

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA24-537

Filed 17 September 2024

Durham County, No. 23CVS4839

KENYA TEASLEY, Plaintiff,

v.

HARRIS TEETER, LLC and EDWARD SWEENEY, Defendants.

Appeal by plaintiff from order entered 23 February 2024 by Judge John M. Dunlow in Durham County Superior Court. Heard in the Court of Appeals 5 September 2024.

*Kenya Teasley, pro se Plaintiff-Appellant.*

*Pope Aylward Sweeney & Santaniello LLP, by Andrew J. Santaniello, for Defendants-Appellees.*

PER CURIAM.

I. Background

Plaintiff Kenya Teasley filed a complaint alleging claims against Defendants. Defendants Harris Teeter and Edward Sweeney responded by filing a motion to dismiss the claims pursuant to Rule 12(b)(6) of our Rules of Civil Procedure.

About a month later, Defendants filed their answers and counterclaims. Sometime thereafter, the trial court granted Defendant's motion to dismiss. Defendant's counterclaims, however, remain pending before the trial court.

Plaintiff, though, noticed this appeal from the trial court's order dismissing her claims.

## II. Analysis

The issue presented before this Court is whether the trial court erred in granting a motion to dismiss. "An order granting a motion to dismiss certain claims in an action, leaving other claims to go forward, is an interlocutory order." *Mills Pointe Homeowner's Ass'n, Inc. v. Whitmire*, 146 N.C. App. 297, 298 (2001).

Generally, only final judgments, not interlocutory orders, may be appealed to the appellate courts. *Steele v. Moore-Flesher Hauling Co.*, 260 N.C. 486, 491 (1963) (citation omitted). Appeals from interlocutory orders are only available in "exceptional cases." *Ford v. Mann*, 201 N.C. App. 714, 716–17 (2010). Interlocutory orders are subject to appellate review in two main instances:

if (1) the order is final as to some claims or parties, and the trial court certifies pursuant to N.C.G.S. § 1A–1, Rule 54(b) that there is no just reason to delay the appeal, or (2) the order deprives the appellant of a substantial right that would be lost unless immediately reviewed.

*Currin & Currin Constr., Inc. v. Lingerfelt*, 158 N.C. App. 711, 713 (2003).

We note that the trial court did not certify its order for immediate review. And when an appellant relies on an argument that the interlocutory order affects a substantial right, “the burden is on the party seeking review . . . to show how it will affect a substantial right absent immediate review.” *Whitehurst Inv. Props. v. NewBridge Bank*, 237 N.C. App. 92, 95 (2014). “[T]o meet its burden of showing how a substantial right would be lost without immediate review, the appealing party must show that (1) the same factual issues would be present in both trials and (2) the possibility of inconsistent verdicts on those issues exists.” *Id.* at 96 (cleaned up).

Here, Plaintiff has failed to meet her burden of showing how she would lose a substantial right if we did not review the trial court’s Rule 12(b)(6) dismissal order at this time. Accordingly, we dismiss Plaintiff’s appeal.

DISMISSED.

Panel consisting of Chief Judge DILLON and Judges MURPHY and STADING.

Report per Rule 30(e).