No. 07-751

In the Supreme Court of the United States

CORDELL PEARSON, ET AL., PETITIONERS

v.

AFTON CALLAHAN

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE SUPPORTING PETITIONERS

GREGORY G. GARRE
Acting Solicitor General
Counsel of Record
MATTHEW W. FRIEDRICH
GREGORY G. KATSAS
Acting Assistant Attorneys General
MICHAEL R. DREEBEN
Deputy Solicitor General
MALCOLM L. STEWART
Assistant to the Solicitor General
ANN WALLACE
BARBARA L. HERWIG
EDWARD HIMMELFARB
Attorneys
Department of Justice
Washington, D.C. 20530-0001
(202) 514-2217

QUESTION PRESENTED

1. Whether the entry of police officers into respondent's residence, immediately after an undercover informant alerted the officers that criminal activity was taking place in the house, was consistent with the Fourth Amendment.

2. Whether petitioners were entitled to qualified immunity from respondent's damages suit.

3. Whether the Court's decision in *Saucier* v. *Katz*, 533 U.S. 194 (2001), should be overruled.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases:

Cases—Continued: Page

Cases—Continued: Page

Constitution and statutes:

In the Supreme Court of the United States

No. 07-751

CORDELL PEARSON, ET AL., PETITIONERS

v.

AFTON CALLAHAN

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

BRIEF FOR THE UNITED STATES AS AMICUS CURIAE SUPPORTING PETITIONERS

INTEREST OF THE UNITED STATES

This case involves a Fourth Amendment challenge to an arrest performed during an undercover law-enforcement operation. That challenge arises in the context of a personal-capacity damages action against government officers who are alleged to have violated the Constitution. The Court's decision will directly apply to similar federal law-enforcement activities, as well as to suits against individual federal officers under *Bivens* v. *Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971). See, *e.g.*, *Harlow* v. *Fitzgerald*, 457 U.S. 800, 818 & n.30 (1982) (noting that the Court's decisions equate the qualified immunity of state officials sued under 42 U.S.C. 1983 with the immunity of federal officers sued directly under the Constitution).

The United States therefore has a substantial interest in the Court's resolution of this case.

STATEMENT

1. This damages action arises out of a police entry into respondent's residence on the night of March 19, 2002. Petitioners are police officers who had arranged for a confidential informant, Brian Bartholomew, to enter respondent's house, with respondent's consent, to purchase methamphetamine. Petitioners monitored the conversation inside the house through a wire that Bartholomew wore. Pet. App. 2-3, 31-34.

After Bartholomew entered the house, he gave respondent a marked $100 bill in exchange for a bag of methamphetamine taken from a larger quantity of the drug stored in respondent's kitchen freezer. Bartholomew then signaled to petitioners that the narcotics sale had been completed. Immediately thereafter, petitioners entered the house through a porch door and saw respondent drop a plastic bag later determined to contain methamphetamine. Respondent was arrested and charged with possession and distribution of methamphetamine. The entry of respondent's house was conducted without a search or arrest warrant. Pet. App. 3-4, 34-36.

2. During state criminal proceedings, respondent moved to suppress the methamphetamine and drug paraphernalia found in his residence. The state trial court denied the motion to suppress, holding that the warrantless search of respondent's house was justified by exigent circumstances. Respondent entered a conditional guilty plea, reserving his right to appeal the denial of the motion to suppress. Pet. App. 4, 37.

The Utah Court of Appeals reversed respondent's conviction. *State* v. *Callahan*, 93 P.3d 103 (Utah Ct. App. 2004). On appeal, "the State concede[d] that the trial court erred in finding that the entry was justified by exigent circumstances." *Id.* at 106. The court of appeals rejected, as unsupported by the record, the State's alternative argument that suppression was unwarranted because the officers would inevitably have discovered the evidence through alternative means. *Id.* at 106-107; see Pet. App. 4, 37-39.

3. Pursuant to 42 U.S.C. 1983, respondent then filed a civil damages action against petitioners and others in federal district court, alleging that petitioners' conduct had violated his rights under the Fourth Amendment. The district court granted petitioners' motion for summary judgment. Pet. App. 30-59.

The district court first considered "the doctrine of 'consent-once-removed.'" Pet. App. 47. Under that doctrine, "[t]he consent [to enter a residence] given to the first person, generally a law enforcement officer but sometimes an informant, is then transferred to the entering police officers once the first person requests assistance from the police based on probable cause." *Ibid.* The court noted that "the 'consent-once-removed' doctrine has been upheld and applied in the Sixth, Seventh, and Ninth Circuits," and "has been explicitly applied not only to undercover police agents, but also to government and confidential informants in the Sixth and Seventh Circuits." *Id.* at 53. Rather than decide whether the police entry in this case was constitutional, however, the district court stated that "the simplest approach is to assume that the Supreme Court will ultimately reject the doctrine and find that searches such as the one in

this case are not reasonable under the Fourth Amendment." *Ibid.*

Even assuming the existence of a constitutional violation, however, the district court concluded that petitioners were entitled to qualified immunity from suit because their conduct had not violated any clearly-established constitutional right. Pet. App. 53-58. The court recognized that the general principles underlying respondent's constitutional claim—*e.g.*, that "warrantless searches of a person's home are presumptively unreasonable"—had been clearly established at the time of the police entry in this case. *Id.* at 54-55. The court explained, however, that "on the specifics of this case, the officers had a reasonable argument that the 'consent-once-removed' doctrine justified their actions," particularly given the acceptance of that doctrine by three federal courts of appeals. *Id.* at 55.

