An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA26-219

Filed 4 November 2026

Mecklenburg County, No. 23CV030035-590

GUY BRUCE AND APPEALING SOLUTIONS, LLC, Plaintiffs,

v.

WISER SOFTWARE and MICHAEL ALEXANDER MORTON, Defendants.

Appeal by Plaintiff from order entered 3 June 2025 by Judge David Strickland in Mecklenburg County Superior Court. Heard in the Court of Appeals 17 September 2026.

Guy Bruce, pro se plaintiff-appellee.

Lord & Lindley, PLLC, by Tyler B. Peacock, for defendants-appellants.

STADING, Judge.

Guy Bruce ("Plaintiff") appeals from judgment entered 3 June 2025 granting Michael Morton's ("Defendant") motion to dismiss all claims against him. Plaintiff argues one issue on appeal, whether the trial court violated his due process rights by declining to consider evidence outside the complaint before dismissing Plaintiff's claims.

I. Background

Plaintiff is the managing partner and majority shareholder of Appealing Solutions, LLC ("Appealing Solutions"). Appealing Solutions is a corporation "founded to provide organizational performance engineering services and software to schools." In 2022, Plaintiff and Appealing Solution used an online directory called "Guru.com" to identify skilled software developers to design a mobile app. Using Guru.com, Plaintiff found Wiser Software, which appeared to be a group of several software developers. Plaintiff, acting for Appealing Solutions, entered into written contracts with three developers all working for Wiser Software: Abdinassir Abdi, Brisa Lee, and Juan Roldan. Plaintiff then deposited $40,000.00 with Guru.com to direct payment to Wiser Software.

After the app was delivered to Plaintiff, he noticed errors which rendered the software "unusable." Plaintiff complained to the three individual developers. Abdinassir Abdi responded, telling Plaintiff he would not fix the problems. Thereafter, Abdinassir Abdi could not be reached. Plaintiff was similarly unable to get relief from the other developers, Brisa Lee and Juan Roldan. Plaintiff then contacted Defendant, whose name appeared as part of the Wiser Software team in the Guru.com listing. Defendant's name also appears in Plaintiff's Guru.com transaction log, listing Defendant as the recipient of the $40,000.00 paid. Defendant, however, denied any knowledge of Wiser Software, Plaintiff, or the transaction at issue.

On 17 October 2023, Plaintiff filed suit against Wiser Software and Defendant in Mecklenburg County. The Mecklenburg County Clerk of Court entered entry of default against Defendant on 22 July 2024. Then, on 11 November 2024, Superior Court Judge Carla Archie entered an order granting summary judgment against Defendant. Defendant subsequently moved to set aside entry of default and summary judgment. On 17 March 2025, Superior Court Judge Matthew Osman set aside both the entry of default and summary judgment after finding Defendant had not been properly served. That same day, Plaintiff filed an amended complaint.

On 21 April 2025, Defendant moved to dismiss all claims against him for failure to state a claim for which relief could be granted. Defendant argued that the complaint failed to allege Defendant was party to any contract with Plaintiff. Additionally, Defendant argued that Plaintiff's unfair and deceptive trade practices act claims could not be sustained because Plaintiff did not allege any unfair acts by Defendant. On 3 June 2025, Superior Court Judge David Strickland ("the trial court") entered an order dismissing all claims against Defendant with prejudice since "the Amended Complaint fail[ed] to state a claim upon which relief can be granted against [Defendant]."

On 4 June 2025, Plaintiff noticed appeal of the order dismissing his claims against Defendant. On 11 September 2025, this Court dismissed Plaintiff's claims as interlocutory because Plaintiff's claims against Wiser Software were ongoing in Mecklenburg County Superior Court. Plaintiff then voluntarily dismissed his claims against Wiser Software and refiled his notice of appeal. Plaintiff's voluntary

dismissal renders the trial court's order final and subject to immediate appellate review. *See Est. of Tipton ex rel. Tipton v. High Point Univ.*, 241 N.C. App. 655, 775 S.E.2d 694 (2015).

II. Analysis

Plaintiff's sole argument on appeal is that his rights to due process were violated when the trial court granted Defendant's motion to dismiss. Plaintiff argues that the trial court's order violated due process when it "was entered without providing Plaintiff[ ] the opportunity to present Guru.com's records of transactions with Defendant[ ], and the testimony of Guru's CEO, which provided critical evidence supporting Plaintiff['s] claims against Defendant[ ]."

"Due process means simply a procedure which is fair." *In re Anne M. Lamm*, 116 N.C. App. 382, 385, 448 S.E.2d 125, 128 (1994). Due process "does not mandate a single, required set of procedures for all occasions; it is necessary to consider the specific factual context and the type of proceeding involved." *State ex rel. Barker v. Ellis*, 144 N.C. App. 135, 139, 547 S.E.2d 166, 168 (2001) (citation omitted). "As to procedure, due process means 'notice and an opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case before a competent and impartial tribunal having jurisdiction of the cause.' " *Simeon v. Hardin*, 339 N.C. 358, 377, 451 S.E.2d 858, 871 (1994) (citation omitted). Arguments "concerned with the protection of procedural due process rights" are reviewed "de novo." *Cook v. Union Cty. Zoning Bd. Of Adjustment*, 185 N.C. App. 582, 593, 649 S.E.2d 458, 47 (2007).

Here, the trial court granted Defendant's motion to dismiss for failure to state a claim. *See* N.C. Gen. Stat. § 1A-1, Rule 12(b)(6) (2025). The evidentiary record tends to show Plaintiff was afforded ample opportunity at the trial court to argue in support of the sufficiency of his complaint. Plaintiff's arguments are without merit since the purported evidence in support of his complaint would have been irrelevant to a ruling on the motion. *See Blue v. Bhiro*, 381 N.C. 1, 5, 871 S.E.2d 691, 694 (2022) (citations omitted) ("A Rule 12(b)(6) motion focuses on the legal sufficiency of the allegations in the complaint. As such, when considering a Rule 12(b)(6) motion, the trial court is limited to reviewing the allegations made in the complaint."). On appeal, Plaintiff has failed to argue in what way the trial court's ruling on the case would have been different had his evidence been considered. In fact, Plaintiff did not make any argument on appeal that his complaint was sufficient to overcome Defendant's Rule 12(b)(6) motion to dismiss. Plaintiff was not deprived of due process when the trial court granted Defendant's motion to dismiss.

III. Conclusion

For the foregoing reasons, we affirm the trial court's order granting Defendant's motion to dismiss.

AFFIRMED.

Judges COLLINS and MURRY concur.

Report per Rule 30(e).