An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA18-220

Filed: 18 September 2018

Durham County, No. 06 CVD 2127

PATRICK MALONE, Plaintiff,

v.

LEIGH HUTCHISON-MALONE, Defendant.

Appeal by defendant from order entered 26 September 2017 by Judge Fred S. Battaglia in District Court, Durham County. Heard in the Court of Appeals 27 August 2018.

No brief filed for petitioner-appellee.

Leigh A. Hutchison-Malone, pro se, defendant-appellant

STROUD, Judge.

Defendant appeals from an order removing the case from the trial court's docket pending a decision by this Court in defendant's appeal from an earlier order in the case. We dismiss the appeal. The background facts of this case were set out in two prior appeals. *See Malone v. Hutchinson-Malone* ("*Malone I*"), 246 N.C. App. 544, 545, 784 S.E.2d 206, 207-08 (2016); *Malone v. Hutchison-Malone* ("*Malone II*"),

__ N.C. App. __, 810 S.E.2d 416 (2018) (unpublished). Because we are dismissing defendant's appeal, we need not address the background of the case further.

Defendant contends that the trial court lacked jurisdiction to enter its 26 September 2017 order of removal. Defendant's appeal is not properly before this Court. Contrary to defendant's contention, the trial court's order of removal was not a final judgment. "A final judgment is one which disposes of the cause as to all the parties, leaving nothing to be judicially determined between them in the trial court." *Duval v. OM Hospitality, LLC*, 186 N.C. App. 390, 392, 651 S.E.2d 261, 263 (2007) (quotation marks and citation omitted). The order appealed from did not dispose of the case but instead took it off the trial court's docket until after defendant's earlier appeal could be decided by this Court.

Defendant does not contend—nor does it appear to this Court— any of the situations described in N.C. Gen. Stat. § 7A-27(b)(3) (2017) apply to permit her appeal from the trial court's interlocutory order. Finally, N.C. Gen. Stat. § 7A-27(b)(4) permits appeal "[f]rom any other order or judgment of the superior court from which an appeal is authorized by statute." N.C. Gen. Stat. § 7A-27(b)(4) (2017). Again, defendant does not demonstrate or even argue that her appeal is otherwise authorized by statute. Defendant has failed to show she has an immediate right of appeal from the trial court's order of removal. As a result, defendant's appeal should be, and hereby is, dismissed.

DISMISSED.

Judges DIETZ and MURPHY concur.

Report per Rule 30(e).