

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT**

2006-2008

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I. INTRODUCTION

A. Overview of the Business Court Program

The North Carolina Business Court is a specialized forum of the trial court division. Cases involving complex and significant issues of corporate and commercial law are designated as such by the Chief Justice of the North Carolina Supreme Court, pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts, and assigned to a special superior court judge who oversees resolution of all matters in the case through trial.

The Business Court provides the legal community and the court system with automated resources to facilitate the efficient and economical use of judicial resources. Its electronic filing and case management systems greatly reduce the workload of document processing and case management for civil litigation. Electronic filing has been an integral component of the Business Court operations, and its expansion has resulted in a system which offers free public access via its web site (www.nbusinesscourt.net) to files, dockets and calendars; instant access to all Court opinions without the expense or delay of publication; an electronic library accessible by the Court from remote locations; and affords counsel the opportunity to use advanced courtroom equipment and technology in the course of hearings and trial, regardless of their level of expertise.

B. Expansion in Business Court Jurisdiction

The first Business Court was established in 1996 in Greensboro. With the passage of House Bill 650 in 2005, the Court's jurisdiction was expanded and two additional Business Court locations were established in Charlotte and Raleigh. Chief Business Court Judge Ben Tennille has presided over the Business Court in Greensboro since its inception. Judge Albert Diaz and Judge John Jolly serve as Special Superior Court Judges for Complex Business Cases for the Charlotte and Raleigh Business Courts, respectively.

Certain cases are now by definition designated mandatory complex business cases — those involving a material issue related to the law of corporations, securities law, antitrust law, state trademark and unfair competition law, and intellectual property law, and certain cases involving technology. There are no dollar limitations, and no waiver of jury trial is required. With the passage of recent legislation, the jurisdiction of the Business Court has been expanded to include those cases that have been removed to Business Court through a Notice of Designation and judicial review of certain tax cases originating in the Office of Administrative Hearings.

1. Notice of Designation

Effective January 1, 2006, any party to a new mandatory complex business case could have the case removed to the Business Court by filing a Notice of Designation pursuant to GS § 7A-45.4. This removal petition is accompanied by a \$200 non-refundable fee.

The Notice of Designation specifies the basis of the designation and includes a certificate on behalf of the party seeking removal that the case satisfies the criteria for a mandatory complex business case. If the removing party is the plaintiff or a third-party plaintiff, the Notice is filed contemporaneously with the filing of complaint. Where an intervening party seeks removal, the Notice is filed at the time the motion for permission to intervene is filed. Any other party

seeking to remove the case must file a Notice of Designation within thirty days of receipt of service of the pleading seeking relief against that party.

Any party may file an opposition to the removal within 30 days of being served with the Notice of Designation. It is the responsibility of the Chief Business Court Judge to determine that the case should not be designated a mandatory complex business case. That decision may be appealed to the Chief Justice of the Supreme Court.

Once a case is removed, it is sent to the Chief Business Court Judge for assignment to one of the three Business Court judges. From that point, all proceedings in that action will be before the Business Court Judge to whom the case has been assigned. Business Court judges will continue to try the cases in the county in which they are filed.

In the case of complex business or commercial litigation that does not fall within one of the mandatory categories, the old procedure of application to the Senior Resident Superior Court Judge in the county of origin still applies. At the discretion of the Senior Resident Judge, such case would be recommended to the Chief Justice for complex business or exceptional designation.

The Business Court Local Rules Committee reviewed the Local Rules following implementation of the new procedures and made recommendations for changes in the rules to the judges. The Amended Local Rules (2006) are posted on the Court's website at www.ncbusinesscourt.net.

2. Petition for Judicial Review of Certain Tax Cases

Effective January 1, 2008, in accordance with 2007 N.C. Session Law 2007-242, § 105-241.16, the Business Court also became a forum for any "taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings." Such a taxpayer would file a petition for judicial review in the Superior Court of Wake County following the aforementioned procedures for a mandatory business case. The petitioner must subsequently pay the amount of tax, penalties, and interest stated in the Business Court judge's decision but also has further recourse to appeal a decision of the Business Court to the appellate courts.

II. STATISTICAL OVERVIEW

A. Pending and Closed Cases

Since its inception in 1996, the Business Court has been assigned 489 cases from 53 counties; 317 of those 489 cases are now closed.

The Business Court currently has a total of 173 pending cases, seven of which are on appeal and 23 are stayed. Three additional cases have settled but are kept open to enforce court-ordered administrations of settlement. Of the 173 pending cases, 100 are designated mandatory complex business, 42 are discretionary complex business cases, and 31 are exceptional cases.

76 cases were closed in 2007, while 16 cases have been closed so far in calendar year 2008.

B. Distribution of Cases

The Business Court currently has 173 pending cases originating from 35 counties. Although each judge has some cases outside his general location, a regional breakdown shows the Eastern District with 83 cases, Middle District 29, and Western District 61.

COUNTY OF ORIGIN	NUMBER OF CASES	DISTRIBUTION		
		<u>Tennille</u>	<u>Diaz</u>	<u>Jolly</u>
Alamance	1	1		
Brunswick	15			15
Buncombe	5	1	4	
Burke	1		1	
Caldwell	1	1		
Catawba	1	1		
Chatham	1			1
Craven	1			1
Cumberland	3		1	2
Dare	3	1	1	1
Davidson	2	1	1	
Durham	4		2	2
Forsyth	4	4		
Franklin	2			2
Gaston	10	7	3	
Guilford	15	13		2
Haywood	1		1	
Henderson	5	1	4	
Jackson	1		1	
Johnston	2			2
Lenoir	2	1		1
Lincoln	1	1		
Mecklenburg	33	9	23	1
Nash	1			1
New Hanover	8	1		7
Onslow	1	1		
Orange	2	1	1	
Pasquotank	1			1
Perquimans	1			1
Pitt	1			1
Union	2	1	1	
Vance	4			4
Wake	36	16	2	18
Watauga	1			1
Wilkes	1	1		
Total Pending Cases	173			
	Caseload per judge	63	46	64

III. BUSINESS COURT JUDGES AND DATA BY SITE

A. GREENSBORO

Judge Ben Tennille serves as Chief Business Court Judge and presides over the Business Court in Greensboro, now located in the Elon University School of Law. Established in 1996, the Greensboro Business Court was the first statewide Business Court in the nation.

