

Altchiler LLC Secures Full Dismissal in High Profile Fraud Prosecution

ALTCHILER LLC SECURED A FULL DISMISSAL IN A HIGH PROFILE FRAUD PROSECUTION ON DECEMBER 13, IN SULLIVAN COUNTY NEW YORK. THE DISMISSAL CAME ON THE MOTION OF THE ELECTED SULLIVAN COUNTY DISTRICT ATTORNEY, IS WITH PREJUDICE, AND THUS CANNOT BE APPEALED. THE SHOCKING TURN OF EVENTS CAME AS A RESULT OF ALTCHILER LLC'S DOGGED AND AGGRESSIVE PURSUIT OF THE TRUTH, WHICH ULTIMATELY SEEMED TO PERSUADE THE SULLIVAN COUNTY DISTRICT ATTORNEY THAT HE HIMSELF WOULD BE CALLED AS A WITNESS IN THE TRIAL, WOULD THUS HAVE TO BE DISQUALIFIED, AND WOULD ALSO RESULT IN HIS HUMILIATION UNDER ROBERT ALTCHILER'S CROSS EXAMINATION OF THE DISTRICT ATTORNEY CONCERNING, AMONG OTHER THINGS, A SECRET IMMUNITY DEAL HE ENTERED INTO WITH HIS MAIN PROSECUTION WITNESS, AND THE DISTRICT ATTORNEY'S PERSONAL INTERFERENCE IN AN INDEPENDENT INVESTIGATION INTO THAT WITNESS.

"WE CAUGHT THE DISTRICT ATTORNEY WITH HIS HAND IN THE COOKIE JAR," ROBERT ALTCHILER SAID EARLIER THIS WEEK AFTER THE DISMISSAL, "AND I THINK HE FINALLY, ON THE MORNING OF JURY SELECTION, CAME TO REALIZE THAT I WAS GOING TO CALL HIM AS A WITNESS, THAT I KNEW WHAT HE HAD DONE, AND THAT I WAS GOING TO RUIN HIM PROFESSIONALLY AND IN POLITICS FOREVER. I HAD MY TEETH SUNK DEEPLY INTO HIS LEG, AND HE SAW I WAS NOT GOING TO LET HIM GO."

ALTCHILER EXPLAINED THAT HIS CLIENT WAS A NON-PRACTICING MEMBER OF THE BAR WHO WAS A SUCCESSFUL BUSINESSMAN IN SULLIVAN COUNTY. IN THE SPRING OF 2008, THE CLIENT SUFFERED DAMAGE AT HIS BUSINESS, CAUSED BY AN OIL SPILL. THE CLIENT WAS INDICTED, BEFORE BEING REPRESENTED BY ALTCHILER LLC, ON THE THEORY THAT HE HAD ARTIFICIALLY AND FRAUDULENTLY INCREASED THE INSURANCE CLAIM. THE ALLEGATIONS WERE INITIALLY MADE BY A FORMER EMPLOYEE, WHO HAD BEEN FIRED A MONTH AFTER THE DAMAGE OCCURRED. THE THREE COUNT INDICTMENT CHARGED INSURANCE FRAUD, GRAND LARCENY AND FALSIFICATION OF BUSINESS RECORDS, AND CARRIED A SIGNIFICANT POTENTIAL JAIL SENTENCE.

ALTCHILER CONTINUED: "FROM THE VERY OUTSET THE CASE HAD ALL THE MAKINGS OF A RETALIATORY CLAIM BY A DISGRUNTLED EMPLOYEE, WHO THE DA CALLED A WHISTLEBLOWER, BUT WHO WAS ACTUALLY A DISGRUNTLED, DISSATISFIED, AND DISHONEST, DISENCHANTED SCOUNDREL, WHO HAD REPEATEDLY EXPRESSED TO THE CLIENT'S EMPLOYEES THAT HE, NOT THE CLIENT, HAD BEEN RESPONSIBLE FOR MAKING THE CLIENT MILLIONS. WE HAD FOUND THAT THE WITNESS HAD ALSO ENGAGED IN SYSTEMATIC FRAUD WHILE EMPLOYED BY THE CLIENT, ACCORDING TO SEVEN EMPLOYEES WHO ATTESTED TO THE WITNESS ALTERING PRODUCTION RECORDS AND WHO SWORE OUT AFFIDAVITS ABOUT THE MISCONDUCT."

