

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority.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. COA15-1168

Filed: 4 October 2016

Iredell County, No. 13-CVS-591

MARC SINGER, Plaintiff,

v.

MARCEL STARK, ROBERT STARK, EVA STARK, STARK REAL PROPERTIES, LLC, STARSING, LLC and SUBSTITUTE TRUSTEE SERVICES, INC., Defendants.

MARCEL STARK, Defendant and Third Party Plaintiff,

v.

CASSANDRA SINGER, Third Party Defendant.

Appeal by Plaintiff from three orders entered 12 December 2014, 20 March 2015, and 1 October 2015 by Judge Tanya T. Wallace in Iredell County Superior Court. Heard in the Court of Appeals 23 May 2016.

*Smith Moore Leatherwood LLP, by Matthew Nis Leerberg and Kip D. Nelson, for Plaintiff-Appellant*

*Paul I. Klein, PLLC, by Paul I. Klein, for Plaintiff-Appellant.*

*Hutchens Law Firm LLP, by William Walt Pettit, Lacey M. Moore, and Michael Stein, for Defendants-Appellees Marcel Stark, Robert Stark, Eva Stark, and Stark Real Properties, LLC.*

DILLON, Judge.

*Opinion of the Court*

Plaintiff Marc Singer (“Plaintiff”) appeals the trial court’s orders granting partial summary judgment against him on some of his claims. For the following reasons, we dismiss this appeal. Further, we decline to grant Plaintiff’s petition for writ of *certiorari*.

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Plaintiff brought this action, alleging a variety of claims against the above-referenced defendants (“Defendants”). Defendants answered, generally denying the allegations in Plaintiff’s complaint, and asserted counterclaims and crossclaims.

In December 2014, after a hearing on the matter, the trial court granted summary judgment to Defendants on many of the claims asserted by Plaintiff. The trial court however denied Defendants summary judgment as to other claims brought by Plaintiff and, otherwise, did not address Defendants’ counterclaims and crossclaims.

In March 2015, the trial court entered a *separate* order and judgment, which purported to certify its previous December 2014 order for immediate appeal pursuant to Rule 54 of the North Carolina Rules of Civil Procedure.

In October 2015, the trial court entered a third order, which purportedly corrected a clerical mistake contained in the December 2014 order.

Plaintiff filed a notice of appeal from the December 2014, March 2015, and October 2015 orders.

*Opinion of the Court*

Plaintiff has also petitioned this Court for a writ of *certiorari* to review the trial court's orders.

We hold that Plaintiff's interlocutory appeal of the December 2014, March 2015, and October 2015 orders is in contravention of *Branch Banking and Trust Co. v. Peacock Farm, Inc.*, 368 N.C. 478, 780 S.E.2d 553 (2015), which essentially held that an order certifying a *prior* order for appeal pursuant to Rule 54 was ineffective. And, here, the December 2014 order granting partial summary judgment did not contain a proper Rule 54(b) certification. In addition, Plaintiff has not argued that any of the orders affected a substantial right. Accordingly, there is no appeal of right. N.C. Gen. Stat. §§ 1-277, 7A-27(b), 1A-1, Rule 54(b) (2013).

Further, in our discretion, we deny Plaintiff's petition for writ of *certiorari*.

DISMISSED.

Chief Judge MCGEE and Judge HUNTER, JR. concur.

Report per Rule 30(e).