

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA26-29

Filed 2 September 2026

Pitt County, No. 24CVS002698-730

SARAH LAWSON and LAWSON PROPERTY XIII, LLC, Plaintiffs,

v.

SETH LAWSON HILL and LAWSON PROPERTIES, LLC, Defendants.

Appeal by Plaintiffs from order entered 17 September 2025 by Judge Jeffery B. Foster in Pitt County Superior Court. Heard in the Court of Appeals 13 August 2026.

*Chris Kremer for the Plaintiffs-Appellants.*

*Chestnutt & Clemmons, P.A., by Gary H. Clemmons, for the Defendants-Appellees.*

WOOD, Judge.

Sarah Lawson (“Plaintiff Sarah”) and Lawson Property XIII, LLC (“Plaintiff Company”) (collectively “Plaintiffs”) appeal the trial court’s order granting Seth Lawson Hill (“Defendant Seth”) and Lawson Properties, LLC (“Defendant Company”) (collectively “Defendants”) Motion for Summary Judgment. Plaintiffs argue the trial

court erred because (1) it lacked jurisdiction to grant the motion because a related appeal was pending at the Court of Appeals which should have operated to stay the trial court proceedings, and (2) genuine issues of material fact existed with regard to Plaintiffs' claims of fraud, civil conspiracy, and unfair trade practices. After careful review of the record and applicable law, we hold the trial court did not err by granting Defendants' Motion for Summary Judgment.

### **I. Factual and Procedural Background**

Plaintiff Sarah is a citizen of Moore County, North Carolina and the sole member and manager of Plaintiff Company. In June of 2019, Plaintiff Sarah retained Richard Griffin ("Griffin"), a North Carolina attorney to close on her purchase of 2228 Ashley Wilkes Court in Pitt County, North Carolina ("the Property"). The real estate transaction occurred remotely on 10 July 2019 because Plaintiff Sarah was in Texas. Plaintiff Sarah paid \$12,500.00 by cash transfer for the purchase of the land and trailer, which she planned to use as an investment rental.

On 11 July 2019, Griffin recorded a general warranty deed for the Property in the Pitt County Registry. Griffin prepared a deed and named the grantee as Defendant Company, a North Carolina limited liability company, rather than Plaintiff Company, a Texas limited liability company, incorporated by Plaintiff.

Defendant Seth is a resident of Union County, North Carolina, and the sole member and manager of Lawson Properties, LLC, the North Carolina limited liability company which was erroneously listed as grantee on the 2019 Deed to the Property.

Defendant Seth had no previous connection to Pitt County and had no prior knowledge of, contact with, or connection to Plaintiff Sarah or Plaintiff Company.

In July 2019, Defendant Seth received a copy of the 2019 Deed naming his company, Defendant Company, as the grantee. Defendant Seth contacted Lewis Fisher (“Fisher”), an attorney with whom he had worked previously, and requested he send a letter to Griffin, the attorney listed on the 2019 Deed as preparing the deed, to advise him that there was an error in the name of the grantee on the deed and requesting a corrected deed be executed. Fisher sent a letter dated 24 July 2019 to Griffin advising him of the error and providing contact information for both Fisher and Defendant Seth. Neither Fisher nor Defendant Seth ever received a response from Griffin.

From July 2019 through July 2022, neither Plaintiffs nor Griffin made any effort to correct the title to the Property. During those three years all public records, including the records contained in the Pitt County Register of Deeds and the Pitt County Tax Office, reflected Defendant Company as the record fee simple owner. Defendants never visited, used, rented, or improved the Property nor did they conceal or obstruct any information concerning the Property. However, Defendant Seth, as the legally obligated owner based on tax records, paid property taxes in 2020, 2021, and 2022 so as not to create penalties and legal issues for his company.

On 20 July 2022, Defendant Company sold the Property to Buffalo Creek Investments, Inc. for approximately \$5,000.00. The deed reflecting the conveyance was properly recorded in the Pitt County Register of Deeds Office.

On 23 September 2022, Buffalo Creek Investments, Inc. sold the Property to CMH Homes, Inc. CMH Homes, Inc., through its agents, removed and disposed of the existing trailer and all its contents and replaced it with a new modular home. Then on 24 October 2022, CMH Homes, Inc. sold the Property with the new modular home to David Lee Spell, III (“Spell”).

Despite Plaintiff Sarah’s express intention to utilize the property as a rental and investment property, she made no attempt to address the title error for over five years. It was not until 19 September 2024, more than five years after the erroneous 2019 Deed was entered that Plaintiffs filed a lawsuit against not only Defendant Seth and Defendant Company but also each subsequent buyer and the companies each party utilized during the transfers including attorneys, a mortgage and finance company, and a trustee.

