

HOWARD, STALLINGS, FROM & HUTSON, P.A. v. FRANK DOUGLAS

No. 223A01

(Filed 9 November 2001)

**Judgments--default judgment--letter by counsel--not appearance**

The decision of the Court of Appeals in an action to recover legal fees is reversed for the reason stated in the dissenting opinion in the Court of Appeals that a letter sent by defendant's attorney to plaintiff's attorney after the complaint was filed but before service of the complaint was not an appearance which required three days' notice to defendant before default judgment could be entered against him.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 143 N.C. App. 122, 545 S.E.2d 470 (2001), reversing and remanding an order entered 2 March 2000 by Gessner, J., in District Court, Wake County. Heard in the Supreme Court 17 October 2001.

*Howard, Stallings, From & Hutson, P.A., by E. Cader Howard, John N. Hutson, Jr., and Colleen M. Crowley, for plaintiff-appellant.*

*Rudolph Maher Widenhouse & Fialko, by Thomas K. Maher, for defendant-appellee.*

PER CURIAM.

The decision of the Court of Appeals is reversed for the reasons stated in the dissenting opinion of Judge Timmons-Goodson.

REVERSED.