

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

**SC Court of Appeals**

Roger M. Young, Circuit Court Judge

Case No.: 11-CP-10-5051

CORPORATE AIR, LLC and  
CAM INVESTMENTS, INC.,

Appellants,

v.

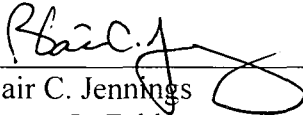
DAVISAIR, INC., and GARY  
DAVIS,

Respondents.

MOTION TO DISMISS APPEAL AS MOOT

Respondents DavisAir, Inc., and Gary Davis, move to dismiss the appeal of the Order Compelling Discovery of the Honorable Roger M. Young dated July 30, 2012. In addition to the grounds stated in Respondents' August 20, 2012 motion, Respondent would assert that the appeal is now moot. Respondents, with the consent of Appellants, filed an Amended Summons and Complaint on November 26, 2012 removing from their prayer for relief the requests for Appellants to make its accounting a financial records available to Respondents and Respondents' agent and that Respondents provide accounting and financial records. A copy of the Amended Summons and Complaint is attached hereto as "Exhibit A". The Amended Summons and Complaint renders the Appellant's appeal moot. Respondents respectfully request that this appeal be dismissed.

February 28, 2012

  
Blair C. Jennings  
Lauren L. Felder  
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ATTORNEY'S FOR RESPONDENTS



IN THE STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 DAVISAIR, INC. and GARY DAVIS, )  
 )  
 Plaintiffs, )  
 )  
 Vs. )  
 )  
 CORPORATE AIR, LLC and )  
 CAM INVESTMENTS, INC., )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 NINTH JUDICIAL CIRCUIT  
 CIVIL ACTION NO. 2011-CP-10-5051

**AMENDED COMPLAINT**

(Non-Jury)

FILED  
 2012 NOV 26 AM 10:34  
 JULIE J. ARMSTRONG  
 CLERK OF COURT  
 BY \_\_\_\_\_

The Plaintiffs above named, complaining of the Defendants, would respectfully show unto this Honorable Court as follows:

**PARTIES, JURISDICTION, AND VENUE:**

1. That the Plaintiff DavisAir, Inc. ("DavisAir") is a corporation organized and operating under the laws of the State of North Carolina.
2. Plaintiff Gary Davis ("Davis"), an individual, is a citizen and resident of County of Charleston, State of South Carolina.
3. Defendant Corporate Air, LLC. ("Corporate Air") is a limited liability company organized and operating under the laws of the State of Pennsylvania.
4. Defendant CAM Investments, Inc. (CAM) is a corporation organized and operating under the laws of the State of Pennsylvania.
5. Jurisdiction and venue of this action are proper in Charleston, South Carolina. The Defendants expressly consented to the venue and jurisdiction of the courts of the State of South Carolina and the County of Charleston with respect to any claims arising under the Redemption and Settlement Agreement ("Redemption") and the Default Agreement or otherwise

arising from the relationship between the parties. Furthermore, the parties expressly agreed that the laws of the State of South Carolina would govern these agreements.

6. Subsequent to the filing of this action, the parties agreed that the case would be heard in the Business Court in Charleston South Carolina.

**FACTS:**

7. DavisAir is a member and twenty percent (20%) owner of Corporate Air.

8. In 2010, in order to settle an outstanding loan and other disputes, Corporate Air agreed to redeem and purchase DavisAir's entire twenty percent (20%) membership interest in Corporate Air.

9. On August 6, 2010, Plaintiffs and Defendants, along with others, entered into the Redemption, which governed the purchase.

10. On November 19, 2010, Plaintiffs and Defendants, along with others, entered into the Default Agreement that sets forth the actions and events that constitute events of default under the Redemption and other agreements entered into between the parties relating to the purchase.

11. The Redemption and Default Agreements are confidential by their terms and, therefore, are not filed with this Complaint. The parties to this action possess copies of the Redemption and Default Agreements, and the provisions of these documents are incorporated as if fully set forth herein. Copies of the Redemption and Default Agreements will be provided to the Court for in camera review, if necessary.

**FOR A FIRST CAUSE OF ACTION  
(Declaratory and Injunctive Relief)**

12. Plaintiffs re-allege and incorporate by reference as though set forth herein verbatim the allegations of Paragraphs 1 through 10 of this Complaint.

13. The Default Agreement provides that Corporate Air shall maintain all of its accounting and financial records in accordance with past practice, provide copies to DavisAir on a monthly basis, and make its controller available to meet with Davis on a bi-monthly basis to review financial transactions and records.

14. The Default Agreement further states that failure to follow this accounting obligation constitutes an event of default.

15. Corporate Air has made progressive payments, as required, towards the purchase of the DavisAir membership interest.

16. Plaintiffs have demanded the complete accounting and financial records from Corporate Air, as required by the Redemption and Default Agreements.

17. Notwithstanding Plaintiffs' demands, Defendants have not provided the complete accounting and financial information to Plaintiffs, as required under the Redemption and Default Agreements.

18. Defendants have, thus, defaulted under the Default Agreement by failing to provide the accounting and financial records as required by the Default Agreement, and by such other actions as may be proven in this action.

19. Upon information and belief, Corporate Air has failed to maintain all of its accounting and financial records in accordance with past practice.

20. Plaintiffs have not received the accounting and financial records it is entitled to under the Default Agreement. However, based on the limited records received, Corporate Air has failed to maintain accounting and financial records in accordance with past practice.

21. Defendants have defaulted under the Default Agreement by this failure.

22. Defendants have refused to make their controller available to meet with Davis on a bi-monthly basis to review financial transactions and records as required by the Redemption and Default Agreement.

23. Davis has repeatedly requested this meeting and has been denied access to the controller unless and until he agrees to certain conditions placed on the meeting by Defendants.

24. Defendants have defaulted under the Default Agreement by failing to allow Davis access to the controller on a bi-monthly basis.

25. The Redemption and Default Agreements state that upon the occurrence of any event of default, among other things, that Plaintiffs have the right to appoint two (2) new representatives to the Membership Committee in place of CAM's two (2) designees and further that a member on the Compensation Committee will be replaced by a member of DavisAir's choosing.

26. Plaintiffs, therefore, pray for an order of this Court declaring Defendants in default of the Redemption and Default Agreements. Plaintiffs reserve their rights to amend and request other remedies provided under law or by the agreements, and further reserve their rights to bring such other and further claims and causes of action as may be determined from the review of documentation and information.

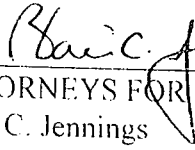
WHEREFORE, Plaintiffs pray judgment against the Defendants including but not limited to the following:

- a) That Defendants be ordered to be in default of the Redemption and Default Agreements, as alleged herein;
- b) That the Plaintiffs be awarded all remedies they are entitled to and described in the Redemption and Default Agreements;

- c) That Plaintiffs be permitted to appoint two (2) new representatives to the Membership Committee in place of CAM's two (2) designees;
- d) That the designated member of the Compensation Committee be replaced by a member of Plaintiffs' choosing;
- e) That Plaintiffs be awarded attorneys' fees and costs; and
- f) That Plaintiffs be awarded such other and further relief as this Court deems just and proper.

Respectfully submitted,

COFFEY, CHANDLER, KENT & MCKENZIE

  
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ATTORNEYS FOR THE PLAINTIFFS  
Blair C. Jennings  
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4969 Centre Pointe Drive, Suite 102  
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N. Charleston, SC 29418

November 8, 2012

N. Charleston, South Carolina

**PROOF OF SERVICE OF MOTION TO DISMISS APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Case No.: 2012-2127525

CORPORATE AIR, LLC and Appellants,  
CAM INVESTMENTS, INC.,

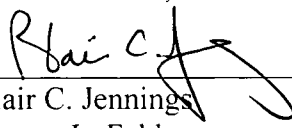
v.

DAVISAIR, INC., and GARY Respondents.  
DAVIS,

PROOF OF SERVICE

I certify that I have served the Respondents' Motion to Dismiss Appeal on Corporate Air, LLC and CAM Investments, Inc., by depositing a copy of it in the United States Mail, postage prepaid, on February 28, 2013, addressed to their attorney of record, Alice F. Paylor, Esquire, Rosen, Rosen & Hagood, LLC, Post Office Box 893, Charleston, South Carolina.

February 28, 2013

  
\_\_\_\_\_  
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