Winning a Public Corruption Jury Trial Against All Odds

BY NINA MARINO

The case you are going to read about is true. It was tried in Honolulu over the course of 10 weeks. The government called 41 witnesses. The jury took less than 12 hours to fully acquit all six defendants. But throughout the course of the proceedings, events unfolded that strained imagination, and situations arose that are rarely seen in a jury trial, particularly in a white-collar criminal matter. As you will see, that is not an exaggeration. Only first names are used, and witnesses' names have been changed.

The Main Players and Basic Facts

Keith was the elected prosecutor for the City and County of Honolulu. He won the election in a landslide and was well respected by the Honolulu public. He ran on a platform of tough on crime.

MAI was a prominent structural engineering and architectural firm in Honolulu well known for being a big player on the political scene. MAI was a family-run business started 50 years ago by Dennis. The company was powered by those values that exist most prominently in a family-run business: trust and loyalty. The company took care of its employees, and, in return, the company expected its

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employees to be honest and committed to the work the company did.

Laurel was a talented and valued architect and interior designer at MAI who had been with the company for 15 years before she was terminated for poor performance. During the time Laurel was employed by MAI, Dennis was kind to her, sending her Christmas cards, giving her extra money, and paying for plane tickets and car repairs. When she was sexually harassed by a coworker, Dennis personally saw to it that she was compensated in the manner that she wanted—which was a gas card and priority parking. This became a significant fact upon which the defense cross-examined Laurel because her choice of a gas card and priority parking, in lieu of a raise, was due to the fact she did not want additional income, which would translate into additional child support payments. Not a great look for her.

Laurel had always directly contacted Dennis when she wanted a raise or wanted to call to his attention some area in which the company was lacking. She received a raise every time she had written him a letter expressing her personal or her coworker's dissatisfaction at work. Months before she was terminated, she did the same thing—she wrote a letter asking for a raise. Dennis did a little investigation and learned that she was frequently absent from the office, she was tardy on projects, and it appeared that there were irregularities in her timekeeping. Nevertheless, he wrote back to her—in a scathing letter—that he was giving her a raise but that she needed to improve.

Meanwhile, her supervisors were noting her deficiencies and the problem it was causing with MAI projects and clients. The VP of the company (also a co-defendant) made the difficult decision to terminate her. On the day she was fired, Laurel submitted a responsive letter to the scathing letter Dennis had sent to her, where she defended herself and essentially said he was wrong. It is unclear whether Dennis ever received that letter, but hours after she left it with Dennis's other mail, she was fired. According to Laurel, Dennis's mail had been picked up, and that's why he fired her. The company attorney (also a codefendant) had an intern film Laurel's departure. The video depicted Laurel packing up and loading a ton of stuff, including about a dozen boxes and two file cabinets, into the hatchback of her small car. Who would have known that this video would be the first piece of evidence introduced in the federal criminal trial to come a decade later?

Days after Laurel was fired, she filed for unemployment benefits claiming she was terminated for lack of work. The company took this as an affront because it was not true and vigorously opposed the unemployment claim. After protracted litigation that included exhaustive exhibits, testimony, and appellate proceedings, Laurel prevailed and got her unemployment benefits.

A week after Laurel was fired, MAI was served with notice it was being sued for structural defects on a project. The company did not understand why it was being sued since the project that was the basis for the impending lawsuit was not an MAI project. Those questions were answered quickly—the firm learned that Laurel had performed work on the project without obtaining company approval and that she had used her MAI email and contact information in her communications.

The company launched an internal investigation—to determine the extent of Laurel's side jobs—that lasted nearly 12 months. While that internal investigation was proceeding, the company received notice that Laurel had received authorization from the Equal Employment Opportunity Commission (EEOC) to file an age and gender discrimination lawsuit against the company. Meanwhile, the internal investigation revealed that Laurel had been working *dozens* of side jobs while collecting her full salary for years. For the company, these unauthorized side jobs explained Laurel's poor work performance and timekeeping irregularities. Feeling fully victimized by Laurel, MAI filed a police report for theft against Laurel for stealing company time and resources.

Honolulu Police Department (HPD) took the report. Detective Steve was assigned to investigate. It was his first assignment as a detective, having recently been promoted from patrol. When the HPD investigation was going nowhere, Dennis used his political connections to get a meeting with Keith in the hopes of moving the investigation forward. The meeting took place during Keith's reelection campaign and was just two weeks before the election. After the meeting, Dennis, his C-suite executives, and the company lawyer (the MAI group) made donations to Keith's reelection campaign. After those donations, phone records reflected that Keith and Dennis had a 1-minute 8-second phone call. After Keith won reelection, Dennis and Keith had lunch at an upscale restaurant in Honolulu. After that lunch, the MAI group made more campaign donations to the Keith reelection campaign.

> *The court ruled that the government was required to show a quid pro quo for the federal programs bribery conspiracy.*

In total and over the course of several years, the MAI group donated approximately $50K to Keith.

The attorney for the company had many meetings with the Honolulu Prosecutor's Office and was the sole source of information that supported the criminal charges. Keith assigned the case for investigation to his top white-collar prosecutor. After investigation, that prosecutor determined there was no crime and declined prosecution. Keith reassigned the case. That prosecutor, a self-described "cavalier" kind of guy, did not conduct any investigation, adopted the MAI internal investigation, and filed four felony counts against Laurel for theft in the second degree. MAI was the alleged victim in two of those counts and Rudy, a long-time friend and business partner of Dennis, was the stated victim in the other two counts. Laurel was booked, processed, and arraigned. That prosecutor later left the prosecutor's office, and the case was again reassigned, this time randomly, to another prosecutor. Years later, a judge dismissed the charges *with prejudice* in a scathing oral and written opinion stating that Keith's office did no independent investigation and filed the charges based solely on information received from MAI and that the complaint wholly lacked probable cause. The ruling was widely publicized.

The Prosecution Team

Years before Dennis, MAI, or Laurel was on anyone's radar, a team of five special prosecutors from USAO Southern District California (San Diego) were assigned to Honolulu to investigate and prosecute a public corruption matter emanating from the Prosecutors—Keith's—office. That grand jury investigation was wide-ranging. Keith's number two deputy in the office was the target, and Keith was not keen to assist the federal investigation. The case that was ultimately charged and tried was *United States v. Kealoha*, and the government won easy convictions and long sentences. It was that investigation into the Kealoha matter and Keith's office that led the San Diego team to Dennis, MAI, and Laurel.

The Indictment, Protective Order, and No Contact Order

Keith, Dennis, three MAI executives, and the company lawyer were charged with two counts of conspiracy. Count 1 charged an 18 U.S.C. § 371 conspiracy to violate wire fraud and honest services wire fraud (18 U.S.C. §§ 1343, 1346) and federal programs bribery (*id.* § 666). Count 2 charged conspiracy to violate Laurel's civil right to file a lawsuit and be free from unreasonable search and seizure pursuant to 18 U.S.C. § 241. This obscure statute, whose genesis was protecting people's voting rights from getting trampled by the Ku Klux Klan, was oddly unearthed by the government in the charging of this white-collar corruption/bribery case.

The court issued a protective order mandating that all discovery and related grand jury material were subject to strict nondisclosure requirements. As a condition of release, all the defendants were prohibited from contacting all 22 people appearing on a no-contact list—the "No Contact Order." One of those people was Rudy, whom we'll return to shortly.

Pretrial Motions

In pretrial motions and oppositions, the government argued that the campaign donations, amounting to approximately $50,000, were bribes to have Laurel investigated and prosecuted and that the police report was filed in retaliation for the civil suit Laurel filed against MAI. The defense argued that the campaign donations were just campaign donations and not bribes and that the MAI people had a good faith belief that Laurel had stolen from the company and, therefore, they had filed the police report.

One pretrial motion filed by the defense was a 2,500-page motion to dismiss for prosecutorial misconduct. The motion was based on the government's conduct in the grand jury in obtaining the indictment, including calling more than 80 witnesses, many of whom were recalled multiple times in what the defense argued was an attempted perjury trap. Caselaw provides the government with tremendous latitude in how they conduct the affairs of the grand jury, so the caselaw in support of this motion was not great. We filed it anyway, a huge lift at 2,500 pages, to educate the judge by way of example of the shenanigans this

prosecution team was engaging in. The court, seemingly uninterested, practically summarily denied the motion. That loss stung.

However, another motion to dismiss was surprisingly successful, despite the dismissal not being granted, because the court ruled that the government was required to show a quid pro quo for the federal programs bribery conspiracy. This was significant as normally the government does not have that burden. However, because of the way the case was charged—coupling federal programs bribery with honest services fraud (which does require a quid pro quo in the Ninth Circuit) under a single conspiracy count—the court found it merited. This ruling was a game changer for the defense. In total, the defense filed at least seven substantive pretrial motions, but this ruling had the most teeth.

