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Jury acquits Chicago attorney accused of wire fraud

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Ronald S. Safer of the Chicago office of Riley Safer Holmes & Cancila LLP quipped that the federal jury serving in his client's criminal trial broke a land speed record.

The jury last week acquitted Chicago lawyer Edward Lee Filer on two counts of wire fraud after deliberating for one hour and 22 minutes, according to the case docket.

Jurors returned the verdicts following two days of jury selection and 10 days of trial proceedings before U.S. District Judge Steven C. Seeger of the Northern District of Illinois.

Safer had not expected the jury to return what he said must be "a record quick verdict" for the Dirksen Federal Courthouse. But he indicated the acquittal was not necessarily a surprise.

"In my view, this is a case that should never have been brought," he said Wednesday.

Prosecutors accused Filer and two co-defendants of taking part in a purported scheme to use bankruptcy and state courts to defraud the unsecured creditors of a company called Barsanti Woodwork Corp.

Prosecutors alleged the defendants tried to shield Barsanti's assets from legitimate creditors by creating a sham secured creditor that purportedly had a senior lien on the assets.

The co-defendants pleaded guilty in the case. But Filer maintained he did nothing wrong and went to trial.

Seeger instructed the jury on Friday and the prosecution and

defense gave closing arguments. The jurors began deliberating at 4:07 p.m. and returned their verdict at 5:29 p.m.

"We were delighted by the outcome," Safer said. "The jury was extraordinarily attentive and waded through a lot of evidence to reach the not guilty verdicts, and we are gratified."

A grand jury indicted Filer and his co-defendants — Paul M. Kelly, a client who owned Barsanti, and Robert Gereg, a financial consultant and workout specialist — in July 2018.

Filer went to trial on a second superceding indictment in June 2021 before a jury in the late U.S. District Judge Harry D. Leinenweber's court.

Leinenweber dismissed all but two wire fraud counts against Filer before the jury returned its verdicts and granted Filer's motion for a judgment of acquittal after the jury found him guilty on the remaining two counts.

In his September 2021 opinion acquitting Filer, Leinenweber wrote Filer and his co-defendants appeared to have had a genuine prospect of securing a large contract that could have saved Barsanti from liquidation.

Leinenweber also wrote Filer used legitimate procedures to stave off creditors while the company tried to close the deal. Those procedures, he acknowledged, could be frustrating to the creditors.

"However, turning zealous, if misguided, legal representation into wire fraud is criminalizing civil law," Leinenweber wrote in the September 2021 opinion.

The 7th U.S. Circuit Court of Appeals did not see it that way. It

overturned Leinenweber's ruling in December 2022 and sent the case back to district court for a new trial.

The case was reassigned to Seeger in March 2024. Jury selection began on Jan. 21 of this year.

In addition to Safer, members of the defense team in the new trial were Eli Litoff, Mary A. Laird and Robert H. Riley, all of Riley Safer Holmes & Cancila.

Prosecutors from the U.S. Attorney's Office for the Northern District of Illinois who tried the case included Assistant U.S. Attorneys Jeffrey S. Snell and Brian P. Netols.

Because then-U.S. Attorney John R. Lausch Jr. and Kelly were friends, the rest of the U.S. Attorney's Office for the Northern District of Illinois was recused from the case. The U.S. Attorney's Office for the Western District of Wisconsin supervised the prosecution.

In February 2024, Filer brought a motion to dismiss the indictment on the grounds of prosecutorial misconduct. The motion alleged statements prosecutors made to grand jurors violated the Fifth Amendment's prohibition on trying anyone for a felony "unless on presentment or indictment of a Grand Jury."

The motion alleged the statements — including ones using the word "crime" or "fraud" to describe Filer's purported actions — constituted misconduct that was so extreme prosecutors overrode the grand jurors' independent judgment and effectively indicted Filer themselves.

Seeger denied Filer's motion to dismiss the indictment a week

before jury selection began.

After the trial began, Filer filed another motion to dismiss the indictment, declare a mistrial or provide other relief. He alleged prosecutors had violated an order issued by Leinenweber barring them from eliciting any testimony from attorney Steven M. Hartmann about his communications with Filer after July 6, 2015.

Hartmann formerly was the general counsel of Freeborn & Peters LLP, the firm where Filer worked in 2015. Leinenweber had concluded the attorney-client privilege prohibited the disclosure of the men's communications.

But at the hearing, Seeger determined prosecutors had violated Leinenweber's order while meeting with Hartmann a few days earlier to prepare him for his testimony. Prosecutors obtained information about the privileged communications during that meeting, Seeger found.

Seeger sanctioned the prosecution by barring Hartmann from testifying at trial and barring the introduction of evidence that Filer allegedly concealed records from a bankruptcy trustee.

Safer was asked Wednesday what was next for his client.

"Mr. Filer gets his life back and continues his very active practice," Safer said. "He's a wonderful lawyer and a wonderful man and is very happy to have his life returned to him."

A spokesperson for the U.S. Attorney's Office for the Western District of Wisconsin could not be reached for comment.

The case is *United States v. Edward Lee Filer*, No. 19 CR 565.