

IN THE UTAH COURT OF APPEALS

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N.A.R., Inc.,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff,)	
)	Case No. 20100697-CA
v.)	
)	F I L E D
Aubrie Vermillion,)	(November 12, 2010)
)	
Defendant and Appellee.)	2010 UT App 322
_____)	
)	
Neil B. Baird, D.D.S.,)	
)	
Appellant.)	

Third District, Salt Lake Department, 070908175
The Honorable Robert K. Hilder

Attorneys: Derek A. Coulter and Robert T. Tateoka, Draper, for
Appellant
Ronald Ady, Salt Lake City, for Appellee

Before Judges Davis, McHugh, and Voros.

PER CURIAM:

Neil B. Baird appeals the trial court's order denying his motion for sanctions and attorney fees. This is before the court on its own motion for summary disposition based on the lack of jurisdiction due to the absence of a final order.

Baird moved for sanctions against Aubrie Vermillion based on aggressive discovery tactics in the underlying debt collection action. The trial court deferred the motion until after the substantive portion of the case was concluded. In the debt collection action, N.A.R., Inc. and Vermillion entered a settlement agreement on the record in court on the day trial was scheduled. Counsel for N.A.R., Inc. was to draft the order for the court to enter formalizing the agreement and dismissing the case.

Baird again moved for attorney fees. In response, Vermillion moved the court to enforce the settlement agreement,

in which the parties apparently agreed to bear their own fees. The trial court denied attorney fees to Baird, finding that the agreement applied to him. Baird appealed the attorney fees order. However, there has been no order entered finally resolving the underlying case.

Generally, appeals may be taken only from final orders or judgments. See Utah R. App. P. 3(a); Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. To be final, an order "must dispose of the case as to all the parties, and finally dispose of the subject-matter of the litigation on the merits of the case." Bradbury, 2000 UT 50, ¶ 9. Here, there is no final order because the order appealed from does not dispose of the case as to all parties and does not resolve the actual subject matter of the litigation below.

The record establishes that no order formalizing the settlement agreement, its acceptance by the court, or the dismissal of the underlying case has been entered. A proposed order has been submitted, but the form and scope of the order is currently an issue pending in the trial court. The order resolving the case not only is required for finality and appeal purposes, but is also a predicate to the trial court's ruling on the attorney fees issue. Accordingly, there is no final order in this case and the attorney fees order is merely an interlocutory order. Absent a final order, this court lacks jurisdiction and must dismiss the appeal. See id. ¶ 8.

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

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

J. Frederic Voros Jr., Judge