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CENTRAL DIST. OF CALIF.
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Petitioner in Pro Se

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

In Re:

GUSTAVO ESCAMILLA, an individual,

Petitioner,

v.

UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF JUSTICE; and OTIS D. WRIGHT, II, in his official capacity as a United States District Judge,

Respondents.

Case No. 2:26-cv-09383-AB

PETITIONER'S EMERGENCY NOTICE AND MOTION TO DISQUALIFY THE UNITED STATES ATTORNEY'S OFFICE FOR THE CENTRAL DISTRICT OF CALIFORNIA OR, IN THE ALTERNATIVE, TO REQUIRE REPRESENTATION OF THE UNITED STATES BY SCREENED COUNSEL FROM OUTSIDE THAT OFFICE; MEMORANDUM OF POINTS AND AUTHORITIES [18 U.S.C. §§ 3771(a), (c), (d)(3) — To Be Decided Forthwith]

Hearing Date: November 20, 2026
Time: 10:00 a.m.
Courtroom: 7B
Hon. André Birotte Jr.

TO THE HONORABLE COURT, AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on November 20, 2026, at 10:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom 7B of the First Street Courthouse, 350 West First Street, Los Angeles, California 90012, before the Honorable André Birotte Jr., Petitioner Gustavo Escamilla, a federally identified crime victim appearing in pro se, will and hereby does move the Court for an order:

1. Disqualifying the United States Attorney's Office for the Central District of California (the "Office") from representing the United States in this proceeding, including from filing any response to the Petition or any other paper on behalf of the United States, and from communicating with Petitioner concerning this proceeding except through substitute counsel, as Petitioner has also requested in his concurrently filed motion in No. 2:17-cv-07748-AB;
2. In the alternative, directing that the United States be represented in this proceeding by attorneys of the Department of Justice from outside both the Office and the United States Attorney's Office for the Western District of Missouri, as the Department may designate, with every attorney and official of the Office who participated in, or received written notice of, the conduct described in the accompanying Memorandum screened from this proceeding; and
3. Granting such further relief as the Court finds just to secure the rights guaranteed by 18 U.S.C. § 3771(a), to preserve the fair and effective administration of justice, and to protect the integrity of this proceeding.

Request for decision forthwith. This Motion asserts a crime victim's rights, and "[t]he district court shall take up and decide any motion asserting a victim's right forthwith." 18 U.S.C. § 3771(d)(3); *see In re Davis*, Nos. 24-3090 & 24-3092, 146 F.4th 710 (9th Cir. 2025) (as amended Aug. 1, 2025).

Petitioner has noticed the Motion for November 20, 2026, so that it may be heard with his motion in No. 2:17-cv-07748-AB, which presents the same Office and the same record. He respectfully asks that the Court decide this Motion on the papers, without awaiting that date, as Congress commanded when it required that a motion asserting a victim's right be decided "forthwith." 18 U.S.C. § 3771(d)(3). To that end, Petitioner has concurrently filed an Emergency Ex Parte Application asking the Court to decide this Motion on the papers or to advance its hearing, and for leave to exceed the page limit. (*See* Initial Standing Order ¶¶ 12(c), 17.)

The Motion is made in this proceeding to enforce Petitioner's right to full and timely restitution under the Mandatory Victims Restitution Act, which makes restitution mandatory for any offense committed by fraud or deceit, 18 U.S.C. §§ 3663A(a)(1), (c)(1)(A)(ii), 3664, including § 3664(d)(5), asserted through the Crime Victims' Rights Act, 18 U.S.C. § 3771(a)(6) and (d)(3), as controlling Ninth Circuit authority has permitted since June 2, 2025, *In re Davis*, 146 F.4th at 720, 722–23; under 18 U.S.C. § 3771(a), (b)(1), (c)(1), (d)(1), and (d)(3); the Court's inherent and supervisory authority over the attorneys who appear before it, *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991); *United States v. Hasting*, 461 U.S. 499, 505 (1983); *Erickson v. Newmar Corp.*, 87 F.3d 298, 300 (9th Cir. 1996); Local Rule 83-3.1.2; 28 U.S.C. § 530B(a); and California Rules of Professional Conduct 1.7(b), 3.3, and 3.7; *see* 28 U.S.C. § 528.

It is based on this Notice, the accompanying Memorandum of Points and Authorities, the concurrently filed Emergency Ex Parte Application and Declaration of Gustavo Escamilla, the files and records of this proceeding and of Nos. 2:17-cv-07748-AB, 2:26-cv-05207, and 2:21-cv-01910, and such further matters as the Court may consider. A proposed order is lodged concurrently.

STATEMENT REGARDING LOCAL RULE 7-3

The Office has not appeared in this proceeding. It has filed no response to Petitioner's Petition to enforce his rights under the Mandatory Victims Restitution

Act and the Crime Victims' Rights Act, no response to his application for reasonable protection, and no response to his application for a decision forthwith. (Dkts. 1, 9, 18.)

Its only act in this proceeding has been a letter from Ms. Medrano, dated September 3, 2026, postmarked September 9, and received September 11. The letter objected to the envelope in which the Office was served, and it addressed the federally identified crime victim as "Plaintiff Pro Se." (Dkt. 24, Ex. A, Page ID #:1061–1063.) Without conceding that Local Rule 7-3 governs a motion that 18 U.S.C. § 3771(d)(3) requires the Court to decide forthwith, Petitioner states as follows.

Petitioner has tried to confer with the Office at every turn. On June 19, 2026, a conference was offered to the Office; it did not respond. (Dkt. 18 at 10, Page ID #:850.)

On August 16, 2026, Petitioner wrote to Acting Civil Chief Daniel A. Beck; he did not respond. (Dkt. 19, Ex. A.)

On September 14, 2026, Petitioner wrote to Complex and Defensive Litigation Section Chief Alarice M. Medrano; she did not respond. (Dkt. 24, Ex. C, Page ID #:1066–1078.)

He wrote to both on September 30, October 2, and October 5, 2026. On October 7, 2026, he sent them a letter under Local Rule 7-3 and paragraph 12(b) of the Court's Standing Order. That letter described the disqualification relief sought and its grounds, proposed resolution through voluntary recusal by the Department, and offered to confer in writing or by videoconference on October 9, 12, or 13, 2026. (Dkt. 34, Ex. A, Page ID #:1447–1451; 07748 Dkt. 35, Ex. A, Page ID #:892–896.)

On October 12, 2026, he wrote again. He identified the additional authority on which this Motion relies and his request to file an expanded memorandum, and he asked for the Office's position by 12:00 p.m. on October 14, 2026. As of the date

of filing, the Office has not responded. Seven letters in eight weeks. One letter in reply, and it was about an envelope.

The absurdity runs deeper than the silence. Petitioner's rights did not arise in any criminal investigation or prosecution conducted by this Office. They arose across a table in Burbank, California.

There, in a recorded, face-to-face interview, DHS Supervisory Special Agent Shawn S. Gibson, DHS Field Agent Carlos Suarez, and one additional federal agent told Petitioner that his company, Greenway Nutrients, Inc. ("Greenway"), had been identified as the Lead Victim of Operation Software Slashers ("OSS"), a federal criminal prosecution being conducted by DHS and the United States Attorney's Office for the Western District of Missouri. (Dkt. 1 at 15, 28, Page ID #:15, #:28.) That prosecution belonged to the Western District of Missouri. Its United States Attorney's Office charged and prosecuted the OSS defendants and handled the forfeiture proceedings, and it was in that prosecution that DHS agents identified Greenway as the Lead Victim, alongside Adobe and Microsoft. (Dkt. 1 at 15, 28, Page ID #:15, #:28; Dkt. 19, Ex. C.)

This Office was not at that table. It had no oversight of that prosecution, no role in it, and no authority over it. It did not investigate the case, did not charge it, did not prosecute it, and interviewed no one in it. (*See* Dkt. 24, Ex. C, Page ID #:1066–1078.)

Yet for more than five years, it is this Office that has told the courts, and the victim himself, that the Lead Victim of that prosecution has no rights at all. It has done so knowing, since at least July 12, 2021, when Petitioner set it out under oath, that DHS Supervisory Special Agent Gibson's fabricated ruling is what displaced those rights in the first place. (07748 Dkt. 14-1, Page ID #:251–318; *id.*, Ex. C, Page ID #:283–284.) In 2021, it told the Court that the victim "could not identify any criminal proceeding supporting [his] rights as [a] victim[]." (07748 Dkt. 15 at 2–3, Page ID #:320–321.)

In 2026, its Victim-Witness unit searched this District for charges filed in another, found none, and told the Lead Victim, "We cannot assist you." (Dkt. 2-1, Exs. S, U, Page ID #:383–384, #:392–393.) And in August 2026, it told Chief Judge Gee that his claims had been "repeatedly rejected," while conceding that it "does not address them here in substance." (ECF No. 864 at 4–5, Page ID #:11427–11428.) The Office that had no authority over the victim's prosecution has made itself the authority on whether he was ever its victim.

Now that same Office — an office with no oversight of the prosecution from which the victim's rights arise — would stand in this proceeding as "the attorney for the Government in the case," with whom the victim has a statutory right to confer, 18 U.S.C. § 3771(a)(5), and whose officers owe him their "best efforts" to see that he is accorded his rights, *id.* § 3771(c)(1).

It has not conferred with him under the statute, will not confer with him under the local rule, and has not appeared to say why. And by placing itself between the victim and the United States, it has foreclosed the very conferral the statute guarantees: a conference with the Government attorneys who actually charged and prosecuted the case from which his rights arise.

Those attorneys cannot fill the gap either. The United States Attorney's Office for the Western District of Missouri received Petitioner's written complaints in April and May 2017, never responded, and never corrected the record; its own 2016 decision, resting on the fabrication, suspended the Lead Victim's participation in its prosecution. (Dkt. 28 at 17, Page ID #:1353; 07748 Dkt. 14-1 ¶¶ 19–20, Page ID #:256–258; 07748 Dkt. 9 at 22, Page ID #:143; *see infra* Memorandum Part V.D.4.)

It, too, must be foreclosed from any role in this proceeding. Applied here, Local Rule 7-3 would make the victim's right to be heard depend on a conference with an office that had no oversight of, role in, or authority over the prosecution that created his rights; that has had every part in denying them; that has shut him

off from the prosecutors who did have that authority; and that, since December 18, 2025, has answered him only to tell him it could not assist him and to object to an envelope. An office that has met this victim with bad faith at every turn should not be permitted to answer his Petition, to appear for the United States in this proceeding, or to stand as the counterpart through which his statutory rights must pass.

This is not the first time. In 2021, Local Rule 7-3 was the ground on which Petitioner's motion to set aside the Judgment for fraud on the court was struck, two days after it was filed and before the Office responded. (07748 Dkt. 20, Page ID #:541.)

When the motion was refiled, the Office did not deny the fraud. It asked that the motion be denied under Local Rules 7-3 and 11-6, and it was struck again. (07748 Dkt. 23 at 2, 5, Page ID #:750, #:753; 07748 Dkt. 25, Page ID #:776.)

Twice, a rule meant to narrow the issues kept the record of the Office's own conduct from the merits. A rule that requires two parties to talk cannot be satisfied by one of them alone, and it cannot be enforced against the party that tried. Petitioner has done everything the rule asks of a party. The Office has done nothing.

REQUEST FOR LEAVE TO EXCEED THE WORD AND PAGE LIMITS

Petitioner respectfully requests leave, for good cause, under L.R. 11-6.1 and paragraph 12(c) of the Court's Standing Order, to file the accompanying Memorandum of Points and Authorities, which contains 15,595 words and exceeds 25 pages. Petitioner seeks the same leave in his concurrently filed Emergency Ex Parte Application.

The Memorandum is long because the record is long, and the record is long because the Office has made it so. Every year the Office left a documented act undenied, uncorrected, and uncured, the record grew by another year. It now spans ten years, from 2016 to 2026, and four administrations of one Office.

It holds multiple documented instances of undenied allegations of professional misconduct, and a decade of duties that the Crime Victims' Rights Act makes mandatory and that the Office has never performed. Each act requires record citation. The Memorandum must also set out the statutory and regulatory duties that bind the Office to this victim and answer the Office's own representations to Chief Judge Gee in its August 5, 2026, filing. (*United States v. McCormick*, No. 2:20-cr-00346-DMG, ECF No. 864 at 4–5, Page ID #:11427–11428.)

The length of this Memorandum is the measure of the Office's silence. Not one of the documented acts has been denied on the merits.

A DHS agent fabricated a court ruling that does not exist. No court ever ruled in favor of the primary bad actor, David Dragan Selakovic ("Selakovic"), and against Greenway on Greenway's trademark-infringement claims, and the Colorado court's own docket — which the Office itself filed in No. 2:17-cv-07748 — shows it. (07748 Dkt. 9-2, Ex. 3, at 24, Page ID #:171.)

