IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ROBERT D. ORR,	)	
	)	
Appellant,	)	
	)	
v.	)	
	)	**Case No. 16-2599-CM**
BROOKE CORPORATION, et al.,	)	
	)	
Appellees.	)	
	)	

MEMORANDUM AND ORDER

On March 28, 2017, appellant Robert D. Orr filed a document titled "Withdrawal of Appellant's Appeal of Compensation Order" (Doc. 21). This document appears to be an attempt to voluntarily dismiss the appeal pending before this court.

Appellant did not follow the proper procedure for voluntarily dismissing an appeal. Fed. R. Bankr. P. 8023 provides:

> The clerk of the district court or BAP must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the district court or BAP.

The Advisory Committee Notes to the rule specify that "[n]othing in the rule prohibits a district court or BAP from dismissing an appeal for other reasons authorized by law, such as the failure to prosecute an appeal."

In light of this guidance, the court construes appellant's filing as a motion for voluntary dismissal. The court is mindful that an appellant's request to discontinue his appeal "is usually granted on the application, unless some special reason be shown by the defendant for retaining the case with a view to a determination on the merits." *United States v. Minnesota & N. W. R. Co.*, 59 U.S. 241, 242

(1855). Appellant explains in his motion that he intends to pursue relief for the harm allegedly caused to him by Husch Blackwell, LLP through another avenue. The court notes that appellee previously filed a motion to dismiss this appeal, arguing that the order being appealed is a non-final, interlocutory order.

As appellant has indicated his decision not to pursue this appeal, the court finds that the appeal should be dismissed for failure to prosecute.

IT IS THEREFORE ORDERED that the document titled "Withdrawal of Appellant's Appeal of Compensation Order" (Doc. 21), construed as a motion for voluntary dismissal, is granted. The other pending motions in this case—Docs. 14 and 15—are denied as moot.

IT IS FURTHER ORDERED that this case is dismissed pursuant to Fed. R. Bankr. P. 8023, and the Clerk is directed to close the case.

Dated this 3rd day of April, 2017, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge