

**IN THE COURT OF APPEALS**

**CASES REPORTED WITH PUBLISHED OPINIONS**

**(FILED 29 DECEMBER 1998)**  
**(MANDATE 19 JANUARY 1999)**

| Docket #  | Title                                                                                                                | County                     | Judge           |
|-----------|----------------------------------------------------------------------------------------------------------------------|----------------------------|-----------------|
| 98-145-1  | NC Insurance Guaranty v Burnette, et al (Civil)<br><b>Decision:</b> Affirmed in part and remanded                    | Catawba                    | Walker          |
| 97-1257-1 | Hinkle v Hartsell (Civil)<br><b>Decision:</b> Reversed in part, vacated in part, and remanded                        | Davidson                   | Hunter          |
| 97-943-2  | Chamberlain v Thames (Civil)<br><b>Decision:</b> No error                                                            | Durham                     | Horton, Jr.     |
| 98-97-1   | State v White (Criminal)<br><b>Decision:</b> No error                                                                | Forsyth                    | Timmons-Goodson |
| 98-123-1  | Riddick v Myers (Civil)<br><b>Decision:</b> Affirmed                                                                 | Gates                      | Horton, Jr.     |
| 97-554-1  | State v Vestal (Criminal)<br><b>Decision:</b> Dismissed                                                              | Guilford                   | Martin          |
| 97-1534-1 | Estridge v Housecalls Healthcare, et al (Civil)<br><b>Decision:</b> Affirmed in part, reversed in part for new trial | Guilford                   | Horton, Jr.     |
| 98-312-1  | Smith Barney, Inc. v Bardolph (Civil)<br><b>Decision:</b> Reversed and remanded with instructions                    | Guilford                   | Martin          |
| 98-20-1   | Reis v Hoots (Civil)<br><b>Decision:</b> No error                                                                    | Henderson                  | Smith           |
| 98-377-1  | Caudill v Caudill (Civil)<br><b>Decision:</b> Vacated and remanded                                                   | Iredell                    | Hunter          |
| 97-1498-1 | Hill v Newman, et al (Civil)<br><b>Decision:</b> Affirmed                                                            | Lee                        | Hunter          |
| 98-154-1  | RE: Variance By Town of Franklin (Civil)<br><b>Decision:</b> Reversed and remanded                                   | Macon                      | Walker          |
| 98-367-1  | Friedland v Gales (Civil)<br><b>Decision:</b> Reversed and remanded                                                  | Mecklenburg                | Martin          |
| 98-149-1  | NC Commissioner of Ins. v NC Rate Burea (Civil)<br><b>Decision:</b> Reversed and remanded                            | N.C. Dept. of Insurance    | Greene          |
| 97-1567-1 | Deskins v Ithaca Industries, Inc. (Civil)<br><b>Decision:</b> Affirmed in part reversed and remanded                 | N.C. Industrial Commission | Timmons-Goodson |
| 98-285-1  | Wall v Macfield/Unifi, et al (Civil)<br><b>Decision:</b> Affirm                                                      | N.C. Industrial Commission | Eagles, Jr.     |

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| 98-406-1  | Hendricks, et al v Hill Realty Group (Civil)<br><b>Decision:</b> Affirmed                              | N.C. Industrial Commission | Walker      |
| 98-225-1  | Friend-Novorska v Novorska (Civil)<br><b>Decision:</b> Affirmed in part, vacated and remanded in part  | Orange                     | Horton, Jr. |
| 97-1232-1 | Regan v Smith (Civil)<br><b>Decision:</b> Appeal of defendant dismissed; case remanded                 | Robeson                    | Lewis, Jr.  |
| 98-275-1  | Scotland County v Johnson, et al (Civil)<br><b>Decision:</b> Affirmed                                  | Scotland                   | Eagles, Jr. |
| 97-1563-1 | NC Div. Confederate Vets. v Faulkner (Civil)<br><b>Decision:</b> Affirmed in part and reversed in part | Wake                       | Greene      |
| 98-253-1  | Glass v Glass (Civil)<br><b>Decision:</b> Affirmed in part, reversed in part and remanded              | Wake                       | Horton, Jr. |
| 98-54-1   | Jimenez, et al v Brown (Civil)<br><b>Decision:</b> Affirmed in part, reversed in part                  | Wilson                     | Smith       |

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| 98-126-1  | State v Baker (Criminal)<br><b>Decision:</b> No error                                                    | Brunswick<br>96CRS2464                                                                                                                                                                                                       | Martin          |
| 98-94-1   | West (McElreath) v McElreath (Civil)<br><b>Decision:</b> Reversed and remanded                           | Buncombe<br>95CVD4792                                                                                                                                                                                                        | Martin          |
| 97-787-1  | Prior, et al v Pruett, et al (Civil)<br><b>Decision:</b> Affirmed                                        | Burke<br>94CVS943                                                                                                                                                                                                            | Martin          |
| 98-210-1  | State v Merrington (Criminal)<br><b>Decision:</b> No error                                               | Cabarrus<br>95CRS17840,95CRS17839                                                                                                                                                                                            | Martin          |
| 98-116-1  | Gregory, et al v City of Kings Mountain (Civil)<br><b>Decision:</b> Affirmed                             | Cleveland<br>93CVS1279                                                                                                                                                                                                       | Walker          |
| 97-1332-1 | State v Beck (Criminal)<br><b>Decision:</b> No error                                                     | Columbus<br>95CRS8829                                                                                                                                                                                                        | Lewis, Jr.      |
| 97-1543-1 | State v Ward (Criminal)<br><b>Decision:</b> Case No. 97 CRS 719-No error. Case No. 97 CRS 718: reversed. | Columbus<br>97CRS719,97CRS718                                                                                                                                                                                                | John, Sr.       |
| 98-156-1  | State v Davis (Criminal)<br><b>Decision:</b> No error                                                    | Columbus<br>95CRS8513,95CRS8514,95-<br>CRS8512                                                                                                                                                                               | Horton, Jr.     |
| 98-185-1  | State v Lee (Criminal)<br><b>Decision:</b> No error                                                      | Craven<br>97CRS3508,97CRS3507                                                                                                                                                                                                | Greene          |
| 98-315-1  | Robeson Invest. v Cumberland Construct (Civil)<br><b>Decision:</b> Reversed and remanded                 | Cumberland<br>97CVS873                                                                                                                                                                                                       | Greene          |
| 98-14-1   | Downs v Downs (Civil)<br><b>Decision:</b> Affirmed                                                       | Davidson<br>94CVD02124                                                                                                                                                                                                       | Timmons-Goodson |
| 98-395-1  | State v Dail (Criminal)<br><b>Decision:</b> No error                                                     | Duplin<br>96CRS5162,96CRS4563                                                                                                                                                                                                | Horton, Jr.     |
| 98-197-1  | State v Boyd (Criminal)<br><b>Decision:</b> Vacated and remanded for resentencing                        | Durham<br>95CRS18889,95CRS14675,-<br>95CRS18897,95CRS18892,-<br>95CRS18887,95CRS18895,-<br>95CRS18890,95CRS14676,-<br>95CRS13585,95CRS18893,-<br>95CRS18888,95CRS14674,-<br>95CRS18896,95CRS18891,-<br>95CRS18886,95CRS18894 | Martin          |
| 98-226-1  | State v O'Neal (Criminal)<br><b>Decision:</b> No error                                                   | Forsyth<br>94CRS16723                                                                                                                                                                                                        | Hunter          |
| 97-1547-1 | Jenkins v Woolard (Civil)                                                                                | Guilford<br>96CVS4090                                                                                                                                                                                                        | Timmons-Goodson |

