

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

GARY W. LANE and BOBCAT
OF NORTH FLORIDA, INC.,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

Appellants,

v.

CASE NO. 1D08-5256

TERESA C. LANE, as personal
representative of the Estate of
Bobby L. Lane, on behalf of
BOBCAT OF NORTH FLORIDA,
INC., a Florida Corporation,

Appellee.

Opinion filed January 21, 2009.

An appeal from the Circuit Court for Duval County.
Frederick B. Tygart, Judge.

William S. Graessle of William S. Graessle, P.A., Jacksonville, for Appellant.

J. Michael Lindell of Lindell & Farson, Jacksonville, for Appellee.

PER CURIAM.

Having considered the appellants' response filed on November 26, 2008,
which the Court hereby treats as a response to this Court's order dated
November 10, 2008, the appeal is dismissed. See Profile Invs., Inc. v. Delta Prop.

Mgmt., Inc., 957 So. 2d 70 (Fla. 1st DCA 2007). The order on appeal dismissed Count III of the Amended Counterclaim. This count challenged the appellee's ownership rights with regard to certain personal property but did not seek immediate possession of property; nor did the order appealed address possession of property. An order dismissing a claim that does not seek immediate possession of property is not an order that determines the right to immediate possession of property so as to be appealable pursuant to Florida Rule of Appellate Procedure 9.130(a)(3)(C)(ii). The appellee's motion to dismiss, filed on November 10, 2008, is hereby denied as moot.

DISMISSED.

BARFIELD, KAHN, and VAN NORTWICK, JJ., CONCUR.