

IN THE UTAH COURT OF APPEALS

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Citibank,)	PER CURIAM DECISION
)	
Plaintiff and Appellee,)	Case No. 20100566-CA
)	
v.)	F I L E D
)	(March 17, 2011)
Donald Fulton,)	
)	2011 UT App 86
Defendant and Appellant.)	

Third District, West Jordan Department, 090424022
The Honorable Stephen L. Roth

Attorneys: Donald Fulton, Sandy, Appellant Pro Se
Mikel M. Boley and Richard A. Russell, West Valley City, for Appellee

Before Judges Davis, Orme, and Voros.

¶1 Donald Fulton appeals the trial court’s grant of summary judgment against him in a debt collection action. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

¶2 In the proceedings below, Citibank served on Fulton requests for admissions regarding the validity and the amount of the debt. Fulton failed to respond or object to the requests for admissions, even after the trial court granted a motion to compel and ordered Fulton to respond. Accordingly, pursuant to rule 36 of the Utah Rules of Civil Procedure, the requests were deemed admitted and the facts conclusively established. See Utah R. Civ. P. 36; *Kotter v. Kotter*, 2009 UT App 60, ¶ 16, 206 P.3d 633. With no disputed facts regarding the validity or amount of the debt, summary judgment was appropriate. See Utah R. Civ. P. 56(c).

¶3 On appeal, Fulton asserts that Citibank did not provide proof of the debt. However, he did not challenge the debt below. He cannot challenge the debt for the first time on appeal. *See 438 Main St. v. Easy Heat, Inc.*, 2004 UT 72, ¶ 51, 99 P.3d 801 (stating that an issue is waived on appeal if not raised before the trial court).

¶4 Affirmed.

James Z. Davis,
Presiding Judge

Gregory K. Orme, Judge

J. Frederic Voros Jr., Judge