

# DAIRY REPORT

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**DAIRY REPORT  
BUSINESS MATTERS**  
Bernie Madoff's lover—and victim of his Ponzi scheme—kisses and tells in her new book, "Madoff's Other Secret." **Story, page 6.**

An incisive media publication

## Newsreel

### Miers takes another crack at high court

● Former White House counsel Harriet Miers once aspired to serve on the Supreme Court, a bid that failed in 2005. Now, back in private practice, she's angling to argue a case before the high court.

Miers, nominated to the Supreme Court by President George W. Bush, filed a certiorari petition May 22 in a dispute about whether state and local governments have authority to tax natural gas that is held temporarily in storage in an interstate pipeline system.

The Supreme Court has not ruled on the petition. But the court on Aug. 4 called for a response from opposing counsel, a sign that shows the court's interest in the petition.

The petition Miers filed on behalf of Missouri Gas Energy is her fourth—and the first since she returned to private practice in May 2007. Miers said in her Senate questionnaire that she represented clients in three cases in which certiorari was sought. The court denied cert in each of the cases.

Miers, a partner at Locke Lord Bissell & Liddell, withdrew her Supreme Court nomination in October 2005 amid criticism and waning support from conservative lawmakers. Miers left government service in 2007 and rejoined Locke Lord. She is a partner in the firm's public policy and litigation groups.

Miers did not return an e-mail and a call for comment. A spokeswoman for the firm said Miers will not talk about pending litigation.

Missouri Gas Energy is challenging taxes that officials in Wood County, Okla., levied on natural gas in an underground storage facility.

MGE sells gas to customers in Missouri, where the company is based. MGE does not sell gas in Oklahoma. Gas from one company is commingled with gas from another company in interstate pipeline systems. Miers said in the petition that it is impossible to determine the ownership of even a single molecule of gas in an interstate pipeline.

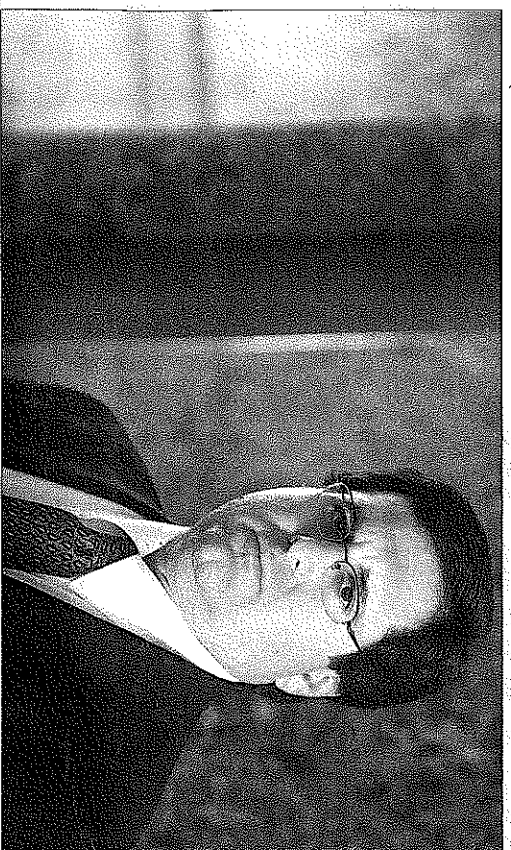
—The Blog of Legal Times

**10 REWRITING HISTORY**  
Eleanor Ringel Cater: Painted over by fanboys for months, "Inglorious Basterds" is glorious fun.

**4 A LESSON LEARNED**  
Joey Asher: The user-friendly iPhone and great public speakers share a lot in common.

**LAWYER SENTENCED**  
Read about a Marietta attorney's sentence at DailyReportOnline.com.

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



Eric Lang said Balch & Bingham may owe his client more than the requested \$516,272.

