

IN THE UTAH COURT OF APPEALS

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| David J. D'Addabbo, |) | MEMORANDUM DECISION |
| |) | (Not For Official Publication) |
| Plaintiff and Appellant, |) | Case No. 20100806-CA |
| |) | |
| v. |) | |
| |) | F I L E D |
| <u>Cache County, Inc.</u> and State |) | (December 9, 2010) |
| of Utah, Inc., |) | |
| |) | 2010 UT App 346 |
| Defendant and Appellee. |) | |

Third District, Salt Lake Department, 100910394
The Honorable Robert P. Faust

Attorneys: David J. D'Addabbo, Nibley, Appellant Pro Se
Jesse C. Trentadue and Brian D. Bolinder, Salt Lake
City, for Appellee

Before Judges McHugh, Thorne, and Voros.

PER CURIAM:

David J. D'Addabbo seeks to appeal the trial court's order dismissing Cache County from the action below. This is before the court on its own motion for summary disposition based on the lack of jurisdiction due to the absence of a final order.

Generally, appeals may be taken only from final orders. See Utah R. App. P. 3(a); Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. To be final, an order "must dispose of the case as to all the parties, and finally dispose of the subject-matter of the litigation." Bradbury, 2000 UT 50, ¶ 9. Here, the trial court dismissed only Cache County. The State of Utah remains as a defendant below and the litigation remains pending before the trial court. Accordingly, the order dismissing Cache County is not a final appealable order. 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 timely filing of a notice of appeal after the entry of a final order.

Carolyn B. McHugh,
Associate Presiding Judge

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge