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Priest v. Sobeck
No. 599A02
(Filed 2 May 2003)

Appeal and Error-appealability-partial summary judgment-final judgment as to some claims-substantial right

The decision of the Court of Appeals dismissing as interlocutory appeals by both plaintiffs and defendants of an order granting partial summary judgment in an action for libel per se, class two libel, and libel per quod even though the trial court certified the case for immediate review under Rule 54(b) is reversed for the reasons stated in the dissenting opinion that (1) there was a final judgment as to one or more of plaintiffs' claims, and (2) the denial of defendants' summary judgment motion implicated defendants' First Amendment right to free speech and thus affected a substantial right.

IN THE SUPREME COURT OF NORTH CAROLINA

No. 599A02

FILED: 2 MAY 2003

PAMELA PRIEST and BETTY LOU SKINNER

v.

THOMAS SOBECK and MAKE-UP ARTISTS AND HAIR STYLISTS LOCAL 798, OF THE INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES AND MOTION PICTURE OPERATORS OF THE UNITED STATES AND CANADA

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 153 N.C. App. 662, 571 S.E.2d 75 (2002), dismissing as interlocutory an appeal of an order granting partial summary judgment entered 4 September 2001 by Judge Melzer A. Morgan, Jr., in Superior Court, Moore County. Heard in the Supreme Court 10 April 2003.

Schiller & Schiller, P.L.L.C., by David G. Schiller and Marvin Schiller, for plaintiff-appellants and -appellees.

Smith, James, Rowlett & Cohen, LLP, by Seth R. Cohen, for defendant-appellants and -appellees.

The Bussian Law Firm, PLLC, by John A. Bussian, on behalf of the North Carolina Press Association, amicus curiae.

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed and this case is remanded to that court to address the merits of the appeal.

REVERSED AND REMANDED.