

CAPITAL AUTOMOTIVE REIT

Form 8-K/A

November 09, 2004

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K/A

CURRENT REPORT
Pursuant to Section 13 or 15(d) of
The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): March 26, 2004

CAPITAL AUTOMOTIVE REIT

(Exact name of registrant as specified in its charter)

Maryland

000-23733

54-1870224

(State or other jurisdiction
of incorporation)

(Commission
File Number)

(IRS Employer
Identification No.)

**8270 Greensboro Drive, Suite 950
McLean, Virginia**

22102

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code **(703) 288-3075**

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Capital Automotive REIT (the Company) is amending its Current Report on Form 8-K dated March 26, 2004 and filed with the Securities and Exchange Commission on April 7, 2004 to announce the settlement of the litigation described therein.

Item 8.01. Other Events.

Capital Automotive REIT and Capital Automotive LP have entered into a definitive Settlement Agreement with the following parties (collectively, the Milestone Parties) to settle all pending litigation: AutoStar Realty Operating Partnership, L.P. (AutoStar); Michael R. Burkitt (Burkitt); John Geller (Geller); Presidio Financial Partners, LLC, and Presidio Merchant Partners, LLC (collectively Presidio); and Milestone Realty Trust, Inc., The Staubach Company, Staubach Retail Services, Inc., and Cypress Equities, LLC (collectively Staubach). The Settlement Agreement contains mutual releases and provides that the parties will make the filings necessary to dismiss with prejudice all pending litigation. The Milestone Parties paid us \$150,000 as partial consideration for the settlement. More importantly, under the terms of the Settlement Agreement, AutoStar, Burkitt, Geller, Presidio, and Staubach returned or destroyed all of our documents in their possession, and any documents derived from those documents. In addition, Burkitt entered into an agreement not to compete with us in the development, acquisition, and/or leaseback or finance of new or used automobile dealership real estate in the United States for a six-month period ending May 3, 2005. We made no payments to the Milestone Parties in connection with the settlement.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits

The following exhibits are included in this Form 8-K.

99.1 Press Release, dated November 9, 2004, of Capital Automotive REIT.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

CAPITAL AUTOMOTIVE REIT

By: /s/ David S. Kay

Name: David S. Kay

Title: Senior Vice President, Chief
Financial Officer and Treasurer

Dated: November 8, 2004

EXHIBIT INDEX

| Exhibit No. | Description |
|--------------------|--|
| 99.1 | Press Release, dated November 9, 2004, of Capital Automotive REIT. |