

No. COA 17-859

FIRST DISTRICT

NORTH CAROLINA COURT OF APPEALS

TAMMY L. BYBEE,)
Plaintiff-Appellant)

v.)

From (Currituck Co.)
File No. 15-CVS-386

ISLAND HAVEN, INC.,)
QUALITY HOMES OF CURRITUCK,)
LLC and JUSTIN MATTHEW OLD,)
Defendants-Appellees.)

FILED
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CLERK COURT OF APPEALS
OF NORTH CAROLINA

PLAINTIFF-APPELLANT'S BRIEF

N.C.G.S. §75-1.1(a) states that methods of competition in or affecting commerce, and unfair or deceptive acts in or affecting commerce, are declared unlawful. Section (b) of the statute states that "commerce" includes all business activities, except for professional services rendered by a member of a learned profession. The Plaintiff has alleged that the Defendants were in the business of developing property and building homes on that property for sale.

"Proof of fraud ... necessarily constitute{s} a violation of the prohibition against unfair and deceptive acts" under section 75-1.1." Hardy v. Toler, 288 N.C. 303,309, 218 S.E.2d 342,346 (1975). In Allen v. Roberts Construction Co. Inc., 532 S.E.2d 534(N.C. App. 2000) the Court concluded that Roberts Construction had engaged in unfair and deceptive trade practices, in pertinent part, on the judgment for fraud against Roberts Construction. (Id. at 532 S.E.2d 540-542). The court further found negligence against the general contractor, Bryant Roberts. (Id. at 542).

Taking all of Plaintiff's allegations in her complaint as true as required pursuant to Rule 12(b)(6), Plaintiff has alleged a claim for relief for unfair and deceptive trade practices against the defendants.

In the fifth count of her complaint, plaintiff alleges Punitive Damages. Plaintiff incorporates paragraphs 1 through