

# **Bond Case Briefs**

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## **PUBLIC RECORDS - FLORIDA**

### **DeMartini v. Town of Gulf Stream**

**United States Court of Appeals, Eleventh Circuit - November 21, 2019 - F.3d - 2019 WL 6207952**

Employee of law firm that sought public records from town on a grand scale brought § 1983 action, alleging town filing lawsuit against her was retaliation in violation of her First Amendment speech rights, as well as a malicious prosecution claim against government contractor.

United States District Court granted defendants' motions for summary judgment.

The Court of Appeals held that:

- Town had probable cause to initiate civil litigation against employee, and
- Contractor had probable cause.

Town had probable cause to initiate Racketeer Influenced and Corrupt Organizations Act (RICO) claims against employee of law firm that filed numerous public records requests from town, precluding employee's § 1983 claims alleging town's lawsuit was retaliation in violation of employee's First Amendment right of access to the courts; firm created non-profit organization to test and enforce compliance with public records law, nearly 2,000 requests were made and 36 lawsuits were filed regarding those requests, costing town \$370,000 in attorney's fees, executive director of that non-profit resigned and gave sworn testimony to town's special counsel that employee, along with non-profit and firm, engaged in scheme to extort money from town through voluminous and intentionally vague requests, employee was specifically implicated, two outside attorneys conducted investigations and recommended filing the civil lawsuit, and town had legitimate, objective reason to protect itself and taxpayers from abusive litigation.

Town contractor, who was subject to public record requests by law firm, its employee, and non-profit organization created by firm, had probable cause to file Racketeer Influenced and Corrupt Organizations Act (RICO) claims against employee, precluding employee's malicious prosecution claims under Florida law against contractor; same attorney represented both town and contractor, attorney had investigated non-profit's scheme to file vague and voluminous records requests, and contractor had agreed to join lawsuit after discussion with attorney.