



*State of North Carolina
General Court of Justice*

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DATE: January 25, 2006

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FROM: John R. Jolly, Jr.
Special Superior Court Judge
[Redacted]
Raleigh, NC 27612
FAX and Tel. Number: [Redacted]
Cell Number: [Redacted]
E-mail: [Redacted]

RE: Kevin A. Monce v. Nancy G. Deas and Edna E. Deas;
Wake County; 05 CVS 4005

MESSAGE: Gentlemen:

I finally have been able to get back to your case; and have reviewed and considered again at length the pleadings, your briefs, arguments, and supporting case materials.

As a result, I conclude (a) it is likely that our courts would impose the "multiple," rather than the "single," publication rule, but (b) that the answer to that issue is not necessary to a resolution of Defendants' Rule 12(c) motion. Rather, the Complaint in this action (with attached exhibit A) reflects that the website "publication" complained of by Plaintiff was revised and updated on separate occasions with new information, as late as November 17, 2004 (substantially less than one year before the March 24, 2005 filing date of the Complaint).



Accordingly, under either of the above rules, I am unable to conclude as a matter of law that on the face of the pleadings there did not exist a "publication" within the applicable one-year statute of limitations. Consequently, the Rule 12(c) motion to dismiss should be denied.

A copy of my signed Order reflecting this ruling is attached. I am forwarding the original to Mr. Crowell's office for filing and distribution.

Good luck with your case. I understand you are scheduled for mediation soon. Hopefully, you may be able to resolve your differences then.

Regards,

A handwritten signature in black ink, appearing to be 'RJ' or similar initials, written over the word 'Regards'.

cc: Ms. Sallie B. Kearns
Trial Court Administrator, Judicial District 10
Tel. Number: 919-755-4103
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STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
05 CVS 4005

KEVIN A. MONCE,
Plaintiff

v.

NANCY G. DEAS and EDNA E. DEAS,
Defendants

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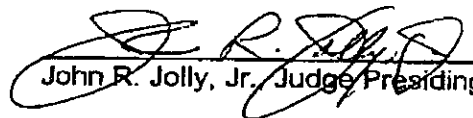
ORDER

THIS MATTER, coming before the undersigned, Superior Court Judge presiding over the Wake County Civil Superior Court on November 8, 2005, upon motion by the Defendants for judgment in their favor on the pleadings in this civil action, pursuant to the provisions of Rule 12(c), NCRCP, and the parties having stipulated to the signing and entry of this Order out of term and district; and

THE COURT, having reviewed the pleadings and having considered the briefs and oral arguments of counsel, having CONCLUDED that moving Defendants are not entitled to judgment in their favor on the pleadings.

NOW THEREFORE, based upon the foregoing CONCLUSION, it hereby is ORDERED that the motion by Defendants for judgment in their favor on the pleadings pursuant to the provisions of Rule 12(c), NCRCP, is DENIED.

This the 25th day of January, 2006.


John R. Jolly, Jr., Judge Presiding