

**DURHAM COUNTY NO. 97CVS00687**

L'TANYA D. DAVIS, EXECUTRIX OF ESTATE OF KENNETH A. DAVIS, Plaintiff v. J.M.X., INCORPORATED, and ESAU ROOSEVELT DIXON, Defendants and Third-Party Plaintiffs v. ANTOINETTE PADILLA TOLER, REA CONSTRUCTION COMPANY, PROTECTION SERVICES, INC., and STATE OF NORTH CAROLINA, *ex rel* NCDOT, Third-Party Defendants  
**and**

**DURHAM COUNTY NO. 97CVS00714**

L'TANYA DURANTE DAVIS, Plaintiff v. J.M.X., INCORPORATED, and ESAU ROOSEVELT DIXON, Defendants and Third-Party Plaintiffs v. ANTOINETTE PADILLA TOLER, REA CONSTRUCTION COMPANY, PROTECTION SERVICES, INC., and STATE OF NORTH CAROLINA, *ex rel* NCDOT, Third-Party Defendants  
**and**

**DURHAM COUNTY NO. 97CVS00713**

E. ANN CHRISTIAN, as Guardian Ad Litem for LEONARD AARON DAVIS, II, Plaintiff v. J.M.X., INCORPORATED, and ESAU ROOSEVELT DIXON, Defendants and Third-Party Plaintiffs v. ANTOINETTE PADILLA TOLER, REA CONSTRUCTION COMPANY, PROTECTION SERVICES, INC., and STATE OF NORTH CAROLINA, *ex rel* NCDOT, Third-Party Defendants  
**and**

**DURHAM COUNTY NO. 97CVS02051**

ROBERTA E. JOHNSON, as Administratrix of the Estate of THELMA P. BITTING, Plaintiff v. J.M.X., INCORPORATED, and ESAU ROOSEVELT DIXON, Defendants and Third-Party Plaintiffs v. ANTOINETTE PADILLA TOLER, REA CONSTRUCTION COMPANY, PROTECTION SERVICES, INC., and STATE OF NORTH CAROLINA, *ex rel* NCDOT, Third-Party Defendants

No. 206A00

(Filed 6 October 2000)

No Headnotes.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 137 N.C. App. 267, 528 S.E.2d 56 (2000), affirming orders for summary judgment entered 2 July 1998 and 8 July 1998 and reversing orders for summary judgment entered 9 July 1998 by Johnson (E. Lynn), J., in Superior Court, Durham County. Heard in the Supreme Court 11 September 2000.

*McDaniel, Anderson & Stephenson, L.L.P., by William E. Anderson and John M. Kirby, for third-party plaintiff-appellants.*

*Yates, McLamb & Weyher, L.L.P., by Rodney E. Pettey, for*

*third-party defendant-appellee Rea Construction Company; and Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by James D. Blount, Jr., and Deanna Davis Anderson, for third-party defendant-appellee Protection Services, Inc.*

PER CURIAM.

AFFIRMED.