## Suits pit former

### lawyers vs. Balch

IN SEPARATE CONTRACT CASES, both lawyers say firm's prior incarnation shorted them of monies due upon resignation

BY ANDY PETERS

**OPENING ARGUMENTS** are scheduled for Monday in Gwinnett County in one of two suits filed by former equity partners of the firm that became the Atlanta office of Balch & Bingham. The former partners say that Balch is not paying their fair share of the equity they cashed in when they departed.

Balch denies the allegations in court filings and says the former partners have been paid appropriately. In the case that's going to trial Monday, Balch claims the plaintiff actually owes money to the firm.

The disputes of Betsy Vance Peterzell and Lauren S. Antonino stem from the 2003 merger between Birmingham, Ala.-based Balch & Bingham and Meadows, Ichter & Bowers. Peterzell and Antonino were equity partners with Meadows, Ichter & Trigg, which later became Meadows, Ichter & Bowers. Peterzell and Antonino resigned from the firm before it merged with Balch. (Antonino departed on Aug. 11, 2000, and Peterzell resigned on Jan. 12, 2001.)

After their departures, the two attorneys realized they were not being paid according to their understanding of the employment agreements they had signed. Peterzell claims she is owed at least \$516,272, and Antonino claims she is owed at least \$174,619. See **Balch**, page 8

## Panel backs breeder in dog dispute

STATE APPEALS COURT says trial judge went too far in dismissing breeder's case against dog co-owners as a discovery sanction

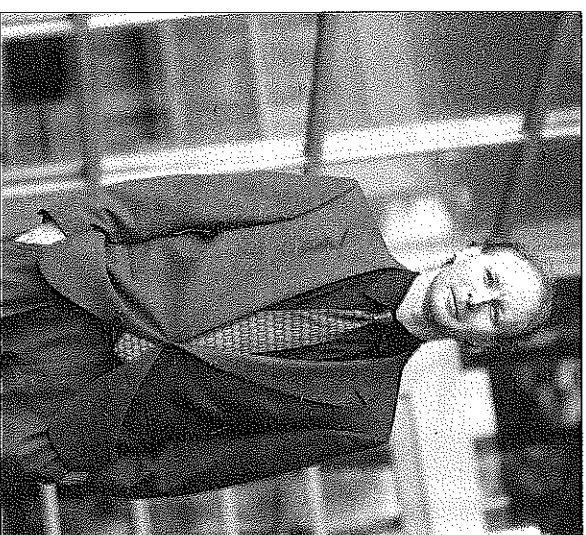
BY ALYSON M. PALMER

A RECENT RULING by the state Court of Appeals has revived a Fulton County court fight between a dog breeder and the couple to whom she sold an ownership interest in a particular animal—a show dog called "Trolan's Stars and Stripes Forever" in competition but known informally as Delilah.

The breeder, Phyllis Anderson, has sued to stop Jonathan and Juli Silver of Sandy Springs from spraying the dog, a now-3-and-a-half-year-old Norwegian Elkhound.

Anderson and the Silvers in 2006 signed a co-ownership agreement, under which the Silvers

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ALISON CHURCH

Bryce Farbstain, attorney for the dog breeder, said the parties' agreement is fairly common in the breeding world.

## DOJ asks judge to throw out suit over hiring

LAWYER DISCUSSES 'DARK CHAPTER' in DOJ history; plaintiffs' attorney calls government's position 'crazy talk'

BY MIKE SCARCELLA

CALLING IT a "dark chapter" in Justice Department history, a government lawyer on Tuesday urged a federal judge in Washington to throw out a suit that alleges the department improperly used politics in deciding whether to hire summer law interns and prospective honors program lawyers.

The eight named plaintiffs, who purportedly represent a class of hundreds of similarly situated plaintiffs, maintain Justice based hiring decisions on the candidates' liberal political and professional affiliations. Justice officials found and printed information from Web sites about the candidates. Hundreds of applicants were turned down in 2002 and 2006 by political appointees. A

motion for class certification is pending. The defendants, including former Attorney General Alberto Gonzales, want the suit tossed. Judge John Bates of the U.S. District Court for the District of Columbia heard argument Tuesday for more than two hours. He did not rule from the bench. The suit, filed last year in federal district

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## Contract suits pit former lawyers vs. Balch

Balch, from page 1

according to court documents. Peterzell sued in Gwinnett County Superior Court and Antonino filed in Fulton County Superior Court. Peterzell sued in Gwinnett because Balch's registered agent is located in Gwinnett.

