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A Movement in New Jersey to Protect Land Use Applicants from Sham Litigation by Business Competitors

Christopher Stracco, Craig Gianetti and Katharine Coffey authored an article, "A Movement in New Jersey to Protect Land Use Applicants from Sham Litigation by Business Competitors," for *Law360*. The article discusses a recent New Jersey Appellate Division opinion which provides guidance to trial courts on how to discern the difference between constitutionally protected behavior and anti-competitive misconduct. In *Main Street at Woolwich, LLC v. Ammons Supermarket, Inc., et al.*, Docket No. A-0713-15T3 (App. Div. July 25, 2017), the Appellate Division reversed the Chancery Division's dismissal of an abuse of process claim against competitors who challenged a shopping center in Woolwich Township. Facing an issue of first impression in New Jersey state courts, the Appellate Division adopted the reasoning of the U.S. Court of Appeals for the Third Circuit in *Hanover 3201 Realty, LLC v. Village Supermarkets, Inc.*, 806 F.3d 162 (3d Cir. 2015), cert. denied, 136 S.Ct. 2451, 195 L. Ed. 2d 264 (2016), and concluded that the Chancery Division should have considered the developer's allegations that the competitor's action was "part of a pattern of sham litigation brought by defendants for the purpose of injuring market rivals rather than to redress actual grievances." The authors wrote, "there seems to be a growing momentum by the courts to seriously scrutinize these 'sham litigation' filings, which in turn may result in more claims filed against competitor objectors."

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