



### Book Battle Winners

Shallotte Middle School's "Battle of the Books" team celebrates its victory in county competition April 12. The team competed against Leland Middle, South Brunswick Middle and Waccamaw schools in a test of reading and comprehension skills. Pictured (from left, front) are Kristine Doster, Allysun Abbott, Tara Holoden, Jeanette Garner, Lauren Spencer, (back row) Lucas Wagenseil, James Johnson, Travis Overrocker, Kay Coleman, Wesley Hickman, Jennifer Quaintance and Brian Hall. Coleman, media coordinator at the school, and Marian Tippet, media assistant. The team was to participate in a regional contest this week at UNC-Wilmington.

PHOTO CONTRIBUTED

## HOUSTON AND ASSOCIATES

# Appeals Court Upholds Jury In Contractor's Suit

BY ERIC CARLSON

The N.C. Court of Appeals last week unanimously upheld a local jury's verdict awarding the Shallotte engineering firm Houston and Associates only a fraction of the damages sought in its successful breach of contract lawsuit against Brunswick County.

The company's lawyer Richard Evans on Tuesday called the ruling a "poor opinion, replete with error, that did not address the issues" raised in the appeal. Evans and Houston have not decided whether to request a second appeals court hearing or to take the case to the N.C. Supreme Court.

Houston and Associates sued the county after the board of commissioners voted in August 1992 to terminate a contract with the company for engineering services on a \$7 million water project. The firing came after county officials became concerned that Houston would be unable to complete the major waterline expansion on schedule.

In November 1992, a superior court jury in Bolivia decided that the county was wrong when it terminated the Houston contract. But it awarded the company \$50,000 instead of the \$396,202 the company

claimed to have lost as a result of the firing.

After that verdict was announced, Evans asked Judge George Fountain to set aside the decision. Evans insisted that if the jury agreed county breached the contract, there was no evidence to support an award of damages other than the full amount requested. The judge denied the motion and Houston appealed his decision.

"Having reviewed the record, we find that the verdict was not contrary to the weight of the evidence and that the judge did not abuse his discretion in denying plaintiff's motion," senior appeals court Judge Jack Cozart wrote. "The defendant presented evidence which effectively challenged the plaintiff's calculation of the cost of completion and thus presented the jury with an issue of fact as to the amount of damages."

In writing his opinion, Judge Cozart pointed out that County Engineer Robert Tucker testified Houston "had been overpaid by \$20,000 for its work" at the time the contract was terminated. The county's expert witness, engineer Jerome Gilbert, reviewed the project records and determined that, "substantially less than one-third of the design of the project had been performed" and

that the project "was far behind the contract schedule," Cozart said.

"The jury could have, in awarding only \$50,000 damages...believed the evidence unfavorable to (Houston) as to the cost of completion," the judge wrote.

Evans said he and his client were "extremely disappointed in the quality of the decision." He called it a "slipshod job" and accused the appeals court of "sidestepping the issues" and "taking the lazy way out." He said the appellate judges avoided the question of whether or not the superior court jury followed the judge's instructions regarding the award of damages.

Judge Fountain gave the jury a formula by which to establish the amount of damages Houston should receive if it agreed in the company's favor, Evans said. If the jury followed those instructions, it could have arrived at no other figure than the \$396,202 sought by the company, he said.

"(The appeals court) treated this like a negligence case, where there is a lot of leeway on how much damage to award for pain and suffering," Evans said. "This was a contract case, where the amount of loss is pretty much seventh-grade

math."

Evans said he is reviewing the decision with his client to decide whether or not to pursue the case further.

## BUSINESS BRIEFS

# James Marshall Honored

James A. Marshall of Shallotte, field representative for Woodmen of the World Life Insurance Society, has qualified for membership in the President's Clubs, according to National President John G. Bookout.

Marshall's membership in the Millionaire Section of the Presidents Clubs is "in recognition of outstanding insurance sales production and professional conduct during the past year," a company news release states.

Marshall and other club members will be guests of the president at a July meeting in Boston and Toronto.

## New Reservationist

Vickie Osborne of Ash has joined CUC Travel in Nashville, Tenn., as a reservationist.



OSBORNE

Osborne is a recent graduate of Southeastern Academy in Kissimmee, Fla., where she studied travel and tourism.

## Named District V.P.

Robert B. "Brett" Frantz Jr. has been named area vice president for First Citizens Bank in Brunswick, Bladen and Columbus counties.

