2] - 1:16, 2:1  
**appellate** [1] - 25:18  
**appendix** [1] - 37:5  
**application** [2] - 5:18, 7:3  
**applied** [4] - 7:7, 7:22, 9:15, 11:23  
**applies** [2] - 49:23, 49:24  
**apply** [4] - 7:10, 45:23, 50:8, 57:21  
**apprehend** [1] - 8:9  
**approaching** [1] - 22:8  
**appropriate** [2] - 7:22, 31:23  
**April** [2] - 37:1, 63:9  
**Arab** [4] - 48:25, 54:5, 59:13, 61:1  
**Arabs** [2] - 59:20, 60:18  
**area** [2] - 17:12, 59:2  
**argue** [4] - 3:14, 3:18, 8:24, 38:17  
**argued** [1] - 53:19  
**arguing** [3] - 19:18, 19:19, 19:22  
**argument** [19] - 8:17, 11:25, 13:15, 13:24, 15:6, 15:18, 16:21, 18:7, 20:11, 20:15, 22:23, 23:17, 28:14, 39:11, 39:13, 39:19, 39:24, 57:1  
**ARGUMENT** [1] - 1:13  
**arguments** [5] - 5:14, 27:4, 30:13, 30:24, 37:23  
**arising** [1] - 55:25  
**arose** [1] - 61:1  
**array** [1] - 50:1  
**arrested** [1] - 48:17  
**articulate** [2] - 54:11, 54:20  
**Ashcroft** [15] - 2:8, 3:12, 3:22, 5:9, 8:25, 11:5, 22:10, 22:16, 23:19, 42:22, 44:13, 48:17, 61:5, 65:2  
**ASHCROFT** [1] - 1:7  
**aspects** [1] - 18:16  
**assert** [5] - 29:5, 32:6, 35:16, 59:21, 60:23  
**asserted** [1] - 31:23  
**Assistant** [4] - 1:23, 4:1, 16:18, 29:22  
**assume** [2] - 44:9, 49:14  
**assuming** [3] - 9:14, 11:18, 11:21  
**attach** [1] - 31:21  
**attached** [4] - 6:18, 31:13, 31:24, 37:5  
**attack** [1] - 24:21  
**attacks** [2] - 22:5, 59:18

**attempt** [1] - 6:12  
**attempting** [1] - 22:1  
**attend** [1] - 45:10  
**attendant** [1] - 54:9  
**attention** [3] - 14:11, 42:14, 61:19  
**attorney** [2] - 5:8, 48:15  
**Attorney** [21] - 1:23, 1:24, 2:8, 3:22, 4:1, 5:9, 6:2, 6:4, 6:6, 6:11, 6:25, 7:19, 8:6, 8:10, 16:19, 22:9, 25:19, 44:9, 48:16, 52:19, 54:15  
**Attorney's** [1] - 3:21  
**attorneys** [1] - 7:16  
**authorized** [1] - 19:16  
**available** [3] - 31:6, 48:11, 58:21  
**Avenue** [4] - 2:3, 2:9, 2:12, 2:20  
**avers** [1] - 6:5  
**avoid** [1] - 7:19  
**awaiting** [1] - 50:23  
**awhile** [1] - 3:15

## B

**Bajracharya** [1] - 48:25  
**baldly** [1] - 15:9  
**Baltimore** [1] - 2:17  
**Barghaan** [5] - 3:21, 5:8, 22:15, 25:14, 32:8  
**BARGHAAN** [44] - 2:7, 3:20, 5:4, 5:6, 8:19, 8:22, 9:1, 9:6, 9:25, 10:11, 11:3, 11:6, 11:10, 11:13, 11:17, 11:21, 12:3, 12:6, 12:10, 12:14, 12:23, 13:4, 13:6, 13:9, 13:14, 13:16, 13:22, 14:1, 14:5, 14:8, 14:15, 15:5, 15:24, 16:8, 16:14, 63:13, 63:15, 64:13, 64:15, 64:19, 65:4, 65:7, 65:11, 66:2  
**Barghaan's** [2] - 16:21, 18:7  
**barrier** [1] - 62:12  
**barring** [1] - 18:4  
**base** [1] - 29:18  
**based** [14] - 9:11, 9:20, 27:12, 27:14, 39:5, 42:12, 47:23, 47:24, 49:8, 52:10, 52:13, 54:18, 60:2, 64:7  
**basic** [1] - 27:22  
**basis** [5] - 18:24, 46:3, 49:2, 51:3, 61:3  
**bears** [1] - 9:8  
**beat** [2] - 16:11, 21:9  
**beaten** [3] - 12:21, 13:1, 32:24  
**beating** [4] - 33:8, 34:5, 34:8, 36:14  
**beatings** [1] - 33:19  
**become** [1] - 7:25  
**BEFORE** [1] - 1:11  
**began** [2] - 37:1, 37:14  
**begin** [1] - 38:7  
**behalf** [12] - 3:22, 4:2, 4:7, 4:11, 4:15, 4:18, 5:1, 5:8, 16:19, 36:21, 37:9, 37:12  
**behind** [3] - 12:20, 19:1, 63:25  
**Bell** [2] - 4:6, 26:16  
**BELL** [36] - 2:14, 4:5, 26:15, 26:19, 26:25, 27:3, 27:10, 27:22, 28:2, 28:6,

28:21, 29:2, 29:5, 29:11, 29:15, 30:25, 31:7, 31:12, 31:18, 32:2, 32:6, 32:17, 32:20, 33:1, 33:9, 33:20, 33:25, 34:9, 34:21, 35:1, 35:19, 35:23, 35:25, 36:6, 36:11, 36:13  
**Bellamy** [4] - 32:20, 34:12, 34:19, 34:21  
**benefit** [2] - 3:17, 58:18  
**benefits** [1] - 53:25  
**between** [6] - 20:18, 28:22, 30:7, 33:2, 33:5, 51:15  
**beyond** [1] - 17:11  
**big** [1] - 30:5  
**bit** [2] - 20:25, 51:9  
**Bivens** [21] - 7:7, 18:4, 47:16, 49:17, 51:6, 51:8, 53:9, 55:11, 55:15, 55:24, 56:15, 56:17, 56:18, 56:20, 57:1, 57:16, 58:3, 58:6, 58:7, 58:15, 58:16  
**blackout** [7] - 28:25, 30:1, 30:9, 49:16, 51:5, 52:22, 54:18  
**blackouts** [2] - 46:3, 47:14  
**blended** [1] - 55:12  
**bombed** [1] - 21:10  
**BOP** [5] - 27:13, 29:21, 57:9, 58:7, 60:3  
**bother** [1] - 66:4  
**bottom** [2] - 6:23, 14:1  
**bound** [3] - 30:14, 31:9, 45:25  
**boundaries** [2] - 20:10, 20:15  
**boundary** [1] - 20:16  
**BRANSFORD** [1] - 2:3  
**breadth** [1] - 21:6  
**breaks** [1] - 8:11  
**Brennan** [1] - 58:7  
**bridge** [2] - 3:17, 45:4  
**brief** [5] - 26:24, 28:24, 29:5, 33:9, 36:23  
**briefed** [3] - 26:22, 31:1, 39:11  
**briefing** [2] - 5:11, 27:1  
**briefly** [7] - 5:19, 20:25, 21:21, 29:15, 31:18, 32:3, 66:7  
**briefs** [5] - 18:8, 19:11, 31:1, 36:25, 40:5  
**bringing** [2] - 62:12, 65:2  
**broach** [2] - 47:7, 47:9  
**broad** [2] - 17:25, 49:15  
**Broadway** [1] - 1:20  
**Brock** [2] - 42:8, 43:5  
**Brooklyn** [3] - 1:7, 3:2, 30:6  
**brought** [6] - 14:10, 37:7, 37:12, 45:18, 63:8, 65:8  
**Bruno** [1] - 66:9  
**building** [2] - 49:1, 54:5  
**built** [2] - 54:24, 55:7  
**burdens** [1] - 5:21  
**Bureau** [1] - 46:17  
**BY** [3] - 2:5, 2:14, 2:21  
**bye** [1] - 7:5

C		
<p><b>cabinet</b> [1] - 8:7  <b>Cabranes'</b> [1] - 17:17  <b>Cadman</b> [1] - 3:1  <b>cannot</b> [3] - 15:8, 16:3, 65:14  <b>capacity</b> [4] - 5:9, 7:1, 10:21, 16:5  <b>care</b> [2] - 42:17  <b>carefully</b> [1] - 24:16  <b>carried</b> [2] - 14:13, 60:25  <b>case</b> [51] - 6:2, 8:8, 9:7, 9:8, 10:8, 13:18, 17:14, 17:16, 18:10, 18:14, 19:3, 19:4, 23:7, 24:19, 24:20, 25:18, 28:12, 30:4, 31:11, 31:15, 31:20, 32:20, 33:10, 34:15, 35:15, 39:15, 42:10, 43:19, 44:16, 45:5, 45:11, 45:13, 47:25, 48:2, 50:1, 50:17, 50:23, 51:13, 51:15, 52:5, 53:11, 53:21, 55:6, 55:15, 59:8, 62:18, 63:8, 64:14, 65:3, 65:9, 66:10  <b>cases</b> [7] - 12:18, 21:3, 31:2, 32:21, 33:21, 34:23, 58:5  <b>categories</b> [2] - 27:11, 34:17  <b>Category</b> [1] - 32:18  <b>category</b> [2] - 27:11, 34:18  <b>Cathleen</b> [1] - 29:21  <b>causation</b> [6] - 39:14, 40:5, 40:22, 41:3, 43:3, 43:13  <b>caused</b> [3] - 40:20, 42:16, 66:14  <b>causes</b> [6] - 11:14, 43:9, 53:12, 54:24, 55:16, 55:19  <b>cell</b> [3] - 19:8, 50:23, 58:15  <b>Center</b> [2] - 1:20, 4:25  <b>central</b> [1] - 66:11  <b>century</b> [1] - 7:24  <b>certain</b> [2] - 50:11, 53:3  <b>certainly</b> [12] - 5:12, 11:10, 16:10, 17:4, 17:6, 17:21, 20:1, 22:2, 22:7, 45:25, 58:7, 65:15  <b>certification</b> [1] - 63:22  <b>certified</b> [1] - 52:4  <b>CFR</b> [1] - 46:17  <b>chain</b> [2] - 28:6, 30:5  <b>challenge</b> [1] - 56:2  <b>challenging</b> [1] - 55:9  <b>chance</b> [1] - 32:25  <b>change</b> [1] - 8:21  <b>changed</b> [2] - 56:7, 56:9  <b>charges</b> [1] - 23:8  <b>chose</b> [1] - 57:23  <b>CIA</b> [1] - 17:2  <b>circuit</b> [2] - 63:22, 64:1  <b>Circuit</b> [11] - 9:9, 9:13, 17:18, 32:21, 34:22, 42:9, 43:5, 45:6, 46:20, 49:21, 65:20  <b>Circuit's</b> [4] - 10:8, 20:7, 46:9, 47:11  <b>circumstance</b> [1] - 13:9  <b>circumstances</b> [3] - 47:1, 63:18, 65:24  <b>circumvent</b> [1] - 15:15  <b>cite</b> [2] - 9:7, 42:8</p>	<p><b>cited</b> [1] - 35:13  <b>citizens</b> [1] - 57:7  <b>Civil</b> [1] - 2:9  <b>civil</b> [6] - 5:23, 19:13, 38:20, 49:24, 50:1, 58:18  <b>claim</b> [18] - 12:5, 24:14, 35:8, 35:9, 49:16, 54:18, 56:5, 56:7, 56:9, 56:10, 56:14, 58:15, 58:16, 58:23, 59:1, 59:6, 60:17, 62:1  <b>claimed</b> [1] - 25:24  <b>claiming</b> [2] - 22:24, 49:16  <b>claims</b> [29] - 6:5, 18:10, 18:18, 21:22, 27:11, 27:14, 27:19, 28:23, 28:24, 28:25, 29:3, 29:7, 31:9, 37:6, 37:8, 37:12, 44:24, 46:3, 46:12, 55:23, 55:25, 56:16, 56:18, 56:19, 56:23, 57:2, 58:11  <b>clarify</b> [1] - 10:12  <b>class</b> [1] - 52:4  <b>classic</b> [1] - 35:12  <b>classification</b> [2] - 60:1, 60:15  <b>classified</b> [1] - 60:14  <b>clause</b> [1] - 45:14  <b>clear</b> [8] - 9:22, 10:13, 18:16, 19:22, 46:20, 49:22, 51:13, 55:6  <b>cleared</b> [4] - 17:10, 22:18, 26:6, 45:16  <b>clearly</b> [16] - 9:15, 9:16, 17:6, 17:23, 20:18, 20:21, 21:2, 21:8, 21:19, 22:8, 22:25, 24:18, 24:20, 37:6, 37:11, 58:16  <b>CLERK</b> [1] - 3:12  <b>clerk</b> [1] - 7:16  <b>client</b> [4] - 13:19, 15:6, 22:14, 63:20  <b>client's</b> [3] - 15:15, 44:21, 60:12  <b>clients</b> [11] - 42:23, 44:24, 48:10, 48:24, 51:23, 52:4, 52:11, 53:22, 54:3, 58:11, 60:19  <b>close</b> [2] - 6:3, 24:23  <b>closure</b> [1] - 64:1  <b>colleague</b> [1] - 35:20  <b>colleagues</b> [1] - 37:23  <b>collective</b> [1] - 27:1  <b>collectively</b> [1] - 5:10  <b>Colon</b> [14] - 10:8, 10:18, 11:2, 13:13, 32:17, 33:14, 33:23, 34:17, 34:18, 35:2, 35:12, 35:13, 40:7  <b>colon</b> [1] - 33:15  <b>coming</b> [1] - 54:14  <b>command</b> [2] - 28:6, 30:5  <b>committed</b> [3] - 12:9, 33:17, 40:2  <b>committing</b> [2] - 34:1, 36:8  <b>common</b> [1] - 7:11  <b>communicate</b> [2] - 49:9, 52:5  <b>communicating</b> [1] - 51:24  <b>communication</b> [9] - 22:23, 30:1, 38:23, 44:25, 49:6, 52:17, 53:5, 54:7, 57:10  <b>communications</b> [17] - 28:25, 30:9, 38:15, 44:21, 45:3, 45:23, 45:24, 46:2, 47:14, 49:12, 49:16, 51:5, 51:22, 52:22, 54:18, 55:2, 57:8  <b>company</b> [1] - 42:2</p>	<p><b>complain</b> [1] - 40:18  <b>complaint</b> [26] - 5:19, 6:10, 6:18, 6:23, 7:12, 8:13, 8:14, 9:5, 13:20, 15:16, 23:23, 24:7, 25:21, 26:3, 28:15, 31:14, 31:22, 37:8, 48:8, 48:13, 48:15, 53:6, 54:2, 60:24, 64:8, 66:12  <b>complaints</b> [2] - 40:15  <b>complete</b> [1] - 61:7  <b>completely</b> [1] - 30:9  <b>complicated</b> [1] - 42:13  <b>computer</b> [1] - 3:4  <b>computer-aided</b> [1] - 3:4  <b>concede</b> [3] - 6:21, 13:10, 65:15  <b>concern</b> [2] - 30:12, 30:25  <b>concerned</b> [3] - 14:25, 24:2, 59:24  <b>concerns</b> [1] - 53:21  <b>conclude</b> [3] - 22:6, 47:1, 47:5  <b>concludes</b> [1] - 66:21  <b>concluding</b> [2] - 21:17, 21:18  <b>conclusively</b> [1] - 39:6  <b>conclusory</b> [1] - 35:6  <b>conditioning</b> [1] - 23:10  <b>conditions</b> [20] - 6:15, 6:20, 18:15, 19:4, 19:15, 19:16, 20:24, 26:2, 26:19, 29:12, 29:13, 38:11, 38:18, 45:16, 46:12, 46:18, 46:19, 46:22, 49:23, 51:1  <b>condoned</b> [2] - 60:5, 60:7  <b>conduct</b> [10] - 6:15, 9:16, 10:20, 13:7, 13:10, 15:16, 30:21, 43:8, 43:9  <b>confident</b> [1] - 54:3  <b>confinement</b> [11] - 18:15, 19:5, 20:24, 26:2, 26:20, 38:11, 38:18, 38:23, 45:16, 46:13, 51:2  <b>conflate</b> [1] - 9:23  <b>confusing</b> [1] - 33:4  <b>Congress</b> [1] - 57:21  <b>Congressional</b> [1] - 57:18  <b>Conley</b> [2] - 7:5, 10:3  <b>Connecticut</b> [1] - 2:3  <b>connection</b> [3] - 22:5, 45:9, 45:17  <b>connote</b> [1] - 41:24  <b>consider</b> [2] - 54:4, 54:6  <b>considered</b> [1] - 45:13  <b>considers</b> [1] - 40:10  <b>consistent</b> [1] - 59:13  <b>Constitution</b> [5] - 5:25, 6:14, 7:17, 15:13, 52:23  <b>constitutional</b> [8] - 7:15, 9:17, 12:1, 12:13, 17:8, 32:14, 57:13, 58:23  <b>Constitutional</b> [2] - 1:20, 4:25  <b>constitutionally</b> [2] - 7:1, 40:12  <b>contacts</b> [1] - 22:3  <b>contend</b> [1] - 19:7  <b>contentious</b> [1] - 5:17  <b>context</b> [35] - 7:7, 17:5, 17:13, 17:14, 17:16, 17:21, 17:25, 18:10, 18:13, 18:18, 18:20, 19:9, 20:7, 20:19, 20:22, 21:1, 21:4, 22:2, 22:7, 22:9, 22:12, 23:22, 24:17, 38:19, 41:10, 44:9, 46:15,</p>

<p>47:10, 47:21, 49:2, 54:23, 55:7, 55:8  <b>continued</b> [1] - 48:5  <b>CONTINUED</b> [1] - 2:1  <b>contours</b> [2] - 13:23, 23:17  <b>contracted</b> [1] - 30:10  <b>controversial</b> [1] - 12:14  <b>convicted</b> [3] - 49:23, 50:13, 58:6  <b>Cooksey</b> [1] - 29:22  <b>cooperate</b> [7] - 8:16, 39:5, 39:19, 39:23, 41:19, 43:19, 44:15  <b>cooperation</b> [1] - 6:9  <b>correct</b> [14] - 8:18, 8:19, 9:1, 11:2, 12:3, 19:19, 34:9, 34:24, 41:16, 55:16, 64:15, 64:18, 64:19, 64:20  <b>corrected</b> [1] - 56:1  <b>correction</b> [1] - 36:16  <b>correctional</b> [4] - 33:3, 33:16, 33:25, 36:8  <b>corrections</b> [1] - 34:5  <b>correctly</b> [1] - 38:9  <b>counsel</b> [9] - 27:1, 27:5, 32:8, 37:5, 38:9, 55:24, 56:8, 56:13, 66:1  <b>couple</b> [3] - 16:23, 21:10, 46:3  <b>course</b> [17] - 9:15, 11:18, 11:21, 41:3, 42:4, 44:9, 46:11, 49:3, 51:11, 53:2, 55:22, 56:17, 58:21, 59:5, 59:13, 64:7, 65:6  <b>COURT</b> [160] - 1:1, 3:13, 3:23, 4:3, 4:9, 4:13, 4:16, 4:20, 4:22, 5:2, 5:5, 8:12, 8:20, 8:24, 9:2, 9:22, 10:1, 10:22, 11:4, 11:8, 11:11, 11:15, 11:20, 11:24, 12:4, 12:7, 12:11, 12:19, 12:25, 13:5, 13:8, 13:12, 13:15, 13:21, 13:23, 14:4, 14:7, 14:9, 14:19, 15:17, 16:6, 16:13, 16:16, 18:12, 19:25, 20:2, 21:4, 22:21, 23:5, 23:16, 24:3, 24:10, 24:19, 25:2, 25:6, 25:8, 26:13, 26:18, 26:23, 27:2, 27:9, 27:17, 27:25, 28:3, 28:7, 29:1, 29:4, 29:9, 29:14, 30:11, 31:4, 31:8, 31:17, 32:1, 32:4, 32:12, 32:19, 32:23, 33:7, 33:18, 33:24, 34:4, 34:20, 34:25, 35:18, 35:20, 35:24, 36:3, 36:10, 36:12, 36:18, 36:20, 37:2, 37:17, 37:21, 37:25, 38:2, 38:6, 39:10, 40:13, 41:7, 41:14, 41:18, 41:23, 42:2, 43:8, 43:16, 43:22, 44:1, 44:3, 44:12, 45:1, 45:21, 46:6, 46:23, 46:25, 48:3, 49:15, 49:25, 50:9, 50:14, 50:22, 51:4, 51:8, 51:15, 52:15, 52:25, 53:8, 53:24, 54:11, 55:5, 55:9, 55:20, 56:3, 56:5, 56:7, 56:12, 56:22, 57:8, 57:14, 58:1, 59:3, 62:3, 62:7, 62:19, 63:2, 63:4, 63:6, 63:11, 63:14, 64:11, 64:14, 64:16, 64:24, 65:6, 65:8, 65:25, 66:6, 66:16, 66:20  <b>Court</b> [66] - 3:1, 5:7, 5:12, 5:14, 5:15, 5:18, 7:4, 7:5, 7:6, 7:10, 7:23, 7:25, 8:5, 12:16, 16:14, 16:18, 17:13, 17:15, 17:17, 17:22, 18:19, 20:23, 21:2, 21:14, 21:16, 22:6, 25:9, 25:20, 26:9, 32:6, 32:10, 38:18, 42:15, 45:7, 45:11, 45:13,</p>	<p>48:23, 52:3, 52:9, 53:13, 53:16, 53:17, 53:23, 54:3, 55:3, 56:14, 57:3, 58:5, 58:15, 58:19, 59:7, 59:10, 59:23, 60:7, 60:21, 61:25, 62:5, 64:6, 65:17, 65:18, 66:10, 66:12  <b>Court's</b> [3] - 14:16, 56:21, 61:19  <b>Courthouse</b> [1] - 1:6  <b>courts</b> [6] - 25:18, 34:11, 34:17, 56:8, 56:11, 56:19  <b>Courts</b> [1] - 14:6  <b>covered</b> [2] - 17:1, 24:17  <b>CRAIG</b> [1] - 1:23  <b>Craig</b> [2] - 4:1, 16:19  <b>create</b> [3] - 27:15, 33:1, 35:7  <b>created</b> [8] - 11:15, 17:20, 29:20, 29:21, 30:8, 39:15, 40:11, 42:16  <b>creates</b> [1] - 30:5  <b>creation</b> [1] - 40:9  <b>credible</b> [2] - 14:9, 14:11  <b>crimes</b> [1] - 19:14  <b>criteria</b> [1] - 52:13  <b>CROWELL</b> [1] - 2:12  <b>Crowell</b> [1] - 4:6  <b>CUCITI</b> [1] - 2:23  <b>culpable</b> [2] - 40:23, 43:13  <b>custom</b> [3] - 18:25, 20:2, 22:1  <b>custody</b> [1] - 11:15  <b>cut</b> [2] - 20:9, 47:5  <b>CV-02-2307</b> [1] - 1:3</p>	<p>37:20, 40:22, 40:25, 41:5, 42:22, 48:16, 48:17, 66:14  <b>Defendant</b> [6] - 1:23, 2:3, 2:7, 2:12, 2:16, 2:19  <b>defendants</b> [33] - 15:23, 19:2, 19:7, 19:22, 23:19, 28:3, 28:7, 30:6, 30:7, 35:9, 35:10, 37:8, 38:8, 38:10, 38:13, 39:16, 40:8, 44:20, 47:25, 48:2, 48:9, 52:2, 53:19, 55:22, 56:2, 56:25, 60:3, 60:5, 62:7, 62:17, 63:9, 64:7  <b>Defendants</b> [1] - 1:8  <b>defendants'</b> [2] - 3:17, 45:21  <b>defense</b> [2] - 27:5, 66:1  <b>defer</b> [2] - 37:22, 54:17  <b>deference</b> [5] - 53:3, 54:13, 54:22, 54:24, 55:7  <b>define</b> [1] - 23:17  <b>definitive</b> [1] - 64:1  <b>definitively</b> [1] - 65:14  <b>degree</b> [2] - 52:15, 52:21  <b>delay</b> [1] - 42:16  <b>delayed</b> [1] - 38:16  <b>deliberate</b> [6] - 32:18, 33:22, 42:11, 42:17, 42:19, 49:22  <b>deliberately</b> [3] - 12:11, 35:11, 41:1  <b>delineates</b> [1] - 37:6  <b>delving</b> [1] - 54:10  <b>denial</b> [2] - 57:10, 62:24  <b>DENNIS</b> [1] - 2:7  <b>Dennis</b> [6] - 2:12, 3:21, 4:7, 5:8, 26:16, 35:4  <b>depended</b> [1] - 18:18  <b>deported</b> [1] - 17:4  <b>Dept</b> [1] - 2:24  <b>Deputy</b> [1] - 8:11  <b>describe</b> [1] - 10:8  <b>designation</b> [1] - 60:11  <b>destroyed</b> [1] - 7:7  <b>destroys</b> [1] - 12:15  <b>detail</b> [2] - 7:21, 29:24  <b>detained</b> [3] - 6:7, 20:5, 45:16  <b>detainee</b> [2] - 50:12, 57:9  <b>detainee's</b> [1] - 49:6  <b>detainees</b> [28] - 6:7, 9:4, 18:22, 19:8, 19:13, 19:20, 19:21, 28:19, 37:12, 38:14, 38:20, 39:4, 39:8, 44:15, 46:21, 46:22, 48:10, 48:19, 49:24, 50:1, 50:2, 50:17, 51:1, 52:5, 58:18, 61:6  <b>detention</b> [1] - 57:6  <b>determination</b> [3] - 24:16, 60:4, 60:5  <b>determine</b> [2] - 51:20, 53:13  <b>determined</b> [3] - 20:20, 30:18, 60:1  <b>developed</b> [3] - 6:6, 6:16, 6:19  <b>difference</b> [2] - 28:22, 36:13  <b>different</b> [9] - 28:22, 34:23, 43:20, 44:17, 46:16, 50:5, 59:8, 64:4, 64:12  <b>differently</b> [2] - 52:13, 60:25  <b>difficult</b> [4] - 18:12, 20:6, 24:11, 65:23  <b>difficulty</b> [1] - 20:3</p>
<b>D</b>		
	<p><b>D.C</b> [1] - 2:4  <b>daily</b> [1] - 48:15  <b>damage</b> [4] - 49:17, 51:6, 53:9, 58:3  <b>dangerous</b> [1] - 49:9  <b>dangerousness</b> [4] - 19:15, 38:22, 47:23, 51:24  <b>David</b> [3] - 4:6, 26:16, 29:23  <b>DAVID</b> [1] - 2:14  <b>days</b> [1] - 54:14  <b>DC</b> [13] - 1:25, 2:13, 38:8, 38:10, 38:13, 44:20, 48:2, 48:9, 60:3, 60:4, 62:7, 63:9, 64:7  <b>deal</b> [1] - 41:18  <b>dealing</b> [3] - 18:14, 18:16, 22:20  <b>dealt</b> [1] - 21:15  <b>death</b> [1] - 11:14  <b>Debra</b> [2] - 4:15, 37:20  <b>DEBRA</b> [1] - 2:5  <b>decided</b> [1] - 55:14  <b>decides</b> [3] - 14:11, 32:25, 40:16  <b>deciding</b> [1] - 60:21  <b>decision</b> [13] - 20:7, 26:6, 27:15, 27:16, 30:8, 37:11, 42:9, 45:8, 45:12, 46:10, 48:4, 54:12, 54:20  <b>decisions</b> [1] - 12:16  <b>deemed</b> [1] - 17:15  <b>defendant</b> [12] - 4:11, 4:15, 25:10,</p>	

