

DAVIS REX MAULDIN, Employee v. AC CORPORATION, Employer, ARGONAUT
INSURANCE, PMA INSURANCE, LIBERTY MUTUAL INSURANCE, THE
NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION,
Carriers

No. 539A11

(Filed 14 June 2012)

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. ___, 719 S.E.2d 110 (2011), affirming in part and reversing and remanding in part an opinion and award filed on 28 September 2010 by the North Carolina Industrial Commission. Heard in the Supreme Court on 17 April 2012.

Wallace and Graham, P.A., by Edward L. Pauley, for plaintiff-appellee.

Hedrick, Gardner, Kincheloe & Garofalo, L.L.P., M. Duane Jones, for defendant-appellants AC Corporation and PMA Insurance.

McAngus, Goudelock & Courie, P.L.L.C., by Charles D. Cheney and Daniel L. McCullough, for defendant-appellee Argonaut Insurance.

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed as to the appealable issue of right, that is, whether the Industrial Commission properly found and concluded that Argonaut was the carrier on the risk for plaintiff's asbestosis. The remaining issues addressed by the Court of Appeals are not properly before this Court and the Court of Appeals' decision as to these matters remains undisturbed. This case is remanded to the Court of

MAULDIN V. AC CORP.

Opinion of the Court

Appeals for further remand to the North Carolina Industrial commission for further proceedings not inconsistent with this opinion.

REVERSED IN PART AND REMANDED.