He has "full management responsibilities" for bank operations in Shallotte, Southport, Yaupon Beach, Bladenboro, Chadbourne, Elizabethtown and Whiteville, according to a

company press release.

First Citizens established the three-county area following its acquisition of Pioneer Savings Bank branches last August.

Before relocating to Whiteville, Frantz served as business banking manager in Kinston. The Wilson native is an alumnus of Barton College and is a former member of the Lenoir Chamber of Commerce, the Rotary Club and the Community Council of the Arts.

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## Robert Weller

to our sales staff



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# JIM FULLER



# Candidate for NC Supreme Court Justice 1994

- Born in Salisbury, North Carolina
- Graduate of Davidson College and UNC Law School

## EXPERIENCE

- Lafayette Avenue Presbyterian Church
- U.S. Army
- High School English Teacher
- Law Clerk to Chief Justice Susie M. Sharp
- Trial Lawyer in private practice 20 years with concentration in personal injury and civil rights
- Provided pro bono service in numerous cases for those without power or money, including a migrant farm worker beaten by an employer and a lawsuit against the KKK
- Adjunct Law Professor: UNC, Duke, and NCCU law schools
- National Institute of Trial Advocacy Trainer — Chapel Hill; Houston; Boston; New Orleans; Johannesburg, South Africa
- Continuing Legal Education Program Chair and Speaker in North Carolina and nationally

## SERVICE

- Past President of the North Carolina Academy of Trial Lawyers, currently serving as Chair of the Citizens' Rights Commission
- North Carolina Bar Association: Chair of the Bench, Bar and Law School Committee; Chair of the Conference on Legal Education
- Wake County Bar Association: Past Chair of Public Service Committee; member Ethics Committee
- Immediate Past Chair of the Raleigh Human Relations Commission for 3 years
- Chair of the Interact Program for Battered Women and Children

## AWARDS AND HONORS

- 1992 Chief Justice Walter Clark Award from the North Carolina Academy of Trial Lawyers for service to the cause of justice for all
- Inductee of the American College of Trial Lawyers
- Fellow of the American Board of Trial Advocates
- Fellow of the International Society of Barristers
- North Carolina Association of Educators' Friend of Education Award
- Special commendation from the Southern Poverty Law Center for litigation against the Ku Klux Klan
- Founding Master of the Susie M. Sharp Inn of Court

## FAMILY

- Wife of 26 years — Jean Fuller, an educator who works in a dropout prevention program
- Children: Jennifer, Julie and Jocelyn

# Justice For All

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# Brunswick Tied For Last Place On Jobless Report

Brunswick was tied with Hyde County for the state's highest unemployment rate during March, according to the monthly report of the N.C. Employment Security Commission.

The two counties' rate was 10 percent, ESC states.

The unemployment rate of five of North Carolina's 100 counties was 10 percent or higher. Topping the list was Graham County with 19.8

percent, followed by Pamlico at 11.9, and Tyrrell, 11.4.

Brunswick County's rate is based on a total labor force of 26,920, with 24,230 employed and 2,690 looking for work.

The state's lowest unemployment rate was Durham County with 2.1 percent. According to the ESC re-

port, the commission's analysts regard 5 percent "as a near full-employment situation."

Rates fell in 75 counties, rose in 22 and remained unchanged in 3 counties.

March jobless rates in other coastal counties included Pender, 7.6 percent; Onslow, 4.1; Carteret,

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# Nursing Homes Propose Additions

Three Brunswick County nursing homes are seeking certificates of need for expansions and renovations, according to the N.C. Department of Human Resources.

Ocean Trail Convalescent Center Inc. proposes to add 40 new nursing beds, four replacement nursing beds, 25 replacement home-for-the-aged beds, 14 assisted living apartments and renovation of the existing facility in Southport.

Brunswick Cove Nursing Center of Leland proposes to add 40 nursing beds to the current 120 nursing facility beds and 20 home-for-the-aged beds.

Aaron Enterprises proposes to convert 40 existing home-for-the-aged beds to nursing facility status with the addition of 20 new home-for-the-aged beds.

Anyone may file written comments and exhibits concerning the proposals. Comments must be submitted to the Certificate of Need Section, Division of Facility Services, P.O. Box 29530, Raleigh NC 27626-0530, no later than May 2.

The public hearing for these projects will be held May 12 at 11 a.m. in the Brunswick Community College Teaching Auditorium, P.O. Box 30, Business 17 North, Supply NC 28462.