

**Appeal and Error; Damages and Remedies--breach of contract--nominal damages--
improper assignments of error--failure to object to instructions**

A decision of the Court of Appeals awarding plaintiff university professor a new trial on the issue of damages in an action for breach of a reemployment contract in which the jury awarded plaintiff nominal damages of one dollar is reversed for the reasons stated in the dissenting opinion that plaintiff's assignments of error violated the Rules of Appellate Procedure and plaintiff neither objected to nor assigned error to the jury instructions.

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. ___, 617 S.E.2d 335 (2005), vacating an order denying plaintiff's motion for judgment notwithstanding the verdict or a new trial entered 19 December 2003 by Judge J.B. Allen, Jr. in Superior Court, Wake County, and remanding for a new trial on damages only. On 3 November 2005, the Supreme Court allowed defendant's petition for discretionary review as to additional issues. Heard in the Supreme Court 15 February 2006.

Unti & Lumsden LLP, by Michael L. Unti and Sharon L. Smith, for plaintiff-appellee.

Roy Cooper, Attorney General, by John P. Scherer II and Kimberly D. Potter, Assistant Attorneys General, for defendant-appellant.

PER CURIAM.

As to the issue on direct appeal, we reverse the decision of the Court of Appeals for the reasons stated in the dissenting opinion. Further, we conclude that the petition for discretionary review as to additional issues was improvidently allowed.

REVERSED; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED.