

IN THE UTAH COURT OF APPEALS

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Celco, Inc.; Providence	)	MEMORANDUM DECISION
Highlands Phase I, L.C.;	)	(Not For Official Publication)
Dallas and Vonda Elder; Boyd	)	
and Beverly Campbell; and	)	Case No. 20060041-CA
Robert and Shonie Harris,	)	
	)	
Plaintiffs and Appellees,	)	F I L E D
	)	(March 23, 2006)
v.	)	2006 UT App 124
	)	
Elwood Nielsen and Lynn	)	
Nielsen,	)	
	)	
Defendants and Appellants.	)	

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First District, Logan Department, 050102114  
The Honorable Clint S. Judkins

Attorneys: Elwood Nielsen and Lynn Nielsen, South Jordan,  
Appellants Pro Se  
Richard R. Arnold Jr. and Steven G. Black, Lehi, for  
Appellees

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Before Judges Bench, Greenwood, and Billings.

PER CURIAM:

Elwood and Lynn Nielsen appeal an order that released a lien found by the district court to be wrongful and void, but reserved other issues for further hearing. This case is before the court on a sua sponte motion for summary dismissal for lack of jurisdiction. See Utah R. App. P. 10(e).

It is undisputed that the December 12, 2005 order released the lien and awarded damages, attorney fees, and costs, but reserved the determination of the liquidated amounts for further hearings. Nevertheless, both parties urge this court to determine the merits of the appeal. Once this court determines that it lacks jurisdiction over an appeal, "we retain only the authority to dismiss the action." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

A judgment that awards attorney fees, subject to later determination of the liquidated amount of that award, is not final and appealable. See ProMax Dev. Corp. v. Raile, 2000 UT 4, ¶15, 998 P.2d 254 (holding that "a trial court must determine the amount of attorney fees awardable to a party before the judgment becomes final for the purposes of an appeal under Utah Rule of Appellate Procedure 3"); see also Anderson v. Wilshire Invs., LLC, 2005 UT 59, ¶19, 123 P.3d 393. Thus, we dismiss the appeal, without prejudice, for lack of jurisdiction because the reserved matters render the judgment entered by the trial court non-final.

We dismiss the appeal for lack of jurisdiction without prejudice to a timely appeal filed after entry of a final judgment that includes the liquidated award of damages, attorney fees, and costs.

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Russell W. Bench,  
Presiding Judge

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Pamela T. Greenwood,  
Associate Presiding Judge

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Judith M. Billings, Judge