<p><b>digested</b> [1] - 5:13  <b>direct</b> [2] - 17:1, 39:25  <b>directed</b> [2] - 19:6, 23:3  <b>direction</b> [1] - 28:18  <b>directive</b> [1] - 40:1  <b>directly</b> [3] - 11:8, 23:14, 38:25  <b>Director</b> [18] - 4:2, 16:19, 16:25, 17:7, 18:1, 18:11, 22:9, 22:13, 23:1, 23:2, 23:7, 23:15, 24:2, 24:12, 25:4, 25:18, 29:21, 29:22  <b>directors</b> [1] - 29:23  <b>disagree</b> [3] - 15:5, 15:25, 30:20  <b>discharge</b> [1] - 61:22  <b>discovery</b> [12] - 48:11, 48:12, 48:22, 54:1, 62:9, 62:21, 62:25, 64:4, 64:8, 64:21, 66:13  <b>discriminated</b> [1] - 59:25  <b>discrimination</b> [4] - 59:6, 59:11, 59:14, 60:8  <b>discriminatory</b> [5] - 14:20, 15:3, 16:7, 59:15, 60:9  <b>discussed</b> [1] - 29:6  <b>discussing</b> [1] - 38:7  <b>dismiss</b> [7] - 27:10, 31:2, 42:7, 42:25, 43:2, 43:15, 54:25  <b>dismissal</b> [1] - 18:5  <b>dismissed</b> [9] - 18:11, 25:4, 28:12, 37:14, 56:10, 62:9, 62:18, 63:19, 64:7  <b>disparate</b> [1] - 59:19  <b>dissenters</b> [1] - 14:25  <b>distinction</b> [3] - 15:7, 20:17, 33:1  <b>distinguish</b> [1] - 58:10  <b>DISTRICT</b> [3] - 1:1, 1:1, 1:14  <b>District</b> [3] - 2:8, 12:17, 34:15  <b>Division</b> [1] - 2:9  <b>doctrine</b> [3] - 5:22, 8:1, 64:10  <b>DOJ</b> [1] - 1:24  <b>done</b> [7] - 16:25, 21:2, 34:23, 43:19, 59:1, 59:3, 65:11  <b>door</b> [2] - 19:9, 32:22  <b>doubt</b> [1] - 10:14  <b>down</b> [12] - 7:3, 12:19, 12:21, 13:1, 23:2, 23:5, 24:14, 32:13, 32:24, 34:5, 43:4, 53:5  <b>drafted</b> [1] - 9:13  <b>draw</b> [3] - 24:11, 24:13, 53:1  <b>dried</b> [1] - 20:9  <b>due</b> [8] - 20:8, 45:14, 45:19, 46:12, 46:13, 47:2, 48:4, 48:5  <b>Dura</b> [1] - 66:9  <b>duties</b> [1] - 61:22  <b>DUVAL</b> [1] - 2:19</p>	<p><b>EASTERN</b> [1] - 1:1  <b>easy</b> [1] - 36:4  <b>egregious</b> [2] - 24:6, 29:1  <b>Egyptians</b> [1] - 61:14  <b>Eighth</b> [1] - 42:9  <b>either</b> [9] - 13:12, 17:3, 20:12, 37:9, 37:13, 40:25, 52:20, 57:15, 57:22  <b>element</b> [2] - 17:16, 21:21  <b>elements</b> [3] - 17:4, 35:5, 35:14  <b>eleven</b> [2] - 32:21, 34:23  <b>eliminated</b> [1] - 33:23  <b>Elmaghaby</b> [1] - 30:4  <b>elsewhere</b> [1] - 65:1  <b>emergency</b> [2] - 17:19, 51:13  <b>employed</b> [1] - 21:14  <b>enable</b> [1] - 66:13  <b>encourage</b> [3] - 39:3, 39:4, 39:9  <b>encouraged</b> [6] - 8:15, 39:5, 39:18, 41:13, 43:18, 44:15  <b>encourages</b> [2] - 41:21, 41:25  <b>end</b> [5] - 8:4, 14:5, 15:8, 54:7, 54:8  <b>endorsing</b> [1] - 17:17  <b>enforcement</b> [4] - 18:20, 18:24, 39:21, 41:10  <b>engaged</b> [2] - 22:15, 23:3  <b>ensure</b> [1] - 8:5  <b>ensured</b> [1] - 8:1  <b>entitled</b> [1] - 29:16  <b>entry</b> [1] - 57:6  <b>enunciated</b> [1] - 61:3  <b>equal</b> [3] - 59:1, 61:16, 62:1  <b>equally</b> [1] - 50:8  <b>erase</b> [1] - 47:21  <b>erroneously</b> [2] - 47:2, 47:5  <b>especially</b> [4] - 16:9, 22:13, 41:22, 49:4  <b>ESQ</b> [11] - 1:17, 1:18, 1:18, 1:19, 1:19, 1:23, 2:5, 2:14, 2:14, 2:16, 2:21  <b>essence</b> [2] - 12:4, 28:18  <b>established</b> [14] - 17:6, 17:23, 20:19, 20:22, 21:2, 21:8, 21:19, 22:25, 24:18, 29:6, 34:10, 35:3, 35:17, 49:11  <b>establishes</b> [1] - 24:20  <b>ET</b> [2] - 1:3, 1:7  <b>events</b> [1] - 17:20  <b>evidence</b> [6] - 19:14, 22:23, 47:23, 49:13, 52:3, 52:13  <b>evidentiary</b> [1] - 49:8  <b>eviscerated</b> [1] - 10:10  <b>exact</b> [2] - 11:6, 58:13  <b>exactly</b> [6] - 8:4, 12:6, 20:4, 30:21, 46:16, 48:24  <b>examined</b> [1] - 24:15  <b>example</b> [7] - 28:24, 30:1, 35:8, 48:24, 53:11, 61:12, 62:11  <b>examples</b> [1] - 14:7  <b>except</b> [1] - 20:4  <b>excessive</b> [1] - 35:9  <b>excuse</b> [1] - 20:1</p>	<p><b>executed</b> [1] - 9:11  <b>executing</b> [1] - 21:16  <b>exhibit</b> [1] - 31:16  <b>exist</b> [2] - 35:2, 55:8  <b>exists</b> [2] - 40:8, 54:22  <b>exit</b> [1] - 57:6  <b>expect</b> [2] - 7:14, 63:17  <b>expected</b> [1] - 41:6  <b>experience</b> [1] - 7:11  <b>experiences</b> [1] - 58:17  <b>explaining</b> [1] - 48:17  <b>explains</b> [1] - 5:20  <b>explicitly</b> [1] - 29:20  <b>extends</b> [1] - 20:13  <b>extension</b> [1] - 56:18  <b>extensive</b> [1] - 5:23  <b>extent</b> [3] - 6:10, 50:16, 52:2  <b>extraordinary</b> [1] - 24:25  <b>extremely</b> [1] - 62:25  <b>extrinsic</b> [1] - 18:19  <b>eyes</b> [1] - 17:22</p>
<b>E</b>		<b>F</b>
<p><b>easiest</b> [1] - 53:11  <b>easily</b> [1] - 15:1  <b>East</b> [1] - 3:1  <b>Eastern</b> [2] - 2:8, 34:15</p>		<p><b>face</b> [6] - 7:2, 12:21, 17:5, 28:15, 38:17, 39:1  <b>facets</b> [1] - 36:2  <b>facially</b> [3] - 27:23, 27:25, 29:18  <b>facility</b> [7] - 28:5, 34:5, 49:20, 50:24, 52:25, 57:10, 58:13  <b>fact</b> [16] - 18:22, 20:17, 31:9, 36:25, 38:12, 39:5, 41:2, 42:12, 48:8, 56:19, 59:12, 59:14, 60:7, 60:13, 60:25, 61:1  <b>factor</b> [8] - 32:22, 35:13, 35:14, 40:8, 53:14, 53:15, 53:18, 53:20  <b>factors</b> [4] - 18:3, 35:2, 35:12, 53:12  <b>facts</b> [19] - 7:6, 18:21, 21:22, 24:1, 24:4, 25:15, 30:14, 30:22, 31:10, 31:22, 32:7, 48:7, 48:21, 48:23, 54:19, 55:1, 60:24, 61:9, 65:1  <b>factual</b> [6] - 23:23, 24:13, 47:24, 59:11, 59:22, 60:23  <b>factually</b> [1] - 23:14  <b>failed</b> [1] - 11:11  <b>failing</b> [1] - 12:12  <b>fails</b> [1] - 51:25  <b>failure</b> [2] - 13:2, 26:11  <b>fair</b> [4] - 27:3, 34:21, 43:2, 46:23  <b>fairly</b> [3] - 17:25, 32:9  <b>fall</b> [2] - 13:12, 32:17  <b>falling</b> [1] - 15:1  <b>far</b> [7] - 14:25, 18:13, 24:1, 24:9, 24:10, 26:3, 32:10  <b>Farmer</b> [2] - 33:10, 33:13  <b>farmer</b> [2] - 33:11, 58:7  <b>fashion</b> [3] - 7:22, 11:23, 28:19  <b>FBI</b> [9] - 25:18, 48:1, 48:20, 49:1, 54:4, 60:3, 61:2, 61:7, 61:10  <b>FBI's</b> [1] - 48:19</p>

<p><b>fear</b> [1] - 52:4  <b>feature</b> [1] - 19:3  <b>February</b> [1] - 34:14  <b>Federal</b> [1] - 2:24  <b>federal</b> [7] - 18:24, 49:5, 49:11, 52:12, 55:3, 58:6, 61:20  <b>feet</b> [1] - 32:5  <b>fellow</b> [1] - 27:5  <b>few</b> [8] - 26:20, 34:14, 35:23, 36:2, 36:6, 54:14, 55:14, 58:25  <b>fighths</b> [1] - 33:18  <b>figuring</b> [1] - 18:13  <b>filed</b> [2] - 16:22, 54:2  <b>filming</b> [3] - 54:5, 61:13, 61:14  <b>final</b> [3] - 35:1, 35:23, 36:6  <b>financial</b> [1] - 7:19  <b>finish</b> [2] - 19:25, 50:20  <b>fire</b> [1] - 32:5  <b>First</b> [3] - 55:18, 55:25, 57:2  <b>first</b> [12] - 5:3, 10:5, 16:24, 26:21, 27:11, 34:12, 34:14, 47:20, 51:20, 52:1, 54:14, 57:17  <b>five</b> [10] - 10:7, 10:24, 12:11, 28:25, 29:10, 29:11, 32:18, 34:19, 35:2, 35:14  <b>Floor</b> [1] - 1:20  <b>focus</b> [5] - 25:12, 25:20, 26:9, 26:19, 46:14  <b>focused</b> [2] - 26:3, 27:6  <b>folks</b> [5] - 20:12, 30:20, 39:16, 47:6, 54:14  <b>follow</b> [5] - 27:24, 45:25, 46:25, 47:11, 58:9  <b>followed</b> [2] - 17:24, 47:3  <b>following</b> [3] - 27:25, 29:8, 29:18  <b>forgotten</b> [1] - 45:5  <b>form</b> [3] - 14:3, 46:3, 49:2  <b>former</b> [8] - 4:7, 4:18, 5:8, 6:2, 6:6, 26:16, 36:21, 39:21  <b>formulated</b> [1] - 18:19  <b>forth</b> [2] - 37:12, 61:9  <b>forward</b> [3] - 43:2, 52:3, 54:1  <b>founded</b> [1] - 66:13  <b>four</b> [6] - 12:8, 28:24, 29:9, 29:11, 35:13, 60:13  <b>fourth</b> [2] - 5:19, 48:13  <b>Fourth</b> [3] - 1:24, 9:10, 23:23  <b>framework</b> [1] - 57:15  <b>fraud</b> [1] - 50:23  <b>frequently</b> [1] - 56:20  <b>fugitive</b> [1] - 8:9  <b>full</b> [2] - 41:17, 61:6  <b>future</b> [1] - 8:5</p>	<p><b>general</b> [6] - 7:14, 8:8, 38:25, 50:7, 53:5, 57:20  <b>General</b> [15] - 3:22, 5:9, 6:6, 6:25, 7:20, 8:6, 8:10, 22:10, 22:16, 25:19, 44:9, 44:13, 48:16, 52:19, 54:15  <b>General's</b> [3] - 6:2, 6:4, 6:11  <b>general's</b> [1] - 6:17  <b>generic</b> [1] - 7:8  <b>GEORGE</b> [1] - 1:19  <b>Gibson</b> [2] - 7:6, 10:4  <b>gist</b> [1] - 27:23  <b>given</b> [5] - 5:22, 8:3, 57:15, 62:21, 64:25  <b>GLEESON</b> [1] - 1:13  <b>good-bye</b> [1] - 7:5  <b>gospel</b> [1] - 31:10  <b>govern</b> [1] - 17:23  <b>government</b> [5] - 5:21, 7:17, 8:7, 36:7, 36:15  <b>grant</b> [1] - 46:10  <b>granted</b> [1] - 65:17  <b>grateful</b> [1] - 39:12  <b>great</b> [2] - 26:24, 29:24  <b>greater</b> [5] - 19:11, 19:20, 50:1, 50:18, 50:22  <b>grievance</b> [7] - 42:10, 42:12, 58:5, 58:8, 58:10, 58:20, 58:24  <b>grinds</b> [2] - 7:18  <b>grossly</b> [2] - 12:8, 35:10  <b>ground</b> [2] - 18:5, 22:17  <b>grouped</b> [2] - 37:9, 50:6  <b>growing</b> [1] - 34:11  <b>guards</b> [1] - 12:21  <b>guess</b> [2] - 59:4, 65:5  <b>guests</b> [1] - 19:20  <b>guide</b> [1] - 22:9</p>	<p><b>head</b> [7] - 11:7, 16:11, 21:9, 25:10, 50:19, 61:10, 65:13  <b>headway</b> [1] - 16:10  <b>hear</b> [3] - 36:12, 46:4, 59:3  <b>hearings</b> [2] - 38:16, 45:15  <b>heat</b> [1] - 23:10  <b>held</b> [20] - 8:2, 8:10, 9:2, 9:14, 10:9, 10:16, 11:1, 32:20, 32:21, 33:7, 36:7, 36:9, 36:15, 42:15, 42:19, 44:23, 48:10, 56:14, 58:13, 58:16  <b>help</b> [1] - 44:3  <b>herself</b> [2] - 15:19, 34:13  <b>hesitate</b> [1] - 53:16  <b>hesitation</b> [4] - 53:8, 53:11, 53:12, 53:16  <b>high</b> [6] - 59:25, 60:1, 60:11, 60:14, 60:21, 61:8  <b>highlight</b> [2] - 27:7, 36:24  <b>highlighted</b> [1] - 36:25  <b>himself</b> [1] - 9:4  <b>history</b> [1] - 17:19  <b>hold</b> [6] - 6:24, 18:16, 22:18, 26:6, 32:5, 55:3  <b>holding</b> [2] - 19:13, 38:22  <b>holds</b> [1] - 12:17  <b>Homeland</b> [1] - 2:24  <b>Honor</b> [92] - 3:20, 3:25, 4:5, 4:10, 4:17, 4:21, 4:24, 5:4, 5:6, 5:10, 5:20, 6:23, 7:3, 7:13, 7:25, 8:4, 11:7, 11:18, 12:6, 13:16, 14:2, 14:15, 15:7, 15:14, 16:9, 17:11, 20:16, 21:12, 22:19, 23:1, 23:13, 23:22, 24:9, 25:7, 25:13, 26:14, 26:15, 26:25, 28:2, 30:3, 31:12, 33:1, 33:20, 34:9, 36:19, 36:23, 37:11, 37:16, 37:19, 38:5, 40:7, 40:22, 41:9, 41:16, 41:21, 42:1, 42:6, 43:21, 44:19, 45:20, 46:8, 47:19, 48:8, 48:14, 50:4, 50:21, 51:11, 51:18, 53:2, 53:10, 54:23, 56:1, 56:10, 56:17, 57:17, 58:4, 58:25, 60:10, 61:9, 61:17, 61:23, 62:2, 62:5, 63:3, 63:7, 63:10, 63:15, 64:3, 65:12, 66:2, 66:8, 66:19  <b>Honor's</b> [2] - 15:24, 58:13  <b>HONORABLE</b> [1] - 1:13  <b>hook</b> [4] - 27:20, 28:11, 40:19, 40:20  <b>hope</b> [1] - 66:13  <b>hopelessly</b> [1] - 31:8  <b>hours</b> [1] - 8:3  <b>house</b> [2] - 8:11, 9:11  <b>housed</b> [2] - 37:13, 37:14  <b>housing</b> [1] - 45:10  <b>Housing</b> [2] - 38:24, 53:6  <b>hurdle</b> [1] - 6:3  <b>hypothetical</b> [2] - 13:6, 35:25</p>
<p style="text-align: center;"><b>G</b></p>	<p style="text-align: center;"><b>H</b></p>	<p style="text-align: center;"><b>I</b></p>
<p><b>gap</b> [1] - 30:5  <b>GARDNER</b> [1] - 1:19  <b>gathered</b> [1] - 48:20  <b>Gene</b> [1] - 3:1</p>	<p><b>half</b> [1] - 39:2  <b>hall</b> [3] - 32:14, 32:24, 34:5  <b>hallway</b> [1] - 12:19  <b>halt</b> [2] - 7:18  <b>hand</b> [2] - 10:1, 50:10  <b>handcuffed</b> [1] - 12:20  <b>hands</b> [1] - 15:3  <b>hands-on</b> [1] - 15:3  <b>hang</b> [1] - 19:5  <b>happy</b> [2] - 36:12, 56:20  <b>hard</b> [3] - 30:19, 50:3, 53:1  <b>hardest</b> [1] - 39:10  <b>harm</b> [2] - 41:4, 41:6  <b>harms</b> [1] - 15:6  <b>harshly</b> [1] - 42:23  <b>Hasty</b> [10] - 2:12, 4:7, 26:17, 27:6, 28:16, 28:17, 30:8, 35:4, 35:10, 37:24  <b>hasty's</b> [1] - 29:6  <b>Hasty's</b> [3] - 27:12, 29:16, 64:22  <b>Hawk</b> [1] - 29:22</p>	<p><b>IBRAHIM</b> [1] - 1:3  <b>identified</b> [1] - 25:24</p>

<p><b>identify</b> <sup>[1]</sup> - 51:19  <b>IG</b> <sup>[5]</sup> - 29:19, 29:24, 31:11, 32:7  <b>ignore</b> <sup>[1]</sup> - 7:4  <b>illegal</b> <sup>[6]</sup> - 8:17, 8:21, 41:24, 41:25, 42:4, 44:6  <b>imagine</b> <sup>[1]</sup> - 39:7  <b>immediate</b> <sup>[1]</sup> - 53:4  <b>immediately</b> <sup>[3]</sup> - 41:22, 49:3, 63:22  <b>immigration</b> <sup>[4]</sup> - 19:13, 38:20, 46:21, 50:12  <b>Immigration</b> <sup>[4]</sup> - 18:4, 25:11, 38:16, 58:18  <b>immune</b> <sup>[4]</sup> - 20:11, 23:8, 23:12, 23:20  <b>immunity</b> <sup>[30]</sup> - 5:22, 8:1, 9:15, 17:6, 17:12, 17:13, 18:6, 19:23, 20:8, 20:11, 20:13, 20:15, 20:18, 21:7, 24:6, 24:9, 29:17, 30:17, 30:23, 31:5, 31:9, 45:4, 45:19, 46:2, 46:11, 47:12, 55:11, 55:12, 62:24, 64:10  <b>impact</b> <sup>[1]</sup> - 59:19  <b>impermissible</b> <sup>[2]</sup> - 60:6  <b>implement</b> <sup>[3]</sup> - 6:22, 30:15, 44:11  <b>implementation</b> <sup>[1]</sup> - 26:4  <b>implemented</b> <sup>[7]</sup> - 12:1, 28:9, 30:16, 40:11, 41:8, 42:4, 60:19  <b>implementing</b> <sup>[3]</sup> - 28:18, 40:1, 40:16  <b>implicates</b> <sup>[2]</sup> - 62:9, 62:10  <b>implied</b> <sup>[1]</sup> - 58:6  <b>imply</b> <sup>[3]</sup> - 56:20, 57:15, 57:16  <b>implying</b> <sup>[2]</sup> - 53:9, 58:3  <b>important</b> <sup>[3]</sup> - 17:15, 46:10, 59:7  <b>imposed</b> <sup>[2]</sup> - 19:16, 46:19  <b>impossible</b> <sup>[1]</sup> - 43:14  <b>impunity</b> <sup>[1]</sup> - 33:19  <b>imputing</b> <sup>[1]</sup> - 53:9  <b>in-between</b> <sup>[1]</sup> - 30:7  <b>INA</b> <sup>[2]</sup> - 57:3, 57:5  <b>included</b> <sup>[1]</sup> - 34:18  <b>includes</b> <sup>[1]</sup> - 27:19  <b>including</b> <sup>[3]</sup> - 19:4, 37:23, 41:24  <b>incorporate</b> <sup>[1]</sup> - 27:4  <b>incorporated</b> <sup>[1]</sup> - 6:18  <b>indeed</b> <sup>[2]</sup> - 6:17, 6:21  <b>independent</b> <sup>[1]</sup> - 16:24  <b>indifference</b> <sup>[6]</sup> - 32:18, 33:22, 42:11, 42:17, 42:19, 49:22  <b>indifferent</b> <sup>[3]</sup> - 12:11, 35:11, 41:2  <b>individual</b> <sup>[8]</sup> - 5:9, 6:25, 10:21, 16:5, 18:8, 34:3, 37:7, 60:20  <b>individualized</b> <sup>[4]</sup> - 24:14, 38:21, 49:14, 51:2  <b>individually</b> <sup>[2]</sup> - 25:19, 25:20  <b>individuals</b> <sup>[18]</sup> - 6:7, 6:19, 8:1, 17:3, 17:8, 17:10, 18:1, 21:24, 22:4, 38:22, 41:11, 58:17, 59:12, 59:17, 61:2, 61:12  <b>inevitably</b> <sup>[1]</sup> - 31:9  <b>infer</b> <sup>[1]</sup> - 43:10  <b>inference</b> <sup>[3]</sup> - 39:9, 43:3, 60:9  <b>information</b> <sup>[10]</sup> - 12:12, 48:1, 48:9,</p>	<p>48:11, 48:15, 48:20, 48:21, 49:5, 54:1, 54:2  <b>informed</b> <sup>[1]</sup> - 11:12  <b>informs</b> <sup>[1]</sup> - 7:13  <b>initial</b> <sup>[1]</sup> - 18:17  <b>injuries</b> <sup>[1]</sup> - 66:14  <b>inmate</b> <sup>[13]</sup> - 14:9, 14:10, 14:13, 33:2, 33:6, 33:14, 34:6, 34:8, 36:13, 40:14, 40:15  <b>inmates</b> <sup>[1]</sup> - 28:18  <b>inquiry</b> <sup>[1]</sup> - 57:20  <b>inspector</b> <sup>[1]</sup> - 6:17  <b>instance</b> <sup>[1]</sup> - 9:8  <b>instant</b> <sup>[2]</sup> - 45:11, 45:12  <b>instead</b> <sup>[2]</sup> - 8:16, 22:17  <b>institution</b> <sup>[2]</sup> - 50:6  <b>insufficiency</b> <sup>[1]</sup> - 28:12  <b>insufficient</b> <sup>[2]</sup> - 44:6, 62:8  <b>intelligence</b> <sup>[1]</sup> - 48:18  <b>intend</b> <sup>[5]</sup> - 3:14, 40:25, 42:22, 62:22, 62:23  <b>intending</b> <sup>[1]</sup> - 8:13  <b>intent</b> <sup>[9]</sup> - 14:20, 14:21, 15:3, 16:7, 42:21, 43:3, 43:10, 59:15, 60:9  <b>interest</b> <sup>[11]</sup> - 51:21, 59:25, 60:1, 60:11, 60:14, 60:22, 61:8, 61:14  <b>interested</b> <sup>[2]</sup> - 19:1, 46:6  <b>interests</b> <sup>[2]</sup> - 50:5, 50:7  <b>interlocutory</b> <sup>[1]</sup> - 62:23  <b>internal</b> <sup>[7]</sup> - 57:11, 57:19, 57:25, 58:8, 58:20, 58:23  <b>international</b> <sup>[3]</sup> - 17:19, 22:2, 22:3  <b>interpreted</b> <sup>[1]</sup> - 61:10  <b>interrupted</b> <sup>[1]</sup> - 51:12  <b>interrupting</b> <sup>[2]</sup> - 11:19, 44:3  <b>interruption</b> <sup>[1]</sup> - 47:15  <b>intervene</b> <sup>[5]</sup> - 12:21, 13:3, 32:14, 32:25, 34:7  <b>intervening</b> <sup>[2]</sup> - 41:5, 60:20  <b>intervention</b> <sup>[1]</sup> - 13:3  <b>interviews</b> <sup>[1]</sup> - 29:25  <b>interwoven</b> <sup>[1]</sup> - 53:21  <b>intrinsically</b> <sup>[1]</sup> - 53:21  <b>inured</b> <sup>[1]</sup> - 45:21  <b>investigate</b> <sup>[1]</sup> - 59:16  <b>investigated</b> <sup>[3]</sup> - 17:2, 17:9, 22:4  <b>investigation</b> <sup>[5]</sup> - 6:8, 22:3, 22:11, 60:2, 61:14  <b>invidious</b> <sup>[2]</sup> - 14:20, 15:2  <b>involve</b> <sup>[1]</sup> - 24:20  <b>involved</b> <sup>[3]</sup> - 26:6, 42:9, 64:21  <b>involvement</b> <sup>[13]</sup> - 5:17, 23:25, 24:3, 25:15, 25:25, 26:12, 29:7, 32:8, 35:3, 35:7, 35:16, 38:8, 59:18  <b>Iqbal</b> <sup>[48]</sup> - 5:18, 5:20, 7:4, 7:8, 7:9, 7:13, 9:24, 10:3, 10:10, 10:14, 10:15, 10:18, 10:25, 11:1, 11:13, 12:15, 14:1, 14:18, 14:19, 14:23, 15:9, 16:8, 25:13, 32:15, 32:22, 33:11, 33:20, 34:10,</p>	<p>34:13, 34:18, 34:24, 35:4, 35:15, 40:8, 40:24, 43:1, 48:8, 59:5, 59:8, 59:9, 59:10, 59:24, 61:20, 62:8, 64:5, 64:11  <b>Iqbal's</b> <sup>[1]</sup> - 16:3  <b>irreconcilable</b> <sup>[1]</sup> - 13:25  <b>isolated</b> <sup>[1]</sup> - 38:15  <b>issue</b> <sup>[8]</sup> - 13:17, 31:19, 32:9, 33:16, 45:3, 57:8, 58:5, 61:1  <b>issued</b> <sup>[2]</sup> - 25:17, 37:11  <b>issues</b> <sup>[9]</sup> - 15:19, 26:20, 26:21, 27:6, 30:17, 39:11, 45:2, 53:23, 54:10  <b>itself</b> <sup>[8]</sup> - 11:22, 36:7, 37:9, 39:15, 41:8, 44:22, 54:6, 61:20</p> <p style="text-align: center;"><b>J</b></p> <p><b>james</b> <sup>[1]</sup> - 2:3  <b>James</b> <sup>[4]</sup> - 2:17, 4:11, 4:15, 25:10  <b>Jamieson</b> <sup>[1]</sup> - 2:9  <b>jerk</b> <sup>[1]</sup> - 65:13  <b>JG</b> <sup>[1]</sup> - 1:3  <b>John</b> <sup>[2]</sup> - 5:9, 11:5  <b>JOHN</b> <sup>[1]</sup> - 1:7  <b>JOHN</b> <sup>[1]</sup> - 1:13  <b>join</b> <sup>[2]</sup> - 18:3, 18:7  <b>JOSEPH</b> <sup>[1]</sup> - 2:23  <b>Joshua</b> <sup>[2]</sup> - 4:18, 36:21  <b>JOSHUA</b> <sup>[1]</sup> - 2:21  <b>JR</b> <sup>[2]</sup> - 2:7, 2:16  <b>judge</b> <sup>[1]</sup> - 34:12  <b>JUDGE</b> <sup>[1]</sup> - 1:14  <b>Judge</b> <sup>[3]</sup> - 17:17, 34:15, 45:8  <b>judges</b> <sup>[1]</sup> - 34:22  <b>judgment</b> <sup>[6]</sup> - 52:7, 64:1, 65:17, 65:21, 65:22  <b>judicial</b> <sup>[1]</sup> - 7:10  <b>jump</b> <sup>[1]</sup> - 45:1  <b>June</b> <sup>[1]</sup> - 29:19  <b>jury</b> <sup>[1]</sup> - 43:6  <b>Justice</b> <sup>[1]</sup> - 14:24  <b>justification</b> <sup>[2]</sup> - 19:13, 50:11</p> <p style="text-align: center;"><b>K</b></p> <p><b>keeps</b> <sup>[1]</sup> - 34:11  <b>key</b> <sup>[2]</sup> - 38:10, 42:21  <b>kick</b> <sup>[1]</sup> - 62:17  <b>kicks</b> <sup>[1]</sup> - 53:16  <b>kill</b> <sup>[1]</sup> - 14:10  <b>killed</b> <sup>[1]</sup> - 14:13  <b>kind</b> <sup>[4]</sup> - 22:9, 27:7, 29:12, 45:5  <b>kinds</b> <sup>[1]</sup> - 9:4  <b>KLEIN</b> <sup>[8]</sup> - 2:21, 4:17, 4:21, 4:23, 36:19, 36:21, 37:4, 37:18  <b>Klein</b> <sup>[5]</sup> - 4:18, 4:21, 4:22, 36:21  <b>knee</b> <sup>[1]</sup> - 65:13  <b>knell</b> <sup>[1]</sup> - 11:14  <b>knowing</b> <sup>[1]</sup> - 65:12</p>
--	--	---

