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# Order on Defendant Cadillac Jack, Inc.'s Motion to Reopen Discovery Period

Elizabeth E. Long  
*Superior Court of Fulton County*

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MICHAEL MACKE,

Plaintiff,

v.

CADILLAC JACK INC., SMART GAMES  
 GROUP CORP., EUGENE CHAYEVSKY,  
 OLEG BOYKO, AND ZIONS FIRST  
 NATIONAL BANK

Defendants.

)  
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 ) Civil Action No. 2008-CV-158015  
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**ORDER ON DEFENDANT CADILLAC JACK, INC.'S MOTION TO REOPEN  
 DISCOVERY PERIOD**

This matter is before the Court on Defendant Cadillac Jack, Inc.'s Motion to Reopen Discovery Period to obtain discovery from Primero Games, LLC, and Kelly Macke regarding Michael Macke's involvement and relationship with Primero Games and the extent to which Cadillac Jack sustained any damages by virtue of Mr. Macke's purported involvement. After reviewing the motion, the briefs submitted therewith, and the record of the case, the Court hereby **DENIES** the motion. Pursuant to the Notice of Appeal filed August 10, 2011, Michael Macke is appealing the Court's Order dated July 11, 2011, which denied Mr. Macke's motion for summary judgment on the counterclaims for which Cadillac Jack is seeking further discovery.

Upon the filing of a Notice of Appeal, the trial court loses jurisdiction to modify or enforce a judgment that is the subject of the appeal. Davis v. Harpagon Co., LLC, 281 Ga. 250 (2006). Although a Notice of Appeal does not deprive the trial court of jurisdiction as to other matters in the same case not affected by the judgment on appeal, it otherwise serves as a supersedeas of judgment, and the trial court is deprived of authority to modify such judgment while on appeal. Cohran v. Carlin, 249 Ga. 51 2. Because the matters sought in discovery relate

to the matters currently being appealed, the Court declines to consider whether additional discovery is justified until the Court of Appeals renders a ruling.

SO ORDERED this 12<sup>th</sup> day of September, 2011.



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ELIZABETH E. LONG, SENIOR JUDGE  
Superior Court of Fulton County  
Atlanta Judicial Circuit

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