The Office carried that fabrication forward, and it has never cured it. In 2018, under United States Attorney Hanna, it adopted, mischaracterized, and republished the fabrication of DHS Supervisory Special Agent Shawn S. Gibson to obtain a Judgment that rested on a lack of subject-matter jurisdiction and reached no merits. (07748 Dkts. 9, 11, 13.)

In 2021, under Acting United States Attorney Tracy L. Wilkison, it took up Petitioner's status as a crime victim, denied it on a recast version of the fabrication, and then assumed the fabrication "*arguendo*" rather than deny it. (07748 Dkt. 15 at 2–3, Page ID #:320–321; 07748 Dkt. 23 at 5, Page ID #:753.) In 2026, its Victim-Witness unit told the Lead Victim that "[i]t does not appear that you are an identified crime victim in a federal criminal proceeding," and its leadership told Chief Judge Gee that his claims had been "repeatedly rejected," while conceding that it "does not address them here in substance." (Dkt. 2-1, Ex. S, Page ID #:383–384; ECF No. 864 at 4–5, Page ID #:11427–11428.)

And the one time the Office answered this record on a motion to set the Judgment aside, its answer was not a denial. It was a page count, a meet-and-confer objection, and an assumption of the fraud "*arguendo*." The Office asked that the motion be denied because it was too long, and the motion was struck on that ground, among others, before any judge reached a single documented act. (07748 Dkt. 23 at 2, 5, Page ID #:750, #:753; 07748 Dkt. 25, Page ID #:776.)

So, the fabrication was never cured; the misconduct built on it was never denied; and the one record that would have exposed both was set aside for its length. Denying leave now would complete that cascade, in a proceeding Congress commanded be decided "forthwith." 18 U.S.C. § 3771(d)(3).

The law does not permit it. Fraud on the court "is a wrong against the institutions set up to protect and safeguard the public," and "[s]urely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants." *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). It is "too late in the day . . . for decisions on the merits to be avoided on the basis of such mere technicalities," *Foman v. Davis*, 371 U.S. 178, 181 (1962), and in this Circuit "[c]ases should be decided upon their merits whenever reasonably possible," *Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986).

The Office will suffer no prejudice. It has had these facts in writing since 2021, and again from December 2025 through October 2026, and on October 12, 2026, Petitioner notified it in writing that he would seek this enlargement. (07748 Dkts. 18, 21, 24; Dkt. 2-1, Exs. P–U, Page ID #:343–393; Dkt. 29.) Petitioner appears in pro se and does not oppose a corresponding enlargement for the Office's opposition. He asks only that, this time, the record be decided on what it shows — not set aside on how long it is.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This Motion asks a question the Crime Victims' Rights Act answers on its face: whether the United States Attorney's Office may defend, against a federally identified crime victim, its own failure to accord him the rights that the same statute commands it to accord.

Congress did not leave a crime victim's rights to the discretion of the officials who owe them. Officers and employees of the Department of Justice "engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a)." 18 U.S.C. § 3771(c)(1).

The victim's right to confer runs to "the attorney for the Government in the case." *Id.* § 3771(a)(5). And "the attorney for the Government" is one of only two parties the statute empowers to "assert the rights described in subsection (a)." *Id.* § 3771(d)(1).

In a proceeding to enforce those rights, the Office is not merely counsel for a respondent. It is the duty-bearer whose non-compliance is the subject of the petition, the counterpart to whom the victim's conferral right runs, and the employer of the officials who received the victim's written notice and did nothing with it.

Every one of those roles is in conflict with the role the Office would now assume. The best-efforts duty runs one way; the defense of this proceeding runs the other. An office cannot confer with a victim in good faith about rights it is litigating to defeat. And an office that, for five years, has opposed the very rights it was empowered to assert cannot be the advocate that decides how the United States answers a petition asking that those rights finally be accorded.

The conflict is not hypothetical. It began with a fabricated court ruling that no court ever made. A DHS agent reported it, and it suspended the Lead Victim's

participation in an active federal criminal investigation. The Office carried it into this District under the signature of the United States Attorney.

When Petitioner proved it false under oath, the Office did not correct it; it took up his status as a crime victim and denied it, on a recast version of the same fabrication. When Petitioner moved to set aside the Judgment it produced, the Office did not deny the fraud; it assumed it "*arguendo*" and told the court it would not matter. When Petitioner gave the Office's First Assistant and its Victim-Witness unit written notice, asked for reasonable protection, and asked that the misconduct be reported as the Department's own rules require, no one reported it — and the Victim-Witness unit told the Lead Victim of a federal criminal investigation that recovered more than $20 million that "[i]t does not appear that you are an identified crime victim in a federal criminal proceeding," and that "[w]e cannot assist you." (Dkt. 2-1, Ex. S, Page ID #:383–384.)

On August 5, 2026, when Petitioner's victim's-rights claims were raised in a criminal case in which he had no right to be heard, the Office — through the First Assistant who had received his notice seven months earlier — told Chief Judge Gee that Petitioner's claims for restitution — mandatory under the Mandatory Victims Restitution Act for any offense committed by fraud or deceit, 18 U.S.C. § 3663A(a)(1), (c)(1)(A)(ii), and enforceable under the Crime Victims' Rights Act as controlling Ninth Circuit authority has held since June 2, 2025, *In re Davis*, Nos. 24-3090 & 24-3092, 146 F.4th 710, 720, 722–23 (9th Cir. 2025) (as amended Aug. 1, 2025) — were "ill-fated" and "involve broad allegations of government misconduct that courts have repeatedly rejected," while conceding in the same filing that it "does not address them here in substance." (*McCormick*, ECF No. 864 at 4–5, Page ID #:11427–11428.)

Each act built on the last. The fabrication produced the Judgment; the Office's recasting defended it; its local-rule objections kept it from being decided. And the absence of any decision — an absence the Office itself secured — became,

in 2026, its proof that the claims had been "repeatedly rejected." (ECF No. 864 at 4, Page ID #:11427.)

That is the cascade this Motion documents. It is not a series of oversights. It is a course of conduct — the kind for which the Court's inherent authority exists, *see Chambers v. NASCO, Inc.*, 501 U.S. 32, 45–46 (1991), and the kind controlling Ninth Circuit authority expressly forbids: government counsel may not place fabricated evidence before a tribunal and then stand on it. *See Lanuza v. Love*, 899 F.3d 1019, 1028–29 (9th Cir. 2018).

And none of it was the Office's case. The Office did not investigate Operation Software Slashers ("OSS"), did not charge it, did not prosecute it, had no oversight of or authority over it, and was not at the table in Burbank, California, where federal agents identified Petitioner's company as its Lead Victim; that prosecution belonged to the Western District of Missouri. (Dkt. 1 at 15, 28, Page ID #:15, #:28; Dkt. 19, Ex. C.)

An office with no oversight of that prosecution, no role in it, and no authority over it has spent years telling the victim who was in the room that he was never a victim at all. Its only act in this proceeding has been to object to an envelope. (Dkt. 24, Ex. A, Page ID #:1061–1063.) By its own conduct, the Office has forfeited any claim to speak for the United States in a proceeding to enforce the rights it has spent years denying.

The Court's own duty is no less direct. "In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a)." 18 U.S.C. § 3771(b)(1). The Court cannot ensure that this victim is afforded his rights — to confer, to fairness, to protection, and to full and timely restitution as provided in law — through an office whose institutional interest lies in establishing that it never owed them.

Petitioner recognizes that disqualifying an entire United States Attorney's Office is "an extreme remedy—only appropriate in the most extraordinary

circumstances." *United States v. Williams*, 68 F.4th 564, 573 (9th Cir. 2023). This is that case. As recently as December 8, 2025, the Office — under First Assistant United States Attorney Bilal A. Essayli — told another judge of this District what that showing requires: "a clear basis in fact and law" demonstrating "a violation of the Constitution, a federal statute, or a procedural rule," and, as to individual attorneys, prejudice or "clear and convincing evidence of prosecutorial misconduct." (*United States v. Banks*, No. 2:24-cr-00621-MWF, ECF No. 319 at 8–9, Page ID #:2543–2544 (C.D. Cal. Dec. 8, 2025) (citing *Williams*, 68 F.4th at 571, 573–74).) Petitioner respectfully accepts that standard, and he meets it with a federal statute and with documents. Every fact below is a filing, an order, or a letter that bears a docket number or a date.

II. THE DUTIES THE OFFICE OWES THIS VICTIM ARE MANDATORY, AND THEY RUN TO THE ATTORNEYS WHO WOULD DEFEND THIS PROCEEDING

A. The Statute.

The Crime Victims' Rights Act guarantees a crime victim ten rights, among them "[t]he right to be reasonably protected from the accused," "[t]he reasonable right to confer with the attorney for the Government in the case," "[t]he right to full and timely restitution as provided in law," "[t]he right to proceedings free from unreasonable delay," "[t]he right to be treated with fairness and with respect for the victim's dignity and privacy," and the right to be informed of those rights and provided contact information for the Department's Victims' Rights Ombudsman. 18 U.S.C. § 3771(a)(1), (5), (6), (7), (8), (10). A "crime victim" is "a person directly and proximately harmed as a result of the commission of a Federal offense." *Id.* § 3771(e)(2)(A).

The statute then assigns the duty to accord those rights, and it assigns it to the Department of Justice by command, not by permission:

> ***18 U.S.C. § 3771(c)(1):***
> "Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a)."

Three further provisions make the attorney for the Government the victim's statutory counterpart. "The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a)." *Id.* § 3771(c)(2).

The conferral right runs to "the attorney for the Government in the case." *Id.* § 3771(a)(5). And the rights may be asserted by "[t]he crime victim or the crime victim's lawful representative, and the attorney for the Government." *Id.* § 3771(d)(1). Congress thus made the Government's attorney not the victim's adversary but one of the two parties charged with securing his rights.

Where a victim must assert those rights himself, he may do so "in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred," and "[t]he district court shall take up and decide any motion asserting a victim's right forthwith." *Id.* § 3771(d)(3). On June 2, 2025, the Ninth Circuit confirmed that the statute means what it says, including after judgment: § 3771(d)(3)'s "no prosecution is underway" clause "permits crime victims . . . to file motions asserting their rights after prosecution has ended," and "a petition to reopen restitution under § 3664(d)(5) is 'any motion asserting a victim's right' within the meaning of § 3771(d)(3)." *In re Davis*, 146 F.4th at 722. And the restitution the victim seeks is restitution the Mandatory Victims Restitution Act makes mandatory: for "any offense committed by fraud or deceit," the court "shall order" it. 18 U.S.C. § 3663A(a)(1), (c)(1)(A)(ii); *see id.* § 3664(d)(5).

The Victims' Rights and Restitution Act imposes parallel duties on the same officials. "At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation," a responsible official "shall" identify the victim and inform him of the services available to him, 34 U.S.C. § 20141(b), including to "arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender," *id.* § 20141(c)(2), and to inform him of "any restitution or other relief to which the victim may be entitled," *id.* § 20141(c)(1)(B).

B. The Department's Own Implementing Rules.

Congress directed the Attorney General to promulgate regulations to enforce these rights, including a procedure to receive and investigate victims' complaints and "disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims." 18 U.S.C. § 3771(f)(1), (f)(2)(A)–(C).

The Department did so. Its regulation establishes a Victims' Rights Ombudsman within the Executive Office for United States Attorneys and a point of contact for victims' complaints in each United States Attorney's Office, places the first-level review of a complaint against an office within that office, and provides for complaints that present a conflict to be forwarded to the Ombudsman. 28 C.F.R. § 45.10(b)–(c).

The Attorney General Guidelines for Victim and Witness Assistance (2022 ed.), which Petitioner placed before the Court and served on the Office (Dkt. 24, Ex. D, Page ID #:1079–1175), state the Department's own understanding of those duties. They apply to all Department personnel who "have contact with victims or take actions that impact victims." *Id.*, art. I.B.3, Page ID #:1088. They establish a "strong presumption . . . in favor of providing, rather than withholding, assistance." *Id.*, art. II.A, Page ID #:1091. They direct the Department's lawyers to

"meaningfully consult with" victims "at critical junctures." *Id.*, art. II.H.1, Page ID #:1096. They fix the attachment of the Department's duties at "the opening of a criminal investigation," *id.*, art. III.B.4, Page ID #:1100, and they continue the best-efforts duty "throughout" the proceedings, "including . . . post-conviction court proceedings," *id.*, art. III.C.4, Page ID #:1101.

And the Justice Manual directs that the prosecutor "should be available to confer with the victim" in furtherance of the Crime Victims' Rights Act. Justice Manual § 9-27.250.

The statute makes these duties mandatory, and the Department's own rules confirm that they are non-discretionary. Congress used the language of command — officials "shall make their best efforts," 18 U.S.C. § 3771(c)(1); "[t]he prosecutor shall advise," *id.* § 3771(c)(2); a responsible official "shall" identify the victim and inform him of available services, 34 U.S.C. § 20141(b) — and the Department's regulation leaves its employees no choice about reporting misconduct: they "have a duty to, and shall, report" it. 28 C.F.R. § 45.12.

None of these duties involves a charging decision or any exercise of prosecutorial discretion. *See* 18 U.S.C. § 3771(d)(6). The Guidelines confirm that the Department itself understands these duties to reach all personnel who "have contact with victims or take actions that impact victims," AG Guidelines art. I.B.3 (Dkt. 24, Ex. D, Page ID #:1088), and to continue "throughout" the proceedings, "including . . . post-conviction court proceedings," *id.* art. III.C.4 (Page ID #:1101) — which include a victim's proceeding, like this one, to enforce his right to restitution after judgment. *See In re Davis*, 146 F.4th at 722–23; 18 U.S.C. § 3664(d)(5).

III. THE RECORD

Citations to "07748 Dkt." are to No. 2:17-cv-07748-AB; to "05207 Dkt." are to No. 2:26-cv-05207; to "01910 Dkt." are to No. 2:21-cv-01910; to "ECF No. 864"

are to *United States v. McCormick*, No. 2:20-cr-00346-DMG; and to "Dkt." alone are to this proceeding.

A. The Victim (2015).

On March 3, 2015, DHS Supervisory Special Agent Shawn S. Gibson, DHS Field Agent Carlos Suarez, and one additional federal agent met with Petitioner in Burbank, California, and identified his company, Greenway Nutrients, Inc. ("Greenway"), as the Lead Victim — alongside Microsoft and Adobe — of OSS, a federal criminal investigation and prosecution of counterfeit-goods trafficking brought in the Western District of Missouri. (Dkt. 1 at 7, 15, 28, Page ID #:7, #:15, #:28; *see United States v. Ross*, No. 4:15-cr-00196-DGK (W.D. Mo.).)

The Judgment later entered in No. 2:17-cv-07748, drawn from the Government's own motion, recites what the federal government told him: that the investigation was "extensive"; that ICE and the United States Attorney's Office had recovered more than $20 million in the investigation; that Petitioner "may be able to recover from an established victims' fund"; and that the United States Attorney's Office for the Western District of Missouri "agreed that Greenway would be added as a victim in the government's case." (07748 Dkt. 13 at 2, Page ID #:210; *see* 07748 Dkt. 9 at 10, Page ID #:131.)

> ***The April 4, 2018 Judgment (07748 Dkt. 13 at 2, Page ID #:210):***
> The investigation was "extensive"; ICE and the United States Attorney's Office had recovered more than $20 million in the investigation; Petitioner "may be able to recover from an established victims' fund"; the United States Attorney's Office for the Western District of Missouri "agreed that Greenway would be added as a victim in the government's case."

Under the statute, Petitioner's rights attached then. 18 U.S.C. § 3771(c)(1), (e)(2)(A); 34 U.S.C. § 20141(b). The scheme to defraud Greenway — evidence of which the Office would later dismiss as "actually rather old" (07748 Dkt. 9 at 18 n.11, Page ID #:139) — in which Greenway's former fiduciary attorneys, Michael J. Ryan and James D. Ryan, turned Greenway's confidential business information and reverse-merger plan over to the enterprise of the primary bad actor, David Dragan Selakovic ("Selakovic") — involved fraud and deceit on top of the counterfeit-trademark and counterfeit-goods trafficking: wire fraud, 18 U.S.C. § 1343; securities fraud, 18 U.S.C. § 1348; and theft of trade secrets, 18 U.S.C. § 1832. (Dkt. 1 at 35–38, 47, 82–83, Page ID #:35–38, #:47, #:82–83.) For "any offense committed by fraud or deceit," the court "shall order" restitution to the victim. 18 U.S.C. § 3663A(a)(1), (c)(1)(A)(ii).

B. The Source: A Ruling No Court Ever Made (2016).

In June 2016, Petitioner submitted a civil-rights complaint against DHS officials to the Office under then-United States Attorney Eileen M. Decker. The complaint was rejected for want of jurisdiction, without anyone from the Office contacting him, and his follow-up communications to the Office's leadership that summer went unanswered. (Dkt. 2-1, Ex. P, Page ID #:350; *id.*, Ex. Q, Page ID #:368.)

On October 28, 2016, Agent Gibson wrote to Petitioner that "on August 17, 2015 a District Court found in **favor of Selakovic against Greenway Nutrients in regards to the assertion of the Greenway trademark**," and that "**our agency is bound by decision of the court.**" On November 21, 2016, he wrote that "**our agency cannot move forward with any investigation involving your trademark until you resolved this issue with the District Court in Colorado that issued the decision.**" (07748 Dkt. 1, Ex. 9, Page ID #:50–51; *id.*, Ex. 10, Page ID #:63; 05207 Dkt. 9, Ex. I.) With those words, the investigation was suspended as to Greenway

— on a condition that no victim could ever satisfy, because the decision it named does not exist.

> ***DHS Supervisory Special Agent Shawn S. Gibson (07748 Dkt. 1, Ex. 9, Page ID #:50–51; id., Ex. 10, Page ID #:63; 05207 Dkt. 9, Ex. I):***
>
> October 28, 2016: "on August 17, 2015 a District Court found in favor of Selakovic against Greenway Nutrients in regards to the assertion of the Greenway trademark" . . . "our agency is bound by decision of the court."
> November 21, 2016: "our agency cannot move forward with any investigation involving your trademark until you resolved this issue with the District Court in Colorado that issued the decision."

No such ruling exists. On March 31, 2015, Chief Judge Marcia S. Krieger denied Selakovic's challenge to Greenway's trademark-infringement claims. *Greenway Nutrients, Inc. v. Blackburn*, No. 1:13-cv-01088 (D. Colo.) (DE-129); *see* 07748 Dkt. 9-2, Ex. 3, at 24, 26, Page ID #:171, #:173.

There was ***no*** ruling in ***favor*** of Selakovic and ***against*** Greenway on **Greenway's civil trademark-infringement claims**. Gibson's stated reason was the whole of it, and it was not only false; it was fabricated.

> ***What the Colorado court actually ruled — Chief Judge Marcia S. Krieger, March 31, 2015 (Greenway Nutrients, Inc. v. Blackburn, No. 1:13-cv-01088, DE-129, at 10–11; 05207 Dkt. 9, Ex. D):***
> "Mr. Selakovic argues that under the *Calder* effects test, Greenway has not alleged that he 'expressly aimed' any tortious activity at Colorado. The Court disagrees. Trademark infringement turns on whether customers are likely to be confused, mistaken, or deceived by the use of a trademarked product." . . . "Accordingly, the Court agrees with the

> Magistrate Judge that at this early stage of litigation, Greenway has met its burden of making a prima facie showing of personal jurisdiction over Defendants Blackburn, FSS, and Selakovic."

C. The First Cascade: The Fabrication Enters This District (2018).

On January 29, 2018, the Office moved to dismiss Petitioner's civil-rights action under the signatures of then-United States Attorney Nicola T. Hanna; Dorothy A. Schouten, Chief of the Civil Division; Robyn-Marie Lyon Monteleone, Chief of the General Civil Section; and AUSA Grace Y. Park. It carried Gibson's account into the court in new form, representing that the Colorado dismissal "leaves plaintiffs' valid ownership of Greenway's trademarks in doubt," and that ICE and USAO-MO, "in their discretion, made the reasoned decision that they would not resume their investigation." (07748 Dkt. 9 at 11, 22, Page ID #:132, #:143; *see* 07748 Dkt. 11 at 6.) The Office's own exhibit — the Colorado docket — disproved the account. (07748 Dkt. 9-2, Ex. 3, at 24–26, Page ID #:171–173.)

> ***The Office, under United States Attorney Hanna, January 29, 2018 (07748 Dkt. 9 at 11, 22, Page ID #:132, #:143):***
> The Colorado dismissal "leaves plaintiffs' valid ownership of Greenway's trademarks in doubt" . . . ICE and USAO-MO, "in their discretion, made the reasoned decision that they would not resume their investigation."

The Office added two declarations. AUSA Park's sworn declaration offered, as proof that Petitioner had long known of misconduct by Greenway's former attorney Michael J. Ryan, an exhibit concerning Petitioner's June 2013 dealings with a different man, Thomas F. Ryan; the exhibit never mentions Michael J. Ryan. (07748 Dkt. 14-1 ¶ 31, Page ID #:261.) The court relied on it. (07748 Dkt. 13 at 16 n.6, Page ID #:224.)

The declaration of Robert A. Ramey reported "no electronic or hardcopy record of any administrative tort claim," after a search of a tort-claims database in which Petitioner's May 1, 2017, civil-rights complaint to DHS could not have appeared. (07748 Dkt. 9-1.) Petitioner had sent that complaint to more than twenty DHS and Department of Justice officials, among them Tracy L. Wilkison, then Chief of the Office's Cyber and Intellectual Property Crimes Section. (07748 Dkt. 14-1 ¶¶ 19–25; Dkt. 29 at 6, Page ID #:1373.)

On April 4, 2018, the court dismissed the action for lack of subject-matter jurisdiction. (07748 Dkt. 13.) The tort claims fell on two grounds, and the Office supplied the premise of each: failure to exhaust, resting on the Ramey declaration, and the discretionary-function bar, resting expressly on "the negative judgment in the Colorado action." (07748 Dkt. 13 at 11, 13, Page ID #:219, #:221.)

There was *never* a negative judgment in *favor* of Selakovic and against Greenway on its civil trademark-infringement claims in the Colorado civil action, as DHS Supervisory Special Agent Shawn S. Gibson falsely claimed.

Both grounds for dismissing the tort claims rest on what the Office put before the court. And in obtaining that Judgment, the Office — whose officers and employees owed this victim their best efforts under § 3771(c)(1) — relied on the very investigation in which Greenway had been identified as a victim, while advancing the fabrication that had suspended his participation in it.

D. The Second Cascade: Victim Status Taken Up and Denied on a Recast Fabrication (July 2021).

On March 29, 2021, Petitioner's counsel placed the documentary proof that no Colorado court had ruled for Selakovic before the court in Petitioner's crime-victim petition. Four days later, before the Office had appeared or filed any responsive pleading, the court "reaffirm[ed] its April 4, 2018 Order" and dismissed the petition sua sponte. (07748 Dkt. 14-1 ¶ 10, Page ID #:254; 01910 Dkt. 9, Exs. A–C; 01910 Dkt. 10 at 2, Page ID #:294.)

On July 12, 2021, Petitioner filed a sworn declaration setting out DHS Supervisory Special Agent Gibson's fabrication, the Ramey declaration, the false Ryan name substitution, and his May 1, 2017, complaint to DHS's Office for Civil Rights and Civil Liberties, which Tracy L. Wilkison had also received. (07748 Dkt. 14-1, Page ID #:251–318, ¶¶ 10, 16–36, 54; *id.*, Ex. C, Page ID #:283–284.)

The Office's July 19, 2021, opposition — under then-Acting United States Attorney Wilkison, Civil Division Chief David M. Harris, General Civil Section Chief Joanne S. Osinoff, and AUSA Park — took up Petitioner's status as a crime victim and denied it, resting that denial on a third version of Gibson's reason. The ruling for Selakovic vanished from the Office's account. The fabrication did not. Rather than correct the record, the Office pressed forward with a new version of the same lie — one it knew, or had the means reasonably to know, was false, material, and misleading, because the premise beneath it had been fabricated from the start. (07748 Dkt. 15 at 3, Page ID #:321 (citations omitted).)

> ***The Office, under Acting United States Attorney Tracy L. Wilkison, July 19, 2021 (07748 Dkt. 15 at 3, Page ID #:321 (citation omitted)):***
>
> "Judge Wright correctly noted that plaintiffs could not identify any criminal proceeding supporting their rights as victims since, in August 2015, defendants told plaintiff they would not move forward with the criminal infringement action as to plaintiffs given that the civil trademark infringement suit did not reach a judgment on the merits."

Consider what that sentence does. Gibson's ***only*** stated reason was that a court had ruled for Selakovic and against Greenway on Greenway's civil trademark-infringement claims.

The Office's new reason — that in August 2015 the government told Petitioner it would not move forward because the civil suit "did not reach a judgment on the merits" — was false.

No one told Petitioner any such thing, in August 2015 or at any other time. It was not a correction of Gibson's fabrication; it was a replacement for it. In a single sentence, the Office abandoned the ruling Gibson had invented, substituted a reason Gibson never gave, and used that reason to deny a federally identified crime victim his rights. Gibson said nothing about a judgment on the merits or about trademark ownership, and he gave no such notice in August 2015; his June and August 2015 emails confirmed that the investigation was continuing. (07748 Dkt. 13 at 3, Page ID #:211.) The Office did not defend the Ryan substitution; it shifted to Petitioner's complaint to the Florida Bar. (07748 Dkt. 15 at 4, Page ID #:322.)

And it compounded the harm. The April 2, 2021 order — an order dismissing for want of jurisdiction — had described Petitioner's account of what became of the sealed prosecution as "speculation pulled from the ether," and had concluded that he "supplied no basis to establish any rights under the Crime Victims' Rights Act." (01910 Dkt. 10 at 1–2, Page ID #:293–294.)

When Petitioner objected to that characterization, the Office, under Acting United States Attorney Wilkison, did not point the court to its own 2018 representations that the investigation existed. (07748 Dkt. 9 at 10, Page ID #:131; 07748 Dkt. 13 at 2, Page ID #:210.)

It minimized that remark — the finding on which Petitioner was denied any status, rights, or restitution as a crime victim — and with it the victim, as at most an expression of "impatience." (07748 Dkt. 15 at 5, Page ID #:323 (quoting *Liteky v. United States*, 510 U.S. 540, 555–56 (1994)).) The motion was referred to another judge and denied. (07748 Dkts. 16, 17.)

Measured against the statute, that filing was not advocacy within the range the Crime Victims' Rights Act permits. The Office's officers owed this victim their

"best efforts to see that [he was] notified of, and accorded," his rights. 18 U.S.C. § 3771(c)(1). The attorney for the Government was empowered to "assert" them. *Id.* § 3771(d)(1).

Instead, the Office's Acting United States Attorney and its Civil Division chiefs used a recast fabrication to tell a federal court that the victim had no rights at all. No one advised him of his right to seek counsel on those rights, *id.* § 3771(c)(2), or of the Department's Ombudsman, *id.* § 3771(a)(10).

One fabricated reason, three different versions — a ruling for Selakovic in 2016, "ownership in doubt" in 2018, "not a judgment on the merits" in 2021 — each conveniently tailored to suit the need of the moment. (*See* 07748 Dkt. 26 at 18–20, Page ID #:794–796.)

E. The Third Cascade: A Rule Meant to Narrow the Issues, Used to Keep the Fraud From the Merits (September–November 2021).

On September 18, 2021, Petitioner's counsel moved to set aside the Judgment for fraud on the court. Two days later, before the Office responded, the court struck the motion under Local Rule 7-3. (07748 Dkt. 18; 07748 Dkt. 20, Page ID #:541.) Counsel attempted to confer and refiled; the Office's own attorney had not forwarded counsel's September 21, 2021 conferral request to her supervisors until October 4. (07748 Dkt. 21; 07748 Dkt. 24 at 3, Page ID #:762.)

The Office's October 25, 2021, opposition — under Acting United States Attorney Wilkison and signed by AUSA Kevin B. Finn — shows how this Office deals with this victim.

Confronted with sworn proof that its Judgment rested on a fabricated ruling, it denied none of the documented acts of professional misconduct. It did not contest the fraud; it assumed it and called it harmless: "While Plaintiffs have also failed to establish a fraud on the court, *assuming arguendo that [one] existed*, it would not 'affect the outcome of the case.'" (07748 Dkt. 23 at 5, Page ID #:753.)

An office acting in good faith, told under oath that a judgment it obtained rests on a fabrication, takes "an independent, objective look at the issue." *United States v. Kojayan*, 8 F.3d 1315, 1320 (9th Cir. 1993). This Office did not. It led instead with the local rules, asking that the motion be denied under Local Rules 7-3 and 11-6 on the representation that an AUSA had emailed counsel on October 4 and 5, 2021. (07748 Dkt. 23 at 2, Page ID #:750.)

Counsel declared under penalty of perjury that his office had no record of either email. (07748 Dkt. 24 at 14–15, Page ID #:773–774; *see* 05207 Dkt. 17 ¶ 12, Page ID #:772–773.)

The Office's representation and counsel's sworn declaration could not both be true. On November 9, 2021, the motion was struck by form order — a single box checked: "Failure to comply with Local Rules 7-3 and 11-6." (07748 Dkt. 25, Page ID #:776.)

On a procedural objection resting on a disputed representation, the Office obtained what it never sought on the merits: a disposition that left unanswered whether its Judgment was procured by fraud, and with it whether this victim had been stripped of his rights by fabrication. (07748 Dkt. 23 at 2, 5, Page ID #:750, #:753; 07748 Dkt. 24 at 14–15, Page ID #:773–774; 07748 Dkt. 25, Page ID #:776; 05207 Dkt. 21 ¶ 9, Page ID #:821.) That same morning, at approximately 6:33 a.m., Petitioner had transmitted to the State Bar of California, Office of Chief Trial Counsel, written complaints against former United States Attorney Hanna, Acting United States Attorney Wilkison, and five other attorneys of the Office, together with a copy of his pending Rule 60(d)(3) motion. (05207 Dkt. 21 ¶¶ 2, 4–5, 8, Page ID #:819–821.)

The Office, under Acting United States Attorney Wilkison, October 25, 2021 (07748 Dkt. 23 at 5, Page ID #:753):

> "While Plaintiffs have also failed to establish a fraud on the court, *assuming arguendo that [one] existed*, it would not 'affect the outcome of the case.'"
> ***The disposition, November 9, 2021 (07748 Dkt. 25, Page ID #:776):*** "Failure to comply with Local Rules 7-3 and 11-6."

Five presentations in seven months; one sua sponte dismissal; one denial; two strikes, the second on the Office's own objection; no ruling on whether the Judgment was procured by fabrication. No court has ever decided it.

F. The Fourth Cascade: Written Notice to Every Level of the Office, a Request for Protection, and a Victim-Witness Unit That Would Not Assist (December 2025–February 2026).

On December 18, 2025, Petitioner sent First Assistant United States Attorney Bilal A. Essayli written notice of the misconduct described above, with its supporting record, including his June 2025 complaint to the DHS Office of Inspector General (DHS-OIG), which reported Gibson's fabricated ruling, against the contrary Colorado record, as conduct implicating 18 U.S.C. §§ 241, 242, and 1519.

He invoked the Crime Victims' Rights Act and the Attorney General Guidelines, asked that the misconduct be investigated and reported, and stated his concern about retaliation. (Dkt. 2-1, Ex. P, Page ID #:343–353; Dkt. 19, Ex. B; *see* Dkt. 1 at 25, Page ID #:25.) That complaint is cited for what was reported to the Office and when, not as a finding that any offense occurred. Mr. Essayli did not respond.

On December 30, 2025, Petitioner sent the same record to the Office's Supervisory Victim-Witness Coordinator, Allison Stafford, copying Mr. Essayli, with an express demand that the Office discharge its mandatory duty to report, a request for the contact information of the Department's Victims' Rights Ombudsman under 18 U.S.C. § 3771(a)(10), and a statement of his "immense fear

of further potential retaliatory misconduct, my personal well-being, and safety." (Dkt. 2-1, Ex. Q, Page ID #:354–371, #:358–360.)

The next day, Ms. Stafford confirmed in writing that she had "reviewed it and the attachments" — attachments that included Petitioner's June 2025 DHS-OIG complaint — characterized the matter as related to "two civil cases which were dismissed," and directed him to an online portal. (05207 Dkt. 44 at 24, Page ID #:1146; *see* Dkt. 2-1, Ex. Q, Page ID #:370–371.)

> ***Ms. Stafford, December 31, 2025 (05207 Dkt. 44 at 24, Page ID #:1146):***
> "reviewed it and the attachments" . . . "two civil cases which were dismissed."

On January 12, 2026, again copying Mr. Essayli, Petitioner asked the Office for reasonable protection from the accused and those acting in concert with them, under 18 U.S.C. § 3771(a)(1). (Dkt. 2-1, Ex. R, Page ID #:372–382; *see* 34 U.S.C. § 20141(c)(2).)

On January 23, 2026, again copying Mr. Essayli, he sent a supplemental submission addressed for review by the Department's Office of Professional Responsibility and Office of the Inspector General. (*Id.*, Ex. S, Page ID #:383–384.) On January 28, 2026, Ms. Stafford — invoking the Department's own complaint regulation — answered that a victim must be "a 'crime victim' of an offense charged in Federal District Court . . . to file a complaint with this office. 28 CFR § 45.10(a). It does not appear that you are an identified crime victim in a federal criminal proceeding. We cannot assist you." She directed the Lead Victim to the FBI's general telephone line. (*Id.*)

> ***Ms. Stafford, January 28, 2026 (Dkt. 2-1, Ex. S, Page ID #:383–384):*** "It does not appear that you are an identified crime victim in a federal criminal proceeding. We cannot assist you."

On February 5, 2026, Petitioner responded, setting out the March 2015 identification, the sealed charges in the Western District of Missouri, and the Office's own 2018 filings describing the same investigation, and again asking for reasonable protection and for referral of the misconduct to the Office of Professional Responsibility, the Office of the Inspector General, and the Ombudsman. (*Id.*, Ex. T, Page ID #:385–391.)

On February 12, 2026, Ms. Stafford replied that she had "searched for charged criminal cases in the Central District of California" and could not find one and referred him to the Ombudsman's website. (*Id.*, Ex. U, Page ID #:392–393.)

The charges were in the Western District of Missouri. (Dkt. 1 at 15, 28, Page ID #:15, #:28.) Across eight written submissions over seventy-four days, the Office searched the wrong district, applied a standard that the statute does not contain, afforded no protection, referred nothing, and advised the Lead Victim of the Ombudsman only after it had told him it could not assist him. (Dkt. 1 at 25–26, Page ID #:25–26.)

What it offered instead was a list of other places to go: an online portal, the FBI's general telephone line, and the Ombudsman's website. (05207 Dkt. 44 at 24, Page ID #:1146; Dkt. 2-1, Exs. S, U, Page ID #:383–384, #:392–393.) The Lead Victim of a federal criminal investigation that recovered more than $20 million asked the Office for protection and was given a telephone number.

The contradiction is now on two dockets of this District. The Office's 2018 filings, and the Judgment drawn from them, recite the investigation, the recovery, the victims' fund, and the agreement that Greenway "would be added as a victim in

the government's case." (07748 Dkt. 13 at 2, Page ID #:210.) The Office's Victim-Witness unit, holding that Judgment among the attachments it "reviewed," wrote that "[i]t does not appear that you are an identified crime victim in a federal criminal proceeding." (Dkt. 2-1, Ex. S, Page ID #:383–384.) Both are the Office's own words. They cannot coexist.

G. The Fifth Cascade: Identified as a Victim in a Federal Criminal Investigation That Recovered More Than $20 Million, Recast as an "Uncle" With "Ill-Fated" Claims That "Courts Have Repeatedly Rejected" (August 5, 2026).

On May 14, 2026, Petitioner filed his petition under 18 U.S.C. §§ 3771(d)(3), 3663A, and 3664. It was delivered to the Office on May 18, 2026, together with his Notice of Related Cases identifying *McCormick* and Chief Judge Gee's court, and Mr. Beck acknowledged its receipt in writing on June 2, 2026. (05207 Dkts. 1, 4; 05207 Dkt. 44, Page ID #:1134–1136, #:1141.) The Office never responded to it in that case.

Instead, the Office elected to file an opposition in *United States v. McCormick*, No. 2:20-cr-00346-DMG — the prosecution of Petitioner's nephew, a criminal case in which Petitioner had *no* right to be heard — through First Assistant Essayli, Chief of the Criminal Division Jennifer L. Waier, and AUSAs Patrick Castañeda, Laura A. Alexander, and Kathrynne Seiden. (ECF No. 864 at 1–2, Page ID #:11424–11425.)

There, the Lead Victim of OSS became an "**uncle**." The Office described the claimed conflicts as ones that "appear to arise from his **uncle's** separate, years-long civil litigation and petitions under the Crime Victim Rights Act." It told Chief Judge Gee that Petitioner's civil litigation and victim's-rights petitions were "ill-fated" and "involve broad allegations of government misconduct that courts have repeatedly rejected"; that, collectively, those proceedings — including the petition then pending in this District — contained "essentially the same broad allegations of

alleged government misconduct that have been rejected by prior courts"; that the 2018 Judgment was one "dismissing with prejudice," without disclosing that the dismissal was for want of jurisdiction and reached no merits; and that Petitioner's "ill-fated complaint and CVRA petitions have nothing to do with defendant's criminal case." (*Id.* at 4–5, Page ID #:11427–11428.) And in the same filing, it conceded that "the government does not address them here in substance." (*Id.*)

> ***The Office, August 5, 2026 (ECF No. 864 at 4–5, Page ID #:11427–11428):***
> His "uncle's separate, years-long civil litigation and petitions under the Crime Victim Rights Act" . . . "ill-fated" . . . "involve broad allegations of government misconduct that courts have repeatedly rejected" . . . "the government does not address them here in substance."

Consider the sequence. In 2018, the Office obtained a dismissal for want of jurisdiction — a disposition that adjudicates ***nothing on the merits***. *Costello v. United States*, 365 U.S. 265, 285 (1961).

In 2021, on a disputed local-rule objection, it kept from the merits Gibson's fabricated court ruling and the documented and undenied instances of professional misconduct built upon it — a result the Office knew, or reasonably should have known, would leave Petitioner without any victim's rights, status, or restitution, because four months earlier the Office under the same Acting United States Attorney had itself defended the dismissal of his crime-victim petition on a recast of the same fabrication. (07748 Dkt. 15 at 2–3, Page ID #:320–321; *see supra* Part III.D.)

In 2026, after never responding to Petitioner's May 14, 2026, petition, the Office failed to disclose to Chief Judge Gee that its First Assistant had received, seven months earlier, Petitioner's DHS-OIG complaint reporting the fabrication; failed to disclose that the Office had in October 2021 denied none of it and had instead assumed the fraud *arguendo* (07748 Dkt. 23 at 5, Page ID #:753); and told

a third judge that the same claims had been "repeatedly rejected" — while declining, in the same breath, to "address them here in substance."

The Office cannot keep every court from deciding whether its Judgment was procured by fabrication and then cite the absence of that decision as proof that the claims were "broad allegations of government misconduct that courts have repeatedly rejected."

It cannot decline to address a victim's claims and, in the same filing, pronounce them "ill-fated." Nor can it castigate as "ill-fated" a victim's claim to restitution that Congress made mandatory, and that the Ninth Circuit, fourteen months earlier, had held enforceable by exactly this kind of petition. 18 U.S.C. § 3663A(a)(1), (c)(1)(A)(ii); *see id.* § 3771(a)(6); *In re Davis*, 146 F.4th at 722–23.

H. The Sixth Cascade: This Proceeding (August–October 2026).

On August 16, 2026 — two days after an order to show cause had threatened dismissal of his crime-victim petition (05207 Dkt. 36) — Petitioner wrote to Mr. Beck, set out Gibson's fabrication, advised him of the reporting duties that bind him as a Department employee, explained why the summons-and-answer framework of Rule 4(i) does not govern a motion under § 3771(d)(3), and asked the Office to correct the record that no ruling for Selakovic exists. (05207 Dkt. 44, Page ID #:1141–1149; Dkt. 19, Ex. A.) He received no response.

On August 21, 2026, Petitioner filed this proceeding. (Dkt. 1.) The Office was served by mail, and the Postal Service confirmed delivery to the Office on August 26, 2026. (*See* Dkt. 16, Ex. A; Dkt. 24, Ex. C, Page ID #:1066–1078.) Petitioner applied in this proceeding for reasonable protection under 18 U.S.C. § 3771(a)(1) and 34 U.S.C. § 20141(c)(2). (Dkts. 9, 10.)

On September 10, 2026, he applied for a decision forthwith. (Dkts. 18, 19.)

The Office's only communication in this proceeding has been a letter from Ms. Medrano, issued under the name of First Assistant Essayli, dated September 3, 2026, digitally signed September 8, postmarked September 9, and received

September 11, asserting that the envelope by which the Office was served "was not properly addressed and constitutes invalid service" under Rule 4(i), and addressing the federally identified crime victim as "Plaintiff Pro Se." (Dkt. 24, Ex. A, Page ID #:1061–1063; *id.*, Ex. C, Page ID #:1066–1078.)

It said nothing of the fabrication, nothing of the victim's rights, and nothing of his request for protection. On September 14, 2026, Petitioner responded, showing from the Court's own docket that the summons had been addressed to the Civil Process Clerk at the Office's own Suite 7516 address; placing Ms. Medrano on individual notice of the duty § 3771(c)(1) imposes on every Department employee; and advising her that the documented misconduct must be reported to the Office of Professional Responsibility and the Office of the Inspector General. (*Id.*, Ex. C, Page ID #:1066–1078.) He enclosed the Attorney General Guidelines. (*Id.*, Ex. D, Page ID #:1079–1175.) Neither Ms. Medrano nor Mr. Beck responded, and neither corrected the record.

On September 23, 2026, Petitioner placed the record of the Office's non-compliance before the Court. (Dkt. 29, Page ID #:1368–1383; *see* Dkt. 28.) He wrote again on September 30, October 2, October 5, October 7, and October 12, 2026, the last asking what the Office had done with his January 23, 2026, submission.

In his October 7 letter, which is of record, he again stated his concern about retaliation. (Dkt. 34, Ex. A, Page ID #:1447–1451.) The Office has not corrected the record, has not stated that it referred the allegations to the Office of Professional Responsibility, has not denied the documented acts on the merits, and has afforded Petitioner no right under § 3771(a) beyond a referral to the Ombudsman's website — sent only after the Office had told him it could not assist him. (Dkt. 2-1, Ex. U, Page ID #:392–393.)

I. One Chain of Command.

The civil defense of the fabrication, the handling of the victim's notices, and the August 5 filing were never in separate hands. AUSA Castañeda has prosecuted *McCormick* since 2020, first under United States Attorney Hanna and then under Acting United States Attorney Wilkison.

On October 7, 2020, the Government's bail opposition in *McCormick* was filed under United States Attorney Hanna's name, with AUSA Castañeda appearing. (*McCormick*, ECF No. 82; Dkt. 3 at 15–16, Page ID #:408–409.)

On October 14, 2021, a stipulation in *McCormick* was filed under the names of Acting United States Attorney Wilkison and AUSA Castañeda; eleven days later, the same Office, under the same Acting United States Attorney, filed the "*arguendo*" non-denial. (07748 Dkt. 23; Dkt. 3 at 16–17, Page ID #:409–410.)

And on August 5, 2026, AUSA Castañeda signed the filing that characterized Petitioner's claims to Chief Judge Gee, under the name of the First Assistant who had received Petitioner's written notice. (ECF No. 864 at 1–2; Dkt. 2-1, Ex. P.) Under United States Attorney Hanna, the fabrication entered this District. Under Acting United States Attorney Wilkison, it was recast to deny the victim his rights, and then assumed "*arguendo*" rather than denied. Under First Assistant Essayli, the victim was told the Office could not assist him, and his claims became "broad allegations of government misconduct that courts have repeatedly rejected." One fabrication. Not one correction.

J. Both Related Matters Are Now Before This Court.

On September 30, 2026, Petitioner moved in No. 2:17-cv-07748 to set aside the Judgment for fraud on the court and applied for Judge Wright's disqualification. (07748 Dkts. 26, 28.) The next day, Judge Wright recused himself, and that action was reassigned to this Court. (07748 Dkt. 30.) This proceeding is before the same Court. The Office's response to this Petition, and its opposition to the fraud motion

in No. 2:17-cv-07748, would be filed by the same Office whose conduct both matters challenge.

IV. LEGAL STANDARD

The Court "has the duty and responsibility of supervising the conduct of attorneys who appear before it." *Erickson v. Newmar Corp.*, 87 F.3d 298, 300 (9th Cir. 1996). Its inherent power includes "the power to control admission to its bar and to discipline attorneys who appear before it," *Chambers*, 501 U.S. at 43, and its supervisory power exists "to implement a remedy for violation of recognized rights," "to preserve judicial integrity," and "to deter illegal conduct," *United States v. Hasting*, 461 U.S. 499, 505 (1983). Attorneys for the Government are subject to the California Rules of Professional Conduct in this Court. 28 U.S.C. § 530B(a); L.R. 83-3.1.2. The Court applies California law in deciding questions of disqualification. *In re County of Los Angeles*, 223 F.3d 990, 995 (9th Cir. 2000).

In a proceeding to enforce a crime victim's rights, the Court's authority is reinforced by statute. The Court "shall ensure that the crime victim is afforded the rights described in subsection (a)," 18 U.S.C. § 3771(b)(1), and "shall take up and decide any motion asserting a victim's right forthwith," *id.* § 3771(d)(3).

The Ninth Circuit treats that command as binding on itself: when it missed the statute's deadline, it "acknowledge[d] [its] regrettable failure to consider the petition within the time limits of the statute, and apologize[d] to the petitioner for this inexcusable delay." *Kenna v. U.S. Dist. Ct.*, 435 F.3d 1011, 1018 (9th Cir. 2006). A motion that asks the Court to ensure that the attorney for the Government in the case is one able to perform the duties §§ 3771(a)(5), (c)(1), (c)(2), and (d)(1) assign to it is a "motion asserting a victim's right." *See In re Davis*, 146 F.4th at 722–23. *Davis* was decided on June 2, 2025, more than four years after this victim's 2021 crime-victim petition was dismissed, and it supplied a pathway that was not available to him then. (01910 Dkt. 10; Dkt. 1 at 22–23, Page ID #:22–23.)

To disqualify an entire United States Attorney's Office, the Court "must find a strong factual predicate for blanket disqualification," *Williams*, 68 F.4th at 573, and "must make specific factual findings that show that the office's continued representation would result in a clear legal or ethical violation," with misconduct or conflict so pervading the office that less intrusive remedies would be inadequate, *id.* at 573–74.

Disqualification may not rest on an assumption or be ordered "merely as a precautionary measure," *id.* at 573–74, and an appearance of conflict warrants relief only on a showing of prejudice, *United States v. Lorenzo*, 995 F.2d 1448, 1453 (9th Cir. 1993). Even to disqualify a single attorney, the movant must demonstrate prejudice or present clear and convincing evidence of misconduct. *Williams*, 68 F.4th at 573; *United States v. Kahre*, 737 F.3d 554, 574–75 (9th Cir. 2013). Petitioner accepts that standard; it is the one the Office itself invoked in December 2025. (*Banks*, ECF No. 319 at 8–9, Page ID #:2543–2544.)

A party who is not opposing counsel's client may move to disqualify where he has "a personal stake in the motion" and the ethical breach "so infects the litigation in which disqualification is sought that it impacts the moving party's interest in a just and lawful determination of [his] claims." *Colyer v. Smith*, 50 F. Supp. 2d 966, 971 (C.D. Cal. 1999).

Petitioner's stake is direct: the rights this Petition seeks to enforce are owed to him by the very Office that would defend against it, and the statements the Office has not corrected — conduct that, under ordinary circumstances, ends careers — are the foundation of the denial of those rights. *See Lanuza*, 899 F.3d at 1022–23 (ICE attorney who forged one document in a removal proceeding pleaded guilty under 18 U.S.C. § 242, was sentenced to thirty days' imprisonment, and was barred from practicing law for ten years).

V. ARGUMENT

A. The Crime Victims' Rights Act Itself Creates the Conflict: The Office Cannot Be Both the Duty-Bearer Whose Non-Compliance Is at Issue and the Advocate Who Defends It.

Williams requires "specific factual findings that show that the office's continued representation would result in a clear legal or ethical violation." 68 F.4th at 573–74. In this proceeding, the legal violation is written into the statute. Each of the duties the Crime Victims' Rights Act assigns to the attorney for the Government is a duty the Office would have to abandon in order to defend this Petition.

1. The best-efforts duty. The Office's officers and employees "shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a)." 18 U.S.C. § 3771(c)(1). The duty is not suspended when the victim is forced to assert his rights himself; the Department's own Guidelines continue it "throughout" the proceedings, "including . . . post-conviction court proceedings." AG Guidelines art. III.C.4 (Dkt. 24, Ex. D, Page ID #:1101). This Petition documents that the Office has not discharged that duty — in 2018, in 2021, from December 2025 through February 2026, and since this proceeding was filed. (Parts III.C–H.)

To defend the Petition, the Office must establish that it owed no such duty or that it discharged it. It cannot make best efforts to accord the victim his rights while arguing that he has none, or that it has already accorded them. The two positions cannot be held by the same lawyer at the same time. That is the definition of a lawyer whose representation is "materially limited by . . . the lawyer's own interests." Cal. R. Prof. Conduct 1.7(b).

2. The right to confer. The victim's conferral right runs to "the attorney for the Government in the case." 18 U.S.C. § 3771(a)(5). The Department's Guidelines direct its lawyers to "meaningfully consult with" victims "at critical junctures," AG Guidelines art. II.H.1 (Dkt. 24, Ex. D, Page ID #:1096), and its Manual directs that

the prosecutor "should be available to confer with the victim," Justice Manual § 9-27.250. A proceeding to enforce the victim's rights is a critical juncture by any measure.

Yet the "attorney for the Government in the case" would be the Office whose own conduct the victim's petition challenges, whose First Assistant and Civil Division chiefs did not answer his letters, and whose Victim-Witness unit told him it could not assist him. A right to confer with the party whose non-compliance is the subject of the dispute is no right at all. The conferral the statute guarantees can be honored only by counsel who is not itself the subject of the conferral.

3. The power to assert the victim's rights. Congress empowered "the attorney for the Government" to "assert the rights described in subsection (a)." 18 U.S.C. § 3771(d)(1). The provision makes the Government's attorney the victim's statutory ally in securing his rights, and it presupposes an attorney free to perform that function.

This Office has done the opposite at every opportunity. In 2021 it took up the victim's status and argued it away. (07748 Dkt. 15 at 2–3, Page ID #:320–321.) In 2026 its Victim-Witness unit declined to assist him. (Dkt. 2-1, Exs. S, U, Page ID #:383–384, #:392–393.)

And in August 2026 it called "ill-fated" his claim to mandatory restitution, a claim *Davis* makes enforceable by exactly this kind of motion, 146 F.4th at 722–23. (ECF No. 864 at 4–5, Page ID #:11427–11428.) An office that has spent five years opposing the rights it was empowered to assert cannot be relied upon to decide, in this proceeding, whether the United States will assert them or oppose them.

4. The duty to advise. "The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a)." 18 U.S.C. § 3771(c)(2). No one in the Office has ever so advised Petitioner. (*See* Dkt. 2-1, Exs. P–U, Page ID #:343–393.) Nor was he informed of

his rights or of the Ombudsman, *id.* § 3771(a)(10), until February 12, 2026 — after the Office had told him that it could not assist him, and six weeks after he had asked for that information in writing. (Dkt. 2-1, Ex. Q, Page ID #:354–371; *id.*, Ex. U, Page ID #:392–393.)

5. The complaint channel the Department created was closed by the Office it would examine. The Department's regulation places the first-level review of a victim's complaint within the office complained of, and provides for complaints that present a conflict to be forwarded to the Ombudsman. 28 C.F.R. § 45.10(b)–(c).

Here, the Office invoked that very regulation to refuse the complaint: a victim must be "a 'crime victim' of an offense charged in Federal District Court . . . to file a complaint with this office. 28 CFR § 45.10(a). . . . We cannot assist you." (Dkt. 2-1, Ex. S, Page ID #:383–384.)

The complaint concerned the Office's own attorneys. The offenses had been charged — in the Western District of Missouri, the district the Office did not search. (Dkt. 2-1, Ex. U, Page ID #:392–393; Dkt. 1 at 15, 28, Page ID #:15, #:28.) And the Department's Guidelines fix the attachment of its duties not at the filing of charges but at "the opening of a criminal investigation." AG Guidelines art. III.B.4 (Dkt. 24, Ex. D, Page ID #:1100). The administrative channel Congress directed the Department to create is the channel through which a conflicted office was supposed to be checked. This Office closed it on itself.

6. The violation is present, not predicted. Each of these duties is owed in this proceeding, now. If the Office continues as counsel, it will, by the act of representation, occupy the role of the attorney with whom the victim has a right to confer, the attorney empowered to assert his rights, and the officials bound to make their best efforts to accord them — while defending, against him, its own failure to do each of those things. That is not an appearance of conflict. *Cf. Lorenzo*, 995 F.2d at 1453. It is a "clear legal . . . violation," *Williams*, 68 F.4th at 573–74, of §§

3771(a)(5), (c)(1), (c)(2), and (d)(1), produced by the representation itself. Nor can the Court discharge its own duty to "ensure that the crime victim is afforded the rights described in subsection (a)," 18 U.S.C. § 3771(b)(1), while the rights that depend on the attorney for the Government are entrusted to an office whose institutional interest lies in establishing that it never owed them.

B. A Strong Factual Predicate Exists: The Record Demonstrates Years of Bad-Faith Misconduct and the Misuse of a Fabricated Ruling of the Kind Condemned in *Lanuza* — Proven by Documents, Not Assumption.

Williams reversed an officewide disqualification because it rested on an assumption that misconduct had traveled up the chain of command; "if the separation of powers means anything, it means we may not disqualify an entire office of a co-equal branch based on an assumption." 68 F.4th at 574.

Nothing here is assumed. The record shows the conduct at each level of the Office — the United States Attorney and two Civil Division chiefs in 2018; the Acting United States Attorney and two Civil Division chiefs in 2021; and the First Assistant, the Victim-Witness unit, and the Civil Division chiefs in 2025 and 2026 — each documented by filing and date in Part III.

Williams also observed that a United States Attorney's awareness of alleged misconduct "alone may not justify" disqualifying the office. *Id.* This Motion does not rest on awareness. The filings at issue were the Office's own, made under the names of its United States Attorney, its Acting United States Attorney, and their Civil Division chiefs. (07748 Dkts. 9, 15, 23.) The refusal to assist was the Office's own, made by its Victim-Witness unit on letters copied to its First Assistant. (Dkt. 2-1, Exs. Q–U, Page ID #:354–393.) And the Office's current leadership did more than learn of the misconduct: after receiving written notice, it relied, before Chief Judge Gee and under the First Assistant's name, on the Judgment it procured. (ECF No. 864 at 1–5.) The question is not whether supervisors knew what a subordinate

did. It is whether the Office may defend its own statements, and its own refusals, against the victim to whom it owed its best efforts.

Knowledge held anywhere in the Office is the knowledge of the Office. "The prosecutor's office is an entity and as such it is the spokesman for the Government." *Giglio v. United States*, 405 U.S. 150, 154 (1972). What one attorney promises "must be attributed, for these purposes, to the Government," *id.*, and what one attorney knows is likewise the Office's: each "has a duty to learn of any favorable evidence known to the others acting on the government's behalf." *Kyles v. Whitley*, 514 U.S. 419, 437 (1995). Willful ignorance is no defense. *See N. Mariana Islands v. Bowie*, 243 F.3d 1109, 1118 (9th Cir. 2001). Here, no inquiry was even required. The record was delivered — to the First Assistant, on December 18 and 30, 2025; to the Victim-Witness unit, which confirmed in writing that it had "reviewed it and the attachments"; and to the Civil Division, whose Acting Chief acknowledged receipt in writing. (Part III.F–H.) The Office cannot claim not to know what it was handed, read, and acknowledged.

This is the opposite of the records in *Williams*, *United States v. Bolden*, 353 F.3d 870 (10th Cir. 2003), and *United States v. Whittaker*, 268 F.3d 185 (3d Cir. 2001). *Whittaker* reversed because "this case involved a mistake, not a lie." 268 F.3d at 194. A ruling that no court ever made — reported in writing by a federal officer, presented to a court as fact, recast when exposed to deny a victim his rights, assumed "*arguendo*" rather than denied, and relied on again after written notice — is not a mistake. It is a lie, told and retold.

The Ninth Circuit has said what it expects of an office in that position: "Surely when such a claim is raised, we can expect that someone in the United States Attorney's office will take an independent, objective look at the issue." *Kojayan*, 8 F.3d at 1320. What troubled the court most in *Kojayan* was "not the AUSA's initial transgression, but that he seemed to be totally unaware he'd done anything at all wrong, and that there was no one in the United States Attorney's

office to set him straight." *Id.* at 1324. That is this record — across three administrations.

Lanuza is the Ninth Circuit's closest analogue, and this record is graver. There, an ICE attorney — "an immigration official and officer of the court" — "forged and submitted evidence in a deportation proceeding to deprive an individual of his right to relief." 899 F.3d at 1028. One document, submitted once, by one attorney, whom the government ultimately prosecuted, though it "did not take any action against Love until after this lawsuit was filed." *Id.* at 1022.

Here the lie began with a DHS supervisory special agent's written report, from his government email account, of a ruling no court ever made. The Office carried it into this District in 2018. (07748 Dkt. 9 at 11, Page ID #:132.)

The proof that it was false has been before this District since March 29, 2021 (01910 Dkt. 9, Exs. A–C), and in the Office's hands since at least July 12, 2021, when Petitioner set it out under oath (07748 Dkt. 14-1, Ex. C, Page ID #:283–284).

The Office's answer, one week later, was not a correction; it was a recast version of the same lie, used to deny the victim his rights. (07748 Dkt. 15 at 3, Page ID #:321.)

In October 2021, it assumed the fraud "*arguendo*" rather than deny it. (07748 Dkt. 23 at 5, Page ID #:753.) And in August 2026, after written notice to its First Assistant, it relied on the Judgment again before Chief Judge Gee. (ECF No. 864 at 4–5.)

More than five years after the proof was placed before this District, the Office has not corrected a word of the fabrication, and it has never stated that it was reported. An office that never answered Petitioner's May 14, 2026 petition for mandatory restitution; that has not responded to his August 21, 2026 Petition except to object to an envelope; and that has spent five years defending a lie after being shown it was false cannot be trusted to answer this Petition on behalf of the United States. "At its core, this case is about a lie, and all the ways it was used, over several

years, to defraud the courts." *Lanuza*, 899 F.3d at 1034. "These attorneys represent the United States, and when they act, they speak for our government." *Id.*

C. Continued Representation Would Result in Clear Legal and Ethical Violations.

1. The duty to correct. A lawyer shall not knowingly "fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer," and a lawyer who "has offered material evidence" and "comes to know of its falsity" must "take reasonable remedial measures, including, if necessary, disclosure to the tribunal." Cal. R. Prof. Conduct 3.3(a)(1), (a)(3); *see* Cal. Bus. & Prof. Code § 6068(d). That duty is not optional for the Office.

By statute, an attorney for the Government "shall be subject to State laws and rules . . . governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State." 28 U.S.C. § 530B(a).

The Ninth Circuit has held that an attorney who failed to correct the false impression created by testimony he knew to be false "undermined the judicial process," and that the scheme of which that failure was part was a fraud on the court. *Pumphrey v. K.W. Thompson Tool Co.*, 62 F.3d 1128, 1132–33 (9th Cir. 1995). Gibson's fabricated account, the Ramey declaration, and the Park declaration remain before this District as the foundation of the Judgment and of the Office's 2021 denial of Petitioner's victim status. (07748 Dkt. 1, Ex. 9; 07748 Dkts. 9-1, 9-2; 07748 Dkt. 9 at 11, 22, Page ID #:132, #:143; 07748 Dkt. 13 at 11, 13, 16 n.6, Page ID #:219, #:221, #:224; 07748 Dkt. 15 at 3, Page ID #:321.)

This Petition asks whether Petitioner was stripped of his rights by that fabrication. (Dkt. 1 at 49–54, Page ID #:49–54.) To answer it, the Office must either correct those statements — conceding the fraud it assumed "*arguendo*" in 2021 (07748 Dkt. 23 at 5, Page ID #:753) — or stand on them. Standing on them is the violation — of Rule 3.3, and of the federal statute that makes Rule 3.3 binding on

every attorney in the Office. Cal. R. Prof. Conduct 3.3(a)(1), (a)(3); 28 U.S.C. § 530B(a). And the duty does not lapse with time; it "continue[s] to the conclusion of the proceeding." Cal. R. Prof. Conduct 3.3(c).

The duty does not depend on which attorney signed the original filings. A lawyer who represents a client in a proceeding and "knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures," and that duty continues "to the conclusion of the proceeding." Cal. R. Prof. Conduct 3.3(b), (c).

Knowledge "may be inferred from circumstances." Cal. R. Prof. Conduct 1.0.1(f). The attorneys now responsible for this proceeding received the record in writing. (Part III.F–H.)

Nor is the duty discharged by silence: a government lawyer has a "responsibility and duty to correct what he knows to be false," and "cannot avoid this obligation by refusing to search for the truth and remaining willfully ignorant of the facts." *Bowie*, 243 F.3d at 1118. When the government has misrepresented the record, "it is ordinarily incumbent on the State to set the record straight." *Banks v. Dretke*, 540 U.S. 668, 676 (2004).

2. The Office's own interest. A lawyer may not represent a client where "there is a significant risk the lawyer's representation of the client will be materially limited by . . . the lawyer's own interests." Cal. R. Prof. Conduct 1.7(b).

The interest of the United States is "not that it shall win a case, but that justice shall be done." *Berger v. United States*, 295 U.S. 78, 88 (1935). And in a proceeding under the Crime Victims' Rights Act, Congress has defined what justice requires of the Government's attorney: best efforts to accord the victim his rights. 18 U.S.C. § 3771(c)(1).

The Office's interest is the opposite. Justice here requires an answer to whether this victim was stripped of his rights by fabrication, and the Office has spent five years making sure no court gives one: recasting the fabrication in July

2021, assuming it "*arguendo*" rather than denying it in October 2021, telling the victim in January 2026 that it could not assist him, and in August 2026 calling the claims "repeatedly rejected" while declining to "address them here in substance." (07748 Dkt. 15 at 3, Page ID #:321; 07748 Dkt. 23 at 5, Page ID #:753; Dkt. 2-1, Ex. S, Page ID #:383–384; ECF No. 864 at 4–5.)

That interest is not abstract. A finding that the victim was denied his rights on a fabrication would expose the Office's attorneys to professional consequences of the kind the Ninth Circuit recorded in *Lanuza*, 899 F.3d at 1022–23, and its employees to the "disciplinary sanctions, including suspension or termination from employment," that Congress required for Department employees "who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims," 18 U.S.C. § 3771(f)(2)(C). "A scheme injecting a personal interest, financial or otherwise, into the enforcement process may bring irrelevant or impermissible factors into the prosecutorial decision." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 249 (1980). Nor does the interest stop with the attorneys who signed the original filings. The supervisors who received Petitioner's notices and declined to act would now direct the defense of the filings those notices concern — and of their own decision not to act. And the interest is personal to the Office's leadership.

On November 9, 2021, Petitioner transmitted to the State Bar of California written complaints concerning this record against former United States Attorney Hanna, Acting United States Attorney Wilkison, and five other attorneys of the Office. (05207 Dkt. 21 ¶¶ 2, 4–5, Page ID #:819–821.)

The Supreme Court has made "the requirement of a disinterested prosecutor" the touchstone, *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 807–08 (1987), and Congress has directed the Attorney General to require the disqualification of Department attorneys whose participation "may result in a personal, financial, or political conflict of interest," 28 U.S.C. § 528. California, whose law governs disqualification here, *County of Los Angeles*, 223 F.3d at 995,

asks whether there is "a reasonable possibility that the [prosecutor's] office may not exercise its discretionary function in an evenhanded manner." *People v. Eubanks*, 14 Cal. 4th 580, 592 (1996) (quoting *People v. Conner*, 34 Cal. 3d 141, 148 (1983)). This record does not present a possibility; it presents a five-year pattern. An office defending its own uncorrected statements, its own unperformed statutory duties, and its own exposure for both is not disinterested in the outcome.

3. Due process and fraud on the court. The government may not obtain a result through evidence it knows to be false. *Mooney v. Holohan*, 294 U.S. 103, 112 (1935) (per curiam). That principle is "implicit in any concept of ordered liberty." *Napue v. Illinois*, 360 U.S. 264, 269 (1959).

Due process "cannot tolerate" a result "obtained by the knowing use of false evidence." *Miller v. Pate*, 386 U.S. 1, 7 (1967). A fraud on the court "is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society." *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). The right to be free from deliberately fabricated evidence is clearly established, *Devereaux v. Abbey*, 263 F.3d 1070, 1074–75 (9th Cir. 2001) (en banc); it applies in civil proceedings, *Costanich v. Dep't of Soc. & Health Servs.*, 627 F.3d 1101, 1108 (9th Cir. 2010); *Hardwick v. County of Orange*, 844 F.3d 1112, 1119 (9th Cir. 2017); and it binds government attorneys, *Lanuza*, 899 F.3d at 1026. The government may not answer that it was never asked to correct the record; a rule "declaring 'prosecutor may hide, defendant must seek,' is not tenable." *Banks v. Dretke*, 540 U.S. at 696. Each successive use of the fabrication to deny this victim his rights has deprived him anew of the due process the Fifth Amendment guarantees. U.S. Const. amend. V.

Measured against that rule, the Office's 2021 position is not a defense; it is a confession of the problem. The Office did not say the ruling existed. It said that if the fraud existed, "**it would not 'affect the outcome of the case.'**" (07748 Dkt. 23

at 5, Page ID #:753.) "Prejudice is not an element of fraud on the court." *Dixon v. Commissioner*, 316 F.3d 1041, 1046 (9th Cir. 2003). The party responsible is "in no position now to dispute its effectiveness." *Hazel-Atlas*, 322 U.S. at 247. An office that has held for five years that fraud on the court would not matter cannot be the office that answers a victim's petition asking that the rights the fraud cost him be restored.

4. Positions that shift to defeat the victim. In 2018, the Office won dismissal by relying on the existence of the federal criminal investigation in which Greenway was identified as a victim, arguing that "the discretionary function exception applies to defendants' investigative and prosecutorial decision not to resume their criminal investigation." (07748 Dkt. 9 at 24, Page ID #:145; 07748 Dkt. 13 at 2–3, Page ID #:210–211.)

In 2021, it disputed Petitioner's victim status on a recast of the same fabrication. (07748 Dkt. 15 at 3, Page ID #:321.) In 2026, its Victim-Witness unit told Petitioner that "[i]t does not appear that you are an identified crime victim in a federal criminal proceeding." (Dkt. 2-1, Ex. S, Page ID #:383–384.) And in 2026, before another judge, it called claims no court had decided "repeatedly rejected." (ECF No. 864 at 4.)

Judicial estoppel "generally prevents a party from prevailing in one phase of a case on an argument and then relying on a contradictory argument to prevail in another phase." *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001) (quoting *Pegram v. Herdrich*, 530 U.S. 211, 227 n.8 (2000)). "When the Government gives information to victims, it cannot be misleading." *Doe 1 v. United States*, 359 F. Supp. 3d 1201, 1219 (S.D. Fla. 2019). An office that takes whichever position defeats the victim at the moment cannot be relied upon to correct its own record.

5. The Office's attorneys and employees are witnesses. This Petition presents questions of fact about what the Office knew, when it knew it, and what it did. (Dkt. 1 at 15–27, Page ID #:15–27.) The witnesses to those questions work in the Office.

AUSAs Park and Finn are witnesses to the Park declaration and the 2021 conferral dispute. (07748 Dkt. 13 at 16 n.6, Page ID #:224; 07748 Dkt. 23 at 2, Page ID #:750; 07748 Dkt. 24 at 14–15, Page ID #:773–774.)

First Assistant Essayli received Petitioner's written notice and his June 2025 DHS-OIG complaint and is the witness to what the Office did with them. (Dkt. 2-1, Exs. P–Q, Page ID #:343–371.)

Ms. Stafford, who confirmed in writing that she had "reviewed it and the attachments," and who told the Lead Victim that "[w]e cannot assist you," is the central fact witness to the Office's handling of his request for protection and of his complaint. (05207 Dkt. 44 at 24, Page ID #:1146; Dkt. 2-1, Exs. R–U, Page ID #:372–393.) Acting Civil Chief Beck and Section Chief Medrano — the supervisors to whom Petitioner directed his Local Rule 7-3 notice of this Motion — received his August 16 and September 14, 2026 letters setting out the fabrication and asking that the record be corrected, and are witnesses to why it was not. (05207 Dkt. 44, Page ID #:1141–1149; Dkt. 24, Ex. C, Page ID #:1066–1078.)

And AUSAs Castañeda, Alexander, and Seiden, who signed the August 5, 2026, filing that characterized Petitioner's claims as "repeatedly rejected," are fact witnesses to the basis for that characterization. (ECF No. 864 at 1–2, 4–5.)

An attorney who "was both a witness to and a participant in the factual events at issue" should not act as advocate. *United States v. Prantil*, 764 F.2d 548, 551–52 (9th Cir. 1985); *see* Cal. R. Prof. Conduct 3.7. Petitioner relies on Rule 3.7 for the individual attorneys and on Rules 1.7(b) and 3.3 for the Office. But the witness list itself makes the institutional point: when the attorneys who made the statements, the supervisors who received the notice, and the staff who refused the victim's request all work in the same Office, there is no one left in that Office to examine them.

The Office cannot be both the witness and the advocate, and it cannot cross-examine itself. And none of these witnesses would be asked about a charging

decision. Each acted in a civil, administrative, victim-services, or supervisory capacity — where the separation-of-powers concerns that animate *Williams* do not reach. *See infra* Part V.E.

6. Prejudice. Williams requires prejudice or clear and convincing evidence of misconduct. 68 F.4th at 573. The record supplies both. The prejudice is not speculative: the Office has already used the Judgment, without disclosing its jurisdictional basis or the uncorrected record behind it, to describe Petitioner's claims to another judge as "repeatedly rejected" (ECF No. 864 at 4–5); it has already used the Department's complaint regulation to refuse his complaint (Dkt. 2-1, Ex. S, Page ID #:383–384); and it has already answered this Petition with an objection to an envelope (Dkt. 24, Ex. A, Page ID #:1061–1063).

Every day the Office remains counsel is a day in which the victim's rights to confer, to protection, and to proceedings free from unreasonable delay depend on the officials who have not honored them. 18 U.S.C. § 3771(a)(1), (5), (7). The clear and convincing evidence is documentary: the Colorado docket the Office itself filed (07748 Dkt. 9-2, Ex. 3, Page ID #:171–173), its 2018 and 2021 filings (07748 Dkts. 9, 15), its assumption of the fraud "*arguendo*" (07748 Dkt. 23 at 5, Page ID #:753), and its Victim-Witness unit's written refusals (Dkt. 2-1, Exs. S, U). Nothing about this relief is precautionary. *See Williams*, 68 F.4th at 573–74. The conflict exists now, in a pending Petition.

D. Less Intrusive Remedies Are Inadequate.

1. The Office's supervisors disregarded a mandatory duty to report. The Department's rules leave no discretion. Department employees "have a duty to, and shall, report" to the Office of Professional Responsibility, or to a supervisor for referral to it, "any allegations of misconduct by a Department attorney that relate to the exercise of the attorney's authority to investigate, litigate or provide legal advice." 28 C.F.R. § 45.12; *see* 28 C.F.R. § 45.11; Justice Manual § 1-4.300. The duty is triggered by one thing — receipt of an allegation — and the record shows

receipt at every supervisory level: First Assistant Essayli on December 18, 2025 (Dkt. 2-1, Ex. P); Ms. Stafford, copying Mr. Essayli, on December 30, 2025, with an express demand for mandatory reporting (*id.*, Ex. Q, Page ID #:358–359); Acting Civil Chief Beck on August 16, 2026 (05207 Dkt. 44, Page ID #:1141–1149); and Section Chief Medrano on September 14, 2026 (Dkt. 24, Ex. C, Page ID #:1066–1078).

The allegations were neither marginal nor speculative: they concern a court ruling that does not exist, presented to a court by the Office and never corrected. Not one of those officials has stated that the allegations were evaluated, referred, or reported. (Dkt. 29 at 9–13, Page ID #:1376–1380.)

2. A screen run by those supervisors would not cure the conflict. The usual remedy for an individual conflict is to screen the conflicted attorney. That remedy fails here for two reasons.

First, the conflict in Part V.A is not personal to any attorney; it belongs to the Office as the statutory duty-bearer and as "the attorney for the Government in the case." 18 U.S.C. § 3771(a)(5), (c)(1), (d)(1). A screen inside the Office leaves the Office in both roles.

Second, the conflict reaches the supervisors who would run the screen. Where the head of a government law office is conflicted, its attorneys cannot "be freed from real or perceived concerns as to what their boss wants," and the whole office must step aside. *City & County of San Francisco v. Cobra Solutions, Inc.*, 38 Cal. 4th 839, 853–854 (2006).

Mr. Essayli is the Office's second-ranking official; Mr. Beck and Ms. Medrano direct its civil defensive litigation, including this proceeding. Each had the obligation, and the opportunity, to refer the documented allegations. None has reported doing so. A screen would ask Petitioner — and the Court — to trust the officials who, for five years, have left the fabrication uncorrected, and who, for the last ten months, have declined to discharge a reporting duty the Department's own

rules make mandatory. "One of the most important responsibilities of the United States Attorney and his senior deputies is ensuring that line attorneys are aware of the special ethical responsibilities of prosecutors . . . ." *Kojayan*, 8 F.3d at 1324. Here, the senior officials charged with that responsibility are the ones who failed to discharge it. They are the problem a screen would be built to solve.

3. The Department's administrative channel has already failed. The Ombudsman process is not a less intrusive alternative. It operates on complaints first reviewed within the office complained of, 28 C.F.R. § 45.10(c), and this Office refused the complaint at the threshold. (Dkt. 2-1, Ex. S, Page ID #:383–384.)

The Office's first reference to the Ombudsman came only after it had told the victim it could not assist him. (*Id.*, Ex. U, Page ID #:392–393.) And no administrative process can supply what this proceeding requires: an attorney for the Government who is free to confer with the victim, to assert his rights, and to answer his Petition without defending itself.

4. Substitute counsel cannot come from the United States Attorney's Office for the Western District of Missouri. The Department's recusal procedure transfers a conflicted matter "to another office." Justice Manual § 3-1.140.

That office cannot be the one in the Western District of Missouri. USAO-MO is the office that "agreed that Greenway would be added as a victim in the government's case." (07748 Dkt. 13 at 2, Page ID #:210.)

It is also the office that, with ICE, stopped as to Greenway after DHS Supervisory Special Agent Gibson reported a ruling that no court ever made. (07748 Dkt. 13 at 2–3, Page ID #:210–211.) The Office itself told the court in 2018 that ICE and USAO-MO, "in their discretion, made the reasoned decision that they would not resume their investigation." (07748 Dkt. 9 at 22, Page ID #:143.)

And USAO-MO was told. On April 11, 2017, Petitioner wrote to Gibson, copying United States Attorney Tammy Dickinson and AUSA Curt Bohling of the Western District of Missouri — the officials in charge of the OSS prosecution and

its forfeiture proceedings — and then-Acting United States Attorney Sandra R. Brown of this District. (Dkt. 28 at 17, Page ID #:1353.) On May 1, 2017, he sent his civil-rights complaint, reporting that DHS officials were ignoring his newly discovered evidence, to the same officials, to former Acting United States Attorney Tom Larson of the Western District of Missouri, and to Tracy L. Wilkison of this District — who, four years later as Acting United States Attorney, would oversee the Office's July 19 and October 25, 2021 filings. (07748 Dkt. 14-1 ¶¶ 19–20, Page ID #:256–258; *id.*, Ex. C, Page ID #:276–292.)

The record reflects no response from USAO-MO to either, and no correction in the nine years since. USAO-MO's 2016 decision rested on the fabrication, and it suspended the Lead Victim's participation in a prosecution USAO-MO was conducting. It would be at issue in this proceeding, and USAO-MO's attorneys would be witnesses to it. An office cannot answer for the United States on whether a victim was stripped of his rights by a decision it made itself. Substitute counsel must come from neither office.

E. The Relief Requested Respects the Executive Branch.

Williams, *Bolden*, *Whittaker*, and *Lorenzo* each arose in a criminal prosecution, where disqualification intrudes on the Executive's charging and trial decisions. The Office exercises no prosecutorial discretion here.

This is a victim's petition to enforce rights the Office was obligated to accord, arising from a prosecution the Office did not bring and had no oversight of, in a district where it did not charge anyone. The Crime Victims' Rights Act itself provides that "[n]othing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction," 18 U.S.C. § 3771(d)(6), and this Motion asks for nothing that would. The conduct at issue — the Civil Division's filings, the First Assistant's handling of a crime victim's report of misconduct, the Victim-Witness unit's refusal to assist, and the Civil Division chiefs' silence in the face of written notice — is administrative and supervisory.

(07748 Dkts. 9, 15, 23; Dkt. 2-1, Exs. P–U, Page ID #:343–393; 05207 Dkt. 44, Page ID #:1141–1149; Dkt. 24, Ex. C, Page ID #:1066–1078; *see* Dkt. 29 at 11, Page ID #:1378.)

No charging decision is at stake, and no principle of separation of powers shields counsel who stand on a fabrication. *See Lanuza*, 899 F.3d at 1029. The Office is subject, like any litigant's counsel, to the Court's authority over the attorneys who appear before it. *Erickson*, 87 F.3d at 300; *County of Los Angeles*, 223 F.3d at 995.

The Ninth Circuit has already rejected the premise that the separation of powers shields government counsel who place false evidence before a tribunal. It refused to "allow an officer of the immigration court to cloak himself in the government's protection when he commits the crimes of forgery and perjury," noting that "no one is arguing that the United States has a policy of allowing federal officers to submit forged government documents." *Lanuza*, 899 F.3d at 1029. Where "a court's integrity is compromised by the submission of false evidence," remedying it "falls within the natural ambit of the judiciary's authority." *Id.* at 1033.

Nor does the relief direct how the United States litigates. The Department's own procedures already provide for it: "United States Attorneys cannot recuse themselves or their offices from cases or matters," and when an office becomes aware of "an actual or apparent conflict of interest" in "a criminal or civil matter," it "must contact EOUSA's General Counsel's Office," which "will coordinate the recusal action . . . and arrange for a transfer of responsibility to another office." Justice Manual § 3-1.140. It is the Office's own procedure, and the Office has not invoked it. The relief requested leaves the choice of substitute counsel to the Department. 28 U.S.C. §§ 516, 519.

F. The Findings *Williams* Requires — Measured by the Office's Own Standard.

In December 2025, the Office told this District what disqualification requires: "a clear basis in fact and law" demonstrating "a violation of the Constitution, a federal statute, or a procedural rule," and, as to individual attorneys, prejudice or "clear and convincing evidence of prosecutorial misconduct." (*Banks*, ECF No. 319 at 8–9, Page ID #:2543–2544.)

Williams requires "specific factual findings." 68 F.4th at 573–74. The federal statute at issue here is not a peripheral one. The criminal justice system long treated crime victims as "seen but not heard"; the Crime Victims' Rights Act "sought to change this by making victims independent participants in the criminal justice process," and, "unlike the prior crime victims' rights statute, allows both the government and the victims to enforce" the rights it guarantees. *Kenna*, 435 F.3d at 1013. "The statute was enacted to make crime victims full participants in the criminal justice system." *Id.* at 1016.

The restitution right it secures is likewise mandatory, and since June 2, 2025, it has been enforceable in exactly this way. In *In re Davis*, the Ninth Circuit held that § 3771(d)(3)'s "no prosecution is underway" clause "permits crime victims . . . to file motions asserting their rights after prosecution has ended," and that "a petition to reopen restitution under § 3664(d)(5) is 'any motion asserting a victim's right' within the meaning of § 3771(d)(3)." 146 F.4th at 722. That is the vehicle on which this proceeding rests. (Dkt. 1 at 22–23, 78–82, Page ID #:22–23, #:78–82.) The Mandatory Victims Restitution Act "seeks primarily to assure that victims of a crime receive full restitution." *Dolan v. United States*, 560 U.S. 605, 612 (2010); *see* 18 U.S.C. §§ 3663A(a)(1), (c)(1)(A)(ii), 3771(a)(6). And the Supreme Court has refused to let the government's own failures cost a victim that restitution: a reading that "would harm those—the victims of crime—who likely bear no responsibility for the deadline's being missed and whom the statute also seeks to

benefit" is one Congress did not intend. *Dolan*, 560 U.S. at 613–14; *cf.* 18 U.S.C. § 3664(g)(1) ("No victim shall be required to participate in any phase of a restitution order.").

Measured against the Office's own standard, the record supports each of the following findings.

1. *A violation of a federal statute*. The Office's officers and employees owed Petitioner their "best efforts to see that [he was] notified of, and accorded," his rights, 18 U.S.C. § 3771(c)(1), and did not provide them. They denied his victim status on a recast fabrication in 2021; never advised him of his right to counsel, *id.* § 3771(c)(2); afforded him no conferral, *id.* § 3771(a)(5); refused his request for protection, *id.* § 3771(a)(1); 34 U.S.C. § 20141(c)(2); told him in 2026 that "[w]e cannot assist you"; and called "ill-fated" his claim to mandatory restitution, a claim *Davis* makes enforceable by exactly this kind of motion, 146 F.4th at 722–23. (07748 Dkt. 15 at 2–3, Page ID #:320–321; Dkt. 2-1, Exs. P–U, Page ID #:343–393; ECF No. 864 at 4–5, Page ID #:11427–11428.) *See* Parts III.D, III.F–H.
2. *Continued representation would itself produce a clear legal violation*. As counsel in this proceeding, the Office would be "the attorney for the Government in the case," with whom the victim has a statutory right to confer, and one of the two parties Congress empowered to assert his rights — while defending, against him, its own failure to do either. 18 U.S.C. § 3771(a)(5), (c)(1), (d)(1). A statute that "allows both the government and the victims to enforce" the victim's rights, *Kenna*, 435 F.3d at 1013, cannot be enforced by a government attorney whose own non-compliance is the subject of the enforcement. *See* Part V.A.
3. *A clear ethical violation*. To defend the Judgment and the 2021 denial of victim status on which the Office has relied ever since, the Office must stand on statements it has never corrected. Cal. R. Prof. Conduct 3.3(a)(1), (a)(3),

(b), (c); 28 U.S.C. § 530B(a); *Pumphrey*, 62 F.3d at 1132–33; *Bowie*, 243 F.3d at 1118. Its own interest in the outcome — including its employees' exposure to the "disciplinary sanctions" Congress required for willful or wanton non-compliance, 18 U.S.C. § 3771(f)(2)(C) — materially limits its representation. Cal. R. Prof. Conduct 1.7(b). *See* Part V.C(1)–(2).

4. *A strong factual predicate, proven by documents rather than assumption.* The conduct is documented at every level of the Office, by filing and date, across three administrations: the United States Attorney and two Civil Division chiefs in 2018; the Acting United States Attorney and two Civil Division chiefs in 2021; and the First Assistant, the Victim-Witness unit, and the Civil Division chiefs in 2025 and 2026. (07748 Dkts. 9, 15, 23; Dkt. 2-1, Exs. P–U; 05207 Dkt. 44, Page ID #:1141–1149; Dkt. 24, Exs. A–C, Page ID #:1061–1078; ECF No. 864.) *Cf. Williams*, 68 F.4th at 574. *See* Part V.B.
5. *Prejudice, and clear and convincing evidence.* The Office has already used the Judgment against Petitioner before another judge; invoked the Department's own complaint regulation to refuse his complaint; and answered this Petition only with an objection to an envelope. (ECF No. 864 at 4–5; Dkt. 2-1, Ex. S, Page ID #:383–384; Dkt. 24, Ex. A, Page ID #:1061–1063.) Its own exhibit disproves the fabrication, and it assumed the fraud "*arguendo*" rather than deny it. (07748 Dkt. 9-2, Ex. 3, at 24–26, Page ID #:171–173; 07748 Dkt. 23 at 5, Page ID #:753.) *See* Part V.C(6).
6. *Less intrusive remedies are inadequate.* The conflict belongs to the Office as the statutory duty-bearer and as "the attorney for the Government in the case," and it reaches the supervisors who would run any screen. The Department's own complaint channel was closed at the threshold, and the one other office positioned to receive a transfer made the 2016 decision that is itself at issue. 28 C.F.R. §§ 45.10, 45.12; *Cobra Solutions*, 38 Cal. 4th at 853–854; *Kojayan*, 8 F.3d at 1324. *See* Part V.D.

Nothing in these findings rests on an assumption, and nothing about the relief is "precautionary." *Williams*, 68 F.4th at 573–74. Each finding rests on a filing, an order, or a letter, and each is measured by the standard the Office chose for itself. Congress made this victim a full participant in the process, *Kenna*, 435 F.3d at 1016, and made his restitution mandatory, *Dolan*, 560 U.S. at 612. The Office has treated him as neither. The *Williams* threshold is not merely met; on the Office's own terms, it is exceeded.

VI. CONCLUSION

Congress made the Office this victim's duty-bearer. It commanded the Office's officers and employees to make their best efforts to see that he was notified of, and accorded, his rights; it made the Office's attorney the counterpart with whom he has a right to confer; and it empowered that attorney to assert his rights. At every stage the record documents — 2016, 2018, 2021, and 2025 through today — and across four successive administrations, the Office has met this victim the opposite way: rejection without inquiry, assertion without correction, refusal without assistance, and silence in the face of a mandatory duty to act. Each act built on the last.

The fabrication suspended the victim's participation in the investigation and produced the Judgment; the Office's recasting used it to deny him his rights; its local-rule objections kept it from being decided; its Victim-Witness unit told him it could not assist him; and the absence of a decision became its proof of rejection. That is not a series of oversights. It is a course of conduct — the kind for which the Court's inherent authority exists, *see Chambers*, 501 U.S. at 45–46, and the kind controlling Ninth Circuit authority expressly forbids: government counsel may not place fabricated evidence before a tribunal and then stand on it. *See Lanuza*, 899 F.3d at 1028–29.

The Ninth Circuit has described a case like this one: "a lie, and all the ways it was used, over several years, to defraud the courts." *Lanuza*, 899 F.3d at 1034.

But this case is worse. In *Lanuza*, the lie was one government attorney's forged document; once his victim sued, the government prosecuted him, and he pleaded guilty to a federal crime and was barred from practicing law. *Id.* at 1022–23. Here, the lie is a court ruling that no court ever made, reported in writing by a DHS supervisory special agent — and the Office knew, or reasonably should have known, that it was fabricated, because the Colorado court's own docket, which the Office itself filed with its 2018 motion to dismiss, shows that no court ever ruled for Selakovic and against Greenway on Greenway's civil trademark-infringement claims. (07748 Dkt. 9-2, Ex. 3, at 24, Page ID #:171.) In *Lanuza*, the lie ended with the liar's conviction. Here, the Office has kept it alive for nearly a decade, across three administrations, and has used it against the very victim the Crime Victims' Rights Act commanded it to serve.

"Government attorneys are given great power, and with that power comes great responsibility." *Id.* at 1034. And leaving the use of fabricated evidence without a remedy "would tempt others to do the same." *Id.* If the Office that carried the fabrication into this District, and that has met this victim only with denials, referrals elsewhere, and an objection to an envelope, may now answer his Petition to enforce those rights, the lesson is plain: a victim's rights need never be accorded — only outlasted. Petitioner respectfully requests that the Court decide this Motion forthwith, 18 U.S.C. § 3771(d)(3), and disqualify the Office from this proceeding — including from filing any response to the Petition or any other paper on behalf of the United States, and from communicating with Petitioner concerning this proceeding except through substitute counsel — or, in the alternative, direct that the United States be represented in this proceeding by attorneys of the Department of Justice from outside both the Office and the United States Attorney's Office for the Western District of Missouri, as the Department may designate, with every attorney and official of the Office who participated in, or received written notice of, the conduct described above screened from this proceeding.

DATED: October 14, 2026.

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE (L.R. 11-6.2)

The undersigned, Petitioner in Pro Se, certifies that the Memorandum of Points and Authorities contains 15,595 words, exclusive of the caption, notice of motion, table of contents, table of authorities, signature block, and certificates. Because that exceeds the 7,000-word limit of L.R. 11-6.1, Petitioner has requested leave to exceed it in the accompanying Notice and in his concurrently filed Emergency Ex Parte Application.

DATED: October 14, 2026.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH THE COURT'S GENERATIVE ARTIFICIAL INTELLIGENCE ORDER

The undersigned certifies the following regarding the use of generative artificial intelligence in the preparation of this filing:

_X_ This filing USES generative artificial intelligence.

____ This filing DOES NOT use generative artificial intelligence.

Petitioner used a generative artificial intelligence tool to assist in drafting portions of this filing. Petitioner has reviewed and revised the content, has verified the legal citations and the factual assertions to the best of his ability, and adopts the filing as his own. The positions and representations set forth herein are made in good faith and in compliance with Federal Rule of Civil Procedure 11.

DATED: October 14, 2026.

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