

IN THE SUPREME COURT OF NORTH CAROLINA

No. 319A02

FILED: 28 FEBRUARY 2003

BARRY E. ALFORD, W. SPUT ANDERSON, WILLIAM C. ANDERSON, C. TRACY BARNHILL, JR., DOUGLAS M. BLAKE, JAMES M. BOOTH, BOBBY J. BOYD, JR., J. ALAN BOYKIN, STEVE H. BOSWELL, RUBEN C. BUTLER, STEPHEN CANNON, R. BLAINE CARGILE, JR., ERNEST E. CARRAWAY, ERIC COOPER, TONY COUNCIL, KENNETH R. CREDLE, KELLY L. DARDEN, JR., WILLIAM R. DUPREE III, ADAM L. GARDNER, JR., DONALD M. GAY, CHRIS G. GEHRING, GORDON L. HAISLIP, KENDALL HARDEE, KEITH D. HARRIS, WILLIAM HUNTER, JR., JOHN JAMES, CHRIS JEFFERSON, MELVIN L. JENKINS, BILLY B. KING, WILLIAM D. KITTRELL, MITCHELL W. MANNING, JR., EDWARD MEYER, DAVID MIZELLE, MARK OSNOE, JONATHAN SCOTT PEELE, JAMES H. RASPBERRY, HARRY L. ROUSE, LEVON SHAW, MARGARET G. SHAW, JOHNNY R. SMITH, WILLIAM H.C. SMITH, PHILIP H. STALLS, JACKIE D. SUMMERLIN, JEANETTE T. TAFT, LEONARD A. THORN, JAMES W. TURNAGE, WAYNE P. TYNDALL, WILLIAM P. WARD, WILLIAM WEST, EDDIE WILLIAMS, and EVANGELINE S. WILSON

v.

CATALYTICA PHARMACEUTICALS, INC., and EASTERN OMNI CONSTRUCTORS PHARMACEUTICALS, INC.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 150 N.C. App. 489, 564 S.E.2d 267 (2002), affirming an order entered 22 February 2001 by Judge Howard E. Manning, Jr., in Superior Court, Wake County. Heard in the Supreme Court 4 December 2002.

*Laura S. Jenkins, PC, by Laura S. Jenkins, for plaintiff-appellants.*

*Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by Mark A. Ash and J. Mitchell Armbruster, for for defendant-appellee Catalytica Pharmaceuticals, Inc.*

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed and the case is remanded to the Court of Appeals for further remand to the Superior Court, Wake County, for proceedings not inconsistent with the dissenting opinion.

REVERSED AND REMANDED.

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