

Did Scott Rothstein Arrange Arrest of Lawyer's Wife? \$1.2M Settlement Reached

by Raychel Lean

Attorneys Andrew Mitchell Moss of Kutner, Rubinoff & Moss in Coconut Grove and Manuel L. Dobrinsky of Dolan Dobrinsky Rosenblum in Miami have reached a \$1.2 million settlement with the Broward Sheriff's Office—just three days into a jury trial involving allegations that disgraced former Fort Lauderdale attorney Scott Rothstein arranged for the false arrest of an associate's ex-wife.

The trial against the Broward Sheriff's Office was expected to continue until Dec. 16—until a settlement offer emerged during Wednesday's lunch break, after the plaintiff's team rested its case.

Plaintiff Marcy Romeo alleged that when former Sheriff Al Lamberti led the department, Rothstein used his sway as a major donor and fundraiser to have her arrested on



SHUTTERSTOCK

The trial against the Broward Sheriff's Office was expected to continue until Dec. 16.

a trumped-up drug charge on June 29, 2009.

Rothstein is now serving 50 years in prison for running a \$1.2 billion Ponzi scheme.

In the midst of a bitter custody battle, Romeo claimed her ex-husband, disbarred attorney Douglas Bates, removed a label from their autistic son's medication bottle, then had Rothstein request her arrest

for carrying illegal drugs. She was pulled over by an unmarked police car for an alleged expired tag. The charges flopped, but not before Romeo claims she was strip-searched and threatened by officers.

Arresting officer Jeff Poole and then-lieutenant David Benjamin received prison sentences over the incident, after an FBI investigation.

Bates pleaded guilty to wire fraud after being identified as a co-conspirator in Rothstein's Ponzi scheme.

Romeo's suit claimed the Sheriff's Office was liable for what happened, while the defense argued it wasn't to blame for the actions of rogue cops.

When Romeo filed for bankruptcy protection partway through the litigation, trustee Michael Bakst became the plaintiff, and agreed to settle because of an obligation to repay creditors, according to Moss.

"He made a decision that it was in everyone's best interests to settle at that number," Moss said. "I think once the other side saw our evidence in the case, and what we were able to present to the jury, they did the right thing, and we got the case settled for what I think is a fair amount for both sides."

The plaintiff's team argued that before Romeo's arrest, Lamberti knew his undersheriff Tom Wheeler and executive officer Benjamin—who was also in charge of internal affairs—had accepted free trips on private planes from Rothstein. According to Moss, they testified that Lamberti breached police policies and procedures by requesting

favors for Rothstein, contradicting the former sheriff's denials in a pretrial deposition. Lamberti was slated to testify next week.

The Sheriff's Office and its attorneys—David Lawrence Ferguson and Seth David Haimovitch of Kopelowitz Ostrow Ferguson Weiselberg Gilbert in Fort Lauderdale—did not respond to a request for comment by deadline. They have continually denied that the arrest was illegal, and the settlement does not include an admission of liability.

Dobrinsky, who joined the plaintiff's team before trial, said it was powerful to hear from Romeo, who told jurors the experience "fractured" her. Three current Sheriff's Office officials, a liability expert and Romeo's treating psychologist also testified.

"I think it became very apparent to everyone in the courtroom how much this lady had suffered from this terrible ordeal," Dobrinsky said. "This woman was literally arrested, handcuffed and strip-searched after dropping her autistic son off at school, and it was done by police officers."

Moss described the litigation as "long and tenuous," as it posed unique civil rights questions with strict

legal standards. And though Rothstein is infamous in the legal industry, most jurors were coming in cold.

"Because the whole Scott Rothstein fiasco happened so long ago, a lot of the jurors weren't familiar with it," Moss said.

The settlement wasn't Romeo's decision, but Moss said she was glad to be heard, having waited "a very, very long time to tell the jury her story."

Arno Kutner of Kutner Rubinoff & Moss also worked on the case before retiring, and Elliot Kula of Kula & Associates served as appellate counsel.

"Drew Moss and Arno Kutner really poured, not just all of their best efforts, but their hearts into this case for a long period of time, and finally were able to bring a sense of closure and justice to Ms. Romeo," Dobrinsky said.

Senior U.S. District Judge Kenneth A. Marra oversaw the case in the Southern District of Florida.

Raychel Lean reports on South Florida litigation for the Daily Business Review. Send an email to rlean@alm.com, or follow her on Twitter via [@raychellean](https://twitter.com/raychellean).