

IN THE UTAH COURT OF APPEALS

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Justin Traver,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellant,	)	
	)	Case No. 20100529-CA
v.	)	
	)	
Michael Patrias and	)	F I L E D
Danielle Lapham,	)	(November 26, 2010)
	)	
Defendants and Appellees.	)	<span style="border: 1px solid black; padding: 2px;">2010 UT App 337</span>

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Fourth District, Heber Department, 080500133  
The Honorable Derek P. Pullan

Attorneys: Randy B. Birch, Heber, for Appellant

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Before Judges McHugh, Thorne, and Voros.

PER CURIAM:

Justin Traver appeals the district court's order entered on May 28, 2010. This matter is before the court on a sua sponte motion for summary disposition. We dismiss the appeal without prejudice.

Generally, "[a]n appeal is improper if it is taken from an order or judgment that is not final." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. Indeed, this court lacks jurisdiction to consider an appeal unless it is taken from a final, appealable order. See id. ¶ 8. Previously, a signed minute entry could be considered a final, appealable order so long as it specified with certainty a final determination of the rights of the parties and was susceptible to enforcement. See Dove v. Cude, 710 P.2d 170, 171 (Utah 1985); see also Cannon v. Keller, 692 P.2d 740, 741 (Utah 1984).

The Utah Supreme Court has since determined that the prior framework for analyzing the finality of a minute entry or order for purposes of appeal was unworkable. See Giusti v. Sterling Wentworth Corp., 2009 UT 2, ¶¶ 30-36, 201 P.3d 966. Under Giusti, a minute entry or order contemplated as final by the district court "must explicitly direct that no additional order

is necessary." Id. ¶ 32. Otherwise, when the district court does not expressly direct that its order is the final order of the court, rule 7(f)(2) of the Utah Rules of Civil Procedure requires the parties to prepare and file an order to trigger finality for purposes of appeal. See id. ¶ 30.

The May 28, 2010 ruling and order required the preparation and entry of a separate judgment in conformity with the district court's decision. Because the district court contemplated an additional order, the May 28, 2010 order is not a final, appealable order. See id. ¶¶ 27-32. When an appeal is taken from an order that is not a final, appealable order, this court lacks jurisdiction and we must dismiss the appeal. Bradbury, 2000 UT 50, ¶ 8.

Accordingly, the appeal is dismissed without prejudice to the filing of a timely appeal from a final order.

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Carolyn B. McHugh,  
Associate Presiding Judge

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William A. Thorne Jr., Judge

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J. Frederic Voros Jr., Judge