

IN THE UTAH COURT OF APPEALS

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George Weinstein,	)	PER CURIAM DECISION
	)	
Plaintiff and Appellant,	)	Case No. 20110828-CA
	)	
v.	)	F I L E D
	)	(December 22, 2011)
Richelle Bennett and Chelsie Bennett,	)	
	)	
Defendants and Appellees.	)	2011 UT App 436

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Third District, Silver Summit Department, 060500395  
The Honorable Keith A. Kelly

Attorneys: George Weinstein, Park City, Appellant Pro Se  
Aaron Alma Nelson and Linda L.W. Roth, Salt Lake City, for Appellee  
Richelle Bennett

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Before Judges McHugh, Thorne, and Christiansen.

¶1 George Weinstein appeals the district court’s order entered on August 18, 2011. This matter is before the court on a sua sponte motion for summary disposition. We dismiss the appeal without prejudice.

¶2 Generally, “[a]n appeal is improper if it is taken from an order or judgment that is not final.” *Bradbury v. Valencia*, 2000 UT 50, ¶ 9, 5 P.3d 649. Indeed, for an order or judgment to be final, it must “dispose of all parties or claims to an action.” *Id.* ¶ 10. The only exceptions to the final judgment rule are where: (1) an appeal is permitted under the circumstances by statute, (2) the appellate court grants interlocutory appeal under rule 5 of the Utah Rules of Appellate Procedure, or (3) the trial court certifies the order as final under rule 54(b) of the Utah Rules of Civil Procedure. *See id.* ¶ 12.

¶3 The Utah Supreme Court has determined that a trial court must resolve the amount of attorney fees awardable to a party before the judgment becomes final for purposes of appeal under rule 3 of the Utah Rules of Appellate Procedure. *See Promax Dev. Corp. v. Raile*, 2000 UT 4, ¶ 15, 998 P.2d 254. This rule serves to prevent piecemeal appeals should a party seek to challenge an award of attorney fees entered after a judgment on the underlying merits. *See id.* ¶ 14.

¶4 The district court has not resolved the outstanding issue of attorney fees, and the matter has been set for a future hearing. Because the August 18, 2011 order does not resolve the issue of attorney fees, the order is not a final, appealable order. *See id.* ¶ 15. Thus, we are required to dismiss the appeal without prejudice. *See id.*; *see also Bradbury*, 2000 UT 50, ¶ 8.

¶5 Accordingly, the appeal is dismissed without prejudice to the filing of a timely appeal from a final, appealable order.<sup>1</sup>

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Carolyn B. McHugh,  
Associate Presiding Judge

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William A. Thorne Jr., Judge

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Michele M. Christiansen, Judge

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<sup>1</sup>Weinstein's request to convert this appeal to an interlocutory appeal is denied.