

DALE E. TAYLOR, B.J. FORE, DILLARD A. BROWN, HARVEY R. COOK, JR., THOMAS P. DEIGHTON, JAMES M. FLOYD, CATHY ANN HALL, GRANT HAROLD, MARY ROSE HART, RAYMOND HIGGINS, KENNETH D. HINSON, ALLEN C. JONES, JAMES T. MALCOLM, III, RANDY W. MARTIN, RICHARD N. OULETTE, RALPH PITTMAN, SID A. POPE, DANIEL L. POWERS, II, DARYL D. PRUITT, LISA D. ROBERTSON, RICKY E. SHEHAN, GREGORY F. SNIDER, TIMOTHY C. STOKER, ANN R. STOVER, JOAN C. SMITH, Individually, and for the benefit of and on behalf of all others similarly situated v. CITY OF LENOIR, a Municipal Corporation; BOARD OF TRUSTEES OF THE NORTH CAROLINA LOCAL GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM, body politic and corporate; O.K. BEATTY, JOHN W. BRITTE, JR., JAMES M. COOPER, RONALD E. COPLEY, CLYDE R. COOK, JR., BOB ETHERIDGE, JAMES R. HAWKINS, SHIRLEY A. HISE, WILMA M. KING, GERALD LAMB, W. EUGENE McCOMBS, WILLIAM R. McDONALD, III, DAVID G. OMSTEAD, PHILLIP M. PRESCOTT, JR., JAMES W. WISE, as Trustees; MICHAEL WILLIAMSON, as Director of the Retirement Systems Division, and Deputy Treasurer for the State of North Carolina; RICHARD H. MOORE, as Treasurer of the State of North Carolina and Chairman of the Board of Trustees of the North Carolina Local Government Retirement System; and THE STATE OF NORTH CAROLINA, a body politic and corporate

No. 95A01

(Filed 20 July 2001)

No Headnotes.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, ___ N.C. App. ___, 542 S.E.2d 222 (2001), dismissing as untimely filed the appeal from an order entered 5 March 1999 by Sitton, J., in Superior Court, Caldwell County. Heard in the Supreme Court 16 May 2001.

Kuehnert & Bellas, PLLC, by Daniel A. Kuehnert, for plaintiff-appellants Dale E. Taylor, B.J. Fore, Dillard A. Brown, Thomas P. Deighton, James M. Floyd, Raymond Higgins, and Ricky E. Shehan.

Groome, Tuttle, Pike & Blair, by Edward H. Blair, Jr., for defendant-appellee City of Lenoir.

Roy A. Cooper, Attorney General, by Alexander McC. Peters, Special Deputy Attorney General, for defendant-appellees Board of Trustees of the North Carolina Local Governmental Employees' Retirement System and its Individually Named Members or their Successors, Michael Williamson (successor to Dennis Ducker), Richard H. Moore (successor to Harlan E. Boyles), and the State of North Carolina.

PER CURIAM.

Pursuant to Rule 25 of the North Carolina Rules of Appellate Procedure, the record on appeal is deemed timely filed for good cause shown by the plaintiffs. The opinion of the Court of Appeals dismissing the appeal is, therefore, vacated and this case is remanded to that court for determination of the issues on the merits.

VACATED AND REMANDED.