

# **Bond Case Briefs**

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## **MUNICIPAL ORDINANCE - SOUTH CAROLINA**

### **Pallares v. Seinar**

**Supreme Court of South Carolina - March 12, 2014 - S.E.2d - 2014 WL 949618**

Homeowner brought civil suit against neighbors for malicious prosecution and abuse of process after neighbors sued homeowner for various animal and building code violations. The Circuit Court granted neighbors summary judgment. Homeowner appealed and the Supreme Court certified case for review.

The Supreme Court of South Carolina held that:

- Summary judgment evidence supported determination that neighbors honestly believed that they had probable cause to lodge complaints against homeowner, but
- Fact issue precluded summary judgment as to abuse of process claim.

Summary judgment evidence supported trial court's determination, in granting neighbors summary judgment on homeowner's malicious prosecution claim, that neighbors honestly believed that they had probable cause to lodge complaints against homeowner for nuisance animals and various housing and building code violations. Incident reports documenting complaints about dogs barking stated that reporting officer observed dog on homeowner's property "constantly barking [and] causing [a] disturbance in the neighborhood," and city inspections department issued homeowner warnings and notices of violation of city ordinance.

One who uses legal process, whether criminal or civil, against another primarily to accomplish purpose for which it is not designed, is subject to liability for harm caused by the abuse of process. Collateral objective must be sole or paramount reason for acting.

Tort of abuse of process centers on events occurring outside the process; improper purpose, as element of abuse of process, usually takes form of coercion to obtain collateral advantage, not properly involved in the proceeding itself, such as the surrender of property or the payment of money, by the use of the process as threat or club. Willful act element of abuse of process consists of three components: (1) willful or overt act; (2) in the use of the process; (3) that is improper because it is either unauthorized or aimed at illegitimate collateral objective.

Genuine issue of material fact existed as to whether neighbors had ulterior motive in filing various complaints against homeowner and in seeking her mental commitment and whether there was willful act by neighbors aimed at alleged illegitimate collateral objective of ejecting homeowner from her home and neighborhood, precluding summary judgment on claim for abuse of process.