4. A divided panel of the court of appeals reversed. Pet. App. 1-29.

a. The court of appeals held that petitioners' conduct violated respondent's Fourth Amendment rights. Pet. App. 8-14. The court recognized that "[t]he 'consent-once-removed' doctrine applies when an undercover officer enters a house at the express invitation of someone with authority to consent, establishes probable cause to arrest or search, and then immediately summons other officers for assistance." *Id.* at 11. The court further acknowledged that "[t]he Sixth and Seventh Circuits have broadened this doctrine to grant informants the same capabilities as undercover officers." *Ibid.* The court held, however, that it was appropriate to distinguish for these purposes between undercover police officers and private citizens serving as confidential informants, and that Tenth Circuit case law supported application of the

"consent once removed" doctrine only as to the former. *Id.* at 11-14.

b. The court of appeals further held that the Fourth Amendment right it recognized was clearly established at the time of petitioners' allegedly unconstitutional conduct. Pet. App. 14-18. The court stated that, "[i]n this case, the relevant right is the right to be free in one's home from unreasonable searches and arrests." *Id.* at 15. The court determined that, under the clearly established precedents of this Court and the Tenth Circuit, "warrantless entries into a home are per se unreasonable unless they satisfy the established exceptions," *id.* at 16, and that "the only two exceptions to the warrant requirement are consent and exigent circumstances," *id.* at 17. Against that backdrop, the court concluded, petitioners could not reasonably have believed that their conduct was lawful because petitioners "knew (1) they had no warrant; (2) [respondent] had not consented to their entry; and (3) his consent to the entry of an informant could not reasonably be interpreted to extend to them." *Ibid.*

c. Judge Kelly dissented. Pet. App. 18-29. He explained that, by inviting Bartholomew into his house and participating in a narcotics transaction there, respondent had compromised the privacy of the residence and had assumed the risk that Bartholomew would reveal their dealings to the police. *Id.* at 22-23. Judge Kelly therefore would have held that "no constitutional violation occurred in this case." *Id.* at 26.

Judge Kelly further concluded that, even if petitioners' conduct was found to be unlawful, petitioners were entitled to qualified immunity from respondent's damages suit. Pet. App. 26-29. He explained that the purported constitutional right at issue in this case "is the

right to be free from the warrantless entry of police officers into one's home to effectuate an arrest after one has granted voluntary, consensual entry to a confidential informant and undertaken criminal activity giving rise to probable cause." *Id.* at 27. Judge Kelly concluded that no such right was "clearly established" at the time of petitioners' entry and that petitioners were accordingly entitled to qualified immunity. *Id.* at 29.

SUMMARY OF ARGUMENT

The court of appeals erred in allowing this damages action to proceed against petitioners.

I. Petitioners' warrantless entry into respondent's house in response to Bartholomew's signal did not violate the Fourth Amendment. The general warrant requirement for effectuating an arrest within the home is based on the fact that the entry needed to perform the arrest typically entails an intrusion on the arrestee's privacy. Here, however, respondent's consent to Bartholomew's entry provided an independent basis for the incursion on privacy and thereby obviated the need for a judicial warrant. Although respondent did not specifically consent to the entry by petitioners themselves, their observation of the same portion of the house to which Bartholomew had already been admitted caused no relevant incremental intrusion on respondent's privacy.

By inviting Bartholomew into his home and committing a felony in his presence, respondent rendered himself subject to a warrantless arrest. Petitioners' entry served the substantial government interest in ensuring that sufficient law-enforcement personnel were present to perform the arrest effectively and without undue risk of violent resistance, in a highly volatile situation involv-

ing the presence of substantial quantities of drugs. The fact that Batholomew was a civilian informant rather than an undercover police officer does not alter the result under the Fourth Amendment. Bartholomew functioned as a government agent; his entry pursuant to respondent's consent exposed respondent's residence to the government's view; from respondent's perspective, he stood in the same shoes as an undercover police officer; and Bartholomew was authorized by state law to perform an arrest after observing respondent's commission of a felony.

II. Regardless of the ultimate disposition of the Fourth Amendment question presented here, petitioners are entitled to qualified immunity from suit. Under established immunity principles, petitioners are not subject to personal liability under 42 U.S.C. 1983 unless the body of case law in effect at the time they entered respondent's house gave clear notice that the entry was unconstitutional in the specific situation that petitioners confronted. When the challenged entry occurred, three courts of appeals had approved the "consent once removed" doctrine; none had disapproved it; and the only court of appeals to consider the question had held that the doctrine applies where (as here) the initial entry is made by a civilian informant acting as a government agent. Various decisions of this Court further supported the conclusion that petitioners' entry was lawful. Officers in petitioners' position therefore could reasonably have believed that their conduct was constitutional, and petitioners accordingly are entitled to qualified immunity.

III. Although the holding and the bulk of the qualified-immunity analysis in *Saucier* v. *Katz*, 533 U.S. 194 (2001), remain sound and therefore should not be over-

ruled, this Court should modify the rigid two-step framework described in *Saucier*. Under *Saucier*, a lower court in a personal-capacity damages suit cannot ask whether the right alleged to have been violated was "clearly established" at the relevant time unless the court has first determined that a constitutional violation has been adequately alleged or proved. Although initial consideration of the disputed constitutional issue will often facilitate sound judicial decision-making, in other cases the *Saucier* approach will entail significant costs and provide few countervailing benefits. A categorical rule requiring lower courts in personal-capacity suits to decide the constitutional issue on the merits before proceeding to the question whether the plaintiff's alleged right was clearly established at the time of the challenged conduct is therefore unwarranted. Accordingly, the analytic framework described in *Saucier* should be modified to grant lower courts the same type of flexibility that this Court itself has exercised in deciding qualified-immunity issues—*i.e.*, the flexibility to skip the first step of the inquiry when considerations of sound judicial administration weigh heavily in favor of deciding the case under the second step. See *Brosseau* v. *Hagen*, 543 U.S. 194, 198-201 (2004) (per curiam).

In this case, several considerations point in favor of deciding the constitutional issue first, including the fact that the constitutional question is one of recurring importance whose resolution does not turn on the particular facts of the case. But however this Court resolves the Fourth Amendment question, petitioners are entitled to qualified immunity because, even if a constitutional violation occurred, petitioners did not violate any "clearly established" rights in the situation they confronted.

ARGUMENT

In deciding whether a government officer is entitled to qualified immunity from a personal-capacity damages action, this Court has applied a two-step inquiry. First, the Court considers whether "the facts alleged show the officer's conduct violated a constitutional right." *Saucier* v. *Katz*, 533 U.S. 194, 201 (2001). Second, if a constitutional violation has been adequately alleged or proved, the Court considers whether "the right was clearly established * * * in light of the specific context of the case." *Ibid.* In this case, both inquiries point to the conclusion that petitioners are entitled to dismissal of respondent's suit.

