

ERNEST W. LARKIN, III v. MARY JO TATUM LARKIN

No. 452A04

FILED: 4 MARCH 2005

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. ___, 598 S.E.2d 651 (2004), affirming in part and remanding in part a judgment and order entered on 3 January 2003 by Judge P. Gwynett Hilburn in District Court, Pitt County. Heard in the Supreme Court 8 February 2005.

McCotter, Ashton & Smith, P.A., by Rudolph A. Ashton, III and Terri W. Sharp, for plaintiff-appellee.

Ward and Smith, P.A., by Cindi M. Quay and John M. Martin, for defendant-appellant.

PER CURIAM.

The decision of the Court of Appeals is affirmed. However, we specifically disavow the language in footnote four of the Court of Appeals opinion.

MODIFIED AND AFFIRMED.