Exhibit 1

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as of 06/09/2026

Registration Number: 2776755

Name: JOHN A. SARCONE III

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Date Admitted: 01/08/1997

Appellate Division Department of Admission: 2nd

Law School: PACE

Registration Status: Currently registered

Next Registration: Apr 2027

Disciplinary History

No record of discipline

Disclaimer

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Exhibit 2

PRESS RELEASE

Attorney General Pamela Bondi Appoints John A. Sarcone III as U.S. Attorney

Tuesday, March 4, 2025

For Immediate Release

U.S. Attorney's Office, Northern District of New York

ALBANY, NEW YORK – Attorney General Pamela Bondi has appointed John A. Sarcone III as the United States Attorney for the Northern District of New York. Mr. Sarcone will start on March 17.

As United States Attorney, Mr. Sarcone will serve as the Northern District of New York's chief federal law enforcement officer, supervising an office of 49 Assistant U.S. Attorneys, 4 Special Assistant U.S. Attorneys, 41 support staff members, and 9 contract support staff members. He will be responsible for prosecuting federal criminal offenses and representing the United States in civil litigation in the Northern District of New York and in the United States Court of Appeals for the Second Circuit.

Mr. Sarcone stated: "Coming from a humble, blue-collar background – growing up in Croton-on-Hudson, having the same teachers at Croton High School as my parents had, and with my grandmother and children also graduating from that school, and having worked full-time while going at night to the Elisabeth Haub School of Law at Pace University– I am deeply humbled and honored to have been named U.S. Attorney for the Northern District of New York.

"I shall carry out my duties faithfully and with steadfast dedication to our nation, community, and the citizens of the Northern District of New York.

"Thank you, Attorney General Bondi, for trusting me to carry out this important mission and most importantly thank you President Trump for once again having faith and confidence in me to do my part to accomplish one of your most important tasks – to restore public confidence and trust in our government and the Department of Justice."

Mr. Sarcone, who will be based in Albany, has been a dedicated public servant and lawyer for many years. From 2018 to 2021, Mr. Sarcone served as Northeast and Caribbean Regional Administrator for the U.S. General Services Administration, overseeing a large team responsible for federal buildings and facilities, procurement, and IT initiatives, and working with dozens of federal agencies and courthouses, including in the Northern District of New York. Earlier in his career, he served as Town Attorney in Eastchester, New York, and General Counsel to the United Federation of Special Police Officers, Inc. and to the Association of Commuter Rail Employees.

Mr. Sarcone also founded and built a general practice law firm, providing advice to small businesses and family-owned corporations, handling large real estate transactions, and litigating and arbitrating in areas including business and construction disputes, insurance defense, and toxic torts.



Updated March 4, 2025

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April 16, 2025

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February 17, 2025

Northern District of New York

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Albany, NY 12207-2924

Binghamton

U.S. Attorney's Office
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Plattsburgh

U.S. Attorney's Office
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Syracuse, NY 13261-7198

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Exhibit 3

In re Grand Jury Subpoenas to the Off. of the N.Y. State AG

United States District Court for the Northern District of New York

January 8, 2026, Decided; January 8, 2026, Filed

25 Misc. 19 (LGS)

Reporter
814 F. Supp. 3d 284 *; 2026 U.S. Dist. LEXIS 3026 **; 2026 LX 82694; 2026 WL 60793

IN RE GRAND JURY SUBPOENAS TO THE OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL

Prior History: *In re Grand Jury Subpoenas to the Off. of the N.Y. State Att'y Gen., 2025 U.S. Dist. LEXIS 214788, 2025 WL 3042026 (Oct. 31, 2025)*

Counsel: **[**1]** For In Re Grand Jury Subpoenas to the Office of the New York State Attorney General, Petitioner: Benjamin W. Hill, LEAD ATTORNEY, Capezza Hill, LLP, Albany, NY; Brad D. Brian, Esteban M. Estrada, Hailyn J. Chen, Victoria A. Degtyareva, LEAD ATTORNEYS, Munger, Tolles & Olson LLP, Los Angeles, CA; Donald B. Verrilli, Jr., LEAD ATTORNEY, Munger, Tolles & Olson LLP, Washington, DC; Kumiki Gibson, LEAD ATTORNEY, NYS Office of The Attorney General, New York, NY; Michael Adam Jaffe, LEAD ATTORNEY, NYS Office of The Attorney General, Office of General Counsel, New York, NY.

For United States of America, Respondent: Richard Belliss, LEAD ATTORNEY, Office of United States Attorney - Albany, James T. Foley U.S. Courthouse, Albany, NY.

Judges: LORNA G. SCHOFIELD, UNITED STATES DISTRICT JUDGE.

Opinion by: LORNA G. SCHOFIELD

Opinion

[*287] **OPINION & ORDER**

LORNA G. SCHOFIELD, District Judge, sitting by designation:

On August 5, 2025, a federal prosecutor, on behalf of the United States (the "Federal Government"), requested that grand jury subpoenas be issued to a state prosecutor -- the office of New York's Attorney General, Letitia James (the "State Government"). The subpoenas signaled an ongoing federal criminal investigation into two **[**2]** civil cases brought by the State of New York against President Donald J. Trump and the National Rifle Association ("NRA"). John A. Sarcone III, the recently installed Acting U.S. Attorney for the Northern District of New York ("NDNY") personally directed the issuance of both subpoenas; his is the only name on the subpoenas and the documents sought are returnable to him personally.

The State Government moves to quash the subpoenas. It argues, among other things, that the subpoenas intrude on New York's sovereignty and that they were issued in retaliation for the State's civil **[*288]** cases against President Trump and his political allies. The U.S. Attorney's Office for the NDNY opposes the motion on behalf of the Federal Government. The State Government's federalism and retaliation arguments need not be addressed at this stage. The subpoenas are unenforceable due to a threshold defect: Mr. Sarcone was not lawfully serving as Acting U.S. Attorney when the subpoenas were issued.

Mr. Sarcone's service was and is unlawful because it bypassed the statutory requirements that govern who may exercise the powers of a U.S. Attorney. U.S. Attorneys must be nominated by the President and confirmed by the **[**3]** Senate. When a vacancy arises, federal law provides limited alternatives to fill the position temporarily. None authorized Mr. Sarcone to serve as Acting U.S. Attorney on August 5, 2025, when he relied on the authority of the office to request the subpoenas.

The U.S. Attorney General initially appointed Mr. Sarcone as Interim U.S. Attorney for 120 days. When that term expired, this District's judges declined to use their statutory authority to extend his tenure. Federal law then required the use of other statutory procedures to fill the position. The Department of Justice did not follow those procedures. Instead, on the same day that the judges declined to extend Mr. Sarcone's appointment, the Department took coordinated steps -- through personnel moves and shifting titles -- to install Mr.

Sarcone as Acting U.S. Attorney. Federal law does not permit such a workaround.

A growing body of persuasive authority reinforces this conclusion. Since August 2025, courts in New Jersey, Nevada and California have held that similarly installed Acting U.S. Attorneys lacked lawful authority. Most recently, in November 2025, the Third Circuit affirmed the New Jersey decision. The Eastern District of **[**4]** Virginia also reached a comparable result in a slightly different procedural posture. The analysis below follows the approach taken by these courts and reaches the same conclusion.

When the Executive branch of government skirts restraints put in place by Congress and then uses that power to subject political adversaries to criminal investigations, it acts without lawful authority. Subpoenas issued under that authority are invalid. The subpoenas are quashed, and Mr. Sarcone is disqualified from further participation in the underlying investigations. If the Federal Government chooses to reissue substantially similar subpoenas through a lawfully authorized official, the State Government may renew its motion to quash on grounds not addressed in this decision.

I. BACKGROUND

The Office of the New York State Attorney General represents New York State and its agencies in legal matters, including by conducting civil and criminal investigations and bringing enforcement actions under state law. Attorney General Letitia James currently heads the office. James has served as New York's Attorney General at all times relevant to this action.

A. Mr. Sarcone's Appointment

The previous, Senate-confirmed, **[**5]** U.S. Attorney for the NDNY, Carla B. Freedman, resigned on February 17, 2025. When she resigned, her top deputy, First Assistant U.S. Attorney Daniel Hanlon, automatically began serving as Acting U.S. Attorney under the default provisions of the Federal Vacancies Reform Act ("FVRA"), *5 U.S.C. § 3345(a)(1)*.

On February 28, 2025, the U.S. Attorney General appointed Mr. Sarcone as Interim U.S. Attorney for the NDNY under *28 U.S.C. § 546*. The appointment order stated **[*289]** that Mr. Sarcone's term would take effect March 17, 2025, and expire after 120 days. *Section 546(c)* permits an appointee to serve until the earlier of (1) 120 days after the interim appointment or (2) the appointment of a U.S. Attorney under *§ 541*, which requires nomination by the President and confirmation by the Senate. *See 28 U.S.C. § 546(c)(1)-(2)*. The White House never formally nominated Mr. Sarcone (or anyone else) as U.S. Attorney. Accordingly, the Senate did not confirm a presidential nominee before Mr. Sarcone's interim appointment expired.

By statute, if no successor is in place when the 120-day period expires, a district court's Board of Judges may appoint a U.S. Attorney for the district. *See 28 U.S.C. § 546(d)*. On July 14, 2025, which the parties contend was the last day of Mr. Sarcone's 120-day interim period, **[**6]** the Board of Judges for the U.S. District Court for the NDNY "decline[d] to exercise the authority granted pursuant to *28 U.S. Code § 546(d)*" to appoint a U.S. Attorney.

The same day, July 14, 2025, Mr. Sarcone sent a letter to the NDNY Chief Judge Brenda Sannes stating that (1) he had been appointed as a "Special Attorney" under *28 U.S.C. § 515*; (2) he had been designated as the "First Assistant" for the NDNY and (3) by operation of the FVRA, he was "now serving as Acting U.S. Attorney for the Northern District of New York indefinitely." Mr. Sarcone enclosed the appointment letter from the Executive Office for United States Attorneys reflecting the Special Attorney appointment. The appointment letter states that Mr. Sarcone's appointment is indefinite, that he is authorized to conduct in the NDNY "any kind of legal proceedings, civil or criminal, including Grand Jury proceedings . . . which United States Attorneys are authorized to conduct," and that he will report to the "Attorney General or her delegee."

Also on July 14, 2025, the General Counsel for the Executive Office for United States Attorneys received and approved a written request to appoint Mr. Sarcone as First Assistant for a period of one year. Another government **[**7]** form states that the reason for the appointment as First Assistant is "Serving as Acting U.S. Attorney for a 210-day period (*5 U.S.C. § 3346(a)(1)*)" and provides an effective date of July 15, 2025. The Department of Justice also reassigned then-First Assistant, Daniel Hanlon, to the role of "Deputy U.S. Attorney," or "Supervisory Assistant U.S. Attorney," stating as "the reason for the change" that "incumbent

will be returned back to a line AUSA [Assistant U.S. Attorney]."

The Federal Government conceded both in its briefing and at oral argument that Mr. Sarcone's appointment as Acting U.S. Attorney is not indefinite. His appointment expires after 210 days, on February 10, 2026. Since July 15, 2025, Mr. Sarcone has purported to serve as Acting U.S. Attorney due to his Special Attorney appointment and First Assistant designation.

On October 8, 2025, the U.S. Attorney General confirmed in writing that the Executive Office for United States Attorneys' appointment was at her "direction" and under her general delegation authority (*28 U.S.C. §§ 509*, *510* and *515*). The confirmation states that, "[f]or the avoidance of doubt . . . [the Attorney General] ratif[ies] Mr. Sarcone's appointment as Special Attorney and his designation as First **[**8]** Assistant United States Attorney for the Northern District of New York, as of July 15, 2025 . . . ."

B. The Grand Jury Subpoenas

On August 5, 2025, a few weeks after Mr. Sarcone began serving as Acting U.S. **[*290]** Attorney, the State Government received two grand jury subpoenas related to State Government enforcement actions. Both subpoenas identify "Acting United States Attorney" Sarcone as the Federal Government attorney requesting the subpoena. No line prosecutor is named in connection with the subpoenas.

The first subpoena pertains to *New York v. Trump*, Index No. 452564/2022 (Sup. Ct. N.Y. Cnty.), a civil case the State Government brought against President Trump and his associates alleging financial fraud (the "Trump Subpoena"). The Trump Subpoena spans January 1, 2022, to the present. The second subpoena pertains to *New York v. National Rifle Association*, Index No. 451625/2020 (Sup. Ct. N.Y. Cnty.), a separate civil action brought by the State Government against the NRA, and two of its senior executives, alleging violations of New York charities laws (the "NRA Subpoena"). The NRA Subpoena spans January 1, 2020, to the present.

Mr. Sarcone also sent cover letters dated August 5, 2025, with **[**9]** the subpoenas. The cover letters confirm that each subpoena "relates to an ongoing [federal] criminal investigation." The subpoenas request all documents and records, including communications, relating to the two state cases. Notably, the cover letters direct the State Government to send responsive documents to Mr. Sarcone personally. While the subpoenas themselves do not specify the federal crimes under investigation, contemporaneous media reporting stated that federal prosecutors had opened "a civil rights investigation" into the New York State Attorney General, and that, according to several sources, "the new subpoenas were part of a broader investigation to determine whether the office had violated the rights of Mr. Trump or others."

On August 19, 2025, the State Government moved to quash the subpoenas on various grounds. In relevant part, the motion argues that Mr. Sarcone was improperly serving as Acting U.S. Attorney and that the subpoenas are unenforceable as a result. The NDNY District Court Judges recused themselves from deciding the motion, having declined to exercise their authority to appoint a U.S. Attorney when Mr. Sarcone's 120-day term as Interim U.S. Attorney expired. **[**10]** On September 4, 2025, Second Circuit Chief Judge Debra Livingston designated the undersigned judge to hear the instant motion.

C. Parallel Challenges to U.S. Attorney Appointments

This case arises against a backdrop of recent decisions addressing similar challenges to Acting or Interim U.S. Attorney appointments. Since August 2025, federal courts have uniformly held that these appointments are invalid. These out-of-circuit decisions are persuasive, even though they are not binding here. They apply the same statutory text to the same or similar appointment maneuvers, and their reasoning is consistent.

In New Jersey, the district court disqualified Acting U.S. Attorney Alina Habba from prosecuting criminal defendants. *United States v. Giraud, 795 F. Supp. 3d 560, 606 (D.N.J. 2025)* ("*Giraud (NJ)*"), *aff'd*, *160 F.4th 390 (3d Cir. 2025)* ("*Giraud (NJ Appeal)*"). The Third Circuit affirmed that decision, holding that a contrary reading of the FVRA would undermine Congress's intent to preserve Senate confirmation of presidential appointees. *Giraud (NJ Appeal), 160 F.4th at 402, 407*.

In Nevada and California, district courts likewise disqualified Acting U.S. Attorneys Sigal Chattah and Bilal Essayli. *United States v. Garcia, No. 25 Cr. 230, 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at*

18 (D. Nev. Sept. 30, 2025) ("*Garcia (NV)*"), *appeal docketed*, No. 25-6468 (9th Cir. Oct. 14, 2025); **[*291]** *United States v. Ramirez, No. 25 Cr. 264, 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *20 (C.D. Cal. Oct. 28, 2025)* ("*Ramirez (CA)*").[1] And in Virginia, another district court dismissed indictments of two high-profile **[**11]** defendants -- former FBI Director James Comey and New York Attorney General Letitia James -- after concluding that the Interim U.S. Attorney who brought the indictments was unlawfully appointed because the statute does not permit successive 120-day Attorney General interim appointments for the same vacancy. *United States v. Comey, No. 25 Cr. 272, 2025 U.S. Dist. LEXIS 232850, 2025 WL 3266932, at *6 (E.D. Va. Nov. 24, 2025)* ("*Comey (VA)*"); *United States v. James, No. 25 Cr. 122, 2025 U.S. Dist. LEXIS 233031, 2025 WL 3266931, at *5 (E.D. Va. Nov. 24, 2025)* ("*James (VA)*"). This Opinion is the seventh to consider a challenge to the recent appointment of an official effectively serving as a U.S. Attorney without Senate confirmation.

II. PRINCIPLES OF STATUTORY CONSTRUCTION

This case requires interpretation of the FVRA and *28 U.S.C. § 546*, the statutes governing the designation of Acting U.S. Attorneys and appointment of Interim U.S. Attorneys, pending Senate confirmation of a U.S. Attorney nominated by the President. Courts are required to apply certain established principles when interpreting statutes. Recent decisions addressing similar U.S. Attorney appointment challenges have applied these principles.[2]

Courts "presume that the legislature says in a statute what it means and means in a statute what it says."[3] *BedRoc Ltd. v. United States, 541 U.S. 176, 183, 124 S. Ct. 1587, 158 L. Ed. 2d 338 (2004)*. Statutory interpretation therefore begins and ends with the text, if the text is unambiguous. *Robinson v. Shell Oil Co., 519 U.S. 337, 340, 117 S. Ct. 843, 136 L. Ed. 2d 808 (1997)*. Courts examine the **[**12]** text "in context" -- both "the specific context in which that language is used" and "the broader context of the statute as a whole." *Id.*

Courts avoid interpretations that make statutory provisions "superfluous, void, or insignificant." *TRW Inc. v. Andrews, 534 U.S. 19, 31, 122 S. Ct. 441, 151 L. Ed. 2d 339 (2001)*. Doing so "runs afoul of the cardinal principle of interpretation that courts must give effect, if possible, to every clause and word of a statute." *Loughrin v. United States, 573 U.S. 351, 358, 134 S. Ct. 2384, 189 L. Ed. 2d 411 (2014)*; *Fischer v. United States, 603 U.S. 480, 486, 144 S. Ct. 2176, 219 L. Ed. 2d 911 (2024)*. This principle applies not only when a provision would be entirely useless, but also when that result would follow "in all but the most unusual circumstances." *TRW Inc., 534 U.S. at 29*. Where one provision would leave another to "lie dormant in all but the most unlikely situations," **[*292]** courts reject such a reading. *Id. at 31*.

Statutory history and structure can "reinforce[]" textual analysis. *Snyder v. United States, 603 U.S. 1, 12-13, 144 S. Ct. 1947, 219 L. Ed. 2d 572 (2024)*. "Statutory history is an important part of [a statute's] context." *United States v. Hansen, 599 U.S. 762, 775, 143 S. Ct. 1932, 216 L. Ed. 2d 692 (2023)*. Statutory history means "the enacted lineage of a statute, including prior laws, amendments, codifications, and repeals." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 327 (2012); *see BNSF Ry. Co. v. Loos, 586 U.S. 310, 329, 139 S. Ct. 893, 203 L. Ed. 2d 160 (2019)* (Gorsuch, J., dissenting) (explaining statutory history as "the record of enacted changes Congress made to the relevant statutory text over time"). This **[**13]** type of evidence, "everyone agrees[,] can sometimes shed light on meaning," *Loos, 586 U.S. at 329* (Gorsuch, J., dissenting), for when Congress amends a statute, courts presume Congress intends the change "to have real and substantial effect," *Ross v. Blake, 578 U.S. 632, 641-42, 136 S. Ct. 1850, 195 L. Ed. 2d 117 (2016)*.

III. DISCUSSION

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[1] The court disqualified Essayli from performing the functions and duties of an Acting U.S. Attorney but permitted continued service as First Assistant and declined to dismiss indictments signed by Assistant U.S. Attorneys where Essayli had no personal involvement in the prosecutions.

[2] *See, e.g., Giraud (NJ Appeal), 160 F.4th at 397*; *Giraud (NJ), 795 F. Supp. 3d at 577*; *Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *4*; *Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *4-8*; *Comey (VA), 2025 U.S. Dist. LEXIS 232850, 2025 WL 3266932, at *6-9*; *James (VA), 2025 U.S. Dist. LEXIS 233031, 2025 WL 3266931, at *5-8*.

[3] Unless otherwise indicated, in quoting cases, all internal quotation marks, footnotes and citations are omitted, and all alterations are adopted.

Mr. Sarcone is not lawfully serving as Acting U.S. Attorney for the NDNY. His appointment violates the FVRA and the statutes governing U.S. Attorney appointments. Several courts, including the Third Circuit, have recently addressed similar appointment maneuvers and reached the same conclusion.[4] Because Mr. Sarcone used authority he did not lawfully possess to direct the issuance of the subpoenas, the subpoenas are quashed. Mr. Sarcone is also disqualified from further participation in the underlying criminal investigations.

A. Mr. Sarcone is Unlawfully Serving as Acting U.S. Attorney

The Federal Government contends that Mr. Sarcone may serve as Acting U.S. Attorney based on two alternative theories: (1) his designation as First Assistant made him Acting U.S. Attorney under the FVRA's automatic succession provision and (2) regardless of the First Assistant designation, the Attorney General granted Mr. Sarcone the full powers of a U.S. Attorney **[**14]** through general delegation. Both theories fail as a matter of statutory interpretation.

1. Statutory Framework for Filling U.S. Attorney Vacancies

A U.S. Attorney must be nominated by the President and confirmed by the Senate. *28 U.S.C. § 541(a)*. This requirement ensures that the Senate has a say in who fills the position. The Constitution gives the Senate this "advice and consent" role as a check on Executive power and a guard against "a spirit of favoritism" in federal appointments. *NLRB v. SW Gen., Inc., 580 U.S. 288, 293, 137 S. Ct. 929, 197 L. Ed. 2d 263 (2017)*. Concerns of cronyism go back to this Country's founding. As Alexander Hamilton wrote in 1788, the "advice and consent" process prevents the President from unilaterally installing "candidates who ha[ve] no other merit than that . . . of being, in some way or other, personally allied to [the President], or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure." The Federalist No. 76, at 394-95 (Alexander Hamilton) (George W. Carey & James McClellan eds., 2001); **[*293]** *accord Giraud (NJ), 795 F. Supp. 3d at 573-74* (quoting the same). "The Framers envisioned [the "advice and consent" safeguard] as an excellent . . . guard against the appointment of unfit characters from family connection, from personal attachment, or from a view to popularity." *SW Gen., 580 U.S. at 293*.

When a U.S. Attorney vacancy arises, the office need not sit vacant **[**15]** until the Senate confirms a Presidential nominee. Instead, Congress authorized four means of temporarily filling the position:

- first, by operation of statute -- the FVRA automatically designates the First Assistant to serve as Acting U.S. Attorney for up to 210 days. *5 U.S.C. §§ 3345(a)(1)*, *3346*;

- second, by the Attorney General -- *§ 546* permits the Attorney General to appoint an Interim U.S. Attorney for up to 120 days. *28 U.S.C. § 546(a)*, *(c)(2)*;

- third, by the President -- the FVRA allows the President to select either another Senate-confirmed officer or a senior official with at least 90 days of service in the agency to serve as Acting U.S. Attorney for up to 210 days. *5 U.S.C. § 3345(a)(2)-(3)* and

- fourth, by the district court -- if the 120-day *§ 546* period expires without a Senate-confirmed appointee, the district court may appoint a U.S. Attorney to serve until the vacancy is filled. *28 U.S.C. § 546(c)(2)*, *(d)*.

The first three methods -- operation of statute, the President and the Attorney General -- are expressly time-limited, operating as stopgaps rather than substitutes for Presidential nomination and Senate confirmation. By contrast, the district court may appoint a U.S. Attorney to serve without a fixed statutory clock, but only as a backstop once the Attorney General's 120-day **[**16]** interim appointment expires, and only until a Senate-confirmed U.S. Attorney fills the vacancy. *Id.* *§ 546(c)(2)*, *(d)*. Eligibility requirements also distinguish the four methods. Only the first and third methods impose eligibility requirements. The first, "operation of

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[4] *See Giraud (NJ Appeal), 160 F.4th at 406-07*; *Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *14*; *Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *1*; *see also Comey (VA), 2025 U.S. Dist. LEXIS 232850, 2025 WL 3266932, at *1*(addressing improper appointment under *§ 546*); *James (VA), 2025 U.S. Dist. LEXIS 233031, 2025 WL 3266931, at *1* (same).

statute," selects the First Assistant as Acting U.S. Attorney. The third permits the President to designate only a person who has been confirmed by the Senate for another position or who has substantial agency experience as Acting U.S. Attorney.

Congress made the FVRA and § 546 the only statutory routes for temporarily filling U.S. Attorney vacancies. The FVRA states that it provides "the exclusive means for temporarily authorizing an acting official to perform the functions and duties of" a Senate-confirmed position, unless another statute expressly authorizes acting or interim service in a specified office (as § 546 does for U.S. Attorneys). 5 U.S.C. § 3347(a)(1)-(2); 28 U.S.C. § 546(a).

Congress also made explicit that general delegation statutes cannot circumvent the FVRA. General delegation statutes permit agency heads to assign their own duties to subordinates. For example, 28 U.S.C. §§ 509, 510 and 515 allow the Attorney General to delegate Department of Justice functions to other officials. The FVRA **[**17]** expressly states that such statutes are not exceptions to the FVRA's exclusivity. 5 U.S.C. § 3347(b). This provision responded directly to the Department of Justice's practice of using general delegation statutes to install preferred officials in positions requiring Senate confirmation. *See* Giraud (NJ Appeal), 160 F.4th at 400 (describing the FVRA as "a compromise" that gave the Executive additional flexibility while preventing the use of general delegation statutes "to contravene the Senate's advice-and-consent power"). Courts **[*294]** applying these statutes in the U.S. Attorney context consistently hold that § 546 and the FVRA operate as the only alternatives for temporarily filling a vacancy, and that neither method permits using general delegation authority to bypass the FVRA's requirements.[5]

Here, upon the resignation of the Senate-confirmed U.S. Attorney, former First Assistant Hanlon became Acting U.S. Attorney under the first method. U.S. Attorney General Bondi then appointed Mr. Sarcone as Interim U.S. Attorney under the second method. President Trump did not appoint anyone under the third method. And the District Court for the NDNY declined to appoint anyone under the fourth method. None of these actions are problematic or otherwise challenged. **[**18]** At issue is the Attorney General's subsequent attempt to install Mr. Sarcone under the first method, after his term as Interim U.S. Attorney expired.

2. Only the First Assistant in Place When the Vacancy Arises Becomes Acting U.S. Attorney

The Federal Government's first theory is that the FVRA automatically made Mr. Sarcone the Acting U.S. Attorney when the Attorney General designated him as First Assistant on July 14, 2025 -- five months after the vacancy first arose. That interpretation is rejected. As explained below, such an interpretation conflicts with the FVRA's text, structure and context; is inconsistent with the statute's history; and has been repeatedly dismissed by courts across the country.[6]

a. Statutory Text, Structure and Context

The Federal Government's interpretation of § 3345(a)(1) contradicts the statute's text, structure and context. The Federal Government argues that the FVRA permitted the Attorney General to wait until the last day of Mr. Sarcone's 120-day term as Interim U.S. Attorney to demote Mr. Hanlon from First Assistant, designate Mr. Sarcone as the new First Assistant and then claim that Mr. Sarcone "automatically" became Acting U.S. Attorney. The Federal Government **[**19]** supports this reading by noting that a vacancy is a "continuing state," so § 3345(a)(1) should apply at any point during the vacancy to whomever holds the First Assistant title at that time. That argument is incorrect.

As a textual matter, § 3345(a)(1) ties automatic succession to a single point in time: the moment the vacancy arises. The provision states that when a Senate-confirmed officer "dies, resigns, or is otherwise unable to perform the functions and duties of the office," "the first assistant to the office of such officer shall perform the functions and duties of the office temporarily in an acting capacity." 5 U.S.C. § 3345(a)(1). This works as a simple if-then rule. If a vacancy occurs, then the

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[5] *See* Giraud (NJ Appeal), 160 F.4th at 397-400, 403; Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *10-14; Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *11-12.

[6] *See, e.g.,* Giraud (NJ Appeal), 160 F.4th at 397-400; Giraud (NJ), 795 F. Supp. 3d at 584-92; Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *11; Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *5-7.

First Assistant serves as acting officer.[7] As the Supreme Court observed, this provision is "mandatory and self-executing." *SW Gen., 580 U.S. at 303*. **[*295]** First Assistants "automatically assume acting duties under *(a)(1)*," *id. at 305*, and that path is fixed to the moment the vacancy arises. Applied here, *§ 3345(a)(1)* took effect when U.S. Attorney Freedman resigned in February 2025. At that moment, First Assistant Hanlon automatically became Acting U.S. Attorney. The Federal Government's interpretation breaks this causal chain and converts a mandatory, self-executing rule into something **[**20]** the Attorney General (a part of the Executive branch) can trigger at will -- allowing repeated designation of Acting U.S. Attorneys and defeating the statute's time limitations. *Id. at 303*.

The FVRA's structure reinforces this "if-then" reading. "[S]tatutory language . . . cannot be construed in a vacuum," and "the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Roberts v. Sea-Land Servs., Inc., 566 U.S. 93, 101, 132 S. Ct. 1350, 182 L. Ed. 2d 341 (2012)*. *Subsection (a)(1)* performs a narrow function. It ensures continuity of leadership by identifying the incumbent First Assistant as the acting officer at the moment a vacancy first arises. *Subsections (a)(2)* and *(a)(3)* then give "the President (and only the President)" discretion to override that default by selecting either another Senate-confirmed officer or a senior agency official who meets express tenure requirements to serve for up to 210 days. *See 5 U.S.C. § 3345(a)(2)-(3)*; *SW Gen., 580 U.S. at 293*. Under the Federal Government's interpretation, the Attorney General can obtain the same result by redesignating the First Assistant months into a vacancy. That collapses the statutory structure by shifting the President's selection authority to the Attorney General -- without the tenure or confirmation requirements that *subsections (a)(2)* and *(a)(3)* require. *See Giraud (NJ Appeal), 160 F.4th at 399*. Courts **[**21]** avoid interpretations that render statutory provisions superfluous. *TRW Inc., 534 U.S. at 29*. The Federal Government's interpretation would do exactly that, leaving *subsections (a)(2)* and *(a)(3)* functionally inert "in all but the most unusual circumstances."[8] *Id.*

The Federal Government's reliance on *Russello v. United States* does not cure this problem. *464 U.S. 16, 104 S. Ct. 296, 78 L. Ed. 2d 17 (1983)*. The Federal Government argues that because *§ 3345(a)(1)* does not include the "backward-looking eligibility" requirements that appear in *§ 3345(a)(3)* and *(b)(1)(A)*, *§ 3345(a)(1)* permits the Attorney General to change the First Assistant during a vacancy and treat that change as triggering automatic acting service. When "Congress includes particular language in one section of a statute but omits it in another **[*296]** section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion." *Id. at 23*. But the Federal Government's argument does not override the statutory structure discussed above, and "should not be elevated to the level of interpretive trump card," particularly where "common sense would balk" at the result. *Field v. Mans, 516 U.S. 59, 67-68, 116 S. Ct. 437, 133 L. Ed. 2d 351 (1995)*. The better explanation for the omission is that *§ 3345(a)(1)* is a self-executing default that applies when the vacancy arises, so it does not include the screening requirements **[**22]** that Congress used to cabin discretionary selections under *sections 3345(a)(2)*, *(a)(3)* and *(b)(1)(A)*.

The Federal Government's interpretation fails for the additional reason that it conflicts with the statutory alternative to the FVRA. *Section 546* gives the Attorney General authority to appoint an Interim U.S. Attorney for up to 120 days. *28 U.S.C. § 546(a)*, *(c)(2)*. Under the Federal Government's interpretation, the Attorney General can use the FVRA to install anyone as Acting U.S. Attorney for up to 210 days simply by designating

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[7] Other courts recently considering the issue concur with this interpretation. *See, e.g., Giraud (NJ Appeal), 160 F.4th at 400*; *Giraud (NJ), 795 F. Supp. 3d at 586*; *Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *4*.

[8] The Federal Government's opposition identifies two situations that would require the President to invoke *subsections (a)(2)* or *(a)(3)* instead of proceeding under the default rule in *(a)(1)*: first, where the first-assistant position is itself an office requiring presidential appointment and Senate confirmation and, second, where the President wishes to keep the first assistant in place and designate someone else as Acting U.S. Attorney. Even accepting those examples, they do not address the argument's core defect. Under the Federal Government's interpretation, the Attorney General could effectively select the acting officer during an ongoing vacancy by changing who qualifies as "first assistant," reducing *(a)(2)* and *(a)(3)* to occasional workarounds rather than equal statutory alternatives. The Federal Government also invokes an internal Office of Legal Counsel opinion to support its reading. *See Designating an Acting Attorney General, 42 Op. O.L.C. 182 (2018)*. But whatever persuasive force such views may have, they cannot expand *§ 3345(a)(1)* beyond its text and statutory context.

that person as First Assistant. Carried to its logical extreme, such a reading would allow the Attorney General to install repeatedly the same or different people as First Assistant each time an Interim U.S. Attorney's term expires -- keeping the office continuously filled without Senate confirmation. Whether done once or multiple times, this renders § 546's 120-day limit meaningless and provides another reason to reject the Federal Government's interpretation. *See* *Giraud (NJ Appeal), 160 F.4th at 399*.

b. Statutory History

The circumstances that led Congress to adopt the FVRA confirm the statutory analysis above. Congress enacted the FVRA to address "the Executive branch's widespread practice -- dating back through several administrations -- of appointing temporary **[**23]** designees in contravention of existing law and the *Appointments Clause*." *Id. at 400*. Before the FVRA, acting officials sometimes exceeded statutory time limits, serving without Senate confirmation and occasionally in the face of Senate opposition. *See* *SW Gen., 580 U.S. at 295*; *Giraud (NJ Appeal), 160 F.4th at 400*. In response, Congress enacted the FVRA to protect the Senate's "advice and consent" role while still giving the Executive branch room to fill vacancies temporarily. *See* *SW Gen., 580 U.S. at 295, 307*; *Giraud (NJ Appeal), 160 F.4th at 400*. When Congress amends a statute, courts presume Congress intends the change "to have real and substantial effect." *Ross, 578 U.S. at 641-42*. The Federal Government's interpretation contradicts that principle. Reading the FVRA to permit the Attorney General to designate First Assistants who then automatically ascend to the Acting U.S. Attorney position erodes the statute's intended effect. *See* *Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *9-11*.

c. Application in Similar Cases

Courts addressing this issue have consistently rejected the Federal Government's approach for these same reasons. Most recently, the Third Circuit held that only "the first assistant in place at the time of the vacancy automatically assumes acting status under the FVRA" because that reading "'better harmonizes the various provisions in the FVRA and § 546 and avoids the oddities that the [Federal] Government's **[**24]** interpretation would create.'" *Giraud (NJ Appeal), 160 F.4th at 400* (quoting *Rep. of Sudan v. Harrison, 587 U.S. 1, 8, 15, 139 S. Ct. 1048, 203 L. Ed. 2d 433 (2019)*). The District of Nevada and the Central District of California reached the same conclusion. *Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *5-11*; **[*297]** *Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *5-7*.

In sum, *§ 3345(a)(1)* designates whomever is First Assistant when the vacancy first arose to the position of Acting U.S. Attorney for a period of up to 210 days. That avenue of designating someone to act temporarily as U.S. Attorney is now foreclosed. Mr. Sarcone did not lawfully assume the position of Acting U.S. Attorney under the FVRA's default provision, because he was not the First Assistant when the vacancy first arose.

3. Delegation Statutes Cannot Create a De Facto Acting U.S. Attorney

The Federal Government's second theory is that, even if the FVRA does not make Mr. Sarcone Acting U.S. Attorney, the Attorney General can use her general delegation authority to accomplish the same result -- here, by empowering Mr. Sarcone to issue grand jury subpoenas. This second theory fails because Congress enacted a statute that expressly bars this approach, as courts in New Jersey, Nevada and California have also concluded.[9]

The FVRA states that "*Sections 3345* and *3346* are the exclusive means for temporarily authorizing an acting official to perform the functions and duties of any **[**25]** office of an Executive agency, unless" another statutory provision authorizes otherwise, or a recess appointment is made. *5 U.S.C. § 3347(a)*; *accord* *NLRB v. Newark Elec. Corp., 14 F.4th 152, 160-61 (2d Cir. 2021)*. The statute also states that general delegation statutes do not qualify as exceptions to the FVRA's exclusive procedures. *5 U.S.C. § 3347(b)*.[10] Congress added this

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[9] *See* *Giraud (NJ Appeal), 160 F.4th at 402-03*; *Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *12*; *Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *12*.

