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FULTON COUNTY DAILY REPORT

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## *Fulton Ends Reverse Bias Case, Pays Trio \$3.5 Million*

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Two years after Fulton County lost a reverse discrimination case in federal court here, the county has paid three white former employees \$3.5 million in damages.

Atlanta attorney Edward D. Buckley III, a partner at Buckley & Klein, said the county paid the judgment on June 30, less than three weeks after the U.S. Supreme Court denied, without comment, Fulton's petition for a writ of certiorari. *Fulton County v. Lambert*, No. 01-1568 (U.S. June 10, 2002).

A federal jury awarded \$2.9 million to three white supervisors at Fulton's public works department after determining that they had been disciplined and subsequently fired because of their race. The judgment the county paid last month to Chester L. Lambert III, James Heath and the estate of William E. Mowrey, who died this year, includes interest accumulated during the county's two-year appeal and an estimated \$425,000 in legal fees, Buckley said.

The three men claimed they were disciplined for failing to remedy a work environment that was hostile to African-Americans.

"That's what Fulton County claimed, that they didn't do enough to stop this

alleged racially hostile environment," Buckley said. "In the trial of this case, we demonstrated that the racially hostile environment was being created by the very people complaining about it. Our guys were doing everything they could to put a stop to it."

The jury—and subsequently a panel of the 11th U.S. Circuit Court of Appeals—determined that a county report condemning the white supervisors written by the county's then-contract compliance and equal employment opportunity officer "was a fabrication," Buckley said. The appellate opinion also condemned the report's author as "motivated by a racially evil motive or intent."

That county officer, Michael Cooper, also was named as a defendant in another reverse discrimination suit that led a federal judge in 1999 to abolish the county's affirmative action program as unconstitutionally biased against white contractors. Cooper now works for the state Department of Transportation.

The Lambert suit is one of four major reverse discrimination suits that Fulton has lost in recent years. The most recent case was brought against the county by eight white female librarians, who won a \$23.4 million verdict against the county last January. U.S. District Judge Beverly B. Martin reduced that verdict to \$16.8 million



CATHERINE LOVETT/DAILY REPORT

**Judge Marvin H. Shoob: Fulton must provide counsel for all arrested. Page 5.**

last May. The county is appealing that judgment.

### *Fulton must hire lawyers for cities' indigents*

A federal court judge has expanded a health care settlement involving the Fulton County Jail to require the county to provide counsel to people arrested in its nine municipalities.

Fulton authorities had agreed in response to an earlier order issued by U.S. District Senior Judge Marvin H. Shoob to provide legal counsel

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# Fulton Must Provide Lawyers to Arrested in County's 9 Cities

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to defendants within 72 hours of their arrival at the Fulton jail. But county lawyers had contended the county had no legal responsibility to provide lawyers to people arrested by municipal law enforcement agencies before they were bound over to either Fulton State or Superior Court. That often meant prisoners spent a month or longer in city jails without attorneys, then were transferred to the county jail where they continued to languish without counsel until the accompanying paperwork reached the county solicitor's office.

In an order issued last week, Judge Shoob rejected the county's argument. "There is no legal impediment preventing Fulton County from conferring with the various municipalities within the county and agreeing on a unified system for providing counsel within 72 hours of arrest to persons arrested within municipalities on state law misdemeanor charges," the judge wrote. *Foster v. Fulton County*, 1:99-cv-900 (N.D. Ga. July 12, 2002).

Judge Shoob noted in his order that the state's indigent-defense law requires that the county provide attorneys for indigents in all felony cases as well as misdemeanor cases. Fulton County's contract with the Georgia Indigent Defense Council obligates the county to provide counsel to all individuals charged with misdemeanors within 72 hours.

In addition, the judge wrote, the county must attempt to ensure that misdemeanor defendants have the same lawyer for every court appearance—a continuity of representation that now is infrequent to nonexistent.

To emphasize those points, Shoob directed that his most recent order be delivered not only to Fulton officials, including its state court and magistrate



CATHERINE LOVETT/DAILY REPORT

**Fulton is responsible for people after their arrest, says Stephen B. Bright.**

judges, but also to the judges of every municipal court in Fulton County and the head of every law enforcement agency.

The judge has given the county until Sept. 30 to carry out his directives.

Said Stephen B. Bright, director of the Southern Center for Human Rights, "The county is responsible for people once they are arrested. ... It can't wash its hands by blaming the municipalities." The Southern Center staff has been litigating the jail case for nearly three years.

Shoob's order tackling the county's indigent defense system is designed to improve inadequate health care and sanitary conditions by reducing chronic overcrowding at the jail. Much of that overcrowding, he has written in his most recent orders, is caused by indigent misdemeanor suspects who often have spent weeks in jail awaiting adjudication of their cases.

"[J]ail overcrowding strains the systems of ventilation, sanitation, and plumbing at the jail," Shoob wrote in last week's order. "As a result, there are frequent floods and sewage leaks, and inoperable toilets, showers and sinks."

The jail's court-appointed monitor, Dr. Robert B. Greifinger, has reported that such conditions promote the transmission of communicable diseases, including tuberculosis "and makes sanitary food preparation very difficult because kitchen equipment is not designed to accommodate the large population."

The plumbing, air-conditioning and heating systems, he noted, "have virtually collapsed."

Those problems, in turn, "present particular risks" to HIV-positive inmates—the original plaintiffs in the suit—"whose compromised immune systems make them more vulnerable to disease."

## *Gold Club prosecutor Arthur Leach departs*

Former Assistant U.S. Attorney Arthur W. Leach, who prosecuted the owner of Atlanta's Gold Club last year, has left the U.S. attorney's office here to become one of four principals at newly formed Boone & Stone.

Leach has joined attorneys David W. Boone, Simone R. Siex, and William S. Stone of Blakely. The new organization is not a formal partnership, but "an association of professional corporations," Leach said.

In addition to legal services, Boone & Stone will offer trial support, including trial preparation, computer assistance and the creation of visual and audio trial aids, Leach said.

Leach—who headed the U.S. attorney's Organized Crime Strike Force here—ended his 20-year tenure as a federal prosecutor June 14. In his new post, Leach said, he will handle complex litigation, primarily on behalf of plaintiffs in civil racketeering cases, but also in medical malpractice and product liability. [end]