

**NOTEWORTHY CASES IN THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK
(WHITE PLAINS)**



1) U.S. v. American Society of Composers, Authors and Publishers

Year: 1941 to date

Judge: Hon. William Conner

Case Facts: Antitrust case against the American Society of Composers, Authors and Publishers (“ASCAP”) stemming from ASCAP’s licensing of songs and payment of royalties. The case was settled by a Consent Decree under which ASCAP’s activities in the music industry are monitored by the SDNY.

Outcome: For many years, Judge Conner was the assigned Judge who adjudicated disputes arising under the Consent Decree. Judge Denise Cote continues to oversee the implementation of the Consent Decree today.

2) Texaco, Inc. v. Pennzoil Co.

Year: 1986

Judge: Hon. Charles Brieant

Case Notes: Pennzoil had been awarded an over \$11 billion judgment against Texaco by a Texas jury based on its claim that Texaco wrongly interfered with a merger between Pennzoil and Getty Oil Co. Judge Brieant granted Texaco a preliminary injunction precluding Pennzoil from executing its judgment.

Outcome: The Supreme Court ultimately reversed, finding that Judge Brieant should have abstained from ruling on the case due to the pending litigation in Texas. Three days later, Texaco filed for Chapter 11 Bankruptcy.

3) Alley v. Jagger

Year: 1988

Judge: Hon. Gerard Goettel

Case Facts: Mick Jagger of the Rolling Stones was accused of copyright infringement in his solo artist release of the song “She’s the Boss.” Patrick Alley, a Jamaican reggae singer, claimed that the chorus of Jagger’s song was similar to his song called “Just Another Night.” The testimony included live and recorded music. During the course of the trial, a Juilliard faculty member played piano; a top Jamaican studio musician, Sly Dunbar, played drums; and Jagger sang lyrics from the Rolling Stones songs “Jumpin’ Jack Flash,” “Brown Sugar” and “Miss You” from the witness stand.

Outcome: The jury returned a verdict in Jagger’s favor.

4) HBE Leasing Corp. v. Frank

Year: 1988

Judge: Hon. Gerard Goettel

Case Facts: Leasing companies sued commercial egg farmers and others under RICO for defrauding them in phony leasing transactions involving farm equipment. The defendants purported to sell new farm equipment to plaintiffs, who would then lease it to a various farms also controlled by the defendants. No new equipment was ever purchased or installed.

Outcome: The total judgment, including punitive damages and treble damages under RICO, exceeded \$30 million.

5) U.S. v. Kenneth Gribetz

Year: 1995

Judge: Hon. Barrington D. Parker, Jr.

Case Facts: Kenneth Gribetz was the District Attorney for Rockland County for 20 years when pleaded guilty to two federal misdemeanors: theft of Federal funds and willful failure to supply information on tax returns. After announcing the plea agreement, Gribetz resigned from his position.

Outcome: Gribetz was sentenced to five years probation, fined \$10,000 and ordered to perform 500 hours of community service.

6) U.S. v. Darryl Strawberry

Year: 1995

Judge: Hon. Barrington D. Parker Jr.

Case Facts: Darryl Strawberry, a Major League Baseball player, was charged with conspiracy and attempted income tax evasion for an alleged scheme to conceal from the IRS income that he earned in cash at various promotional events.

Outcome: Strawberry pleaded guilty to one felony count of income tax evasion and was sentenced to six months of home confinement, beginning after his 1995 baseball season ended. Strawberry acknowledged that he had cheated the government out of more than \$100,000 by knowingly failing to report more than \$350,000 in income from autograph shows and other promotional appearances from 1986 to 1990.

7) U.S. v. Rita Gluzman

Year: 1997

Judge: Hon. Barrington D. Parker, Jr.

Case Facts: In the first murder prosecution under the Violence Against Women Act, Rita Gluzman was charged with murdering her husband to thwart his attempts to divorce her for another woman. Gluzman recruited her cousin, a recent immigrant and employee who worked at a company owned by her and her husband, to assist her with the ax-murder. The employee was found disposing of body parts in the Passaic River and ultimately confessed.

Outcome: Rita Gluzman was convicted and sentenced to life in prison.

8) U.S. v. John Gotti Jr.

Year: 1998

Judge: Hon. Barrington D. Parker Jr.

Case Facts: John Gotti Jr. was accused of being a mafia leader in a criminal enterprise known as the Gambino Crime Family. He was charged in an 86-count superseding indictment with racketeering, extortion, illegal gambling, loansharking, money laundering, and robbery.

Outcome: Gotti pleaded guilty to being part of a racketeering enterprise that involved bribery, extortion and the threat of violence. He was sentenced to six and one-half years' imprisonment.