[10] "Any statutory provision providing general authority to the head of an Executive agency . . . to delegate duties statutorily vested in that agency head . . . is not a statutory provision to which *subsection (a)(1)* applies." *5 U.S.C. § 3347(b)*.

provision specifically to prevent agencies from using general delegation authority to bypass the FVRA. *See SW Gen., 580 U.S. at 294-95* (describing Congress's response to the Department of Justice's use of purported "independent authority" to fill vacancies).[11]

The Federal Government responds that the Attorney General may delegate the "nonexclusive duties" of a U.S. Attorney (i.e., not duties reserved for the U.S. Attorney such as requesting ex parte orders for personal tax information under 28 U.S.C. § 6103(i)(1)[12]) through authorities including *sections 510* and *515*, and that delegation of those duties is commonplace. That is true but does not apply here. Neither the documentation for Mr. Sarcone's **[*298]** appointment as Special Attorney nor his correspondence with the Chief Judge draws any distinction between his performing exclusive and nonexclusive duties. The U.S. Attorney General's delegation purports to authorize Mr. Sarcone to conduct any proceedings that U.S. Attorneys **[**26]** may conduct -- the full range of the office's powers. At oral argument, the Federal Government acknowledged that the appointment letter conveys "a broad delegation of authority, which includes criminal cases" with "all of the non-exclusive powers of the U.S. Attorney's Office for [the NDNY]." The Federal Government further conceded that nothing in the record supports Mr. Sarcone's appointment being "limited . . . to some discrete set of matters or some subset of all of the U.S. Attorney's powers." That is not a delegation of specific, nonexclusive duties. It is an attempt to use general delegation to create an Acting U.S. Attorney outside the FVRA's statutory framework.

The Third Circuit rejected an identical argument. The court held that the FVRA's exclusivity provisions "plainly prohibited" the Attorney General's attempt to create a de facto U.S. Attorney with "the full panoply of [the office's] powers" by delegating the authority to conduct "any kind of legal proceedings" that U.S. Attorneys may conduct. *Giraud (NJ Appeal), 160 F.4th at 403*. The District of Nevada and Central District of California reached the same conclusion. *Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *11-14*; *Ramirez (CA), 2025 U.S. Dist. LEXIS 222414, 2025 WL 3019248, at *11-12*. The Attorney General cannot use general delegation statutes to vest the authority **[**27]** of the U.S. Attorney for the NDNY in Mr. Sarcone.

B. The Subpoenas are Quashed and Mr. Sarcone is Disqualified

Mr. Sarcone is not lawfully serving as Acting U.S. Attorney. Any of his past or future acts taken in that capacity are void or voidable as they would rest on authority Mr. Sarcone does not lawfully have. The subpoenas issued to the Office of the New York State Attorney General at Mr. Sarcone's direction and under his purported authority as Acting U.S. Attorney are therefore invalid and are quashed. Mr. Sarcone is also disqualified from any further involvement in prosecuting or supervising the criminal investigations that prompted the subpoenas.

1. Legal Standard

Rule 17 governs subpoenas in criminal proceedings, including those issued by grand juries. A court "may quash or modify [a] subpoena if compliance would be unreasonable or oppressive." *Fed. R. Crim. P. 17(c)(2)*. Ordinarily, courts view grand jury subpoenas with a presumption of "reasonable[ness]." *United States v. R. Enters., Inc., 498 U.S. 292, 300-01, 111 S. Ct. 722, 112 L. Ed. 2d 795 (1991)*. This presumption applies when a subpoena is issued "through normal channels." *Id. at 301*; *see In re Grand Jury Proceedings, 971 F.3d 40, 50, 53-54 (2d Cir. 2020)* ("*Oberlander*") (holding that a subpoena lacking such structural regularity is a "nullity" that cannot be enforced). Despite this presumption, "courts may not ignore possible **[**28]** abuse of the grand jury process." *United States v. Calk, 87 F.4th 164,*

[11] While this Opinion need not rely on it, the legislative history underscores this critical context. *See* S. Rep. No. 105-250, at 17 (1998); 144 Cong. Rec. 22,511 (1998) (statement of Sen. Byrd) (explaining that "very broad, very general provisions [(*28 U.S.C. §§ 509-510*)] . . . are being used to justify what amounts to an end run around the Vacancies Act" and that accepting Department of Justice's position would mean Congress had "systematically divested itself of its constitutional responsibility to advise and consent"); *id.* at 22,508 (statement of Sen. Thompson) ("The Justice Department relies on its organic statute's 'vesting and delegation' provision, which states that the Attorney General can designate certain other powers to whomever she chooses in the Department . . . ."); *id.* at 22,515 (statement of Sen. Durbin) ("I wholeheartedly concur that this law needs clarification so that moves to end-run its application are halted.").

[12] *See In re An Application for an Ex Parte Order to Authorize Disclosure of Tax Returns and Tax Return Information*, No. 25 Misc. 22 (N.D.N.Y. Jan. 8, 2026).

186 (2d Cir. 2023), *cert. denied*, *145 S. Ct. 144, 220 L. Ed. 2d 15 (2024)*. "Grand juries are not licensed to engage in arbitrary fishing expeditions, nor may they select targets of investigation out of malice or an intent to harass." *R. Enters., Inc., 498 U.S. at 299*; *Trump v. Vance, 591 U.S. 786, 805, 140 S. Ct. 2412, 207 L. Ed. 2d 907 (2020)*.

While subpoena power formally belongs to the grand jury, in modern federal practice, prosecutors often issue grand jury subpoenas with little or no **[*299]** involvement of the grand jurors themselves.[13] The court's role in "[e]nsuring the regularity of the grand jury process is especially important because of the risks for abuse that inhere in proceedings over which trial and appellate courts rarely have insight." *Calk, 87 F.4th at 186*. *Rule 17* therefore functions as a key mechanism to ensure that the grand jury is not "misused" by the Department of Justice. *In re Grand Jury Subpoena Duces Tecum Dated Jan. 2, 1985 (Simels), 767 F.2d 26, 29 (2d Cir. 1985)*.

2. The Subpoenas Are "Unreasonable" under *Rule 17*

The subpoenas here were issued through an official acting without lawful authority. The subpoenas therefore lacked the regularity required for a presumption of reasonableness. Three weeks after Mr. Sarcone claimed the title of Acting U.S. Attorney, he used that authority to subpoena a state law-enforcement office that the President had publicly cast as a political adversary. The subpoenas' cover letters direct **[**29]** the Office of the New York State Attorney General to send all materials to Mr. Sarcone personally. Grand juries are "not meant to be the private tool of a prosecutor," *Calk, 87 F.4th at 186*, much less one who is not lawfully appointed. Because Mr. Sarcone lacked lawful authority to invoke the grand jury's power in the capacity he claimed, the subpoenas were not issued "through normal channels," *R. Enters., Inc., 498 U.S. at 301*, and are unreasonable under *Rule 17*.

Contrary to the Federal Government's assertion, Mr. Sarcone's "Special Attorney" appointment under *§ 515* does not cure the defect. As a preliminary matter, Mr. Sarcone did not direct issuance of these subpoenas under the authority of his *§ 515* appointment. He did so as "Acting United States Attorney." In six pages, the two subpoenas and their supporting materials identify Mr. Sarcone as "Acting U.S. Attorney" six different times. The enforceability of the subpoenas therefore turns on whether Mr. Sarcone was lawfully serving as Acting U.S. Attorney -- not on whether he also held a lawful "Special Attorney" appointment. In any event, while *§ 515* authorizes the Attorney General to appoint "special attorneys" to "conduct any kind of legal proceeding . . . which United States attorneys are authorized by **[**30]** law to conduct," *28 U.S.C. § 515(a)*, such an appointment neither confers the office of U.S. Attorney nor does it validate subpoenas issued in a different capacity. *Cf. In re Persico, 522 F.2d at 45-46* (upholding *§ 515* authority where special attorneys were operating under the supervision of a properly appointed U.S. Attorney, not purporting to hold the office itself). *Section 515* cannot be used to bypass the FVRA's framework or ratify actions undertaken by Mr. Sarcone using his purported authority as "Acting U.S. Attorney."

The Federal Government's argument rests on the proposition that any **[*300]** defect is immaterial because "Special Attorney" Sarcone or other Assistant U.S. Attorneys in the office could have sought the same subpoenas. The Second Circuit has rejected that approach. In *Oberlander*, the Second Circuit held that a court could not enforce a subpoena after the issuing grand jury had concluded its term, despite the Government's contention that enforcing the old subpoena would be no different than enforcing a fresh one. *Oberlander, 971 F.3d at 51*. The Second Circuit disagreed, finding "no great administrative difficulty in requiring, as a precondition to the use of coercive contempt power, the issuance of a new subpoena" by a properly constituted body. *Id. at 52* (treating subpoenas **[**31]** as a "nullity" where the grand jury had expired). The same logic applies here. When the

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[13] *See* *Lopez v. DOJ, 393 F.3d 1345, 1349, 364 U.S. App. D.C. 274 (D.C. Cir. 2005)* ("[T]he term 'grand jury subpoena' is in some respects a misnomer, because the grand jury itself does not decide whether to issue the subpoena; the prosecuting attorney does."); *First Nat'l Bank of Tulsa v. DOJ, 865 F.2d 217, 220 (10th Cir. 1989)* ("[A] United States Attorney has the authority to obtain a blank grand jury subpoena form, fill in the blanks, and serve the subpoena without the authorization (or even knowledge) of the grand jury."); *Doe v. Di Genova, 779 F.2d 74, 80, 250 U.S. App. D.C. 274 (D.C. Cir. 1985)* ("[G]rand jury subpoenas are issued at the request, and in the discretion of the prosecuting attorney involved in the case . . . ."); Charles Doyle, Cong. Rsch. Serv., 95-1135, *The Federal Grand Jury* 8-9 (2025) (explaining that prosecutors usually direct the issuance of grand jury subpoenas).

Federal Government seeks to invoke the district court's coercive power, it must do so based on lawful authority, not by asking courts to treat an unauthorized subpoena as interchangeable with a valid one.

Characterizing the defect as inconsequential also misconstrues what makes the subpoenas unreasonable. The problem is not a lack of subpoena power in the abstract; it is the Federal Government's choice to invoke that power through a statutory end-run and then leverage that power against a perceived rival of the President. Those choices matter for the *Rule 17* analysis, even if other prosecutors could request similar subpoenas. *Cf. Simels, 767 F.2d at 29-30* (focusing on the "dominant purpose" for which the grand jury's process is invoked to police misuse by prosecutors); *Calk, 87 F.4th at 186* (reaffirming courts' duty not to "ignore possible abuse of the grand jury process"). As Mr. Sarcone lacked lawful authority to request the subpoenas in the capacity of Acting U.S. Attorney, the subpoenas are quashed.[14]

3. **Disqualification**

Mr. Sarcone is disqualified from any further involvement in prosecuting or supervising the instant investigations, **[**32]** regardless of his title. Recent U.S. Attorney appointment opinions have adopted similar remedies. The Third Circuit affirmed disqualification of an unlawfully serving Acting U.S. Attorney from further participation in the affected prosecutions. *See Giraud (NJ Appeal), 160 F.4th at 396, 407*. The District of Nevada similarly disqualified an unlawfully serving Acting U.S. Attorney from the relevant cases. *See Garcia (NV), 2025 U.S. Dist. LEXIS 194389, 2025 WL 2784640, at *18*. Beyond the U.S. Attorney context, courts often set aside actions taken under unlawful appointments and require new proceedings before properly appointed officials. *See Lucia v. SEC, 585 U.S. 237, 251-52, 138 S. Ct. 2044, 201 L. Ed. 2d 464 (2018)*; *Ryder v. United States, 515 U.S. 177, 187-88, 115 S. Ct. 2031, 132 L. Ed. 2d 136 (1995)*; *Flinton v. Comm'r of Soc. Sec., 143 F.4th 90, 99 (2d Cir. 2025)*. The same principles prevent Mr. Sarcone from continuing to direct the investigations at issue.

[14] This result also follows *Comey (VA)* and *James (VA)*, where the court dismissed indictments obtained solely by the unlawfully appointed Interim U.S. Attorney. *Comey (VA), 2025 U.S. Dist. LEXIS 232850, 2025 WL 3266932, at *3, *10*; *James (VA), 2025 U.S. Dist. LEXIS 233031, 2025 WL 3266931, at *3, *9*.

IV. CONCLUSION

For the foregoing reasons, the State Government's motion to quash is **GRANTED**. Mr. Sarcone is disqualified from any further involvement in prosecuting or supervising any investigation pertaining to *New York v. Trump*, Index No. 452564/2022 (Sup. Ct. N.Y. Cnty.), and *New York v. National Rifle Association*, Index No. 451625/2020 (Sup. Ct. N.Y. **[*301]** Cnty.). Should the Federal Government re-issue the subpoenas at the direction of a lawfully authorized attorney for the Federal Government, without Mr. Sarcone's involvement, the State Government may renew **[**33]** its motion to quash.

The Clerk of Court is respectfully directed to close the motion at Dkt. No. 1 and close the case.

Dated: January 8, 2026

New York, New York

/s/ Lorna G. Schofield

LORNA G. SCHOFIELD

UNITED STATES DISTRICT JUDGE

End of Document

Exhibit 4

JUSTICE DEPARTMENT

White House immediately fires U.S. attorney chosen by judges to replace Trump's pick

Donald Kinsella was appointed and sworn in as the U.S. attorney in the Northern District of New York and fired by the White House the same day.

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Michael M. Santiago / Getty Images file

Feb. 12, 2026, 7:33 PM EST

By Kyla Guilfoil

The White House fired the top federal prosecutor for upstate New York just hours after he was sworn into office Wednesday.

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Donald Kinsella, who has worked for decades as a government attorney and in private practice, was appointed and sworn in as the U.S. attorney in the Northern District of New York in a private ceremony, the court said on its website. Later that day, he was fired in an email from the White House.

Kinsella told NBC News on Thursday that the email came from the deputy director of presidential personnel, Morgan DeWitt Snow, and that it said the “president directed that I be removed," without any explanation.

Reached for comment, the White House directed NBC News to a social media post by Deputy Attorney General Todd Blanche.

"Judges don’t pick U.S. Attorneys, @POTUS does. See Article II of our Constitution. You are fired, Donald Kinsella," Blanche said Wednesday night on X.

Kinsella's hiring and firing were first reported by The Times Union of Albany.

The U.S. District Court for the Northern District of New York defended Kinsella's appointment in a statement Thursday, writing that it appointed him to the position of U.S. attorney, which was vacant, through its judicial authority to "appoint a United States Attorney to serve until the vacancy is filled."

The court cited Article II, Section 2, Clause 2 of the Constitution in justifying Kinsella's appointment, writing that the Constitution states in part that "Congress may by Law vest the Appointment" of officials such as United States Attorneys "in the Courts of Law."

Kinsella was appointed to succeed John Sarcone III, a Trump loyalist who left as acting U.S. attorney after a federal judge ruled last month that he was serving in the position unlawfully.

U.S. District Judge Lorna Schofield ruled in January that the Justice Department had taken improper steps to keep Sarcone in his post beyond the 120-day limit for U.S. attorneys who have

not been confirmed by the Senate.

Sarcone demoted himself to first assistant attorney as he awaits an appeal of Schofield's ruling. He remains the highest-ranking prosecutor in the Northern District of New York.

Several judges have ruled that prosecutors were serving unlawfully after Attorney General Pam Bondi appointed them.

Trump loyalist Lindsey Halligan, a former insurance attorney with no prosecutorial experience who led unsuccessful cases against former FBI Director James Comey and New York Attorney General Letitia James, stepped down as the top prosecutor for the Eastern District of Virginia last month after a judge ruled that she was “masquerading” as U.S. attorney.



She departed after an appeals court upheld a lower court ruling that disqualified President Donald Trump's former personal attorney Alina Habba from serving as acting U.S. attorney for the District of New Jersey. In its ruling, the appeals court said Habba's appointment violated the Federal Vacancies Reform Act.

In its statement Thursday, the district court for the Northern District of New York thanked Kinsella for "his willingness to return to public service so that this vacancy could be filled with a

qualified, experienced former prosecutor, and for his years of distinguished work on behalf of the citizens of the Northern District of New York."

Kinsella was an assistant U.S. attorney from 1989 until 1998, when he was promoted to lead the criminal division of the U.S. Attorney's Office for the Northern District of New York. He left that position in 2002.



Kyla Guilfoil

Kyla Guilfoil is a breaking news reporter on the politics team for NBC News Digital.

Michael Kosnar contributed.

Exhibit 5

United States Department of Justice

United States Attorney
Northern District of New York

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100 South Clinton Street, P.O. Box 7198
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Syracuse, New York 13261-7198
Tel.: (315) 448-0672

July 14, 2025

Via Electronic Mail

Hon. Brenda K. Sannes
Chief U.S. District Judge
Federal Building and U.S. Courthouse
100 S. Clinton Street
Syracuse NY 13261

Dear Chief Judge Sannes,

Enclosed herewith please find a correspondence appointing me as Special Attorney to the United States Attorney General pursuant to 28 U.S.C.§ 515.

I have also been designated the First Assistant United States Attorney for the Northern District of New York. Accordingly, by operation of law under the Vacancies Reform Act, I am now serving as Acting United States Attorney for the Northern District of New York indefinitely.

Very Respectfully,

John A. Sarcone III

BLS/jas
ENCL:1

U.S. Department of Justice

Executive Office for United States Attorneys

Human Resources Staff

III Constitution Square
175 N Street, NE, Suite 7.800
Washington, DC 20530

Phone (202) 252-5300
FAX (202) 252-5301

July 14, 2025

Mr. John Sarcone III
Northern District of New York
445 Broadway Street, Suite 218
Albany, NY 12207

Dear Mr. Sarcone:

You are hereby appointed as a Special Attorney to the United States Attorney General pursuant to 28 U.S.C. § 515. Subject to the terms and conditions set forth below, you are authorized to conduct in the Northern District of New York, any kind of legal proceedings, civil or criminal, including Grand Jury proceedings and proceedings before United States Magistrates, which United States Attorneys are authorized to conduct.