Jury Questionnaires

Because the trial was expected to last two months, the court sent a juror questionnaire to more than 1,200 registered voters both on Oahu and on the neighboring islands to inquire regarding availability to serve. Of those 1,200 that were sent, approximately 350 questionnaires were retuned indicating juror availability, which to me was a surprise that 350 people had two months to burn. Then, because Keith, the elected prosecutor for the City and County of Honolulu, and Dennis, a high-profile large political donor and businessman, were charged in the case, the parties drafted a second 22-page juror questionnaire that was sent to those 350 prospective jurors inquiring specifically into their exposure to media and knowledge of the case. Drafting this questionnaire was supposed to be a collaborative effort by the parties, but, given the acrimony that developed in the wake of the motion to dismiss for prosecutorial misconduct, collaboration was not something that was really happening, so the defense submitted a draft, the government submitted a draft, and the court had to decide.

The Murder-for-Hire Investigation

Two weeks before jury selection was to begin, the home of the company attorney and defendant in the case was searched. Within two days of the execution of this search warrant, the entire Hawaii District Court and Magistrate Court bench recused from the case. Shortly thereafter, a district court judge from Alaska and a magistrate judge from California were appointed to the case. Within a week, the news broke that the unprecedented recusal of the entire bench was due to an active investigation into the company lawyer in connection with a murder-for-hire plot to kill the lead prosecutor and the district court judge. There was a press feeding frenzy and the case gained even more notoriety. The new judge continued the trial two weeks to familiarize himself with the case. The defense team was stunned. Discussions were had regarding severance of the company lawyer and continuing the case so the media could die down. The caselaw was not great on severance and that motion was denied. Ultimately, the court determined that any potential juror media exposure could be handled with expensive voir dire rather than a continuance.

Jury Selection

Because of the press coverage generated by the murder-for-hire investigation, a third jury questionnaire was drafted and provided to the existing 350 prospective jurors that specifically inquired about their exposure to media on this new matter. This questionnaire was particularly difficult to draft as, while the parties wanted to know if jurors had been exposed to the pretrial publicity, we also didn't want to cause those same jurors to start googling something they had not previously been made aware of. The solution was to include *every party* in the questionnaire, not just the target judge, prosecutor, and company lawyer. Because of the murder-for-hire investigation, for security reasons there was a significant US Marshall presence in the courtroom, which caused the voir dire process to have a heightened formality. And, as each prospective juror was individually questioned by the court as well as each of the defendants' counsel and the government, the process was long and protracted indeed. After a full week of jury selection, 12 jurors and four alternates were empaneled. Game on!

Opening Statements

The government told the story of a corrupt company run by bad people who targeted a poor defenseless Laurel for criminal investigation and prosecution because she dared to stand up to the boss (our client Dennis) by writing that letter defending herself and suing the company for discrimination. The government described untenable work conditions including sexual

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harassment of Laurel, culminating in a bribery plot to have her put in jail for a crime she didn't commit. The government argued MAI was out to "get Laurel." The six defense attorneys told a different story. Our story was about a manipulative and deceptive Laurel who took advantage for financial gain of a kind boss (Dennis) and great company (MAI) that had always been good to her. Rather than MAI seeking to "get Laurel," the defense argued Laurel was out to "get MAI."

"Government call your first witness. . . ."

The Trial Begins

As with most trials, this trial started off slow, with the government calling as one of its first witnesses the company intern who had been tasked with filming the departure of Laurel when she was fired. Endless video was played for the jury depicting Laurel packing up and loading into her very small car two file cabinets and dozens of boxes. The defense viewed this evidence as good because it served as a platform to argue that Laurel was taking all her unauthorized side jobs with her. But the government quickly pivoted to its most inflammatory evidence, that of the sexual harassment of Laurel that occurred over a four-year period and included her head being cropped onto a lingerie-clad body and emailed to an office colleague, notes about her breasts, and suggestions she was shacking up with a client. There wasn't much that the defense could do with this evidence, so we decided to just let it be and not give it any more attention. It wasn't good.

