

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 774

Short Title: Defendant's Liability for Codefendant-Agent. (Public)

Sponsors: Representatives Faison and Sutton (Primary Sponsors).

Referred to: Judiciary III.

March 15, 2007

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE COURT, UPON THE MOTION OF THE  
2 PLAINTIFF OR OF ITS OWN INITIATIVE IN A PENDING CIVIL ACTION  
3 INVOLVING MORE THAN ONE DEFENDANT WHERE (1) THE LIABILITY  
4 OF A DEFENDANT IS BASED SOLELY ON THE ACTS OR OMISSIONS OF A  
5 CODEFENDANT AS THE AGENT OF THIS DEFENDANT AND (2) THERE IS  
6 NO GENUINE ISSUE THAT THE CODEFENDANT IS THE AGENT OF THIS  
7 DEFENDANT, TO PROHIBIT THIS DEFENDANT FROM PARTICIPATING  
8 FURTHER IN DISCOVERY AND IN THE PRESENTATION OF THE  
9 DEFENDANTS'S CASE AT TRIAL.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Article 6 of Chapter 1 of the General Statutes is amended by  
12 adding a new section to read:

13 **"§ 1-72.2. Defendant whose liability is based solely on the agency of a codefendant.**

14 (a) In a pending civil action involving more than one defendant, the court may,  
15 upon the motion of the plaintiff or of its own initiative, prohibit a defendant from  
16 participating further in discovery and the presentation of the defendants's case at trial if  
17 the judge finds all of the following:

18 (1) The liability of this defendant is based solely on the acts or omissions  
19 of a codefendant as the agent of this defendant.

20 (2) There is no genuine issue that the codefendant is the agent of this  
21 defendant.

22 (b) The court shall issue a written order that contains a statement of reasons for  
23 the ruling sufficiently specific to permit appellate review. The order may also specify  
24 any conditions or limitations on granting the motion under this section that the court  
25 determines to be warranted under the facts and applicable law. An order under this  
26 section shall not be subject to an interlocutory appeal. Any interlocutory appeal of an  
27 order in violation of this subsection shall not divest the trial court of its jurisdiction.  
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1       (c) Orders issued under subsection (a) of this section shall not prohibit any other  
2 party to the action from obtaining discovery from this defendant, from issuing a  
3 subpoena for this defendant to appear as a witness, or from examining this defendant as  
4 a witness at the trial."

5               **SECTION 2.** This act is effective when it becomes law and applies to  
6 actions pending and actions commenced on or after that date.