

NORTH CAROLINA  
WAKE COUNTY

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

2007 AUG 21 P 1: 20

KEVIN A. MONCE,

Plaintiff,

vs.

NANCY G. DEAS and EDNA E. DEAS,

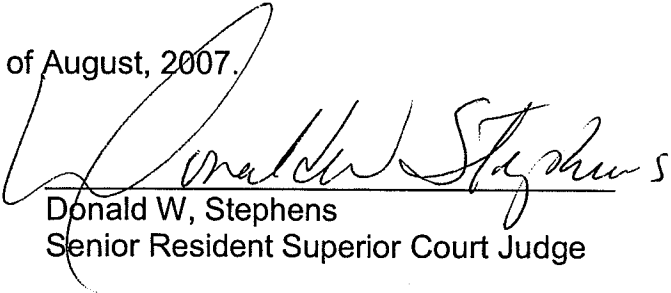
Defendants.

WAKE COUNTY, CSC

**ORDER**

This matter came on before the undersigned on the defendants' Motion to Dismiss or Strike Plaintiff's Notice of Appeal from a portion of an order entered June 7, 2007 wherein this court allowed the defendants' motion for partial summary judgment with respect to the issue whether the defendants' web site addressed one or more "matters of public concern." The parties have briefed the issues raised by the defendants' motion. Having reviewed their arguments, the court determines that the motion should be allowed because the order from which the plaintiff is attempting to appeal is interlocutory, does not affect a substantial right, and has not been certified for appeal pursuant to Rule 54(b) of the North Carolina Rules of Civil Procedure; accordingly, the "Notice of Appeal" filed by the plaintiff on July 9, 2007 is a nullity. *The case shall* ~~Therefore, the "Notice of Appeal"~~ *Proceed to Trial on the merits* ~~filed by the plaintiff on July 9, 2007 is dismissed and ordered stricken from the~~ ~~record.~~

SO ORDERED this 20 day of August, 2007.

  
Donald W. Stephens  
Senior Resident Superior Court Judge