

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

WILNER HARTLEY &
METCALF, P.A. and FARAH &
FARAH, P.A.,

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

Appellant,

CASE NO. 1D10-6267

v.

HOWARD & ASSOCIATES,
ATTORNEYS AT LAW, P.A.,
and RICHARD A. DAYNARD,
ESQ.,

Appellee.

Opinion filed July 22, 2011.

An appeal from the Circuit Court for Leon County.
Jackie L. Fulford , Judge.

Norwood S. Wilner, Stephanie J. Hartley, and Richard J. Lantinberg of Wilner Hartley & Metcalf, Jacksonville, for Appellants.

Douglas S. Lyons of Lyons & Farrar, P.A., Tallahassee; and John P. Leonard, Scott S. Flynn of McElroy, Deutsch, Mulvaney & Carpenter, LLP, Morristown, NJ, for Appellees.

PER CURIAM.

Appellants seek review of a non-final order denying their motion to dismiss for improper venue. The motion was directed to the “Verified Substitute Amended

Complaint,” which alleged a single cause of action for an accounting. The order denying the motion to dismiss also granted Appellees’ motion for leave to file a “Verified Third Amended Complaint,” which included additional venue allegations and also alleged additional causes of action based on the facts developed through the limited discovery allowed by the trial court on the Verified Substitute Amended Complaint. The motion to dismiss the Verified Substitute Amended Complaint was rendered moot by the trial court’s order allowing the filing of the Verified Third Amended Complaint. See Vanderberg v. Rios, 798 So. 2d 806, 807 (Fla. 4th DCA 2001) (explaining that the filing of an amended complaint renders moot the legal sufficiency of the original complaint). The record does not include a transcript of the hearing on the motion to dismiss and the trial court’s order does not explain its rationale for denying the motion; however, because the trial court could have properly denied the motion to dismiss as moot, we affirm the order on appeal. See Dade County Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638, 644 (Fla. 1999) (explaining that the appellate court is required to affirm if there is any basis in the record that would support the trial court’s ruling). This decision should not be misconstrued as a determination that venue is proper in Leon County; that issue is for the trial court to determine in the first instance on a proper motion to dismiss the Verified Third Amended Complaint.

AFFIRMED.

WETHERELL, MARSTILLER, and RAY, JJ., CONCUR.