

IN THE UTAH COURT OF APPEALS

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Stichting Mayflower Mountain)
 Fonds and Stichting Mayflower)
 Recreational Fonds,)
)
 Plaintiffs, Counterclaim)
 Defendants, and Appellants,)
)
 v.)
)
 Department of Transportation,)
)
 Defendant, Counterclaimant,)
 and Appellee.)
)
 _____)
 Department of Transportation,)
)
 Counterclaimant and)
 Appellee,)
)
 v.)
)
United Park City Mines)
Company; Robert W. Dunlap;)
 Kathy L. Dunlap; Mayfinance,)
 C.V.; and Cooperative Centrale)
 Raiffeisen Boerenleenbank,)
 B.A.,)
)
 Additional Counterclaim)
 Defendants and Appellee,)
)
 v.)
)
 Park City Municipal)
 Corporation,)
)
 Third-party Defendant and)
 Appellee.)

MEMORANDUM DECISION
 (Not For Official Publication)
 Case No. 20080506-CA

F I L E D
 (July 31, 2008)

2008 UT App 294

Third District, Silver Summit Department, 050500159
 The Honorable Bruce C. Lubeck

Attorneys: E. Craig Smay, Salt Lake City, for Appellants
Mark L. Shurtleff and Randy S. Hunter, Salt Lake
City, for Appellee Department of Transportation
Robert S. Campbell, Clark K. Taylor, and Stephen K.
Christiansen, Salt Lake City, for Appellee United
Park City Mines Company

Before Judges Bench, Davis, and Orme.

PER CURIAM:

Stichting Mayflower Mountain Fonds and Stichting Mayflower Recreational Fonds (collectively, Stichting) seek to appeal the trial court's order denying a motion to dismiss. This is before the court on Appellees Department of Transportation's and United Park City Mines Company's motions for summary disposition based on lack of jurisdiction.

Generally, appeals may be taken only from final orders or judgments. See Utah R. App. P. 3(a). To be final, an order must dispose of the case as to all parties and finally determine the subject matter of the litigation on the merits of the case. See Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. Where an appeal is not properly taken, this court lacks jurisdiction and must dismiss the appeal. See id. ¶ 8.

An appeal from a nonfinal order is improper unless the order fits within an exception to the final judgment rule. See id. ¶ 9. A nonfinal order may be appealed if such appeals are statutorily permissible, if the appellate courts grant permission for interlocutory appeal under rule 5 of the Utah Rules of Appellate Procedure, or if the trial court properly certifies the order as final under rule 54(b) of the Utah Rules of Civil Procedure. See id. None of these exceptions apply here. Furthermore, the order is clearly not a final order but, rather, an interlocutory order denying a motion to dismiss and moving the case forward. Accordingly, this appeal is improperly taken from a nonfinal order and this court lacks jurisdiction over the appeal. See id. ¶ 8.

Stichting argues that the order appealed constitutes a final appealable order under the federally recognized collateral order doctrine. See generally Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 546-47 (1949). However, Utah has not recognized the collateral order doctrine. See Tyler v. Department of Human Servs., 874 P.2d 119 (Utah 1994); Merit Elec. v. Department of Commerce, 902 P.2d 151 (Utah Ct. App. 1995); cf. Bradbury v.

Valencia, 2000 UT 50, ¶ 12, 5 P.3d 659 (listing exceptions to the final judgment rule and not including collateral orders).

Accordingly, this appeal is dismissed without prejudice to the filing of a timely notice of appeal after the entry of a final order.¹

Russell W. Bench, Judge

James Z. Davis, Judge

Gregory K. Orme, Judge

¹United Park City Mines Company's motion for sanctions under rule 33 of the Utah Rules of Appellate Procedure is denied.