

Edelson Could Get Dinged For Sitting On Girardi Concerns

By **Lauraann Wood**

Law360 (December 9, 2021, 11:35 PM EST) -- An Illinois federal judge signaled Thursday that Edelson PC could catch heat alongside former Girardi Keese attorneys Keith Griffin and David Lira for sitting on concerns that Thomas V. Girardi was misappropriating settlement funds meant for plane crash victims' families.

During the second day of contempt proceedings over Griffin and Lira's suspected role in helping Girardi embezzle millions in plane crash settlement funds, U.S. District Judge Thomas Durkin said the Edelson firm seems to have contributed to the issue by bringing its nonpayment concerns to the court **in December 2020** instead of at least that September, when it seemed clear to the firm that several Indonesian families hadn't received all the settlement money Boeing promised to pay them.

If the question at hand is whether people aided and abetted Girardi in violating an order to pay certain settlements within 30 days, then "you may be in the soup too over that — not quite as early, but at some point definitely, because this motion didn't come to me in September," Judge Durkin said.

Perhaps Girardi received some deference because of his status as a titan of the plaintiff's bar and because people questioned how he could ever lie or steal from clients, but "that's really my call," Judge Durkin said. Whether Girardi's nonpayment was excused by illness, mix-up or playing coy on fee payments, "these poor folks in Indonesia, they don't care," he said.

"These poor folks expect integrity," he said. "It's an embarrassment to the whole legal community that people in Indonesia are being ripped off by someone who's acting like a two-head crook."

The hearing will help Judge Durkin probe Edelson's request to hold Griffin and Lira in contempt for allegedly covering for Girardi, who has been accused of pocketing at least \$2 million meant for families of Lion Air Flight JT 610 crash victims. Judge Durkin originally anticipated the hearing would last two days, but he said before adjourning Thursday that he'd like to continue the proceeding to hear from firm founder Jay Edelson and Ari Scharg, who also worked on the Lion Air Case. The Edelson firm served as Girardi Keese's local counsel for several plaintiffs who sued over the 2018 plane crash.

Girardi is accused of stiffing several clients in the Lion Air case, but the contempt hearing has focused largely on four clients who'd initially received only half of the settlement amounts they were owed. He has asserted his constitutional right **to remain silent** in the contempt proceedings.

Rafey Balabanian, an Edelson attorney based in California, testified Thursday that he first spoke with Girardi last summer about the details of those clients' payments and was told tax issues and trouble receiving release documents had caused the delay. Girardi also disclosed that he'd spent time in a hospital and been receiving treatment for cancer, he said.

In a later conversation, Girardi called the half-payments "a mistake" that had never happened before and that he would look into, Balabanian testified. He testified that while he "definitely had concerns" over how the settlement money was being handled, he'd only ever suspected that Girardi was trying to get out of paying the Edelson firm its cut of fees from the deals.

"I didn't imagine that what was taking place was theft of client money," he testified.

Balabanian, who also serves as the Edelson firm's general counsel, said that he'd discussed bringing the issue to the court's attention several times with firm founder Jay Edelson and others. But they decided not to pull that trigger at the time "because we ultimately felt as though the explanations were reasonable," he testified.

Lira had also sent an email in early May 2020 that seemingly discouraged the Edelson firm from reaching out to ask Boeing about the settlement payments, Balabanian testified. Another reason the Edelson firm didn't take more direct action at the time was because "it felt as though it would be strange for us to sort of leapfrog them" since Edelson served only as local counsel, he said.

"We didn't also want to send some kind of a message ... that there was some kind of a fracture in the relationship," he said.

Girardi allegedly ran his law firm like a Ponzi scheme, using new money coming into the firm to pay off older clients and debts. He's also accused of using clients' money for his own personal benefit.

Lira's signature appears on several of the checks at issue, including a check for \$11.8 million that was drawn from a client trust account with the memo "TVG loan proceeds" in 2019. But Lira testified Thursday that he's learned his signature had been forged many times, and that he didn't remember either that specific loan check or its amount.

Asked whether he ever asked anyone why loan proceeds for Girardi would ever be drawn from a client trust account, Lira said he didn't.

"I believed everybody was acting in good faith," he testified.

Counsel for Girardi Keese admitted last year that at least \$2 million was missing from the clients' trust accounts. Judge Durkin promptly found Girardi and his firm in contempt, froze their assets and issued a \$2 million judgment for the plaintiffs to protect their money as other creditors circled the firm. He also referred the case to federal prosecutors.

Lira and Griffin told the court **in separate filings** in April they shouldn't be held in contempt for the firm's failure to follow a court order and issue settlement payments in the plane crash litigation, arguing they can't be held liable for their former employer's actions. They've also argued that Edelson should be faulted because the firm knew about the settlement payment issues for months before bringing it to Judge Durkin's attention.

Edelson PC is represented by its own Jay Edelson, Alexander G. Tievsky and J. Eli Wade Scott.

Griffin is represented by Ryan Saba of Rosen Saba LLP and John O'Donnell of Cassidy Schade LLP.

Lira is represented by Edith R. Matthai and Leigh P. Robie of Robie & Matthai APC and Christopher T. Sheean of Swanson Martin & Bell LLP.

The case is In re: Lion Air Flight JT 610 Crash, case number 1:18-cv-07686, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Brandon Lowrey and Celeste Bott. Editing by Emily Kokoll.