

IN THE UTAH COURT OF APPEALS

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Dean Wall,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellant,	)	
	)	Case No. 20050483-CA
v.	)	
	)	F I L E D
Wells Fargo Bank,	)	(July 29, 2005)
	)	
Defendant and Appellee.	)	2005 UT App 335

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Second District, Farmington Department, 040700059  
The Honorable Michael G. Allphin

Attorneys: Dean Wall, Layton, Appellant Pro Se  
Gregory S. Roberts, Salt Lake City, for Appellee

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Before Judges Davis, Orme, and Thorne.

PER CURIAM:

Dean Wall appeals from a judgment entered on December 30, 2004. Wall filed his notice of appeal on May 10, 2005. This case is before the court on Wells Fargo Bank's (Wells Fargo) motion for summary dismissal for lack of jurisdiction due to the failure to file a timely notice of appeal.

A notice of appeal must be filed "with the clerk of the trial court within 30 days after the date of entry of the judgment or order appealed from." Utah R. App. P. 4(a). If an appeal is not timely filed, this court lacks jurisdiction to hear the appeal and must dismiss. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶7, 13 P.3d 616.

Wall was required to file his notice of appeal thirty days after the December 30 judgment was entered. See Utah R. App. P. 4(a). Wall filed his notice of appeal long after the appeal time had run.

Even if this court liberally construed Wall's post-judgment "motion to reverse judgment" as a motion for new trial pursuant to rule 59 of the Utah Rules of Civil Procedure, the appeal is untimely because the motion was denied by the district court on February 8, 2005, three months before this appeal was filed. See

Utah R. App. P. 4(b) (stating that if a timely and proper motion is filed pursuant to rule 59, "the time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion"). Therefore, this court lacks jurisdiction over the appeal. See Serrato, 2000 UT App 299 at ¶7.

The appeal is dismissed.

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James Z. Davis, Judge

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge