

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1135

Filed 16 September 2026

Durham County, No. 24CVS000511-310

JOHNETTA ALSTON, individually and on behalf of themselves and all others similarly situated, Plaintiffs,

v.

MILLENNIA HOUSING DEVELOPMENT, LTD., et al., Defendants.

Appeal by Defendants from order entered 27 June 2025 by Judge Hoyt G. Tessener in Durham County Superior Court. Heard in the Court of Appeals 26 August 2026.

McAngus Goudelock & Courie, PLLC, by Tien K. Cheng and Adhitya “Deets” Mahesh, for Defendants-Appellants.

Maginnis Howard, by Edward H. Maginnis and Ian E. Vance, and Duke Civil Justice Clinic, by Jesse H. McCoy II, for Plaintiff-Appellees.

COLLINS, Judge.

Defendants Millennia Housing Management, LLC; JFK Towers, NC LLC; and JFK Towers NC TC, LP appeal from the trial court’s order denying their motion for dissolution and, in the alternative, modification of an order of attachment. Because Defendants have failed to show the trial court’s interlocutory order affects a substantial right, we dismiss this appeal.

I. Background

Defendants are part of a network of affiliated entities within “The Millennium Companies,” a national real-estate enterprise that owns, operates, and manages subsidized and affordable housing properties across multiple states. The named Defendants in this action include Millennium Housing Development, Ltd.; Millennium Housing Management, LLC; Millennium Commercial Group, Ltd.; JFK Towers NC, LLC; JFK Towers NC Investment, LLC; JFK Towers TC Investment; JFK Towers NC TC, LP (“JFK Ownership”); and Frank T. Sinito, the founder and Chief Executive Officer of The Millennium Companies and sole registered company official of JFK Ownership. The Millennium Companies own and manage more than 30,000 apartment units nationwide, many of which participate in rental assistance programs with the United States Department of Housing and Urban Development (“HUD”). The Millennium Companies and JFK Ownership jointly own and manage JFK Towers, a subsidized housing complex for elderly and disabled residents in Durham County. JFK Towers’ tenants receive rent subsidies from HUD.

Plaintiffs are current and former residents of JFK Towers. Plaintiffs filed a complaint against all named Defendants in January 2024 alleging various claims, including breach of the warranty of habitability and breach of contract. In March 2024, HUD banned The Millennium Companies from participating in HUD programs for five years. Plaintiffs filed a motion to attach \$9,558,000 of JFK Ownership’s property in June 2024 after learning that JFK Ownership intended to sell JFK

Towers. The trial court entered an order of attachment in September 2024, requiring JFK Ownership to keep \$9,558,000 worth of its property in Durham County until final judgment in the case.

Nine months after the trial court entered the order of attachment, in June 2025, all named Defendants filed a motion for the dissolution, or in the alternative modification, of the attachment order, alleging, inter alia, that “there [is] ample potential applicable insurance to satisfy any judgment in this matter[.]” The trial court denied Defendants’ motion, finding that there had been “no significant change in circumstances since the [c]ourt entered” the attachment order. The trial court reissued the attachment order on 27 June 2025.

The order denying dissolution or modification allows JFK Ownership to seek discharge of the attachment order “upon giving bond for the property . . . or to file a further motion for dissolution after receiving written confirmation that the insurance coverage alleged in the [motion for dissolution or modification] does in fact apply in this matter in an amount of at least \$9,558,000[.]” The order also allows JFK Ownership to sell JFK Towers.

Defendants now appeal the trial court’s order denying their motion for dissolution or modification of the attachment order.

