

# COUNTIES & THE LAW

This edition of *Counties & the Law* includes decisions of interest to county attorneys published in the Daily Report Opinions Weekly between May 28, 2016, and June 3, 2016.

We welcome your suggestions and opinions regarding Counties & the Law. Please contact Kelly Pridgen at [kpridgen@accg.org](mailto:kpridgen@accg.org) or Joe Scheuer at [jscheuer@accg.org](mailto:jscheuer@accg.org) with your comments.

## **CONDEMNATION**

### ***Jones v. Sabal Trail Transmission LLC***

Georgia Court of Appeals  
June 3, 2016; A15A2326

A pipeline company sought authorization to enter onto a landowner's property to perform a survey under O.C.G.A. 22-3-8. The landowner refused and the company filed a petition for interlocutory injunctive relief and a declaratory judgement which were granted by the trial court. The landowner appealed arguing that inadequate notice had been provided that the trial court hearing would consolidate the injunction and declaratory judgement claims. The Court of Appeals affirmed. The record, especially through the parties' pleadings, shows clearly that the landowner received sufficient notice and acquiesced in the consolidated hearing on both claims. The Court also held that O.C.G.A. 22-3-8 does not require a pipeline company to have a federal Energy Regulatory Commission certificate of public convenience and necessity as a condition precedent to exercising its rights to survey under the Code section.

### ***Shiv Aban Inc. v. Georgia Department of Transportation***

Georgia Court of Appeals  
June 2, 2016; A15A2013; A15A2014

The DOT condemned the company's land and deposited an estimated just and adequate compensation amount into the registry of the superior court. Following a hearing before a board of assessors, an additional amount was awarded as total compensation. DOT moved that the combined amounts be made the final judgment of the trial court. The company argued it was entitled to prejudgment interest on the additional amount and attorneys' fees. The trial court denied the motion and the Court of Appeals reversed. Prejudgment interest is clearly authorized under a plain reading of O.C.G.A. 32-3-19(c). Attorneys' fees are authorized under O.C.G.A. 9-15-14 since DOT used a fundamentally flawed appraisal.