

IN THE UTAH COURT OF APPEALS

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Hobbs & Olsen, L.C.,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20060204-CA
v.)	
)	F I L E D
Eddie C. Ebbert,)	(June 15, 2006)
)	
Defendant and Appellant.)	2006 UT App 248

Third District, Salt Lake Department, 020913183
The Honorable Deno G. Himonas

Attorneys: Eddie C. Ebbert, Pensacola, Florida, Appellant Pro Se
Lincoln W. Hobbs and Jennifer L. Falk, Salt Lake
City, for Appellee

Before Judges Greenwood, Davis, and Thorne.

PER CURIAM:

This case is before the court on a sua sponte motion for summary dismissal for lack of jurisdiction. Neither party has filed a response opposing dismissal.

The district court presided over a jury trial on February 2, 2006. The court requested counsel for Appellee Hobbs & Olson, L.C., to prepare and circulate an appropriate judgment. On February 21, 2006, Hobbs & Olson filed a motion seeking additional attorney fees incurred at trial. On February 28, 2006, Ebbert filed his notice of appeal, allegedly taken from a final judgment entered on February 2, 2006. He also filed a motion seeking to set aside the jury verdict and for a new trial, which remains pending in the district court. In a memorandum decision dated March 22, 2006, the district court granted Hobbs & Olson's motion for attorney fees and directed counsel to prepare and circulate an appropriate order.

The notice of appeal filed on February 28, 2006, was premature because no final, appealable judgment appears in the record before this court. In addition, the notice of appeal was filed prior to the entry of an order resolving Hobbs & Olson's motion for attorney fees. 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").

We dismiss the appeal for lack of jurisdiction because no final, appealable judgment appears in the district court record. Our dismissal is without prejudice to a timely appeal filed after entry of final judgment.

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

William A. Thorne Jr., Judge