An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

2022-NCCOA-184

No. COA21-412

Filed 15 March 2022

Wake County, No. 19 CVD 16207

REBECCA SPLAWN, Plaintiff,

v.

JULIANE BRADSHAW and GEOFFREY BRADSHAW, Defendants and Third-Party Plaintiffs,

v.

MARGARET DENISE ADAMS and ADAMSFIRST REAL ESTATE SERVICE, LLC, Third-Party Defendants.

Appeal by plaintiff from order entered 26 March 2021 by Judge Christine Walczyk in Wake County District Court. Heard in the Court of Appeals 25 January 2022.

Chris Kremer, for plaintiff-appellant.

Juliane Bradshaw and Geoffrey Bradshaw, pro se, for defendants-appellees.

DIETZ, Judge.

¶ 1 Plaintiff Rebecca Splawn appeals the trial court's order dismissing some, but not all, of her claims against Defendants Juliane and Geoffrey Bradshaw. In her appellant's brief, Splawn incorrectly asserts that the challenged order is a final

judgment. It is not. Other claims asserted by Splawn remain pending in the trial court, as do counterclaims and crossclaims in this case. Because the challenged order is not a final judgment and Splawn has not met her burden to show that the order affects a substantial right, we must dismiss this appeal for lack of appellate jurisdiction.

Facts and Procedural History

¶ 2 Plaintiff Rebecca Splawn filed a complaint and later an amended complaint, ultimately asserting claims against Defendant Juliane Bradshaw for conversion and breach of an oral agreement for repayment of utilities and cleaning expenses, as well as claims against Defendants Juliane and Geoffrey Bradshaw for unjust enrichment and breach of contract. The claims arose from the Bradshaws' use of a residential property Splawn owns. Juliane Bradshaw, in turn, asserted various counterclaims against Splawn and also asserted crossclaims against third-party defendants. Those third-party defendants then asserted their own counterclaims.

¶ 3 The Bradshaws moved to dismiss Splawn's claims against them under Rule 12(b)(6). Following a hearing on the motions, the trial court entered an order granting the Bradshaws' motions in part and denying them in part. Specifically, the trial court dismissed Splawn's conversion and breach of contract claims against the Bradshaws, but the trial court did not dismiss Splawn's claims for unjust enrichment and breach of an oral agreement for repayment. Splawn appealed the partial dismissal order.

Analysis

¶ 4 Splawn argues that the trial court erred by dismissing her conversion and breach of contract claims against the Bradshaws. Before we can address the merits of Splawn's arguments, we must determine whether we have subject matter jurisdiction to hear this appeal.

¶ 5 In the statement of grounds for appellate review, Splawn asserts that the "order granting defendants' motions to dismiss plaintiff's contract and conversion claims with prejudice is a final judgment as to those claims, and appeal therefore lies to the North Carolina Court of Appeals pursuant to N.C. Gen. Stat. Sec. 7A-27(b)(2)." This statement is incorrect.

¶ 6 Section 7A-27 of our General Statutes provides a right to appeal to this Court from any "final judgment of a district court in a civil action." N.C. Gen. Stat. § 7A-27(b)(2). "A judgment is either interlocutory or the final determination of the rights of the parties." N.C. R. Civ. P. 54(a). A final judgment is one that "that leaves nothing further to be done in the trial court." *State v. Oakes*, 240 N.C. App. 580, 582, 771 S.E.2d 832, 834 (2015). Thus, an order "which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties" is not a final judgment. N.C. R. Civ. P. 54(b).

¶ 7 "The reason for this rule is to prevent fragmentary, premature and unnecessary appeals by permitting the trial court to bring the case to final judgment

before it is presented to the appellate courts." *Larsen v. Black Diamond French Truffles, Inc.*, 241 N.C. App. 74, 76, 772 S.E.2d 93, 95 (2015).

¶ 8 The partial dismissal order that is the subject of this appeal is not a final judgment; it is an interlocutory order. The challenged order did not adjudicate all of the claims as to all of the parties in this action—quite the opposite, it left many claims unresolved and thus there is much more to be done in the trial court. *See Oakes*, 240 N.C. App. at 582, 771 S.E.2d at 834. For example, the trial court's order only dismissed two of Splawn's four claims against the Bradshaws and permitted Splawn's remaining claims to proceed. Likewise, Juliane Bradshaw asserted counterclaims against Splawn and crossclaims against third-party defendants, and the record indicates that those claims, and counterclaims by those third-party defendants, are unresolved as well.

¶ 9 The "*only way* an appellant may establish appellate jurisdiction in an interlocutory case (absent Rule 54(b) certification) is by showing grounds for appellate review based on the order affecting a substantial right." *Larsen*, 241 N.C. App. at 77–78, 772 S.E.2d at 96. "To confer appellate jurisdiction based on a substantial right, the appellant must include in its opening brief, in the statement of the grounds for appellate review, sufficient facts and argument to support appellate review on the ground that the challenged order affects a substantial right." *Doe v. City of Charlotte*, 273 N.C. App. 10, 21, 848 S.E.2d 1, 9 (2020). If "the appellant's

opening brief fails to explain why the challenged order affects a substantial right, we must dismiss the appeal for lack of appellate jurisdiction." *Denney v. Wardson Constr., Inc.*, 264 N.C. App. 15, 17, 824 S.E.2d 436, 438 (2019).

¶ 10 Because Splawn incorrectly asserted that this appeal is from a final judgment and made no argument as to how the challenged order affects a substantial right, we lack jurisdiction to reach the merits of this appeal. *Id.* Accordingly, we must dismiss Splawn's appeal for lack of appellate jurisdiction. *Id.*

DISMISSED.

Judges INMAN and HAMPSON concur.

Report per Rule 30(e).