Councilwoman Anne was a colorful witness. An octogenarian with a quick wit and nice demeanor, the Honolulu City councilwoman was called by the government to establish two things: (1) that at the request of Dennis, she made an introduction to Keith, and (2) to establish an essential element of Count 2, that the prosecutor's office had received at least $10,000 in federal funds each year. But this witness helped the defense far more than she helped the government. The defense established that the councilwoman oversaw the budget for the prosecutor's office. Therefore, it stood to good reason that if she made an introduction, it would behoove Keith to take the meeting and do what he could for Dennis. Second, the defense established that despite contributing to Anne's campaigns, which Dennis and the rest of the MAI group had done over the years, Dennis never asked for anything, thereby providing evidence that Dennis's campaign contributions did not come with any strings. This gave the defense the argument that the donations to Keith's campaigns also did not come with any strings. And as a bonus, Anne blurted out how not only was Dennis a known big donor to political campaigns, but he was also a known big donor to charitable causes, thus getting into evidence Dennis's good character when it otherwise would have not have been admissible unless he testified.

The government called the associate director of the Hawaii Campaign Spending Commission to testify to the campaign donations made by the MAI defendants to the Keith campaign. This was an important witness for the defense to establish the reliability of the data on the spending commission site. By establishing the reliability of the data, the defense was able to lay the foundation for the testimony of its summary witness, which established that the MAI defendants were longtime campaign contributors to democratic candidates going back to when the commission first started keeping the records. The defense was setting up the argument that because the MAI defendants were big donors, donating $50K to Keith over several years was insignificant and in no way a bribe.

Witnesses were called to testify to the protracted litigation surrounding the unemployment benefits claim and Laurel's lawsuit against MAI for discrimination. One witness in particular, Laurel's lawyer, Charles, was a particularly long witness, giving testimony over the course of two days. He was discredited by the defense as being blatantly biased in favor of his client. In what can only be described as an extreme and unnatural interest in the case, the defense pointed out to the jury that he had his wife/paralegal sit in the gallery taking notes throughout the entire trial. He came across as very biased and not very credible.

Another witness of note was Keith's executive assistant, May. For a witness that literally could not remember anything, it was remarkable that she testified for three days. She authenticated emails between the MAI attorney and Keith's office for days, but of greatest significance was her testimony that there was

no agreement to bribe made in her presence, and she attended all the meetings so she would have known. The government attempted to discredit this statement based on her obvious loyalty to Keith; however, since there were no witnesses that could testify to a bribe taking place, her testimony stood as the only testimony that a bribe did not take place.

Laurel testified over the course of five days. She started out as the happiest witness you ever saw on the stand, smiling, laughing, having a great time. She was less happy on cross. In my cross examination, I approached this witness with a woman-to-woman rapport—which was very effective. I gave a lot of advance thought as to how to approach her and I was relieved when my strategy worked. She gave me the answers I wanted, which demonstrated she had been untruthful in the past. I don't think the jury liked her very much.

The government called many witnesses from the prosecutor's office and the HPD, who all testified that they concluded there was never a viable prosecution to be had against Laurel for time stealing from MAI and that they told their boss Keith the same. All these witnesses were neutralized on cross based on their bias or lack of work ethic. Fortunately, both the filing prosecutor and the successor prosecutor testified emphatically that they believed criminal charges were merited. Really, they had little choice; they certainly could not testify they filed and prosecuted a meritless case. The government called witnesses from the unemployment department to testify to the aggressive litigation practices adopted by MAI in its objections to Laurel receiving employment benefits, later arguing to the jury that MAI's efforts to deny Laurel unemployment benefits were all part of the "Get Laurel" plan. This was a very effective argument, well supported by testimony and very damaging to the defense. The government also called a witness from the EEOC to testify to both the process for filing a claim as a precursor to filing a lawsuit and, more importantly, the fact that MAI had notice of Laurel's right to file the lawsuit before MAI filed its police report for theft against Laurel. This evidence was compelling to support the government argument that MAI retaliated against Laurel for suing them by filing a police report against her. This last bit of evidence strongly supported the conspiracy charged in Count 2 alleging that the defendants had interfered with Laurel's right to file a lawsuit by way of filing the police report.

Toward the end of the trial, the government sought to call a reporter as a witness to testify to statements made to the press by the MAI attorney after the state court judge dismissed the criminal matter against Laurel. The government proffered that the reporter would testify that the company lawyer told him that MAI had nothing to do with the criminal prosecution of Laurel and that this was a lie demonstrating a consciousness of guilt. Hearsay objections to the admission of this testimony were denied, but the lawyer for the reporter was friendly and we were able to speak with him shortly before he testified. That short encounter proved invaluable as it made clear that the "statement" the government sought to introduce was being taken out of context. On cross, this witness was completely neutralized.

