

The South Carolina Court of Appeals

Davisair, Inc. and Gary Davis, Respondents,

v.

Corporate Air, LLC and Cam Investments, Inc.,
Appellants.

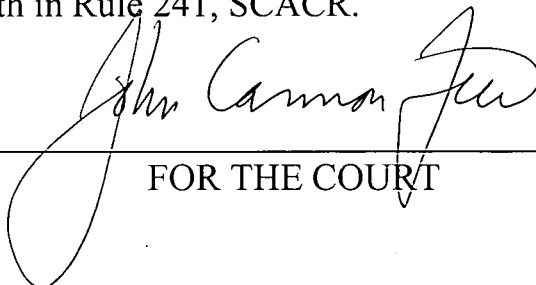
Appellate Case No. 2012-212725

ORDER

This is an appeal of an order compelling discovery. This court previously denied a motion to dismiss, noting that although discovery orders are generally not immediately appealable, the underlying order is final because it requires Appellants to provide their accounting and financial records, which is part of the ultimate relief sought in the complaint.

Respondents have now filed a motion to dismiss this appeal, informing this court that they have filed an amended complaint and they no longer seek as ultimate relief the information compelled to be produced by the discovery order. We are concerned that this amendment to the pleadings below not only affects the appealability of the discovery order, but also makes the information compelled to be disclosed in the order no longer discoverable. Because the amended complaint is alleged to affect the basis on which this court determined the order to be immediately appealable, we now direct the circuit court to determine anew whether the information sought to be disclosed remains discoverable. Accordingly, we remand this appeal for the limited purpose of determining whether the discovery order should be modified or vacated. If the circuit court amends or vacates the discovery order, the appeal will be dismissed. If the circuit court does not amend the order, the appeal will not be dismissed, but will proceed on the original basis that the order is immediately appealable. Respondents shall provide this court with a status update within thirty days and every thirty days thereafter until the circuit court considers this matter.

In the meantime, the circuit court may not proceed on the amended complaint because of the automatic stay set forth in Rule 241, SCACR.


FOR THE COURT

Columbia, South Carolina

cc:
Alice F. Paylor
Blair Cunningham Jennings
Lauren Leigh Felder

FILED
5/28/13 *cc*