

Litigator of the Week: Terry Reed

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Terrance Reed

Going to trial against the Department of Justice's antitrust division – especially after it has already collected guilty pleas and convictions from everyone else accused in a cartel – takes moxie.

When a federal grand jury indicted Thomas Farmer in March 2013, the company at which he had been vice president, Crowley Liner Services, had pleaded guilty, as had the two competing companies with which Crowley admitted to fixing prices. Two of the five executives who had copped guilty pleas, Peter Baci of Sea Star Line and Gregory Glova of Horizon, agreed to testify against Farmer.

Frank Peake, the former Sea Star president, had been convicted in the same

Puerto Rico federal court where Farmer was being indicted. In December 2013, Judge Daniel Dominguez sentenced Peake to five years, the longest prison term ever for a Sherman Act offence. Those who pleaded guilty obtained significantly shorter sentences, some as little as seven months.

The cloud had been hanging over Farmer since 2008, when the antitrust division searched the shipping companies' offices for evidence of the alleged cartel, which the DoJ said fixed prices and surcharges on the shipping routes between the continental US and Puerto Rico.

Yet Farmer declared he was innocent of the conspiracy to fix prices, and his lead counsel – Lankford & Reed co-founder Terrance G Reed – pushed back against the government every step of the way.

“It was a brave effort on his part. He basically fought for his good name when a lot of people had been unwilling to face that,” Reed told *GCR*.

Farmer initially was scheduled for his constitutionally required speedy trial just two months after the indictment, but the host of motions his lawyers filed delayed it for almost two years.

Reed, with the help of his partner Thomas Lankford and local counsel in Florida and Puerto Rico, argued nearly every angle imaginable, including sympathy for Farmer's age and ill-health after a heart attack.

He sought to move trial to Florida where Farmer and Crowley were based, on the claim the defendant could not get a fair trial in Puerto Rico. He tried to dismiss the case entirely because the Sherman Act prohibits collusion in commerce among the several states but Puerto Rico is a US territory.

Reed even asked for sanctions against the DoJ for dumping 17 million documents in discovery that were not text-searchable. Judge Dominguez nixed all of these motions, but did prohibit the antitrust division from arguing the alleged price-fixing scheme resulted in higher consumer prices for the residents of Puerto Rico, and from asking its non-expert witnesses to opine on

the law.

The trial lasted a month. The jury was instructed late last Thursday afternoon and began deliberations on Friday morning. The twelve jurors reached a verdict by early afternoon.

They acquitted Farmer of conspiracy to fix prices, the single charge against him.

“We’re glad that justice has prevailed here. It’s a long hard case and the jury obviously reached the correct result based on compelling evidence of competition that for whatever reason the government overlooked,” Reed said.

He estimated the government brought six lawyers and nine paralegals to the trial, as part of the substantial resources the DoJ had devoted to the case for seven years.

“This is being run by the antitrust division and they put their full weight and strength behind it,” Reed said. “It was a difficult effort by Mr Farmer to clear his name.”

The now 66-year-old Farmer has retired.

“I don’t know what the future holds for him, but it will leave him in a situation where he’s got a career to be proud of,” Reed said.

Farmer’s lawyers can be proud as well. For taking on the antitrust division despite heavy odds against him, Terry Reed is our Litigator of the Week.

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