

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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

NO. COA01-609

NORTH CAROLINA COURT OF APPEALS

Filed: 5 February 2002

FORD MOTOR CREDIT COMPANY

v.

Mecklenburg County  
No. 00 CVD 933

WILLIAM DEAN

Appeal by defendant from order entered 6 January 2001 by Judge H. William Constangy in Mecklenburg County District Court. Heard in the Court of Appeals 31 December 2001.

*Smith Debnam Narron Wyche Story & Myers, L.L.P., by Matthew E. Roehm, for plaintiff-appellee.*

*Defendant-appellant William Dean, pro se.*

EAGLES, Chief Judge.

Plaintiff filed a complaint in district court seeking to recover the balance of \$7,274.00 allegedly due from defendant under an installment contract for the purchase of a vehicle. The district court entered a default judgment against defendant on or about 29 June 2000. Defendant filed a motion to set aside the judgment, accompanied by a motion for sanctions against plaintiff pursuant to N.C.R. Civ. P. 11. After a hearing, the trial court entered an order setting aside the default judgment but denying defendant's motion for Rule 11 sanctions. Defendant now appeals from the portion of the order denying his motion for sanctions.

Plaintiff has filed a motion to dismiss the appeal and for sanctions under N.C.R. App. P. 34, citing innumerable violations of our Rules of Appellate Procedure by defendant.

We deem it sufficient to note that an order setting aside a default judgment and denying Rule 11 sanctions is interlocutory and not subject to immediate appeal. See *Horne v. Nobility Homes, Inc.*, 88 N.C. App. 476, 477, 363 S.E.2d 642, 643 (1988); cf. *Woody v. Thomasville Upholstery, Inc.*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 552 S.E.2d 202, 207 (2001), review on additional issues denied, \_\_\_ N.C. \_\_\_, \_\_\_ S.E.2d \_\_\_ (No. 596A01 filed 8 November 2001) (no right to immediate appeal from interlocutory discovery order that does not include sanctions or finding of contempt). We therefore allow plaintiff's motion and dismiss defendant's appeal. In our discretion, we deny plaintiff's request for sanctions. See N.C.R. App. P. 2; see generally *State v. Blackwell*, 133 N.C. App. 31, 33-34, 514 S.E.2d 116, 118, cert. denied, 350 N.C. 595, 537 S.E.2d 483 (1999).

Appeal dismissed; plaintiff's motion for sanctions denied.

Judges TIMMONS-GOODSON and McCULLOUGH concur.

Report per Rule 30(e).