

COURT OF APPEALS OF NORTH CAROLINA

Welbourne v. Barbee

No. COA25-325 (N.C. Ct. App. Dec. 17, 2025) · No. No. COA25-325 · Decided December 17, 2025

SUMMARY

The North Carolina Court of Appeals reviews an order enforcing a settlement agreement arising from an automobile-accident negligence and wrongful-death dispute. The court concludes that it lacks jurisdiction to review the enforcement order because the appeal was untimely and that Rule 54(b) did not permit reconsideration of the rendered final judgment. It affirms the trial court’s denial of the plaintiffs’ Rule 59(e) and Rule 60(b) motion to amend.

CASE DETAILS

COURT	Court of Appeals of North Carolina
WRITING FOR THE COURT	Judge Julee Flood; Judge Collins; Judge Murry
JURISDICTION	North Carolina Court of Appeals
DECIDED	December 17, 2025
DOCKET	No. COA25-325
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from orders denying Rule 54(b) motion to reconsider and Rule 59(e)/60(b) motion to amend judgment enforcing a settlement agreement.
STANDARD OF REVIEW	Abuse of discretion
PRECEDENTIAL VALUE	Published
PARTIES	Stephanie Welbourne (in her individual capacity and as Administratrix of the Estate of Zachary Thomas Welbourne) v. Knox Bennett Barbee, Geromy Tad Barbee

TOPICS

- appellate jurisdiction
- final judgment rule
- motion for reconsideration
- civil procedure
- appellate procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

QUESTIONS PRESENTED

1. Whether the Court of Appeals has jurisdiction to review the trial court's order enforcing the settlement agreement
2. Whether a Rule 54(b) motion can be used to seek reconsideration of a final judgment that has been rendered but not yet entered
3. Whether a Rule 59(e) motion was proper to toll the appeal period where there was no trial on the merits
4. Whether a petition for writ of certiorari should be granted to review the enforcement order
5. Whether the trial court abused its discretion in denying plaintiffs' Rule 60(b) motion to amend

HOLDINGS

1. Rule 54(b) provides revision time only for judgments not adjudicating all claims and rights of all parties; it cannot be used to move for reconsideration of a complete final judgment of a case, even before entry.
2. Rule 59 applies only after a trial on the merits or a judgment ending a case on the merits; a motion to enforce a settlement agreement (treated as summary judgment) is not a trial on the merits, so Rule 59(e) was improper and did not toll the appeal period.
3. The Court declined to grant the petition for writ of certiorari because plaintiffs failed to show extraordinary circumstances.
4. The trial court did not abuse its discretion in denying plaintiffs' Rule 60(b) motion because Rule 60(b) provides no relief for errors of law and plaintiffs failed to demonstrate misrepresentation by defendants' counsel.

KEY QUOTATIONS

“We hold that a party cannot use Rule 54(b) to move the trial court to reconsider a complete final judgment of a case, even where that final judgment has not yet been entered.”

“Because both Rule 59(a)(8) and (9) are post-trial motions and because the [] case concluded at the summary judgment stage, the court did not err by concluding that 'it was not proper to set aside default against [] SRS and vacate the summary judgment pursuant to Rule 59(a)(8) and (9).’”

FACTUAL BACKGROUND

In a head-on collision caused by defendant Knox Barbee driving at approximately 100 mph, plaintiff's husband died and plaintiff suffered serious injuries. Horace Mann, the defendant's insurer, offered to settle all claims against defendants for its \$50,000 policy limits (\$25,000 to each of four claimants) in exchange for covenants not to execute. Plaintiffs' counsel accepted the \$25,000 offer for each of their two claims via email, but payment was never made. Plaintiffs later filed suit and obtained UIM settlement approval from the trial court, during which their counsel referenced the existing liability settlement. Defendants then moved to enforce the settlement agreement.

PROCEDURAL HISTORY

Trial court orally granted defendants' motion to enforce settlement agreement, then entered written order. Plaintiffs filed Rule 54(b) motion to reconsider and Rule 59(e)/60(b) motion to amend. Trial court denied both motions. Plaintiffs appealed.

DISPOSITION

affirmed

CASES CITED

- Bailey v. State, 353 N.C. 142 (2000)
- Veazey v. City of Durham, 231 N.C. 357 (1950)
- Holland v. Harrison, 254 N.C. App. 636 (2017)
- Green v. Branch, 916 S.E.2d 824 (N.C. Ct. App. 2025)
- Chappell v. Stallings, 237 N.C. 213 (1953)
- Tetra Tech Tesoro, Inc. v. JAAAT Tech. Servs., LLC, 250 N.C. App. 791 (2016)
- State v. Beck, 359 N.C. 611 (2005)
- Muse v. Charter Hosp. of Winston-Salem, Inc., 117 N.C. App. 468, aff'd, 342 N.C. 403 (1995)
- Bodie Island Beach Club Ass'n, Inc. v. Wray, 215 N.C. App. 283 (2011)
- Doe v. City of Charlotte, 273 N.C. App. 10 (2020)
- Hardin v. KCS Int'l, Inc., 199 N.C. App. 687 (2009)
- N.C. Alliance for Transp. Reform, Inc. v. N.C. Dep't of Transp., 183 N.C. App. 466 (2007)
- In re Civil Penalty, 324 N.C. 373 (1989)
- Dogwood Dev. & Mgmt. Co., LLC v. White Oak Transp. Co., 362 N.C. 191 (2008)
- Womble v. Moncure Mill & Gin Co., 194 N.C. 577 (1927)
- Cryan v. Nat'l Council of Young Men's Christian Ass'ns of U.S., 384 N.C. 569 (2023)
- Davis v. Davis, 360 N.C. 518 (2006)
- Clark v. Clark, 301 N.C. 123 (1980)
- McGinnis v. Robinson, 43 N.C. App. 1 (1979)
- Brady v. Town of Chapel Hill, 277 N.C. 720 (1971)
- Jenkins v. Richmond Cty., 118 N.C. App. 166 (1995)
- Baker v. Tucker, 239 N.C. App. 273 (2015)
- Benton v. Hanford, 195 N.C. App. 88, review denied, 363 N.C. 744 (2009)