The Business Court-Greensboro has 63 open cases, 5 of which are on appeal and 14 are inactive, stayed or are in the process of settling. Although the two *Microsoft* cases that were assigned to this Court in 2000 reached a settlement in 2004, they remain open because of a court-ordered administration of settlement. Thus, out of 42 active cases, the average case age is 330 days.

Seven cases have been closed in calendar year 2008 to date; 32 cases were closed last year, while 33 were closed in 2006.

The FY 2006-07 expenditures for the Business Court-Greensboro were approximately \$318,440.

The 63 pending cases are listed below.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Date Assigned</u>	<u>Case Number</u>	<u>Status</u>
Am Cmty Bank v Royal Am Co.	Union	10/10/06	06 CVS 1609 <i>Mandatory</i>	Inactive Stayed
Avesair, Inc. v. InPhonic, Inc.	Wake	6/12/06	04 CVS 10838 2.1, 2.2	Inactive Stayed
Azalea Garden Board v. Vanhoy	Davidson	5/31/07	06 CVS 0948 2.1	Active 275
B Square Enterprises, Inc. v. Crawford	Wake	8/07/07	07 CVS 010351 <i>Mandatory</i>	Active 207
Bank of Am. Corp. v. Beazer Mort. Corp.	Mecklenburg	1/30/08	08 CVS 1998 <i>Mandatory</i>	Active 31
Bank of Am. Corp. v. SR Int'l Bus. Ins. Co.	Mecklenburg	6/17/05	05 CVS 5564 2.1, 2.2	Inactive Settled Jan. 2008
Better Bus. Forms & Prods., Inc. v. Craver	Guilford	2/27/07	07 CVS 3030 <i>Mandatory</i>	Active 368
Bolick v. Sipe	Catawba	7/09/07	07 CVS 1400 <i>Mandatory</i>	Active 236
CIT Grp/Comm. Svcs, Inc. v.	Guilford	4/11/07	06 CVS 8891	Inactive

Royal Am. Corp.			2.1 & 2.2.	Stayed
CIT Grp/Comm. Svcs, Inc. v. Royal Cordage Corp.	Guilford	11/29/06	06 CVS 10660 <i>Mandatory</i>	Inactive Stayed
CitiCapital Tech. Fin., Inc. v. Royal Am. Co., LLC	Gaston	1/04/07	06 CVS 5547 <i>Mandatory</i>	Inactive Stayed
Cook v. Mitchell	Forsyth	11/09/07	07 CVS 7095 <i>Mandatory</i>	Active 113
Cope v. Daniel	Alamance	1/08/07	06 CVS 2620 <i>Mandatory</i>	Active 418
Covenant Equip. Corp. v. Forklift Pro, Inc.	Mecklenburg	1/15/08	07 CVS 21932 <i>Mandatory</i>	Active 46
Cox v. Mitchell	Forsyth	1/08/07	06 CVS 8371 <i>Mandatory</i>	Active 418
Crockett Capital Corp. v. Inland American Winston Hotels, Inc.	Wake	1/17/08	08 CVS 00691 <i>Mandatory</i>	Active 44
Delhaize America, Inc. v. Secretary of Revenue	Wake	1/08/08	07 CVS 020801 <i>Mandatory</i>	Active 53
Egelhof v. Szulik	Wake	12/29/04	04 CVS 11746 2.1 & 2.2	Inactive Opinion 2/04/08
Epes v. HealthSouth Corp.	Catawba (Venue Change)	6/14/07	07 CVS 6243 <i>Mandatory</i>	Inactive Consol. 07 CVS 9451
Epes v. HealthSouth Corp.	Catawba (Venue change)	9/21/07	07 CVS 4723 <i>Mandatory</i>	Active 261
Exide Techs. v. Douglas	Forsyth (Venue Change)	3/7/07	07 CVS 7558 (formerly 07 CVS 4402) <i>Mandatory</i>	Active 360
First Bank v. Royal Am. Co., LLC	Gaston	1/4/07	06 CVS5531 <i>Mandatory</i>	Inactive
Gateway Mgt. Svcs v. Advanced Lubrication Tech.	Forsyth	2/15/08	08 CVS 85 <i>Mandatory</i>	Active 14
Gen. Elec. Capital Corp. v. Royal Am. Co., LLC	Gaston	1/19/07	06 CVS 2385 <i>Mandatory</i>	Inactive
Grady R. Jolley Elec. Contractors v. Royal Am. Co., LLC	Gaston	12/12/06	06 CVS 3541 <i>Mandatory</i>	Active 431

Harco Nat'l Ins. Co. v. BDO Seidman, LLP	Wake	12/8/06	05 CVS 2299 2.1 & 2.2	Active 449
Harco Nat'l Ins. Co. v. Grant Thornton LLP	Wake	3/14/06	05 CVS 2500 2.1 & 2.2	Active 718
Heinitsh v. Wachovia Bank, N.A.	Henderson (Venue Change)	10/14/03	03-CVS-4056 [04 CVS 734] 2.1	On Appeal
Henry v. Mavens Grp. Consulting & Development	Wake	11/20/07	07 CVS 12306 <i>Mandatory</i>	Active 102
Hill v. StubHub, Inc.	Guilford	11/15/07	07 CVS 11310 <i>Mandatory</i>	Active 117
Hume v. Stevenson	Guilford	10/29/07	07 CVS10592 <i>Mandatory</i>	Active 124
J2 & Assocs. v. Rutter	Guilford	6/01/07	07 CVS 6977 <i>Mandatory</i>	Active 274
JDH Capital LLC v. Flowers	Mecklenburg	4/23/07	07 CVS 5354 <i>Mandatory</i>	Active 313
Kaplan v. OK Techs., LLC	Guilford	9/22/06	06 CVS 10500 <i>Mandatory</i>	Active 526
Land v. Land	Guilford	1/25/06	06 CVS 11688 2.1 & 2.2	Active 766
Leiber v. Arboretum Joint Venture	Mecklenburg	7/17/06	05 CVS 18751 2.1	Active 593
Levy Invs. v. James River Group, Inc.	Orange	8/31/07	07 CVS 00820 <i>Mandatory</i>	Inactive Stay 9/18/07
Loftin v. KPMG LLP	Wake	7/25/06	03 CVS 16882 2.1	Active 585
McRae v. Andrews	Lenoir	10/10/07	07 CVS 1444 <i>Mandatory</i>	Inactive
Moody v. Sears, Roebuck and Co.	New Hanover	7/14/03	02-CVS-4892 2.1 & 2.2	On Appeal 6/07
Powersport Graphics, LLC v. SB Capital 2 LLC	Wilkes	3/28/07	07 CVS 238 <i>Mandatory</i>	Active 339
Rankin v. Microsoft Corp.	Wake	8/10/00	00 CVS 4073 2.1 & 2.2	Inactive Adm Class Settlement