ALTCHILER EXPLAINED THAT AS SOON AS ALTCHILER LLC CAME INTO THE CASE, HE BEGAN EXPLAINING TO THE DA THAT THE ISURANCE COMPANY PAPERWORK DID NOT MATCH OR SUPPORT THE INDICTMENT, AND THAT THEIR MAIN WITNESS HAD THE MOTIVE, MEANS AND OPPORTUNITY TO

FALSELY ACCUSE THE CLIENT. AT THAT POINT THE DA HAD BEEN GIVEN THE SWORN AFFIDAVITS, AND HAD BEEN TOLD THAT THERE WERE A NUMBER OF REASONS THE WITNESS WOULD LIE. "THE DA DID NOT EVEN HAVE THE INSURANCE FILES AT THAT POINT, AND I FOUND THAT SHOCKING AND RECKLESS," ALTCHILER SAID. "THE DA TOOK WHAT THEIR MAIN WITNESS SAID, DID NOT EVEN CHECK IT AGAINST THE THOUSANDS OF PAGES IN THE INSURANCE CLAIMS, AND TREATED IT AS A SIMPLE FRAUD CASE. THIS WAS NO SIMPLE FRAUD CASE."

CONVINCED THAT THE DA WOULD NEVER PROPERLY EXECUTE HIS RESPONSIBILITIES, ALTCHILER DECIDED TO FORCE HIM TO DO HIS JOB THE RIGHT WAY. "I COULD SEE THE DA WAS INTENT ON IGNORING THE AFFIDAVITS CONCERNING THEIR MAIN WITNESS' CRIMINAL CONDUCT, WHICH IN AND OF ITSELF IS SHOCKING, TO A FORMER PROSECUTOR LIKE MYSELF. A GOOD PROSECUTOR WANTS TO KNOW HIS WITNESS' WEAKNESSES AND ANYTHING THAT MIGHT TEND TO DEMONSTRATE THE WITNESS IS LYING...ABOUT ANYTHING." ALTCHILER HAD BEEN A PROSECUTOR IN NEW YORK CITY, AND RELATED THAT MANY OF HIS FRIENDS ARE HIGH LEVEL PROSECUTORS ACROSS THE COUNTRY, WHO WERE SHOCKED BY THE SULLIVAN COUNTY DA'S CONDUCT. "I DECIDED TO INITIATE AN INDEPENDENT POLICE INVESTIGATION INTO THEIR WITNESS. I CONTACTED THE NEW YORK STATE POLICE, EXPLAINED THE CIRCUMSTANCES OF THE CASE, AND ASKED THEM IF THEY WOULD LOOK INTO IT. THEY AGREED AND ASKED ME FOR THE AFFIDAVITS, WHICH I PROMPTLY PROVIDED TO THEM." THEN THE CASE TOOK A WILD TURN, ACCORDING TO ALTCHILER. "I GOT A MESSAGE FROM THE NYS POLICE WHICH INDICATED THAT THE DISTRICT ATTORNEY HIMSELF HAD ASKED THEM TO 'STAND DOWN', OR STOP, INVESTIGATING THE MAIN WITNESS. THE MESSAGE CONTINUED THAT BECAUSE OF THAT REQUEST, THE NYS POLICE FELT LIKE THEY WERE 'BETWEEN A ROCK AND A HARD PLACE', AND THAT THE DA DID NOT WANT THE WITNESS INVESTIGATED 'RIGHT NOW.' I CALLED THE INVESTIGATOR BACK AND HE FURTHER EXPLAINED THAT THE DA HIMSELF TOLD THE INVESTIGATOR THAT HE DID NOT WANT THE WITNESS INVESTIGATED 'UNTIL HIS CASE WAS OVER.'"

"IN MY VIEW THE DA'S CONDUCT WAS NOT SIMPLY UNETHICAL-IT WAS CRIMINAL," ALTCHILER SAID. "I TOOK THE MESSAGE FROM MY PHONE AND MADE COPIES OF IT FOR FUTURE USE. I THEN WENT TO SEE JUST HOW CORRUPT THE DA MIGHT BE." ALTCHILER SET UP A MEETING WITH THE DISTRICT ATTORNEY, AND WITHOUT REVEALING THE SPECIFICS OF WHAT ALTCHILER KNEW, CONFRONTED THE DA ABOUT WHETHER THE DA HAD INTERFERED IN AN INDEPENDENT POLICE INVESTIGATION INTO HIS WITNESS. "HE STRIDENTLY DENIED IT ALL-LYING TO MY FACE. NOW, I HAD TO HAVE HIM, FOR MYSELF AS WELL AS FOR MY CLIENT AND THE PROFESSION,"ALTCHILER SAID. ALTCHILER REVEALED WHAT HAD HAPPENED IN A PACKED COURTROOM THE FOLLOWING WEEK, OPENLY ACCUSING THE DISTRICT ATTORNEY OF CRIMINALLY INTERFERING WITH AN INDEPENDENT INVESTIGATION. ALTCHILER, HOLDING BACK THAT HE HAD A DIGITAL RECORDING OF THE MESSAGE, CALLED THE DA OUT BEFORE THE COURT AND SPECTATORS WHO INCLUDED THE FORMER SULLIVAN COUNTY DISTRICT ATTORNEY, WHO HAPPENED TO BE IN COURT THAT DAY. THE COURT CALLED FOR A HEARING THE NEXT DAY.

THE NEXT DAY IN COURT, THE DA ESSENTIALLY BEGGED THE COURT TO ADJOURN THE HEARING, SO HE WOULD HAVE AN OPPORTUNITY TO EXPLAIN TO THE COURT WHY THE HEARING WAS IMPROPER AND UNNECESSARY. "YOU HAVE NEVER SEEN AN ELECTED OFFICIAL SO SCARED. HE HAD NOT SHAVED, AND LOOKED LIKE HE HADN'T SLEPT. HE KNEW WHAT HE HAD DONE, AND BETWEEN THE PREVIOUS DAY AND

THAT DAY, THE DA'S STORY HAD CHANGED IN A NUMBER OF WAYS. I CALLED IT THE "EVOLUTION OF HIS STORY" BUT ANYONE IN COURT HAD TO KNOW HE WAS LYING. FIRST, HE OUTRIGHT DENIED EVER SPEAKING WITH THE INDEPENDENT INVESTIGATOR-AS HE HAD DONE TO ME THE PREVIOUS WEEK. THEN HE ADDED THOSE TELLTALE WORDS "NOT THAT I RECALL, YOUR HONOR". THAT'S WHEN I KNEW I HAD HIM," ALTCHILER SAID. THE ELECTED DA WAS NOW OPENLY AND OBVIOUSLY LYING TO THE COURT IN FRONT OF HIS PEERS.

THE COURT ADJOURNED THE CASE FOR SUBMISSIONS FROM THE PARTIES CONCERNING WHETHER A HEARING SHOULD BE HELD, AND WHAT THE HEARING ISSUES WOULD BE. "WE LAID HIM OUT IN OUR PAPERS,"ALTCHILER SAID, REFERRING TO THE DA. "WE HELD NOTHING BACK. WE TAUNTED HIM, CALLED HIM WHAT HE WAS," ALTCHILER SAID. IN HIS PAPERS THE DA CAME TO ACKNOWLEDGE THAT HE HAD PROTECTED HIS WITNESS FROM BEING PROSECUTED FOR THE CRIMES IN THE AFFIDAVITS, AND THAT, AS THE "DULY ELECTED DISTRICT ATTORNEY" HAD "UNFETTERED DISCRETION" TO DECIDE WHO GOT PROSECUTED AND WHO DID NOT.

"THE DA'S SEPARATION OF POWERS ARGUMENT GOT ME THINKING THAT BY TRYING TO SAVE HIMSELF FROM THE HUMILIATION OF HAVING HIS CONDUCT EXPOSED IN COURT DURING A HEARING, HE WAS GOING TO FALL INTO MY TRAP BY ACKNOWLEDGING HE HAD IMMUNIZED HIS WITNESS, AND CONCEALED THAT IMMUNITY AGREEMENT FROM ME," ALTCHILER EXPLAINED AND CONTINUED, "EARLIER IN THE CASE, WE SPECIFICALLY ASKED FOR DETAILS CONCERNING ANY FORMAL OR INFORMAL IMMUNITY AGREEMENTS BETWEEN THE GOVERNMENT AND THE WITNESS AS WELL AS ANY CHARGES OR POTENTIAL CHARGES THAT COULD HAVE BEEN BROUGHT AGAINST THE WITNESS BY THE GOVERNMENT BUT HAD NOT BEEN BROUGHT. THE DA SPECIFICALLY HAD DENIED ANY SUCH AGREEMENT, WHICH WAS SIMPLY UNTRUE." ANY BENEFIT CONFERRED UPON A WITNESS MUST BE DISCLOSED TO THE DEFENSE FOR THE DEFENDANT'S USE IN CROSS EXMINING THAT WITNESS AT TRIAL AND IN ARGUING THAT THE WITNESS IS NOT CREDIBLE, ALTCHILER EXPLAINED. HERE, THERE WAS NO PAPERWORK OR DOCUMENTATION DETAILING THE IMMUNITY AGREEMENT; IT WAS ALL IN THE DA'S HEAD AND IT WAS ALL HIS DOING, ACCORDING TO ALTCHILER.

THE COURT ULTIMATELY DECIDED IT WOULD NOT CONDUCT A HEARING INTO WHAT HAD TRANSPIRED BETWEEN THE DA AND HIS WITNESS, BUT FOUND THAT THE DA HAD INSTRUCTED THE INDEPENDENT INVESTIGATOR TO STOP HIS INVESTIGATION AND THAT THE DA HAD DECIDED TO REFRAIN FROM PROSECUTING HIS WITNESS. "WE VIEWED THAT AS CONFIRMATION BY THE COURT THAT THE DA HAD IMMUNIZED HIS WITNESS BY DECIDING TO REFRAIN FROM PROSECUTING HIM AND BY TELLING THE INDEPENDENT INVESTIGATOR THE STAND DOWN. NOW THE DA WAS A MATERIAL WITNESS AND I WAS GOING TO CALL HIM TO TESTIFY AS TO THE IMMUNITY AGREEMENT. I WAS ALSO GOING TO CALL THE INDEPENDENT NY POLICE INVESTIGATOR TO TESTIFY ABOUT HOW HE WAS ASKED TO STAND DOWN ON HIS INVESTIGATION. I IMMEDIATELY MOVED TO DISQUALIFY THE DA, AND AGAIN, ON PAPER, TOOK HIM TO THE PROVERBIAL WOODSHED. I WAS AS AGGRESSIVE IN MY ADVOCACY AND RHETORIC AS I COULD POSSIBLY BE BECAUSE I WAS ABSOLUTELY RIGHT, AND THE DA WAS ABSOLUTELY CAUGHT. THE WALLS WERE CLOSING IN ON HIM."

THAT WAS FRIDAY, DECEMBER 10, AND JURY SELECTION WAS SET FOR THE FOLLOWING MONDAY, DECEMBER 13. THAT MONDAY, ALTCHILER AND THE CLIENT WENT TO COURT, NOT KNOWING WHAT WAS GOING TO HAPPEN, BUT READY TO PICK A JURY. WHILE THEY WERE WAITING FOR THE COURT, ALTCHILER STOOD IN THE ATTORNEYS' CONFERENCE ROOM, GETTING READY FOR WHATEVER WAS GOING TO HAPPEN. THE DA CAME INTO THE ROOM AND CLOSED THE DOOR BEHIND HIM.

"HE BEGAN BY NOTING THAT I HAD BEEN SAYING SOME PRETTY BAD THINGS ABOUT HIM OVER THE PAST FEW MONTHS, AND THAT IT BOTHERED HIM THAT I THOUGHT HIM CORRUPT. I JUST LISTENED. HE SAID HE DID HIS JOB THE RIGHT WAY AND THAT HE WAS HONEST AND ETHICAL. I JUST LISTENED. HE THEN SAID THAT HE HAD JUST RECEIVED TWO THOUSAND PAGES OF DOCUMENTS FROM THE INSURANCE FILES ON DECEMBER 10, AND HAD SPENT THE WEEKEND REVIEWING THEM. HE APOLOGIZED FOR NOT GETTING THE DOCUMENTS EARLIER, BUT BLAMED HIS OFFICE FOR NOT SECURING THE DOCUMENTS. BY HIS CONCILIATORY TONE, I COULD TELL HE KNEW I HAD HIM. THE DA CONTINUED NOTING THAT IN THOSE NEW DOCUMENTS HE SAW THAT HIS OFFICE HAD PRESENTED INACCURATE INFORMATION TO THE GRAND JURY, WHICH, ACCORDING TO HIM, WAS A PROBLEM FOR HIM. HE KEPT ON REPEATING THE PHRASE 'AS YOU HAVE BEEN TELLING ME...' AS HE DESCRIBED THE EVIDENTIARY PROBLEMS HE SAID HE HAD JUST DISCOVERED."

"THEN HE MOVED ON TO PROBLEMS HE HAD JUST DISCOVERED HE HAD WITH HIS WITNESSES. HE TOLD ME THAT HE BELIEVED THAT TWO OF HIS WITNESSES, THE INSURANCE ADJUSTER AND THE SALVER WERE INTENT ON PERJURIOUSLY DENYING THAT THE INSURANCE COMPANY HAD ENTERED INTO A COMPROMISE WITH MY CLIENT WHEREBY THE COMPANY WOULD PAY FOR CERTAIN ITEMS MY CLIENT HAD NEVER POSSESSED. I HAD BEEN EXPLAINING THAT FACT TO THE DA FOR MONTHS, AND NOW, FOR THE FIRST TIME HE ACKNOWLEDGED I HAD BEEN RIGHT, AND THAT THE INSURANCE COMPANY'S DENIALS OF THE COMPROMISE WERE SIMPLY LIES." AROUND THAT MOMENT, ACCORDING TO ALTCHILER, THE JUDGE CAME INTO THE ROOM. "GREAT JUDGE. SMART, FAIR, SAVVY. HE CAME IN TO LET US KNOW THAT AS A PRELIMINARY MATTER, HE FOUND OUR PAPERS COMPELLING AND HE THOUGHT THERE WERE REAL ISSUES CONCERNING THE IMMUNITY AGREEMENT WE WOULD ALL HAVE TO RESOLVE. HE ALSO INDICATED THAT HE INTENDED TO PICK A JURY THAT DAY (ALLOWING JEOPARDY TO ATTACH) AND THAT WE WOULD BEGIN EVIDENCE IN THE MIDDLE OF JANUARY. I TOLD THE JUDGE WE HAD BEEN HAVING A SERIOUS AND SIGNIFICANT CONVERSATION AND THAT ALL OF THAT MIGHT BE UNNECESSARY. THE DA DID NOT DISAGREE".

"THE DA CONTINUED TO REVEAL THE PROBLEMS IN HIS OWN CASE AND BEGAN ATTACKING THE INSURANCE COMPANY AND ITS LAWYERS, REVEALING THAT THE DA HAD NOW COME TO BELIEVE THAT THE INSURANCE COMPANY HAD TRIED TO HAVE THE DA DO ITS WORK FOR THEM, BY HAVING THE DA CONVICT MY CLIENT AND THEN USING THAT CONVICTION AS RES JUDICATA IN THE CIVIL CASE. THE DA SAID 'I CAN'T DO THAT, AND I CAN'T HAVE THAT,' AND 'THIS SHOULD BE TRIED AS A CIVIL CASE', WHICH I HAD BEEN SAYING FOR 6 MONTHS. I ASKED HIM HOW WE COULD MAKE THAT HAPPEN. HE SAID HE WAS GOING TO GO INTO COURT AND DISMISS THE CASE, AND I KNEW WE WERE HOME."

"WE WENT INTO COURT AND I DID NOT TELL MY CLIENT WHAT WAS ABOUT TO HAPPEN. I SIMPLY WINKED AT HIM AND MOTIONED FOR HIM TO COME UP TO COUNSEL TABLE. I WANTED HIM TO HEAR

IT AS IT UNFOLDED. THE DA MOVED TO DISMISS THE CASE AND THE COURT GRANTED THE APPLICATION. HE PRAISED OUR LEGAL WORK AND THANKED THE CLIENT FOR HIS PATIENCE.

CASE DISMISSED.

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