Between December 2024 and January 2025 all defendants filed motions to dismiss the claims brought by Plaintiffs. On 1 April 2025, Plaintiffs voluntarily dismissed the claims against Spell, his mortgage and finance company, and Jay B. Green, the trustee named in the deed of trust for Spell.

On 9 April 2025, Defendant Seth was deposed by all parties’ attorneys.

On 21 April 2025, Plaintiffs filed a Motion to Amend Complaint and proposed a verified amended complaint. However, the motion was never calendared or noticed and, therefore, was not ruled upon by the trial court.

On 21 and 24 April 2025, the trial court granted motions to dismiss all three attorneys named as defendants. The trial court granted Griffin’s motion to dismiss because the statute of limitations had run and the claims were time barred. The trial court dismissed the claims against the two other attorneys because Plaintiffs’ complaint failed to state a claim for which relief could be granted.

On 30 April 2025, the trial court denied the motion to dismiss for Defendant Seth and Defendant Company.

On 1 May 2025, the trial court granted a motion to dismiss in favor of Buffalo Creek Investments, Inc. and its owners. Plaintiffs appealed only the order granting dismissal for Buffalo Creek Investments, Inc. and its owners to this Court (“the Buffalo Creek appeal”). The Buffalo Creek appeal was heard by a previous panel of this Court.

On 2 September 2025, while the Buffalo Creek appeal was pending before this Court, Defendants filed a Motion for Summary Judgment.

On 15 September 2025, the trial court heard Defendant’s Motion for Summary Judgment and on 17 September 2025 the trial court filed the order granting summary judgment. Plaintiffs filed notice of appeal for this current appeal on 6 October 2025.

On 25 March 2026, this Court dismissed the Buffalo Creek appeal as interlocutory because the order was not a final order and controversy still existed between Plaintiffs and Defendant Seth and Defendant Company. *Lawson v. Bennett*, No. 25-760 (N.C. COA, March 25, 2026).

## **II. Analysis**

On appeal, Plaintiffs argue the trial court erred because (1) it lacked jurisdiction to grant the summary judgment motion because a related motion to dismiss appeal was pending at the Court of Appeals which Plaintiffs contend should have operated to stay the trial court proceedings, and (2) genuine issues of material fact existed with regard to Plaintiffs' claims of fraud, civil conspiracy, and unfair trade practices. We disagree.

### **A. Jurisdiction**

"Whether a court possesses subject-matter jurisdiction is a question of law, which this Court reviews de novo on appeal. When conducting de novo review, this Court considers the matter anew and freely substitutes its own judgment for that of the trial court." *In re N.B.*, 289 N.C. App. 525, 528, 890 S.E.2d 199, 201-02 (2023) (cleaned up).

Plaintiffs argue that pursuant to N.C. Gen. Stat. § 1-294 Plaintiffs' appeal docketed as COA No. 25-760 should have operated as a stay of any further trial court proceedings until this Court determined the appeal. Therefore, Plaintiffs contend the trial court did not possess the necessary jurisdiction to hear Defendant's Motion for

Summary Judgment. We disagree.

N.C. Gen. Stat. § 1-294 states in pertinent part,

When an appeal is perfected as provided by this Article it stays all further proceedings in the court below upon the judgment appealed from, or upon the matter embraced therein, unless otherwise provided by the Rules of Appellate Procedure; but the court below may proceed upon any other matter included in the action and not affected by the judgment appealed from.

N.C. Gen. Stat. § 1-294. Consistent with the statute, “[t]he longstanding, general rule in North Carolina is that when a party gives notice of appeal, the trial court is divested of jurisdiction until the appellate court returns a mandate in the case.” *SED Holdings, LLC v. 3 Star Props., LLC*, 250 N.C. App. 215, 219, 791 S.E.2d 914, 918 (2016). However, the rule and surrounding case law are “not without exceptions.” *Id.* at 220, 791 S.E.2d at 919. An interlocutory order, “one that ‘does not dispose of the case, but leaves it for further action by the trial court in order to settle and determine the entire controversy,’” is one such exception. *Id.* (quoting *Veazey v. City of Durham*, 231 N.C. 357, 362, 57 S.E.2d 377, 381 (1950)).

If a party appeals from an immediately appealable interlocutory order, then, just as in a final order, jurisdiction is removed from the trial court and it “may not proceed on any matters embraced by the order.” *Id.* However,

“a litigant cannot deprive the trial court of jurisdiction to determine a case on its merits by appealing from a nonappealable interlocutory order of the trial court.” In other words, a party’s notice of appeal does not automatically divest the trial court of jurisdiction and

trigger our jurisdiction if no final judgment or appealable interlocutory order has been entered by the trial court.

*State Bd. of Exam'rs of Plumbing Heating & Fire Sprinkler Contractors v. Hudson*, 299 N.C. App. 71, 82, 917 S.E.2d 311, 320 (2025) (cleaned up) (quoting *Velez v. Dick Keffer Pontiac-GMC Truck, Inc.*, 144 N.C. App. 589, 591, 551 S.E.2d 873, 875 (2001)). Rather, “a trial court properly retains jurisdiction over a case if it acts reasonably in determining that an interlocutory order is not immediately appealable.” *Plasman v. Decca Furniture (USA), Inc.*, 253 N.C. App. 484, 498, 800 S.E.2d 761, 771 (2017) (quoting *SED Holdings*, 250 N.C. App. at 222, 791 S.E.2d at 920).

During the pendency of the litigation initiated by Plaintiffs, Plaintiffs appealed the trial court’s orders granting Rule 12(b)(6) Motion to Dismiss for the Buffalo Creek Defendants in the Buffalo Creek appeal. However, as the trial court denied the current Defendants’ Motion to Dismiss, further action from the initial case was still pending, and the order concerning Buffalo Creek was clearly interlocutory. Therefore, to appeal the interlocutory order from the Buffalo Creek appeal, Plaintiffs would have had to successfully argue that the order impacted a substantial right. *Greenbrier Place, LLC v. Baldwin Design Consultants, P.A.*, 280 N.C. App. 144, 146, 866 S.E.2d 332, 334-35 (2021). Plaintiffs argued that substantial rights were affected due to a risk of inconsistent verdicts. However, “the mere fact that claims arise from a single event, transaction, or occurrence does not, without more, necessitate a conclusion that inconsistent verdicts may occur.” *Id.* at 147, 866 S.E.2d at 335. Here,

the facts illustrate that the transactions at issue included different parties, many of whom did not know or had not ever met one another, and occurred at different times over the course of several years. It was reasonable for the trial court to determine there was little, if any, risk of inconsistent verdicts and therefore no substantial right was at issue, and, thus, the Buffalo Creek order was not immediately appealable. In fact, this Court ultimately dismissed the appeal as interlocutory.

As the trial court reasonably determined the interlocutory order was not immediately appealable, it properly retained jurisdiction over the case to hear Defendants' Motion for Summary Judgment. *See Plasman*, 253 N.C. App. at 498, 800 S.E.2d at 771.

## **B. Motion for Summary Judgment**

“The standard of review for summary judgment is de novo. Summary judgment is appropriate when no genuine issue of material fact exists, and a party is entitled to judgment as a matter of law.” *Value Health Sols., Inc. v. Pharm. Rsch. Assocs., Inc.*, 385 N.C. 250, 267, 891 S.E.2d 100, 114 (2023) (cleaned up). “Furthermore, ‘the record is to be viewed in the light most favorable to the non-movant, giving it the benefit of all inferences reasonably arising therefrom.’” *Everts v. Parkinson*, 147 N.C. App. 315, 318, 555 S.E.2d 667, 670 (2001) (quoting *Ausley v. Bishop*, 133 N.C. App. 210, 214, 515 S.E.2d 72, 75 (1999)).

The moving party has the burden of proving that a genuine issue of material fact does not exist. Once the moving party makes the required showing, the burden shifts to the

nonmoving party to produce a forecast of evidence demonstrating specific facts, as opposed to allegations, showing that he can at least establish a *prima facie* case at trial.

*Medearis v. Trs. of Myers Park Baptist Church*, 148 N.C. App. 1, 5, 558 S.E.2d 199, 202-03 (2001) (cleaned up).

Plaintiffs contend genuine issues of material fact existed with regard to the claims of fraud, civil conspiracy, and unfair trade practices. We disagree.

### **1. *Fraud***

“The essential elements of fraud are: ‘(1) False representation or concealment of a material fact, (2) reasonably calculated to deceive, (3) made with intent to deceive, (4) which does in fact deceive, (5) resulting in damage to the injured party.’” *Everts*, 147 N.C. App. at 321, 555 S.E.2d at 671-72 (quoting *Ragsdale v. Kennedy*, 286 N.C. 130, 138, 209 S.E.2d 494, 500 (1974)).

Regarding the first element, it is essential “that the false representation or concealment be made *to the party acting thereon*.” *Sain v. Adams Auto Grp., Inc.*, 244 N.C. App. 657, 662, 781 S.E.2d 655, 659 (2016) (quoting *Hospira Inc. v. Alphagary Corp.*, 194 N.C. App. 695, 699, 671 S.E.2d 7, 11 (2009)).

Here, Plaintiffs concede that the parties “were not acquainted.” Additionally, within the complaint<sup>1</sup> Plaintiffs make only one allegation that Defendants ever made

---

<sup>1</sup> Plaintiffs argue their proposed verified amended complaint should be considered as “a forecast of their evidence.” However, Plaintiffs also concede the motion was never noticed for

false representations or concealed anything from the Plaintiffs directly:

37. Defendant Hill knowingly and fraudulently misrepresented his company's ownership of the Property to defendant Bennett, inducing the latter to draft and record a deed conveying the property from defendant Lawson Properties LLC to defendant Buffalo Creek Investments, Inc. (Exhibit C). Defendant Hill's misrepresentations and his actions in signing his name to the deed as "sole member" of defendant Lawson Properties LLC, which he concealed from the plaintiffs, was intended to deceive plaintiffs and induce and undermine their reliance on the assumption that they possessed good title to the Property, which reliance was justified on the part of the plaintiffs.

The record evidence, however, does not support Plaintiffs' allegation that Defendant Seth concealed the transfer of deed from Plaintiffs. The deed was filed with the Pitt County Register of Deeds Office the same day it was signed and was publicly searchable. Because Griffin never responded to Fisher or Defendant Seth's letter concerning the error in the 2019 Deed, Defendant Seth had no knowledge of the Plaintiffs and no way to contact them directly or specifically conceal anything from them.

As there is no support for the allegation that Defendant Seth made a false representation to or concealed a material fact from Plaintiffs, the claim for fraud necessarily fails.

---

hearing. N.C. Gen. Stat. § 1A-1, Rule 15(a) requires Plaintiffs to get leave from the court or written consent from the adverse party. As Plaintiffs did not notice the amended complaint for hearing and did not follow procedures to get leave from the court the amendment is not considered now on appeal. A party "cannot create an issue of material fact for summary judgment by raising it for the first time on appeal." *Abbott v. Abernathy*, 287 N.C. App. 522, 531, 884 S.E.2d 56, 65 (2023).

## **2. Civil Conspiracy**

It is well established that there is not a separate civil action for civil conspiracy in North Carolina. Instead, civil conspiracy is premised on the underlying act. Where this Court has found summary judgment for the defendants on the underlying tort claims to be proper, we have held that a plaintiff's claim for civil conspiracy must also fail.

*Piraino Bros., LLC v. Atl. Fin. Grp., Inc.*, 211 N.C. App. 343, 350, 712 S.E.2d 328, 333-34 (2011) (cleaned up). Plaintiffs' allegations of civil conspiracy rest on the underlying tort claim of fraud. As noted *supra*, Plaintiffs forecasted no evidence to support their allegations of fraud. Therefore, Plaintiffs' claim for civil conspiracy must also fail. *Id.*

## **3. Unfair Trade Practices**

"To prevail on a claim of unfair and deceptive trade practice a plaintiff must show (1) an unfair or deceptive act or practice, or an unfair method of competition, (2) in or affecting commerce, (3) which proximately caused actual injury to the plaintiff or to his business." *Faucette v. 6303 Carmel Rd., LLC*, 242 N.C. App. 267, 275, 775 S.E.2d 316, 323 (2015) (quoting *Spartan Leasing Inc. v. Pollard*, 101 N.C. App. 450, 460-61, 400 S.E.2d 476, 482 (1991)).

The Court has defined business activities as the regular, day-to-day activities, or affairs, such as the purchase and sale of goods, or whatever other activities the business regularly engages in and for which it is organized. But the Court has since limited business activity to two types of business transactions: (1) interactions between businesses, and (2) interactions between businesses and consumers.

*Shannon v. Rouse Builders, Inc.*, 295 N.C. App. 144, 150, 905 S.E.2d 99, 104 (2024) (cleaned up).

Plaintiffs do not allege that they ever engaged in business with the Defendants. Rather, as noted above, they concede that the parties “were not acquainted.” If the parties never engaged in any interactions, either between businesses or between a business and a consumer, then they are precluded from seeking an “Unfair and Deceptive Trade Practices” remedy. *Id.* at 151, 905 S.E.2d at 105.

### **III. Conclusion**

For the reasons stated herein, we conclude the trial court had jurisdiction to hear the Motion for Summary Judgment and did not err in granting summary judgment because Plaintiffs failed to offer sufficient evidence of the essential elements of fraud, civil conspiracy, and unfair trade practices. Therefore, we affirm the trial court’s order.

AFFIRMED.

Judges ZACHARY and GORE concur.

Report per Rule 30(e).