

No. COA 17-859

FIRST DISTRICT

NORTH CAROLINA COURT OF APPEALS

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TAMMY L. BYBEE, )  
 )  
 Plaintiff-Appellant, )  
 )  
 v. )  
 )  
 ISLAND HAVEN, INC., QUALITY )  
 HOMES OF CURRITUCK, LLC and )  
 JUSTIN MATTHEW OLD, )  
 )  
 Defendants-Appellees. )

From Currituck County  
 15 CVS 386

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**DEFENDANTS-APPELLEES' BRIEF**

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For all of these reasons, Appellant failed to state a claim for which relief may be granted when it pled a fraud claim against Mr. Old and Quality Homes, and the trial court properly dismissed the claim.

IV. THE UNFAIR AND DECEPTIVE TRADE PRACTICES CLAIM AGAINST MR. OLD AND QUALITY HOMES WAS PROPERLY DISMISSED AS IT FAILED TO ALLEGE THE NECESSARY ELEMENTS OF THE CLAIM AND BECAUSE THE FRAUD CLAIM FAILS.

To allege an unfair and deceptive trade practices claim under N.C. Gen. Stat. § 75-1.1, a plaintiff “must allege: (1) the defendant committed an unfair or deceptive act or practice, (2) the action in question was in or affecting commerce, and (3) the act proximately caused injury to the plaintiff.” *Sain v. Adams Auto Group, Inc.*, \_\_\_ N.C. App. \_\_\_, 781 S.E.2d 655, 659 (N.C. Ct. App. 2016).

Here, Appellant’s claim for unfair and deceptive trade practices against all defendants merely realleges all the previous allegations in the Complaint. (R p 12, ¶¶31, 32). Appellant has not alleged that Mr. Old and Quality Homes’ alleged unfair or deceptive acts were in or affecting commerce. *Id.* The Appellant also did not allege that the unfair or deceptive acts of Mr. Old and Quality Homes caused injury to Appellant. *Id.*