9) Nextwave Bankruptcy

Year: 1999

Judge: Hon. Adlai S. Hardin, Bankruptcy Judge; Hon. Charles L. Brieant, District Judge

Case Facts: Nextwave purchased licenses for broadband personal communications services in Federal Communications Commission (FCC)-sponsored auctions for the bid price of \$4.74 billion. Nextwave made a \$500 million down payment on the purchase price, promising to pay the rest under an installment plan, while the FCC took a security interest in the licenses. Shortly thereafter, Nextwave filed for bankruptcy protection and defaulted on its payments for the licenses. The FCC, in turn, asserted that Nextwave's licenses had been cancelled automatically when it failed to make its first payment, and announced that Nextwave's licenses were available for auction. The bankruptcy court declared the FCC's cancellation of NextWave's licenses "null and void" as a violation of various provisions of the Bankruptcy Code, including section 525, which protects debtors against discriminatory treatment.

Outcome: The Second Circuit Court of Appeals reversed, finding that the Bankruptcy Court lacked jurisdiction to interfere with the FCC's regulatory acts. However, the U.S. Supreme Court granted certiorari and concluded that the FCC had violated section 525 of the Bankruptcy Code by improperly seizing Nextwave's assets and canceling its licenses. Nextwave was permitted to keep the licenses and continued to have bankruptcy protection that lasted approximately ten years.

10) U.S. v. Albert Pirro

Year: 1999

Judge: Hon. Barrington D. Parker Jr.

Case Facts: Albert Pirro, a lawyer and real estate developer and the husband of Westchester County District Attorney Jeanine F. Pirro, was indicted conspiracy, tax evasion, and filing false tax returns for underreporting his income by \$1.2 million and underpaying his taxes by \$400,000 for tax years 1992-1995, through a scheme to, among other things, disguise personal purchases as business expenses. The expenditures included a \$123,000 Ferrari sports car, Mercedes-Benzes for his wife and mother-in-law, improvements on the Pirros' home in Harrison, N.Y., and the legal bills for a paternity suit. Albert Pirro's brother and accountant, Anthony Pirro, was also tried for his role in the scheme.

Outcome: After nearly six weeks of trial, the jury found both Pirro brothers guilty. Judge Parker sentenced Albert Pirro to 29 months in federal prison for his conviction on 34 counts of tax evasion and related offenses. Judge Parker further ordered Albert Pirro to pay half of the prosecution costs, which amounted to approximately \$62,000. Anthony Pirro was sentenced to 37 months for his conviction on 23 counts.

11) U.S. v. Alan Walker

Year: 2003

Judge: Hon. Colleen McMahon

Case Facts: Alan Walker ran an agency that booked speaking engagements for famous athletes, writers, actors and journalists, and was convicted after trial of pocketing the fees he collected for his clients' speeches. Among the clients who testified at trial were the actor James Earl Jones; journalists Charlayne Hunter-Gault, Bill Moyers, Andy Rooney and Deborah Norville; and the basketball star Magic Johnson.

Outcome: Walker sentenced to five years imprisonment and ordered to pay over a half a million dollars of restitution.

12) McCormick and Geldwert v. School Districts of Mamaroneck and Pelham

Year: 2004

Judge: Hon. Charles L. Brieant

Case Facts: Emily Geldwert of Mamaroneck High School and Katherine McCormick of Pelham High School, were high school soccer players. At their high schools, girls' soccer was only a spring option. They wanted to move girls' soccer to the fall so it would coincide with most high school play for boys and girls and with state championships and college recruitment. Emily and Katherine's parents sued Mamaroneck and Pelham under Title IX federal legislation that mandates equal treatment for male and female athletes. The parents argued that this legislation prohibiting gender discrimination in federally funded educational institutions applied to the scheduling of high school sports.

Outcome: The court found that the decisions by the school districts to schedule girls' high school soccer in the spring and the boys' high school soccer in the fall violated Title IX of the Educational Amendments of 1972 because it hindered girls from the opportunity to compete in the New York Regional and State Championships in soccer and be eligible for college recruitment. The U.S. Circuit Court of Appeals affirmed.

13) U.S. v. Samuel Israel

Year: 2008

Judge: Hon. Colleen McMahon

Case Facts: Hedge fund founder Sam Israel was charged with running a Ponzi scheme, and was convicted of defrauding investors more than \$450 million. Instead of reporting to prison, he faked his own suicide on the Bear Mountain Bridge to avoid his twenty year sentence. He later turned himself in after a worldwide manhunt.

Outcome: Israel was sentenced to five years in prison for conspiracy, five years for investor fraud and 20 years for mail fraud. He received two extra years for trying to evade prison.

14) U.S. v. Marion Jones

Year: 2008

Judge: Hon. Kenneth Karas

Case Facts: Marion Jones, a three-time Olympic gold medalist, was linked to a check-counterfeiting scheme. Documents showed that a \$25,000 check made out to Jones was deposited in her bank account as part of the alleged multimillion-dollar scheme. Jones was also charged with making false statements to federal prosecutors investigating the use of performance-enhancing drugs.

Outcome: Jones pleaded guilty to making false statements about her knowledge of a check-cashing scheme and her use of performance-enhancing drugs. As a result of Jones' guilty plea, she was sentenced to six months in jail and stripped of her five Olympic medals.

15) U.S. v. James Cromitie

Year: 2009

Judge: Hon. Colleen McMahon

Case Facts: The "Newburgh Four" were four men from Newburgh, New York who the government claimed were connected with a plot to shoot down military airplanes flying

out of an Air National Guard base in Newburgh, New York, and blow up two synagogues in the Riverdale section of the Bronx.

Outcome: The jury rejected the defendants' entrapment defense and convicted them of one count of conspiracy to use weapons of mass destruction within the United States, three counts of attempting to use weapons of mass destruction within the United States, one count of conspiracy to acquire and use anti-aircraft missiles, one count of attempting to acquire and use anti-aircraft missiles, and one count of conspiracy to kill officers and employees of the United States. All four of the men were sentenced to 25 year prison terms. The convictions were upheld by the Second Circuit and certiorari was denied by the Supreme Court.

16) U.S. v. Bernard Kerik

Year: 2009

Judge: Hon. Stephen Robinson

Case Facts: Bernard Kerik, a former New York City Police Commissioner, was charged with illegally receiving \$255,000 in renovation work to his apartment from a contractor who wanted to do business with the City government; falsely telling regulators that the company did not have ties to organized crime; and failing to disclose these six-figure benefits in his financial disclosure forms. He was also accused of making multiple false statements to White House and other federal officials when he applied for an advisor position to former President Bush's Homeland Security Advisory Council and in connection with his nomination to be Secretary of the United States Department of Homeland Security.

Outcome: Kerik pleaded guilty to eight felony charges and was sentenced to four years in prison.

17) U.S. v. Vincent Leibel

Year: 2010

Judge: Hon. Warren W. Eginton

Case Facts: Vincent Leibel, a former New York State Senator, was charged with tax evasion, bribery, and obstruction of justice. Leibel controlled a nonprofit group that financed and developed senior housing in his district, and he had sponsored millions of dollars in grants for the group over the last decade. Leibel allegedly threatened to cause the nonprofit group to refuse payment of invoices submitted by the nonprofit group's attorneys for legal services that those attorneys had rendered to the nonprofit unless the attorneys agreed to give half of the money to Leibel in cash. When Leibel became aware of the federal investigation, he scheduled a meeting with one of the nonprofit group's attorneys to discuss what the attorney should say when approached by federal agents.

Outcome: Leibel pled guilty to bribery, tax evasion, and obstruction of justice for obstructing a federal grand jury investigation into his extortion of cash payments from lawyers working in Putnam County and for failing to report on his income tax returns tens of thousands of dollars in cash payments he had received from those lawyers. He was sentenced to twenty-one months in federal prison.

18) Hostess Bankruptcy

Year: 2013

Judge: Hon. Robert Drain

Case Facts: In its filing with the U.S. Bankruptcy Court for the Southern District of New York, Hostess listed approximately \$860 million in debts. The company's biggest unsecured creditor was the Bakery & Confectionary Union & Industry International Pension Fund, which it owes about \$944.2 million. In the filing, Hostess also listed its estimated assets between \$500 million and \$1 billion and its estimated liabilities at more than \$1 billion.

Outcome: Hostess won court permission to sell assets totaling more than \$800 million. Judge Drain approved sales to Flowers Foods Inc., Grupo Bimbo SAB, Apollo Global Management LLC and C. Dean Metropoulos & Co. for most of Hostess's cake and bread brands.

19) U.S. v. Nancy Novak

Year: 2013

Judge: Kenneth Karas

Case Facts: Nancy Novak was charged with hiring hit-men to murder her wealthy husband and his mother. Prosecutors said Novak was worried that her husband was going to leave her for his mistress and the prenuptial agreement would bar her from the multimillion-dollar family estate. Novak's brother, Cristobal Veliz, was also charged for the same crime.

Outcome: The jury found Novack and Veliz guilty of murder, conspiracy to commit murder, domestic violence, stalking, money laundering, and witness tampering. They were sentenced to life in prison.

20) U.S. v. Malcolm Smith

Year: 2015

Judge: Hon. Kenneth Karas

Case Facts: Malcolm Smith, a Democrat from Queens, was accused of bribery and wire fraud for conspiring to pay Daniel J. Halloran III, a Republican former city councilman from Queens, and three Republican county leaders more than \$80,000 in bribes, so the leaders would authorize Smith to run for mayor of New York City on the Republican line in 2013.

Outcome: In February 2015, a jury found Smith guilty of bribery. He faces up to 45 years in prison. Halloran was found guilty by a jury in March 2015 and sentenced to 10 years' imprisonment.