

# DAILY REPORT

A SMART READ FOR SMART READERS

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R I S E

**SPECIAL SECTION**

We introduce you to 14 promising legal minds—all under age 40—in our fifth annual On the Rise special section. Plus, we revisit the staff's previous picks, and see where they are now and how far they've come.

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**Newsreel**

**Feds drop charges against timber broker; immunity deal at issue**

• Prosecutors have dropped charges against a north Georgia timber broker after a federal judge questioned whether the broker's indictment in a Berry College kick-back scheme violated his immunity deal with state prosecutors.

U.S. Attorney David E. Nahmias filed the motion last week to dismiss fraud and money-laundering charges against timber broker R. David Bain, who for four years had cooperated with Floyd County authorities investigating the suspected kickbacks. U.S. District Judge Harold L. Murphy signed the order dismissing the case without prejudice on Aug. 14.

Bain's co-defendant, Robert L. Parker, was Berry College's one-time director of land resources and responsible for managing the harvesting, sales and replanting of the north Georgia college's 27,000 acres of timberland. The indictment accuses Parker of selling college-owned timber at bargain-basement prices to Bain and others in return for thousands of dollars in kickbacks. Parker is slated to go to trial in U.S. District Court in Rome on Sept. 11.

In their motion to dismiss charges against Bain, prosecutors acknowledged that their case against the timber broker was "based significantly" on documents and deposition testimony of witnesses that Berry College lawyers secured after getting Bain's immunized statements from county police. As a result, prosecutors said, they will not be able to use any of that evidence against Bain.

In 2002, Floyd County's district attorney signed an immunity deal with Bain relating to the Berry College timber transactions. Federal prosecutors argued that the deal did not shield Bain from federal prosecution because federal authorities had made no similar promise. But Murphy disagreed, ruling that "when an individual testifies under a formal grant of statutory use immunity from the state of Georgia, all information provided, and all derivative leads from that testimony and information, cannot be used in a separate federal investigation."

—R. Robin McDonald

**4 AT ISSUE**

Robert C. Port: My experiences in court taught me all I need to know about investing.

**10 THE SNARK**

Goner, Gunner or Gamer? Take our quiz to find out if you've got what it takes to reach the top.

**6B OPINIONS**

Read summaries of recent opinions from Georgia's high court and Court of Appeals.

## Eye docs see the bright side of condemnation

**MID-TRIAL SETTLEMENT adds \$1.5 million to Georgia Tech's price for Midtown building**

GREG LAND | gland@alm.com

WHILE POLITICIANS and pundits have in recent years decried governments' powers of eminent domain, not every citizen who challenges condemnation has emerged bruised and bloodied.

Two Atlanta eye doctors who purchased a building in booming Midtown a decade ago will get \$7.2 million and two years' free rent from their new landlord, the Georgia Institute of Technology, in a settlement reached last week in Fulton County Superior Court.

The agreement came after seven days of testimony over Tech's move to seize the property for expansion and wraps up the school's efforts to convert the entire block of West Peachtree Street across from The Biltmore Hotel into administrative space as part of the school's steadily expanding footprint. The case was *Board of Regents v. CSA-Marand Inc.*, No. 2003CV78428.

Drs. Shelby R. Wilkes and Jettie Burnett, a husband-and-wife team of ophthalmologists, bought the three-story Capstone Building at 830 W. Peachtree St. in 1996, said their attorney, Richard N. Hubert of Chamber-



Lawyers Richard Hubert, right, and Nick Pappleacos said the first award for the Capstone Building on West Peachtree wasn't bad—but a settlement did better.

lain, Hrdlicka, White, Williams & Martin.

They installed an eye clinic and surgery on the first floor, and were in the process of building out the two upper floors when, in 2003, Georgia

Tech—acting on the state Board of Regents' power of eminent domain—moved to condemn the property. The university

See *Condemnation*, page 7

Find related court documents at [dailyreportonline.com](http://dailyreportonline.com).

## DLA Piper to trim unwieldy name

LYNNE MAREK | lmarek@alm.com

DLA PIPER Rudnick Gray Cary, the world's second-largest firm, is expected to announce in September that it is taking a new, shorter name to strengthen its international brand after a wave of mergers in the past seven years brought together practices in the United States, Europe and Asia.

The firm felt that spending on the marketing strategy was important to build on the legacy of

the individual firms while pushing forward with a "new vision" for the consolidated entity, said Louis Cohen, a managing partner in the firm's Chicago office, its largest U.S. location.

"Right now, the firm name is not that manageable," he said, declining to say what the new name might be.

A British Web site, TheLawyer.com, reported

See *DLA*, page 13

**On the Record**

## ACLU shifts its strategy, looks abroad

GERRY WEBER says the ACLU is working with international bodies to push human rights claims at home



MEREDITH HOBBS

GERRY WEBER, the legal director for the American Civil Liberties Union of Georgia, flew to Geneva last month to testify before a United Nations body examining the United States' compliance with the International Covenant on Civil and Political Rights.

I asked Weber to lunch at the Loaf & Kettle in Fairlie-Poplar to find out why a local ACLU lawyer was testifying on U.S. human rights practices before the United Nations.

Along with 45 other human rights groups, the ACLU made a "shadow report" to the U.N. to complement the official report from the U.S. government, Weber said.

He said his trip to Geneva was part of a strategy shift for the ACLU. "It's another tack besides filing lawsuits," he told me over an andouille sausage sandwich with crawfish and grits.

U.S. courts are giving more weight to international treaties and the rulings of international courts, he explained. "As the Supreme and federal courts are looking to those treaties and decisions more, they become a more useful tool."

Weber told me that, under the Constitution, an international treaty has the same level of binding authority on a court as federal statutes do. Article 6 of the Constitution says that

See *ACLU*, page 6

Find the U.N. report on U.S. human rights at [dailyreportonline.com](http://dailyreportonline.com).

