

IN THE UTAH COURT OF APPEALS

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In re: Cessna P-210 Turbo
Registration No. N3549D

Aerotechnics, Inc.,

Plaintiff,
Counterdefendant, and
Appellant,

v.

Anthony Gerald Aliengena,

Defendant,
Counterclaimant, and
Appellee.

Anthony Gerald Aliengena,

Third-party Plaintiff and
Appellee,

v.

John Caka,

Third-party Defendant and
Appellant.

) MEMORANDUM DECISION
) (Not For Official Publication)

) Case No. 20080047-CA

) F I L E D
) (March 27, 2008)

) 2008 UT App 110

Third District, Salt Lake Department, 060909297
The Honorable Robert P. Faust

Attorneys: Timothy Miguel Willardson, Salt Lake City, for
Appellants
Michael R. Johnson and David H. Leigh, Salt Lake
City, for Appellee

Before Judges Greenwood, Thorne, and Billings.

PER CURIAM:

Aerotechnics, Inc. and John Caka (collectively, Aerotechnics) seek to appeal the trial court's order granting partial summary judgment in favor of Appellee Anthony Aliengena. This is before the court on Aliengena's motion for summary disposition based on lack of jurisdiction due to the absence of a final order.

Generally, appeals may be taken only from final orders and judgments. See Utah R. App. P. 3(a); Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. To be final, a court's order "must dispose of all parties and claims to an action." Bradbury, 2000 UT 50, ¶ 10. Accordingly, an order is not final when counterclaims remain pending before the trial court. See id. ¶ 11. Additionally, "a trial court must even determine attorney fee awards before a judgment is final." Id. ¶ 10.

The trial court's order dismissed Aerotechnics's complaint entirely and granted relief on one of seven counterclaims asserted by Aliengena. The other counterclaims remain pending before the trial court. Additionally, although the trial court awarded attorney fees, it did not fix the amount. Because attorney fees and counterclaims remain pending below, the order is not a final order for purposes of appeal. See id. Where an appeal is not properly taken, this court lacks jurisdiction and must dismiss the appeal. See id. ¶ 8.

Accordingly, this appeal is dismissed without prejudice to the filing of a timely appeal after entry of a final order.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Judith M. Billings, Judge