

IN THE SUPREME COURT OF NORTH CAROLINA

Filed: 9 April 1999

No. 448A98

ELMER TRIVETTE and NANCY TRIVETTE, as Co-Administrators of the late Randy James Trivette, and Nancy Trivette, Individually

v.

NORTH CAROLINA BAPTIST HOSPITAL, INC.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, ___ N.C. App. ___, 507 S.E.2d 48 (1998), affirming an order of summary judgment entered for defendant by Steelman, J., on 8 October 1997 in Superior Court, Forsyth County. On 3 December 1998, the Supreme Court granted discretionary review of additional issues. Heard in the Supreme Court 9 March 1999.

Moore & Brown, by B. Ervin Brown II and James S. Gibbs, Jr., for plaintiff-appellants.

Kilpatrick Stockton LLP, by J. Robert Elster and Richard S. Gottlieb, for defendant-appellee.

PER CURIAM.

We affirm the Court of Appeals' majority opinion as to the issue of whether there was an appropriate medical screening examination as required by the Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1395dd (1994). Also, we allowed petition for discretionary review as to the additional issue of whether there was a discharge of the patient before stabilization of the medical condition as required by the Emergency Medical Treatment and Active Labor Act (EMTALA), 42

U.S.C. § 1395dd(a) and (b1) (1994). Upon review, we find that review was improvidently allowed.

AFFIRMED IN PART; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED IN PART.