A. Petitioners' Warrantless Entry Into Respondent's Residence In The Circumstances Here Was Consistent With The Fourth Amendment

1. When law-enforcement officers have probable cause to believe that an individual has committed a felony, they may arrest the suspect in a public place without first securing a judicial warrant. See *United States* v. *Watson*, 423 U.S. 411, 414-424 (1976). By contrast, a warrant is ordinarily required before an arrest may be effected within the suspect's house. See *Payton* v. *New York*, 445 U.S. 573, 583-603 (1980). That distinction reflects the fact that the arresting officer's entry into the home entails an intrusion into privacy interests that does not occur when an arrest is made in a public place. See *id.* at 586-590.

In distinguishing between arrests in public places and arrests within the home, the Court in *Payton* drew on established constitutional rules governing seizures of property. Thus, the Court explained that, although "searches and seizures inside a home without a warrant

are presumptively unreasonable," it is "well settled that objects such as weapons or contraband found in a public place may be seized by the police without a warrant," since "[t]he seizure of property in plain view involves no invasion of privacy." 445 U.S. at 586-587. The Court concluded that "this distinction has equal force when the seizure of a person is involved." *Id.* at 587.

2. The general rule described above—*i.e.*, that a police officer must obtain a judicial warrant before entering a suspect's home—is subject to exceptions. Of particular relevance to this case, a warrantless entry is reasonable, and therefore constitutionally permissible, if it is undertaken with the occupant's consent. See, *e.g.*, *Georgia* v. *Randolph*, 547 U.S. 103, 109 (2006); *Illinois* v. *Rodriguez*, 497 U.S. 177, 181 (1990); *Schneckloth* v. *Bustamonte*, 412 U.S. 218, 222 (1973). Consent provides a constitutionally valid basis for entry even when it is obtained through misrepresentations about the officer's identity or purpose, as when an undercover operative poses as a fellow participant in criminal activity. See, *e.g.*, *Hoffa* v. *United States*, 385 U.S. 293, 302-303 (1966); *Lewis* v. *United States*, 385 U.S. 206, 210-211 (1966).

Under the "plain view" doctrine articulated in this Court's precedents, officers who enter a residence with the occupant's consent and observe incriminating items inside may seize the items without first obtaining a warrant. The Court has described the prerequisites to "plain view" seizures as follows: "[I]f police are lawfully in a position from which they view an object, if its incriminating character is immediately apparent, and if the officers have a lawful right of access to the object, they may seize it without a warrant." *Minnesota* v. *Dickerson*, 508 U.S. 366, 375 (1993); see, *e.g.*, *Horton* v. *California*, 496 U.S. 128, 136-137 (1990). The Court in

Horton applied that doctrine to a "plain view" seizure within the defendant's home. See *id.* at 130-131, 142. The Court explained that, so long as the seizing officer is lawfully present within the residence, the seizure of physical property does not require a warrant because it causes no additional invasion of the occupant's privacy. See *id.* at 133, 141-142. Although the entry in *Horton* was lawful because it was authorized by a judicial warrant (which specified items different from those that were ultimately seized), see *id.* at 131, the "plain view" doctrine applies equally when law-enforcement officers enter a residence pursuant to an exception to the warrant requirement, see *id.* at 135, 140; *Arizona* v. *Hicks*, 480 U.S. 321, 326 (1987).

The reasoning of this Court's "plain view" decisions equally supports the warrantless arrest of an individual who consents to a police entry into his home and thereafter commits a crime in the officer's presence. In holding that a warrantless arrest within the home is ordinarily unlawful, the Court in *Payton* did not suggest that the seizure of the arrestee's person, in and of itself, requires prior judicial authorization. To the contrary, the Court recognized, and did not cast doubt upon, its holding in *Watson* that warrantless arrests may be effected in public places. See *Payton*, 445 U.S. at 574-575, 600-601. An arrest within the home typically requires a warrant not because of the constraints it imposes upon the individual's liberty (which are unlikely to vary in any relevant way depending on where the arrest occurs), but because the entry to effect the seizure entails a breach of the individual's *privacy* that has no analog in a public-place arrest. See *New York* v. *Harris*, 495 U.S. 14, 18 (1990). That rationale for the warrant requirement does not apply when the breach of privacy has a separate consti-

tutional justification, as when the occupant of a residence has consented to the arresting officer's entry.

3. For the foregoing reasons, a police officer (whether undercover or in uniform) who enters a private residence with the occupant's consent, and thereafter observes the commission of criminal acts within the home, may arrest the perpetrator without prior judicial authorization. Like an arrest in a public setting, or the seizure of incriminating items lawfully observed in plain view, an arrest under those circumstances entails no intrusion on privacy beyond that inherent in the initial warrantless entry. Where that entry is authorized by the occupant's consent, no warrant is needed for the ensuing arrest.

In two respects, this case differs from the fact pattern described above. First, although respondent consented to Barthomolew's entry into the residence, respondent did not specifically consent to the entry of petitioners, who waited outside the house until the narcotics sale had been completed and then entered in response to Bartholomew's signal. Second, Bartholomew himself was not a law-enforcement officer, but was instead a private citizen acting in cooperation with the police. For the reasons that follow, neither of those factors rendered the police entry here unconstitutional.

a. As articulated in numerous lower-court decisions, "[t]he 'consent-once-removed' doctrine applies when an undercover officer enters a house at the express invitation of someone with authority to consent, establishes probable cause to arrest or search, and then immediately summons other officers for assistance." Pet. App. 11; see, *e.g.*, *United States* v. *Pollard*, 215 F.3d 643, 648-649 (6th Cir.), cert. denied, 531 U.S. 999 (2000); *United States* v. *Bramble*, 103 F.3d 1475, 1478-1479 (9th Cir.

1996); *United States* v. *Diaz*, 814 F.2d 454, 459 (7th Cir.), cert. denied, 484 U.S. 857 (1987). The two courts of appeals that have addressed the question have held that the "consent once removed" doctrine also applies when the initial entrant into the home is a private informant rather than an undercover police officer. See *United States* v. *Yoon*, 398 F.3d 802, 806-808 (6th Cir.), cert. denied, 546 U.S. 977 (2005); *United States* v. *Paul*, 808 F.2d 645, 648 (7th Cir. 1986).

The "consent once removed" doctrine is premised on the recognition that, when an individual consents to the entry into his home of an undercover police officer or informant, and the officer or informant witnesses the commission of a crime within the residence, the entry of additional officers to assist in effecting an arrest works no constitutionally significant incremental interference with the resident's privacy interests. As the Seventh Circuit has explained, "[t]he interest that the *Payton* decision protects is the interest in the privacy of the home, and [that interest] has been fatally compromised when the owner admits a confidential informant and proudly displays contraband to him." *Paul*, 808 F.2d at 648. When the prerequisites to the "consent once removed" doctrine are satisfied, the resident suffers no relevant intrusion on privacy beyond that which would occur if the undercover officer to whom consent was given performed the arrest himself.

While the entry of additional officers entails no significant incremental burden on the privacy of an individual who has already consented to the presence of an undercover operative, the government has a substantial interest in ensuring that sufficient law-enforcement personnel are present to perform the arrest effectively and without undue risk of violent resistance. This is particu-

larly true in circumstances such as those confronted by petitioners, who were entering a house in which a drug sale had just taken place and a large quantity of drugs was stored in respondent's freezer. Arrests for contraband violations, like searches for contraband, "may give rise to sudden violence or frantic efforts to conceal or destroy evidence. The risk of harm to both the police and the occupants is minimized if the officers routinely exercise unquestioned command of the situation." *Maryland* v. *Wilson*, 519 U.S. 408, 414 (1997) (quoting *Michigan* v. *Summers*, 452 U.S. 692, 702-703 (1981)).

In the circumstances where the "consent once removed" doctrine has been applied, depriving an undercover operative of reinforcements to assist in an arrest would thus pose a threat to officer safety. Particularly given the insignificant incremental burden on privacy that the presence of additional officers entails once the occupant has consented to the initial entry, prevention of that threat is a constitutionally sufficient justification to make the warrantless entry reasonable. Cf. *Virginia* v. *Moore*, 128 S. Ct. 1598, 1604 (2008) ("When history has not provided a conclusive answer, [this Court] ha[s] analyzed a search or seizure in light of traditional standards of reasonableness 'by assessing, on the one hand, the degree to which it intrudes upon an individual's privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests.'") (quoting *Wyoming* v. *Houghton*, 526 U.S. 295, 300 (1999)).

This Court has recognized in other contexts that a law-enforcement officer's *re*-examination of items that have already been exposed to view ordinarily entails no substantial intrusion on privacy interests. Thus, in *Illinois* v. *Andreas*, 463 U.S. 765, 767, 771-772 (1983), the

Court held that a Drug Enforcement Administration agent's reopening of a container was not a Fourth Amendment "search" because the container had previously been opened and its contents ascertained by a customs inspector. In *United States* v. *Jacobsen*, 466 U.S. 109, 111-112, 119-120 (1984), the Court held that no privacy interest was invaded when federal agents re-examined the contents of a package that had previously been inspected by employees of a private delivery service, since the expectation of privacy had already been frustrated by the private search (which did not implicate the Fourth Amendment). The Court made clear that the agent's examination did not "further infring[e] [the addressee's] privacy"; "[t]he agent's viewing of what a private party had freely made available for his inspection did not violate the Fourth Amendment." *Id.* at 119-120.

It is also well established that, when an undercover operative—whether a police officer or informant—enters a private residence pursuant to the occupant's consent, he may wear a concealed recording device in order to create an accurate record of events that transpire during his presence. See, *e.g.*, *Lopez* v. *United States*, 373 U.S. 427, 430, 438-439 (1963). The Court in *Lopez* explained that the case "involve[d] no 'eavesdropping' whatever in any proper use of that term" because, *inter alia*, the recording device "was carried in and out by an agent who was there with petitioner's assent, and it neither saw nor heard more than the agent himself." *Id.* at 439. The necessary implication of that decision is that no constitutionally significant incremental burden on privacy occurs when formerly private information obtained by a government agent through the consent of the putatively aggrieved party is passed along to other law-enforcement officers. Similarly here, petitioners' entry

into the portion of respondent's residence that Bartholomew had already been permitted to see revealed no private information that could not equally have been revealed through Bartholomew's recounting of his observations.

b. The fact that Bartholomew was a civilian informant rather than an undercover police officer does not alter the constitutional result. Like an undercover officer, Bartholomew was an agent of the government. He had arranged with petitioners to serve as an undercover operative. He was lawfully present in respondent's residence, and he was entitled to wear an electronic device to transmit his conversation with respondent to officers waiting outside. Moreover, from respondent's perspective, there was no meaningful difference between consenting to the entry of an undercover officer dressed as a civilian, and consenting to the entry of a civilian informant posing as a drug buyer.

The principal rationale for the "consent once removed" doctrine—*i.e.*, that the entry of additional law-enforcement personnel into an area whose privacy has already been compromised imposes no significant incremental burden on privacy—applies equally to cases involving civilian informants used as undercover agents. In *Jacobsen*, this Court held that, when law-enforcement officers re-examined suspicious materials that had previously been inspected by employees of a private delivery service, "[t]he additional invasions of * * * privacy by the Government agent must be tested by the degree to which they exceeded the scope of the private search." 466 U.S. at 115; see *id.* at 119-120. That principle applies with even greater force here, where the initial entry was made with the occupant's consent and the individual entering was (unbeknownst to the occupant) him-

self a government agent. The privacy of the home having already been lawfully exposed to the government's eyes, the entry of additional officers did not materially expand the scope of the intrusion.

In addition, as Judge Kelly explained in dissent, "citizens (including confidential informants) in Utah, and nearly every other state, possess the power to arrest another individual who commits a felony in their presence." Pet. App. 24-25. The police, of course, are unlikely to direct a confidential informant to arrest the wrongdoer once a controlled narcotics buy has been made. The existence of serious practical obstacles to an arrest by the informant, however, did not alter the fact that respondent was subject as a statutory and constitutional matter to a warrantless arrest within his home once Bartholomew observed his commission of a felony. As in "consent once removed" cases involving undercover police officers, petitioners' entry into respondent's home facilitated the safe and effective performance of an arrest to which respondent was legally susceptible even before the entry. See pp. 13-14, *supra*; cf. *Lopez*, 373 U.S. at 439 (upholding the admission into evidence of a federal agent's clandestine tape recording of his conversation with the defendant, and explaining that the defendant had no "constitutional right to rely on possible flaws in the agent's memory"); *Jacobsen*, 466 U.S. at 119 (similar).

As the dissenting judge below also correctly observed, Bartholomew, though not a government employee, was acting under the direction of police officers during the events in question. See Pet. App. 24 (Kelly, J., dissenting). Bartholomew therefore functioned as a government agent and was subject to the constraints of the Fourth Amendment. See *id.* at 24-25; *Coolidge* v.

New Hampshire, 403 U.S. 443, 487 (1971). That fact reinforces the conclusion that Bartholomew, while lawfully within respondent's residence, had the same constitutional authority as an undercover police officer to summon additional officers to effectuate an arrest when a felony was committed in his presence.

B. Petitioners Are Entitled To Qualified Immunity From Respondent's Damages Action

Whatever the ultimate resolution of the Fourth Amendment question presented here, respondent's damages suit under 42 U.S.C. 1983 cannot go forward. Under this Court's precedents, petitioners are entitled to qualified immunity from that suit unless their conduct violated constitutional or statutory rights that were "clearly established" at the time of the events in question. See, *e.g.*, *Scott* v. *Harris*, 127 S. Ct. 1769, 1774 (2007); *Harlow* v. *Fitzgerald*, 457 U.S. 800, 818 (1982). The ultimate focus of the inquiry is on the "objective legal reasonableness," *id.* at 819, of petitioners' conduct in light of the legal understandings that prevailed when they entered respondent's dwelling. That reasonableness inquiry "must be undertaken in light of the specific context of the case, not as a broad general proposition." *Saucier*, 533 U.S. at 201; see *Brosseau* v. *Hagen*, 543 U.S. 194, 198-199 (2004).

In concluding that petitioners had violated respondent's "clearly established" rights, the court of appeals stated that "[i]n this case, the relevant right is the right to be free in one's home from unreasonable searches and arrests." Pet. App. 15. By focusing the qualified-immunity inquiry at far too "high a level of generality," *Brosseau*, 543 U.S. at 199, the court of appeals fundamentally departed from this Court's teachings.

1. This Court has repeatedly cautioned against the very mode of analysis that the court of appeals employed in this case. For example, in *Anderson* v. *Creighton*, 483 U.S. 635 (1987), the Court explained:

> The operation of [the qualified-immunity] standard * * * depends substantially upon the level of generality at which the relevant "legal rule" is to be identified. For example, the right to due process of law is quite clearly established by the Due Process Clause, and thus there is a sense in which any action that violates that Clause (no matter how unclear it may be that the particular action is a violation) violates a clearly established right. Much the same could be said of any other constitutional or statutory violation. But if the test of "clearly established law" were to be applied at this level of generality, it would bear no relationship to the "objective legal reasonableness" that is the touchstone of *Harlow*. Plaintiffs would be able to convert the rule of qualified immunity that our cases plainly establish into a rule of virtually unqualified liability simply by alleging violation of extremely abstract rights.

Id. at 639.

To prevent the undue expansion of liability in cases involving reasonable mistakes of law or fact, the Court in *Anderson* emphasized, "the right the official is alleged to have violated must have been 'clearly established' in a more particularized, and hence more relevant, sense: The contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right." 483 U.S. at 640. The Court has reiterated that important principle in subsequent

qualified-immunity cases. See, *e.g.*, *Brosseau*, 543 U.S. at 199-200; *Saucier*, 533 U.S. at 202.

2. Consistent with this Court's decisions, the constitutional right alleged to have been violated here must be defined at an appropriate level of specificity in order to ensure that petitioners are not subjected to damages liability for conduct that they might reasonably have believed was lawful. In describing the right at issue as "the right to be free in one's home from unreasonable searches and seizures," Pet. App. 15, the court of appeals framed the right at far too high a level of generality. As Judge Kelly explained, "[p]roperly characterized, the right at issue in this case * * * is the right to be free from the warrantless entry of police officers into one's home to effectuate an arrest after one has granted voluntary, consensual entry to a confidential informant and undertaken criminal activity giving rise to probable cause." *Id.* at 27 (Kelly, J., dissenting). Petitioners are entitled to qualified immunity unless the existence of such a right had been established beyond reasonable dispute at the time of the events that gave rise to this suit. See, *e.g.*, *Saucier*, 533 U.S. at 202; *Malley* v. *Briggs*, 475 U.S. 335, 341 (1986).

Far from clearly establishing a right against the type of intrusion at issue here, the body of case law that existed when petitioners entered respondent's house supported the legality of that entry. At that time, three courts of appeals had endorsed the "consent once removed" doctrine and none had rejected it. See pp. 12-13, *supra*. The Seventh Circuit had approved the doctrine's application to cases involving consensual entries by private citizens acting as confidential informants, see *Paul*, 808 F.2d at 648; the Sixth Circuit reached the same conclusion after the events that gave rise to respondent's

suit, see *Yoon*, 398 F.3d at 806-808; and no court of appeals has issued a contrary ruling. In *Wilson* v. *Layne*, 526 U.S. 603 (1999), the Court found that the defendant officers' conduct violated the Fourth Amendment, *id.* at 609-614, but it nevertheless held that the officers were entitled to qualified immunity, *id.* at 614-618. The Court explained, *inter alia*, that a circuit split on the relevant issue had developed after the events that gave rise to suit, and it concluded that "[i]f judges thus disagree on a constitutional question, it is unfair to subject police to money damages for picking the losing side of the controversy." *Id.* at 618. Petitioners' entitlement to qualified immunity is significantly clearer, since no court of appeals had disapproved the police practice at issue here until the Tenth Circuit ruled in this case.

3. The court of appeals' reliance (Pet. App. 15-16) on *Groh* v. *Ramirez*, 540 U.S. 551 (2004), is misplaced. The Court in *Groh* noted the established general rule that, "absent consent or exigency, a warrantless search of the home is presumptively unconstitutional." *Id.* at 564. The Court concluded that the defendant officers were not entitled to qualified immunity "[b]ecause not a word in any of [the Court's] cases would suggest to a reasonable officer that this case fits within any exception to that fundamental tenet." *Id.* at 565. That analysis simply reflects the principle that official conduct may violate "clearly established" rights if no plausible argument can be made in support of its legality, even if no court has held that precise conduct to be unlawful. See, *e.g.*, *Hope* v. *Pelzer*, 536 U.S. 730, 739-741 (2002); *Anderson*, 483 U.S. at 640; *Mitchell* v. *Forsyth*, 472 U.S. 511, 535 n.12 (1985).

Petitioners' assertion of qualified immunity rests on far more than the *absence* (at the time of their entry into

respondent's home) of any authoritative judicial decision that had specifically rejected the "consent once removed" doctrine or held it inapplicable to cases involving private informants. In addition to the court of appeals decisions that had endorsed and applied the doctrine, this Court had held that the Fourth Amendment does not require a warrant for seizures of persons (see *Watson*, 423 U.S. at 414-424) or property (see, *e.g.*, *Horton*, 496 U.S. at 136-137) that do not intrude on privacy interests. The Court had further recognized that a warrant ordinarily is not required when government officials *re*-examine items whose privacy has already been compromised, and it had applied that principle both when the initial incursion on privacy was caused by another government official (see *Andreas*, 463 U.S. at 771-772) and when it was effected by a private actor (see *Jacobsen*, 466 U.S. at 115-120). The Court had also made clear that a factor in the reasonableness of a particular police action is the need to ensure that the police can maintain sufficient control of a scene in order to protect officer safety. Together with the court of appeals decisions that had specifically approved the "consent once removed" doctrine, those decisions of this Court provided ample basis for reasonable officers in petitioners' position to conclude that their conduct was reasonable and thus lawful.

C. The Two-Step Approach Described In *Saucier* Should Not Be Mandatory

In granting certiorari, this Court requested briefing on the question "[w]hether the Court's decision in [*Saucier*] should be overruled." 128 S. Ct. 1702, 1702-1703. Consistent with the position of the government, the defendant officer in *Saucier* was held to have qualified

immunity from suit, see *Saucier*, 533 U.S. at 209, and nothing in this Court's subsequent decisions casts doubt on the correctness of that holding. The *Saucier* Court's general explication of applicable qualified-immunity principles—in particular, its admonition that the qualified-immunity inquiry should focus on the specifics of the defendant officer's conduct, see *id.* at 202, and its recognition that an officer may have qualified immunity even for conduct that is "unreasonable" within the meaning of the Fourth Amendment, see *id.* at 203; pp. 26-27, *infra*—is also sound. There is consequently no reason for this Court to overrule either *Saucier*'s ultimate holding that the suit "should have been dismissed at an early stage in the proceedings," 533 U.S. at 209, or the legal principles that led the Court to that conclusion.

Separate and apart from its application of qualified-immunity principles to the facts of the case, however, the Court in *Saucier* prescribed a two-step analytic method that it stated lower courts "must" follow when a government officer is sued in his personal capacity and asserts a qualified immunity from the suit. See 533 U.S. at 200-201. Under *Saucier*, a lower court must first rule upon "this threshold question: Taken in the light most favorable to the party asserting the injury, do the facts alleged show the officer's conduct violated a constitutional right? *This must be the initial inquiry*." *Id.* at 201 (emphasis added). Under that framework, a lower court cannot determine whether the constitutional right alleged to have been violated was "clearly established" at the time of the challenged conduct unless the court has first held that an actual constitutional violation was adequately alleged or proved. See *ibid.*

In the view of the United States, the Court should relax the requirement articulated in *Saucier* that lower

courts must adhere in every qualified-immunity case to a specified order of decision. The sequential framework described in *Saucier* will often provide the "better approach" to the resolution of personal-capacity damages suits against individual officers. *County of Sacramento* v. *Lewis*, 523 U.S. 833, 841 n.5 (1998). In other cases, however, the requirement that a court first resolve the constitutional question may entail significant practical costs while providing few countervailing benefits. As is typical when a party to litigation proffers alternative rationales for deciding a case in its favor, the lower courts in this setting should be afforded the same leeway that this Court itself has exercised (see *Brosseau*, 543 U.S. at 198 n.3) to determine that in some circumstances it may be advisable to rule in the defendant officer's favor on the ground that the asserted constitutional right was not clearly established without resolving the constitutional question first.

1. The two-step approach outlined in *Saucier* has its advantages. For example, in many cases, following that approach will provide useful clarification to future courts and to government officials. This Court in *Lewis* explained:

> [T]he generally sound rule of avoiding determination of constitutional issues does not readily fit the situation presented here; when liability is claimed on the basis of a constitutional violation, even a finding of qualified immunity requires some determination about the state of constitutional law at the time the officer acted. What is more significant is that if the policy of avoidance were always followed in favor of ruling on qualified immunity whenever there was no clearly settled constitutional rule of primary conduct, standards of official conduct would tend to remain

> uncertain, to the detriment both of officials and individuals. An immunity determination, with nothing more, provides no clear standard, constitutional or nonconstitutional.

523 U.S. at 841 n.5. For those reasons, the development of constitutional doctrine could be impeded if courts always proceeded directly to the question whether the constitutional right asserted by the plaintiff had been clearly established at the time of the challenged conduct, without first determining whether that conduct actually violated the Constitution.[1]

The value of clarifying the applicable law is greatest when the constitutional question is one of general application and recurring importance. Here, for example, the constitutionality of petitioners' conduct turns on the general question whether the "consent once removed" doctrine provides a valid basis for the warrantless entry of additional officers after an initial consensual entry by an undercover agent, not on the factual nuances of this particular case. Resolution of a Fourth Amendment question that turned on a totality-of-the-circumstances analysis, by contrast, would provide less guidance for officers and courts faced with even slightly different factual scenarios. And while the Court in *Saucier* required both "the district courts and courts of appeals" to

---

[1] In some areas of the law, constitutional questions that are not resolved in the context of Section 1983 or *Bivens* actions may be adjudicated in other proceedings, such as a motion in a criminal case to suppress evidence that is alleged to have been unconstitutionally seized. In other areas, however, such as excessive-force cases under the Fourth Amendment, Section 1983 or *Bivens* actions may provide the only realistic avenue of fashioning clear constitutional rules for officers in the field. See, *e.g.*, *Scott*, 127 S. Ct. at 1774-1779; *Graham* v. *Connor*, 490 U.S. 386, 392-399 (1989); Pet. Br. 58-59.

follow the sequential approach described above, 533 U.S. at 207, decisions by courts of appeals have a greater potential to clarify the applicable law, since they establish binding precedent throughout the circuit, and decisions of this Court of course have nationwide effect.

In Fourth Amendment cases, the approach described in *Saucier* may have an additional advantage. This Court has repeatedly recognized that a search or seizure may violate the Fourth Amendment, yet still manifest the "objective legal reasonableness," *Harlow*, 457 U.S. at 819, that is the prerequisite for qualified immunity. See, *e.g.*, *Saucier*, 533 U.S. at 203; *Anderson*, 483 U.S. at 643-644. Based on the fact that "the Fourth Amendment's guarantees have been expressed in terms of 'unreasonable' searches and seizures," some plaintiffs have argued that qualified immunity is categorically unavailable in cases involving Fourth Amendment violations, on the theory that an officer cannot "reasonably" engage in conduct that is "unreasonable" within the meaning of that Amendment. *Id.* at 643. In rejecting that contention, the Court in *Anderson* noted the frequent "difficulty of determining whether particular searches or seizures comport with the Fourth Amendment," and explained that "[l]aw enforcement officers whose judgments in making these difficult determinations are objectively legally reasonable should no more be held personally liable in damages than should officers making analogous determinations in other areas of law." *Id.* at 644.

If courts in personal-capacity suits alleging Fourth Amendment violations routinely began by inquiring whether the defendant officer's alleged conduct manifested "objective legal reasonableness" within the meaning of *Harlow*, the risk of conflating the qualified-immu-

nity determination with the governing Fourth Amendment standard would be exacerbated. Indeed, even in the wake of *Anderson*, courts have had difficulties in providing the requisite degree of protection to officers making difficult, on-the-spot judgments about the reasonableness of particular actions in the midst of rapidly unfolding events. See, *e.g.*, *Boyce* v. *Fernandes*, 77 F.3d 946, 948 (7th Cir. 1996) (describing as a "surprising suggestion" the contention that arresting officers may be entitled to qualified immunity if they mistakenly conclude that they have probable cause to arrest); *Mahoney* v. *Kesery*, 976 F.2d 1054, 1057-1058 (7th Cir. 1992) (similar); see also *Anderson*, 483 U.S. at 643-644. Without the discipline fostered by the two-step inquiry, defendant officers may be subjected to an increased risk of personal liability for conduct that, though unconstitutional, did not violate any appropriately-particularized prohibition that was clearly established at the time the conduct occurred. By contrast, use of the sequential approach described in *Saucier* ensures that courts will treat the two forms of "reasonableness" as distinct and that the important interests protected by the qualified-immunity doctrine will be served.

2. Categorical adherence to *Saucier*'s two-step framework, however, has its disadvantages as well.

a. A requirement that the reviewing court must decide the constitutional question first cuts against the settled principle that courts should ordinarily *refrain* from resolving constitutional questions unless their resolution is necessary to the disposition of the case. See, *e.g.*, *Ashwander* v. *TVA*, 297 U.S. 288, 347 (1936) (Brandeis, J., concurring); *Slack* v. *McDaniel*, 529 U.S. 473, 485 (2000) (explaining that "[t]he *Ashwander* rule should inform the court's discretion in" choosing between po-

tentially dispositive constitutional and non-constitutional threshold grounds for decision); cf. *PDK Labs. Inc.* v. *United States DEA*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part and concurring in the judgment) (stating that "the cardinal principle of judicial restraint" is that "if it is not necessary to decide more, it is necessary not to decide more"). Indeed, in two roughly analogous settings, where a private party's ultimate entitlement to relief depends on a showing that his clearly established constitutional rights were violated, this Court has declined to require lower courts to determine whether a constitutional violation occurred.

In *Lockyer* v. *Andrade*, 538 U.S. 63 (2003), the Court applied the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), which provides that a state prisoner is entitled to federal habeas corpus relief only if the state court's rejection of his claim was inconsistent with "clearly established Federal law." 28 U.S.C. 2254(d)(1); see *Andrade*, 538 U.S. at 70-71. This Court rejected the Ninth Circuit's conclusion that federal habeas courts must "review the state court decision *de novo* before applying the AEDPA standard of review," explaining that "AEDPA does not require a federal habeas court to adopt any one methodology" in determining a habeas petitioner's entitlement to relief. *Id.* at 71. In *Andrade*, the Court "d[id] not reach the question whether the state court erred," *ibid.*, concluding instead that the prisoner was not entitled to relief because any error the state court might have committed did not involve an unreasonable application of this Court's clearly established law, see *id.* at 73-77.

The Court approved a similar approach in *United States* v. *Leon*, 468 U.S. 897 (1984). The Court in *Leon* held that evidence seized pursuant to a judicial warrant

should not be suppressed unless the warrant or the affidavit on which it was based was so clearly defective that the officers who executed the warrant could not reasonably have relied upon it. *Id.* at 922-923. The Court further explained that lower courts, in ruling on motions to suppress evidence seized pursuant to allegedly invalid warrants, have "considerable discretion" *either* to "guide future action by law enforcement officers and magistrates" by deciding the substantive Fourth Amendment question "before turning to the good-faith issue," *or* to "reject suppression motions posing no important Fourth Amendment questions by turning immediately to a consideration of the officers' good faith." *Id.* at 924-925. Thus, while the Court recognized the systemic interest in clarifying applicable Fourth Amendment doctrine, it treated that interest as a significant factor for courts to consider in choosing the appropriate analytic approach in a particular case, not as a basis for mandating an inflexible order of decision governing *all* cases in which the government invokes the good-faith exception to the exclusionary rule.

For two reasons, the *Leon* Court's discussion of the alternatives legitimately open to courts adjudicating suppression motions is particularly relevant to the soundness of the rule announced in *Saucier*. First, the Court in *Leon* relied in part on this Court's "cases addressing questions of good-faith immunity under 42 U.S.C. § 1983," 468 U.S. at 924, and in particular (see *ibid.*) on *Procunier* v. *Navarette*, 434 U.S. 555, 566 n.14 (1978). In *Procunier*, this Court declined to decide whether the plaintiffs had suffered a violation of constitutional rights because it determined that the defendant officers were in any event entitled to qualified immunity from the suit. See *ibid.* Second, this Court has equated

the two forms of objective good faith, holding that "the same standard of objective reasonableness that [the Court] applied in the context of a suppression hearing in *Leon* defines the qualified immunity accorded an officer" who is sued for an alleged violation of Fourth Amendment rights. *Malley*, 475 U.S. at 344 (citation omitted); see *Groh*, 540 U.S. at 565 n.8.

