

# **Bond Case Briefs**

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## **BONDS - ALABAMA**

### **Lord Abbett Mun. Income Fund, Inc. v. Southern Farms, Inc.**

**United States District Court, M.D. Alabama, Southern Division - February 19, 2014 - Slip Copy - 2014 WL 641763**

This is complex, ongoing litigation resulting from the collapse of two county districts established to finance a large, mixed-use development and the resulting failure to make payments on the bonds those districts had issued. We have previously covered earlier stages of this case.

It is impossible to accurately summarize the facts of this case. As the court noted, “The facts that set the stage for Lord Abbett’s [bondholder] claims are many and complex. Extensive detail is necessary for understanding the overall context of Lord Abbett’s claims and the parties’ alleged rights and obligations with respect to certain property.” Fortunately, the opinion sets out the facts in quite readable fashion.

The sole issue presented in this stage of the proceedings was defendant’s motion to dismiss on Rule 12(b)(1) and Rule 12(b)(6) grounds – whether the bondholder’s pleading alleged subject matter jurisdiction and whether its claims, if true, would entitle it to relief. Only arguments comporting with the relief available in Rule 12(b) are pertinent.

The District Court held that:

- An actual controversy existed between the parties, which grants bondholder standing to seek declaratory relief pursuant to the Declaratory Judgment Act;
- Bondholder had alleged facts suggesting that defendants’ foreclosure sale was wrongful, and thus defendants’ motion to dismiss for failure to state a claim was denied;
- Alabama law allows fraudulent transfer suits against wrongful transferees, and because defendants’ offered no convincing arguments as to why bondholder may not sue them for fraudulent transfer, the motions to dismiss this count were denied;
- Bondholder had alleged facts substantiating a claim for tortious interference with contract; and
- Bondholder’s pleading alleged sufficient facts to satisfy Rule 8(a)’s notice-pleading requirements as to defendants’ attorney individually.