Motions and Instructions During Trial

During the trial, the government team was literally interviewing witnesses every day and producing FBI investigative reports (FBI 302 reports) of interviews. Much of this new evidence required that motions in limine be filed. In total, the defense filed 24 motions in limine, and the government filed 13, most of which were filed during the trial, meaning that the parties were filing, responding, and litigating nearly daily.

One such motion was filed by the government for admission of the state court judge's oral and written opinions where she dismissed the criminal case against Laurel in scathing opinions, blasting the prosecutor's office for doing no independent investigation and instead doing the bidding of MAI. The admission of this evidence was heavily contested. Ultimately, the court admitted the oral opinion but not the written opinion, which, all things being equal, was a sort-of win because the written opinion was far worse. The oral opinion was played for the jury. It was pretty bad as it provided strong evidence that the criminal charges filed against Laurel were without probable cause. To counter, the defense had to demonstrate that the MAI defendants, as lay people, had a good faith belief in the charges, and Keith had to argue that two of his prosecutors thought the charges were merited and he agreed.

The examination of witnesses by both parties, but mostly by the government, created the need for curative instructions and limiting instructions to be drafted, argued, and read to the jury during trial. All told, more than 15 limiting instructions and several curative instructions were read to the jury during the trial. It is fair to say that up until this point in the trial,

the government had failed to draw blood. Despite the government's best efforts, we felt like the defense was winning. And then, that changed.

Witness Tampering and Obstruction

Janice was going to be a star defense witness. She was the interior designer at MAI that replaced Laurel. There was no testimony by which she could be impeached because she was one of the few witnesses who had not appeared before the grand jury and had not given testimony in the unemployment matter or the civil discrimination lawsuit. She was knowledgeable and warm about the company and our client and, most importantly, a genuine and honest person. In other words, Janice was a great witness for the defense.

Rudy had been Dennis's best friend since high school. They had known each other for 65 years. Rudy had been a high-ranking member of the HPD and was a business partner of Dennis in several ventures. Dennis had also always been kind to Rudy's daughter, who was on the police commission. When the state criminal matter was filed against Laurel, Rudy was identified as a victim of theft in two counts. Rudy had testified in the civil discrimination case favorably for MAI, essentially confirming he was a victim. Not so before the grand jury. There, Rudy testified he had no idea why he was listed as a victim of theft by Laurel. These inconsistencies in his testimony were problematic. Obviously, Rudy was an important witness for the government based on his grand jury testimony, which the government deemed more credible.

Midway through the trial, Dennis asked Janice to give Rudy his grand jury and civil trial testimony with a message that his civil trial testimony was "good," his grand jury testimony was "bad," and he should discuss with an attorney the exercise of his Fifth Amendment privilege before testifying in the trial. This was, of course, in direct violation of both the no contact order and the protective order put in place by the court.

Literally at almost the same time Dennis had asked Janice to deliver this message, Rudy was struggling with having to offer testimony in the federal criminal trial against his friend Dennis. He

was also deeply concerned about what both he and Dennis considered inconsistent statements. He did not want to cooperate with the government, but he really wanted to review his grand jury testimony as he had concerns he would perjure himself in the current trial if he did not have the benefit of reviewing what he had said before. But the government would not give him his grand jury testimony due to grand jury secrecy rules. Ultimately, he spent hours in the USAO's office reviewing his testimony in the presence of federal agents with an attorney. It was during this and subsequent meetings that the government learned that Janice had recently provided Rudy with his grand jury testimony in violation of the protective order and had conveyed the message from Dennis in violation of the no contact order.

On Friday, a search warrant was obtained for and executed on Janice's home and, among other items, a notebook with her notes reflecting the exact directions she had received from Dennis about the "good" and "bad" was seized. And so began a very dark time in the trial.

That Sunday the government filed an emergency motion for enforcement of the protective order putting the court on notice of the violations of court orders. We spent the rest of the day Sunday feverishly examining the new situation we were in and crafting a position in response to the government's emergency motion. On Tuesday, closed-door hearings were conducted regarding the violation of the court orders. The judge was understandably upset about the violation of the orders and the potential compromised integrity of the trial. On Wednesday, the government requested, and the court granted, a stay of the jury trial so the government could conduct further investigation into the breach of the protective order. (We later learned the government had empaneled a grand jury to investigate the obstruction and witness tampering.) Given the breach of the protective order, from this moment forward the government no longer produced FBI 302 reports. If we wanted to review FBI 302s. we had to go to the US Attorney's Office and read them with the lead prosecutor staring at us. Unnerving.