More generally, treatment of the two-step *Saucier* framework as mandatory runs counter to the usual rule that courts possess broad discretion in choosing among potentially dispositive grounds for decision. When a party to litigation asserts two distinct legal arguments, either of which if accepted would provide an independent basis for entry of judgment in the party's favor, the court ordinarily has broad latitude to decide the case on either ground without resolving the merits of the alternative argument. To be sure, there are exceptions to that principle, see, *e.g.*, *Steel Co.* v. *Citizens for a Better Env't*, 523 U.S. 83, 93-102 (1998) (explaining that a federal court ordinarily must address jurisdiction first), but the norm is to accord lower courts leeway in determining how to resolve the cases before them in the most efficient and prudent manner.

b. In addition, when a lower court in a personal-capacity suit holds that the defendant officer's conduct was unconstitutional but that qualified immunity precludes an award of damages, the court's constitutional holding may be rendered effectively unappealable. See, *e.g.*, *Lyons* v. *City of Xenia*, 417 F.3d 565, 582 (6th Cir. 2005) (Sutton, J., concurring); cf. *Bunting* v. *Mellen*, 541 U.S. 1019, 1023-1025 (2004) (Scalia, J., dissenting from denial of certiorari). A lower court decision that establishes rules of official conduct going forward may thus be insulated from further appellate scrutiny, even if the court's

constitutional ruling is entirely unsound. As Judge Sutton has observed, "[b]y multiplying constitutional holdings that are not subject to review in the normal course, a rigid application of the two-step inquiry may do as much to unsettle the law as to settle it." *Lyons*, 417 F.3d at 582 (Sutton, J., concurring).

Rigid application of the *Saucier* framework may impose an unnecessary burden on the judicial system as well. An inflexible application of the two-step approach requires the reviewing court to decide the constitutional issue as an initial matter even if resolution of that question is difficult and time-consuming, even if members of an appellate panel are divided about its proper resolution, and even if the court's disposition of the issue turns on idiosyncratic, case-specific factors so that its opinion provides little guidance for future disputes. See *Lyons*, 417 F.3d at 582 (Sutton, J., concurring). The judicial system must incur those costs, moreover, even if the very difficulty of the constitutional issue makes it readily apparent that the constitutional right asserted by the plaintiff was not "clearly established" at the time of the challenged conduct.

To be sure, the concerns described above will not always outweigh the interests (see pp. 24-27, *supra*) that support initial resolution of the constitutional issue. Those concerns are sufficiently powerful, however, to support a modification of the *Saucier* analysis to permit courts to consider the costs of deciding the constitutional question first in circumstances where the qualified immunity issue may be clear-cut. See *Lyons*, 417 F.3d at 583 (Sutton, J., concurring) (explaining that the appropriate objective in this setting "is not to *maximize* the number of constitutional rulings but to *optimize* constitutional rulings, as traded off against essential admin-

istrative values, such as the accurate, efficient and timely resolution of cases in the federal courts").

c. Indeed, this Court itself has deviated from the two-step approach in the summary-reversal context where it was clear that the defendant officers were entitled to qualified immunity. In *Brosseau*, the court of appeals held that the defendant officer had utilized excessive force in violation of the Fourth Amendment, and that the right that had been violated was clearly established at the time of the challenged conduct. 543 U.S. at 195. This Court "express[ed] no view as to the correctness of the Court of Appeals' decision on the constitutional question itself," *id.* at 198, but summarily reversed the court of appeals' determination that the conduct at issue violated the plaintiff's clearly established rights, *id.* at 198-201. The Court stated that it "ha[d] no occasion to reconsider [its] instruction in *Saucier* that lower courts decide the constitutional question prior to deciding the qualified immunity question." *Id.* at 198 n.3 (citation omitted). But there is no compelling reason why the lower courts should be denied the flexibility this Court has exercised in qualified-immunity cases to proceed directly to the question whether the constitutional right alleged to have been violated was "clearly established" at the time of the challenged conduct.[2]

---

[2] This Court in *Brosseau* explained that it was "exercis[ing] [its] summary reversal procedure" in order "to correct a clear misapprehension of the qualified immunity standard." 543 U.S. at 198 n.3. As that statement indicates, cases will at least occasionally arise in which the applicable qualified-immunity standard is in greater need of clarification than is the substantive constitutional rule. Thus, even if the only factor relevant to the choice of an appropriate order of decision were the interest in clarifying the law on a going-forward basis, it would not follow that the constitutional issue should always be addressed first.

3. Even if the *Saucier* two-step framework is not treated as mandatory, several considerations suggest that this Court should resolve the Fourth Amendment question presented here. First, the court of appeals has already decided that issue, and its decision is in conflict with the precedents of other circuits. Relatedly, the Court has granted certiorari on the question, and the issue has been briefed by the parties. In these circumstances, the Court's guidance on the constitutional question is warranted.

Second, because the constitutional question is one of general application, rather than one in which "the result depends very much on the facts of each case," *Brosseau*, 543 U.S. at 201, this Court's resolution of the issue would provide meaningful guidance for officers conducting future undercover operations and for courts resolving future challenges to such operations. And third, because this Court's resolution of the Fourth Amendment question would represent the final word on the issue in any event, the case does not currently raise the concern (see pp. 30-31, *supra*) that the existence of qualified immunity might foreclose further appeal of a constitutional ruling. Alternatively, if the Court declines to resolve the Fourth Amendment question, or if it holds that petitioners' entry into respondent's house was unconstitutional, petitioners are entitled to qualified immunity because respondent has not shown a violation of any constitutional right that was "clearly established" at the time of the challenged conduct.

CONCLUSION

The judgment of the court of appeals should be reversed.

Respectfully submitted.

GREGORY G. GARRE
Acting Solicitor General
MATTHEW W. FRIEDRICH
GREGORY G. KATSAS
Acting Assistant Attorneys General
MICHAEL R. DREEBEN
Deputy Solicitor General
MALCOLM L. STEWART
Assistant to the Solicitor General
ANN WALLACE
BARBARA L. HERWIG
EDWARD HIMMELFARB
Attorneys

JUNE 2008