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DAILY REPORT

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INPRACTICE

Lewis R. Clayton writes that a new precedent makes it easier for method patent owners to bring infringement claims. **Story, page 5.**

Donald Stack
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5 STUFFED WITH CASES Food companies are feeling the crunch of mass-tort lawsuits.

10 TIES IN WASHINGTON One firm has the most alums in top levels of the Obama administration.

A CRIME OF TERRORISM? N.Y. court to consider if gang leader is a terrorist. More on DailyReportOnline.com.

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

Newsreel

Judge's love-triangle fistfight in Wal-Mart leads to suspension

• The Arkansas Supreme Court has suspended a trial judge for 30 days after police had to intervene in an apparent love-triangle brawl at a Wal-Mart in April.

The court on October 4 approved a disciplinary commission's finding about the fight between state Circuit Judge Sam Pope of Hamburg, Ark., and his estranged wife's male companion. In addition to the suspension, the justices ordered Pope to attend anger-management classes. He had acknowledged his misconduct and agreed with the commission's findings, the court said.

Pope did not respond to messages seeking comment.

The fight, captured on Wal-Mart surveillance video, was detailed in a report by the Arkansas Judicial Discipline and Disability Commission. The report said Pope and his daughter spotted Pope's estranged wife and her male friend, Bill Murray, in the photo department of the Crossett, Ark., Wal-Mart on April 5.

According to the report, after Pope approached Murray, the two men called each other "asshole," then scuffled to the floor, and Pope's wife struck him three times.

Employees and shoppers tried to intervene and move carts out of the way as the fight unfolded. Onlookers called 911, and police arrived within moments, hauling Pope and Murray away in handcuffs. No charges were filed.

The judge responded to the commission's findings, saying he regretted allowing his wife's alleged infidelity to prompt him "to engage in conduct that was neither appropriate nor acceptable," according to the report.

Pope's suspension began immediately after the court found he violated a provision in Arkansas' judicial ethics code requiring that judges promote "public confidence in the independence, integrity, and impartiality of the judiciary."

— *The National Law Journal*

VERDICTS & SETTLEMENTS

Developer ordered to pay record $5M runoff damages

DOWNSTREAM HOMEOWNERS in Cobb bring storm water case to trial, but no defense offered

JOHN DISNEY/DAILY REPORT

Plaintiffs' attorneys (from left) Robert Jackson, Michael Carvalho and Jenny Culler won the environmental case, but the challenge may be in collecting.

KATHERYN HAYES TUCKER
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A COBB COUNTY JUDGE has ordered a residential real estate developer to pay $5.2 million to eight homeowners and their community association for damages caused by storm water runoff.

The plaintiffs' challenge will be collecting on the judgment. The defendants, a group of companies owned by developer Wilmont Williams, offered no defense at trial.

"We're going after him with guns blazing," said the plaintiffs' attorney, Michael Carvalho. "We do intend to hold him accountable."

See **Storm water**, page **2**

JOHN DISNEY/DAILY REPORT

Hilliard Castilla said the jury did not believe the bus driver was significantly injured.

Skeptical DeKalb jury awards plaintiff token sum

FULTON SCHOOL BUS DRIVER had turned down settlement after crash

MARK NIESSE | mniesse@alm.com

A SCHOOL BUS DRIVER injured in a crash with an SUV that totaled both vehicles was awarded a $1,360 verdict from a DeKalb County jury, a fraction of the $450,000 the plaintiff and her husband sought.

Defense attorney Hilliard Castilla said jurors didn't believe the plaintiff's claims that the accident caused severe back injuries, two miscarriages and weight gain. The jury also didn't buy the contention

See **Bus Driver**, page **3**

Wife asks Cobb to free husband in 'stand-your-ground' case

MARTHA WAGGONER
The Associated Press

FOR SEVEN YEARS, Anita McNeil has tried to move on from what she calls "the incident" — that day in December 2005 when her husband shot and killed a man who threatened him outside their home in Georgia.

John McNeil was jailed and eventually convicted of murder; she moved back to the North Carolina town where the high school lovers grew up, unable to cope with the memories that haunted her. Now, she's fighting breast cancer that has spread to her bones and hopes a judge's ruling could set her husband free.

