

AKHTAR MASOOD, Employee v. ERWIN OIL COMPANY, Employer, EMC  
INSURANCE COMPANIES, Carrier

No. 94A07

FILED: 12 OCTOBER 2007

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 181 N.C. App. 424, 639 S.E.2d 118 (2007), reversing and remanding an opinion and award filed on 23 November 2005 by the North Carolina Industrial Commission. Heard in the Supreme Court 13 September 2007.

*Patterson Harkavy LLP, by Leto Gopelev for plaintiff-appellee.*

*Patterson, Dilthey, Clay & Bryson, L.L.P., by Phillip J. Anthony and Christopher J. Derrenbacher, for defendant-appellants.*

*Hatch, Little & Bunn, LLP by Elizabeth T. Martin and Harold W. Berry, Jr., for North Carolina Petroleum Marketers Association, Inc., amicus curiae.*

PER CURIAM.

As to the appeal of right based on the dissenting opinion, the members of the Court are equally divided. Therefore, the Court of Appeals opinion is left undisturbed without precedential value. See, e.g., *Barham v. Hawk*, 360 N.C. 358, 625 S.E.2d 778 (2006).

AFFIRMED.

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