

Construction Lender Absolved of Liability in Squatter Case

The Alabama Court of Civil Appeals recently affirmed the judgment of the Elmore County Circuit Court granting summary judgment to a construction lender in an action brought by two squatters. The procedural facts involved two underlying lawsuits and the squatters' bankruptcy. Substantively, the plaintiffs alleged that the defendant bank and a local builder conspired together to forge the plaintiffs' names on an assignment/addendum to a real estate purchase contract. The trial court found that these allegations completely contradicted one of the plaintiff's affidavits from an earlier suit admitting to the genuineness of the assignment. The summary judgment in favor of the bank was affirmed on appeal without a decision, but the court saw fit to award the defendant damages in the form of attorney's fees under Ala. R. App. P. 38. Evans Bailey represented the lender on behalf of Rushton Stakely. On an earlier appeal to the Alabama Supreme Court in the same case, Evans also had the dismissal of the local builder affirmed without opinion.