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|           | <b>Decision:</b> No error                                                               |                                                                               |                 |
| 98-221-1  | Commonwealth Land, et al v Idol, et al (Civil)                                          | Guilford<br>96CVS1102                                                         | Horton, Jr.     |
|           | <b>Decision:</b> Affirmed                                                               |                                                                               |                 |
| 98-369-1  | Thacker v Food Lion, Inc. (Civil)                                                       | Guilford<br>96CVS6481                                                         | Walker          |
|           | <b>Decision:</b> Affirmed                                                               |                                                                               |                 |
| 98-151-1  | State v Conners (Criminal)                                                              | Henderson<br>96CRS20168                                                       | Eagles, Jr.     |
|           | <b>Decision:</b> No error, but judgment vacated and the cause remanded for resentencing |                                                                               |                 |
| 98-271-1  | Shell v Fairfield Sapphire, et al (Civil)                                               | Jackson<br>96CVS009                                                           | Eagles, Jr.     |
|           | <b>Decision:</b> Affirmed                                                               |                                                                               |                 |
| 98-184-1  | State v Abercrombie (Criminal)                                                          | Lee<br>95CRS13490,95CRS13484                                                  | Horton, Jr.     |
|           | <b>Decision:</b> No error                                                               |                                                                               |                 |
| 98-906-1  | State v Knight (Criminal)                                                               | Martin<br>97CRS2501,97CRS2523,97-<br>CRS2500                                  | Horton, Jr.     |
|           | <b>Decision:</b> No error                                                               |                                                                               |                 |
| 98-177-1  | Storick v Lumbermens Mutual (Civil)                                                     | Mecklenburg<br>97CVS9361                                                      | Timmons-Goodson |
|           | <b>Decision:</b> Affirmed                                                               |                                                                               |                 |
| 98-268-1  | Performance Friction v Jens Lamba (Civil)                                               | Mecklenburg<br>97CVS14005                                                     | McGee           |
|           | <b>Decision:</b> Reversed                                                               |                                                                               |                 |
| 98-353-1  | Village of Raintree v Raintree Country (Civil)                                          | Mecklenburg<br>92CVS11282                                                     | Martin          |
|           | <b>Decision:</b> Reversed and remanded                                                  |                                                                               |                 |
| 98-736-1  | SEC v National Business (Civil)                                                         | Mecklenburg<br>97CVS8014                                                      | Horton, Jr.     |
|           | <b>Decision:</b> Appeal dismissed                                                       |                                                                               |                 |
| 98-381-1  | Lee (Kingsland) v Southern Elevator (Civil)                                             | N.C. Industrial Commission<br>IC620125                                        | Martin          |
|           | <b>Decision:</b> Affirmed in part and remanded with instructions                        |                                                                               |                 |
| 98-166-1  | Miller, et al v Shell Island Homeowners (Civil)                                         | New Hanover<br>97CVS2546                                                      | Walker          |
|           | <b>Decision:</b> Dismissed                                                              |                                                                               |                 |
| 98-26-1   | State v Corbett (Criminal)                                                              | Orange<br>97CRS1939                                                           | Eagles, Jr.     |
|           | <b>Decision:</b> No error                                                               |                                                                               |                 |
| 98-303-1  | In The Matter of: Suraj Romesh Fernando (Civil)                                         | Orange<br>97SPC1076                                                           | Hunter          |
|           | <b>Decision:</b> Affirmed                                                               |                                                                               |                 |
| 97-1586-1 | State v Barrett (Criminal)                                                              | Pitt<br>94CRS24502,94CRS12422                                                 | Greene          |
|           | <b>Decision:</b> New trial                                                              |                                                                               |                 |
| 98-568-1  | State v Cherry & Kelly (Criminal)                                                       | Pitt<br>97CRS4922,97CRS4908,97-<br>CRS8931,97CRS8939,97CR-<br>S4921,97CRS4907 | Horton, Jr.     |

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|           | <b>Decision:</b> No error             |                              |             |
| 98-235-1  | State v White (Criminal)              | Rowan<br>97CRS1550,97CRS1594 | Martin      |
|           | <b>Decision:</b> No error             |                              |             |
| 97-1422-1 | Aycock, et al v Hooks, e tal (Civil)  | Wayne<br>95CVS1670           | Eagles, Jr. |
|           | <b>Decision:</b> Affirm               |                              |             |
| 98-444-1  | Aycock, et al v Fuller, et al (Civil) | Wayne<br>95CVS2056           | Eagles, Jr. |
|           | <b>Decision:</b> Affirmed             |                              |             |