Regions Bank v. Royal Am Co., LLC	Mecklenburg	10/23/06	06 CVS 13184 <i>Mandatory</i>	Inactive
Ross v. Autumn House, Inc.	Caldwell	1/08/08	07 CVS 2172 <i>Mandatory</i>	Active 53
Salvatore v. Microsoft Corp.	Lincoln	9/28/00	99 CVS 1246 2.1 & 2.2	Inactive Adm Class Settlement
Schlieper v. Johnson	Guilford	2/1/07	06 CVS 13099 <i>Mandatory</i>	Active 394
Sea Ranch II, Inc. v. Sea Ranch II Homeowners Ass'n Inc.	Dare	6/12/06	06 CVS 280 <i>Mandatory</i>	Inactive
Siemens Fin. Svcs, Inc. v. V.H. Ind., Inc.	Gaston	7/09/07	07 CVS 1757 <i>Mandatory</i>	Active 236
Sirius Am. Ins. Co. v. Grant Thornton LLP	Wake	3/14/06	05 CVS 6212 2.1 & 2.2	Active 718
Springs Leasing Corp. v. Royal Cordage Corp.	Mecklenburg	2/06/07	06 CVS 22029 <i>Mandatory</i>	Active 389
State v. Custard	Wake	5/03/06	06 CVS 4622 <i>Mandatory</i>	Active 668
State v. iMergent, Inc.	Wake	5/21/07	07 CVS 7381 <i>Mandatory</i>	Active 285
State v. McClure	Wake	8/11/03	03-CVS-5617 2.1	On Appeal
State v. Philip Morris Inc.	Wake	11/05/03	99 CVS 14377 2.1	On Appeal
Teague v. Bayer AG	Buncombe	3/15/05	05 CVS 90 2.1 & 2.2	On Appeal
UPS Capital Bus. Credit v. Royal Am. Co. LLC	Gaston	10/ 23/06	06 CVS 3512 <i>Mandatory</i>	Active 495
Vernon v. Cuomo	Wake	6/12/06	06 CVS 8416 <i>Mandatory</i>	Active 628
Webb v. Royal Am. Co., LLC	Gaston	10/06/06	06 CVS 4626 <i>Mandatory</i>	Active 512
Wells Fargo Bank, NA v. Royal America Co., LLC	Wake	1/30/08	07 CVS 24448 <i>Mandatory</i>	Active 31

Wicks v. Moody	Buncombe	12/28/07	07 CVS 06038 <i>Mandatory</i>	Active 64
Women's Healthcare Assocs., P.A. v. TSI Healthcare, Inc.	Onslow	2/07/08	07 CVS 4895 <i>Mandatory</i>	Active 22
York v. York	Guilford	7/05/06	06 CVS 7867 <i>Mandatory</i>	Active 605
York v. York	Guilford	7/05/06	06 CVS 7868 <i>Mandatory</i>	Active 605

B. CHARLOTTE

Judge Albert Diaz serves as Special Superior Court Judge for Complex Business Cases for the Charlotte Business Court, located in the new Mecklenburg County courthouse.

The Business Court-Charlotte currently has 46 open cases, one of which is on appeal and four are stayed or inactive. Thus, out of 41 active cases, the average case age is 291 days.

Five cases have been closed in calendar year 2008 to date; 27 cases were closed last year, and nine in 2006.

The FY 2006-07 expenditures for the Business Court-Charlotte were approximately \$211,903.

The 46 pending cases are listed below.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Date Assigned</u>	<u>Case Number</u>	<u>Status</u>
A-1 Pavement Marking v. APMI Corp.	Union	2/20/08	07 CVS 03186 <i>2.1 & 2.2</i>	Active 9
Anderson v. Certified Estate Planners	Gaston	11/16/07	06 CVS 5363 <i>2.1, 2.2</i>	Active 106
Auten v. Certified Estate Planners	Gaston	11/16/07	06 CVS 5364 <i>2.1, 2.2</i>	Active 106
Battleground Vet. Hosp. v. McGeough	Mecklenburg	6/01/06	05 CVS 18918 <i>2.1 & 2.2</i>	Active 639
Blitz v. Agean, Inc.	Durham	1/20/06	05 CVS 441 <i>2.1</i>	Active 771
Bowden v. Noel	Henderson	5/14/07	07 CVS 603 <i>Mandatory</i>	Active 292

