

IN THE SUPREME COURT OF NORTH CAROLINA

No. 571A03

FILED: 7 OCTOBER 2004

DIANA MAE PATAKY

v.

KENNETH PATAKY

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 160 N.C. App. 289, 585 S.E.2d 404 (2003), reversing and remanding an Order entered 30 November 2001 by Judge William L. Daisy in District Court, Guilford County. On 5 February 2004, the Supreme Court allowed discretionary review of an additional issue. Heard in the Supreme Court 14 September 2004.

*Nix & Cecil, by Lee M. Cecil, for plaintiff-appellant.*

*Joyce L. Terres for defendant-appellee.*

PER CURIAM.

As to the appeal of right based on the dissenting opinion, we affirm the majority decision of the Court of Appeals. We conclude that the petition for discretionary review as to an additional issue was improvidently allowed.

AFFIRMED; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED.