## IN THE SUPREME COURT OF NORTH CAROLINA

## No. 549A99

## FILED 16 JUNE 2000

GREGORY OSBURN and JOY C. OSBURN

v.

DANEK MEDICAL, INC., SOFAMOR-DANEK GROUP, INC., WARSAW ORTHOPAEDIC, INC., KEITH M. MAXWELL, M.D., KEITH M. MAXWELL, M.D., P.A., and ST. JOSEPH'S HOSPITAL

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. \_\_\_, 520 S.E.2d 88 (1999), finding no error in a judgment entered 29 August 1997 by Payne, J., in Superior Court, Buncombe County. Heard in the Supreme Court 18 May 2000.

Donald B. Hunt for plaintiff-appellants.

Young Moore and Henderson P.A., by Joseph W. Williford and Brian O. Beverly, for defendant-appellees Keith M. Maxwell, M.D., and Keith M. Maxwell, M.D., P.A.

Smith Helms Mulliss & Moore, L.L.P., by J. Donald Cowan, Jr., on behalf of American Medical Association, North Carolina Medical Society, and American Academy of Orthopaedic Surgeons, amici curiae.

PER CURIAM.

AFFIRMED.

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