

MICHAEL G. RIPELLINO, LOUISE A. RIPELLINO, and NICOLE RIPELLINO  
v. THE NORTH CAROLINA SCHOOL BOARDS ASSOCIATION, INCORPORATED;  
NORTH CAROLINA SCHOOL BOARDS TRUST, a division and/or department  
of, created and administered by, THE NORTH CAROLINA SCHOOL BOARDS  
ASSOCIATION, INCORPORATED; 1982 NORTH CAROLINA SCHOOL BOARDS  
ASSOCIATION SELF-FUNDED TRUST FUND, a division and/or department  
of, created and administered by, THE NORTH CAROLINA SCHOOL BOARDS  
ASSOCIATION, INCORPORATED; 1986 NORTH CAROLINA SCHOOL BOARDS  
ASSOCIATION SELF-FUNDED ERRORS AND OMISSIONS/GENERAL LIABILITY  
TRUST FUND, a division and/or department of, created and  
administered by, THE NORTH CAROLINA SCHOOL BOARDS ASSOCIATION,  
INCORPORATED; 1997 NORTH CAROLINA SCHOOL BOARDS ASSOCIATION SELF-  
FUNDED AUTO/INLAND MARINE TRUST FUND, a division and/or  
department of, created and administered by, THE NORTH CAROLINA  
SCHOOL BOARDS ASSOCIATION, INCORPORATED; and THE JOHNSTON COUNTY  
BOARD OF EDUCATION

No. 180A06

FILED: 26 JANUARY 2007

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of  
a divided panel of the Court of Appeals, 176 N.C. App. \_\_\_\_, 627  
S.E.2d 225 (2006), reversing and remanding orders entered 3  
September 2004 and 9 September 2004 by Judge Knox V. Jenkins, Jr.  
in Superior Court, Johnston County, granting summary judgment and  
judgment on the pleadings in favor of all defendants. On 29 June  
2006, the Supreme Court allowed defendants' petitions for  
discretionary review of additional issues. Heard in the Supreme  
Court 8 January 2007.

*Mast, Schulz, Mast, Mills, Johnson & Wells, P.A., by Bradley  
N. Schulz, for plaintiff-appellees.*

*Yates, McLamb & Weyher, L.L.P., by Barbara B. Weyher, for  
defendant-appellants North Carolina School Boards  
Association, Inc., North Carolina School Boards Trust, 1982  
North Carolina School Boards Association Self-Funded Trust  
Fund, 1986 North Carolina School Boards Association Self-  
Funded Errors and Omissions/General Liability Trust Fund,*

*and 1997 North Carolina School Boards Association Self-Funded Auto/Inland Marine Trust Fund.*

*Cranfill, Sumner & Hartzog, L.L.P., by Rachel B. Esposito and Meredith T. Black, for defendant-appellant Johnston County Board of Education.*

*Roberts & Stevens, P.A., by Christopher Z. Campbell and K. Dean Shatley, II, for North Carolina Council of School Attorneys, amicus curiae.*

PER CURIAM.

As to the appeal of right based on the dissenting opinion, the members of the Court are equally divided. Therefore, those portions of the Court of Appeals opinion are affirmed without precedential value. *See, e.g., Barham v. Hawk*, 360 N.C. 358, 625 S.E.2d 778 (2006). The Court, however, unanimously concludes that the Court of Appeals erred in remanding the case to the trial court for entry of summary judgment in favor of plaintiffs on their non-constitutional claims. Accordingly, we reverse the Court of Appeals and remand to that Court for remand to the trial court for further proceedings on plaintiffs' non-constitutional claims. As to additional issues, discretionary review was improvidently allowed.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED;  
DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED IN PART.

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