IN THE UTAH COURT OF APPEALS

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| Kirsteen Didi Blocker,<br><br>Petitioner and Appellant,<br><br>v.<br><br>Michael Phillip Blocker,<br><br>Respondent and Appellee. | MEMORANDUM DECISION<br>(Not For Official Publication)<br><br>Case No. 20100263-CA<br><br>F I L E D<br>(November 4, 2010)<br><br>2010 UT App 303 |

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Fourth District, Provo Department, 024402553
The Honorable Lynn W. Davis

Attorneys: David Drake, Midvale, for Appellant
Ron D. Wilkinson and Kristen B. Gerdy, Orem, for Appellee

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Before Judges Davis, McHugh, and Voros.

PER CURIAM:

Kirsteen Didi Blocker appeals the district court's Findings of Fact, Order, and Judgment entered on February 22, 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.

Pursuant to prior authority, a signed minute entry or order 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 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 February 22, 2010 order and judgment 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 and judgment was the final order of the court and that no further order was required. Furthermore, no party prepared a final order as required by rule 7(f)(2) of the Utah Rules of Civil Procedure. Thus, the February 22, 2010 order and judgment 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.

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James Z. Davis,
Presiding Judge

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Carolyn B. McHugh,
Associate Presiding Judge

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J. Frederic Voros Jr., Judge