<p><b>knowledge</b> <sup>[1]</sup> - 61:7  <b>known</b> <sup>[2]</sup> - 10:15, 42:18</p>	<p><b>literally</b> <sup>[1]</sup> - 9:3  <b>litigation</b> <sup>[1]</sup> - 63:23  <b>LLP</b> <sup>[1]</sup> - 2:19  <b>lockdown</b> <sup>[2]</sup> - 40:17, 51:13  <b>logic</b> <sup>[1]</sup> - 46:1  <b>look</b> <sup>[12]</sup> - 7:20, 10:23, 21:21, 23:24, 24:24, 35:8, 40:7, 42:3, 51:22, 53:19, 53:23, 66:6  <b>looked</b> <sup>[1]</sup> - 22:10  <b>looking</b> <sup>[11]</sup> - 8:8, 38:20, 39:2, 46:9, 51:17, 51:19, 54:23, 56:16, 57:4, 57:21, 61:12  <b>looks</b> <sup>[2]</sup> - 19:7, 19:10  <b>lose</b> <sup>[2]</sup> - 43:22, 52:7  <b>low</b> <sup>[1]</sup> - 53:15  <b>lumped</b> <sup>[1]</sup> - 25:16</p>	<p>44:8, 44:13, 45:20, 46:4, 46:8, 46:24, 47:19, 48:7, 49:21, 50:3, 50:10, 50:20, 50:24, 51:7, 51:10, 51:17, 52:24, 53:1, 53:10, 53:25, 54:22, 55:6, 55:17, 55:21, 56:4, 56:6, 56:9, 56:13, 56:24, 57:11, 57:17, 58:4, 59:4, 62:5, 62:15, 62:20, 63:3, 63:5, 63:7, 66:8, 66:19  <b>meet</b> <sup>[1]</sup> - 65:24  <b>meeting</b> <sup>[1]</sup> - 6:3  <b>members</b> <sup>[1]</sup> - 8:7  <b>memorandum</b> <sup>[1]</sup> - 9:7  <b>mentions</b> <sup>[1]</sup> - 53:7  <b>mere</b> <sup>[1]</sup> - 35:6  <b>merits</b> <sup>[1]</sup> - 55:12  <b>methods</b> <sup>[1]</sup> - 44:6  <b>Michael</b> <sup>[5]</sup> - 2:20, 4:7, 4:18, 29:22, 36:22  <b>MICHAEL</b> <sup>[2]</sup> - 1:19, 2:14  <b>middle</b> <sup>[1]</sup> - 47:14  <b>Midtown</b> <sup>[2]</sup> - 61:13, 61:15  <b>might</b> <sup>[15]</sup> - 8:22, 8:23, 10:14, 19:10, 19:16, 33:3, 35:1, 46:15, 47:12, 47:18, 49:9, 52:6, 64:4, 65:1, 65:2  <b>mind</b> <sup>[5]</sup> - 15:8, 30:19, 40:23, 40:24, 43:13  <b>minute</b> <sup>[2]</sup> - 7:21, 20:25  <b>minutes</b> <sup>[1]</sup> - 58:25  <b>Minx</b> <sup>[1]</sup> - 9:9  <b>misactions</b> <sup>[1]</sup> - 15:11  <b>missed</b> <sup>[1]</sup> - 64:13  <b>misunderstood</b> <sup>[1]</sup> - 10:22  <b>moment</b> <sup>[2]</sup> - 61:18, 61:23  <b>months</b> <sup>[5]</sup> - 49:16, 54:7, 54:8, 54:17, 60:15  <b>MORING</b> <sup>[1]</sup> - 2:12  <b>Moring</b> <sup>[1]</sup> - 4:6  <b>morning</b> <sup>[31]</sup> - 3:13, 3:20, 3:23, 3:25, 4:3, 4:5, 4:9, 4:10, 4:13, 4:14, 4:16, 4:17, 4:22, 4:23, 4:24, 5:2, 5:6, 5:15, 18:8, 25:7, 25:8, 26:15, 26:18, 27:5, 27:8, 36:19, 36:20, 37:19, 37:21, 38:5, 38:6  <b>morphed</b> <sup>[1]</sup> - 7:2  <b>most</b> <sup>[8]</sup> - 5:16, 12:14, 19:15, 19:21, 24:6, 26:4, 34:17, 59:6  <b>motion</b> <sup>[11]</sup> - 5:16, 25:23, 26:11, 27:10, 31:2, 42:7, 42:25, 43:1, 43:14, 54:25, 55:10  <b>motions</b> <sup>[3]</sup> - 3:15, 18:13, 66:18  <b>moving</b> <sup>[1]</sup> - 61:16  <b>MR</b> <sup>[102]</sup> - 3:20, 3:25, 4:5, 4:10, 4:17, 4:21, 4:23, 5:4, 5:6, 8:19, 8:22, 9:1, 9:6, 9:25, 10:11, 11:3, 11:6, 11:10, 11:13, 11:17, 11:21, 12:3, 12:6, 12:10, 12:14, 12:23, 13:4, 13:6, 13:9, 13:14, 13:16, 13:22, 14:1, 14:5, 14:8, 14:15, 15:5, 15:24, 16:8, 16:14, 16:18, 19:24, 20:1, 20:16, 21:12, 23:1, 23:13, 23:22, 24:8, 24:11, 24:22, 25:3, 25:7, 25:9, 26:14, 26:15, 26:19, 26:25, 27:3, 27:10, 27:22,</p>
<b>L</b>		
<p><b>lack</b> <sup>[1]</sup> - 61:7  <b>lacked</b> <sup>[2]</sup> - 9:12, 9:18  <b>land</b> <sup>[1]</sup> - 51:18  <b>Langford</b> <sup>[2]</sup> - 42:8, 42:9  <b>language</b> <sup>[4]</sup> - 16:3, 39:21, 40:1, 66:9  <b>large</b> <sup>[1]</sup> - 5:14  <b>larger</b> <sup>[1]</sup> - 49:20  <b>last</b> <sup>[3]</sup> - 4:20, 55:23, 56:14  <b>latest</b> <sup>[1]</sup> - 25:21  <b>law</b> <sup>[23]</sup> - 9:7, 12:23, 14:17, 16:2, 17:7, 17:23, 18:19, 18:20, 18:24, 24:18, 24:20, 34:10, 39:21, 41:10, 42:24, 46:20, 51:13, 52:9, 54:23, 55:6, 56:19, 57:4  <b>lawful</b> <sup>[6]</sup> - 28:9, 30:21, 39:7, 43:18, 44:17, 50:12  <b>lawfully</b> <sup>[2]</sup> - 19:16, 44:11  <b>LAWRENCE</b> <sup>[14]</sup> - 1:23, 3:25, 16:18, 19:24, 20:1, 20:16, 21:12, 23:1, 23:13, 23:22, 24:8, 24:11, 24:22, 25:3  <b>Lawrence</b> <sup>[3]</sup> - 4:1, 16:19, 25:6  <b>lawsuit</b> <sup>[1]</sup> - 62:13  <b>Layne</b> <sup>[1]</sup> - 21:15  <b>leaders</b> <sup>[4]</sup> - 7:13, 7:19, 8:6, 8:7  <b>learned</b> <sup>[1]</sup> - 48:12  <b>least</b> <sup>[4]</sup> - 19:23, 40:14, 44:24, 46:1  <b>leaves</b> <sup>[1]</sup> - 66:12  <b>led</b> <sup>[1]</sup> - 9:18  <b>left</b> <sup>[3]</sup> - 6:22, 13:13, 38:12  <b>legal</b> <sup>[4]</sup> - 8:21, 13:24, 15:9, 50:4  <b>legitimate</b> <sup>[3]</sup> - 19:12, 50:5, 51:21  <b>less</b> <sup>[1]</sup> - 61:8  <b>lesser</b> <sup>[3]</sup> - 19:8, 19:22, 58:19  <b>level</b> <sup>[8]</sup> - 21:13, 22:15, 22:16, 23:2, 27:13, 29:21, 31:2  <b>liability</b> <sup>[22]</sup> - 5:23, 9:24, 10:7, 10:15, 10:21, 12:22, 13:2, 13:11, 14:12, 14:22, 15:23, 16:5, 18:9, 21:20, 23:20, 32:16, 32:23, 33:13, 34:3, 34:7, 61:18, 61:20  <b>liable</b> <sup>[13]</sup> - 6:25, 8:2, 8:10, 9:14, 10:9, 10:16, 11:1, 33:7, 36:7, 36:9, 42:19, 44:23, 61:20  <b>likelihood</b> <sup>[1]</sup> - 51:24  <b>limit</b> <sup>[1]</sup> - 49:12  <b>limitations</b> <sup>[2]</sup> - 15:22, 63:2  <b>Limitations</b> <sup>[4]</sup> - 62:12, 62:16, 63:1, 65:10  <b>limiting</b> <sup>[1]</sup> - 22:3  <b>limits</b> <sup>[1]</sup> - 23:17  <b>line</b> <sup>[6]</sup> - 14:6, 24:11, 24:24, 43:4, 51:15, 53:1  <b>list</b> <sup>[6]</sup> - 10:23, 10:24, 11:2, 11:4, 11:6, 34:11  <b>listed</b> <sup>[2]</sup> - 48:18, 48:19</p>	<p style="text-align: center;"><b>M</b></p> <p><b>majority</b> <sup>[2]</sup> - 15:1, 15:10  <b>male</b> <sup>[1]</sup> - 48:25  <b>mall</b> <sup>[1]</sup> - 13:1  <b>mandate</b> <sup>[1]</sup> - 10:19  <b>mandated</b> <sup>[1]</sup> - 57:18  <b>manner</b> <sup>[1]</sup> - 29:18  <b>mapped</b> <sup>[1]</sup> - 38:13  <b>mapping</b> <sup>[1]</sup> - 44:18  <b>March</b> <sup>[1]</sup> - 1:9  <b>marching</b> <sup>[1]</sup> - 43:17  <b>Marshal</b> <sup>[1]</sup> - 8:11  <b>MARTINEZ</b> <sup>[1]</sup> - 2:14  <b>Martinez</b> <sup>[1]</sup> - 4:8  <b>Maryland</b> <sup>[1]</sup> - 2:17  <b>Matsumoto</b> <sup>[1]</sup> - 34:15  <b>matter</b> <sup>[6]</sup> - 12:23, 14:16, 16:2, 50:4, 52:9, 66:21  <b>mattered</b> <sup>[1]</sup> - 61:11  <b>maximum</b> <sup>[6]</sup> - 6:9, 38:14, 39:3, 41:13, 44:14, 61:4  <b>McDaniel</b> <sup>[7]</sup> - 2:16, 4:10, 4:11, 25:7, 25:9, 25:10, 26:14  <b>MDC</b> <sup>[21]</sup> - 8:14, 19:9, 19:21, 20:3, 20:5, 23:4, 37:1, 37:9, 40:3, 45:10, 47:25, 48:9, 48:18, 50:2, 50:23, 51:6, 52:17, 52:19, 53:5, 62:11, 65:1  <b>mean</b> <sup>[16]</sup> - 9:3, 14:23, 18:14, 19:24, 21:4, 28:4, 31:5, 34:20, 44:5, 45:1, 45:24, 49:5, 52:17, 54:23, 55:18, 57:20  <b>means</b> <sup>[7]</sup> - 6:9, 8:9, 41:24, 41:25, 43:19, 44:17, 52:12  <b>meant</b> <sup>[1]</sup> - 26:25  <b>mechanical</b> <sup>[1]</sup> - 3:4  <b>medical</b> <sup>[5]</sup> - 42:11, 42:13, 42:16, 42:17, 42:20  <b>Meeropol</b> <sup>[7]</sup> - 4:25, 15:19, 19:6, 19:18, 38:4, 65:14, 66:6  <b>MEEROPOL</b> <sup>[56]</sup> - 1:17, 4:24, 38:5, 38:7, 40:7, 40:21, 41:9, 41:16, 41:21, 41:25, 42:3, 43:11, 43:20, 43:23, 44:2,</p>	<p>44:8, 44:13, 45:20, 46:4, 46:8, 46:24, 47:19, 48:7, 49:21, 50:3, 50:10, 50:20, 50:24, 51:7, 51:10, 51:17, 52:24, 53:1, 53:10, 53:25, 54:22, 55:6, 55:17, 55:21, 56:4, 56:6, 56:9, 56:13, 56:24, 57:11, 57:17, 58:4, 59:4, 62:5, 62:15, 62:20, 63:3, 63:5, 63:7, 66:8, 66:19  <b>meet</b> <sup>[1]</sup> - 65:24  <b>meeting</b> <sup>[1]</sup> - 6:3  <b>members</b> <sup>[1]</sup> - 8:7  <b>memorandum</b> <sup>[1]</sup> - 9:7  <b>mentions</b> <sup>[1]</sup> - 53:7  <b>mere</b> <sup>[1]</sup> - 35:6  <b>merits</b> <sup>[1]</sup> - 55:12  <b>methods</b> <sup>[1]</sup> - 44:6  <b>Michael</b> <sup>[5]</sup> - 2:20, 4:7, 4:18, 29:22, 36:22  <b>MICHAEL</b> <sup>[2]</sup> - 1:19, 2:14  <b>middle</b> <sup>[1]</sup> - 47:14  <b>Midtown</b> <sup>[2]</sup> - 61:13, 61:15  <b>might</b> <sup>[15]</sup> - 8:22, 8:23, 10:14, 19:10, 19:16, 33:3, 35:1, 46:15, 47:12, 47:18, 49:9, 52:6, 64:4, 65:1, 65:2  <b>mind</b> <sup>[5]</sup> - 15:8, 30:19, 40:23, 40:24, 43:13  <b>minute</b> <sup>[2]</sup> - 7:21, 20:25  <b>minutes</b> <sup>[1]</sup> - 58:25  <b>Minx</b> <sup>[1]</sup> - 9:9  <b>misactions</b> <sup>[1]</sup> - 15:11  <b>missed</b> <sup>[1]</sup> - 64:13  <b>misunderstood</b> <sup>[1]</sup> - 10:22  <b>moment</b> <sup>[2]</sup> - 61:18, 61:23  <b>months</b> <sup>[5]</sup> - 49:16, 54:7, 54:8, 54:17, 60:15  <b>MORING</b> <sup>[1]</sup> - 2:12  <b>Moring</b> <sup>[1]</sup> - 4:6  <b>morning</b> <sup>[31]</sup> - 3:13, 3:20, 3:23, 3:25, 4:3, 4:5, 4:9, 4:10, 4:13, 4:14, 4:16, 4:17, 4:22, 4:23, 4:24, 5:2, 5:6, 5:15, 18:8, 25:7, 25:8, 26:15, 26:18, 27:5, 27:8, 36:19, 36:20, 37:19, 37:21, 38:5, 38:6  <b>morphed</b> <sup>[1]</sup> - 7:2  <b>most</b> <sup>[8]</sup> - 5:16, 12:14, 19:15, 19:21, 24:6, 26:4, 34:17, 59:6  <b>motion</b> <sup>[11]</sup> - 5:16, 25:23, 26:11, 27:10, 31:2, 42:7, 42:25, 43:1, 43:14, 54:25, 55:10  <b>motions</b> <sup>[3]</sup> - 3:15, 18:13, 66:18  <b>moving</b> <sup>[1]</sup> - 61:16  <b>MR</b> <sup>[102]</sup> - 3:20, 3:25, 4:5, 4:10, 4:17, 4:21, 4:23, 5:4, 5:6, 8:19, 8:22, 9:1, 9:6, 9:25, 10:11, 11:3, 11:6, 11:10, 11:13, 11:17, 11:21, 12:3, 12:6, 12:10, 12:14, 12:23, 13:4, 13:6, 13:9, 13:14, 13:16, 13:22, 14:1, 14:5, 14:8, 14:15, 15:5, 15:24, 16:8, 16:14, 16:18, 19:24, 20:1, 20:16, 21:12, 23:1, 23:13, 23:22, 24:8, 24:11, 24:22, 25:3, 25:7, 25:9, 26:14, 26:15, 26:19, 26:25, 27:3, 27:10, 27:22,</p>

28:2, 28:6, 28:21, 29:2, 29:5, 29:11, 29:15, 30:25, 31:7, 31:12, 31:18, 32:2, 32:6, 32:17, 32:20, 33:1, 33:9, 33:20, 33:25, 34:9, 34:21, 35:1, 35:19, 35:23, 35:25, 36:6, 36:11, 36:13, 36:19, 36:21, 37:4, 37:18, 63:13, 63:15, 64:13, 64:15, 64:19, 65:4, 65:7, 65:11, 66:2

**MS** [59] - 4:14, 4:24, 37:19, 37:22, 38:1, 38:5, 38:7, 40:7, 40:21, 41:9, 41:16, 41:21, 41:25, 42:3, 43:11, 43:20, 43:23, 44:2, 44:8, 44:13, 45:20, 46:4, 46:8, 46:24, 47:19, 48:7, 49:21, 50:3, 50:10, 50:20, 50:24, 51:7, 51:10, 51:17, 52:24, 53:1, 53:10, 53:25, 54:22, 55:6, 55:17, 55:21, 56:4, 56:6, 56:9, 56:13, 56:24, 57:11, 57:17, 58:4, 59:4, 62:5, 62:15, 62:20, 63:3, 63:5, 63:7, 66:8, 66:19

