

NORTH CAROLINA SUPERIOR COURT, MECKLENBURG COUNTY, NORTH CAROLINA BUSINESS COURT

Cadieu Tree Experts, Inc. v. Wiedner

2026 NCBC 35 · No. 24CV054195-590 · Decided April 15, 2026

SUMMARY

The North Carolina Business Court rules on motions to dismiss and strike counterclaims and third-party claims arising from a dispute involving Cadieu Tree Experts, Inc. and former employees Dain and Stephanie Wiedner. The court addresses joinder under Rule 13(h), the sufficiency of claims under the North Carolina Wage and Hour Act, and breach-of-contract allegations, granting and denying the motions in part.

CASE DETAILS

COURT	North Carolina Superior Court, Mecklenburg County, North Carolina Business Court
WRITING FOR THE COURT	A. Graham Shirley
JURISDICTION	North Carolina Superior Court, North Carolina Business Court
DECIDED	April 15, 2026
DOCKET	24CV054195-590
DISPOSITION	other
PROCEDURAL POSTURE	The court decided Plaintiffs' motion to dismiss and strike and Third-Party Defendants' motion to dismiss directed to the Wiedner Defendants' counterclaims and affirmative defenses.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court treats well-pleaded allegations as true and views facts and permissible inferences in the light most favorable to the nonmoving party, disregarding legal conclusions and unwarranted factual deductions. A Rule 12(f) motion tests the legal sufficiency of an affirmative defense under essentially the same pleading standard as Rule 12(b)(6). Rule 12(f) decisions are reviewed under the trial court's sound discretion.
PRECEDENTIAL VALUE	Published North Carolina Business Court opinion

TOPICS

- motions to dismiss
- pleadings
- joinder
- wage and hour
- breach of contract

PRACTICE AREAS

civil procedure

commercial litigation

employment law

contracts

real estate

torts

QUESTIONS PRESENTED

1. Whether the Wiedner Defendants sufficiently pleaded counterclaims under North Carolina's notice-pleading standard.
2. Whether additional counterclaim defendants were properly joined under North Carolina Rule of Civil Procedure 13(h), including whether a separate motion or court order was required.
3. Whether the wage-and-hour, breach-of-contract, unjust-enrichment, and slander-of-title counterclaims stated legally sufficient claims.
4. Whether the IIED and NIED counterclaims were adequately pleaded.
5. Whether punitive damages could be asserted as a standalone counterclaim.
6. Whether the Wiedner Defendants' affirmative defenses were sufficiently pleaded or should be stricken under Rule 12(f).

HOLDINGS

1. Additional counterclaim defendants may be joined when their presence is required to grant complete relief on a properly pleaded counterclaim and the court can obtain jurisdiction over them. Complete relief is evaluated in part by whether the existing parties would be prejudiced by having to litigate claims with significant factual and legal overlap in a separate action. A separate motion to join is not necessarily required under Rule 13(h).
2. The Wiedner Defendants sufficiently pleaded wage-and-hour claims by alleging an employer-employee relationship, earned wages or compensation, and violations of wage-and-hour provisions, with enough detail to provide notice of the unpaid compensation claimed.
3. The Wiedner Defendants sufficiently pleaded breach of contract by alleging valid contracts under which they funded business expenses or were to receive wages and commissions, and alleging failures to reimburse or compensate them.
4. The unjust-enrichment claims were sufficiently pleaded where the Wiedner Defendants identified the benefits conferred, the recipients, the circumstances of the transfers, and the alleged failure to reimburse them.
5. The Wiedner Defendants sufficiently pleaded slander of title by alleging that Plaintiffs filed a false and malicious lis pendens affecting their property, causing loss of access to a secured line of credit and other special damages.
6. The IIED and NIED counterclaims failed because the alleged newspaper publication and threats did not adequately establish extreme and outrageous conduct, the NIED claim did not identify a breached legal duty and alleged intentional rather than negligent conduct, and neither claim sufficiently alleged actual severe emotional distress.

7. Punitive damages are a remedy rather than an independent cause of action and may not be maintained as a standalone counterclaim.
8. Affirmative defenses should not be stricken where the pleadings and surrounding factual allegations provide sufficient notice of their nature and they could have a possible bearing on the litigation; mere vagueness or lack of detail is not ordinarily grounds for striking.

