

IN THE SUPREME COURT OF NORTH CAROLINA

No. 509A03

FILED: 2 APRIL 2004

JAY T. PINTACUDA and wife LUCRETIA PINTACUDA

v.

JACK ZUCKEBERG

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 159 N.C. App. 617, 583 S.E.2d 348 (2003), reversing an order entered 17 May 2002 by Judge Robert D. Lewis, in Superior Court, Buncombe County. On 1 October 2003, the Supreme Court granted discretionary review as to additional issues. Heard in the Supreme Court 15 March 2004.

*Roberts & Stevens, P.A., by Jacqueline D. Grant and Kenneth R. Hunt, for plaintiffs-appellees.*

*Van Winkle, Buck, Wall, Starnes, & Davis, P.A., by Dale A. Curriden and Vaughn S. Monroe, for defendant-appellant.*

PER CURIAM.

As to the issue on direct appeal, we reverse the decision of the Court of Appeals for the reasons stated in the dissenting opinion. Further, we conclude that the petition for discretionary review as to the additional issues was improvidently allowed.

REVERSED; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED.