

NORTH CAROLINA

WAKE COUNTY

KEVIN A. MONCE,

Plaintiff,

vs.

NANCY G. DEAS and EDNA E. DEAS,

Defendants.

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

2007 AUG 16 P 3:40

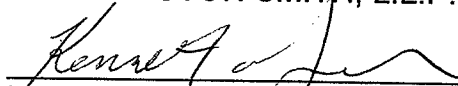
WAKE COUNTY, CSC  
**PLAINTIFF'S RESPONSE TO  
DEFENDANTS' MOTION TO  
DISMISS APPEAL**

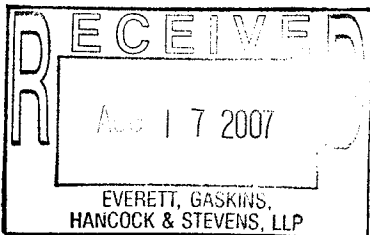
On June 8, 2007, the Court entered partial summary judgment for defendants Nancy and Edna Deas. On July 9, 2007, plaintiff Kevin A. Monce filed notice of appeal to the Court of Appeals of the partial summary judgment in favor of the Deas that their speech is about a matter of public concern. On July 25, 2007, the Deas filed Defendants' Motion to Dismiss and Strike Plaintiff's 'Notice of Appeal.'" The motion asserts that the appeal is interlocutory.

The superior court is without jurisdiction to dismiss the appeal. Only the Court of Appeals may decide whether the appeal is interlocutory. *Estrada v. Jaques*, 70 N.C. App. 627 (1984).

RESPECTFULLY SUBMITTED, this 16<sup>th</sup> day of August 2007.

THARRINGTON SMITH, L.L.P.

  
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*Attorneys for the plaintiff*

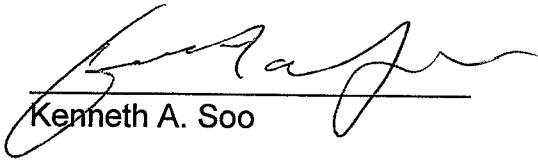


**CERTIFICATE OF SERVICE**

I certify that a copy of Plaintiff's **PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS APPEAL** was served by United States mail, addressed as follows:

Hugh Stevens  
Everett, Gaskins, Hancock & Stevens  
Post Office Box 911  
Raleigh, North Carolina 27602

This 16<sup>th</sup> day of August 2007.

  
Kenneth A. Soo