



# The South Carolina Court of Appeals

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April 08, 2015

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Re: Ashley River Properties v. Lunar Systems  
Appellate Case No. 2013-001984

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: The Honorable Deadra L. Jefferson

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Ashley River Properties II, LLC, as assignee of Lunar  
Systems, LTD and Ashley River Properties II, LLC, in its  
own right, Respondents,

v.

Ashley River Properties One, LLC, successor in the  
interest to Ripley Light Yacht Club, LLC and Ripley  
Light Development, LLC,

Of whom Ashley River Properties One, LLC is the  
Appellant.

Ashley River Properties One, LLC, Third-Party  
Plaintiffs, Appellant,

v.

Lunar Systems, LTD and Thomas J. Lussier, Third-Party  
Defendants, Respondents.

Appellate Case No. 2013-001984

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Appeal From Charleston County  
Deadra L. Jefferson, Circuit Court Judge

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Unpublished Opinion No. 2015-UP-184  
Submitted March 1, 2015 – Filed April 8, 2015

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**AFFIRMED**

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Clayton B. McCullough and Ross A. Appel, both of  
McCullough Khan, LLC, of Charleston, for Appellant.

Frank M. Cisa, of The Law Firm of Cisa & Dodds, LLP,  
of Mount Pleasant, for Respondents Lunar Systems and  
Thomas J. Lussier.

William C. Cleveland, III, of Womble Carlyle Sandridge  
& Rice, LLP, of Charleston, for Respondent Ashley  
River Properties II.

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**PER CURIAM:** Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976) ("In an action at law, on appeal of a case tried without a jury, the findings of fact of the judge will not be disturbed upon appeal unless found to be without evidence which reasonably supports the judge's findings."); *Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 31, 567 S.E.2d 881, 897 (Ct. App. 2002) ("[T]he proper action against a maliciously filed lis pendens is under abuse of process or malicious prosecution."); *Pallares v. Seinar*, 407 S.C. 359, 370, 756 S.E.2d 128, 133 (2014) ("The essential elements of abuse of process are (1) an ulterior purpose, and (2) a willful act in the use of the process that is not proper in the regular conduct of the proceeding."); *id.* at 370-71, 756 S.E.2d at 133 ("The first element, an ulterior purpose, exists if the process is used to secure an objective that is not legitimate in the use of the process." (internal quotation marks omitted)); *Food Lion, Inc. v. United Food & Commercial Workers Int'l Union*, 351 S.C. 65, 74, 567 S.E.2d 251, 255 (Ct. App. 2002) ("An allegation of an ulterior purpose or 'bad motive,' standing alone, is insufficient to assert a claim for abuse of process."); *id.* at 75, 567 S.E.2d at 256 ("[T]he ulterior purpose allegation must be accompanied by an allegation that the process was misused by the undertaking of

the alleged act, not for the purpose for which it was intended but for the primary purpose of achieving a collateral aim." ).<sup>1</sup>

**AFFIRMED.**<sup>2</sup>

**THOMAS, KONDUROS, and GEATHERS, JJ., concur.**

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<sup>1</sup> In view of our holding, we need not address Appellant's remaining issue about damages. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding an appellate court need not review remaining issues when its determination of a prior issue is dispositive of the appeal).

<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.