**Mueller** [5] - 1:23, 8:25, 23:15, 23:18, 24:2

**Mulberry** [1] - 2:17

**Muller** [15] - 4:2, 16:20, 16:25, 17:7, 18:1, 18:11, 22:9, 22:13, 23:1, 23:2, 23:7, 24:12, 25:4, 42:22, 65:2

**Muslim** [1] - 61:1

**Muslims** [2] - 59:20, 60:18

**Muslin** [1] - 59:12

**must** [4] - 14:23, 40:25, 57:12

## N

**N.W** [3] - 1:24, 2:3, 2:12

**N.Y** [4] - 1:7, 2:20, 2:25, 3:2

**name** [5] - 3:18, 4:20, 5:7, 17:2, 17:9

**narrowly** [1] - 16:9

**national** [6] - 17:18, 22:2, 45:17, 53:20, 53:23, 54:10

**Nationality** [1] - 18:4

**Naturalization** [1] - 25:11

**nature** [3] - 5:11, 24:25

**necessarily** [1] - 24:22

**necessary** [3] - 17:14, 46:15, 49:14

**need** [5] - 24:13, 30:18, 41:12, 46:16

**needed** [6] - 8:14, 8:15, 15:2, 39:18, 43:18, 54:13

**needling** [1] - 27:2

**needs** [4] - 5:14, 15:21, 42:12, 42:20

**neglect** [1] - 61:21

**negligent** [2] - 12:8, 35:11

**neutral** [4] - 7:1, 42:7, 59:16, 60:10

**never** [5] - 10:16, 31:6, 37:14, 44:8, 60:13

**NEW** [1] - 1:1

**new** [5] - 10:2, 39:14, 46:15

**New** [7] - 1:21, 2:20, 2:25, 12:17, 61:2, 61:10

**Newman's** [1] - 45:8

**next** [4] - 16:17, 19:9, 50:23, 58:14

**nice** [1] - 3:16

**nine** [1] - 63:23

**nobody** [1] - 30:7

**non** [1] - 57:7

**non-citizens** [1] - 57:7

**normal** [1] - 49:5

**Norris** [2] - 42:8, 42:9

**note** [1] - 64:3

**notes** [1] - 62:2

**nothing** [8] - 6:1, 10:15, 14:11, 15:3, 22:8, 22:14, 39:20, 44:13

**notify** [1] - 32:10

**notion** [1] - 7:23

**November** [1] - 34:13

**number** [7] - 12:16, 21:3, 31:1, 34:10, 34:19, 35:13, 35:14

**numerous** [1] - 33:20

## O

**o'clock** [1] - 1:9

**oath** [2] - 7:15

**objective** [1] - 31:3

**objectively** [2] - 18:23, 29:17

**observe** [1] - 32:14

**obstreperous** [1] - 16:12

**obtain** [1] - 6:9

**obtained** [1] - 65:19

**obviously** [4] - 15:22, 20:17, 24:12, 30:11

**occur** [4] - 40:9, 41:2, 42:5, 42:18

**occurred** [2] - 11:16, 44:16

**occurs** [1] - 41:1

**OF** [2] - 1:1, 1:13

**offense** [4] - 33:14, 33:17, 34:1, 36:8

**office** [2] - 49:1

**Office** [2] - 2:8, 3:21

**officer** [9] - 33:3, 33:16, 33:25, 34:5, 36:8, 36:16, 39:21, 47:1, 47:4

**officers** [4] - 18:20, 18:24, 21:16, 21:20

**official** [2] - 5:21, 36:15

**official's** [6] - 15:11, 15:12, 16:4, 61:20

**officials** [8] - 22:10, 22:13, 30:3, 30:4, 45:14, 60:3, 60:4

**OIG** [3] - 30:10, 31:19, 53:7

**omissions** [1] - 15:12

**once** [8] - 5:7, 15:14, 20:2, 44:6, 50:24, 62:17, 62:22

**one** [27] - 10:1, 14:9, 18:12, 20:4, 20:16, 21:21, 21:22, 22:22, 24:15, 29:11, 29:22, 35:1, 36:14, 36:24, 38:11, 39:7, 51:16, 54:21, 55:9, 55:13, 55:14, 57:16, 58:12, 60:14, 61:18, 61:23, 63:5

**ones** [2] - 29:1, 46:16

**operating** [1] - 18:2

**opinion** [4] - 15:1, 17:18, 45:25, 47:12

**opinions** [1] - 25:17

**opportunity** [2] - 32:15, 34:7

**opposed** [1] - 10:3

**opposing** [1] - 38:9

**opposition** [5] - 3:15, 6:12, 6:21, 25:23, 37:6

**ORAL** [1] - 1:13

**order** [7] - 7:18, 18:9, 38:16, 38:25, 39:9, 43:24, 44:23

**ordered** [6] - 17:1, 17:2, 38:14, 44:14, 61:5

**ordering** [1] - 17:8

**orders** [4] - 27:23, 28:1, 29:18, 43:17

**ordinary** [1] - 45:15

**otherwise** [3] - 7:17, 23:7, 40:6

**ought** [3] - 45:25, 49:17, 55:11

**outcome** [1] - 8:21

**outlaws** [1] - 46:21

**outlier** [1] - 34:22

**outside** [4] - 22:4, 44:21, 49:12, 64:24

**overruled** [1] - 33:11

**overstayed** [1] - 18:23

**own** [20] - 5:24, 6:2, 6:4, 6:11, 6:13, 7:10, 9:3, 9:19, 10:19, 10:20, 15:6, 15:8, 15:11, 15:12, 15:15, 16:4, 60:9

## P

**page** [2] - 19:11, 45:11

**pages** [1] - 5:11

**papers** [5] - 16:22, 25:23, 26:1, 26:22, 40:17

**paragraph** [3] - 38:9, 38:10, 38:12

**paragraphs** [1] - 25:24

**Park** [1] - 2:20

**parsed** [1] - 24:24

**part** [13] - 6:8, 19:2, 19:5, 20:16, 27:19, 29:11, 29:12, 31:14, 31:24, 39:10, 42:2, 58:23, 64:17

**participated** [1] - 11:8

**particular** [3] - 22:14, 27:7, 66:2

**particularly** [1] - 10:7

**parties** [1] - 5:10

**past** [1] - 18:15

**PATEL** [1] - 1:18

**pause** [3] - 35:22, 61:24, 62:4

**pendency** [1] - 62:13

**Pennsylvania** [1] - 2:12

**penological** [2] - 50:11, 51:21

**pens** [1] - 40:17

**PENTTBOM** [1] - 6:8

**people** [17] - 3:14, 3:18, 8:14, 19:8, 20:5, 22:4, 23:10, 30:20, 39:22, 41:14, 41:18, 49:20, 51:6, 52:18, 52:20, 60:25, 64:25

**perceived** [1] - 48:25

**perhaps** [2] - 15:7, 52:7

**period** [2] - 54:17, 63:2

**permeate** [1] - 19:3

**person** [1] - 50:22

**personal** [11] - 5:17, 7:19, 21:20,

<p>23:25, 24:3, 29:7, 32:8, 35:3, 35:7, 35:16, 38:8</p> <p><b>personally</b> [1] - 25:25</p> <p><b>persons</b> [1] - 45:15</p> <p><b>perspective</b> [1] - 15:9</p> <p><b>persuaded</b> [1] - 40:6</p> <p><b>pertains</b> [1] - 64:11</p> <p><b>Pharmaceutical</b> [1] - 66:9</p> <p><b>phrases</b> [1] - 40:2</p> <p><b>physical</b> [3] - 29:3, 47:8, 47:13</p> <p><b>picked</b> [1] - 22:22</p> <p><b>piece</b> [3] - 43:24, 44:24, 48:13</p> <p><b>place</b> [7] - 6:17, 21:23, 39:3, 48:22, 59:17, 59:20, 60:18</p> <p><b>placed</b> [5] - 23:11, 39:8, 44:24, 51:1, 60:16</p> <p><b>placement</b> [3] - 38:24, 54:8, 60:12</p> <p><b>placing</b> [1] - 46:21</p> <p><b>plaintiff</b> [3] - 24:19, 37:7, 64:2</p> <p><b>plaintiffs</b> [1] - 37:5</p> <p><b>plaintiffs</b> [18] - 5:1, 6:1, 6:12, 6:21, 8:5, 19:10, 29:6, 30:2, 30:7, 31:21, 35:3, 37:3, 37:10, 47:21, 60:13, 65:19, 65:22</p> <p><b>Plaintiffs</b> [2] - 1:5, 1:17</p> <p><b>plaintiffs'</b> [7] - 6:5, 6:18, 6:23, 6:24, 19:11, 25:23, 66:14</p> <p><b>plan</b> [1] - 38:13</p> <p><b>plausible</b> [1] - 60:8</p> <p><b>plausibly</b> [1] - 43:12</p> <p><b>Plaza</b> [2] - 2:24, 3:1</p> <p><b>pleaded</b> [2] - 23:25, 24:4</p> <p><b>pleading</b> [9] - 10:2, 12:4, 15:20, 25:14, 39:14, 43:9, 44:7, 62:8, 66:11</p> <p><b>pleadings</b> [7] - 17:1, 18:17, 25:16, 26:7, 31:14, 31:22, 31:25</p> <p><b>pleases</b> [1] - 5:15</p> <p><b>PLRA</b> [1] - 58:9</p> <p><b>point</b> [16] - 17:12, 20:8, 22:5, 24:12, 24:21, 31:18, 36:24, 37:22, 44:5, 52:8, 53:3, 59:7, 59:23, 61:19, 65:22, 66:8</p> <p><b>pointed</b> [3] - 22:16, 22:19, 58:14</p> <p><b>points</b> [2] - 16:23, 38:9</p> <p><b>police</b> [1] - 21:15</p> <p><b>policies</b> [7] - 7:22, 27:12, 29:20, 29:25, 30:15, 42:7, 44:18</p> <p><b>policy</b> [40] - 6:6, 6:13, 6:22, 7:1, 8:8, 11:15, 11:21, 11:22, 12:1, 22:18, 26:5, 27:15, 30:1, 40:9, 40:11, 40:13, 40:16, 40:19, 41:1, 41:4, 41:7, 41:17, 42:12, 42:16, 51:19, 51:20, 51:22, 52:21, 54:9, 54:19, 59:16, 59:19, 59:21, 60:11, 60:17, 60:24, 61:4, 61:6, 61:10</p> <p><b>population</b> [2] - 38:25, 53:5</p> <p><b>portion</b> [5] - 38:11, 38:16, 44:20, 46:14, 56:10</p> <p><b>position</b> [8] - 5:17, 6:24, 10:22, 16:12, 24:4, 28:16, 28:17, 56:17</p> <p><b>positions</b> [1] - 37:23</p> <p><b>possessing</b> [1] - 16:6</p>	<p><b>possibility</b> [6] - 40:10, 57:2, 63:20, 64:8, 64:25, 65:5</p> <p><b>possible</b> [17] - 6:10, 8:9, 8:15, 8:21, 9:23, 13:3, 13:11, 15:21, 22:5, 39:5, 39:19, 41:13, 41:19, 41:24, 43:18, 44:15, 60:18</p> <p><b>possibly</b> [2] - 8:3, 41:5</p> <p><b>post</b> [5] - 19:3, 23:20, 24:5, 25:1, 46:1</p> <p><b>potential</b> [1] - 58:22</p> <p><b>practice</b> [1] - 21:17</p> <p><b>practices</b> [1] - 20:14</p> <p><b>precisely</b> [3] - 30:14, 30:16, 30:19</p> <p><b>preclusion</b> [1] - 57:2</p> <p><b>precursor</b> [1] - 66:10</p> <p><b>predicate</b> [1] - 17:14</p> <p><b>prejudice</b> [1] - 37:15</p> <p><b>present</b> [4] - 8:6, 13:11, 51:14</p> <p><b>pressed</b> [1] - 13:18</p> <p><b>pressure</b> [10] - 6:9, 38:14, 39:3, 39:8, 41:13, 44:14, 59:17, 59:20, 60:18, 61:5</p> <p><b>pretend</b> [1] - 5:12</p> <p><b>pretrial</b> [4] - 19:21, 46:21, 49:24, 51:1</p> <p><b>pretty</b> [1] - 19:22</p> <p><b>primary</b> [3] - 26:10, 56:25, 59:23</p> <p><b>principles</b> [1] - 55:10</p> <p><b>prison</b> [14] - 12:20, 22:17, 42:10, 42:12, 49:6, 49:11, 51:11, 52:12, 52:18, 54:13, 55:7, 57:19, 57:25, 58:4</p> <p><b>prisoner</b> [4] - 42:10, 57:12, 58:12, 58:14</p> <p><b>prisoner's</b> [2] - 49:12, 55:4</p> <p><b>prisoners</b> [7] - 19:17, 49:23, 50:25, 52:12, 54:23, 58:6, 58:9</p> <p><b>Prisons</b> [1] - 46:17</p> <p><b>Pro</b> [1] - 2:23</p> <p><b>probable</b> [3] - 9:12, 9:18, 9:20</p> <p><b>problem</b> [4] - 21:17, 21:18, 30:23, 33:10</p> <p><b>procedural</b> [6] - 20:8, 45:19, 46:13, 47:2, 48:4, 48:5</p> <p><b>procedure</b> [1] - 21:25</p> <p><b>procedures</b> [4] - 21:23, 46:14, 46:16, 58:10</p> <p><b>Proceedings</b> [1] - 3:4</p> <p><b>process</b> [12] - 20:8, 45:14, 45:19, 46:12, 46:13, 46:20, 47:3, 48:4, 48:5, 48:12, 58:19, 58:24</p> <p><b>processes</b> [3] - 17:23, 58:8, 58:22</p> <p><b>produced</b> [1] - 3:4</p> <p><b>prong</b> [4] - 25:13, 31:3, 33:22, 52:1</p> <p><b>prongs</b> [1] - 13:13</p> <p><b>pronouncements</b> [1] - 7:14</p> <p><b>properly</b> [1] - 61:21</p> <p><b>prosecutor</b> [3] - 9:9, 9:13, 9:14</p> <p><b>protect</b> [3] - 8:3, 22:1, 22:11</p> <p><b>protection</b> [5] - 5:23, 18:6, 59:1, 61:16, 62:1</p> <p><b>prove</b> [5] - 43:4, 43:13, 43:14, 43:16, 66:13</p>	<p><b>proven</b> [1] - 43:4</p> <p><b>provide</b> [5] - 5:16, 45:14, 52:3, 57:24, 65:1</p> <p><b>provided</b> [4] - 7:16, 48:1, 57:22, 58:1</p> <p><b>provides</b> [1] - 5:22</p> <p><b>précis</b> [1] - 5:16</p> <p><b>public</b> [1] - 63:24</p> <p><b>publicly</b> [1] - 54:2</p> <p><b>pulp</b> [2] - 32:24, 34:6</p> <p><b>punishment</b> [1] - 50:13</p> <p><b>punitive</b> [1] - 46:22</p> <p><b>purely</b> [1] - 15:8</p> <p><b>purposeful</b> [1] - 59:6</p> <p><b>purposes</b> [1] - 15:15</p> <p><b>pursue</b> [1] - 57:10</p> <p><b>put</b> [8] - 21:23, 31:16, 40:16, 40:19, 40:20, 43:2, 54:1, 61:9</p>
<b>Q</b>		
<p><b>qualified</b> [29] - 5:22, 8:1, 17:6, 17:11, 17:12, 18:6, 19:23, 20:8, 20:10, 20:13, 20:15, 20:18, 21:7, 24:5, 24:9, 29:17, 30:17, 30:23, 31:5, 31:9, 45:4, 45:19, 46:2, 46:11, 47:12, 55:10, 55:12, 62:24, 64:9</p> <p><b>qualifiedly</b> [4] - 20:11, 23:8, 23:12, 23:19</p> <p><b>Queens</b> [1] - 54:5</p> <p><b>questioning</b> [2] - 58:14, 59:2</p> <p><b>questions</b> [5] - 9:23, 61:17, 61:25, 62:6, 66:3</p> <p><b>quickly</b> [2] - 42:14, 62:21</p> <p><b>QUIGLEY</b> [1] - 1:18</p> <p><b>quite</b> [4] - 24:8, 24:23, 27:22, 63:8</p> <p><b>quote</b> [3] - 5:23, 8:13, 8:15</p>		
<b>R</b>		
<p><b>race</b> [4] - 47:24, 52:11, 60:2, 61:11</p> <p><b>Rachel</b> [1] - 4:25</p> <p><b>RACHEL</b> [1] - 1:17</p> <p><b>raise</b> [3] - 39:8, 43:2, 55:22</p> <p><b>Rardin</b> [1] - 29:23</p> <p><b>rare</b> [1] - 49:4</p> <p><b>rather</b> [3] - 6:14, 55:6, 59:19</p> <p><b>reached</b> [1] - 31:2</p> <p><b>reaches</b> [2] - 17:13, 21:3</p> <p><b>reaction</b> [1] - 65:13</p> <p><b>read</b> [5] - 5:13, 15:1, 39:21, 46:13, 64:11</p> <p><b>reading</b> [2] - 14:24, 34:24</p> <p><b>reads</b> [1] - 16:8</p> <p><b>ready</b> [1] - 63:25</p> <p><b>reaffirmed</b> [1] - 34:13</p> <p><b>real</b> [2] - 32:3, 49:7</p> <p><b>really</b> [8] - 17:1, 18:18, 22:12, 22:19, 46:6, 46:13, 56:25, 58:22</p>		