While the case was on pause, that Friday evening at 6:30 pm, our 80-year-old client was arrested at his home for violating his conditions of release due to violation of the protective and no contact orders. Earlier that day, the government had presented the affidavit and warrant for Dennis's arrest to the district court judge, so the court was in possession of the full details of the violations. At 80 years old, Dennis, the proud founder of MAI and a well-recognized architectural engineer and political donor, was in jail. The press had a feeding frenzy.

That weekend was spent preparing for the detention hearing, which included drafting our position and reviewing 300 pages of medical records, preparing for the Monday trial witnesses, and, at the government's invitation, my team meeting with the government. During this meeting, we reviewed grand jury testimony taken in connection with the new obstruction and witness tampering investigation, the evidence seized from the search of Janice's home, and FBI 302 reports. The evidence of witness tampering and obstruction was not good. Moreover, there were reports reflecting that the government also had investigated my phone records and performed fingerprint analysis on documents searching for my fingerprints, making it clear that the government was investigating whether *my team* was involved in or had prior knowledge of the obstruction and witness tampering. It appeared to me the government was threatening me, and the meeting was, to say the least, tense. During the meeting, the conversation went something like this:

> Me: What do you mean five? I can see two: My client will be convicted or acquitted.
> Gov: There are other options.
> Me: Like what?
> Gov: You can figure that out.

It seemed to me the government was suggesting that (1) my client plead guilty, (2) my client cooperate, or (3) I withdraw due to a "conflict," i.e., my being under investigation in connection with the obstruction. At this point, it was time for the meeting to end. We left with a false air of bravado—an absolute defense mechanism to what we perceived to be a looming threat.

On Monday morning, my local counsel withdrew. That same day, the detention hearing was conducted during the trial lunch break. The California magistrate flew in for the hearing. The courtroom was packed with looky-loos, media, and family and friends. Given the nature of the violation, including the fact that court security photos showed that Dennis met with Janice in the courthouse after she delivered his message to Rudy, the court ordered detention. There was an immediate increased security presence in the courtroom. The jury noticed. The court told them it was standard

operating procedure. We found out later they didn't buy that.

Before the end of the week, Dennis had fallen in jail, cracked his head open, and was taken by ambulance to the hospital. His blood pressure was dangerously high. I moved for reconsideration of the order of detention, and another detention hearing was held, this time it was before the district court judge and had live witnesses from Bureau of Prisons (BOP) to attest that they could care for Dennis while in custody. The hearing lasted two and a half hours. It was a slaughter, and release with conditions was again denied. However, the court required that BOP provide daily medical check-ins and reports regarding Dennis's blood pressure and adherence to medication protocol for the remainder of the trial. This required that I provide daily reports to the court concerning my client's medical condition while in custody, another task I had little bandwidth for.

Between the violations of the court orders and Dennis's medical issues over the course of a solid two-week period, no less than nine closed-door hearings were conducted. At least three of those hearings were just my team, my client, and the court. This time-consuming and endless litigation all occurred during breaks in witness testimony, over lunch, or before trial started for the day. The pace was surreal and the issues so significant there was only one way to go: forward, each day, each hour.

Government Weaponization of Family and Friends as Witnesses Against Defendants—Love and Fear

The remainder of the trial was nothing less than a soap opera. The government wasted no time in moving for admission of the actual court orders Dennis had violated. The admission of this evidence was heavily litigated, with the court ultimately ruling that both court orders, in their entirety, would be marked as exhibits and admitted. This was a significant victory for the government.

The government also wasted no time in calling Rudy and Janice as witnesses. Rudy described the meeting he had with Janice and the message she had given him as conveyed by Dennis—specifically that Janice had told him that Dennis wanted him to change his testimony from what he had said in the grand jury. But on cross examination, a different story emerged. On cross, Rudy admitted that he feared the government and had told them what they wanted to hear because they had put his daughter on the witness list. When Janice testified, pursuant to a full grant of immunity, she was clear and unflappable that Dennis had told her to tell Rudy *to consult with an attorney about exercising his Fifth Amendment privilege and not to change his testimony.*

The government called the sister and niece of another defendant to elicit testimony that one defendant had attempted to interfere with grand jury testimony and that another defendant had committed campaign contribution violations by making donations to candidates in the name of the niece. On cross, these witnesses admitted how they feared the government for themselves, and their loved ones, and the jury was left with far less impactful testimony than was presented on direct. There were a lot of tears shed during the cross examination of these four witnesses. It was exceedingly emotional for everyone.