Braun v. Earthworks Lawn & Landscape, Inc.	Mecklenburg	3/06/07	07 CVS 4433 <i>Mandatory</i>	Active 361
Broad v. Certified Estate Planners	Henderson	1/25/08	06 CVS 1941 2.1 & 2.2	Active 36
Bueche v. Noel	Henderson	5/14/07	07 CVS 597 <i>Mandatory</i>	Active 292
Buncombe Co. v. Hotels.com, LP	Buncombe	2/05/07	07 CVS 00585 <i>Mandatory</i> Consol Wake 06 CVS 16256	Active 390
Burgess v. Vitola	Buncombe	10/26/07	07 CVS 4679 <i>Mandatory</i>	Active 127
Calyptix Sec. Corp. v. Nexcom Technologies, LLC	Mecklenburg	9/18/07	07 CVS 16681 <i>Mandatory</i>	Active 165
Classic Coffee Concepts, Inc. v. Anderson	Mecklenburg	5/12/06	06 CVS 2941 <i>Mandatory</i>	Inactive; Judgment entered 1/31/08 Awaiting post trial motions
Club Car, Inc. v. Dow Chem. Co.	Mecklenburg	12/12/06	06 CVS 15530 2.1 & 2.2	Active 445
Cumberland Co. v. Hotels.com	Cumberland	2/27/07	06 CVS 10630 2.1 & 2.2 Consol Wake 06 CVS 16256	Active 368
Dare Co. v. Hotels.com	Dare	2/27/07	07 CVS 56 <i>Mandatory</i> Consol Wake 06 CVS 16256	Active 368
Eglinton v. Blue Ridge Bone & Joint Clinic, P.A.	Buncombe	1/14/08	07 CVS 06055 <i>Mandatory</i>	Active 47
Energy Alternatives, Inc. v. Tropitone furn. Co., Inc.	Mecklenburg	6/1/06	06 CVS 0782 <i>Mandatory</i>	Active 639
Fliehr v. Storick	Mecklenburg	3/28/07	07 CVS 1393 <i>Mandatory</i>	Active 339
Gaskin v. Proctor	Mecklenburg	6/25/07	07 CVS 9678 <i>Mandatory</i>	Active

Green v. Short	Mecklenburg	12/18/06	06 CVS 22085 <i>Mandatory</i>	Inactive; Stayed Arbitration
Greyson Ridge Dev., LLC v. Mountaineer Land Grp.	Mecklenburg	11/8/05	05 CVS 6615 2.1 & 2.2	Active 844
Hilb Rogal & Hobbs Co. v. Sellers	Mecklenburg	10.01.07	07 CVS 19339 <i>Mandatory</i>	Active 152
Integrity Fin. Svcs., LLC v. Gutierrez	Mecklenburg	8/22/07	07 CVS 16773 <i>Mandatory</i>	Active 192
Int'l Legwear Grp., Inc. v. Legassi Int'l Grp., Inc.	Burke	3/1/07	07 CVS 283 <i>Mandatory</i>	Active 366
King Fin. Grp, LLC v. Reid	Orange	4/21/06	06 CVS 7797 06 CVS 1767 <i>Mandatory</i>	Active 680
Kornegay v. Aspen Asset Group, LLC	Mecklenburg	1/19/06	04CVS 22242 2.1	Inactive Judgment entered 2/05/08; awaiting post trial motions
Latigo Invs. II, LLC v. Waddell & Reed Fin.	Mecklenburg	2/14/07	06 CVS 18666 2.1 & 2.2	Active 380
Mecklenburg County v. Hotels.com, LP	Mecklenburg	1/22/08	08 CVS 741 <i>Mandatory</i>	Active 39
Media Network, Inc. v. Long Haymes Carr, Inc.	Mecklenburg	2/3/06	05 CVS 15428 2.1 & 2.2	Active 757
Northfield Invs., Inc. v. Regions Bank	Mecklenburg	10/01/07	07 CVS 12568 <i>Mandatory</i>	Active 152
Parker v. Certified Estate Planners	Mecklenburg	11/05/07	06 CVS22773 2.1, 2.2	Active 117
Ray v. Deloitte & Touche	Mecklenburg	7/5/06	06 CVS 10418 <i>Mandatory</i>	Active 605
Regions Bank v. Regional Prop. Dev. Corp.	Mecklenburg	7/13/ 07	07 CVS 12469 <i>Mandatory</i>	Active 232
Robertshaw Controls Co. v. Moll Indus., Inc.	Davidson	2/06/08	07 CVS 01362 2.1 & 2.2	Active 23
Signalife v. Rubbermaid	Mecklenburg	11/30/07	07 CVS 1346 2.1	Inactive Ord Dism Compl

2/8/08

Smith v. Noel	Henderson	1/25/08	06 CVS 1959 2.1 & 2.2	Active 34
Thomas Cook Printing Co. v. Subtle Impressions, Inc.	Wake	8/09/07	05 CVS 11566 2.1 & 2.2	Active 205
Trussway Inc. East v. Stock Building Supply, Inc.	Mecklenburg	6/01/07	07 CVS 7963 2.1	Active 274
Wachovia Bank, N.A. v. Harbinger Cap. Partners Master Fund I, Ltd.	Mecklenburg	5/09/07	07 CVS 5097 2.1	Active 297
Wake Co. v. Hotels.com, LP	Wake	2/27/07	06 CVS 16256 2.1 & 2.2 <i>Consolidated with other Hotels.com cases</i>	Active 368
Warren v. Eli Research, Inc.	Durham	1/10/08	07 CVS 006306 <i>Mandatory</i>	Active 51
West v. Certified Estate Planners	Gaston	11/16/07	06 CVS 5362 2.1, 2.2	Active 106
Wilson v. Brown	Mecklenburg	11/05/07	07 CVS 19950 <i>Mandatory</i>	Active 117
Winn v. Wilson	Jackson	7/11/07	07 CVS 344 <i>Mandatory</i>	Active 234
Winn v. Wilson	Haywood	8/28/07	07 CVS 749 2.1 & 2.2	Active 186

C. RALEIGH

Judge John Jolly serves as Special Superior Court Judge for Complex Business Cases for the Raleigh Business Court, now located in leased space in downtown Raleigh. Prior to 2007, Judge Jolly had no official office or staff.

The Business Court-Raleigh currently has 64 open cases, 2 of which are on appeal and 5 are inactive or stayed. Thus, out of 57 active cases, the average case age is 253 days.

Six cases have been closed in calendar year 2008 to date while 17 cases were closed last year, the first year of operation.

The FY 2006-07 expenditures for the Wake County Business Court were approximately \$292,114.

The 64 pending cases are listed below.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Date Assigned</u>	<u>Case Number</u>	<u>Status</u>
Arcadius Dev. LLC v. Patton	Mecklenburg	12/04/06	06 CVS 13738 2.1, 2.2	Inactive Stayed
Brandson v. PCJ Ventures, LLC	New Hanover	5/17/06	05 CVS 4916 2.1 & 2.2	Active 654
Brosnan v. DiVenuta	Wake	12/08/06	05 CVS 14412 2.1 & 2.2	Active 448
Builder Svcs Grp. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2152 2.1	Active 14
Builders Firstsource Southeast Grp. V. Super. Constr. Corp.	Brunswick	2/15/08	07 CVS 2427 2.1	Active 14
Cabaniss v. Johnson	Wake	11/28/07	06 CVS 05183 Rule 2.1,2.2	Active 94
Cannon & Taylor, LLP v. Taylor	Pitt	9/05/07	07 CVS 2632 Mandatory	Active 178
Cape Fear Realty, LLC v. Cape Fear Trading Grp.	Brunswick	6/21/07	07 CVS 1310 Mandatory	Active 254
Capps v. Blondeau	Wake	11/07/07	07 CVS 16486 Mandatory	Active 115
Castle Branch, Inc. v. Carolina Investigative Research, Inc.	Wake	1/16/08	08 CVS 690 Mandatory	Active 45
Chirico v. Hyson	Chatham	5/21/07	07 CVS 289 Mandatory	Active 285
Clark v. Alan Vester Auto Grp., Inc.	Vance	5/09/06	06 CVS 141 2.1	Active 662
Coast Mechanical Contractors, Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2401 2.1	Active 14
Coastal Sash & Door v. Super. Constr. Corp.	Brunswick	2/15/08	07 CVS 1464 2.1	Active 14
Continental Service Solutions, Inc. v. Premier Workforce Inc.	Wake	12/20/07	07 CVS 18094 Mandatory	Active 72

David Shaev Profit Sharing Account v. Waste Industries USA, Inc.	Wake	1/08/08	07 CVS 20453 <i>Mandatory</i>	Active 53
Edgewater Svcs., Inc. v. Epic Logistics, Inc.	Wake	4/17/06	05 CVS 1971 2.1 & 2.2	Active 684
EHP Land Co. v. Boshier	Perquimans	4/10/07	07 CVS 59 <i>Mandatory</i>	Active 326
Eleanor B. Johnson Ltd. P'ship v. Ball	Craven	1/31/07	07 CVS 190 <i>Mandatory</i>	Active 395
Essa Commercial Real Estate, Inc. v. Five Trees, LLC	Guilford	6/18/07	07 CVS 5938 <i>Mandatory</i>	Active 257
Evans v. Bernard	Pasquotank	1/19/07	06 CVS 668 <i>Mandatory</i>	Active 407
Fish Factory Assocs v. South Harbour Village Assocs.	Brunswick	10/12/07	07 CVS 1971 <i>Mandatory</i>	Active 141
Glover Constr. v. NC Constructors	Wake	7/09/07	06 CVS 1309 2.1	Active 236
Griffin Mgt. Corp v. Carolina Power & Light Co.	Wake	6/12/06	05 CVS 14428 2.1 & 2.2	Active 628
Grimmett v. Alan Vester Auto Grp.	Vance	7/17/07	07 CVS 117 2.1	Active 228
H. Burkert & Co. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2566 2.1	Active 14
Hamm v. BCBS of NC	Durham	7/6/06	05 CVS 5606 2.1	Active 604
Hargrove v. John Freeser Motors	Vance	8/03/07	06 CVS 959 2.1	Active 211
Harris v. Alan Vester Auto Grp	Vance	7/25/06	05 CVS 758 2.1	Inactive On Appeal
Health Mgmt Assocs, Inc. v. Yerby	Franklin	7/24/07	06 CVS 839 2.1 and 2.2	Active 221
Johnson v. Johnson	Wake	7/26/07	07 CVS 09631 <i>Mandatory</i>	Active 219

Kintz v. Amerlink	Nash	12/28/06	02 CVS 2041 2.1	Inactive Trial 2/08
L'Heureux Enters., Inc. v. Port City Java, Inc.	New Hanover	10/5/06	06 CVS 3367 <i>Mandatory</i>	Active 513
Marotta v. DataCraft Solutions, Inc.	Wake	7/09/07	07 CVS 10317 <i>Mandatory</i>	Active 236
Merritt v. Brown Oil Co.	Durham	6/01/07	07 CVS 03611 <i>Mandatory</i>	Active 274
Miller & Long Co., v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 1760 2.1	Active 14
Mitchell, Brewer, et al. v. Brewer	Cumberland	7/14/06	06 CVS 6091 <i>Mandatory</i>	Active 596
Mooring Capital Fund, LLC v. Comstock North Carolina, LLC	Wake	1/17/08	07 CVS 020852 <i>Mandatory</i>	Active 44
Mountain Aircraft Svcs. Acquisition, Inc. v. Marsh	Lenoir	10/08/07	07 CVS 257 2.1 & 2.2	Active 145
Murphy v. Arcadius Dev., LLC	New Hanover	10/13/06	06 CVS 2411 <i>Mandatory</i>	Inactive Stayed
Novo Nordisk Pharm. Ind., Inc. v. Carolina Power & Light Co.	Johnston	1/19/07	05 CVS 00154 2.1	Active 407
Patton v. Arcadius Invs., LLC	New Hanover	10/13/06	06 CVS 3785 <i>Mandatory</i>	Inactive Stayed
Port City Java, Inc. v. Brandson	New Hanover	4/21/06	06 CVS 0920 <i>Mandatory</i>	Active 680 Active 275
Ruth Cook Blue Living Trust v. Blue	Watauga	5/31/07	07 CVS 222 <i>Mandatory</i>	Active 275
S&W Ready Mix Concrete Co. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2157 2.1	Active 14
STRA LLC v. Technical Textiles	Guilford	10/30/07	07 CVS 10914 <i>Mandatory</i>	Active 123
Smith v. Lewis	Wake	4/09/07	05 CVS 17912 2.1 & 2.2	Active 327
Smith Bros. Truck Garage v.	Cumberland	1/19/06	05 CVS 9600	Active

Covington Diesel, Inc.			2.1 & 2.2	772
Sony Ericsson Mobile Comm. USA, Inc. v. Agere Sys., Inc.	Wake	1/11/07	06 CVS 17673 <i>Mandatory</i>	Inactive On appeal
Sony Ericsson Mobile Comm. USA, Inc. v. Motorola, Inc	Wake	2/20/08	06 CVS 11334 <i>Mandatory</i>	Active 9
South Harbour Village Assocs., LLC v. Viable Corp.	Brunswick	10/02/07	07 CVS 1988 <i>Mandatory</i>	Active 151
Southern Mechanical, Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2099	Active 14
Stevens v. Carolina Electronic Assemblers, Inc.	Johnston	9/19/07	07 CVS 134 <i>Mandatory</i>	Active 164
Stokes v. Alan Vester Auto Grp.	Franklin	8/31/06	06 CVS 59 2.1	Inactive Dismiss 7/07
Stratton v. RBC Centura Banks	Wake	10/26/07	07 CVS 15079 <i>Mandatory</i>	Active 127
Super. Constr. Corp. v. Wachovia	Brunswick	11/20/07	07 CVS 2529 2.1 and 2.2	Active 102
The Sherwin-Williams Co. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2124 2.1	Active 14
Training Assocs. Corp. v. Productivity Point Int'l Inc.	Wake	12/15/05	05 CVS 10754 2.1 & 2.2	Active 807
Truss Link, Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2569 2.1	Active 14
U.S. Contracting, Inc. v. Sea Dunes Homeowners Ass'n	Dare	11/14/07	07 CVS 896 <i>Mandatory</i>	Active 108
Viable Corp. v. South Harbour Village Assocs LLC	New Hanover	10/12/07	07 CVS 4046 <i>Mandatory</i>	Active 141
Voyager Pharm. Corp. v. Bowen	Wake	3/13/06	06 CVS 3184 <i>Mandatory</i>	Active 719
Wallcraft Constr., Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2479 2.1	Active 14
Woodbury of Wilmington	New Hanover	9/20/07	07 CVS 4231	Active

IV. OPINIONS ISSUED: 2003 TO PRESENT

The Business Court is required to write opinions in non-jury matters assigned as Complex Business cases. In the exceptional cases assigned pursuant to Rule 2.1, the decision about whether to write an opinion is in the discretion of the Court. Opinions are generally written where issues are matters of first impression.

The official opinions in the cases listed below are on file in the courthouse of the county of jurisdiction. Electronically formatted copies of these opinions are also posted on the Business Court web site at www.ncbusinesscourt.net. Decisions which have been affirmed or reversed on appeal are noted.

2008

SIGNALIFE, INC. v. RUBBERMAID, INC.
2008 NCBC 3 (02/08/08)
07-CVS-1346 (Mecklenburg - Diaz)

EGELHOF v. SZULIK
2008 NCBC 2 (02/04/08)
04-CVS-11746 (Wake - Tennille)

CLASSIC COFFEE CONCEPTS, INC. v. ANDERSON
2008 NCBC 1 (01/31/08)
06-CVS-2941 (Mecklenburg - Diaz)

2007

BANK OF AMERICA CORP. v. SR INT'L BUS. INS. CO., SE
2007 NCBC 36 (12/19/07)
05-CVS-5564 (Mecklenburg - Tennille)

WAKE COUNTY v. HOTELS.COM, LP
2007 NCBC 35 (11/19/07)
06-CVS-16256 (Wake - Diaz)

BETTER BUS. FORMS & PRODS., INC. v. CRAVER
2007 NCBC 34 (11/01/07)
07-CVS-3030 (Guilford - Tennille)

BATTLEGROUND VETERINARY HOSP., P.C. v. MCGEOUGH
2007 NCBC 33 (10/19/07)
05-CVS-18918 (Mecklenburg - Diaz)

AVESAIR, INC. v. INPHONIC, INC.
2007 NCBC 32 (10/16/07)
04-CVS-10838 (Wake - Tennille)

JDH CAPITAL LLC v. FLOWERS
2007 NCBC 31 (10/12/07)
07-CVS-5354 (Mecklenburg - Tennille)

LAWRENCE v. UMLIC-FIVE CORP.
2007 NCBC 30 (09/14/07)
06-CVS-20643 (Mecklenburg - Diaz)

SCHLIEPER v. JOHNSON
2007 NCBC 29 (08/31/07)
06-CVS-13099 (Guilford - Tennille)

SONY ERICSSON MOBILE COMM'NS USA, INC. v. AGERE SYS., INC.
2007 NCBC 28 (08/27/07)
06-CVS-17673 (Wake - Jolly)

STATE v. PHILIP MORRIS USA, INC.
2007 NCBC 27 (08/17/07)
98-CVS-14377 (Wake - Tennille)

STATE ex rel. LONG v. CUSTARD
2007 NCBC 26 (08/08/07)
06-CVS-4622 (Wake - Tennille)

PERKINS v. HEALTHMARKETS, INC.
2007 NCBC 25 (07/30/07)
06-CVS-21053 (Mecklenburg - Diaz)

STATE ex rel. COOPER v. McCLURE
2007 NCBC 24 (07/19/07)
03-CVS-5617 (Wake - Tennille)

DIGITAL RECORDERS, INC. v. McFARLAND
2007 NCBC 23 (06/29/07)
07-CVS-2247 (Gaston - Diaz)

BURGESS v. AM. EXPRESS CO.
2007 NCBC 22 (06/29/07)
07-CVS-40 (Polk - Diaz)

BLITZ v. AGEAN, INC.
2007 NCBC 21 (06/25/07)
05-CVS-441 (Durham - Diaz)

