

# A LETTER FOR ROD ROSENSTEIN TO REMEMBER



Before  
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still plays in words that conveyed huge situations beyond the mere words. One was “A Night To Remember”. Yes, even before the famous movie (and before the sappy and stupid “Titanic” decades later), it was an earlier book about the Titanic disaster. There are daily shipwrecks as significant as that now in the Age of Trump.

Today, specifically, we have the issue of a Titanic level shipwreck President crashing the country out of pettiness and ignorance like the United States has never ostensibly seen in its history.

Yesterday on Twitter, I noted that there was a telling omission in the supposed “justification” memo Rod Rosenstein penned and Trump initially claimed to rely on as basis for firing Comey:

I think Marty went a tad easy on Rosenstein. Rosenstein authored the document, had to know what it's purpose was, and duplicitously framed it in terms he “thought” he could step back from. No. Just no.

There is simply no other possible reading of the Rosenstein May 9, 2017 memo. If Rosenstein did not understand the purpose his memo was intended for, he is too stupid to be in the DAG job he is. Assuming he has the minimal smarts to understand, then he is a craven and already a failed servant of the American people as DAG. Either way, Rosenstein is terminally compromised.

This morning, in what I can only describe as an admirable *mea culpa* statement that I think will long be remembered, in a good way, Ben Wittes called for Rosenstein to go.

█ In the end, Trump was able to make set

piece out of Rosenstein, because Rosenstein let himself be used as a set piece. And there's an important lesson in that for the many honorable men and women with pending appointments and nominations to serve in senior levels of the Justice Department—or who are considering accepting such appointments. It took Donald Trump only two weeks to put Rosenstein, a figure of sterling reputation, in the position of choosing between continued service and behaving honorably—and it took only two days after that for the President to announce that Rosenstein's memo, after all, was nothing more than a Potemkin village designed as a facade on Trump's predecided outcome.

Do you really want this to be you? Do you really think Trump will not leave your reputation as so much roadkill on the highway after enlisting you in sliming someone else a week or two after you take office?

The lesson here is that these are not honorable people, and they will do their best to drag you down to their level. They will often succeed.

Here we are, and, thankfully, people in and around the Third Branch, especially in the all important Southern District of New York region (from which Comey has come and gone), are fighting back and speaking out with shouts that are from far more than the cheap seats people like me occupy.

Without further adieu, a letter from SDNY luminaries:

May 12, 2017

Rod J. Rosenstein, Esq.  
Deputy Attorney General of the United States  
U.S. Department of Justice

950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Dear Mr. Deputy Attorney General:

We, the undersigned, are former United States Attorneys and Assistant United States Attorneys for the Southern District of New York. In view of the recent termination of James Comey as Director of the Federal Bureau of Investigation, we are writing to request that you appoint a special counsel to oversee the FBI's continuing investigation of Russian interference with the 2016 Presidential election and related matters. This letter is addressed to you rather than the Attorney General since he has recused himself from this matter.

As you know, Jim has had a long and distinguished career with the Department of Justice, beginning with his appointment as an Assistant United States Attorney in the Southern District of New York serving under United States Attorneys Rudolph Giuliani, Benito Romano and Otto Obermaier from 1987 through 1993. He returned to the Southern District of New York in 2002 when he was appointed the United States Attorney and served in that capacity until he was confirmed as Deputy Attorney General in 2003. Most of us came to know Jim when he worked in the Southern District of New York. Many of us know him personally. All of us respect him as a highly professional and ethical person who has devoted more than 20 years of his life to public service.

While we do not all necessarily agree with the manner in which he dealt with the conclusion of the Hillary Clinton email investigation, we sincerely believe that his abrupt and belated termination for this conduct, occurring

months later and on the heels of his public testimony about his oversight of the investigation of Russian interference with the 2016 presidential election, has the appearance – if not the reality – of interfering with that investigation. Even if this investigation continues unabated, there is a substantial risk that the American people will not have confidence in its results, no matter who is appointed to succeed him, given that the Director of the FBI serves at the pleasure of the President. We believe it is critical in the present political climate and clearly in the public's interest that this investigation be directed by a truly independent, non-partisan prosecutor who is independent of the Department of Justice, as is contemplated by 28 C.F.R. §600.1.

We are Republicans, Democrats and independents. Most importantly, we are proud alumni and alumnae of the Department of Justice. We do not suggest that you or any other members of the Department of Justice or a newly appointed Director of the FBI would not conduct yourselves properly, but the gravity of this investigation requires that even the appearance of political involvement in this investigation be avoided. As former prosecutors, we believe the only solution in the present circumstances would be to appoint a Special Counsel pursuant to 28 C.F.R. §600.1, and we urge you to take that course.

Respectfully submitted,

Jonathan S. Abernethy Elkan Abramowitz  
Richard F. Albert  
Marcus A. Asner Martin J. Auerbach  
Miriam Baer  
Thomas H. Baer Kerri Martin Bartlett

Maria Barton  
Andrew Bauer Bernard W. Bell Richard  
Ben-Veniste  
Neil S. Binder Laura Gossfield Birger  
Ira H. Block  
Suzanne Jaffe Bloom Barry A. Bohrer  
Daniel H. Bookin  
Jane E. Booth Katharine Bostick Laurie  
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Constance Cushman  
Frederick T. Davis John M. Desmarais  
Rhea Dignam  
Gregory L. Diskant Philip L. Douglas  
Sean Eskovitz  
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Edward T. Ferguson  
David Finn Eric P. Fisher Sharon E.  
Fraser  
Steven I. Froot Maria T. Galeno  
Catherine Gallo  
Robert Garcia Kay K. Gardiner Ronald L.  
Garnett  
Scott Gilbert Barbara S. Gillers Mark  
Godsey  
Joshua A. Goldberg James A. Goldston  
Mark P. Goodman  
George I. Gordon Sheila Gowan Stuart  
GraBois  
Paul R. Grand Helen Gredd Bruce Green  
Marc L. Greenwald Jamie Gregg James G.  
Greilsheimer  
Jane Bloom Grise Nicole Gueron Barbara  
Guss  
Steven M. Haber Jonathan Halpern David  
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Jeffrey Harris Mark D. Harris Roger J.  
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Steven P. Heineman Mark R. Hellerer  
William Hibsher  
Jay Holtmeier John R. Horan Patricia M.  
Hynes  
Linda Imes Douglas Jensen James Kainen  
Eugene Kaplan Steven M. Kaplan William  
C. Komaroff  
David Koenigsberg Cynthia Kouril Mary  
Ellen Kris  
Stephen Kurzman Nicole LaBarbera Kerry  
Lawrence  
Sherry Leiwant Jane A. Levine Annmarie  
Levins  
Raymond A. Levites Donna H. Lieberman  
Jon Liebman  
Sarah E. Light Jon Lindsey Robin A.  
Linsenmayer  
Edward J.M. Little Mary Shannon Little  
Walter Loughlin  
Daniel Margolis Walter Mack Kathy S.  
Marks  
Mark E. Matthews Marvin S. Mayell Sharon  
L. McCarthy  
James J. McGuire Joan McPhee Christine  
Meding  
Paul K. Milmed Judith L. Mogul David E.  
Montgomery  
Lynn Neils Peter Neiman Rosemary Nidiry  
Tai H. Park Robert M. Pennoyer Elliott  
R. Peters  
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T. Gorman Reilly Emily Reisbaum Peter  
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Richard M. Strassberg Howard S. Sussman  
Erika Thomas  
Richard Toder Timothy J. Treanor Paula  
Tuffin  
Peter Vigeland David Wales Max Wild  
Samuel J. Wilson Elaine Wood Paulette  
Wunsch  
Thomas Zaccaro Ellen Zimiles  
cc: Jefferson B. Sessions III, Esq.  
Attorney General of the United States

This letter reflects the signers' personal views, not of the U.S. Attorney's Office for the Southern District of New York, the U.S. Department of Justice, or any other government agency.

But it is STRONG. And it is hard to not love it completely. It is raw, and it is real. Nobody asks defense attorneys to sign these missives, nor would anybody give them credit for having done so, were they asked.

This letter, however, is from the elite of the elite prosecutors, with SDNY historic names attached to it (and sometimes significant family names you may not notice), and there are a LOT of them. Almost wonder who did "not" sign on to it?

So, what does it mean?

A LOT. If you know how District level US Attorney offices run, but especially the hallowed ground in SDNY, then you know just how unusual and remarkable is this collective letter.

Think I mentioned “stunning” earlier. It is all that.

Why? Because the problem in the US is here, and it is now. It is bigger than Red versus Blue. It is bigger than Me versus You. It is bigger than all that. There is a fracture in the very machinery governance itself runs on.

The clockworks of governance are bugged. “We are Republicans, Democrats and independents.” And we all deserve better than the orange narcissist piloting the nation into an iceberg.