

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED  
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 3/26/2013  
RUTH A. WILLINGHAM,  
CLERK  
BY: mjt

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE

LARRY PULLEY, ) 1 CA-CV 11-0773  
)  
Plaintiff/Appellant, ) DEPARTMENT E  
)  
v. ) **MEMORANDUM DECISION**  
) (Not for Publication -  
) Rule 28, Arizona Rules of  
SETERUS, INC., a Delaware ) Civil Appellate Procedure)  
corporation dba IBM BUSINESS )  
LENDER PROCESS SERVICES, )  
)  
Defendant/Appellee. )  
\_\_\_\_\_ )

Appeal from the Superior Court in Yavapai County

Cause No. P1300CV201101426

The Honorable Warren R. Darrow, Judge Pro Tempore

**APPEAL DISMISSED**

Larry Pulley, Plaintiff/Appellant  
*In Propria Persona*

Ehrenberg, AZ

Wright, Finlay & Zak, LLP  
by Bradford E. Klein  
Attorneys for Defendant/Appellee

Newport Beach, CA

**P O R T L E Y**, Judge

¶1 Larry Pulley ("Pulley") and co-plaintiff Kay Deliman ("Deliman") filed a forcible detainer action lawsuit to recover their property. After the property was voluntarily returned to

them, the trial court dismissed the action without prejudice and awarded them costs. Pulley now appeals the judgment. For the reasons that follow, we dismiss his appeal for lack of jurisdiction.

#### **FACTS AND PROCEDURAL HISTORY**

¶2 Deliman owned a home in Prescott, Arizona, subject to a loan and secured by a deed of trust. After she avoided a trustee's sale by securing a loan modification, she transferred a one-tenth of one percent interest in the property to Pulley by quitclaim deed.

¶3 The house was damaged by fire in May 2011. Because of the damage, Deliman temporarily vacated her home, and her insurance company boarded it up and secured it.<sup>1</sup> While boarded up, the lender, Seterus, Inc., directed Safeguard Properties, LLC<sup>2</sup> ("Safeguard") to inspect the property. Without contacting Deliman or Pulley, Safeguard determined the house had been abandoned, and changed the locks to secure the property for Seterus.

¶4 Deliman and Pulley then filed a forcible detainer action in Yavapai Superior Court. After service, Safeguard agreed to return possession of the house to Deliman and Pulley

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<sup>1</sup> After her insurance company completed its investigation, it released the property to Deliman and Pulley, and they placed their own locks on the home and two adjacent sheds.

<sup>2</sup> Safeguard is not a party on appeal.

and pay the related costs of \$254. Seterus also agreed to restore possession and pay related costs of \$53. The court entered an order awarding the stipulated costs to Deliman and Pulley and dismissed their action without prejudice. Pulley then filed this appeal.

#### DISCUSSION

¶5 We first note that the forcible detainer action was dismissed without prejudice. Although neither party raises the issue of our jurisdiction, we have an independent duty to review our jurisdiction in order to determine whether we can address the issues or whether we have to dismiss the appeal. *Kim v. Mansoori*, 214 Ariz. 457, 459, ¶ 5, 153 P.3d 1086, 1088 (App. 2007) (citing *Davis v. Cessna Aircraft Corp.*, 168 Ariz. 301, 304, 812 P.2d 1119, 1122 (App. 1991)). Generally, appellate court jurisdiction is "limited to final judgments which dispose of all claims and all parties." *Musa v. Adrian*, 130 Ariz. 311, 312, 636 P.2d 89, 90 (1981); see also Ariz. Rev. Stat. § 12-2101(A) (West 2013) (limiting appellate jurisdiction to a "final judgment entered in an action . . . in superior court").

¶6 There are two reasons we do not have jurisdiction over this appeal. First, Pulley recovered the property and was awarded costs. See *Douglas v. Governing Bd. of Window Rock Consol. Sch. Dist. No. 8*, 221 Ariz. 104, 108, ¶ 8, 210 P.3d 1275, 1279 (App. 2009) ("[W]hen a court enters a judgment in

favor of a party, that party is not 'aggrieved' and thus has no standing to appeal."). Second, and more importantly, the forcible detainer action was dismissed without prejudice. As a result, such an order cannot be appealed. See *McMurray v. Dream Catcher USA, Inc.*, 220 Ariz. 71, 74, ¶ 4, 202 P.3d 536, 539 (App. 2009) ("Because it is not a final judgment, [a] dismissal without prejudice is not appealable and for that reason alone [an] appeal of [such an] order should be dismissed.") (internal quotation marks omitted) (alterations in original). Accordingly, we do not have jurisdiction to review a dismissal without prejudice.<sup>3</sup>

**CONCLUSION**

¶7 Based on the foregoing, we dismiss the appeal for lack of jurisdiction.

/s/

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MAURICE PORTLEY, Judge

CONCURRING:

/s/

\_\_\_\_\_  
MARGARET H. DOWNIE, Presiding Judge

/s/

\_\_\_\_\_  
PHILIP HALL, Judge

<sup>3</sup> Because we do not have jurisdiction, we do not address the claims that Pulley raises on appeal but did not raise with the trial court.