The Defense Case

The defense called three witnesses to the government's 41.

Throughout the trial, the government had portrayed the company attorney as overly aggressive and dishonest in her representation of the company in the unemployment matter and the discrimination lawsuit. Essentially, the government called her the company "consigliere," conjuring images of a mob-like business. To counter this narrative, the first witness the defense called was the lawyer who was co-counsel with the company attorney in defending the civil suit for discrimination brought against MAI by Laurel. He testified, although not forcefully, that the company lawyer behaved normally, worked hard, and was a good advocate.

The second witness was one of the defendants, the vice president of the company. His testimony was compelling and moving as he described Dennis offering him an opportunity decades ago and how he poured himself into the growth of MAI. He described a good and kind boss in Dennis and a company culture that took care of its employees and was politically active because it cared about the community. Obviously calling a defendant to testify was risky, and this decision was not made lightly, but ultimately it turned out to be a good one. Due to my co-counsel's exceptional witness preparation, the government could not hurt this witness.

The last witness was a CPA/JD called as a summary witness to explain to the jury the history and volume of campaign donations made by the MAI group. His

testimony was the product of laborious review of campaign contribution reports over the course of nearly 20 years. His testimony made clear that the MAI defendants had been making political campaign contributions for decades and that since 2006 their contributions had exceeded $1MM and that Dennis alone had personally made donations in that same time period of nearly $1MM. The testimony made clear that the $50,000 donated to Keith was insignificant in the big scheme of things but, more importantly, that making campaign donations was a normal part of the lives of the defendants. His testimony provided further support for the defense argument that the donations were not bribes; they were donations.

Closing Arguments

The government was allotted three hours for closing argument, the defense attorneys one hour each.

The government leaned in hard into the consciousness of guilt, arguing that Dennis's violations of court orders were conclusive evidence of his guilt. The government argued it was obvious that the donations were concealed bribes because of the timing of the donations coinciding with activity in the criminal investigation and prosecution of Laurel, the fact that the criminal prosecution of Laurel was dismissed with prejudice for lack of probable cause, and Keith's campaign didn't even need the money.

In order to maximize the limited time each defense counsel was allotted, we coordinated our closing arguments so that we didn't repeat each other. For example, some of us hit burden of proof harder than others, some of us took the campaign donations, and some of us took on the lack of credibility of the government's witnesses, including Laurel. Interestingly, the defense arguments were, in many ways, the flip side of the government's argument. For example, where they argued consciousness of guilt, we argued consciousness of innocence, and where they argued the timing of campaign donations as connected to the investigation and prosecution of Laurel, we argued the timing of donations as random. The hardest argument to make was in connection with the court order of dismissal of Laurel's criminal case. We argued that as civilians, our clients had a good faith belief they had been victimized by Laurel. The government argued our clients had criminally interfered with Laurel's civil rights. We strongly argued an overreaching and aggressive government intimidating people and misleading the jury. After all, we had a lot of curative instructions to point to. Essentially, we argued the only crime that occurred was by the government and we put them on trial for their misdeeds.

Conclusion

The jury deliberated less than 12 hours before fully acquitting all six defendants on both counts. This case was won on motions work and jury instructions. This case also was won on cross examination. We systematically either turned each and every government witness's testimony around to our favor or simply neutralized it. Had it not been for cross-examination, the government would have won handily. Kudos to the adversary system!

But this case was even more fundamentally won because of teamwork. Our JDA was strong and tight. We met as a team regularly, sometimes after court, always on the weekend. We spent Thursday nights together, having a drink and recounting the good and bad of the week. We became a family.

Our messaging was always cohesive and consistent. We previewed and discussed each other's cross examination and legal and closing arguments. We helped each other out, we picked up the slack for each other when needed, and we supported each other in every way. When my team was in the dark abyss for those two weeks, my co-counsel took the lead on objections and cross so I could draft pleadings and review medical records. We won because we were honest. We won because we were better together. We won because we were a team. ■