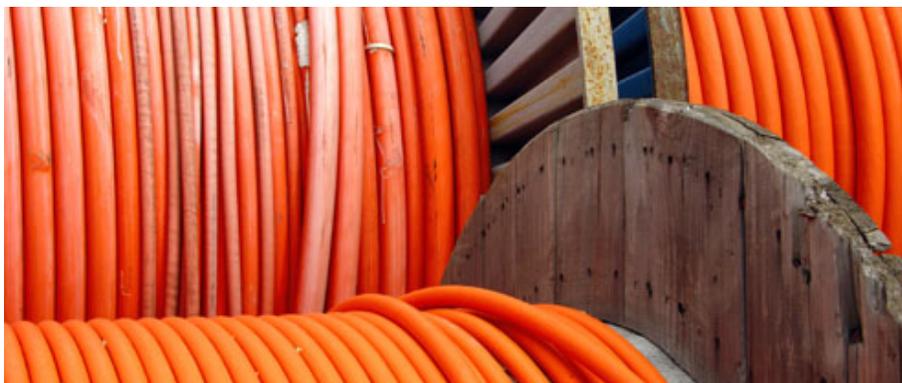


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In the case of U.S. v Rigas, the Federal Government charged John and Timothy Rigas with tax fraud and conspiracy charges. The firm argued successfully before the United States Court of Appeals for the Third Circuit (sitting “en banc” with 11 judges hearing the argument) that our clients’ Fifth Amendment rights had been violated by the prosecution.

The Fifth Amendment of the United States Constitution says: “(No person shall) be subject for the same offense to be twice put in jeopardy of life or limb.” In laymen’s terms, this means that no person can be tried twice for the same offense. More commonly, this clause is known as “Double Jeopardy.”

John and Timothy Rigas were officers and directors of Adelphia Communications, at one time among the biggest cable television firms in the U.S. In 2004 the pair was charged and convicted in the United States District Court for the Southern District of New York of conspiracy to commit fraud involving their company.

Federal prosecutors for the U.S. District Court for the Middle District of Pennsylvania later filed a second indictment that charged the pair with conspiring to commit the fraud.

When examining the Pennsylvania and New York indictments, the Dilworth Paxson attorneys found substantial overlap. The descriptions of the conspiracy charged in both cases seemed quite similar.

An attempt was made to have the second indictment dismissed by the Middle District Court, but Judge John E. Jones III rejected the motion. Judge Jones said that although the conspiracy charge was filed under the same general conspiracy statute used in the New York case, it did not amount to double jeopardy.

Dilworth Paxson attorneys Lawrence McMichael and Patrick Northen then appealed the case to the U.S. Court of Appeals for the Third Circuit. They argued that the alleged conspiracy cited in

the Pennsylvania case was the same conspiracy that was the basis for the New York conviction.

Dilworth Paxson attorneys argued that the conspiracy alleged in the Pennsylvania case was nothing more than the same crime replicated in a different indictment.

The case was argued in October 2009 before a three judge panel who make up a subset of the full Third Circuit court. In a 2-1 decision the panel ruled that the trial judge in the Pennsylvania case was too quick to reject the argument that the conspiracy charge amounted to double jeopardy.

The government, dissatisfied with the ruling, requested that the appeal be re-heard “en banc,” which means in front of all judges of the Third Circuit.

Once the case was argued en banc, it resulted in a decision in favor of the Rigases with seven of the sitting 11 judges concluding that the general federal conspiracy statute creates a single statutory offense, not two as the government had argued, and that noting that there was a strong inference that the Rigases were being charged a second time for the single offense.

The decision by the Third Circuit court is sure to have far-reaching implications. Attorneys for generations to come may cite the court’s interpretation of the general conspiracy statute as a persuasive argument against Double Jeopardy.