

DAILY REPORT

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DAILY REPORT
BUSINESS MATTERS

Thomas Fay, who represents victims of terrorist attacks, says he has no sympathy for U.S. businesses holding Libyan property. **Story, page 6.**

Newsreel

DOJ must pay legal fees in civil case

Not only did the Justice Department lose a bench trial in a criminal arms export case last fall, but now it must also contend with a judge's decision to award legal expenses to the defendants in a related civil action under the Civil Asset Forfeiture Reform Act.

Defense attorneys are calling the move by U.S. District Judge Inge Johnson of Birmingham—in favor of defense contractor Axion Corp. and its owner, Alexander Latifi—unprecedented.

"It's a revolutionary ruling and case," says Henry Frohsin, the Birmingham attorney with Baker, Donelson, Bearman, Caldwell & Berkowitz who represented Axion and Latifi. Victories over the Justice Department in arms export enforcement cases are the exception, and rarer still is the awarding of legal fees, export law specialists say.

Johnson will consider approving more than \$500,000 in legal fees after attorneys submit their claims by April 23. Also pending before Johnson is a separate motion for award of defense fees in the criminal case brought under the Hyde Amendment, which allows defendants to recoup fees in errant prosecutions.

A year ago, Latifi and his company were indicted and accused of passing militarily sensitive helicopter drawings to a prospective Chinese subcontractor, material the defense said was never properly labeled and was available on the Internet.

Johnson absolved Axion and Latifi after a one-week trial.

—*Legal Times*

Judge deals blow to medical pot group

A Los Angeles County Superior Court judge ruled Thursday that federal law allows landlords to boot medical marijuana dispensaries that rent from them.

The decision by Judge Margaret Oldendorf was a strike against dispensaries in their battle against the Drug Enforcement Administration. The agency has notified landlords who rent to dispensaries that doing so is a violation of federal law, even though medical marijuana is legal in California.

—*The Recorder*

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Comments on Georgia State copyright case, judicial raises and judicial elections.

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While the Partners are away for Spring Break, the Cogs can't play—it's work as usual.

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The 2008 Yukon Hybrid, with two electric drive motors, tries to go green but only gets 20 mpg.

1B OPINIONS
Read summaries of recent opinions from Georgia's high court and Court of Appeals.



ZACHARY D. PORTER/DAILY REPORT

Counsel on Call's Dennis McKinnie said only about 20 percent of their placements are for document review: "Our sweet spot is one lawyer at a time for some type of sophisticated work."

Contract work evolves with times

STIGMA FADES as increasing number of lawyers trade in partnership track for better lifestyle

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THE STEREOTYPE of a contract lawyer is of an inexperienced attorney fresh out of law school sitting in a windowless warehouse, clicking a "responsive" or "not responsive" button on a computer screen for hundreds of documents per hour. "Jobs for lawyers are tight, only a few get the 100K

plus to start [and] the rest are fighting for the leftovers. ... Doc review is better than busting your tail for nothing," wrote one poster on the legal blog, PhiLAWdelpnia.

That stereotype is changing as temporary attorneys become a permanent part of the legal landscape.

As the billing rates for expensive young associates skyrocket and the

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11th Circuit hears appeal in 1998 school bus stop felony murder case

INMATE'S LAWYER SAYS there's no evidence client intended to seriously injure or kill boy he hit

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NEARLY A DECADE after he fatally hit a younger schoolmate as they got off a school bus in Cherokee County, Jonathan Miller still is fighting his conviction that resulted in a life sentence.

A panel of the 11th U.S. Circuit Court of Appeals on Friday heard arguments from a lawyer for Miller, who was 15 when he struck 13-year-old Joshua Belluardo in the back of the head. Miller is appealing a denial of habeas corpus relief by U.S. District Judge William S. Duffey Jr.

Miller's trial began less than a week after the 1999 massacre at Columbine High School in Littleton, Colo., and one of his lawyers' arguments is that the trial judge should have moved the case or postponed it until publicity over Columbine and Belluardo's death dissipated. But Atlanta lawyer Bruce S. Harvey made only passing reference to Columbine in arguing for Miller on Friday.

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Find related court documents by clicking on this story at DailyReportOnline.com.



FILE PHOTO

Bruce Harvey: The jurors were not instructed on what intent they had to find to boost the assault charge to a felony.

Digital TV blurred by patent 'holdup'

BATTLE OVER LICENSING royalties could stall switch to digital

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WITH A SERIES of recent high-stakes cases, the Federal Trade Commission has become increasingly aggressive in its pursuit of unfair or anti-competitive behavior by patent holders, according to patent litigators and others, who are now watching to see if the agency will step into a multibillion-

dollar fight that could affect the nation's federally mandated conversion to digital television.

The American Antitrust Institute (AAI), a Washington-based advocacy group, recently filed a petition with the FTC asking it to investigate alleged antitrust patent "holdup" by Rembrandt Technology, a patent holding and licensing company based in

Bala Cynwyd, Pa.

Rembrandt has filed 14 patent infringement suits—now consolidated as multidistrict litigation in Delaware—against the four major television networks, the five major cable systems and television and equipment manufacturers. It seeks licensing royalties for use of a patented technology that

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Stigma fades as more lawyers trade in partnership track

Contract, from page 1

number of documents to be reviewed on big mergers and class actions has exploded into the millions, firms routinely use cheaper contract attorneys for legal grunt work.

But an increasing number of lawyers working on contract are experienced attorneys who've traded partnership aspirations for a more manageable work life.

"The mix of people that we have out on assignment has changed dramatically. It's fairly evenly spread between those on projects and those who are doing highly substantive work in a specific practice area," said Stephen D. Stone, vice president of Cambridge Partners, a recruiting firm that has been placing contract attorneys for nine years.

Stone said many of the attorneys that Cambridge Partners places with large law firms and corporate legal departments "are doing the exact same jobs with the exact same degree of skill and success as permanent associates or in-house counsel."

The stigma that contract work is for inexperienced or unskilled attorneys is fading, he said. "The stigma has definitely decreased if not gone away altogether."

Contract attorneys are being used in all practice areas, said Stone, noting that he'd just received a request for a high-level health care regulatory lawyer to work on a contract basis.

Law firms are seeing that using contract lawyers can be a good way to manage ebbs and flows in work in different practice

groups, said Stone. Firms bring them in "to staff effectively for the peaks, utilizing a just-in-time work force," he said.

Corporate legal departments have become more open to using contract attorneys in response to higher associate salaries and pressure to contain costs and so their law firms are also acclimating to the idea, he added.

"With this increased demand, you have more people looking to practice a different type of law," he said. "As a lifestyle choice, someone can get a project for two to four months then go mountain climbing for a few months and then request another assignment."

In Atlanta, the going rate for document review jobs is \$32 to \$35 an hour, and rates can increase significantly for more substantive work and depending on the attorney's background, Stone said.

It's a chicken-and-egg question whether the demand for specialized short-term legal expertise has increased the number of lawyers wanting this kind of work or whether a bigger pool of skilled lawyers willing to work on contract has increased the demand for them, said Stone.

The Atlanta market "is still not totally there" in offering a continuous stream of work to an attorney wanting to work on contract, as is possible in New York or Washington, Stone cautioned, but the opportunities are increasing.

The downturn in the economy may also create more work for contract attorneys. Stone said the conventional wisdom is that as permanent hiring decreases, contract hiring goes up, because firms and corporate legal departments become more cautious about committing to full-time positions.

But a slow economy can increase the demand for contract attorneys with some clients and decrease it with others, said Stone. He explained that when mergers and acquisitions dry up, some firms will redeploy their corporate attorneys to document review on litigation, rather than hire contract attorneys. But other firms hire contract attorneys to handle an increase in litigation work.

"I've seen both instances in the last month or so," said Stone. "I've not seen as much of the redeployment, but I saw that a lot in the last downturn."



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—Stephen D. Stone, Cambridge Partners

Jon Osborne of Staffing Industry Analysts, which does market research for the temporary staffing sector, said in an e-mail that legal temporary staffing has been the fastest growing segment of the staffing industry over the past decade. However, his organization does not break out contract lawyers separately from other legal staff.

Because of the downturn in the economy, Osborne forecasts only 7 percent growth in temporary legal staffing this year, down from prior annual increases of 15 percent, but still well above the 0.9 percent increase forecast for the temporary staffing industry overall this year.

