

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA01-1313

NORTH CAROLINA COURT OF APPEALS

Filed: 16 July 2002

NORTH CAROLINA ASSOCIATION, LONG  
TERM CARE FACILITIES; LAURA  
BURKETT; HOWARD McNEILL; MARION  
ORLANDER GREEN; DONNA RICHARDSON;  
ROBERT EDENS; and LOU WILSON;  
ROBERT NIXON d/b/a Boger City Rest  
Home; STAN BRADLEY d/b/a Southern  
Heritage; CARLOS A. GARCIA; FAIGER  
M. BLACKWELL d/b/a Blackwell  
Associates; MELISSA O'KELLEY d/b/a  
Mountain Area Enterprises; WARREN  
MASSENBURG d/b/a Zollieville Rest  
Home, Inc. and E.E. Toney Rest Home,  
Inc.; BETHANY ENTERPRISES, INC.;  
ROCKY PASS ADULT CARE, L.L.C.;  
E & J HEALTH CARE, INC.; CENTRAL  
CARE, INC.; ATWATER REST HOME,  
INC.; DANIEL W. TUTTLE d/b/a Tuttle  
Enterprises; EVELYN LOVE-TROLLINGER;  
CHANCELOR HEALTH SERVICES, L.L.C.;  
and A. STEVE PIERCE,  
Plaintiffs

Wake County  
No. 01 CVS 5425

v.

NORTH CAROLINA DEPARTMENT OF HEALTH  
AND HUMAN SERVICES, CARMEN HOOKER  
BUELL in her official capacity as  
Secretary of the North Carolina  
Department of Health and Human  
Services,  
Defendants

Appeal by plaintiffs from order entered 14 September 2001 by  
the Honorable Henry W. Hight, Jr., in Wake County Superior Court.  
Heard in the Court of Appeals 12 June 2002.

*Hopper & Hicks, LLP, by William L. Hopper, and Moore & Van*

*Allen, PLLC, by Joseph W. Eason and Robert A. Meynardie, for the plaintiffs.*

*Attorney General Roy Cooper, by Special Deputy Attorney General Ronald Marquette, Assistant Attorney General Grady L. Balentine, Jr., and Assistant Attorney General Emery E. Milliken, for defendants.*

BRYANT, Judge.

On 13 March 2001, plaintiffs filed a civil action in Wake County Superior Court. On 16 April 2001, defendants removed the case to the United States District Court for the Eastern District of North Carolina. On 4 May 2001, plaintiffs voluntarily dismissed their state claims from the federal suit and refiled the state claims in this action. On 20 June 2001, defendants filed an answer and moved to dismiss the action. On 12 September 2001, a hearing was held on defendants' motion at the civil session of Wake County Superior Court with the Honorable Henry W. Hight, Jr., presiding. On 14 September 2001, Judge Hight entered an order dismissing plaintiffs' action. Plaintiffs filed notice of appeal on 28 September 2001.

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The North Carolina Rules of Appellate Procedure provide that "the scope of review on appeal is confined to a consideration of those assignments of error set out in the record on appeal in accordance with this Rule 10." N.C.R. App. P. 10(a). According to N.C.R. App. P. 10(c)(1), "Each assignment of error shall . . . be confined to a single issue of law; and shall state plainly, concisely and without argumentation the legal basis upon which

error is assigned." Plaintiffs assign as error the following:  
"The Court's signing and entry of its Order on September 14, 2001 granting the Defendant's Motion to Dismiss, on the grounds that it is based upon errors of law." R. P. 105. Defendants contend that plaintiffs' assignment of error fails to comply with Rule 10 in that it is not confined to a single issue of law and fails to even state a legal issue to be adjudicated. We agree and find that the plaintiffs' assignment of error is not in compliance with Rule 10 and is insufficient to preserve an issue for appellate review.

DISMISSED.

Judges McGEE and SMITH concur.

Report per Rule 30(e).