KEY QUOTATIONS

“The motion should be granted only when: (1) the pleading “on its face reveals that no law supports” the asserted claim; (2) the pleading “on its face reveals the absence of facts sufficient to make a good claim;” or (3) the pleading “discloses some fact that necessarily defeats” the claim.” (¶ 23)

“North Carolina remains a notice-pleading state” (¶ 26)

“Conduct is extreme and outrageous when it is “so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.”” (¶ 48)

“punitive damages are a remedy rather than a standalone cause of action.” (¶ 55)

“mere vagueness or lack of detail is not ground for a motion to dismiss. Such a deficiency should be attacked by a motion for a more definite statement.” (¶ 66)

FACTUAL BACKGROUND

Stephanie and Dain Wiedner alleged that they worked for Cadieu Tree Experts, Inc., funded business expenses with personal credit, and were not paid substantial wages, commissions, or reimbursements. They also alleged that members of the Cadieu family directed payments to other family members and that Plaintiffs improperly filed a lis pendens against the Wiedners' residence, impairing access to a secured line of credit. The Wiedners further alleged that Plaintiffs and members of the Cadieu family caused a newspaper article concerning the lawsuit to be published and that David Cadieu threatened them. They asserted counterclaims for wage-and-hour violations, breach of contract, unjust enrichment, slander of title, IIED, NIED, and punitive damages, along with affirmative defenses.

PROCEDURAL HISTORY

Plaintiffs filed an amended complaint asserting claims against Dain and Stephanie Wiedner. The Wiedner Defendants answered and asserted counterclaims and third-party claims against members of the Cadieu family. Plaintiffs moved under North Carolina Rules of Civil Procedure 12(b)(6), 13(h), and 12(f) to dismiss counterclaims and strike affirmative defenses; David, Luke, and Jake Cadieu separately moved under Rules 12(b)(6) and 13(h) to dismiss. After an initial hearing before Judge A. Todd Brown, the matter was reheard by Judge Shirley, who granted the motions in part and denied them in part.

DISPOSITION

other

CASES CITED

- Concrete Serv. Corp. v. Inv'rs Grp., Inc., 79 N.C. App. 678, 681 (1986)
- Vanguard Pai Lung, LLC v. Moody, 2019 NCBC 38, at *8 (N.C. Super. Ct. June 19, 2019)
- Ford v. Peaches Entm't Corp., 83 N.C. App. 155, 156 (1986)
- Oberlin Capital, L.P. v. Slavin, 147 N.C. App. 52, 56, 60 (2001)
- Weaver v. St. Joseph of the Pines, Inc., 187 N.C. App. 198, 204 (2007)
- Martin v. Martin, 266 N.C. App. 296, 299 (2019)
- Sutton v. Duke, 277 N.C. 94, 102, 104 (1970)
- Wentz v. Unifi, Inc., 89 N.C. App. 33, 38 (1988)
- Smith v. City of Charlotte, 79 N.C. App. 517, 528 (1986)
- Constr. Managers, Inc. of Goldsboro v. Amory, 2019 NCBC 72 (N.C. Super. Ct. Oct. 14, 2019)
- Davis Lake Comm. Ass'n v. Feldmann, 138 N.C. App. 322, 323 (2000)
- Greentouch USA, Inc. v. Lowe's Co., 2025 NCBC LEXIS 7, at *4 (N.C. Super. Ct. Jan. 23, 2025)
- Biogas Corp. v. NC Biogas Dev., LLC, 2023 N.C. Super. LEXIS 68, at *1 (N.C. Super. Ct. Aug. 16, 2023)
- Bullard v. Berry Coal & Oil Co., 254 N.C. 756, 759 (1961)
- Parker v. Town of Erwin, 243 N.C. App. 84, 96 (2015)
- Banc of Am. Sec. LLC v. Evergreen Int'l Aviation, Inc., 169 N.C. App. 690, 693 (2005)
- Strickland v. Town of Aberdeen, 124 N.C. App. 430, 477 (1996)
- Stanback v. Stanback, 297 N.C. 181, 196, 202 (1979)
- New Hanover Cnty. Bd. of Educ. v. Stein, 380 N.C. 94, 106 (2022)
- Turner v. Thomas, 369 N.C. 419, 794 (2016)
- Mangum v. Raleigh Bd. of Adjustment, 362 N.C. 640, 644 (2008)
- Horack v. S. Real Estate Co. of Charlotte, Inc., 150 N.C. App. 305 (2002)
- Amos v. Oakdale Knitting Co., 331 N.C. 348 (1992)
- Talley v. Earth Fare 2020, Inc., 2024 NCBC 81 (N.C. Super. Ct. Dec. 12, 2024)
- Butler v. Millennium Advisors, LLC, 2026 N.C. App. LEXIS 7, at *7 (N.C. Ct. App. 2026) (unpublished)
- Poor v. Hill, 138 N.C. App. 19, 26 (2000)
- Davis v. Davis Funeral Serv., 2023 NCBC LEXIS 79, at *19 (N.C. Super. Ct. June 12, 2023)
- Chesson v. Rives, 2016 NCBC LEXIS 92, at *76 (N.C. Super. Ct. Nov. 30, 2016)
- Crosby v. Bowers, 87 N.C. App. 338, 345 (1987)
- Supplee v. Miller-Motte Bus. Coll., Inc., 239 N.C. App. 208, 220 (2015)
- Wilson v. Wilson, 261 N.C. 40, 43 (1964)
- Gallaher v. Ciszek, 2022 NCBC LEXIS 131, at *31 (N.C. Super. Ct. Nov. 4, 2022)
- Booe v. Shadrick, 322 N.C. 567, 570 (1988)
- Southeastern Shelter Corp. v. Btu Inc., 154 N.C. App. 321, 330 (2002)
- Plasman v. Decca Furniture (USA), Inc., 257 N.C. App. 684, 690-91 (2018)
- Broughton v. McClatchy Newspapers, Inc., 161 N.C. App. 20, 30 (2003)

