

This court may know of some authority for holding that this appeal has been rendered moot by the fact that Huxmann did not appeal from the entry of summary judgment, but Huxmann cannot find any, and respondent has not supplied any. This court has had jurisdiction over this case since July 24, 2007. The fact that the district court issued an order affecting this appeal is undeniable. That October 31, 2007 order is most certainly within this court's scope of review where Minn. R. Civ. App. P. 103.04 ("Scope of Review") provides in pertinent part:

The appellate courts may reverse, affirm or modify the judgment or order appealed from **or take any other action as the interests of justice require.**

On appeal from or review of an order **the appellate courts may review any order affecting the order from which the appeal is taken**

(Emphasis added.)


CONCLUSION

For the foregoing reasons, respondent's motion to dismiss this appeal should be denied, and, upon reconsideration, appellant's motion to vacate the October 31, 2007 order for summary judgment for lack of jurisdiction should be granted.

Respectfully submitted,

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