

IN THE UTAH COURT OF APPEALS

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Save Beaver County, The Beaver River, and Varied Estates (BRAVE),	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
	)	Case No. 20070656-CA
Plaintiff, Appellant, and Cross-appellee,	)	
	)	F I L E D
	)	(January 17, 2008)
v.	)	
	)	2008 UT App 21
Beaver County, Beaver County Planning Commission, and Beaver County Board of County Commissioners,	)	
	)	
Defendants and Appellees,	)	
	)	
and	)	
	)	
CPB Development, LC; and Mount Holly Partners, LLC,	)	
	)	
Intervenors, Appellees, and Cross-appellants.	)	

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Fifth District, Beaver Department, 070500036  
The Honorable John J. Walton

Attorneys: Joel Ban, Salt Lake City, for Appellant and Cross-appellee  
Earl Jay Peck, J. Craig Smith, and Daniel J. McDonald, Salt Lake City, for Appellees and Cross-appellants CPB Development, LC, and Mount Holly Partners, LLC

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Before Judges Greenwood, Davis, and McHugh.

PER CURIAM:

Intervenors CPB Development, LC, and Mount Holly Partners, LLC, (Intervenors) cross-appeal after BRAVE was granted an appeal from an interlocutory order. This is before the court on its own motion for summary disposition of the cross-appeal based on lack of jurisdiction due to an untimely filed notice of cross-appeal.

This court granted BRAVE's petition for interlocutory appeal on September 24, 2007. Intervenors filed their notice of cross-appeal on October 12, eighteen days after the petition was granted.

Under rule 5 of the Utah Rules of Appellate Procedure, when a petition for interlocutory appeal is granted, "the appeal shall be deemed to have been filed and docketed by the granting of the motion." Utah R. App. P. 5(e). "All proceedings subsequent to the granting of the petition shall be as, and within the time required, for appeals from final judgments." Id. Cross-appeals must be filed "within 14 days after the date on which the first notice of appeal was filed." Utah R. App. P. 4(d).

Here, the appeal is deemed to have been filed on September 24, 2007. Therefore, under rule 4(d), the notice of cross-appeal was due no later than October 9, 2007. Accordingly, Intervenors' notice of cross-appeal was untimely. "Failure to file a timely notice of appeal deprives this court of jurisdiction over the appeal." Reisbeck v. HCA Health Servs., 2000 UT 48, ¶ 5, 2 P.3d 447.

Intervenors assert that the time for filing should be extended by three days because rule 22(d) provides for three days to be added to certain time frames. See Utah R. App. P. 22(d). Rule 22(d) grants an additional three days "[w]henver a party is required or permitted to do an act within a prescribed period after service of a paper and the paper is served by mail." Id. (emphasis added). However, the time for filing a cross-appeal is not measured by the service of a paper, but rather by the date of filing the appeal. See Utah R. App. P. 4(d). Therefore, there are no additional three days for mailing added to the time for filing a cross-appeal. Accordingly, the notice of cross-appeal was untimely and this court lacks jurisdiction over it.

Dismissed.

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Pamela T. Greenwood,  
Presiding Judge

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James Z. Davis, Judge

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Carolyn B. McHugh, Judge