- Hill v. Ewing, 296 N.C. App. 624, 629 (2024)
- Kingsdown, Inc. v. Hinshaw, 2016 NCBC LEXIS 15, at *107 (N.C. Super. Ct. Feb. 17, 2016)
- Iadanza v. Harper, 169 N.C. App. 776, 779 (2005)
- Canady v. Mann, 107 N.C. App. 252, 257 (1992)
- Chatham Estates v. Am. Nat'l Bank, 171 N.C. 579, 582 (1916)
- Whyburn v. Norwood, 47 N.C. App. 310, 315 (1980)
- Waddle v. Sparks, 331 N.C. 73, 82 (1992)
- Lenins v. K-Mart Corp., 98 N.C. App. 590, 599 (1990)
- Watson v. Dixon, 130 N.C. App. 47, 52-53 (1998), on reh'g, 132 N.C. App. 329 (1999), aff'd, 352 N.C. 343 (2000)
- Briggs v. Rosenthal, 73 N.C. App. 672, 677, cert. denied, 314 N.C. 114 (1985)
- Sopko v. Stancil, 2015 NCBC LEXIS 15, at *7-8 (N.C. Super. Ct. Feb. 10, 2025)
- Johnson v. Ruark Obstetrics & Gynecology Assocs., P.A., 327 N.C. 283, 304 (1990)
- Rickenbacker v. Coffey, 103 N.C. App. 352, 357 (1991)
- Gibson v. Mut. Life Ins. Co. of New York, 121 N.C. App. 284, 290 (1996)
- Horne v. Cumberland Cnty. Hosp. Sys., Inc., 228 N.C. App. 142, 149 (2013)
- Guthrie v. Conroy, 152 N.C. App. 15, 25 (2002)
- Sheaffer v. County of Chatham, 337 F. Supp. 2d 709, 734 (M.D.N.C. 2004)
- Holleman v. Aiken, 193 N.C. App. 484, 502 (2008)
- Halikierra Cmty. Servs. LLC v. N.C. HHS, 2021 NCBC LEXIS 27, at *25 (N.C. Super. Ct. Mar. 25, 2021)
- Collier v. Bryant, 216 N.C. App. 419, 434 (2011)
- Daily v. Mann Media, Inc., 95 N.C. App. 746, 748-49 (1989)
- Reese v. City of Charlotte, 196 N.C. App. 557, 567 (2009)
- Faulconer v. Wysong & Miles Co., 155 N.C. App. 598, 601 (2002)
- Vernon v. Crist, 291 N.C. 646, 653 (1977)
- Mazingo v. N.C. Nat'l Bank, 31 N.C. App. 157, 163 (1976)
- Merrell v. Smith, 2020 NCBC LEXIS 126, at *7 (N.C. Super. Ct. Oct. 22, 2022)
- [case] Carpenter v. Carpenter, Carpenter v. Carpenter, 189 N.C. App. 755, 761, 766 (2008)
- Shellhorn v. Brad Ragan, Inc., 38 N.C. App. 310, 316 (1978)