

IN THE UTAH COURT OF APPEALS

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Zions First National Bank,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20070111-CA
v.)	
)	F I L E D
Stephen W. Brockbank,)	(April 26, 2007)
)	
Defendant and Appellant.)	2007 UT App 142

Third District, West Jordan Department, 030102340
The Honorable Terry L. Christiansen

Attorneys: Stephen W. Brockbank, Saratoga Springs, Appellant
 Pro Se
 Jay V. Barney, Salt Lake City, for Appellee

Before Judges Greenwood, Billings, and Orme.

PER CURIAM:

Stephen W. Brockbank appeals the trial court's order denying his motion for a jury trial. This is before the court on its own motion for summary disposition based on the lack of a substantial question for review.

After a bench trial, judgment was entered against Brockbank in March 2004. He subsequently filed two separate motions to set aside the judgment, both of which were denied. He appealed only the trial court's order on the second motion to set aside. This court affirmed the trial court in a decision issued in May 2006. See Knight Adjustment Bureau v. Brockbank, 2006 UT App 196, 2006 UT App. Lexis 206 (per curiam).

In June 2006, Brockbank filed a motion for a jury trial. The trial court denied the motion in October 2006. Brockbank appealed.

A demand for a jury trial in a civil proceeding must be made prior to trial. See Utah R. Civ. P. 38. Here, the final judgment was entered more than two years before Brockbank moved for a jury trial. Furthermore, Brockbank failed to appeal the judgment, and his other attempts to set aside the judgment were

properly denied. This judgment is final and unassailable. Under these circumstances, Brockbank's motion for a jury trial simply has no legal basis. The trial court properly denied the motion.

Accordingly, the order denying Brockbank's motion for a jury trial is affirmed.

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

Gregory K. Orme, Judge