This appointment is effective the date of this letter and is made subject to the following terms and conditions, with which we ask that you express your concurrence by signing this letter and returning it to me:

1. This appointment is indefinite but may be terminated at any time without cause.

2. With regard to all matters handled by you as a Special Attorney, you will report to, and act under, the direction of the United States Attorney General or her delegee.

3. During and after the term of your appointment, you will be subject to all laws, regulations, and policies applicable to employees of the Department of Justice and to former employees which prohibit your disclosure to unauthorized persons of information obtained by you in the course of your work as a Special Attorney. These include, but are not limited to, the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. § 2635 et seq.; the Department's Standards of Conduct, 5 C.F.R. § 3801; federal conflict of interest statutes, 18 U.S.C. §§ 201-209; laws restricting the disclosure of certain confidential governmental information, 18 U.S.C. § 1905; the Freedom of Information Act,

5 U.S.C. § 552; the Privacy Act, 5 U.S.C. § 552a; and political activity restrictions, 5 U.S.C. § 7321 et seq.

4. You will be compensated at the annual rate of $195,200.

5. Your Special Attorney appointment is at will and may be terminated at any time without cause or notice.

You may file a copy of this letter with the Clerk of the District Court to evidence this appointment.

Sincerely,

JEWEL CAMPOS

Digitally signed by JEWEL CAMPOS
Date: 2025.07.14 10:26:34 -04'00'

Jewel Campos
Assistant Director
Human Resources Staff
Operations Division

The foregoing terms and conditions are hereby agreed to and accepted:

John Sarcone III

Exhibit 6



STAFF PROFILE

First Assistant U.S. Attorney
John A. Sarcone III

John A. Sarcone III is the First Assistant U.S. Attorney for the Northern District of New York. As First Assistant U.S. Attorney, Mr. Sarcone is the chief federal law enforcement officer responsible for all federal criminal prosecutions and civil litigation involving the United States in the Northern District of New York, an area covering 32 counties.

Mr. Sarcone has been a dedicated public servant and lawyer for many years. From 2018 to 2021, Mr. Sarcone served as Northeast and Caribbean Regional Administrator for the U.S. General Services Administration, overseeing a large team responsible for federal buildings and facilities, procurement, and IT initiatives, and working with dozens of federal agencies and courthouses, including in the Northern District of New York. Earlier in his career, he served as

Town Attorney in Eastchester, NY, and General Counsel to the United Federation of Special Police Officers, Inc. and to the Association of Commuter Rail Employees.

Mr. Sarcone also founded and built a general practice law firm, providing advice to small businesses and family-owned corporations, handling large real estate transactions, and litigating and arbitrating in areas including business and construction disputes, insurance defense, and toxic torts.

Mr. Sarcone earned his law degree from Pace University School of Law and his undergraduate degree from Pace University.

Dates of Service

2025 - Present

Updated February 10, 2026

Northern District of New York

Albany

U.S. Attorney's Office
445 Broadway, Rm 218
Albany, NY 12207-2924

Binghamton

U.S. Attorney's Office
15 Henry St., Rm 304
Binghamton, NY 13901

Plattsburgh

U.S. Attorney's Office
14 Durkee St., Rm 340
Plattsburgh, NY 12901

Syracuse

U.S. Attorney's Office

P.O. Box 7198
100 S. Clinton St., Rm 900
Syracuse, NY 13261-7198

Albany: 518-431-0247

Binghamton: 607-773-2887

Plattsburgh: 518-314-7800

Syracuse: 315-448-0672

Exhibit 7

CAMPAIGN FOR ACCOUNTABILITY

August 6, 2025

VIA EMAIL

Monica A. Duffy Esq.
Chief Attorney
Attorney Grievance Committee
100 Great Oaks Blvd., Suite 129
Albany, New York 12203-7919
ad3agc@nycourts.gov

Hon. Brenda K. Sannes
Chief District Judge
Federal Building and U.S. Courthouse
P.O. Box 7336
Syracuse NY 13261-7336

Re: Complaint Against John A. Sarcone III, New York Atty. Regis. No. 2776755

Dear Ms. Duffy and Judge Sannes:

Campaign for Accountability, a 501(c)(3) nonpartisan, nonprofit watchdog organization, requests that the Attorney Grievance Committee of the Third Judicial Department of New York and the U.S. District Court for the Northern District of New York[1] investigate John A. Sarcone III, a New York-licensed attorney and "Special Attorney to the United States Attorney General,"[2] for potential violations of the New York Rules of Professional Conduct ("Rules").

In just the four months since he was initially sworn in as Interim U.S. Attorney for the Northern District of New York, Mr. Sarcone has engaged in erratic and potentially illegally conduct. Through his actions he may have violated numerous rules governing attorney conduct, including Rule 3.6 (prohibiting improper extrajudicial statements likely to prejudice proceedings); Rule 3.8(a) (prohibiting prosecutors from instituting charges not supported by probable cause); and Rules 8.4(b) (prohibiting illegal conduct that adversely reflects on honesty, trustworthiness, or fitness); 8.4(c) (prohibiting "conduct involving dishonesty, fraud, deceit or misrepresentation");

[1] Pursuant to Local Civil Rule 83.3(a)(5).
[2] *See* Letter from John A. Sarcone III to the Honorable Brenda K. Sannes, Chief U.S. District Judge, Northern District of New York, July 14, 2025, *available at* https://www.nynd.uscourts.gov/sites/nynd/files/Letter%20from%20Mr%20Sarcone.pdf.

8.4 (d) (prohibiting conduct "prejudicial to the administration of justice"), and 8.4(h) (prohibiting conduct "that adversely reflects on the lawyer's fitness as a lawyer").[3]

In addition to violating his obligations under the Rules, Sarcone swore when he became a New York Bar member to "support the Constitution of the United States" and to "faithfully discharge the duties of the office of attorney and counselor at law." Mr. Sarcone appears to have violated that oath. More generally, Mr. Sarcone's actions appear to constitute what could be an abuse of power and serve to undermine the integrity of the Department of Justice (DOJ) and erode public confidence in the legal profession and the fair administration of justice.

I. Background

On March 4, 2025, Attorney General Pamela Bondi announced the appointment of John Sarcone III as United States Attorney for the Northern District of New York, starting on March 17, 2025.[4] Mr. Sarcone was not, however, officially nominated for the position,[5] which would have required Senate confirmation.[6] At the time of his nomination, Mr. Sarcone was a resident of Westchester County and did not live in the Albany area, and lacked prosecutorial experience.[7]

Mr. Sarcone's Interaction with Saul Morales-Garcia

On June 17, 2025, shortly before 9:00 pm, surveillance video taken by the Hilton Hotel shows Mr. Sarcone standing outside the hotel in his shirtsleeves, smoking a cigar and looking at his phone when Saul Morales-Garcia, an undocumented immigrant from El Salvador, began yelling at him, while brandishing a knife.[8] Mr. Sarcone walked away (apparently towards the hotel lobby) while, Mr. Morales-Garcia, seemingly continuing to yell and gesturing, knife in hand, begins to leave the area. Out of the frame, Mr. Morales-Garcia apparently threw a traffic cone in Mr. Sarcone's general direction, but it lands far from Mr. Sarcone. Cigar still in hand, Mr. Sarcone then began to walk back towards Mr. Morales-Garcia and can be seen gesturing, speaking, and continuing to smoke.[9] Soon, Mr. Sarcone begins to dash back towards the lobby, but then stops, turns around and returns towards Mr. Morales-Garcia, who is not visible in the video. At no time does the video show Mr. Morales-Garcia anywhere near Mr. Sarcone; he is yelling at him from a distance. At some point during the encounter, as Mr. Sarcone later

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[3] *See* New York State Bar Association, NY Rules of Professional Conduct (2025), *available at* https://nycourts.gov/ad3/agc/rules/22NYCRR-Part-1200.pdf.
[4] Department of Justice Press Release, "Attorney General Pamela Bondi Appoints John A. Sarcone III as U.S. Attorney," March 4, 2025, *available a*t https://www.justice.gov/usao-ndny/pr/attorney-general-pamela-bondi-appoints-john-sarcone-iii-us-attorney.
[5] Santul Nerkar, In Rare Move, Judges Reject a Trump Pick for U.S. Attorney, *New York Times*, July 14, 2025, *available at* https://www.nytimes.com/2025/07/14/nyregion/sarcone-us-attorney-ndny.html.
[6] U.S. Constitution, Art. II § 2; 28 U.S.C. § 541.
[7] Jon Moss, Trump picks loyalist with no prosecutor history as U.S. attorney in Upstate NY, *The Syracuse Post-Standard*, March 4, 2025, *available at* https://www.syracuse.com/news/2025/03/trump-picks-loyalist-with-no-prosecutor-history-as-us-attorney-in-upstate-ny.html
[8] Video, June 17, 2025, 8:55-8:59 pm, *available at* https://www.youtube.com/watch?v=Ya_5rteYt3g. ("Video")
[9] *Id.*

explained, he called the Albany County Sheriff Craig Apple's personal cellphone.[10] Law enforcement arrived and arrested Mr. Morales-Garcia on the scene.

Later the same evening, Mr. Sarcone filled out an Albany County Sheriff's Office "Supporting Deposition," in which he stated he had been "standing in front of the Hilton hotel" when a man began yelling at him in an "threatening manner" and

> . . . pulled a knife out of his pocket and began to charge me in an aggressive manner. It was at this time that I became fearful for life my life and I attempted to flee the area. The male was making the motion as if he was going to attempt to cut my throat. I was able to get away and contact the Albany County Sheriff's Office.[11]

Mr. Sarcone signed the deposition below a notice stating: "False statements made herein are punishable as a class A Misdemeanor pursuant to section 210.45 of the New York State Penal Law."[12] Pursuant to Mr. Sarcone's supporting deposition, the sheriff's office charged Mr. Morales-Garcia with misdemeanor menacing and felony possession of a weapon.[13]

The day after the incident, Sheriff Apple appeared on television explaining that Mr. Sarcone had called him in the midst of the attack and said Mr. Morales-Garcia had "lunged at him again with a knife, and he's making dragging the knife over his throat [sic], that he's going to kill him."[14]

Two days after the incident, on June 19, 2025, the U.S. Attorney's Office for the Northern District of New York ("NDNY USAO") issued a news release stating that Mr. Sarcone had been "the victim of a life-threatening incident," and that the perpetrator had been charged with attempted second-degree murder.[15] The release also states Mr. Morales-Garcia "lunged at Sarcone," and later made a "slitting-the-throat gesture at Sarcone."[16] The video of the incident, however, depicts none of this.[17] The release included a quote from Mr. Sarcone stating he "feared for my life, but I couldn't let this individual harm and potentially kill others."[18] The release also included a quote from Sherriff Apple: "U.S. Attorney John Sarcone's selfless actions likely saved

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[10] Fox and Friends, June 20, 2025, *available at* https://www.foxnews.com/video/6374613322112.
[11] John M. Sarcone, Albany County Sheriff's Office Supporting Affidavit, June 17, 2025 (attached as Exhibit 1).
[12] *Id.*
[13] Albany County Sheriff's Office Misdemeanor Complaint, *People v. Saul M. Morales*, June 17, 2025; and Albany County Sheriff's Office Felony Complaint, *People v. Saul M. Morales*, June 17, 2025 (complaints attached as Exhibit 2).
[14] Jana DeCamilla, Sheriff: Man Charged With Threatening US Attorney Was in the US Illegally, *WRGB*, June 18, 2025, *available at* https://cbs6albany.com/news/local/albany-man-charged-with-attempted-murder-following-reported-knife-threat#.
[15] NDNY USAO, Press Release: "United States Attorney John A. Sarcone III Attacked by a Salvadorian National with a Knife in Downtown Albany: Saul Morales-Garcia, an Illegal Alien, Charged with Attempted Second-Degree Murder," June 19, 2025, *available at* https://www.justice.gov/usao-ndny/pr/united-states-attorney-john-sarcone-iii-attacked-salvadorian-national-knife-downtown. ("Press Release")
[16] *Id*.
[17] *See* Video, June 17, 2025.
[18] *See* Press Release, June 19, 2025.

lives."[19] The release does not state that Mr. Morales-Garcia should be presumed innocent until proven guilty.[20]

Appearing on the television show Fox and Friends the same day his office published the press release, Mr. Sarcone recounted the incident, explaining that he had been on his way to the state Capitol at the time of the incident – something that appears contradicted by security video showing him standing outside the hotel, jacketless and smoking and that is not included in his supporting deposition – when he was "attacked by a maniac with a knife."[21] Mr. Sarcone also claimed the man had lunged at him twice and threatened his life. Mr. Sarcone explained that upon learning the man, later identified as Mr. Morales-Garcia, had been charged only with menacing and weapons possession, he told the sheriff the charges were insufficient because Morales-Garcia "threatened his life."[22] After Mr. Sarcone's intervention, Mr. Morales-Garcia was also charged with attempted murder.[23]

In a television interview on June 23, 2025, Mr. Sarcone criticized the Albany Police Department, calling it "appalling" that the police had never arrived on the scene,[24] although he had not called 911. In response, Michael C. Delano, President of the Albany Police Benevolent Association issued a statement condemning Mr. Sarcone's actions:

> It is truly appalling that a sitting U.S. Attorney would fail to use a system [911] that provides the absolute fastest police response, especially under circumstances where he claims someone could have been seriously injured or killed. His failure to do so unnecessarily risked harm to innocent civilians.
>
> Mr. Sarcone also claims, "Albany Police never showed up to the scene." This statement is not only false but appears to be an intentional misrepresentation of the facts for unknown reasons. Albany Patrol units were notified via dispatch approximately 7 minutes after the incident and did respond. This delay was caused by Mr. Sarcone's refusal to call 911, opting instead to call his friend for help. Albany Patrol units were confirmed to have been in the vicinity and, again, would have provided the quickest police response had Mr. Sarcone taken the appropriate measures.[25]

After reviewing surveillance footage of the incident, which does not show Mr. Mr. Morales - Garcia lunging at Mr. Sarcone but does show Mr. Morales-Garcia leaving the area before Mr. Sarcone ran after him, apparently calling him back[26], Albany County District Attorney Lee Kindlon dropped the attempted murder charge and reduced the weapons violation to a

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[19] *Id*.
[20] *Id.*
[21] Fox and Friends, June 20, 2025, *available at* https://www.foxnews.com/video/6374613322112.
[22] *Id.*
[23] *See* Press Release, June 19, 2025.
[24] Interview with John Sarcone, *WRGB Albany*, June 23, 2025, *available at* https://www.youtube.com/watch?v=Jor0RtQnC9M.
[25] Albany Police Benevolent Association Press Release, June 23, 2025, *available at* https://www.facebook.com/photo/?fbid=122118765254873859&set=a.122100816044873859.
[26] *See* Video, June 17, 2025.

misdemeanor, explaining: "A fair reading of the evidence and controlling case law informs that this incident did not rise to the level of attempted murder."[27] On July 3, Mr. Morales-Garcia pleaded guilty to one charge, misdemeanor second-degree menacing, and was sentenced to 90 days in jail.[28]

Mr. Sarcone's Residence

In the sworn supporting deposition Mr. Sarcone provided under penalty of criminal law regarding his encounter with Mr. Morales-Garcia, Mr. Sarcone listed his address as an apartment in a building later discovered to be boarded-up.[29] The *Times Union* visited the address Mr. Sarcone provided and found the building to have "plywood boards covering its entrance and windows, and a 'No Trespassing' sign tacked to the plywood that covers the front door and prevents anyone from entering."[30] Local television station WNYTT aired video of the premises, confirming this description.[31] When questioned by the *Times Union* regarding his residency, Mr. Sarcone doubled down, stating "That's the residence that I have – that I established when I got here."[32] When the newspaper pressed, the next day Mr. Sarcone offered a new explanation, stating he has been "spending 70% of my time in hotels . . . because I can't get in there yet."[33]

Mr. Sarcone then claimed that the property, though boarded up, was actually fully renovated inside, and that the owner was merely waiting for new windows and a door.[34] Mr. Sarcone then reportedly set up a call with a *Times Union* editor and Steve Sabba, a Westchester County developer whose company, Symphony Holdings, holds the mortgage on the property, but is not the owner and is a former client of Mr. Sarcone's private law practice.[35] Mr. Sabba also claimed the property had been renovated and was supposed to be fully finished by April or May but "between the supply chain issue and the threat of tariffs" said it had been "very difficult" to get the necessary building materials.[36] He also offered to supply photographs of the renovated interior, but then failed to do, offering numerous excuses. Finally, he threatened:

> I know many, many people at Fox and such action would induce me to pen an op-ed in the New York Post noting how this 'hit piece' seemingly superseded actual news,

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[27] Kristina Handy, Charges Reduced for Man Accused of Pulling Knife on U.S. Attorney, *News 10*, June 25, 2025, *available at* https://www.news10.com/news/crime/charges-reduced-for-man-accused-of-pulling-knife-on-sarcone/.
[28] Felix Day, Man Pleads Guilty to Threatening U.S. Attorney, *WRGB Albany*, July 3, 2025, *available at* https://cbs6albany.com/news/local/man-pleads-guilty-to-threatening-us-attorney-cbs6-wrgb.
[29] Brendan J. Lyons, US Attorney Lists Boarded Up Albany Building as Residence, June 27, 2025, *available at* https://www.timesunion.com/capitol/article/u-s-attorney-albany-lists-boarded-up-building-20386848.php
[30] *Id.*
[31] Michael Goot, US Attorney Sarcone Answers Questions About Why He Listed a Boarded-Up Building as His Residence, *WNYTT*, June 27, 2025, *available at* https://wnyt.com/top-stories/u-s-attorney-sarcone-answers-questions-about-why-he-listed-board-up-building-as-his-residence/.
[32] Lyons, *Times Union*, June 27, 2025.
[33] *Id*.
[34] *Id*.
[35] *Id.*
[36] *Id*.

> considering all that is currently transpiring in New York, in America and worldwide, a viewpoint that would rival even the biased trash seen on The View.[37]

It is, perhaps, relevant that Mr. Sabba has been convicted of felony tax fraud on two separate occasions.[38]

The *Times Union* checked with a city building official who explained any remodeling would have required a permit and none had been issued for the property since it had been purchased two years earlier.[39] Further, after the paper's inquiries, the director of Albany's Department of Buildings and Regulatory Compliance visited the building and issued the owner a citation for failing to register the building as vacant.[40]

After the *Times Union* confronted Mr. Sarcone with evidence the building was, indeed, vacant, Mr. Sarcone said he had been provided photographs of the interior of the apartment but could not locate them and would ask Mr. Sabba for additional information.[41] The paper reported that photos were not provided.[42]

Mr. Sarcone's Retaliation Against the Times Union

Following the *Times Union's* June 27, 2025 article regarding Mr. Sarcone's residence, Mr. Sarcone ordered his staff to remove the paper and its reporters off the office's media distribution list.[43] Mr. Sarcone sent an email to all assistant United States Attorneys in the office writing, "Times Union has been deleted from our distribution list."[44] After the *Times Union* sought comment on its deletion, which had been in place for two weeks, the directive was rescinded.[45]

II. Violations of the New York Rules of Professional Conduct

Mr. Sarcone's conduct appears to violate multiple Rules.

A. Mr. Sarcone May Have Violated Rule 3.6

Rule 3.6(a) prohibits a lawyer who is participating or has participated in a civil or criminal matter from making an "extrajudicial statement that the lawyer knows or should know will be

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[37] *Id*.
[38] *See id;* Office of the Westchester County District Attorney, Press Release: Yorktown Heights Accountant Sentenced for Tax Fraud, July 18, 2019, *available at* https://www.westchesterda.net/july-2019/6354-yorktown-heights-tax-accountant-sentenced-for-tax-fraud; Office of the Westchester County District Attorney, Press Release: Westchester Tax Preparer Indicted for Tax Fraud and Identity Theft, August 2, 2018, *available at* https://www.westchesterda.net/august-2018/6091-westchester-tax-preparer-indicted-for-tax-fraud-and-identity-theft.
[39] Lyons, *Times Union*, June 27, 2025.
[40] *Id.*
[41] *Id*.
[42] *Id.*
[43] Brendan J. Lyons, Interim US Attorney Orders Times Union Removed from Media List, *Times Union*, July 9, 2025, *available at* https://www.timesunion.com/capitol/article/interim-u-s-attorney-removes-times-union-media-20761206.php.
[44] *Id*.
[45] *Id*.

disseminated by public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter." Further, a statement is likely to be prejudicial when it states that the defendant has been charged with a crime, "unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent unless and until proven guilty." Rule 3.6(b)(6).

The June 19, 2025 press release issued by Mr. Sarcone's office stated:

> Morales-Garcia was charged with attempted second-degree murder, criminal possession of a weapon in the third degree, and menacing in the second degree and remanded without bail. He made an appearance in Albany City Court yesterday and an order of protection was issued for Sarcone. Morales-Garcia may also face federal charges; the Federal Bureau of Investigation (FBI) and Homeland Security Investigations are involved in the ongoing investigation.[46]

Nowhere in the release, however, is there a statement noting that Mr. Morales-Garcia is presumed innocent unless and until proven guilty.

The release stated in two different paragraphs that absent Mr. Sarcone's actions, Mr. Morales-Garcia might have gone on to kill others, although Mr. Morales-Garcia had not physically harmed or killed anyone. The release also noted Mr. Sarcone's efforts to "help combat the infiltration of gangs, drug, human traffickers, and sexual predators," placing Morales-Garcia in the company of such criminals though there was no allegation he was part of a gang or involved in drug or human trafficking or sexual misconduct.[47] Such statements would be inadmissible in court and likely would "create a substantial risk of prejudicing an impartial trial," in violation of Rule 3.6(b)(4).

A comment to Rule 3.8 notes that "a prosecutor's extrajudicial statement can create the additional problem of increasing public condemnation of the accused . . . a prosecutor can and should avoid comments that have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused." Rule 3.8, Comment 5. Prosecutors are also advised to make reasonable efforts to prevent those under their "supervisory authority," which likely would include those responsible for issuing press releases, from making such statements.

Given that it is the Albany District Attorney's Office that prosecuted Mr. Morales-Garcia, the entire release appears aimed at increasing public opprobrium against Mr. Morales-Garcia in violation of Rule 3.6.

B. Mr. Sarcone May Have Violated Rule 3.8

Rule 3.8(a) prohibits a prosecutor from instituting or causing to institute a criminal charge when the prosecutor "knows or it is obvious that the charge is not supported by probable cause."

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[46] *See* Press Release, June 19, 2025.
[47] *Id*.

Mr. Sarcone's interaction with Mr. Morales-Garcia was caught on surveillance video and, contrary to Mr. Sarcone's repeated claims that Mr. Morales-Garcia "lunged" at him with a knife, Mr. Morales-Garcia can be seen – with Mr. Sarcone a safe distance away – gesturing and speaking. Mr. Morales-Garcia then turned to leave the area but was pursued by Mr. Sarcone – who continued to smoke throughout the incident, suggesting that he may not have felt himself to be in as much danger as he later claimed – and who also appeared to be yelling and gesticulating.

The sheriff's office initially charged Mr. Morales-Garcia with menacing, but apparently in response to Mr. Sarcone's demands, the charges were increased to attempted murder, a charge the facts – as demonstrated through the video of the incident – simply did not support. As a result, Mr. Sarcone, as the U.S. Attorney for the Northern District of New York, appears to have used his position as a prosecutor to cause to institute a criminal charge not supported by probable cause, likely in violation of Rule 3.8(a).

C. Mr. Sarcone May Have Violated Rule 8.4.

A lawyer is "an officer of the legal system," who "has a duty to uphold the legal process [and] to demonstrate respect for the legal system[.]" Rules, Preamble at ¶ 1. Consistent with that directive, Rule 8.4 prohibits a lawyer from engaging in illegal conduct; conduct involving dishonesty, fraud, deceit, or misrepresentation; conduct that is prejudicial to the administration of justice; and conduct that adversely reflects on the lawyer's fitness as a lawyer. Rules 8.4 (b), (c), (d), and (h). Mr. Sarcone appears to have violated all of these precepts.

Moreover, his actions prejudicial to the administration of justice and his apparent abuse of his governmental authority adversely reflect on Mr. Sarcone's fitness as a lawyer.

Mr. Sarcone's apparent violations of Rule 8.4 are especially egregious as he acted through the power of his public office. Comment 5 to Rule 8.4 states "Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers." Mr. Sarcone appears to have abused the power of his office and has demonstrated an inability to fulfill his professional responsibilities.

The New York Penal Code prohibits false statements. The law provides that a person "swears falsely" "when he intentionally makes a false statement which he does not believe to be true (a) while giving testimony, or (b) under oath in a subscribed written instrument.[48]

A person is guilty of the misdemeanor of making a punishable false written statement when he "knowingly makes a false statement, which he does not believe to be true, in a written instrument bearing a legally authorized form notice to the effect that false statements made therein are punishable."[49]

[48] N.Y. Penal Law § 210.00(5).
[49] N.Y. Penal Law § 210.45

Here, Mr. Sarcone submitted a sworn supporting deposition that includes a notice provision stating that Mr. Morales-Garcia had pulled a knife and charged at him, causing him to fear for his life. In the same sworn document, Mr. Sarcone also claimed as his residential address a vacant building where he could not possibly have lived. In interviews with reporters, Mr. Sarcone persisted in claiming the address, despite abundant evidence that the building is vacant and inaccessible.

By submitting a sworn statement claiming Mr. Morales-Garcia had caused him to fear for life when video of their encounter demonstrates that Mr. Morales-Garcia was always a considerable distance away from Mr. Sarcone and, in fact, attempted to leave the area when Mr. Sarcone called him back, Mr. Sarcone appears to have made a punishable false statement in violation of N.Y. Penal Law § 210.45.

Federal law provides that "[e]ach United States Attorney shall reside in the district for which he is appointed".[50] Mr. Sarcone, therefore, may have been motivated to provide the apartment address to hide the fact that he was not residing in the Northern District of New York, as required by federal law. By submitting a sworn deposition claiming an address at which he does not reside, Mr. Sarcone appears to have made a punishable false statement in violation of N.Y. Penal Law § 210.45.

By claiming in a sworn deposition that Mr. Morales-Garcia had tried to kill him when the video shows otherwise, and by providing in a sworn deposition an address at which he did not reside, conduct that likely violates New York criminal law, Mr. Sarcone appears to have engaged in illegal conduct that "adversely reflects on his honesty, trustworthiness, or fitness as a lawyer" in violation of Rule 8.4(b).

By apparently demanding that the sheriff increase the charges against Mr. Morales-Garcia from menacing to attempted murder, despite that the video does not show an attempt on Mr. Sarcone's life, by claiming Mr. Morales-Garcia charged at him twice in the statement issued by his office as well as in numerous press interviews, and by claiming both in his sworn deposition and to reporters that he lives at an address where he does not and could not possibly reside, and by claiming, inaccurately, that the Albany police never proceeded to the scene of the crime, Mr. Sarcone appears to have "engaged in conduct involving dishonesty, fraud, deceit or misrepresentation," in violation of Rule 8.4(c).

By apparently demanding that the sheriff increase the charges against Mr. Morales-Garcia from menacing to attempted murder, despite that the video does not show Mr. Morales-Garcia making an attempt on Mr. Sarcone's life, and by authorizing his office to issue a press release claiming Mr. Morales-Garcia had tried to kill him, equating Mr. Morales-Garcia with gang members, drug and human traffickers and sexual predators, and by failing to note Mr. Morales-Garcia was innocent until proven guilty, Mr. Mr. Sarcone appears to have engaged in conduct "prejudicial to the administration of justice" in violation of Rule 8.4(d).

[50] 28 U.S.C. § 545(a). The sole exceptions to this requirement are the U.S. Attorneys for the District of Columbia, and the Southern and Eastern Districts of New York, who may reside within 20 miles of those districts.

By blacklisting the *Times-Union* and removing the paper from the U.S. Attorney's Office media distribution list in apparent retaliation for the paper's reporting that Mr. Sarcone did not, in fact, reside at the address he claimed in the sworn deposition he provided to the sheriff's office in the Morales-Garcia matter, Mr. Sarcone appears to have engaged in "other conduct that adversely reflects [on his] fitness as a lawyer" in violation of Rule 8.4(h).

Comment 5 to Rule 8.4 states: "Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers." Mr. Sarcone's apparent abuse of his public office to demand higher charges against Mr. Morales-Garcia than were warranted by the evidence, to allow his office to issue a press release aimed at increasing public opprobrium against Mr. Morales-Garcia, and to claim a residential address where he does not live to avoid his likely violation of the federal residency requirement, and then to retaliate against a newspaper that revealed he could not live there, all suggest Mr. Sarcone has an inability to fulfill the professional role of lawyers.

III. Conclusion

Mr. Sarcone's actions appear to represent a serious breach of his ethical obligations. By potentially violating New York criminal law as well as multiple provisions on the New York Rules of Professional Conduct, he has undermined confidence in the Department of Justice and undoubtedly will erode public trust in the legal system if permitted without consequence.

We respectfully request that the Committees conduct a thorough investigation into these allegations and impose any appropriate disciplinary measures.

Respectfully submitted,

Michelle Kuppersmith

Michelle Kuppersmith
Executive Director
Campaign for Accountability

Encls.

EXHIBIT 1

ALBANY COUNTY SHERIFF'S OFFICE
SUPPORTING DEPOSITION

State of New York _____
County of Albany _____
City of Albany

Time started 10 : 17 am/pm
Time ended 10 : 32 am/pm
Date 06 / 17 / 2025

Case Number 25-073458

Name John A. Sarcone III DOB 04/28/1962
Street Address 87 S. Orange Street Unit # 2
City / Town / Village Albany State NY

I John A. Sarcone III was standing in front of the Hilton hotel located at 40 Lodge Street in the city of Albany. At this time I was engaged by a male wearing a blue jacket with a backpack. The male began yelling at me in an unknown language in a threatening manner. I tried to disengage the male by verbally telling him to leave the area. It was at this time the male pulled a knife out of his locket and began to charge at me in a aggressive manner. It was at this time I became fearful for my life and I attempted to flee the area. The male was making the motion as if he was going to attempt to cut my throat. I was able to get away and contact the Albany County Sheriff's Office. I gave the Sheriffs a description of a male approximately 5 ~~feet~~ 10 inches with black curly hair wearing the clothing description given above, with facial hair.

Notice: False Statements made herein are punishable as a class A Misdemeanor pursuant to section 210.45 of the New York State Penal Law.

Sworn to before me this 17th
Day of June 2025

1469
(Signature)
Sr. Investigator
(Title)

6-17-2025
(Signature of deponent)

(Signature of witness)

EXHIBIT 2

Albany County Sheriff's Office
Misdemeanor Complaint

Local Criminal Court City of Albany
County of Albany, State of New York

The People of The State of New York
Vs.
Saul M. Morales [redacted]/1984

I, Senior Investigator Brandon Souza, the complainant herein, am a police officer of The State of New York, to wit a Senior Investigator of the Albany County Sheriff's Office, assigned to the SCOPE Unit located in the City of Albany, New York.

I accuse Saul M. Morales, the defendant in this action and charge, that on or about June 17, 2025 at approximately 9:55 o'clock in the afternoon, at 40 Lodge Street, in the City of Albany, County of Albany, State of New York, the defendant did intentionally, and unlawfully commit the misdemeanor of Menacing in the Second Degree in violation of section 120.14 subdivision 1 of The Penal Law of The State of New York.

A person is guilty of menacing in the second degree when he or she intentionally places or attempts to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun, or other firearm.

To Wit: At the aforesaid date, time, and location the defendant, Saul M. Morales (DOB: [redacted]1984) did intentionally place the victim John A. Sarcone III in reasonable fear of death, by displaying and pointing a 3-1/2 inch knife at the victim while also aggressively charging at the victim. The defendant also made several motions as to cutting the victim's throat with the knife, all contrary to the provisions of the statute in such case made and provided.

The above allegations of fact are made by the complainant herein:

☒ On information gained through investigation
☒ On information and belief based upon the attached statements of:
John A. Sarcone III

***False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of The New York State Penal Law.**

1791
Complainant

Sworn before me this 17th day of June 2025.

Signature

Chief Deputy
Title

Albany County Sheriff's Office
Felony Complaint

Local Criminal Court: City of Albany
County of Albany, State of New York

The People of The State of New York
Vs.
Saul M. Morales [redacted]/1984

I, Senior Investigator Brandon Souza , the complainant herein, am a police officer of The State of New York, to wit a Senior Investigator of The Albany County Sheriff's Office, assigned to the SCOPE Unit located in Albany, New York.

I, accuse Saul M. Morales, the defendant in this action and charge that on or about June 17, 2025 at 9:55 o'clock in the afternoon, at 40 Lodge Street, in the City of Albany, County of Albany, State of New York, the defendant did unlawfully commit the misdemeanor of Criminal Possession of a Weapon in the Third Degree in violation of section 265.02 subdivision 1 of The Penal Law of The State of New York.

A person is guilty of criminal possession of a weapon in the third degree when such person commits the crime of criminal possession of a weapon in the fourth degree as defined in subdivision one, two, three or five of section 265.01, and has been previously convicted of any crime.

To Wit: At the aforesaid date, time and location the defendant Saul M. Morales (DOB: [redacted]/1984) did have in his possession and under his direct control, a white folding pocket knife with a 3 ½ inch silver blade. More specifically, the defendant did use said knife unlawfully by menacing and attempting to cause the death of the victim John A. Sarcone III with said knife. The defendant has previously been convicted of crimes on April 20, 2022 in the State of Georgia for Driving Under the Influence of Alcohol and Driving Without a Valid License, of all contrary to the provisions of the statute in such case made and provided.

The above allegations of fact are made by the complainant herein:

☒ On information gained through investigation
☒ On information and belief, based upon the attached statements of:
John A. Sarcone III

***False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of The New York State Penal Law.**

1741
Complainant

Sworn before me this 17th day of June 2025.

Signature

Chief Deputy
Title

Exhibit 8

The Wayback Machine - https://web.archive.org/web/20250805004048/https://www.justice.gov/us...

PRESS RELEASE

United States Attorney John A. Sarcone III Attacked by a Salvadorian National with a Knife in Downtown Albany

Thursday, June 19, 2025

For Immediate Release

U.S. Attorney's Office, Northern District of New York

Saul Morales-Garcia, an Illegal Alien, Charged with Attempted Second-Degree Murder

ALBANY, NEW YORK – Tuesday June 17, after leaving his office in downtown Albany, United States Attorney John A. Sarcone III was the victim of a life-threatening incident. Saul Morales-Garcia, an illegal alien from El Salvador, who entered the United States in 2021 after a prior deportation, lunged at Sarcone while brandishing a knife and yelling aggressively in a foreign language Sarcone could not readily identify. Sarcone ran to the lobby of the Hilton Hotel and Morales-Garcia stopped and still shouting in a foreign language turned and started to walk away. Sarcone immediately contacted Albany County Sheriff Craig D. Apple Sr. Sarcone went back to the street and maintained a safe distance and yelled out to Garcia-Morales to gain his attention to prevent Morales-Garcia from disappearing as Sarcone believed an innocent person would be killed by Morales-Garcia. Before law enforcement arrived, Morales-Garcia charged at Sarcone again screaming and yelling at Sarcone in a foreign language while wielding the knife to make a slitting-the-throat gesture at Sarcone. Sarcone again ran to the lobby of the Hilton where again Morales-Garcia stopped, turned and began to walk away but was apprehended

when Sheriff's deputies arrived. Morales-Garcia was taken into custody and the knife was recovered.

Sarcone was physically unharmed, but emotionally rattled and stated, "I felt an obligation to the public as the chief Federal law enforcement officer in the district that includes the city of Albany. I feared for my life but I couldn't let this individual harm and potentially kill others."

Albany County Sheriff Craig Apple said: "U.S. Attorney John Sarcone's selfless actions likely saved lives."

