

# Alabama Business Law: Spotlight on Mergers

By: Rutledge & Yaghamai

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With all of the talk about Martin Marietta Materials Inc.'s [proposed hostile takeover](#) of Birmingham-based Vulcan Material's Co., we want to give our readers a brief overview of the federal laws regarding mergers and acquisitions.

As we mentioned [last week](#), the federal government has recently stepped up its scrutiny of proposed mergers, leaving many businesses wary of large-scale mergers and acquisitions. However, mergers can still be a great way for Alabama businesses to grow and expand into new areas.

In fact, each year, the Federal Trade Commission and Department of Justice review over a thousand merger filings. According to the FTC, 95 percent of merger filings present no competitive issues.

*What mergers will be questioned?*

Merger law bars mergers that may lead to harmful effects. Section 7 of the Clayton Act specifically prohibits mergers and acquisitions when the effect "may be substantially to lessen competition, or to tend to create a monopoly." The key question the agency asks is whether the proposed merger is likely to create or enhance market power or facilitate its exercise. Issues like higher prices, fewer or lower-quality goods or services, or less innovation are often considered as well.

Due to their potential impact on the marketplace, proposed mergers between direct competitors (horizontal mergers) often get the closest examination. This was the case with AT&T's failed efforts to buy T-Mobile USA from Deutsche Telekom AG last year.

*What happens when a merger is investigated?*

In many cases, the parties are able to resolve competitive concerns by consent agreement, which allows the beneficial aspects of the deal to proceed while addressing the competitive threat. Yet, in some cases, the agency and the parties will not agree on a fix, and the government may go to federal court to prevent the merger pending an administrative trial on the merits of the deal.

## Greg Yaghamai

Greg graduated with honors from The Citadel where he received his bachelor's degree in Business Administration. In 1997, he received his law degree from Cumberland School of Law.

For the first four and half of years of his legal career, Greg served as a Deputy District Attorney for the Jefferson County, Alabama District Attorney's Office. By age 26 he tried his first death penalty case. He went on to try either solo or as lead counsel seven capital murder and six murder cases. He also had the benefit of being the first lawyer in Alabama to be certified by the Alabama State Troopers as a Traffic Homicide investigator. He obtained this after attending a two-week seminar, which required him to live in a closed military base with forty other police officers. He also had the unique

experience of being provided alcohol in a controlled setting so he could be utilized by the Jefferson County Sheriff's training academy in officers learning how to administer field sobriety tests. He is a member of the National College for DUI Defense (NCDD) which is a prestigious organization defending those charged with DUI.

He subsequently left the DA's office to become a partner in a forty lawyer civil litigation firm. This firm concentrated mostly on civil defense work, but Greg continued to expand his plaintiff and criminal defense practice.

In 2006, he co-founded Rutledge & Yaghmai. One of Greg's goals was to reduce the number of cases handled to allow for more individual attention to each case. Rutledge & Yaghmai maintains a general litigation practice. Greg focuses on personal injury, business litigation, and criminal defense cases.

Greg has truly handled cases from all sides: criminal prosecution/defense and civil plaintiff/defense. Overall, Greg has tried more than seventy-five jury trials to conclusion. He has significant experience in using visual presentations and present day media applications in presenting cases to jury. His ultimate jury consultant is his wife, Brandi, who he met when she served on the jury of a rape/kidnapping case he tried.

He has recently been asked to teach Trial Techniques for the International Web based site Solo Practice University. There he will share his expertise in trying jury cases.

Greg is licensed in all state and federal courts in Alabama and the 11th Circuit