LAWRENCE v. UMLIC-FIVE CORP.
2007 NCBC 20 (06/18/07)
06-CVS-20643 (Mecklenburg - Diaz)

HEINITSH v. WACHOVIA BANK
2007 NCBC 19 (06/11/07)
04-CVS-734 (Henderson - Tennille)

HEINITSH v. WACHOVIA BANK
2007 NCBC 18 (06/11/07)
04-CVS-734 (Henderson - Tennille)

LATIGO INVS. II, LLC v. WADDELL & REED FIN., INC.
2007 NCBC 17 (06/08/07)
06-CVS-18666 (Mecklenburg - Diaz)

BURGESS v. AM. EXPRESS CO.
2007 NCBC 16 (05/21/07)
07-CVS-40 (Polk - Diaz)

BURGESS v. AM. EXPRESS CO.
2007 NCBC 15 (05/21/07)
07-CVS-40 (Polk - Diaz)

MITCHELL, BREWER, RICHARDSON, ADAMS, BURGE & BOUGHMAN, PLLC v. BREWER
2007 NCBC 14 (05/08/07)
06-CVS-6091 (Cumberland - Jolly)

MOODY v. SEARS, ROEBUCK & CO.
2007 NCBC 13 (05/07/07)
(New Hanover - Tennille)

TEAGUE v. BAYER AG
2007 NCBC 12 (05/07/07)
(Buncombe - Tennille)

THAI HOLDING OF CHARLOTTE, INC. v. ARCHER DANIELS MIDLAND CO.
2007 NCBC 11 (05/07/07)
(Mecklenburg - Tennille)

CLUB CAR, INC. v. DOW CHEMICAL CO.
2007 NCBC 10 (05/03/07)
06-CVS-15530 (Mecklenburg - Diaz)

BLITZ V. XPRESS IMAGE, INC.
2007 NCBC 9 (04/13/07)
05-CVS-679 (Durham - Diaz)

GREEN v. SHORT
2007 NCBC 8 (03/09/07)
06-CVS-22085 (Mecklenburg - Diaz)

WACHOVIA CAPITAL PARTNERS, LLC v. FRANK HARVEY INV. FAMILY LTD. P'SHIP
2007 NCBC 7 (03/05/07)
05-CVS-20568 (Mecklenburg - Tennille)

PIEDMONT VENTURE PARTNERS, L.P. and PIEDMONT VENTURE PARTNERS II, L.P. by and through
WILLIAM E. RAY, Liquidator v. DELOITTE & TOUCHE, L.L.P.
2007 NCBC 6 (03/05/07)
06-CVS-10418 (Mecklenburg - Diaz)

KORNEGAY v. ASPEN ASSET GROUP, L.L.C.
2007 NCBC 5 (02/28/07)
04-CVS-22242 (Mecklenburg - Diaz)

AARP v. AM. FAMILY PREPAID LEGAL CORP.
2007 NCBC 4 (02/23/07)
06-CVS-10216 (Guilford - Diaz)

WACHOVIA INS. SERVS., INC. v. McGUIRT
2007 NCBC 3 (02/13/07)
06-CVS-13593 (Mecklenburg - Diaz)

PUCKETT v. KPMG, LLP
2007 NCBC 2 (02/13/07)
04-CVS-11289 (Mecklenburg - Diaz)

MEDIA NETWORK, INC. v. MULLEN ADVER., INC.
2007 NCBC 1 (01/19/07)
05-CVS-7255 (Mecklenburg - Diaz)

2006

WACHOVIA INS. SERVS., INC. v. McGUIRT
2006 NCBC 23 (12/19/06)
06-CVS-13593 (Mecklenburg - Diaz)

STATE v. PHILIP MORRIS USA, INC.
2006 NCBC 22 (12/04/06)
98-CVS-14377-I (Wake - Tennille)

CLASSIC COFFEE CONCEPTS, INC. v. ANDERSON
2006 NCBC 21 (12/01/06)
06-CVS-2941 (Mecklenburg - Diaz)

CNC/ACCESS, INC. v. SCRUGGS
2006 NCBC 20 (11/15/06)
04-CVS-1490 (Burke - Tennille)

PUCKETT v. KPMG, LLP
2006 NCBC 19 (11/15/06, Amended 11/16/06)
04-CVS-11289 (Mecklenburg - Diaz)

MASCARO V. MOUNTAINEER LAND GROUP, LLC
2006 NCBC 18 (11/14/06)
06-CVS-3016 (Mecklenburg - Diaz)

HEAFNER v. CITY OF GASTONIA
2006 NCBC 17 (11/14/06)
06-CVS-788 (Gaston - Diaz)

VIRKLER CO. v. CHEMICAL TECHS., LLC
2006 NCBC 16 (11/06/06)
05-CVS-19786 (Mecklenburg - Diaz)

BANK OF AM. CORP. v. SR INT'L BUS. INS. CO., LTD.
2006 NCBC 15 (11/01/06)
05-CVS-5564 (Mecklenburg - Tennille)

ANALOG DEVICES, INC. v. MICHALSKI
2006 NCBC 14 (11/01/06)
01-CVS-10614 (Guilford - Tennille)

CHEMCRAFT HOLDINGS CORP. v. SHAYBAN
2006 NCBC 13 (10/05/06)
06-CVS-5227 (Guilford - Tennille)

KORNEGAY V. ASPEN ASSET GROUP, L.L.C.
2006 NCBC 12 (09/26/06)
04-CVS-22242 (Mecklenburg - Diaz)

MALONEY V. ALLIANCE DEV. GROUP, L.L.C.
2006 NCBC 11 (09/18/06)
06-CVS-6776 (Mecklenburg - Diaz)

BLITZ V. XPRESS IMAGE, INC.
2006 NCBC 10 (08/23/06, Amended 08/25/06)
05-CVS-679 (Durham - Diaz)

ADAMS v. A.J. BALLARD TIRE & OIL CO.
01-CVS-1271 (Carteret - Tennille)
ADAMS v. BP PRODS. N. AM., INC.
03-CVS-912 (Carteret - Tennille)

BARNETT, ET AL. v. BP PRODS. N. AM., INC.
03-CVS-1124 (Carteret - Tennille)
2006 NCBC 9 (06/30/06)

WACHOVIA BANK v. DEUTSCHE BANK TRUST CO. AMERICAS
2006 NCBC 8 (6/02/06)
04-CVS-86 (Mecklenburg - Diaz)

MEDIA NETWORK, INC. v. MULLEN ADVER., INC.
2006 NCBC 7 (5/24/06)
05-CVS-7255 (Mecklenburg - Diaz)

MEDIA NETWORK, INC. v. MULLEN ADVER., INC.,
2006 NCBC 6 (4/21/06)
05-CVS-7255 (Mecklenburg - Diaz)

RAY v. DELOITTE & TOUCHE, LLP, ET AL.
2006 NCBC 5 (4/21/06)
05-CVS-15862 (Mecklenburg - Diaz)

EGELHOF v. SZULIK
2006 NCBC 4 (3/13/06)
04-CVS-11746 (Wake - Tennille)

FLICK MORTGAGE INVESTORS, INC. v. THE EPIPHANY MORTGAGE, INC.
2006 NCBC 3 (2/1/06)
04-CVS-10422 (Mecklenburg - Diaz)

BANC OF AMERICA SEC., LLC v. EVERGREEN INT'L AVIATION, INC.
2006 NCBC 2 (1/25/06)
03-CVS-9138 (Mecklenburg - Diaz)

MAURER v. SLICKEDIT, INC.
2006 NCBC 1 (2/3/05)
04-CVS-10527 (Wake - Tennille)

2005

IN RE POZEN S'HOLDERS LITIG.
2005 NCBC 7 (11/10/05)
04-CVS-1540 (Orange)
04-CVS-1542 (Orange)

STATE v. MCCLURE
2005 NCBC 6 (10/28/05)
03-CVS-005617 (Wake)

STATE v. PHILIP MORRIS
2005 NCBC 5 (10/19/05)
98-CVS-14377 (Wake)

MAURER v. SLICKEDIT, INC.
2005 NCBC 4 (8/12/05)
04-CVS-10527 (Wake)

BRANCH BANKING AND TRUST CO. v.
LIGHTHOUSE FIN. CORP.
2005 NCBC 3 (7/13/05)
04-CVS-1523 (Forsyth)

SOMPO JAPAN INS. INC. v. DELOITTE & TOUCHE
2005 NCBC 2 (6/10/05)
03-CVS-5547 (Guilford)

MAURER v. SLICKEDIT, INC.
2005 NCBC 1 (5/15/05)
04-CVS-10527 (Wake)

2004

STATE v. PHILIP MORRIS
2004 NCBC 9 (12/23/04)
98-CVS-14377 (Wake)
Reversed_SC2PA05

STATE v. MCCLURE
2004 NCBC 8 (12/14/04)
03-CVS-005617 (Wake)

CROUCH v. CROMPTON CORP.
02-CVS-4375 (New Hanover)
MORRIS v. VISA U.S.A. INC.
03-CVS-2514 (Harnett)
2004 NCBC 7 (10/26/04)

CORR SERVICES, INC. v. DAVIDSON COUNTY
2004 NCBC 6 (9/30/04)
02-CVS-739 (Davidson)

MARCOUX v. PRIM
2004 NCBC 5 (4/16/04)
04-CVS-920 (Forsyth)

SPORTS QUEST v. DALE EARNHARDT, INC.
2004 NCBC 4 (3/12/04)
02-CVS-0140 (Iredell)
01-CVS-2200 (Iredell)

SPORTS QUEST, INC. v. DALE EARNHARDT, INC.
2004 NCBC 3 (2/12/04)
02-CVS-0140 (Iredell)
01-CVS-2200 (Iredell)

ALEXANDER v. DAIMLERCHRYSLER CORP.
2004 NCBC 2 (1/30/04)
01-CVS-3390 (Wake)

COKER v. DAIMLERCHRYSLER CORP.
2004 NCBC 1 (1/6/04)
01-CVS-1264 (Rowan)
Affirmed COA04.523
Affirmed SC532A05

2003

IN RE QUINTILES TRANSNATIONAL CORP. S'HOLDERS LITIG.
2003 NCBC 11 (12/19/03)
02-CVS-5348 (Durham)

IN RE WACHOVIA S'HOLDERS LITIG.
2003 NCBC 10 (12/19/03)
01-CVS-4810 (Forsyth)

MECHANICAL SYS. & SERV., INC. v. CAROLINA AIR SOLUTIONS, L.L.C.
2003 NCBC 9 (12/3/03)
02-CVS-8572 (Guilford)

SUGGS-JACOBS v. PHYSICIANS WEIGHT LOSS CTR. OF AM., INC.
2003 NCBC 8 (11/5/2003)
00-CVS-7910 (Guilford)
Affirmed in part, reversed in part COA04-644

ADAMS v. AVENTIS, S.A.
2003 NCBC 7 (8/26/03)
01-CVS-2119 (Craven)

SUNBELT RENTALS, INC. v. HEAD & ENGQUIST EQUIPMENT, L.L.C.
2003 NCBC 6 (7/31/03)
00-CVS-10358 (Mecklenburg)
Affirmed COAO4.862

SMART ONLINE, INC. v. OPENSITE TECHNOLOGIES, INC.
2003 NCBC 5 (6/14/03)
01-CVS-09604 (Wake)

SUNBELT RENTALS, INC. v. HEAD & ENGQUIST EQUIPMENT, L.L.C.
2003 NCBC 4 (5/2/03)
00-CVS-10358 (Mecklenburg)

DURHAM COCA-COLA BOTTLING CO. v. COCA-COLA BOTTLING CO. CONSOLIDATED
2003 NCBC 3 (4/28/03)
99-CVS-2459 (Durham)

PACK BROTHERS PAINT AND BODY SHOP v. NATIONWIDE MUT. INS. CO.
2003 NCBC 2 (4/1/03)
01-CVS-805 (Gaston)