Morales-Garcia was charged with attempted second-degree murder, criminal possession of a weapon in the third degree, and menacing in the second degree and remanded without bail. He made an appearance in Albany City Court yesterday and an order of protection was issued for Sarcone. Morales-Garcia may also face federal charges; the Federal Bureau of Investigation (FBI) and Homeland Security Investigations are involved in the ongoing investigation.

Sarcone was appointed U.S. Attorney in the Northern District of New York by Attorney General Pamela Bondi in March. "Public safety is our highest priority," said U.S. Attorney Sarcone. "I am relieved that no one was harmed. I appreciated the swift response by the Albany County Sheriff's office which was within minutes although it seemed like an eternity." Sarcone emphasized that such brazen and violent behavior underscores the importance of public vigilance and the need for a strong collaboration between federal and local authorities. At Sarcone's request, his office is recused from prosecuting Morales-Garcia for illegal re-entry into the country, which is a felony, and the case has been assigned to the United States Attorney for the Southern District of New York for prosecution.

Sarcone stated, "I have spent the last three months going to 27 of the 32 counties thus far in my district conducting meetings with the District Attorneys, Sheriffs, State Police and local police Chiefs accompanied by the heads of all the Federal law enforcement agencies in the Northern District to offer assistance from federal law enforcement and my office to help combat the infiltration of gangs, drug, human traffickers, and sexual predators. My offer of help has been well-received, and the results have been tremendous in helping these communities get rid of violent criminals. The citizens of Albany, and visitors who come to Albany, should be able to feel safe walking down our streets."

Updated June 19, 2025

Topic

VIOLENT CRIME

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15 Henry St., Rm 304
Binghamton, NY 13901

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U.S. Attorney's Office
14 Durkee St., Rm 340
Plattsburgh, NY 12901

Syracuse

U.S. Attorney's Office
P.O. Box 7198
100 S. Clinton St., Rm 900
Syracuse, NY 13261-7198

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Exhibit 9

www.timesunion.com /capitol/article/u-s-attorney-albany-lists-boarded-up-building-20386848.

US attorney in Albany lists boarded-up building as his residence

Brendan J. Lyons ⁝ 16-20 minutes ⁝ 6/27/2025



U.S. Attorney for the Northern District of New York John A. Sarcone III at a news conference in Albany in April.

Will Waldron/Times Union

ALBANY — After U.S. Attorney John A. Sarcone III was threatened by a knife-wielding man outside a downtown hotel earlier this month, he filed an affidavit with police in which he listed his residential address as a three-unit building in Albany. Under a U.S. statute, the chief federal law enforcement officer in New York's Northern District is required to reside within its 32-county region.

But the three-story residence in the Sheridan Hollow neighborhood hasn't had a valid occupancy permit since last year, according to a city official. It has plywood boards covering its entrance and windows, and a "No Trespassing" sign tacked to the plywood that covers the front door and prevents anyone from entering. A

neighboring house, which is owned by the same Westchester County builder, is also boarded up and inaccessible.

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The Times Union became aware of Sarcone listing the empty building as his local residence after he wrote the address in an affidavit he gave Albany County sheriff's deputies following the June 17 incident involving a man from El Salvador, who has been charged with menacing the U.S. attorney as he walked along Lodge Street.

In a series of interviews over the past week, the Times Union sought to verify the status of Sarcone's residency in the district. On Monday, the federal prosecutor said, "That's the residence that I have — that I established when I got here."

On Tuesday, when pressed on the fact the building had no occupancy permit and is boarded up, Sarcone offered a clarification: He said he has been "spending 70% of my time in hotels … because I can't get in there, yet."



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Sarcone, who is from Westchester County and has his primary residence in the town of Cortlandt near the Hudson River, also told the Times Union on Tuesday that the property has been fully renovated inside, but that the owner is waiting for new windows to be delivered so they can be installed, as well as a new front door.

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To buttress his statement that the residence is where he intends to live, he set up a three-way call that day with a Times Union editor and Steve Sabba, a Westchester County developer and tax preparer who owns a company called Symphony

Holdings, which holds the mortgage on the property but is not its owner. Sarcone, who previously ran a private law practice and also served as a regional administrator for the U.S. General Services Administration, described Sabba as a “former client.”

“I buy and sell real estate, and I also finance projects,” Sabba said. “I hold the mortgage note on (the property), and finance the construction, the renovation. … The inside is fully renovated. It’s like a brand-new apartment.”

Sabba said that he offered Sarcone one of the units in the building after he was named U.S. attorney in Albany in March; at that time, he promised Sarcone the apartment would be ready by April or May.

“But, you know, between the supply chain issue, between the threat of tariffs, between everything else (that) has been going on, it’s been very difficult to get the custom building materials that we need,” Sabba said, “because the manufacturing chain has not been operating the way it would in an optimal business environment, and that’s all it is.”

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On the call, Sabba also offered to provide evidence to buttress his assertion that the inside of the property is fully renovated.

“I could send you pictures, if you want to, you know, even publish them, which is fine with me,” he said.

A city building official told the Times Union that any significant remodeling work — beyond interior painting of a rental property — requires a building permit. There has been no building permit issued for that property since the Westchester County builder purchased it two years ago.

Elusive images

The Times Union accepted Sabba’s offer to provide photos verifying the interior renovations. But over the course of the ensuing two days, he gave different excuses for why he could not locate the photos, berated the Times Union for pursuing the story, and questioned why the newspaper was seeking the pictures that he had offered to hand over.

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“I hope you are not attempting to use this as a smear campaign against John whose entire family I know well (they are very honorable people) as that would greatly tarnish (the Times Union’s) reputation and reduce it to the likes of a tabloid,” Sabba

wrote in an email on Tuesday, just hours after offering to send the photos. “I know many, many people at Fox and such action would induce me to pen an op-ed in the New York Post noting how this 'hit piece' seemingly superseded actual news, considering all that is currently transpiring in New York, in America and worldwide, a viewpoint that would rival even the biased trash seen on The View.”

“Please do not place me in a position to feel compelled to resort to any of this; we, as humans, are better that that,” he added.

Later that night, Sabba wrote another email saying that he had found “several photos,” but could not determine whether they were images of the interior renovations of the Albany residence or of other properties he has developed with various builders. He again questioned the newspaper’s efforts to verify the information.

“Everyone knows his family resides in Westchester but he maintains a residence in Albany due to his recent appointment to the (Department of Justice) so the motive in questioning that dual-residency is suspicious,” he wrote. “Even if you were to assume (incorrectly) that he does not maintain a residence in the Northern District, how could that be anything other than a desperate attempt to disparage him, even after he was attacked and nearly murdered by an illegal alien?”

Article continues below this ad

Sabba was referring to the incident last week when Sarcone had a troubling encounter with Saul Morales-Garcia, who reentered the U.S. illegally after being deported. The 40-year-old was initially charged with attempted murder at Sarcone’s request. That charge was dismissed this week by Albany County prosecutors; he now faces misdemeanor charges of menacing and weapons possession. No one was injured during the incident.

When a reporter subsequently offered to meet one of Sabba’s representatives or the owner at the residence and view the interior renovations, Sabba rejected it.

“I do not wish to connect you with my builders as I will not subject them to being inundated with requests they do not understand,” he wrote. “Also, again, I fail to see the urgency or even the benefit of your intentions and now that I think about it, you are planning to publish John’s personal home address in Albany after he was brutally attacked and nearly murdered?”

The Times Union has not disclosed the address — or the street it’s on — due to Sarcone’s contention that it’s where he intends to live.

Article continues below this ad

In an email Sabba sent to the Times Union on Friday, he for the first time blamed “squatters” for the delays in getting the apartment ready for Sarcone.

“Early in March after his appointment I arranged for him to rent an apartment just steps from the courthouse,” Sabba said. “It was not completed yet but was on track and unfortunately the building was broken into by attempted squatters who were unable to remain but did manage to vandalize quite a bit and set the restoration back quite a bit.”

A neighbor interviewed by the Times Union said she had not seen construction activity at that residence in at least a year, and that the work that had been done after the building was purchased by the Westchester County developer a couple years ago appeared to be minor demolition work.

“And it’s been almost a year since we have even seen anybody,” she said. “They had a padlock on the door and it looked like someone kept kicking in the door. And eventually, me and my mom just called the police because we were scared … that somebody would be in there and would try to live in there, because they have been leaving their clothes and stuff out in front of the door. … We were just scared that someone was going to set (it on) fire.”

Article continues below this ad

Public records indicate Albany police responded to a complaint about squatters at the residence in January.

Definitely vacant

During the telephone interview on Tuesday, Sabba disputed that the builder needed a permit to do the renovations that he claims have been done to the property. He said that replacing a front door and exterior windows does not require a building permit.

“There’s a difference between a reconstruction and renovation; (with a) renovation, you’re only replacing old things exactly the way they were, and none of that requires a permit,” he said. “Replacing old windows does not require permit; replacing a front door that’s busted does not require permit. … As long as you’re not restructuring where things are placed, like moving the toilet, we didn’t do any of that.”

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Sabba, who also runs a tax preparation business, pleaded guilty six years ago in Westchester County to two felony charges of criminal tax fraud. He was sentenced to five years of probation. He paid restitution of about $33,000 to the state Department of Taxation and Finance and a bank, according to state officials.

His company, Tax Pro, was sentenced to a three-year conditional discharge. The investigation stemmed from allegations that Sabba had sold a previous tax preparation business for $3.2 million but failed to report that income or file his own personal tax returns in 2014. The indictment in the case also had charged Sabba with identity theft for allegedly using another person's Social Security number to open a credit account, but those charges were dropped, according to court records.

It wasn't his first brush with law enforcement: In 2009, Sabba pleaded guilty to filing a false state personal income tax return and failure to file corporation franchise tax returns, according to the state Department of Taxation and Finance. As part of his plea, he was ordered to pay $400,000 in restitution of combined back taxes, interest and penalties, officials said.

In the email he sent to the Times Union on Friday, Sabba said those cases related to a "totally bogus criminal charge that dates back to 2009 whereby a disgruntled former employee with childhood connections to a state agent managed to weasel into a minor criminal charge for which I accepted a plea in order to avoid mounting legal fees."

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Richard LaJoy, director of Albany's Department of Buildings & Regulatory Compliance, agreed that some renovations, including replacing toilets or refinishing flooring, don't require a permit as long as plumbing and electrical wiring are not relocated. But he said that the replacement of exterior windows and doors would require a permit.

LaJoy confirmed that the Albany property's residential occupancy permit expired more than a year ago, which he said is a code violation. He visited the property several days ago after the Times Union inquired about its permits and said the owner was subsequently issued a citation for failing to register it as a vacant building.

LaJoy said it's possible the city Office of General Services had placed the boards over the front door of the vacant property earlier this year in response to the neighbor's call about the door being kicked in by trespassers.

A representative from National Grid also visited the property in recent days, posting a notice on the plywood covering the front door that reads, “Your gas service is at risk of shutoff,” and requesting access to the building to inspect the gas meter and piping.

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LaJoy said the city generally confirms that vacant buildings that have been boarded up have their utilities shut off and meet other safety criteria to lessen the likelihood of flood or fire — outcomes that can lead to unwanted demolitions.

“If it changes status (and) goes from occupied to vacant, we’re supposed to be notified, because they would then have to register it as vacant,” he explained. “There’s a whole requirement under the vacant building registry that mandates all utilities (are to be) cut — gas, power and water — and then you have to schedule the interior inspection within seven days of registering it.”

The residential building and one next door are owned by limited liability companies that were established two years ago by a man Sabba described as “somebody that I do a bunch of projects with.” The man, who lists an address in Westchester County and could not be reached for comment, also owns the property next door, which is similarly boarded up but appears to be registered as a vacant building.

'It is what it is'

Although Sarcone told the Times Union the owner of the building where he intends to live had “totally built the inside,” LaJoy said a city building inspector had examined the property and saw no evidence of recent renovations.

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The neighbor said she has not seen anyone during the past two years carrying appliances, fixtures or other materials in or out of the building.

“If you go by there, you’ll see the windows are boarded up,” Sarcone told the Times Union on Monday. “Well, that’s because the (replacement) windows were backlogged due to the supply chain (issues). But they’re supposed to be in soon and … yeah, it’s … it’s not that bad. … It is what it is.”

When asked Wednesday if he had ever been inside the purportedly renovated space at any point in the more than three months since his appointment, Sarcone — whose office in the federal courthouse is within walking distance from the property — said he had not. He said he had been provided photos of the interior when he agreed to

move into the property but no longer has those images, and could not provide copies of them.

He pledged to ask Sabba “what’s going on here.”

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It’s unclear how rigidly the U.S. Department of Justice enforces the residency requirements for its U.S. attorneys and assistant U.S. attorneys, who are also subject to the rule. The statute includes an exception that allows assistant U.S. attorneys to live within 25 miles of the district where they work. There are similar exceptions for U.S. attorneys in Manhattan and Brooklyn, as well as in the District of Columbia.

But the federal statute spelling out the residency requirements for U.S. attorneys is murky on how soon they are required to move into a federal district once they have been appointed. U.S. Attorney General Pamela Bondi appointed Sarcone as an interim U.S. attorney for the Northern District on March 4.

It’s unclear whether Sarcone was even required to move into the Northern District immediately, or whether his decision to stay in hotels over the past three months is allowed under the rules.

Sarcone was part of President Donald J. Trump’s legal team during the 2016 campaign. He was tapped by the president’s administration in March to head the sprawling district, which stretches from Syracuse to Kingston in Ulster County and includes the state Capitol as well as the entire North Country. The office has 49 assistant U.S. attorneys, four special assistants, 41 staff members and nine other contract staff members.

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Under federal statutes, Sarcone’s appointment as an interim U.S. attorney has a 120-day limit; that period runs out next month. His position is considered interim because he was appointed by the U.S. attorney general and not by the president, whose U.S. attorney appointees are permanent but must be confirmed by the U.S. Senate.

On Friday afternoon, a panel of judges from New York’s Northern District was scheduled to meet with Sarcone and decide whether to extend his interim appointment. If the judges do not clear the way for Sarcone to continue in the position, the president could appoint someone else. The judges also could appoint

another person as U.S. attorney, although the president's administration could remove that person.

"I don't have to stay there," Sarcone said of the boarded-up residence. "I could get an apartment anywhere."

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June 27, 2025



Managing Editor

Brendan J. Lyons is the Times Union's executive managing editor overseeing the Capitol Bureau, investigations, and news desk. Lyons joined the Times Union in 1998 and his beats during those early years included crime and investigations. In 2013, he became editor of the investigations team. In 2017, he took the helm of the Capitol Bureau and has steered that team's award-winning coverage of state government. In 2020, he was named by the Associated Press as New York's Journalist of the Year. You can reach him at blyons@timesunion.com or 518-454-5547.

Exhibit 10

Interim US attorney removes Times Union from media list

Brendan J. Lyons ⁝ 10-12 minutes ⁝ 7/9/2025



Interim U.S. Attorney John A. Sarcone III directed his staff to remove the Times Union and its staff members from his office's media distribution list after the newspaper published a story last month about him listing a boarded-up residence in Albany as his address.

Will Waldron/Times Union

ALBANY — Interim U.S. Attorney John A. Sarcone III directed his staff to remove the Times Union and its staff members from his office's media distribution list after the newspaper published a story last month about him listing a boarded-up residence in Albany as his address.

The Times Union had not received a news release from Sarcone's office since the story was published on June 27. Sources close to Sarcone said he was incensed by the article.

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On Monday night, Sarcone sent an email to all of his assistant U.S. attorneys seeking to confirm that the “Times Union has been deleted from our distribution list.”

Sarcone, who is from Westchester County and has a primary residence in the town of Cortlandt, did not respond to the request for comment. His public information officers also declined to respond to similar requests. Overnight Tuesday, after the Times Union had asked Sarcone to comment on his decision, the directive that had been in place for roughly two weeks was apparently rescinded.

The Times Union became aware of Sarcone listing the empty building as his local residence after he listed the address in an affidavit he gave Albany County sheriff’s deputies following the June 17 incident involving a man from El Salvador, who pleaded guilty recently to menacing the U.S. attorney as he walked along Lodge Street.



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Under a U.S. statute, Sarcone, as the chief federal law enforcement officer in New York’s Northern District, is required to reside within its 32-county region. Sarcone’s appointment as an interim U.S. attorney has a 120-day limit that is scheduled to end July 17. His position is considered interim because he was appointed by the U.S. attorney general and not by the president, whose U.S. attorney appointees are permanent but must be confirmed by the U.S. Senate.

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Late last month, Sarcone met with a panel of judges from New York’s Northern District who are supposed to decide whether to extend his interim appointment. If the judges do not clear the way for Sarcone to continue in the position, the president

could appoint someone else. The judges also could appoint another person as U.S. attorney, although the president could remove that person.

It's unclear when the district judges in New York's Northern District may vote whether to appoint Sarcone to the position. District courts in other states, including Texas and Pennsylvania, have recently voted to appoint other interim U.S. attorneys who had been in those positions temporarily at the direction of President Donald J. Trump's administration.

'It is what it is'

The three-story residence in the Sheridan Hollow neighborhood that Sarcone listed as his residence hasn't had a valid occupancy permit since last year, according to city officials. It has plywood boards covering its entrance and windows, and a "No Trespassing" sign tacked to the plywood that covers the front door and prevents anyone from entering. A neighboring house, which is owned by the same Westchester County builder, is also boarded up and inaccessible.

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In a series of interviews last month, Sarcone initially told the Times Union, "That's the residence that I have — that I established when I got here." He added: "It's not that bad. … It is what it is."

A day later, when pressed on the fact the building had no occupancy permit and that the front door was boarded up, Sarcone said he had been "spending 70% of my time in hotels … because I can't get in there, yet."

Sarcone and the property's mortgage holder, Steve Sabba, who said they are friends, told the Times Union that the property had been renovated inside. Sabba offered to provide pictures confirming the work that he said had been done. Sabba had said the owner, a Westchester County man he has often done business with, was waiting for new windows to be delivered and that a new front door had arrived earlier that month.

Sabba never provided the photos to the Times Union despite repeated requests to do so.

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"The inside is fully renovated," Sabba had said. "It's like a brand-new apartment."

Sarcone later clarified that he had never been inside the residence but had been provided photos of the interior when he agreed to move into the property. But he

said he no longer had those images, and could not provide copies of them.

Sabba said that he offered Sarcone one of the units in the building after he was named interim U.S. attorney in Albany in March; at that time, he said he promised Sarcone the apartment would be ready by April or May.

A city building official told the Times Union that any significant remodeling work — beyond interior painting of a rental property — requires a building permit. There has been no building permit issued for that property since the Westchester County builder purchased it two years ago.

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When a Times Union editor subsequently offered to meet one of Sabba's representatives or the owner at the residence and view the interior renovations, Sabba rejected it.

"I do not wish to connect you with my builders as I will not subject them to being inundated with requests they do not understand," he wrote.

The Times Union has not disclosed the address — or the street it's on — due to Sarcone's contention that it's where he intends to live.

In an email Sabba later sent to the Times Union, he for the first time blamed "squatters" for the delays in getting the apartment ready for Sarcone, who he said would occupy the middle-floor unit.

Article continues below this ad

A neighbor interviewed by the Times Union said she had not seen construction activity at that residence in at least a year, and that any work that had been done after the building was purchased by the Westchester County developer a couple years ago appeared to be minor demolition work.

"And it's been almost a year since we have even seen anybody," she said. "They had a padlock on the door and it looked like someone kept kicking in the door. And eventually, me and my mom just called the police because we were scared … that somebody would be in there and would try to live in there, because they have been leaving their clothes and stuff out in front of the door. … We were just scared that someone was going to set (it on) fire."

Public records indicate Albany police responded to a complaint about squatters at the residence in January.

Two citations

Richard LaJoy, director of Albany's Department of Buildings & Regulatory Compliance, last month said that the replacement of exterior windows and doors would require a building permit.

Article continues below this ad

LaJoy confirmed that the Albany property's residential occupancy permit expired more than a year ago, which he said is a code violation. He visited the property after the Times Union inquired about its permits and said the owner was subsequently issued a citation for failing to register it as a vacant building.

On Tuesday, LaJoy said the owner of the residence also was cited months ago for failing to register another multifamily property he owns next door. That property also is boarded up.

The buildings are owned by a limited liability company that was established two years ago by a man Sabba described as "somebody that I do a bunch of projects with." The man, who lists an address in Westchester County, could not be reached for comment.

LaJoy said it's possible the city Office of General Services had placed the boards over the front door of the property Sarcone listed as his address in response to the neighbor's call earlier this year about the door being kicked in by trespassers.

Article continues below this ad

LaJoy said the city generally confirms that vacant buildings that have been boarded up have their utilities shut off and meet other safety criteria to lessen the likelihood of flood or fire — outcomes that can lead to unwanted demolitions.

"There's a whole requirement under the vacant building registry that mandates all utilities (are to be) cut — gas, power and water — and then you have to schedule the interior inspection within seven days of registering it," LaJoy said.

It's unclear how rigidly the U.S. Department of Justice enforces the residency requirements for its U.S. attorneys and assistant U.S. attorneys, who are also subject to the rule. The statute includes an exception that allows assistant U.S. attorneys to live within 25 miles of the district where they work. There are similar exceptions for U.S. attorneys in Manhattan and Brooklyn, as well as in the District of Columbia.

Article continues below this ad

Sarcone was part of Trump's legal team during the 2016 campaign. He was tapped by the president's administration in March to head the sprawling district, which stretches from Syracuse to Kingston in Ulster County and includes the state Capitol as well as the entire North Country. The office has 49 assistant U.S. attorneys, four special assistants, 41 staff members and nine other contract staff members.

An earlier version of this story misstated the day John A. Sarcone III sent an email to staff about removing the Times Union from the office's media distribution list. It was sent Monday night.

Follow New York politics with this weekday newsletter.

July 9, 2025

Managing Editor

Brendan J. Lyons is the Times Union's executive managing editor overseeing the Capitol Bureau, investigations, and news desk. Lyons joined the Times Union in 1998 and his beats during those early years included crime and investigations. In 2013, he became editor of the investigations team. In 2017, he took the helm of the Capitol Bureau and has steered that team's award-winning coverage of state government. In 2020, he was named by the Associated Press as New York's Journalist of the Year. You can reach him at blyons@timesunion.com or 518-454-5547.

Exhibit 11

Watchdog group files complaint against Acting U.S. Attorney John Sarcone

Mark Weiner | mweiner@syracuse.com ⋮ 4-5 minutes ⋮ 8/6/2025

1. Local & New York State

- Updated: Aug. 06, 2025, 4:12 p.m.
- Published: Aug. 06, 2025, 3:58 p.m.



Interim U.S. Attorney John A. Sarcone III holds a criminal complaint against an accused online sexual predator on Monday, April 28, 2025, during a news conference at the James T. Foley Federal Courthouse in Albany, N.Y. Will Waldron | Albany Times Union

By

- Mark Weiner | mweiner@syracuse.com

Washington – A liberal watchdog group filed a complaint Wednesday seeking to have President Trump's top prosecutor in a 32-county region of Upstate New York

punished for unprofessional and partisan behavior.

The Campaign for Accountability asked an attorney's grievance committee to investigate Acting U.S. Attorney John A. Sarcone III for "erratic and potentially illegally conduct" since he took office four months ago in the Northern District of New York.

The group said Sarcone may have violated New York's rules governing attorney conduct for a series of actions that followed a confrontation involving Sarcone outside of an Albany hotel in June.

Sarcone called the local sheriff after a knife-wielding undocumented immigrant approached him outside the hotel. Sarcone asked for the man to be charged with attempted murder. In an interview on Fox News, he blamed the incident on New York's "sanctuary" policies.

But after reviewing video surveillance, Albany County prosecutors dismissed the initial charges and downgraded the allegations to misdemeanor charges of menacing and weapons possession.

In a police report about the incident, Sarcone listed his home address as a boarded-up house in Albany, the Albany Times Union reported. After that report was published, the newspaper was removed from the U.S. Attorney's Office media distribution list.

Michelle Kuppersmith, executive director of the Campaign for Accountability, said it all adds up to unprofessional conduct for a person who oversees U.S. Attorney offices in Syracuse, Albany and Binghamton.

"I think it's deeply concerning a public servant thinks it's fine to misconstrue a situation for what appears to be political purposes," Kuppersmith told syracuse.com | The Post-Standard.

"All Americans should have trust that their public servants are there to serve them and not their political beliefs," Kuppersmith said.

Sarcone, who works out of the U.S. Attorney's Office in Albany, did not respond to a request for comment about the group's complaint.

Sarcone had no experience as a prosecutor. He worked on Trump's political campaigns as a lawyer and was appointed interim U.S. attorney in March by Attorney General Pam Bondi.

When Sarcone's temporary term expired after 120 days last month, a panel of U.S. District Court judges in the Northern District of New York refused to extend his term.

But Trump's Justice Department used a loophole to keep Sarcone on the job for at least an additional 210 days by appointing him a "special attorney" serving Bondi in the Northern District.

The watchdog group's complaint was filed today with the Attorney Grievance Committee for New York's Third Judicial Department.

The committee's 21 members are volunteers appointed by New York's Appellate Division, Third Judicial Department. Eighteen of the committee members are lawyers and three are non-lawyers.

Kuppersmith said her group wants to see Sarcone reprimanded, sanctioned or ordered to surrender his bar association license.

The grievance committee has wide discretion on how to proceed. It can dismiss the complaint, issue a confidential letter admonishing Sarcone, or impose "public discipline" in cases of professional misconduct.

The committee can also refer the case to the Appellate Division for a formal disciplinary hearing.

The Campaign for Accountability has also filed ethics complaints against two other Trump appointees in the Justice Department – New Jersey U.S. Attorney Alina Habba and Emil Bove.

MORE BY MARK WEINER

Th group filed a complaint against Bove after he moved to drop charges against New York City Mayor Eric Adams. In that case, an attorney grievance committee declined to act and transferred the complaint to the Justice Department.

The U.S. Senate voted last week to confirm Bove to a lifetime seat as a judge on the Third Circuit Court of Appeals.

Got a tip, comment or story idea? Contact Mark Weiner at 571-970-3751.

Exhibit 12

Sarcone hit with ethics complaint after retaliating against Times Union

Austin C. Jefferson : 4-5 minutes

Acting U.S. Attorney for the Northern District of New York John Sarcone III's troubles aren't over yet. After the Times Union reported he was using a false address in Albany to comply with residency requirements, he removed Times Union reporters from press lists, and now good government groups and First Amendment advocates have filed an ethics complaint against the Trump appointee, calling for an investigation into his conduct.

On Aug. 11, Reinvent Albany, Demand Progress Education Fund and Freedom of the Press Foundation filed an ethics complaint with the Attorney Grievance Committee for the Third Judicial Department, claiming that Sarcone may have violated several rules during his tenure. They allege that Sarcone may have failed to provide competent representation, made statements that likely could have caused material prejudice, engaged in conduct resulting in dishonesty, fraud, deceit or misrepresentation and engaged in conduct prejudicial to the administration of justice. The allegations stem from the Times Union debacle concerning his place of residence and a claim that he overstated an incident where a man threatened him with a knife. Sarcone pushed for an attempted murder charge before the Albany County District Attorney's office lessened the charge to second-degree menacing.

This is at least the second ethics complaint filed against Sarcone. The acting U.S. attorney already has a separate ethics complaint against him stemming from the residency issue, filed by the Campaign for Accountability earlier this month. Sarcone's office declined to comment.

"A prosecutor who so flagrantly disregards his ethical and professional obligations and tramples over the First Amendment rights of the press should not be empowered to enforce the laws of our nation," said Kate Oh, special advisor to the Demand Progress Education Fund. "Sarcone's professional history is littered with red flags and must be investigated. No less than the public's faith in the rule of law is at stake."

Sarcone ran for Westchester County district attorney as a Republican in 2024 but lost to eventual winner Susan Cacace, a Democrat. He was later nominated by the

Trump Administration to be U.S. attorney for the Northern District of New York, which covers the Capital region, North Country, Central New York and parts of the Southern Tier and Hudson Valley. But neither the U.S. Senate nor federal judges confirmed him, so the Trump Administration made him a special attorney for the region, devoid of term limits and traditional oversight.

Story Continues Below Sponsor Message

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Questions were eventually raised about his residence, since he had lived and campaigned in Westchester just a year before being named U.S. attorney for the Northern District of New York. The Times Union reported that Sarcone's listed address was a boarded-up building. Following that report, Sarcone ordered his staff to remove Times Union journalists from the office's press distribution list.

The new ethics complaint stems primarily from Sarcone's retaliation against the Times Union. It comes at a time when news outlets are facing increased scrutiny and, in some cases, hostility from government officials. Newsday is suing Nassau County Executive Bruce Blakeman after he removed them as the county's paper of record. Public media is seeing funding cuts, with Rep. Elise Stefanik referring to the organizations as "stenographers for the Democratic Party." A Daily News reporter was banned from New York City Mayor Eric Adams' press conference after complaining about not getting to ask questions for months. In Washington, D.C., The Associated Press saw its White House access revoked after it refused to refer to the Gulf of Mexico as the Gulf of America.

"Mr. Sarcone's flagrant misuse of his authority to retaliate against the Albany Times-Union and his repeated, well-documented dishonesty are completely unacceptable, unethical and violate basic democratic norms and rules of professional conduct," Reinvent Albany Executive Director John Kaehny said in a statement. "The Times Union is one of the most respected newspapers and civic institutions in New York, and it's chilling to see it attacked by an unethical U.S. Attorney with a personal grievance."

Exhibit 13

Prosecutor probing NYAG hit with bar complaint for "potentially illegal conduct"

The subject of the complaint is Trump's man in Albany: John Sarcone, who is now targeting the New York AG who won a half-billion dollar verdict against his boss.

ADAM KLASFELD
AUG 08, 2025

164 2 48 Share



Northern District of New York's interim U.S. Attorney John A. Sarcone III (Will Waldron/Albany Times Union via Getty Images)

Editor's Note:

This article will be part of our ongoing coverage of Trump-appointed U.S. Attorneys staying in their positions without Senate or judicial confirmations. To support our investigation, become a free or paid subscriber to All Rise News.

Despite having no prosecutorial experience, and having spent most of his term mired in scandal, **Donald Trump**'s top prosecutor in Albany **John Sarcone** has the

qualifications this White House prizes most: fealty to the president and a willingness to go after his enemies.

Sarcone's investigation against one of Trump's longtime targets, New York Attorney General **Letitia James**, went public on Friday, but Sarcone may not have his own house in order, according to a recent bar complaint accusing him of "potentially illegal conduct."

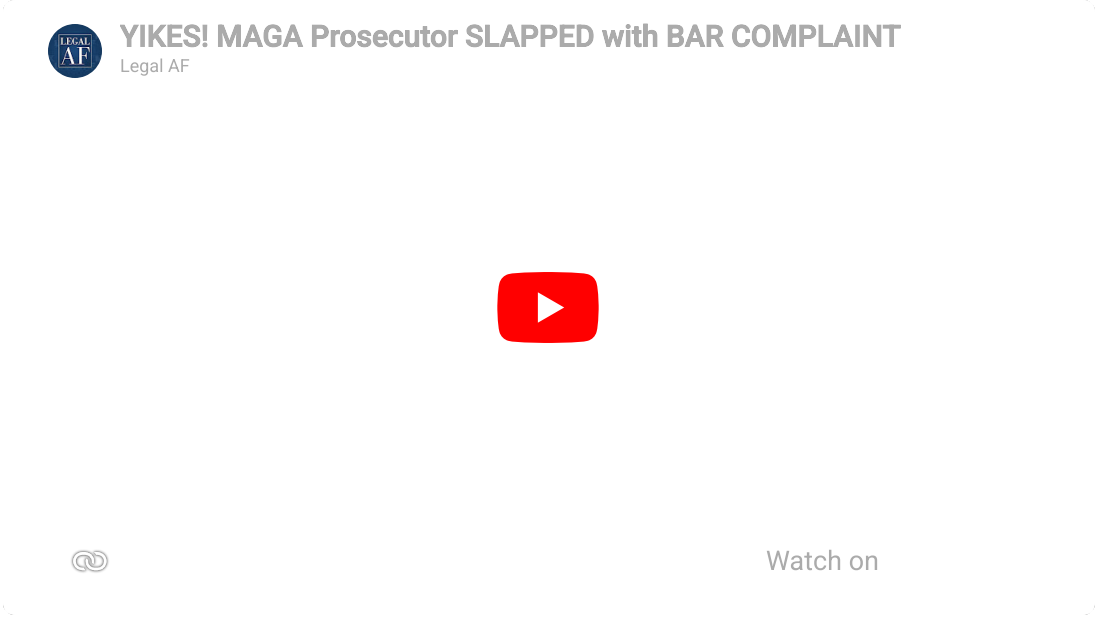
"In just the four months since he was initially sworn in as Interim U.S. Attorney for the Northern District of New York, Mr. Sarcone has engaged in erratic and potentially illegal conduct," the bar complaint, filed on Wednesday by the watchdog group Campaign for Accountability, states.

A staunch MAGA loyalist, Sarcone used to work for Trump's 2016 campaign, and he is earning a reputation as a Trump hatchet man. In 2023, Sarcone wrote that then-President **Joe Biden** should be tried for "treason," and his investigation into Attorney General James involves two of Trump's grievances: the half-billion dollar civil fraud verdict against Trump and a lawsuit against the National Rifle Association.

"Any weaponization of the justice system should disturb every American," a spokesperson for James wrote in a statement. "We stand strongly behind our successful litigation against the Trump Organization and the National Rifle Association, and we will continue to stand up for New Yorkers' rights."

Whether Sarcone has the authority to open any investigation remains an open question: Last month, the judges of his district refused to extend Sarcone's term, and Trump's Justice Department unilaterally kept Sarcone in office, without Senate or judicial approval, by giving him a new title: "special attorney."

Watch the All Rise News video breakdown below.



“Feared for my life”

In June, Sarcone had a troubling encounter with an undocumented immigrant named **Saul Morales-Garcia** outside a Hilton Hotel in Albany. In Sarcone’s telling, Morales-Garcia “charged” at him with a knife and tried to murder him.

“I feared for my life but I couldn’t let this individual harm and potentially kill others,” Sarcone wrote in an official press release announcing Morales-Garcia’s attempted murder charge.

Unlike traditional U.S. Attorney press releases, the announcement of Morales-Garcia’s charges had no mention of the presumption of innocence, and Sarcone went on a national press blitz about the encounter. Sarcone dramatically recreated the encounter on *Fox and Friends*, and he regaled his local TV stations about Morales-Garcia’s rap sheet.

“Now this individual, ok, had been deported in 2010,” Sarcone told a press gaggle. “I’m not gonna say what the crime was because it’s horrific, but it was of moral turpitude. You could look that up.”

According to Trump’s Department of Homeland Security, Morales-Garcia was convicted of petit larceny before his 2010 deportation. Sarcone blamed Morales-Garcia’s return to the United States on Biden’s “open borders” policy, but Homeland Security says Morales-Garcia reentered the country at an “unknown date” between April 2010 and December 2021, a time frame that could include the four years of Trump’s first term.

Other elements of Sarcone's story didn't add up: *Albany Times Union* published the surveillance video of Sarcone's encounter with Morales-Garcia, who could be seen brandishing a knife from a distance. The footage hardly showed a visual record of a brush with death.

"At no time does the video show Mr. Morales-Garcia anywhere near Mr. Sarcone; he is yelling at him from a distance," the bar complaint notes.

Authorities dropped the attempted murder charge against Morales-Garcia, who received a 90-day sentence for a single count of misdemeanor menacing on July 3.

Less than two weeks later, the Board of Judges serving for the Albany-based Northern District of New York declined to extend Sarcone's term.

"NO TRESPASSING"

Sarcone's tenure got more tangled from there.

The *Albany Times Union* noticed a remarkable detail in Sarcone's sworn deposition to the sheriff's office about his encounter with Morales-Garcia: an address, which reporters visited only to find a boarded up house. Under federal law, U.S. Attorneys must reside in the districts in which they serve, and local NBC station WNYT broadcast images of the "NO TRESPASSING" sign on the plywood-blockaded entrance.



Screengrab from WNYT

Sarcone claimed that the property had been fully renovated inside and connected the *Times Union* to Westchester-based developer **Steve Sabba**, the mortgage holder of the

property.

Sabba, identified in the article as a former client of Sarcone's private law practice, told the newspaper that the apartment was delayed because of "supply chain" issues resulting from Trump's tariffs. When the *Times Union* sought to verify the account, Sabba accused the paper of preparing a "hit piece." Sabba had been convicted of felony tax fraud on two separate occasions, the paper noted.



Steve Sabba.

Sarcone removed the *Times Union*, the New York capital's paper of record, from the Northern District of New York's media distribution list after their investigation. The Campaign for Accountability described the paper's "blacklisting" as an abuse of power.

The group's bar complaint accuses Sarcone of violating several ethics rules, including one barring "conduct involving dishonesty, fraud, deceit or misrepresentation."

The Justice Department and U.S. Attorney's Office for the Northern District of New York did not respond to an email requesting comment.

A nationwide trend

A former 2016 Trump campaign lawyer, Sarcone is just one example of a nationwide trend of MAGA U.S. Attorneys remaining in office after judges refused to extend their terms.



Alina Habba (Photo by Win McNamee/Getty Images)

Trump's former personal lawyer **Alina Habba** became an interim appointee for the District of New Jersey before the Justice Department anointed her as a "special attorney" through a similar mechanism. The Campaign for Accountability also filed a bar complaint against Habba in June.

Legal experts warn that Trump's insisting on keeping loyalists in charge of the U.S. Attorney positions across the country without Senate or judicial approval could risk compromising cases.

In New Jersey, two federal criminal defendants charged with drug and firearm offenses recently won the opportunity to argue that Habba should be disqualified from prosecuting them because she was appointed illegally. The men, **Julien Giraud Jr.** and **Julien Giraud III**, lost their bid to dismiss their indictment altogether because they were indicted months after her appointment. It is unclear whether defendants who were indicted after Habba became "special attorney" would have been more successful.

"Because this is unprecedented, it is hard to evaluate the risk to the DOJ," said **Mitchell Epner**, a former federal prosecutor in the District of New Jersey. "Defendants (civil and criminal) will make motions to dismiss cases on the grounds that the person purporting to be the U.S. Attorney is not properly in that seat."

At least four Trump loyalists across the country have extended U.S. Attorney terms without Senate confirmation, including Habba in New Jersey, Sarcone in northern

New York, **Sigal Chattah** in the District of Nevada, and **Bill Essayli** in the Central District of California.

The legitimacy of Habba's extended term heads toward a reckoning soon. Oral arguments are slated for Aug. 15.

Read the bar complaint in full here.

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Denise Wallace Aug 8, 2025

The Republican Party acts as if they are in a soap opera. Too bad this is very real.

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Bobby jr Aug 10, 2025

Adam your intellect & obedience to honest journalism in the legal sphere is exactly what we need these days!

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Exhibit 14

State of New York
Supreme Court, Appellate Division
Third Judicial Department
Attorney Grievance Committee
100 Great Oaks Boulevard, Suite 129
Albany, NY 12203-7919
http://www.nycourts.gov/ad3/agc

Elena Jaffe Tastensen, Esq.
Committee Chair

Phone: (518) 285-8350
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Email: ad3agc@nycourts.gov
(Service by email/facsimile is accepted/preferred)

Monica A. Duffy
Chief Attorney

CONFIDENTIAL

April 1, 2026

VIA: EMail and First-Class Mail

Michelle Kuppersmith
Campaign for Accountability
611 Pennsylvania Avenue, S.E. #337
Washington, DC 20036
EMail: mkuppersmith@campaignforaccountability.org

Dear Ms. Kuppersmith:

Following the investigation of your complaint of professional misconduct against Attorney John A. Sarcone, III, dated August 6, 2025, the matter was reviewed and considered by the Attorney Grievance Committee for the Third Judicial Department ("Committee") at a recent meeting.

Please be advised that pursuant to the Rules for Attorney Disciplinary Matters ("Atty. Disc. Rules"), [22 NYCRR] §1240.7(d)(2), after deliberation, the Committee determined there was a sufficient basis for a finding of professional misconduct and took appropriate action. With this action the matter is concluded.

We regret that we cannot be more specific about the nature of the action taken and in accordance with Judiciary Law §90(10) and Atty. Disc. Rules §1240.18, all papers, records and documents of a disciplinary investigation and proceeding are sealed and deemed private and confidential.

I assure you that the Committee dealt with your complaint in a fair and unbiased manner, and we thank you for bringing this matter to our attention.

Very truly yours,

Elena Jaffe Tastensen, Chair
Attorney Grievance Committee
Third Judicial Department
EJT/AMC/amr

Exhibit 15

BREAKING Troopers charge five in alleged child exploitation case in Fishkill 1h ago

OPINION

Editorial: Sarcone sanctioned — but what for?

The Northern District's top federal prosecutor is disciplined for "professional misconduct"; New Yorkers deserve to know more

By **Times Union Editorial Board**, *Opinion*
May 21, 2026



John A. Sarcone III at a September 2025 news conference at the U.S. Attorney's Office in Albany.
Will Waldron/Times Union

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Editorial: Sarcone sanctioned — but what for?
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Here's what we know: A state disciplinary committee found there was "sufficient basis for a finding of professional misconduct" against First Assistant U.S. Attorney John A. Sarcone III, who leads the federal prosecutor's office in the far-flung Northern District of New York.

Something else we know from the Attorney Grievance Committee of New York's Third Judicial Department: Its confidential investigation was prompted by a complaint filed by the Campaign for Accountability, a left-leaning watchdog group based in Washington, D.C. The complaint, sent to the committee last August, listed three potential violations of the state's Rules of Professional Conduct for attorneys.

It alleged that Mr. Sarcone had pushed local law enforcement to charge an El Salvadoran migrant with attempted murder after the man had threatened the prosecutor with a knife outside an Albany hotel; the man ultimately pleaded guilty to misdemeanor menacing after video evidence failed to back up Mr. Sarcone's account. The complaint also noted that the prosecutor had signed an affidavit stating that his residence was, as the Times Union's Brendan J. Lyons reported last summer, a boarded-up and vacant Sheridan Hollow rowhouse; Mr. Sarcone's cranky response to that story was to briefly drop this newspaper from his office's media distribution list.

The letter from the Grievance Committee to the Campaign for Accountability does not identify which of these allegations (or maybe all of them) resulted in the finding of professional misconduct. State Judiciary Law and the disciplinary committee's rules, it noted, require that "all papers, records and documents of a disciplinary investigation and proceeding are sealed and deemed private and confidential." Based on the rules cited by the committee, it appears that Mr. Sarcone received a "letter of advisement" or an "admonition" specifying where he went wrong

There is, however, nothing barring Mr. Sarcone from revealing what the disciplinary committee disciplined him for. In the interests of preserving his own good (or thereabouts) name and the larger cause of federal justice, we implore him to do so posthaste. How can the public be able to fully trust his word absent a clean breast of these matters? How can judges or opposing counsel view him as an honest broker?

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Don't go looking for transparency or accountability from his bosses at the Justice Department: An agency spokesperson told Politico that Mr. Sarcone "was a victim of a violent crime by a criminal alien, and this baseless complaint is nothing more than a politicized attack on a United States Attorney."

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Wouldn't disclosing the results of the committee's investigation — not mentioned in the statement above — reveal whether the complaint was baseless or righteous?

Perhaps because it is hemorrhaging attorneys, the Justice Department has in recent months escalated its efforts to protect its people from state bar disciplinary enforcement. In March, this editorial board opined on former Attorney General Pam Bondi's desire to obtain the power to short-circuit state disciplinary probes by making them subject to her "review." Last week, Ms. Bondi's former office filed a civil complaint against the bar disciplinary officials in the District of Columbia related to their efforts to disbar former Assistant Attorney General Jeffrey Clark over his ham-fisted attempts to undo the results of the 2020 election by promoting baseless allegations of wrongdoing.

It's unlikely the Justice Department will go after the Third Department's disciplinary apparatus in similar fashion: The allegations against Mr. Sarcone involve matters in which he, as opposed to the occupant of the White House, is the principal player.

Then again, someone selected Mr. Sarcone as the person best equipped to dole out federal justice in our region. That person, however, isn't an attorney.

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May 21, 2026

Times Union Editorial Board

OPINION

Editorials are the institutional view of the Times Union. They represent the consensus of the editorial board, whose members are George Hearst, publisher; Casey Seiler, editor; Akum Norder, senior editor for opinion; Jay Jochnowitz, editor at large; Tena Tyler, senior editor for engagement; and Chris Churchill, columnist and editorial writer. While the Times Union's news coverage frequently informs our editorials, the board's opinions have no bearing on that coverage.

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Opinion



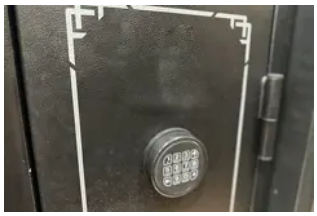
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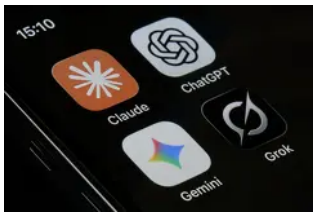


OPINION

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OPINION

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Exhibit 16

Top federal prosecutor in New York committed misconduct, watchdog says

The move comes after Campaign for Accountability raised concerns about John Sarcone, the top prosecutor in the U.S. attorney's office for the Northern District of New York.



John Sarcone, who is leading the U.S. attorney's office in the northern district of New York, speaks at a press conference in Albany. | AP Photo/Michael Hill

By ERICA ORDEN
05/11/2026 02:38 PM EDT

A committee of New York state's appellate court system found last month that John Sarcone, the embattled federal prosecutor leading the U.S. attorney's office for the Northern District of New York, committed professional misconduct, according to a Washington-based watchdog organization.

The nature of the misconduct and of the sanctions were unclear.

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AD

“The Committee determined there was a sufficient basis for a finding of professional misconduct and took appropriate action,” a letter from Elena Jaffe Tastensen, the chair of the Third Judicial Department’s attorney grievance committee, said. “With this action the matter is concluded.”

A request for comment left with Sarcone’s office wasn’t immediately returned.

Though the letter didn’t disclose the conduct in question, a complaint by the watchdog organization, Campaign for Accountability, filed last August, listed several incidents that have dogged Sarcone.

One, from last June, concerns an altercation Sarcone had with a knife-wielding man outside a hotel in Albany that resulted in Sarcone filing official papers with the local sheriff’s office saying the man threatened his life and motioned “as if he was going to attempt to cut my throat.” According to the complaint, the Albany County district attorney found the surveillance video didn’t support Sarcone’s claims, dropping an attempted murder charge and reducing a weapons violation to a misdemeanor.

The complaint also noted Sarcone’s statements and actions related to his residency after the address he listed on the deposition concerning the altercation was exposed by a local newspaper as a boarded-up building. The watchdog also notified the committee that following a dustup over his residency, Sarcone retaliated against the newspaper, the Albany Times-Union, by removing it from his office’s press distribution list.

A spokesperson for the Justice Department said “John Sarcone was a victim of a violent crime by a criminal alien, and this baseless complaint is nothing more than a politicized attack on a United States Attorney.”

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Sarcone’s tenure at the U.S. attorney’s office hasn’t been short on drama. He was one of a spate of U.S. attorneys installed by the Trump administration and then disqualified by federal judges who found the administration had used illegal mechanisms to put loyalists in place while circumventing Senate confirmation and judicial appointment processes.

Upon his disqualification, U.S. District Judge Lorna Schofield, appointed by President Barack Obama, also tossed a pair of subpoenas Sarcone had issued to longtime Trump foe New York Attorney General Letitia James related to two politically charged cases: her office’s civil fraud lawsuit against Trump, his two eldest sons, his business associates and his family business; and her office’s civil lawsuit against the National Rifle Association.

The Justice Department is appealing Schofield’s decision.

Despite being disqualified as U.S. attorney, Sarcone has continued to lead the office from its second-in-command post as first assistant U.S. attorney.

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Exhibit 17

ABAJOURNAL

ETHICS

Trump's New York US attorney pick committed misconduct, disciplinary investigation finds

BY SHIRLEY HENDERSON (HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/36935/)

MAY 12, 2026, 2:35 PM CDT

President Donald Trump's appointee for U.S. attorney in Albany, New York, was found to have committed professional misconduct, according to the New York judicial committee that reviews complaints against attorneys.

After John Sarcone III (https://www.abajournal.com/web/article/interim-us-attorney-gets-new-title-after-rejection) was appointed as the interim U.S. attorney for the Northern District of New York, the Attorney Grievance Committee for the Appellate Division's Third Judicial Department of the New York Supreme Court found "sufficient basis" for a complaint of professional misconduct.

Sarcone, who had no prosecutorial experience before leading the U.S. attorney's office, was appointed by Trump. Last summer, federal judges in the Northern District of New York did not extend Sarcone's appointment after it expired, prompting the Department of Justice to give him a new title and continue to lead the office. In January (https://www.abajournal.com/news/article/us-attorney-appointed-by-federal-judges-in-new-york-abruptly-fired-by-trump-administration), a federal judge ruled that Sarcone was appointed as the interim U.S. attorney illegally, according to Bloomberg Law (https://news.bloomberglaw.com/us-law-week/trump-prosecutor-in-albany-disqualified-in-win-for-ny-ag-james).

Claims that Sarcone "engaged in erratic and potentially [illegal] conduct" were submitted by the nonprofit Campaign for Accountability, according to coverage by Bloomberg Law (https://news.bloomberglaw.com/us-law-week/albany-prosecutor-hit-with-state-professional-misconduct-finding).



Interim U.S. Attorney John Sarcone III of the Northern District of New York delivers a speech after being sworn in March 17, 2025, at the James T. Foley U.S. Courthouse in Albany, New York. (Photo by Will Waldron/The Albany Times Union via Getty Images (https://www.gettyimages.com/detail/news-photo/attorney-for-the-northern-district-of-new-york-john-a-news-photo/2205770343?adppopup=true))

Elena Jaffe Tastensen, the chair of the grievance committee, noted that the 21-member panel "took appropriate action" and concluded the matter, according to a letter dated April 1. Much of the complaints about Sarcone centered on an alleged assault attempt made last June, and that he falsely stated his residential address.

Write a letter to the editor, share a story tip or update, or report an error. *(/contact?referrer=https://www.abajournal.com/news/article/trumps-pick-for-albany-us-attorney-committed-professional-misconduct-according-to-disciplinary-investigation)*

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Exhibit 18

State panel finds top federal prosecutor in Upstate NY committed professional misconduct

Jon Moss | jmoss@syracuse.com ⋮ 5-6 minutes ⋮ 5/12/2026

Albany, N.Y. — A New York state panel recently found that the top federal prosecutor for much of Upstate New York committed professional misconduct.

The Attorney Grievance Committee for the state court system's Third Judicial Department determined there was "a sufficient basis for a finding of professional misconduct" against John Sarcone III, the first assistant U.S. attorney for the Northern District of New York, records show.

The Albany-based committee then "took appropriate action," according to a letter from its chair, Saratoga Springs lawyer Elena Jaffe Tastensen, to the group that filed the complaint.

Tastensen wrote in the April 1 letter that she could not provide further details about what action was taken by the committee. Under state law, all records from disciplinary investigations into lawyers are sealed.

The Justice Department in Washington, asked for further information about the misconduct and action taken by the grievance committee, issued a statement.

"John Sarcone was a victim of a violent crime by a criminal alien, and this baseless complaint is nothing more than a politicized attack on a United States Attorney," the department said.

A liberal watchdog group, the Campaign for Accountability, filed the complaint with the committee last summer regarding Sarcone.

The group said Sarcone may have violated state rules for attorney conduct for his actions after a confrontation involving Sarcone outside of an Albany hotel.

Sarcone called the county sheriff after a man with a knife approached him outside of the hotel. He later wrote in a police statement that the actions by the man, an undocumented migrant from El Salvador, made him fear for his life.

Albany County prosecutors initially charged the man with attempted murder. After reviewing surveillance footage of what happened, prosecutors dropped that charge and instead pursued misdemeanors.

The complaint also raised questions about where Sarcone lived. Federal law generally requires a U.S. Attorney to live in the district where he or she works.

In a police report about the hotel incident, Sarcone listed a boarded-up home in Albany as his home address, according to the Albany Times Union. After the articles, the newspaper was removed from the media distribution list for the U.S. attorney's office.

The grievance committee had discretion on how to respond to the complaint. It could have dismissed it, issued a confidential letter admonishing Sarcone or imposed "public discipline" on him.

Michelle Kuppersmith, the Campaign for Accountability's executive director, said the grievance committee should have released more information about the case.

"Mr. Sarcone's pattern of conduct reflects on his credibility as an officer of the court, so any court in which he appears — along with the public — deserves to know what he was sanctioned for and why," she said.

Sarcone's tenure at the top of the Northern District has been tumultuous.

A judge ruled in January that Sarcone was not authorized under federal law to be in the position.

A federal appeals court in New York City heard arguments in the case last week.

Sarcone is one of several prosecutors appointed by the Trump administration who have been found to be improperly in their position. Judges have issued similar rulings against top federal prosecutors in California, Nevada, New Jersey and Virginia.

Sarcone, a downstate Republican and Trump loyalist, had no experience as a prosecutor when he was put in charge of the U.S. attorney's office last year on an interim basis.

Sarcone worked on Trump's 2016 presidential campaign. He has worked for decades as a lawyer in private practice, including as an attorney for two towns and a union representing railroad employees.

A panel of Northern District judges refused last summer to keep Sarcone around after his interim appointment expired. The Trump administration put him back in office the same day by hiring him as a “special attorney.”

The Trump administration has used a similar playbook across the country to bypass the U.S. Senate confirmation process and shoehorn political appointees into U.S. attorney’s offices.

In February, a panel of Northern District judges effectively fired Sarcone by installing a longtime lawyer as U.S. attorney, as permitted under federal law.

Trump’s Justice Department fired the lawyer, Donald Kinsella, hours after he was sworn into the position. That put Sarcone in control again.

Trump has not submitted a nominee for the U.S. Senate to consider.

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