

IN THE SUPREME COURT OF NORTH CAROLINA

No. 188A18-2

Filed 3 April 2020

BANYAN GW, LLC

v.

WAYNE PREPARATORY ACADEMY CHARTER SCHOOL, INC. and its BOARD OF DIRECTORS; SHARON THOMPSON, Chair of the Board of Directors; and JOHN ANKENY and LUCIUS J. STANLEY, as members of the Board of Directors; and VERTEX III, LLC

Appeal pursuant to N.C.G.S. § 7A-30(2) from the unpublished decision of a divided panel of the Court of Appeals, No. COA18-378, 2019 WL 438327 (N.C. Ct. App. Feb. 5, 2019), affirming an order granting partial summary judgment in favor of plaintiff and denying defendant Wayne Preparatory Academy Charter School, Inc.'s motion for summary judgment entered on 6 November 2017 by Judge Carl R. Fox in Superior Court, Wake County. On 30 October 2019, the Supreme Court allowed defendant Wayne Preparatory Academy Charter School, Inc.'s petition for discretionary review of additional issues. Heard in the Supreme Court on 10 March 2020.

*Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P., by J. Mitchell Armbruster, for plaintiff-appellee Banyan GW, LLC.*

*Haithcock, Barfield, Hulse & Kinsey, P.L.L.C., by Glenn A. Barfield, and Robinson Bradshaw & Hinson, by Richard A. Vinroot, for defendant-appellant Wayne Preparatory Academy Charter School, Inc.*

*No brief for defendant-appellees Board of Directors, Sharon Thompson, John Ankeney, Lucius J. Stanley, and Vertex III, LLC.*

PER CURIAM.

*Opinion of the Court*

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 additional issues was improvidently allowed. Therefore, the decision of the Court of Appeals as to these matters remains undisturbed.

**AFFIRMED; DISCRETIONARY REVIEW IMPROVIDENTLY ALLOWED.**

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