

The South Carolina Court of Appeals

Paint Design, LLC, Appellant,

v.

Westgate Myrtle Beach, LLC a/k/a Westgate Resorts,
Ltd., and RNR Construction, LLC, Respondents.

Appellate Case No. 2024-000137

ORDER

Appellant filed a notice of appeal from an order denying its motion to amend its complaint to pursue a claim for quantum meruit against Respondent Westgate Myrtle Beach, LLC a/k/a Westgate Resorts, Ltd. (Westgate). On July 29, 2024, Westgate moved to dismiss the appeal, arguing the order denying Appellant's motion to amend its complaint was interlocutory and not immediately appealable.¹ On August 7, 2024, Appellant filed a return, arguing that although the order is interlocutory, it is immediately appealable under section 14-3-330(1) of the South Carolina Code (2017). After careful consideration, we grant Westgate's motion to dismiss. *See* § 14-3-330 (1) (explaining an appellate court has appellate jurisdiction to review "[a]ny intermediate judgment, order[,], or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process . . . and final judgments in such actions"); *Ex parte Wilson*, 367 S.C. 7, 13, 625 S.E.2d 205, 208 (2005) (stating an order involving the merits "must finally determine some substantial matter forming the whole or a part of some cause of action or defense"); *Tillman v. Tillman*, 420 S.C. 246, 250, 801 S.E.2d 757, 760 (Ct. App. 2017) (stating a party would have the

¹ In the alternative, Westgate moved to dismiss the appeal as untimely, arguing Appellant failed to timely serve its notice of appeal. We need not reach this argument because we find the order on appeal is interlocutory and not immediately appealable.

right appeal a denial of a motion to amend a counterclaim after the lawsuit ended).² Remittitur will issue in accordance with Rule 221(a) of the South Carolina Appellate Court Rules.


FOR THE COURT

Columbia, South Carolina

FILED
Oct 01 2024

cc:
Howell Vaught Bellamy, III, Esquire
Don Russell Terry, Esquire

² Although unpublished and not of precedential value, we find our recent decision in *Skydive Myrtle Beach, Inc. v. Horry County*, persuasive. See 2024-UP-248 (S.C. Ct. App. filed July 3, 2024). In *Skydive*, we determined the order denying Skydive's motion to amend its complaint was not immediately appealable. *Id.* We stated, "Skydive may appeal the [circuit] court's order denying its motion to amend its complaint at the conclusion of the present action." *Id.*