

# North Carolina Court of Appeals Docket Sheet

## Rifenburg Constr. v Brier Creek Assoc.

**Case Number:** 02-1391  
**As of:** 05/01/2024  
**Case Closed:** Yes      **Close Date:** 11-10-2003      **Case Type:** Civil (Civil\_othr)      **Mediation:** No

RIFENBURG CONSTRUCTION, INC.,  
Plaintiff,

V

BRIER CREEK ASSOCIATES LIMITED  
PARTNERSHIP, NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION,  
RTP ASSEMBLAGE ASSOCIATES, LLC,  
ATHENA AIRPORT ASSEMBLAGE, LP,  
and ATHENA AIRPORT ASSEMBLAGE CORP.,  
Defendants.

<b>Docket Date:</b> 10-17-2002	<b>File Date:</b> 10-11-2002	<b>File Time:</b> 11:19	<b>Acquired Date:</b> 10-11-2002
<b>Bond Collected:</b> No	<b>Docket Fee:</b> Yes	<b>Pauper:</b> No	<b>Print Deposit:</b> No <b>State Appeals:</b> Yes
<b>History</b>			

<b>Venue:</b> Wake (10)	<b>Heard In:</b> Superior Court
<b>To SC:</b> 11-19-2003	<b>From SC:</b> 04-02-2004
<b>Lower Court Number(s)</b>	

Location: Wake (10)  
Judge: Leon Stanback  
Case #: 01CVS13549

**Tracking/Argue**

**Argue Date:** 09-16-2003 (No oral argument by Rule 30(f))

**Opinion**

Opinion Date: 10-21-2003      Cert Date: 11-10-2003  
Author: Honorable John M. Tyson  
Decision: Reversed and remanded  
Opinion Notes:  
Opinion Pages: 0      Opinion Cost: \$ 0.00  
Cite: 160 NC App 626  
Slip Opinion: <https://appellate.nccourts.org/opinions/?c=2&pdf=21766>

**Documents**

Document	Date Recvd	Cert of Service	Rec/Brf Due	Resp. Due	Resp. Recvd	Mailed Out	Ruling	Ruling Date
(1) RECORD	10-11-2002					10-30-2002		
(2) INFORM SHT	10-11-2002	10-11-2002						
(3) MOTION	11-25-2002	11-25-2002					Allowed	11-26-2002
(4) APPELLANT BRIEF	01-02-2003	01-02-2003				01-15-2003		
(5) MOTION	01-22-2003	01-22-2003					Allowed	01-24-2003
(6) MOTION	01-22-2003	01-22-2003					Allowed	01-24-2003
(7) MOTION	02-24-2003	02-24-2003					Allowed	02-26-2003
(8) MOTION	02-24-2003	02-24-2003					Allowed	02-26-2003
(9) APPELLEE BRIEF	04-21-2003	04-21-2003				05-02-2003		
(10) APPELLEE BRIEF	04-21-2003	04-21-2003				05-02-2003		
(11) REPLY	05-09-2003	05-09-2003				05-23-2003		
(12) MOTION	05-20-2003	05-20-2003		06-03-2003			Denied	10-24-2003
(13) MOTION	05-20-2003	05-20-2003		06-03-2003			Denied	10-24-2003
(14) MOTION	05-27-2003	05-27-2003					Allowed	05-28-2003
(15) MOTION	11-06-2003	11-04-2003					Allowed	11-13-2003
(16) MOTION	11-06-2003	11-05-2003					Allowed	11-13-2003
(17) MOTION	11-06-2003	11-05-2003					Allowed	11-13-2003

## 1 - RECORD

Filed: 10-11-2002 @ 11:19:00  
FOR: Defendant-Appellant NC DOT  
BY : Mr. Joseph E. Herrin

## 2 - AIS INFORM SHT

Filed: 10-11-2002 @ 11:20:00  
FOR: Defendant-Appellant NC DOT  
BY : Mr. Joseph E. Herrin

## 3 - MOTION (Allowed) - 11-26-2002

Filed: 11-25-2002 @ 12:00:00  
FOR: Defendant-Appellant NC DOT  
BY : Mr. Joseph E. Herrin

The following order was entered:

The motion filed in this cause on the 25th day of November 2002 and designated Motion For Extension Of Time To File Defendant-Appellant's Brief is allowed. Defendant-appellant's brief shall be filed on or before 2 January 2003.

By order of the Court this the 26th day of November 2002.

## 4 - APPELLANT BRIEF

Filed: 01-02-2003 @ 02:19:00  
FOR: Defendant-Appellant NC DOT  
BY : Mr. Joseph E. Herrin

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5 - MOTION (Allowed) - 01-24-2003  
Filed: 01-22-2003 @ 12:00:00  
FOR: Plaintiff-Appellee Rifenburg Construction, INC  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

The following order was entered:

The motion filed in this cause on the 22nd day of January 2003 and designated Motion For Extension Of Time is allowed. Plaintiff-appellee's brief shall be filed on or before 6 March 2003.

By order of the Court this the 24th day of January 2003.

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6 - MOTION (Allowed) - 01-24-2003  
Filed: 01-22-2003 @ 12:00:00  
FOR: Rifenburg Co.  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

The following order was entered:

The motion filed in this cause on the 22nd day of January 2003 and designated Motion For Extension Of Time is allowed. Plaintiff-appellee's brief shall be filed on or before 6 March 2003.

By order of the Court this the 24th day of January 2003.

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7 - MOTION (Allowed) - 02-26-2003  
Filed: 02-24-2003 @ 12:00:00  
FOR: Plaintiff-Appellee Rifenburg Construction, INC  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

The following order was entered:

The motion filed in this cause on the 24th day of February 2003 and designated Motion For Extension Of Time is allowed. Plaintiff-appellee's brief shall be filed on or before 21 April 2003.  
By order of the Court this the 26th day of February 2003.

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8 - MOTION (Allowed) - 02-26-2003  
Filed: 02-24-2003 @ 12:00:00  
FOR: Rifenburg Co.  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

The following order was entered:

The motion filed in this cause on the 24th day of February 2003 and designated Motion For Extension Of Time is allowed. Plaintiff-appellee's brief shall be filed on or before 21 April 2003.  
By order of the Court this the 26th day of February 2003.

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9 - APPELLEE BRIEF  
Filed: 04-21-2003 @ 04:05:00  
FOR: Plaintiff-Appellee Rifenburg Construction, INC  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

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10 - APPELLEE BRIEF  
Filed: 04-21-2003 @ 04:05:00  
FOR: Rifenburg Co.  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

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11 - APPELLANT BRIEF REPLY  
Filed: 05-09-2003 @ 02:35:00  
FOR: Defendant-Appellant NC DOT  
BY : Mr. Joseph E. Herrin

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12 - MOTION (Denied) - 10-24-2003  
Filed: 05-20-2003 @ 12:00:00  
FOR: Plaintiff-Appellee Rifenburg Construction, INC  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

The following order was entered:

The motion filed in this cause on the 20th day of May 2003 and designated Plaintiff/Appellee Rifenburg Construction, Inc.'s Motion To Strike is denied.  
By order of the Court this the 24th day of October 2003.

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13 - MOTION (Denied) - 10-24-2003  
Filed: 05-20-2003 @ 12:00:00  
FOR: Rifenburg Co.  
BY : Mr. Perry R. Safran  
SAFRAN LAW OFFICE

The following order was entered:

The motion filed in this cause on the 20th day of May 2003 and designated Plaintiff/Appellee Rifenburg Construction, Inc.'s Motion To Strike is denied.  
By order of the Court this the 24th day of October 2003.

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14 - MOTION (Allowed) - 05-28-2003  
Filed: 05-27-2003 @ 12:00:00  
FOR: Defendant-Appellant NC DOT  
BY : Mr. Joseph E. Herrin

The following order was entered:

The motion filed in this cause on the 27th day of May 2003 and designated State's Motion For Brief To Be Deemed Timely Filed is allowed. Defendant-appellant's reply brief is deemed timely filed.  
By order of the Court this the 28th day of May 2003.

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15 - MOTION (Allowed) - 11-13-2003  
Filed: 11-06-2003 @ 12:00:00  
FOR: Plaintiff-Appellee Rifenburg Construction, INC  
BY : Mr. V.A. Anderson, Jr.  
ANDERSON JONES & GENGO, PLLC

The following order was entered:

The motion filed in this cause on the 6th day of November 2003 and designated Motion To Withdraw By Counsel For Plaintiff/Appellee Rifenburg Construction, Inc. is allowed.  
By order of the Court this the 13th day of November 2003.

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16 - MOTION (Allowed) - 11-13-2003  
Filed: 11-06-2003 @ 12:00:00  
FOR: Plaintiff-Appellee Rifenburg Construction, INC  
BY : Mr. Bonnor E. Hudson, III  
BUGG & WOLF, PA

The following order was entered:

The motion filed in this cause on the 6th day of November 2003 and designated Motion To Withdraw By Counsel For Plaintiff/Appellee Rifenburg Construction, Inc. is allowed.  
By order of the Court this the 13th day of November 2003.

17 - MOTION (Allowed) - 11-13-2003  
 Filed: 11-06-2003 @ 12:00:00  
 FOR: Plaintiff-Appellee Rifenburg Construction, INC  
 BY : Mr. Bonnor E. Hudson, III  
 BUGG & WOLF, PA

The following order was entered:

The motion filed in this cause on the 6th day of November 2003 and designated Motion To Withdraw By Counsel For Plaintiff/Appellee Rifenburg Construction, Inc. is allowed.  
 By order of the Court this the 13th day of November 2003.

### Financial Information

#### Receipts

Date Charged	Charge Type	Amount Charged	Amount Paid	Document	Pages	Receipt #	Date Paid
05-02-2003	Printing	70.00	70.00	APPELLEE BRIEF	40	R052004703A	07-10-2003
10-21-2003	Assess	370.75	370.75			R102023903A	09-01-2004
10-30-2002	Printing	281.75	281.75	RECORD	161	R102063502A	12-16-2002
01-15-2003	Printing	49.00	49.00	APPELLANT BRIEF	28	R012036503A	03-24-2003
04-08-2003	Docket Fee	10.00	10.00			R042017203A	04-08-2003
05-23-2003	Printing	21.00	21.00	APPELLANT BRIEF	12	R052047003A	07-25-2003

#### Payments

Payment Date	Payment Type	Amount	Check Number
09-09-2004	Disburse	361.75	26144

### Exhibits

### Parties

Party Name	Role
Rifenburg Construction, Inc.	Plaintiff-Appellee
Brier Creek Associates Limited	Defendant-Appellee
NC Department Of Transportation	Defendant-Appellant
RTP Assemblage Associates, LLC	Defendant-Appellee
Athena Airport Assemblage, LP	Defendant-Appellee
Athena Airport Assemblage Corp.	Defendant-Appellee
NC DOT	Defendant-Appellant
Rifenburg Construction, INC	Plaintiff-Appellee

### Attorneys

**Attorney for Defendant-Appellant - NC DOT**

Mr. Joseph E. Herrin [Primary Attorney]

Special Deputy Attorney General

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Raleigh, NC 27699

(919) 707-4480

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**Attorney for Defendant-Appellee - Brier Creek Assoc., et al.**

Mr. Neel Salil Mehta [Primary Attorney]

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Charlotte, NC 28202

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**Attorney for - Rifenburg Co.**

Mr. Perry R. Safran [Primary Attorney]

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**Attorney for -**

N.C. Dept of Justice [Primary Attorney]

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