

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

**DAVID ROBERSON,
Plaintiff,**

v.

**DRUMMOND COMPANY, INC.
AND BALCH & BINGHAM, LLP
Defendants.**

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Case No.: CV-19 - _____

COMPLAINT

1. At all times relevant to this case, Defendant Balch & Bingham, LLP (“Balch”) was serving as the agent of Defendant Drummond Company, Inc. (“Drummond”), and all acts and omissions described herein were committed pursuant to and in the course of that agency relationship. Drummond is liable for the torts committed by its agent in this matter, Balch & Bingham, LLP, under respondeat superior.

2. Drummond sought to prevent the U.S. Environmental Protection Agency from placing a particular site in Jefferson County, Alabama on a National Priorities List (“NPL”) as a prelude to designating Drummond a Potentially Responsible Party (“PRP”) for cleanup costs at that site. Said cleanup costs, should the site be placed on the NPL, were estimated at over \$100 million dollars.

3. Drummond sought to accomplish this goal by hiring Balch & Bingham, LLP as its legal counsel. Unbeknownst to Plaintiff, Balch used bribery to prevent the State of Alabama from giving legally required assurances to the EPA that the state would cover 10% of the cleanup costs that could not be recovered from PRPs. Also, Balch used bribery to have State Representative Oliver Robinson, in his official capacity, advise residents of North Birmingham regarding the testing of their property for toxins such as lead and arsenic. Balch, as Drummond's agent, engaged a seemingly legitimate local foundation, the Oliver Robinson Foundation, which was controlled by a respected Alabama state legislator, to conduct an ostensibly innocent campaign directed toward the community, the State of Alabama, and the EPA. Balch was to, and did, pay the Foundation a monthly fee for these services, which said payments were reimbursed by Drummond.
4. In November 2014, before the implementation of that scheme, Balch, as an agent of and on behalf of Drummond, assured Plaintiff Roberson, who was an employee of Drummond's, that there was no legal problem with these efforts; that they were legal and ethical.
5. Plaintiff is not a lawyer or otherwise legally trained regarding such matters, and given his belief that Balch was an honest expert in such matters, reasonably relied upon Balch's representation to his detriment by refraining

from objecting to the campaign and approving Drummond's payment of Balch invoices seeking reimbursement for what turned out to be bribes to the aforementioned state legislator.

6. Plaintiff also reasonably relied upon the failure of Balch, who was serving as Drummond's agent, to disclose to him that the arrangement with the Foundation was, in fact, illegal. Balch had a duty to disclose to Plaintiff that its in-house ethics attorneys had advised attorneys within the law firm that the scheme they had come up with to defeat the EPA on behalf of Drummond was illegal.
7. However, on September 27, 2017, a federal grand jury returned a six-count indictment charging Balch attorney Joel Gilbert, as well as the Plaintiff, of violating 18 U.S.C. §§ 371, 666(a), 1343, 1346, and 1956 (h). After the Balch attorney blocked, on Sixth Amendment grounds, the Plaintiff's evidence at trial supporting his advice-of-counsel defense, a jury returned a verdict finding both the Balch attorney and the Plaintiff guilty on all counts. Plaintiff was sentenced to 30 months in prison. Balch continued to assure the Plaintiff that its scheme to prevent the U.S. Environmental Protection Agency from placing the site in Jefferson County, Alabama on a National Priorities List ("NPL") was legal up until the day that the jury in Plaintiff's and the Balch attorney's criminal trial came back with verdicts of guilty on counts. At that

juncture, Balch's attorney apologized to Plaintiff at their sentencing hearing for misleading him.

8. Adding insult to injury, Drummond then terminated the Plaintiff's employment after his conviction on multiple felony counts as result of the misrepresentations and suppressions of Drummond's agent, Balch & Bingham, LLP. The site in Jefferson County, Alabama was never put on the NPL nor was Drummond deemed a responsible party.
9. As a proximate consequence, the Plaintiff has been humiliated, his reputation has been destroyed, he will lose 30 months of his life behind bars at the age of 67 years old and he has experienced extreme emotional distress. He has also suffered economic loss.

Wherefore, Plaintiff demands judgment against the Defendants for \$50,000,000 for negligence, fraud and suppression, as well as for implied indemnity.

/s/ Burt W. Newsome

Burt W. Newsome (NEW047)
Attorney for Plaintiff

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Plaintiff demands trial by struck jury on all claims.

/s/ Burt W. Newsome

Burt W. Newsome

Of Counsel

Plaintiff

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Defendants

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