According to Peterzell's reading of her contracts, the amount she is due is based on her former ownership of 6.25 percent of the stock of Meadows, Ichter & Trigg. Upon her departure, the firm was to repurchase her equity stake through a formula that included several components. One of those components was a share of the fees from the firm's contingency cases.

"We view this as a straightforward claim for breach of contract," said Eric C. Lang of The Lang Legal Group, counsel to Peterzell. "All my client wants is what the contract calls for."

Peterzell, who is of counsel at Chorey, Taylor & Feil, referred questions to Lang. Michael J. Bowers, who has been listed as an attorney of record on both cases, declined to comment.

A jury trial is scheduled for Monday in the Peterzell case in front of Gwinnett Superior Court Judge Karen E. Beyers. It will be Beyers' first civil jury trial, Lang said. Beyers was elected to Gwinnett Superior Court in November when she defeated incumbent Richard T. Winegarden.

The firm Meadows, Ichter & Trigg was established in 1992 by James D. "Dart" Meadows, Cary Ichter and Mark G. Trigg.

Peterzell joined the firm in 1995 and signed a shareholders agreement that defined the size of her ownership of the firm.

The firm went through several changes over the following years. Bowers joined the firm as of counsel in 1998 after serving as Georgia's attorney general and running for governor. Bowers became a partner in 2000 and a name partner in 2002. Trigg left in 2002.

Peterzell was head of the firm's corporate practice. Since she owned equity in the firm, Peterzell received a share of the contingency fees on the firm's litigation matters. One key area of dispute is whether she is entitled to a share of contingency fees from one of Meadows, Ichter & Trigg's largest litigation victories—the *Bogle v. McClure* case of 2002, in which U.S. District Court Judge Beverly B. Martin awarded \$16.8 million to white female librarians who had sued the Atlanta-Fulton County Library System for reverse discrimination.

Peterzell and her lawyers say she is entitled to a share of the contingency fees from during a "payout period" that is defined in her employment contracts. Lawyers for Balch and Meadows, Ichter & Bowers say that she isn't entitled to fees from that case because it was converted from an hourly case to a contingency case after the payout period expired.

Peterzell says in court filings that she has been paid about \$131,664 since she left Meadows, Ichter & Trigg. She estimates she



Mike Bowers

is still owed \$516,272, a figure that includes her share of contingency fees from 27 cases plus 7 percent interest. *Bogle* comprises the largest portion, followed in size by fees from a series of cases filed by former professional wrestlers against World Championship Wrestling.

Lang says in court filings that Peterzell may be owed even more. That's because Balch has refused to provide a full accounting of the cases for which Peterzell is owed money. Lang declined to specify the full amount that Peterzell believes she is owed.

After Peterzell filed her complaint, lawyers for Balch and Meadows, Ichter & Bowers said that while they were preparing their defense they realized the firms had overpaid Peterzell by about \$100,000 for her share of *Bogle* case contingency fees. The firms filed a counterclaim against Peterzell for that amount.

In the Fulton case, Antonino argues that she is still owed at least \$174,619 plus interest based on her prior ownership of 5.88 percent of Meadows, Ichter & Trigg. She also argues that the compensation she is owed is based on a formula that includes fees from contingency cases, including the *Bogle* and World Championship Wrestling cases.

Antonino's case is in the discovery phase in front of Fulton County Superior Judge Alford J. Dempsey Jr. Her lawyer, Friend, Hudak & Harris partner Michael S. Reeves, declined to comment. Reeves also declined to verify the specific amount of money that Antonino said she is owed.

