

IN THE UTAH COURT OF APPEALS

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Alpine Systems Engineering,)	MEMORANDUM DECISION
LTD,)	(Not For Official Publication)
)	
Plaintiff and Appellant,)	Case No. 20100552-CA
)	
v.)	F I L E D
)	(October 7, 2010)
Fellowship for Strengthening)	
the Future of Families, et)	2010 UT App 277
al.,)	
)	
Defendants and Appellees.)	

Sixth District, Loa Department, 080600016
The Honorable Wallace A. Lee

Attorneys: John Susin, Toronto, Canada, Appellant Pro Se
Richard K. Chamberlain, Richfield, for Appellees

Before Judges Davis, Voros, and Roth.

PER CURIAM:

John Susin seeks to appeal the district court's order entered on May 25, 2010.¹ 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.

Pursuant to prior authority, 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,

¹Because we dismiss the case due to lack of jurisdiction, we do not address the question of whether Susin may file an appeal when he has not been made a party to the action.

171 (Utah 1985); see also Cannon v. Keller, 692 P.2d 740, 741 (Utah 1984). The Utah Supreme Court has since determined that the framework for analyzing the finality of a minute entry or order for purposes of appeal was unworkable. Consequently, in Giusti v. Sterling Wentworth Corp., 2009 UT 2, ¶ 32, 201 P.3d 966, the supreme court held that a minute entry or order contemplated as final by the district court "must explicitly direct that no additional order is necessary." Id. 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 prevailing party, or the non-prevailing party when necessary, to prepare and file an order to trigger finality for purposes of appeal. See id. ¶ 30.

The May 25, 2010 order does not satisfy the requirements set forth in Giusti. While the district court may have intended the order to be its final order, the district court did not expressly indicate that the order was the final order of the court and that no further order was required. Furthermore, neither party prepared a final order as required by rule 7(f)(2) of the Utah Rules of Civil Procedure. Thus, the May 25, 2010 order is not final for purposes of appeal, and this court is required to dismiss the appeal.

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

James Z. Davis,
Presiding Judge

J. Frederic Voros Jr., Judge

Stephen L. Roth, Judge