An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-1300

Filed: 7 August 2018

Guilford County, No. 17 CVS 3061

ANNAH AWARTANI; GILMA VARINIA BONILLA; CRYSTAL KIM PARKER, individually and for others similarly situated, Plaintiffs,

v.

THE MOSES H. CONE MEMORIAL HOSPITAL OPERATING CORPORATION, Defendant.

Appeal by plaintiffs from order entered 17 August 2017 by Judge John O. Craig, III in Guilford County Superior Court. Heard in the Court of Appeals 7 June 2018.

Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., by Daniel F. E. Smith, Robert J. King III, and Elizabeth Troutman, for plaintiffs-appellants.

Smith Moore Leatherwood LLP, by Matthew Nis Leerberg and Maureen Demarest Murray, for defendant-appellee.

DIETZ, Judge.

Plaintiffs appeal the trial court's dismissal of their putative class action against Defendant Moses H. Cone Memorial Hospital. The theory of their lawsuit is that the doctrine of necessaries—a legal principle that makes a spouse liable for the other spouse's medical expenses—violates the Women's Property Clause of the North

Carolina Constitution, which provides that a woman's property cannot be subject to debts incurred by her husband. N.C. Const. art. X, § 4.

After the trial court dismissed their claims, Plaintiffs sought to bypass this Court and have our Supreme Court hear this case directly through discretionary review. They also asked the Supreme Court, alternatively, to exercise its supervisory authority and instruct this Court to ignore its earlier precedent because "[w]ithout such direction from this Court, it seems likely that no Court of Appeals panel will engage with the constitutional issues." *Awartani v. Moses H. Cone Mem'l Hosp. Operating Corp.*, No. 426P17 (filed Dec. 13, 2017). The Supreme Court denied Plaintiffs' requests. *Awartani v. Moses H. Cone Mem'l Hosp. Operating Corp.*, __ N.C. __, 809 S.E.2d 865 (2018); *Awartani v. Moses H. Cone Mem'l Hosp. Operating Corp.*, __ N.C. __, 809 S.E.2d 863 (2018).

Plaintiffs took these unusual steps in our Supreme Court because this Court already addressed their legal theory several years ago. *Moses H. Cone Mem'l Hosp. Operating Corp. v. Hawley*, 195 N.C. App. 455, 672 S.E.2d 742 (2009). In *Hawley*, we rejected the argument that the doctrine of necessaries was "inconsistent with article X, section 4 of the N.C. Constitution." *Id.* at 457–58, 672 S.E.2d at 744.

To be sure, *Hawley* is a short opinion that offered little analysis of the constitutional claim. But the opinion's brevity does not free us from the rule that "[w]here a panel of the Court of Appeals has decided the same issue, albeit in a

different case, a subsequent panel of the same court is bound by that precedent, unless it has been overturned by a higher court." *In re Civil Penalty*, 324 N.C. 373, 384, 379 S.E.2d 30, 37 (1989). Many decisions of this Court, given our caseload, lack the depth of analysis typical of our Supreme Court's decisions. If this lack of legal analysis on its own deprived an opinion of precedential value, much of our jurisprudence suddenly would cease to be controlling. We decline Plaintiffs' invitation to unsettle so much of our own precedent. What matters is not the quality of *Hawley*'s legal reasoning, but that *Hawley* considered and rejected the same constitutional argument that Plaintiffs assert here.

Accordingly, bound by our decision in *Hawley*, we reject Plaintiffs' argument and affirm the trial court. If Plaintiffs desire further review of this constitutional issue, they must seek relief from our Supreme Court.[1]

For the reasons discussed above, we affirm the trial court's order.

AFFIRMED.

Judges TYSON and BERGER concur.

Report per Rule 30(e).

[1] Because Plaintiffs' claims are barred by *Hawley*, we need not address Moses Cone's alternative grounds to affirm the trial court's dismissal order.