

IN THE UTAH COURT OF APPEALS

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Goodman & Chesnoff, a Nevada corporation; and David Z. Chesnoff,  
 Plaintiffs,  
 v.  
 Michael John Nikols,  
 Defendant.

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John Nikols,  
 Appellant,  
 v.  
 Goodman & Chesnoff, a Nevada corporation; and David Z. Chesnoff,  
 Appellees.

MEMORANDUM DECISION  
 (Not For Official Publication)  
 Case No. 20100046-CA

F I L E D  
 (March 4, 2010)

2010 UT App 53

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Third District, Salt Lake Department, 050921826  
 The Honorable John Paul Kennedy

Attorneys: L. Rex Sears, Salt Lake City, for Appellant  
 Scott O. Mercer and Scott S. Bridge, Salt Lake City,  
 for Appellees

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Before Judges Thorne, Voros, and Greenwood.<sup>1</sup>

PER CURIAM:

John Nikols seeks to appeal the trial court's denial of his objection to a writ of execution permitting the sale of properties titled in his son Michael Nikols's name. This matter is before the court on its own motion for summary disposition

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<sup>1</sup>The Honorable Pamela T. Greenwood, Senior Judge, sat by special assignment pursuant to Utah Code section 78A-3-102 (2008) and rule 11-201(6) of the Utah Rules of Judicial Administration.

based on lack of jurisdiction due to the absence of a final order.

Appeals as of right typically may be taken only from final orders or judgments. See Utah R. App. P. 3(a). Generally, an appeal taken from an order that is not final is improper and this court must dismiss it. See Bradbury v. Valencia, 2000 UT 50, ¶¶ 8-9, 5 P.3d 649. "[T]he law is well settled in the state that the statements made by a trial judge are not the judgment of the case and it is only the signed judgment that prevails." State v. Gerrard, 584 P.2d 885, 887 (Utah 1978). Accordingly, oral rulings from the bench are not final and appealable. See id.

The trial court held a hearing as requested by Nikols. After hearing Nikols's objections, the trial court overruled the objections and required counsel to prepare an order. Nikols objected to the form of the proposed order formalizing the trial court's ruling. Nikols's objections to the order are pending before the trial court. As a result, the actual judgment remains in flux and there is no final order from which to appeal. Unless and until a final order is entered, this court lacks jurisdiction and must dismiss this appeal. See Bradbury, 2000 UT 50, ¶ 8.

Accordingly, this appeal is dismissed without prejudice to the timely filing of a notice of appeal after the entry of a final order.<sup>2</sup>

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William A. Thorne Jr., Judge

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Pamela T. Greenwood, Senior Judge

I CONCUR IN THE RESULT:

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J. Frederic Voros Jr., Judge

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<sup>2</sup>Both parties filed motions for summary disposition on grounds other than jurisdiction. These motions are rendered moot by this decision.