

IN THE SUPREME COURT OF NORTH CAROLINA

No. 408A98

WILTON B. PARKER, SHIRLEY K. PARKER, RANDY PARKER, JANET T. PARKER, GARY PARKER, DIANE P. PARKER, KEITH PARKER, DARLENE W. PARKER, JAMES ALAN PARKER, ANN D. PARKER, KEITH SLOCUM, EUGENE BARBOUR, DIXIE BARBOUR, VERNON THOMPSON, PATRICIA THOMPSON, DELBERT ALLEN, JR., DEBORAH BLACKMON, BETTIE C. UPCHURCH, GLENN TWIGG, Administrator of the Estate of Pharo Twigg, DELLA T. TWIGG, THOMAS EARL TOOLE, MAYRLENE TOOLE, CHRISTINE P. THOMPSON, LAURCEY MASSENGILL, CHARLIE MATTHEWS and LORRAINE MATTHEWS

v.

W. TERRY BAREFOOT AND RITA J. BAREFOOT

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 130 N.C. App. 18, 502 S.E.2d 42 (1998), finding error in the instruction given to the jury by Manning, J., and subsequent judgment entered 24 September 1996 in Superior Court, Johnston County, and ordering a new trial. Heard in the Supreme Court 13 April 1999.

*Morgan, Reeves & Gilchrist, by Robert B. Morgan and Mary Morgan Reeves, for plaintiff-appellees.*

*Bode, Call & Stroupe, L.L.P., by John V. Hunter III and Diana E. Ricketts; and Narron, O'Hale & Whittington, by John P. O'Hale, for defendant-appellants.*

PER CURIAM.

For the reasons stated in the dissent of Judge John Martin in the Court of Appeals, the opinion of the Court of Appeals is reversed.

REVERSED.

Justice FREEMAN did not participate in the consideration or decision of this case.