A true believer

W. Dennis McKinnie, director of the Atlanta office of Counsel on Call, an agency that specializes in contract attorneys, used to share the common perception that placing contract attorneys was just a numbers game—in recruiter parlance, "putting bodies in seats."

A lawyer himself, McKinnie's career has included stints as a staff attorney for the U.S. Supreme Court, an associate in Powell Goldstein's IP litigation group under Jerry B. Blackstock, the general counsel for a start-up financial software maker in Cary, N.C., and co-founder of a management consulting company for start-ups.

Then, three years ago, a long phone call with Counsel on Call's founder, Jane H. Allen, convinced McKinnie that working on contract is a viable way for stressed-out lawyers to regain control of their lives.

He became the head of the agency's Atlanta office, which Counsel on Call opened in 2001, after launching in Nashville in 2000. The agency also has offices in Memphis, Tenn., Chicago, and Charlotte, N.C., and is opening one next month in Boston.

"What we are doing is making a difference in the way people can develop their careers. They can come to us and work for a great organization or firm, and have balance. They can train for a triathlon or pick up their kids from school—and still have challenging work," said McKinnie.

McKinnie said Counsel on Call's staff members invest a lot of time in vetting can-

didates and in getting to know the attorneys they place, because they consider it a long-term relationship, not a stopgap until the attorney lands a full-time job.

"They're not seats—they're people," he said with some exasperation. "Most of our lawyers are making this a career. They've made a decision to do this for the lifestyle."

"It does not behoove us to put someone on a litigation project who is interviewing and surfing the Internet for jobs, and who could leave at any time," he added.

In Atlanta, the company works with about 75 attorneys per month, on average, and the company as a whole works with about 250 attorneys per month, said McKinnie.

McKinnie's first contract placement, Rakiya K. Diggs, is an ex-King & Spalding associate. He said working on contract has given her time to pursue her musical career, singing and playing keyboard and violin for artists such as Paula Cole.

Counsel on Call does handle placements for document review work, but McKinnie said it makes up only about 20 percent of the business. "Our sweet spot is one lawyer at a time for some type of sophisticated work," he said, adding that patent prosecution, international outsourcing, public finance and labor and employment matters are typical areas of demand.

Along with a couple of postings for document review projects, the Atlanta jobs on Counsel on Call's Web site include an opening for an attorney with seven years of experience negotiating technology agreements to work in-house for 40 hours a week through the end of the year.

A "small prestigious firm" is looking for an IP litigator with at least three years' experience to work from home for 10 to 15 hours a week and a local company seeks an immigration attorney with at least six years of, preferably, big firm experience to work indefinitely for 10 to 15 hours a week.

McKinnie said Counsel on Call pays attorneys between \$35 and \$80 an hour, depending on the nature of the work and the attorney's experience. The firm typically bills its clients anywhere from \$50 to \$125 an hour.

The agency works with 10 of the top 12 Fortune 500 companies headquartered in Atlanta and 13 of the largest law firms here, he said, but declined to name specific clients, citing confidentiality concerns. The business is fairly evenly split between firms and in-house legal departments, he said.

The company also works with a number of smaller firms, including solos, he said, who need to replace someone taking time off or to staff a particularly large matter.

McKinnie said he doesn't have to spend nearly as much time explaining his attorneys' qualifications to prospective clients as he did three years ago—a sign that firms and legal departments have grown more comfortable with the idea of using contract attorneys for substantive work.

McKinnie said he relishes pulling out some of his attorneys' resumes when an in-house counsel or firm's practice group leader asks what kind of people he can provide.

He said the reaction is often surprise—and the next question is "Why would these people want to do this?"

McKinnie said his response is: "Because, with all due respect, they don't want to be you." ☐

THE
SAYLOR
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is pleased to announce that

Julian A. Fortuna, J.D., L.L.M. (GA & NY)

formerly of Duane & Morris LLP

and

Linda T. Muir, M.A., J.D.

formerly Of Counsel with the Firm

have joined the Firm as Partners

and

James G. Killough, J.D., L.L.M. (GA & FL)

has joined the Firm as Counsel.

Congratulations to the following members of the Firm who have received the following recognition:

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Jacquelyn H. Saylor
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