

JAYE DAY, Plaintiff, v. TIMOTHY A. NORDGREN, Executor of the  
Estate of EDMUND A. RASMUSSEN, Defendant

NO. COA05-1317

Filed: 6 June 2006

No headnotes.

Appeal by plaintiff from an order entered 13 June 2005 by  
Judge James C. Spencer, Jr., in Wake County Superior Court. Heard  
in the Court of Appeals 20 April 2006.

*Randolph M. James, P.C., by Randolph M. James, for plaintiff  
appellant.*

*Brady, Nordgren, Morton & Malone, PLLC, by Travis K. Morton,  
for defendant appellee.*

MCCULLOUGH, Judge.

Plaintiff Day filed a companion case in Wake County Superior  
Court and has appealed therefrom in which the facts and legal  
issues are identical, with the only difference being the named  
defendants. Therefore, the decision of *Day v. Rasmussen*, 177 N.C.  
App. \_\_\_, \_\_\_ S.E.2d \_\_\_ (filed 6 June 2006), is controlling in the  
instant case, and we therefore

Affirm.

Judges CALABRIA and STEELMAN concur.