

IN THE SUPREME COURT OF NORTH CAROLINA

No. 383A05

FILED 7 APRIL 2006

ALAN CAPPS

v.

NW SIGN INDUSTRIES OF NORTH CAROLINA, INC., a North Carolina corporation, RONALD BRODIE, and CHRIS REEDEL

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. ___, 614 S.E.2d 552 (2005), dismissing as interlocutory an appeal from an order denying both a motion for judgment on the pleadings and a motion to dismiss entered 18 February 2004 by Judge J. Gentry Caudill in Superior Court, Mecklenburg County. Heard in the Supreme Court 14 February 2006.

James, McElroy & Diehl, P.A., by Richard B. Fennell and Jared E. Gardner, for plaintiff-appellee.

Vandeventer Black LLP, by David P. Ferrell and Norman W. Shearin, Jr., for defendant-appellants.

PER CURIAM.

For the reasons stated in the dissent, the decision of the Court of Appeals is vacated, and the case is remanded with direction to the Court of Appeals to further remand to the Superior Court of Mecklenburg County for findings of fact sufficient for appellate review of the jurisdictional issue.

VACATED AND REMANDED.

Justice MARTIN did not participate in the consideration or decision of this case.