<p><b>realm</b> [2] - 64:24, 65:5  <b>reason</b> [15] - 9:17, 29:16, 30:2, 31:13, 33:3, 33:4, 35:4, 49:14, 52:4, 52:6, 52:14, 57:20, 57:23, 58:2, 58:10  <b>reasonable</b> [8] - 18:23, 29:18, 30:20, 39:9, 47:1, 47:4, 51:25, 52:10  <b>reasonableness</b> [1] - 31:3  <b>reasonably</b> [5] - 47:2, 51:2, 51:20, 53:22, 66:12  <b>reasons</b> [4] - 25:3, 48:19, 49:8, 60:6  <b>rebuttal</b> [1] - 66:16  <b>received</b> [1] - 60:15  <b>recitals</b> [1] - 35:5  <b>recitate</b> [1] - 5:14  <b>recitation</b> [1] - 35:12  <b>recited</b> [1] - 35:14  <b>recognized</b> [1] - 38:18  <b>record</b> [1] - 10:12  <b>recorded</b> [1] - 3:4  <b>refer</b> [1] - 44:19  <b>reference</b> [1] - 19:12  <b>referring</b> [4] - 28:23, 29:3, 35:10, 44:2  <b>refrain</b> [1] - 58:2  <b>regard</b> [8] - 21:23, 22:16, 25:12, 47:13, 48:3, 52:21, 65:9, 66:11  <b>regarding</b> [7] - 25:21, 26:8, 26:10, 30:17, 46:12, 48:5, 61:9  <b>regardless</b> [1] - 46:19  <b>regional</b> [1] - 29:23  <b>regs</b> [1] - 57:9  <b>regulates</b> [1] - 57:6  <b>regulations</b> [2] - 57:19, 58:8  <b>regulatory</b> [1] - 57:5  <b>rejected</b> [1] - 7:23  <b>related</b> [3] - 51:2, 51:20, 51:22  <b>relates</b> [3] - 6:5, 45:3, 50:17  <b>relation</b> [1] - 52:10  <b>relationship</b> [4] - 33:5, 33:15, 33:22, 51:25  <b>relatively</b> [1] - 53:15  <b>released</b> [1] - 17:3  <b>reliance</b> [1] - 26:10  <b>religion</b> [4] - 47:24, 52:12, 60:2, 61:11  <b>rely</b> [4] - 7:15, 18:14, 20:7, 29:12  <b>remaining</b> [1] - 6:5  <b>remains</b> [6] - 10:25, 11:4, 11:9, 11:10, 11:16, 46:24  <b>remedial</b> [1] - 57:5  <b>remedies</b> [5] - 57:6, 57:9, 57:11, 57:21, 58:20  <b>remedy</b> [13] - 11:11, 47:16, 49:17, 51:6, 53:9, 55:12, 55:15, 55:24, 56:20, 57:23, 57:24, 58:1, 58:6  <b>removed</b> [3] - 22:18, 26:4  <b>reopen</b> [1] - 65:22  <b>repeat</b> [1] - 26:22  <b>reply</b> [2] - 9:7, 26:1  <b>report</b> [8] - 6:17, 11:12, 29:19, 30:10, 31:11, 31:19, 32:7</p>	<p><b>Reporter</b> [1] - 3:1  <b>reports</b> [3] - 29:24, 48:16, 48:18  <b>represent</b> [1] - 32:13  <b>representing</b> [1] - 8:25  <b>republic</b> [1] - 17:20  <b>require</b> [2] - 53:23, 56:18  <b>required</b> [1] - 18:9  <b>requirement</b> [1] - 41:3  <b>requirements</b> [4] - 10:3, 40:21, 45:9, 47:3  <b>requires</b> [7] - 7:10, 14:20, 38:23, 43:1, 45:14, 53:13, 58:9  <b>requisite</b> [2] - 16:7, 43:12  <b>rereading</b> [1] - 45:8  <b>research</b> [1] - 65:11  <b>resolution</b> [1] - 18:18  <b>respect</b> [17] - 6:2, 6:4, 6:10, 13:18, 38:10, 40:24, 46:2, 46:11, 46:18, 49:23, 53:20, 56:17, 56:22, 57:1, 59:24, 60:20, 62:1  <b>respectfully</b> [2] - 15:25, 37:10  <b>responsible</b> [2] - 9:2, 36:15  <b>restraint</b> [1] - 50:11  <b>restrict</b> [3] - 44:21, 44:25, 49:6  <b>restricted</b> [1] - 38:15  <b>restricting</b> [1] - 38:23  <b>restriction</b> [2] - 54:7, 55:2  <b>restrictions</b> [2] - 54:6, 54:9  <b>restrictive</b> [2] - 19:15, 38:22  <b>rests</b> [1] - 57:2  <b>result</b> [3] - 39:25, 46:19, 61:21  <b>results</b> [1] - 43:8  <b>return</b> [1] - 7:5  <b>reviewing</b> [1] - 62:2  <b>reward</b> [1] - 40:14  <b>Rights</b> [2] - 1:20, 5:1  <b>rights</b> [19] - 12:12, 12:13, 17:8, 19:8, 19:11, 19:20, 19:23, 20:4, 48:5, 49:19, 49:20, 50:1, 50:17, 52:17, 54:23, 55:1, 55:4, 57:10, 58:19  <b>rise</b> [2] - 10:20, 60:8  <b>road</b> [1] - 7:3  <b>Robert</b> [1] - 1:23  <b>Robinson</b> [1] - 7:24  <b>roof</b> [1] - 23:11  <b>Roth</b> [3] - 4:15, 4:16, 37:20  <b>ROTH</b> [6] - 2:3, 2:5, 4:14, 37:19, 37:22, 38:1  <b>rounded</b> [1] - 59:12  <b>rubric</b> [3] - 7:6, 7:8, 20:4  <b>Rudolph</b> [1] - 3:1  <b>ruin</b> [1] - 7:19  <b>rule</b> [3] - 54:11, 54:20, 63:21  <b>Rule</b> [2] - 7:9, 65:17  <b>ruled</b> [2] - 56:3, 57:3  <b>rules</b> [1] - 49:5  <b>ruling</b> [1] - 56:11  <b>run</b> [5] - 17:9, 52:18, 52:22, 52:25, 63:4</p>	<p><b>runs</b> [1] - 7:9  <b>Russian</b> [1] - 61:13</p> <hr/> <p style="text-align: center;"><b>S</b></p> <hr/> <p><b>satisfy</b> [1] - 10:2  <b>Sawyer</b> [1] - 29:22  <b>Scalia</b> [1] - 14:24  <b>Scheindlin</b> [1] - 34:12  <b>scheme</b> [2] - 57:5  <b>scope</b> [2] - 50:18, 50:22  <b>Se</b> [1] - 2:23  <b>search</b> [4] - 9:11, 9:19, 21:16, 35:9  <b>searches</b> [1] - 23:9  <b>second</b> [1] - 19:5  <b>Second</b> [11] - 10:8, 17:18, 20:6, 32:21, 34:22, 43:5, 46:9, 46:20, 47:11, 49:21, 65:20  <b>section</b> [1] - 28:23  <b>security</b> [6] - 21:23, 45:17, 50:7, 53:20, 53:23, 54:10  <b>Security</b> [1] - 2:24  <b>see</b> [7] - 3:16, 13:23, 42:4, 43:6, 46:10, 48:23, 58:10  <b>seek</b> [3] - 19:2, 63:21, 65:16  <b>seeking</b> [1] - 9:19  <b>seem</b> [1] - 33:3  <b>seeped</b> [1] - 20:7  <b>sees</b> [4] - 12:20, 13:1, 13:7, 13:10  <b>segregation</b> [2] - 45:15, 48:6  <b>senior</b> [3] - 22:10, 22:13, 29:21  <b>sense</b> [3] - 7:11, 28:4, 58:20  <b>sensible</b> [1] - 14:23  <b>separate</b> [4] - 9:23, 15:18, 27:10, 54:21  <b>serious</b> [1] - 12:25  <b>service</b> [1] - 63:24  <b>Service</b> [1] - 25:11  <b>set</b> [5] - 7:6, 27:12, 27:13, 37:11, 46:17  <b>setting</b> [6] - 23:6, 23:18, 45:18, 46:1, 47:4, 47:16  <b>seven</b> [1] - 63:24  <b>shaking</b> [1] - 50:19  <b>shape</b> [1] - 14:3  <b>share</b> [1] - 14:21  <b>sharing</b> [1] - 15:2  <b>SHAW</b> [1] - 2:3  <b>Sherman</b> [3] - 2:3, 4:15, 37:20  <b>shirts</b> [1] - 23:11  <b>shoulder</b> [1] - 7:21  <b>show</b> [3] - 55:1, 60:24, 64:4  <b>showing</b> [4] - 38:21, 49:13, 51:23, 64:9  <b>shown</b> [1] - 62:22  <b>SHU</b> [8] - 27:15, 37:13, 37:14, 44:25, 54:8, 60:13, 60:16, 60:19  <b>shut</b> [1] - 53:5  <b>Sichel</b> [1] - 7:24  <b>significant</b> [1] - 6:3</p>
---	--	--