II. Discussion

We first address our jurisdiction to review the trial court’s order. As Defendants acknowledge, the order is interlocutory. “An interlocutory order is one

made during the pendency of an action, which 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.” *C. Terry Hunt Indus., Inc. v. Klausner Lumber Two, LLC*, 255 N.C. App. 8, 11 (2017) (citation omitted). “Generally, there is no right of immediate appeal” from an interlocutory order. *Goldston v. Am. Motors Corp.*, 326 N.C. 723, 725 (1990). Immediate appeal from an interlocutory order may be allowed, however, “if the trial court’s decision deprives the appellant of a substantial right” that will be lost absent immediate review. *Woody v. Vickrey*, 276 N.C. App. 427, 433 (2021) (citation omitted); N.C. Gen. Stat. §§ 1-277(a), 7A-27(b)(3)(a) (2025).

A substantial right determination “usually depends on the facts and circumstances of each case and the procedural context of the orders appealed from.” *Estrada v. Jaques*, 70 N.C. App. 627, 642 (1984). “To confer appellate jurisdiction based on a substantial right, the appellant must include in its opening brief . . . 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 (2020) (quotation marks and citation omitted).

“Although our courts have recognized the inability to practice one’s livelihood and the deprivation of a significant property interest to be substantial rights, we have not recognized that an order that does not prevent the business *as a whole* from operating affects a substantial right.” *Hanna v. Wright*, 253 N.C. App. 413, 415 (2017) (quotation marks and citation omitted).

In *Harris v. Pinewood Dev. Corp.*, this Court held that an order effectively shutting down a developer's business operations affected a substantial right. 176 N.C. App. 704, 705-06 (2006). In *Scottish Re Life Corp. v. Transamerica Occidental Life Ins. Co.*, we concluded that restrictions on a single trust account containing a large sum of money affected a substantial right because they materially impaired the appellant's ability to conduct its business. 184 N.C. App. 292, 294-95 (2007).

Here, Defendants argue that the trial court's order affects their substantial right to "conduct their business during the pendency of this action" and to "use and control their assets[.]" However, Defendants failed to show that the order prevents their business from operating *as a whole*. The record shows that Defendants own and manage subsidized housing complexes in North Carolina and other states. The attachment is directed solely at JFK Towers, the single North Carolina asset of JFK Ownership. Defendants remain free to operate their broader business, including continuing to own and manage JFK Towers. Defendants also maintain the ability to discharge the attachment order upon giving bond for JFK Towers, to file a further motion for dissolution after receiving written confirmation of insurance coverage, and to sell JFK Towers.

Unlike in *Harris*, Defendants' business activity is not "essentially shut down." *Harris*, 176 N.C. App. at 705. And unlike in *Scottish Re Life Corp.*, the record does not show that the restraint on this single asset prevents Defendants from conducting a significant portion of their overall business.

Defendants further argue that the attachment substantially impairs their ability to realize and control the value of JFK Towers because it restrains the proceeds of any sale. The attachment order expressly provides that “Defendants maintain the ability to sell the property attached pursuant to N.C.G.S. § 1-440.44.” The order requires only that the proceeds remain subject to the attachment in Durham County or be secured by bond to satisfy any eventual money judgment. *See* N.C. Gen. Stat. § 1-440.1(a) (attachment “is intended to bring property of a defendant within the legal custody of the court in order that it may subsequently be applied to the satisfaction of any judgment for money”). A restraint on proceeds to secure a potential judgment is an ordinary function of attachment and does not, standing alone, create a substantial right. *See Signature Dev. LLC v. Sandler Commercial at Union, L.L.C.*, 207 N.C. App. 576, 597-98 (2010) (recognizing attachment’s purpose to secure assets for satisfaction of judgment). Defendants identify no irreparable injury that cannot be remedied upon final judgment. On this record, the attachment’s restraint on proceeds is a temporary security measure, not a deprivation of a substantial right warranting immediate appellate review.

Thus, Defendants have failed to demonstrate that the order denying dissolution or modification affects a substantial right which will be lost absent our immediate review. We are thus without jurisdiction to consider this appeal.

III. Conclusion

For the foregoing reasons, we dismiss Defendants’ appeal for lack of subject

matter jurisdiction.

DISMISSED.

Judges ZACHARY and HAMPSON concur.