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DAILY REPORT

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Newsreel

No O'Jays' show leads to lawsuit

● Students at Albany State University for Institutional Advancement Clifford Porter, confirmed Graham's account and said the students were very disappointed that the show didn't occur.

"The promoter was responsible for giving them the second half of the money—in cash, as I recall—and he didn't have it with him," said Porter, now with the Albany Chamber of Commerce.

A spokesman for state Attorney General Thurbert Baker, said that a reply was being prepared for the Board of Regents.

—Greg Land

Case shows risk in arbitration appeals

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JUDGES' INCREASING LACK of patience with challenges to arbitration rulings appears to have filtered down to the state court level in Georgia.

Fulton Superior Court Judge Ural D.L. Glanville last week ordered a plaintiff in a securities-law case to pay the defendants' attorney's fees because the plaintiff filed a frivolous motion to dismiss an arbitration ruling. Glanville's order follows rulings from the U.S. Supreme Court and the 11th U.S. Circuit Court of Appeals earlier this year that also indicated frustration with arbitration appeals.

"He's trying to send a strong message that frivolous claims will not be tolerated," said Raymond L. Moss, a partner at securities-law boutique Sims, Moss, Kline & Davis. Moss was one of the defense lawyers in this week's Fulton case.

At issue was Carol Cohen, a 67-year-old investor, who sued her Griffin, Ga., stock broker and his employer for fraud related to losses of more than $390,000 sustained during the 2000-2001 stock-market decline. An arbitration panel

*See **Arbitration**, page 7*

On the Record

Lawyer favors

& Harbison.

It's easy to say that women leave the law "because they want to be mommies"—but that's too simplistic, Knowlton told me. The younger women she talks to want to be mothers and lawyers but cannot do both when required to bill an ever-increasing number of hours. "They're forced out because the law firm cannot see the economic model that makes sense for an attorney who does not bill less than 2,000 hours a year.

*See **Knowlton**, page 10*

Fulton judge shows risks for litigants appealing arbitration decisions

Arbitration, from page 1

dismissed Cohen's claims and ordered that she pay $13,275 in administrative fees.

Cohen filed a motion to dismiss the panel's ruling, asking Glanville to rule that the arbitration hearing ended without all of the evidence being presented. But Glanville rejected Cohen's challenge to the arbitrators' ruling and told her to pay the defendants' attorneys fees, said Moss.

Glanville's ruling was issued from the bench and has not yet been published. The case is *Carol Cohen v. A.G. Edwards & Sons and Michael Sean Cain*, No. 2005-CV-100-613 (Fult. Super., filed May 4, 2005).

Cohen was represented in the case by Atlanta attorney Adam S. Jaffe and Peachtree City attorney David E. Duke. Jaffe could not be reached; Duke declined to comment.

Since there were two defendants in Moss's case—the brokerage house A.G. Edwards, as well as the individual broker—Cohen was ordered to pay two sets of fees. Moss said his firm's fee for representing Cain was $29,000, and Rogers & Hardin partner Jeffrey W. Willis' fee for advising A.G. Edwards was $33,000. Sims, Moss, Kline & Davis partner Gerald B. Kline also represented Cain.

Glanville's ruling to dismiss Cohen's move to vacate the arbitrator's award will apply to a wide array of other disputes, including construction law, and banking and insurance law, Moss said.

Glanville's decision follows rulings issued in February from the U.S. Supreme Court and the 11th U.S. Circuit Court of Appeals that rejected litigants' attempts to have courts, instead of arbitrators, decide matters potentially governed by arbitration panels.

The U.S. high court found that when a contract contains an arbitration clause, even a challenge to the legality of the contract as a whole must go to an arbitrator. *Buckeye Check Cashing v. Cardegna*, No. 04-1264.

A week later, Judge Edward E. Carnes wrote for a panel of the 11th Circuit that put attorneys and their clients on notice that if they asked a federal court to vacate an arbitrator's award without a legal basis for doing so, the appeals judges were "ready, willing and able" to issue sanctions.

"[T]his Court is exasperated by those who attempt to salvage arbitration losses through litigation that has no sound basis in the law applicable to arbitration awards," wrote Carnes, who was joined by Judges R. Lanier Anderson and Susan H. Black.

In a separate 11th Circuit case, an arbitrator found in favor of Hercules Steel Co. in a contract dispute with B.L. Harbert International. B.L. Harbert sued to vacate the award, saying the arbitrator disregarded the law. U.S. District Judge Virginia Emerson Hopkins, sitting in Birmingham, rejected B.L. Harbert's bid to vacate the award, and the 11th Circuit panel affirmed her decision. *B.L. Harbert International v. Hercules Steel*, No. 05-11153 (11th Cir., Feb. 28, 2006).

Moss, the attorney for Cain, said he believes Glanville's ruling is an indication more state judges will issue similar rulings.

"You're now hearing it loud and clear," he said.

GAO: Judiciary's rent crisis self-inflicted

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THE FEDERAL JUDICIARY'S building rent crisis is the direct result of its construction boom and failure over the last decade to implement its own recommendations for reform, said a key House lawmaker, citing a recent study by the Government Accountability Office (GAO).

The House Subcommittee on Economic [illegible] the rent situation after the judiciary sought a permanent rent exemption from the Federal Buildings Fund, claiming that rising government rent payments were creating a fiscal crisis. The GAO reported that the judiciary's rent increase from 2000 to 2005 was 27 percent. About two-thirds of that was attributable to net increases in square footage, much of which was caused by new courthouse construction.

"The federal judiciary faces several chal[illegible] of incentives for efficient space use, and a lack of space allocation criteria for appeals and senior district judges," said the GAO report.

House Subcommittee Chairman Representative Bill Shuster, R-Pa., said that a Judicial Conference of the United States committee in 1996 recognized proposed solutions that could address rising rent costs.

"The Judiciary understood the ramifications of their building boom, yet implement[illegible]

Judge Jane R. Roth of the 3rd U.S. Circuit Court of Appeals, chairwoman of the Judicial Conference's Committee on Space and Facilities, said that the GAO study was "too limited." The GAO highlighted a six-year period with 27 percent rent growth, but a 20-year analysis during which rent grew at double the rate of new space is a more meaningful statistic, she said.

Marcia Coyle writes for The National Law [illegible]