Georgia has a so-called stand your ground law on the books that allows people to use deadly force if their lives are in danger. But John McNeil was charged anyway, nine months after the shooting. The case has prompted calls from the NAACP and other groups for such laws to apply to all citizens, regardless of race. McNeil is black, and the man he shot was white. But white neigh-

See **Stand Your Ground**, page **4**

GRAY WHITLEY/ASSOCIATED PRESS

Anita McNeil, battling cancer, wants her husband released.

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VERDICTS & SETTLEMENTS

$5 million order sets record in storm water runoff damages

Storm water, from page **1**

A biography of Williams on his website says he has "shaped the landscape of metro Atlanta," building shopping centers, apartments, offices and homes during the past 40 years. Carvalho said Williams is the brother of Post Properties' founder John A. Williams, who is not involved in the case.

Carvalho said notices about the case went to Wilmont Williams companies' registered agent, attorney Stacy Hanley, who is the developer's daughter. Neither Wilmont Williams nor Hanley could be reached by the *Daily Report*.

Cobb County Superior Court Judge C. LaTain Kell enjoined the defendants from further damaging the plaintiffs' property and set a deadline for action of 180 days from the order, signed September 26. Kell ordered the defendants to "modify or add to the storm water control mechanisms that discharge storm water onto plaintiffs' properties and into plaintiffs' lake, and to insure that the volumes and rates of storm water flow do not exceed pre-development rates."

The judge ordered the developer to pay $1.5 million to the Stillwaters Home Owners Association to clean out sediment from the neighborhood lake. The order also included another $1.5 million of damages to eight homeowners and the HOA, plus $2.2 million in punitive damages.

The judgment is a record for this type of environmental damage lawsuit, said Carvalho, of Carvalho & Associates in Marietta, who tried the case with Donald D.J. Stack and Jenny Culler of Stack & Associates of Savannah.

Carvalho and Stack are environmental lawyers, but Carvalho said they've found more success, particularly in conservative venues, by framing their cases around property rights.

The defendants include the Williamscraft Group Inc., Homes by Williamscraft Inc., West Sandtown Development and BWWI Inc.

The complaint dates to 2004, when Williams began land clearing and grading for Stonebridge subdivision off West Sandtown Road in Cobb County.

"Almost immediately after land disturbing activities began, residents in the adjoining Stillwaters subdivision were inundated with silt and sediment into their lake," according to Carvalho. "Over the next two years, the developers were repeatedly cited by Cobb County Erosion Control for failing to properly design, install and maintain best-management practices as required by the permit issued to the companies." He said the developer was fined by the county for "ripping down stop work order notices" in connection with violations.

The plaintiffs' case included some dramatic testimony from homeowners downstream from the development, according to Carvalho.

Jack Gillian, co-president of Stillwaters Home Owners Association, said he noticed during his evening walks with his dog that

> **"We're going after [residential real estate developer Wilmont Williams] with guns blazing. We do intend to hold him accountable."**
> —Michael Carvalho, plaintiffs' attorney for homeowners

workers were washing mud off the streets of the development and onto property downstream, after dark on Thursday and Friday, seemingly in order to hide evidence of silting problems during weekend sales events.

The plaintiffs also presented testimony to show that increased volume of storm water flow contributed to the collapse of a section of Stillwaters Drive in September 2009. Homeowner Barbara Miller said on the day the road collapsed she ran into the street to stop a school bus heading toward a blind corner near the damaged portion. She testified that the driver stopped the bus about 100 feet from the washed out part of the road, "narrowly averting a tragedy," Carvalho said.

The judge's order said, "The defendants' actions showed willful misconduct, malice, wantonness, oppression or that entire want of care which would raise the presumption of conscious indifference to consequences, such that an award of punitive damages is authorized at law, pursuant to O.C.G.A. § 51-12-5.1." The order also said the defendants "ignored notice from plaintiffs that plaintiffs were being adversely affected by increased runoff and sediment and erosion."

Because the defendants "acted in bad faith," the judge also ordered them to pay the plaintiffs' attorney fees of $482,365 and expenses of $81,598.

The case is *Stillwaters Homeowners Association v. Williamscraft Group, No. 11-1-11538-49.*

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