



The South Carolina Court of Appeals

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October 09, 2012

The-Honorable Mylinda D. Nettles
PO Box 7
Hampton SC 29924-0007

REMITTITUR

Re: Smart, Gary v. Grady, James
Lower Court Case No. 2009CP2500285
Appellate Case No. 2011-197289

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Jason Franklin Ward
Mark Brandon Tinsley
Patrick M. Higgins
Robert L. Widener

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2012 OCT 09 AM 8:47
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HAMPTON COUNTY, S.C.
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SC Court of Appeals

The South Carolina Court of Appeals

Gary Smart, Respondent,

v.

James Allen Grady, Louis Daniel Moffett, Lynwood Brantley d/b/a Brantley Hauling, Randolph Murdaugh, III, Defendants,

Of whom James Allen Grady is the Appellant.

Appellate Case No. 2011-197289

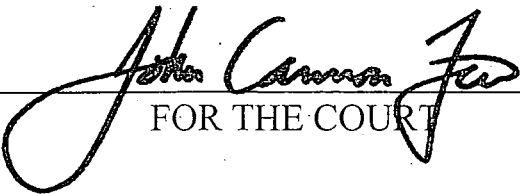
ORDER

Appellant filed a notice of appeal from (1) the trial court's oral ruling of August 8, 2011, striking Defendants Louis Daniel Moffett and Lynwood Brantley d/b/a Brantley Hauling from the underlying action; and (2) the trial court's order of August 3, 2011, denying Defendants' motions to compel execution of stipulations of dismissal and to transfer venue.

Respondent has filed a motion to dismiss arguing the orders are not immediately appealable. Appellant filed a return, withdrawing his appeal from the oral ruling of August 8, 2011, but arguing the order denying the motion to compel execution of the stipulation of dismissal and the motion to transfer venue is properly before this Court. Respondent filed a reply.

After careful consideration, Respondent's motion is granted and this appeal is dismissed. Because the denial of the Defendants' motion to compel execution of the stipulations of dismissal is akin the denial of a motion to enforce a settlement, the ruling is not immediately appealable pursuant to section 14-3-330 of the South Carolina Code. *Peterkin v. Brigman*, 319 S.C. 367, 461 S.E.2d 809 (1995). Furthermore, an order refusing to transfer venue is not immediately appealable. See *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 529 S.E.2d 11 (2000) (holding

the trial court's order denying a motion to change venue was not immediately appealable and noting that the order was not one affecting a substantial right because any error could be corrected on appeal following the trial).

 C.J.
FOR THE COURT

Columbia, South Carolina

cc:

Jason Franklin Ward
Mark Brandon Tinsley
Patrick M. Higgins
Robert L. Widener

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