

IN THE UTAH COURT OF APPEALS

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| Bobbi Jo Westergard fka Bobbi Jo |) | PER CURIAM DECISION |
| Wilkerson, |) | |
| |) | Case No. 20110169-CA |
| Plaintiff, |) | |
| v. |) | |
| |) | FILED |
| <u>American Pension Services LLC</u> ; E Title |) | (June 16, 2011) |
| Insurance Agency LLC; and Remington |) | |
| Commercial Advisors LLC, |) | 2011 UT App 194 |
| |) | |
| Defendants and <u>Appellant</u> , |) | |
| |) | |
| and |) | |
| |) | |
| <u>Mountain America Federal Credit</u> |) | |
| <u>Union</u> , |) | |
| |) | |
| Intervenor and <u>Appellee</u> . |) | |

Eighth District, Vernal Department, 090800829
The Honorable Edwin T. Peterson

Attorneys: Denver C. Snuffer Jr. and Daniel B. Garriott, Sandy, for Appellant
Bradley M. Strassberg, Salt Lake City, for Appellee

Before Judges McHugh, Thorne, and Voros.

¶1 American Pension Services (APS) appeals the district court's order entered on October 1, 2010. This matter is before the court on a sua sponte motion for summary

disposition for lack of jurisdiction due to the absence of a final order. 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 district court’s October 1, 2010 order does not dispose of all parties or claims to the action. Furthermore, the October 1, 2010 order was not certified as a final, appealable order pursuant to rule 54(b). APS fails to demonstrate that the October 1, 2010 order meets any exception to the final judgment rule. Because the October 1, 2010 order is not final for purposes of appeal, this court is required to dismiss the appeal without prejudice. *See id.* ¶ 8.

¶4 Accordingly, the appeal is dismissed without prejudice to the filing of a timely appeal from a final, appealable order.

Carolyn B. McHugh,
Associate Presiding Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge