

IN THE SUPREME COURT OF NORTH CAROLINA

No. 583A03

FILED: 2 APRIL 2004

RIFENBURG CONSTRUCTION, INC.

v.

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

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. \_\_\_, 586 S.E.2d 812 (2003), reversing and remanding an order entered 17 May 2002 by Judge Leon Stanback in Superior Court, Wake County. Heard in the Supreme Court 15 March 2004.

*Safran Law Offices, by Perry R. Safran, John M. Sperati, and Brian J. Schoolman, for plaintiff-appellant.*

*Roy Cooper, Attorney General, by Joseph E. Herrin, Assistant Attorney General, for defendant-appellee North Carolina Department of Transportation.*

PER CURIAM.

AFFIRMED.