

DIVISION OF EMPLOYMENT SECURITY
NC DEPARTMENT OF COMMERCE

**ORDER REVOKING, IN PART,
PRECEDENT DECISION NO. 30
*IN RE GARRETT***

(Adopted February 1, 2010, *See Precedent Decision No. 40*)

On December 10, 2009, the Full ESC Commission voted to revoke, in part, Precedent Decision No. 30, In re Garrett (1995), adopted January 22, 1996, in accordance with the authority granted to it by ESC Regulation No. 21.17(B).

As explained in Precedent Decision No. 40, In re Pehollow (adopted December 10, 2009), the language regarding an employer's policy on resignation notice period found in paragraphs 3 and 4 in Precedent Decision No. 30 is defectively incomplete. That is, the language is not consistent with the holdings in other Precedent Decisions and governing court cases requiring (1) a showing that the employee knew or should have known about such policy, and (2) that the burden of proving such knowledge is on the employer. Thus, Precedent Decision No. 30 is no longer legally sound on this point.

IT IS NOW, THEREFORE, ORDERED, ADJUDGED AND DECREED that Precedent Decision No. 30, In re Garrett (1995), be and the same is **REVOKED, in part**, and the inconsistent language in paragraphs 3 and 4 shall be removed from Precedent Decision No. 30.