

GLORIA BARHAM, Administratrix of the Estate of BILLY MELVIN BARHAM,
Deceased v. RODNEY J. HAWK, M.D. and HENDERSONVILLE EAR NOSE AND
THROAT, P.A.

No. 461PA04

FILED: 3 MARCH 2006

On discretionary review pursuant to N.C.G.S. § 7A-31 of
a unanimous decision of the Court of Appeals, 165 N.C. App. 708,
600 S.E.2d 1 (2004), vacating a judgment entered on 21 March 2002
by Judge Marlene Hyatt in Superior Court, Polk County, and
remanding for a new trial. Heard in the Supreme Court 18 October
2005.

*Blanchard, Jenkins, Miller, Lewis & Styers, P.A., by
Robert O. Jenkins and E. Hardy Lewis, for plaintiff-
appellee.*

*Shumaker, Loop & Kendrick, LLP, by S. Frederick Winiker,
III and John D. Kocher, for defendant-appellants.*

PER CURIAM.

Justice TIMMONS-GOODSON took no part in the
consideration or decision of this case. The remaining members of
the Court are equally divided, with three members voting to affirm
and three members voting to reverse the decision of the Court of
Appeals. Accordingly, the decision of the Court of Appeals is left
undisturbed and stands without precedential value. *See Crawford v.
Commercial Union Midwest Ins. Co.*, 356 N.C. 609, 572 S.E.2d 781
(2002); *Robinson v. Byrd*, 356 N.C. 608, 572 S.E.2d 781 (2002).

AFFIRMED.