<p><b>similar</b> [2] - 7:15, 56:19</p> <p><b>simple</b> [1] - 27:22</p> <p><b>simply</b> [5] - 5:15, 10:16, 51:25, 58:19, 58:23</p> <p><b>situation</b> [5] - 24:25, 35:25, 39:7, 43:21, 49:4</p> <p><b>situations</b> [1] - 19:17</p> <p><b>six</b> [3] - 34:22, 35:8, 60:13</p> <p><b>sky</b> [1] - 14:25</p> <p><b>skyscrapers</b> [1] - 21:10</p> <p><b>solely</b> [1] - 64:8</p> <p><b>someone</b> [7] - 12:20, 13:1, 32:24, 49:8, 49:9, 51:5, 54:5</p> <p><b>sometimes</b> [1] - 30:17</p> <p><b>sorry</b> [3] - 26:25, 44:1, 62:1</p> <p><b>sort</b> [3] - 27:11, 45:24, 48:20</p> <p><b>sought</b> [1] - 64:2</p> <p><b>sounds</b> [2] - 10:5, 56:12</p> <p><b>Southern</b> [1] - 12:17</p> <p><b>speaking</b> [1] - 55:18</p> <p><b>special</b> [9] - 18:3, 45:10, 45:16, 45:18, 53:12, 53:13, 53:14, 53:18, 53:20</p> <p><b>Special</b> [3] - 1:24, 38:24, 53:6</p> <p><b>specific</b> [8] - 6:15, 16:3, 21:13, 25:24, 26:7, 26:10, 26:11, 43:25</p> <p><b>specifically</b> [8] - 15:10, 17:16, 18:7, 23:14, 44:5, 48:14, 59:20, 64:6</p> <p><b>spend</b> [2] - 58:25, 61:18</p> <p><b>spoken</b> [1] - 57:22</p> <p><b>spotlight</b> [2] - 21:5, 21:6</p> <p><b>spring</b> [1] - 58:8</p> <p><b>square</b> [2] - 15:9, 16:3</p> <p><b>squirrely</b> [1] - 14:2</p> <p><b>STACHENFELD</b> [1] - 2:19</p> <p><b>stage</b> [6] - 30:18, 31:6, 42:7, 43:9, 43:15, 54:25</p> <p><b>stand</b> [1] - 3:18</p> <p><b>standard</b> [5] - 49:22, 50:4, 53:15, 62:8, 65:23</p> <p><b>starting</b> [1] - 3:17</p> <p><b>state</b> [5] - 29:16, 40:23, 40:24, 43:13, 56:15</p> <p><b>statement</b> [2] - 61:7, 61:19</p> <p><b>statements</b> [2] - 35:6, 62:11</p> <p><b>states</b> [2] - 29:20, 66:11</p> <p><b>STATES</b> [2] - 1:1, 1:14</p> <p><b>States</b> [10] - 4:1, 6:14, 6:25, 7:17, 7:20, 8:10, 8:11, 16:19, 34:16, 54:16</p> <p><b>Statute</b> [4] - 62:12, 62:16, 63:1, 65:9</p> <p><b>stenography</b> [1] - 3:4</p> <p><b>step</b> [1] - 22:18</p> <p><b>still</b> [8] - 20:23, 35:2, 35:3, 36:7, 40:8, 40:25, 56:5</p> <p><b>Street</b> [2] - 1:24, 2:17</p> <p><b>strict</b> [1] - 29:12</p> <p><b>strike</b> [1] - 31:8</p> <p><b>striking</b> [1] - 63:16</p> <p><b>strip</b> [2] - 23:9, 35:9</p> <p><b>strongest</b> [1] - 22:22</p>	<p><b>struggling</b> [3] - 13:17, 14:5, 14:6</p> <p><b>subject</b> [4] - 47:8, 47:9, 61:4, 61:5</p> <p><b>subjected</b> [5] - 5:21, 6:8, 9:4, 41:12, 51:5</p> <p><b>subjects</b> [1] - 5:12</p> <p><b>submit</b> [6] - 31:15, 34:23, 35:2, 42:6, 42:24, 57:4</p> <p><b>submitted</b> [1] - 5:11</p> <p><b>subordinate</b> [7] - 33:4, 33:5, 33:15, 33:16, 33:21, 34:1, 60:23</p> <p><b>subordinates</b> [3] - 12:9, 44:10</p> <p><b>subordinates</b>* [1] - 61:22</p> <p><b>subscribe</b> [2] - 10:6, 32:12</p> <p><b>subscribing</b> [1] - 10:6</p> <p><b>substance</b> [1] - 47:20</p> <p><b>substantive</b> [2] - 46:12, 54:24</p> <p><b>sued</b> [4] - 25:19, 30:2, 30:4, 30:5</p> <p><b>sufficiency</b> [1] - 15:20</p> <p><b>sufficient</b> [3] - 23:8, 39:14, 40:5</p> <p><b>sufficiently</b> [3] - 22:24, 24:17, 40:22</p> <p><b>suggest</b> [9] - 6:13, 30:7, 30:9, 31:5, 39:13, 43:12, 46:15, 57:15, 59:14</p> <p><b>suggested</b> [2] - 31:21, 59:11</p> <p><b>suggesting</b> [2] - 19:10, 49:25</p> <p><b>suggests</b> [2] - 39:19, 39:24</p> <p><b>suit</b> [3] - 5:22, 18:5, 58:7</p> <p><b>suitable</b> [1] - 55:23</p> <p><b>Suite</b> [1] - 2:4</p> <p><b>summarize</b> [1] - 34:4</p> <p><b>summary</b> [1] - 52:7</p> <p><b>summer</b> [1] - 23:10</p> <p><b>SUNITA</b> [1] - 1:18</p> <p><b>superintending</b> [1] - 61:21</p> <p><b>superseded</b> [1] - 34:18</p> <p><b>supervising</b> [1] - 12:8</p> <p><b>supervision</b> [1] - 35:12</p> <p><b>supervisor</b> [13] - 10:8, 10:16, 10:17, 11:1, 12:22, 14:21, 14:22, 14:24, 33:5, 33:7, 33:15, 33:21, 34:2</p> <p><b>supervisor's</b> [1] - 10:19</p> <p><b>supervisor-subordinate</b> [3] - 33:5, 33:15, 33:21</p> <p><b>supervisors</b> [1] - 42:15</p> <p><b>supervisory</b> [11] - 9:24, 10:7, 10:15, 13:2, 13:11, 15:22, 18:9, 33:13, 34:3, 40:25, 61:18</p> <p><b>support</b> [1] - 3:14</p> <p><b>supported</b> [2] - 18:21, 35:6</p> <p><b>suppose</b> [1] - 24:3</p> <p><b>Supreme</b> [20] - 5:18, 7:5, 7:6, 7:23, 7:25, 17:15, 17:17, 17:22, 18:19, 21:2, 21:14, 21:16, 45:7, 45:11, 45:13, 58:5, 58:15, 59:10, 59:23, 66:10</p> <p><b>survived</b> [1] - 42:7</p> <p><b>suspect</b> [2] - 49:8, 52:13</p> <p><b>suspected</b> [9] - 39:6, 39:17, 41:11, 41:14, 47:22, 48:24, 52:11, 54:3, 59:18</p> <p><b>suspecting</b> [1] - 48:19</p> <p><b>suspects</b> [1] - 61:12</p>	<p><b>suspension</b> [1] - 52:16</p> <p><b>suspicion</b> [5] - 20:12, 49:7, 52:16, 54:15, 61:3</p> <p><b>system</b> [3] - 42:10, 49:11, 58:5</p> <p style="text-align: center;"><b>T</b></p> <p><b>T-shirts</b> [1] - 23:11</p> <p><b>table</b> [1] - 3:17</p> <p><b>talks</b> [1] - 47:9</p> <p><b>targeting</b> [1] - 59:21</p> <p><b>teaches</b> [2] - 5:20, 35:4</p> <p><b>teachings</b> [1] - 5:18</p> <p><b>telephone</b> [1] - 47:6</p> <p><b>temporary</b> [4] - 52:16, 52:21, 54:7, 55:2</p> <p><b>tends</b> [1] - 25:16</p> <p><b>Tenth</b> [2] - 9:9, 9:13</p> <p><b>tenure</b> [1] - 37:1</p> <p><b>terms</b> [2] - 23:24, 60:21</p> <p><b>terribly</b> [1] - 64:21</p> <p><b>terrorism</b> [4] - 19:14, 47:22, 60:2, 61:14</p> <p><b>terrorist</b> [3] - 22:5, 24:21, 59:18</p> <p><b>terrorists</b> [18] - 19:1, 20:12, 20:13, 21:10, 39:6, 39:17, 39:18, 41:12, 41:14, 41:15, 49:10, 51:24, 52:6, 52:20, 54:16</p> <p><b>test</b> [1] - 33:23</p> <p><b>testimony</b> [2] - 64:17, 64:22</p> <p><b>THE</b> [160] - 3:12, 3:13, 3:23, 4:3, 4:9, 4:13, 4:16, 4:20, 4:22, 5:2, 5:5, 8:12, 8:20, 8:24, 9:2, 9:22, 10:1, 10:22, 11:4, 11:8, 11:11, 11:15, 11:20, 11:24, 12:4, 12:7, 12:11, 12:19, 12:25, 13:5, 13:8, 13:12, 13:15, 13:21, 13:23, 14:4, 14:7, 14:9, 14:19, 15:17, 16:6, 16:13, 16:16, 18:12, 19:25, 20:2, 21:4, 22:21, 23:5, 23:16, 24:3, 24:10, 24:19, 25:2, 25:6, 25:8, 26:13, 26:18, 26:23, 27:2, 27:9, 27:17, 27:25, 28:3, 28:7, 29:1, 29:4, 29:9, 29:14, 30:11, 31:4, 31:8, 31:17, 32:1, 32:4, 32:12, 32:19, 32:23, 33:7, 33:18, 33:24, 34:4, 34:20, 34:25, 35:18, 35:20, 35:24, 36:3, 36:10, 36:12, 36:18, 36:20, 37:2, 37:17, 37:21, 37:25, 38:2, 38:6, 39:10, 40:13, 41:7, 41:14, 41:18, 41:23, 42:2, 43:8, 43:16, 43:22, 44:1, 44:3, 44:12, 45:1, 45:21, 46:6, 46:23, 46:25, 48:3, 49:15, 49:25, 50:9, 50:14, 50:22, 51:4, 51:8, 51:15, 52:15, 52:25, 53:8, 53:24, 54:11, 55:5, 55:9, 55:20, 56:3, 56:5, 56:7, 56:12, 56:22, 57:8, 57:14, 58:1, 59:3, 62:3, 62:7, 62:19, 63:2, 63:4, 63:6, 63:11, 63:14, 64:11, 64:14, 64:16, 64:24, 65:6, 65:8, 65:25, 66:6, 66:16, 66:20</p> <p><b>themselves</b> [1] - 6:16</p> <p><b>theory</b> [1] - 14:12</p> <p><b>third</b> [1] - 11:15</p>
--	--	---

<p><b>thoroughly</b> [1] - 32:9  <b>thoughts</b> [2] - 35:23, 36:6  <b>threadbare</b> [2] - 35:5, 54:19  <b>threat</b> [2] - 14:9, 14:13  <b>threatening</b> [1] - 45:17  <b>three</b> [1] - 63:2  <b>tied</b> [1] - 23:14  <b>ties</b> [1] - 47:22  <b>tight</b> [1] - 21:6  <b>tinker</b> [1] - 21:5  <b>tips</b> [2] - 17:2, 17:9  <b>tired</b> [1] - 40:15  <b>today</b> [1] - 16:15  <b>together</b> [2] - 37:9, 50:7  <b>tolled</b> [1] - 62:13  <b>took</b> [1] - 65:19  <b>top</b> [2] - 11:7, 65:13  <b>tort</b> [5] - 14:20, 15:4, 32:14, 40:20  <b>torts</b> [1] - 40:2  <b>total</b> [1] - 34:21  <b>tourists</b> [1] - 61:13  <b>trace</b> [1] - 17:2  <b>traces</b> [1] - 17:9  <b>TRANSCRIPT</b> [1] - 1:13  <b>transcript</b> [1] - 3:4  <b>transcription</b> [1] - 3:4  <b>travels</b> [1] - 18:14  <b>treat</b> [2] - 28:18, 52:12  <b>treated</b> [5] - 41:12, 42:23, 53:22, 60:25, 61:6  <b>trial</b> [1] - 50:23  <b>tried</b> [1] - 31:15  <b>trivialize</b> [1] - 51:8  <b>troubled</b> [1] - 36:3  <b>troubling</b> [1] - 36:1  <b>true</b> [4] - 6:15, 11:1, 48:3, 50:15  <b>try</b> [1] - 26:22  <b>trying</b> [7] - 13:21, 13:23, 14:2, 15:14, 23:16, 52:5, 52:18  <b>Tunnel</b> [2] - 61:13, 61:15  <b>Turkmen</b> [1] - 3:12  <b>TURKMEN</b> [1] - 1:3  <b>turn</b> [1] - 20:25  <b>Turner</b> [4] - 51:18, 51:19, 52:1, 52:7  <b>turning</b> [1] - 47:20  <b>two</b> [11] - 9:23, 10:5, 13:13, 13:24, 15:18, 27:11, 29:11, 33:18, 33:19, 40:21, 60:14  <b>Twombly</b> [4] - 7:7, 10:3, 39:15, 66:10  <b>type</b> [2] - 29:3, 49:7  <b>types</b> [1] - 28:23</p>	<p>44:18, 44:22, 44:23, 54:19  <b>unconstitutionally</b> [1] - 40:12  <b>undecided</b> [1] - 55:14  <b>under</b> [18] - 3:16, 11:15, 13:12, 14:12, 18:4, 32:17, 34:9, 35:15, 40:8, 40:9, 40:24, 41:1, 45:4, 45:16, 49:2, 51:19, 62:8, 66:18  <b>underlying</b> [1] - 14:20  <b>understandable</b> [2] - 30:25, 36:1  <b>understood</b> [3] - 11:24, 31:4, 37:2  <b>undertake</b> [1] - 57:12  <b>undisputed</b> [1] - 18:21  <b>unfortunately</b> [1] - 37:8  <b>unique</b> [1] - 24:17  <b>Unit</b> [2] - 38:24, 53:6  <b>UNITED</b> [2] - 1:1, 1:14  <b>United</b> [10] - 4:1, 6:14, 6:25, 7:17, 7:20, 8:10, 8:11, 16:19, 34:16, 54:15  <b>universe</b> [2] - 48:21, 48:23  <b>unknown</b> [1] - 60:22  <b>unlawful</b> [1] - 28:10  <b>unless</b> [4] - 61:17, 61:25, 62:5, 66:2  <b>unlikely</b> [1] - 62:25  <b>unnecessary</b> [1] - 23:9  <b>unprecedented</b> [2] - 17:19, 17:22  <b>unsure</b> [1] - 53:17  <b>unsurprised</b> [1] - 46:4  <b>up</b> [8] - 5:5, 16:11, 30:14, 33:8, 36:14, 49:18, 59:12, 63:12  <b>uphold</b> [1] - 7:16  <b>urge</b> [3] - 18:3, 18:5, 18:6  <b>US</b> [2] - 2:24, 3:21  <b>usual</b> [1] - 44:9</p>	<p style="text-align: center;"><b>W</b></p> <p><b>waivers</b> [1] - 48:4  <b>walk</b> [3] - 32:13, 33:19, 34:6  <b>walking</b> [2] - 12:19, 34:4  <b>walks</b> [2] - 13:1, 32:24  <b>wall</b> [2] - 16:11, 21:9  <b>wants</b> [1] - 35:20  <b>Warden</b> [6] - 28:16, 28:17, 36:25, 37:13, 37:24  <b>warden</b> [22] - 4:7, 4:18, 12:19, 13:1, 13:6, 13:10, 14:11, 26:16, 30:15, 32:13, 32:23, 33:5, 33:19, 34:2, 34:4, 34:6, 36:22, 40:14, 40:16, 64:22  <b>warden's</b> [1] - 14:10  <b>wardens</b> [6] - 27:6, 28:16, 30:24, 62:11, 62:22, 64:17  <b>wardens'</b> [1] - 27:19  <b>warrant</b> [4] - 9:11, 9:20, 52:16, 65:2  <b>warrants</b> [2] - 21:16, 54:6  <b>Warrender</b> [1] - 34:15  <b>Washington</b> [9] - 1:25, 2:4, 2:13, 4:6, 28:7, 30:6, 38:8, 39:16, 43:17  <b>watches</b> [1] - 32:24  <b>water</b> [2] - 3:16, 45:4  <b>ways</b> [4] - 10:7, 10:24, 22:10, 49:11  <b>weeks</b> [1] - 34:14  <b>weigh</b> [1] - 58:22  <b>weighing</b> [1] - 53:22  <b>welcome</b> [1] - 3:16  <b>West</b> [2] - 2:17, 45:12  <b>whereas</b> [2] - 33:14, 36:15  <b>Whren</b> [1] - 18:20  <b>WILLIAM</b> [2] - 1:18, 2:16  <b>William</b> [2] - 4:11, 25:9  <b>Wilson</b> [1] - 21:14  <b>window</b> [1] - 49:7  <b>WINGER</b> [1] - 1:19  <b>winter</b> [1] - 23:10  <b>wintertime</b> [1] - 23:11  <b>witness</b> [1] - 21:22  <b>witnesses</b> [1] - 22:1  <b>WL</b> [1] - 34:16  <b>words</b> [2] - 39:25, 41:23  <b>world</b> [5] - 10:2, 39:14, 39:15, 44:22, 49:12  <b>Wright</b> [2] - 42:8, 43:5  <b>writ</b> [1] - 5:14  <b>written</b> [2] - 45:6  <b>wrongdoing</b> [1] - 47:23  <b>wrote</b> [3] - 14:25, 26:23, 45:10</p>
<b>U</b>	<b>V</b>	<b>Y</b>
<p><b>U.S</b> [2] - 1:6, 2:8  <b>unconstitutional</b> [25] - 6:15, 7:2, 9:19, 11:22, 11:23, 12:1, 17:5, 20:19, 20:21, 20:22, 21:1, 21:18, 21:24, 22:7, 38:17, 39:1, 39:7, 39:20, 40:2, 40:9, 43:9,</p>	<p><b>vague</b> [2] - 6:13, 6:22  <b>valid</b> [3] - 27:23, 28:1, 29:18  <b>value</b> [1] - 28:15  <b>VEILLEUX</b> [1] - 2:3  <b>version</b> [1] - 45:12  <b>versus</b> [1] - 10:3  <b>videotaping</b> [1] - 48:25  <b>view</b> [3] - 10:6, 15:24, 32:12  <b>violate</b> [2] - 7:8, 15:13  <b>violated</b> [5] - 5:24, 9:10, 12:13, 17:7, 55:2  <b>violates</b> [1] - 6:13  <b>violation</b> [7] - 9:17, 11:8, 11:11, 11:16, 12:9, 55:4, 57:13  <b>violations</b> [1] - 24:1  <b>Virginia</b> [3] - 2:8, 2:10, 3:22  <b>visas</b> [1] - 18:23  <b>visits</b> [1] - 47:6  <b>voiced</b> [1] - 54:15  <b>volunteer</b> [1] - 5:4</p>	<p><b>year</b> [3] - 63:2, 63:5, 63:8  <b>years</b> [1] - 63:24  <b>YORK</b> [1] - 1:1  <b>York</b> [7] - 1:21, 2:20, 2:25, 12:17, 61:2,</p>

61:10  
**yourself** [2] - 26:23, 39:25

**Z**

**Zenk** [5] - 2:20, 4:19, 36:22, 37:14,  
37:24  
**Zenk's** [2] - 37:1, 64:23  
**Ziglar** [10] - 2:17, 4:12, 25:10, 25:13,  
25:16, 25:21, 26:3, 26:8, 26:12, 48:16  
**Ziglar's** [2] - 25:15, 25:25