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MUNICIPAL ORDINANCE - ALABAMA

K & D Automotive, Inc. v. City of Montgomery

Supreme Court of Alabama - February 28, 2014 - So.3d - 2014 WL 803375

Automobile repair business and its owner filed suit against city, city employees, and registered nuisance abatement agent, alleging numerous claims, including interference with business activities and defamation, and also challenged the constitutionality of the city nuisance ordinance, pursuant to which city declared numerous vehicles on business's premises were "junk" in violation of the ordinance and had the vehicles towed from the premises. Defendants filed motions for summary judgment. The Montgomery Circuit Court granted the motion in part, and following a bench trial, finding that city was not liable for alleged damage to vehicles that were towed, but ordering abatement agent to pay plaintiffs $520 in damages. Plaintiffs appealed.

The Supreme Court of Alabama held that:

- Fact issues existed as to whether definition of term "junk" in nuisance ordinance was arbitrary, unreasonable and overly broad, in violation of due process, and
- Lists or properties that were alleged to be hosting nuisances, prepared by employees of city housing code department, were themselves evidence sufficient to shift burden of proof to business and owner to show that they were not hosting nuisances.

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