

IN THE UTAH COURT OF APPEALS

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Foreclosure of the Property	)	MEMORANDUM DECISION
Located at: 12124 South	)	(Not For Official Publication)
Comancheria Circle, Draper,	)	
Utah,	)	Case No. 20100398-CA
	)	
Plaintiff,	)	
	)	F I L E D
v.	)	(August 12, 2010)
	)	
Jeffery W. Johnson,	)	2010 UT App 220
	)	
Defendant.	)	
_____	)	
	)	
Lost Money Recovery Services,	)	
LLC,	)	
	)	
Claimant and Appellant,	)	
	)	
v.	)	
	)	
Richard Barry Sharp and	)	
Stephanie Nikol Johnson,	)	
	)	
Claimants and Appellees.	)	

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Third District, Salt Lake Department, 080924402  
The Honorable Michele M. Christiansen

Attorneys: Christopher S. Hill, Salt Lake City, for Appellant  
Robert D. Pusey, Sandy, for Appellee Stephanie Nikol  
Johnson

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Before Judges Davis, Thorne, and Voros.

PER CURIAM:

Lost Money Recovery Services, LLC appeals the district court's order entered on April 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. This court lacks jurisdiction to consider an appeal unless it is taken from a final, appealable order. See id. ¶ 8.

Previously, certain orders could be considered final, appealable orders so long as they specified with certainty a final determination of the rights of the parties and were 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, ruling, 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 prevailing party to prepare and file an order to trigger finality for purposes of appeal. See id. ¶ 30.

The April 22, 2010 ruling does not satisfy the requirements set forth in Giusti. The district court did not expressly indicate that it was the final order of the court. Furthermore, neither party prepared a final order as required by rule 7(f)(2) of the Utah Rules of Civil Procedure. Thus, this court lacks jurisdiction for lack of a final, appealable order. See Bradbury, 2000 UT 50, ¶ 8. When a court lacks jurisdiction, it "retains only the authority to dismiss the action." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

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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William A. Thorne Jr., Judge

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J. Frederic Voros Jr., Judge