

IN THE UTAH COURT OF APPEALS

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OSI Collection Services, Inc.,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20080468-CA
v.)	
)	F I L E D
Robert Copier,)	(August 21, 2008)
)	
Defendant and Appellant.)	2008 UT App 311

Third District, West Jordan Department, 040408689
The Honorable Royal I. Hansen

Attorneys: Robert Copier, Salt Lake City, Appellant Pro Se
Drew B. Quinn, Randy L. Robinson, and Thomas A.
Cannon, Salt Lake City, for Appellee

Before Judges Thorne, Bench, and Orme.

PER CURIAM:

Defendant Robert Copier appeals the district court's final judgment entered on April 25, 2008. This matter is before the court on Plaintiff OSI Collection Services, Inc.'s (OSI) motion for summary disposition.

Copier first asserts that the district court erred in dismissing his third-party complaint. Under rule 14 of the Utah Rules of Civil Procedure, a third-party plaintiff "need not obtain leave to make the service if he files the third-party complaint not later than ten days after he serves his original answer." Utah R. Civ. P. 14. "Otherwise [a party] must obtain leave on motion upon notice to all parties to the action." Id. The record demonstrates that Copier filed his original answer on July 27, 2005. Although Copier was granted leave to amend his answer and third-party complaint previously, Copier elected not to add University Physicians or Bryan Cannon as parties to the litigation until May 7, 2007. Copier could have sought leave to add these parties when he was previously permitted leave to add

Gap, Inc. and the University of Colorado Hospital. Copier also could have brought his third-party complaint against these parties when he filed his original answer or within ten days thereafter without leave of the court. Because Copier failed to do so, the district court did not err in determining that the third-party complaint against University Physicians and Bryan Cannon was untimely and filed without leave of the court. Thus, we cannot say that the trial court erred in dismissing the third-party complaint.

Copier next asserts that the district court erred in dismissing his counterclaim against OSI. However, the record demonstrates that Copier had fully resolved all claims against OSI by accepting a \$2,500 offer of judgment. This judgment was entered by the district court on June 20, 2007. Furthermore, Copier expressly admitted that he had fully settled with OSI in his Status Report and Waiver of Status Hearing, which he submitted to the court on January 18, 2007. Thus, the district court did not err in dismissing Copier's counterclaim against OSI or striking any outstanding motions relating to the fully resolved counterclaim.

Lastly, Copier asserts that the district court erred in certifying the June 20, 2007 judgment as final under rule 54(b) of the Utah Rules of Civil Procedure. The record demonstrates that the district court initially reserved ruling on OSI's motion for entry of a final judgment. At the time the motion was made, there remained pending claims between Copier and Gap, Inc. The district court's April 24, 2008 order indicated that the court granted OSI's motion for a final judgment under rule 54(b).

Copier has failed to demonstrate how he was prejudiced by the rule 54(b) certification. An error is harmless if it is sufficiently inconsequential and there is no reasonable likelihood that it affected the outcome of the proceedings. See State v. Evans, 2001 UT 22, ¶ 20, 20 P.3d 888. Even assuming that the district court improperly certified its June 20, 2007 judgment under rule 54(b), such alleged error would be inconsequential as it has not affected Copier's rights or the outcome of the proceedings. It is also clear that it has had no effect on the appeal as the record clearly demonstrates that the notice of appeal was filed after a final order and that no claims or parties remain pending in the trial court.

Accordingly, the district court's April 25, 2008 order is affirmed.¹

William A. Thorne Jr.,
Associate Presiding Judge

Russell W. Bench, Judge

Gregory K. Orme, Judge

¹ To the extent that Copier has raised other issues not specifically addressed above, we determine that such issues lack merit, and we decline to address them further. See State v. Carter, 888 P.2d 629, 648 (Utah 1994).