

IN THE UTAH COURT OF APPEALS

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Kim Bowers,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	
)	Case No. 20100242-CA
v.)	
)	F I L E D
John Call,)	(August 5, 2010)
)	
Defendant and Appellee.)	2010 UT App 215

Fourth District, Provo Department, 090402065
The Honorable Darold J. McDade

Attorneys: Kim Bowers, Payson, Appellant Pro Se
D. Miles Holman, Sandy, for Appellee

Before Judges Thorne, Voros, and Christiansen.

PER CURIAM:

This matter is before the court on its sua sponte motion for summary disposition based upon lack of jurisdiction due to the absence of a final, appealable order.¹ See Utah R. App. P. 3(a).

This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order, see Utah R. App. P. 3(a), or qualifies for an exception to the final judgment rule. See Loffredo v. Holt, 2001 UT 97, ¶¶ 10, 15, 37 P.3d 1070. An order is final only if it disposes of the case as to all parties and "finally dispose[s] of the subject-matter of the litigation on the merits of the case." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649 (internal quotation marks omitted); see also Utah R. Civ. P. 54(b) (stating that an order "that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the

¹John Call also filed a separate motion for summary disposition, arguing that the issues raised in the appeal were so insubstantial as not to merit further proceedings and consideration by the court.

entry of judgment adjudicating all the claims and rights and liabilities of all the parties").

The decision appealed from is not a final, appealable order because it did not finally resolve all issues in the litigation. Specifically, in the order from which Bowers appeals, the district court reserved determination of the amount of attorney fees that should be awarded to John Call for prevailing in the litigation. "[A] trial court must determine the amount of attorney fees awardable to a party before the judgment becomes final for the purposes of an appeal under Utah Rule of Appellate Procedure 3." ProMax Dev. Corp. v. Raile, 2000 UT 4, ¶ 15, 998 P.2d 254; see also Loffredo, 2001 UT 97, ¶ 14 (concluding that requests for attorney fees must be decided in order for a decision to be appealed). Because this issue remains, there is no final, appealable order. Accordingly, this court lacks jurisdiction to hear this appeal. When this court lacks jurisdiction, it must dismiss the appeal. See Loffredo, 2001 UT 97, ¶ 11.

The appeal is dismissed without prejudice to the filing of a timely appeal after the district court enters a final, appealable order.

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge

Michele M. Christiansen, Judge