# Court of Appeals
# of the State of Georgia

ATLANTA, May 01, 2020

*The Court of Appeals hereby passes the following order:*

**A20A1595. CRICK FINCHER v. ADVANCED SYSTEMS, INC.**

Jerry West d/b/a Fincher Brothers Roofing LLC ("West") sued Advanced Systems, Inc. ("Advanced"), and Advanced counterclaimed. Advanced then added Crick Fincher ("Fincher") as a counterclaim defendant. Advanced obtained a default judgment against Fincher, and the trial court denied Fincher's motion to set aside default judgment pursuant to OCGA § 9-11-60 (d). Fincher filed this direct appeal. We, however, lack jurisdiction because the case remains pending below.

Pretermitting whether we would otherwise have jurisdiction over this direct appeal, West's complaint remains pending, and Advanced's counterclaim remains pending against West. See *Conseco Finance Servicing Corp. v. Hill*, 252 Ga. App. 774, 774-775 (1) (556 SE2d 468) (2001) (an order denying a motion to set aside a default judgment is not final where the case remains pending against other defendants). Consequently, Fincher was required to use the interlocutory appeal procedures – including obtaining a certificate of immediate review from the trial court – to appeal the trial court's orders. See OCGA § 5-6-34 (b); *Boyd v. State*, 191 Ga. App. 435, 435 (383 SE2d 906) (1989). Fincher's failure to do so deprives us of

jurisdiction over this appeal, which is hereby DISMISSED. See *Church v. Bell,* 213 Ga. App. 44, 45 (443 SE2d 677) (1994).

*Court of Appeals of the State of Georgia*
*Clerk's Office, Atlanta,* 05/01/2020
*I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.*
*Witness my signature and the seal of said court hereto affixed the day and year last above written.*

Stephen E. Castlen , *Clerk.*