

# **Bond Case Briefs**

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## **CONTRACTS - SOUTH CAROLINA**

### **Shirley's Iron Works, Inc. v. City of Union**

**Supreme Court of South Carolina - May 29, 2013 - S.E.2d - 2013 WL 2325263**

Subcontractors who provided labor and materials on public building project brought action against city for alleged violation of Subcontractors' and Suppliers' Payment Protection Act (SPPA) and for negligence, breach of contract, quantum meruit, and related claims, after general contractor failed to pay subcontractors for amounts due.

The Supreme Court of South Carolina held that:

- SPPA created no private right of action in tort against city;
- Subcontractors' sole remedy was common law breach of contract claim;
- Law of the case doctrine did not preclude third-party beneficiary claim;
- Subcontractors sufficiently pled third-party beneficiary claim; and
- Subcontractors could not recover under theory of quantum meruit.

SPPA provision requiring city to ensure that general contractor posted payment bond did not provide for a tort cause of action against a city who allegedly failed to ensure such a bond, resulting in general contractor failing to pay subcontractor, and therefore subcontractor's action against city was barred by sovereign immunity. Pertinent sections of SPPA sounded in contract, not tort, and bonding requirement was incorporated into public works construction contracts.