Antonino, who is now a solo practitioner, could not be reached for comment. Antonino is no stranger to litigation concerning a previous employer. Antonino

## DOJ asks judge to throw out suit over hiring practices

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in Washington, incorporates the findings of a Justice Department inspector general report in June 2008 that concluded two former Justice officials, Esther Slater McDonald and Michael Elston, illegally screened applicants for the summer intern and honors programs. Lead plaintiff Sean Gerlich, represented by Daniel Metcalfe, a former DOJ career official who is currently a professor at American University Washington College of Law, is suing for more than \$100,000 in damages for alleged violations of the Privacy Act.

McDonald, an associate in the Washington office of Seyfarth Shaw, is former counsel to the associate attorney general, and Elston was chief of staff to Deputy Attorney General Paul McNulty. In court Tuesday, Schertler & Onorato partner Vincent Cohen Jr. represented Gonzales, who did not attend the hearing. Alston & Bird partner Robert Driscoll argued for Elston. Defendant Louis Defalaise, director of the Office of Attorney Recruitment and Management since 2002 is represented by Drinker, Biddle & Reath partner Samuel Leeper. King & Spalding partner John Bray is among several lawyers who have entered an appearance for McDonald.

Justice Department lawyer John Tyler, assistant branch director of the Civil Division's Federal Programs Branch, said the

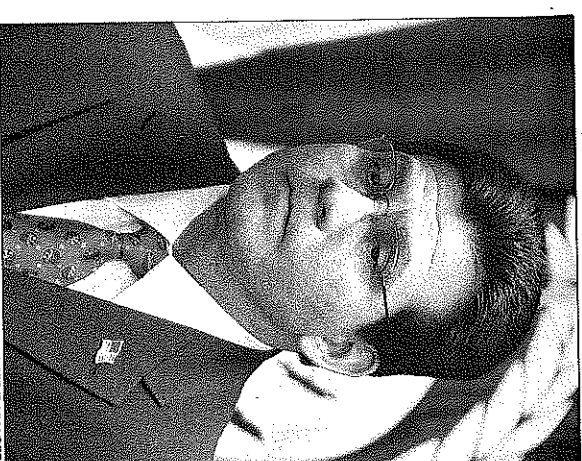
no and three other partners left Chitwood Harley Harnes in February 2006 to open an Atlanta office for South Carolina plaintiffs' firm Motley Rice. In the wake of their departure, Chitwood sued the ex-partners, claiming they stole proprietary information about Chitwood's clients and tried to recruit those clients to follow them to Motley Rice. On July 19, 2006, Dempsey, who also heard the Chitwood-Motley Rice dispute, signed an order settling the case. Terms of the settlement weren't disclosed.

In both the Peterzell and Antonino cases, Balch argues that it is not liable to claims by either Peterzell or Antonino because it did not assume any of Meadows, Ichter & Bowers' liabilities to Peterzell and Antonino. Further, Meadows, Ichter & Bowers was never administratively dissolved, and continues to exist as a separate entity and has its own assets.

Balch is being represented on both the Antonino and Peterzell cases by Bowers and Meadows, as well as by T. Joshua R. Archer, managing partner of the Atlanta office, and partner James L. Hollis. Former Dekalb County District Attorney J. Tom Morgan is representing Meadows, Ichter & Bowers. Ichter, who is a named defendant in the Antonino case, is representing himself. Jennifer M. Greenfield of The Lang Legal Group is co-counsel with Lang to Peterzell.

The case going to trial Monday in Gwinnett Superior is *Peterzell v. Meadows, Ichter & Bowers*, No. 05-A-11041. The Fulton case is *Antonino v. Meadows, Ichter & Bowers*, No. 2006-CV-124997. ©

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**Former U.S. Attorney General Alberto Gonzales** is a named defendant in the suit. Inspector general report marks a "dark chapter" in the department's history. It's behind us."

Tyler argued Tuesday at a motions hearing that federal district court is not the proper venue for the complaint. The mere collection of information from Internet sites did not cause any of the applicants harm, Tyler argued. The department, he said, is "dumb" to find out information about job candidates.

Tyler, however, distinguished between the collection and subsequent use of the information Justice officials found on Web site. The use of the information—Tyler called "very unfortunate"—falls into prohibited

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