

IN THE UTAH COURT OF APPEALS

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Julie Gregoric and Max Gregoric)	MEMORANDUM DECISION
dba Sol Foods; and Brent)	(Not For Official Publication)
Heaton,)	
)	Case No. 20060656-CA
Plaintiffs and Appellants,)	
)	
v.)	F I L E D
)	(September 21, 2006)
Scott Pincus,)	
)	2006 UT App 380
Defendant and Appellee.)	

Fifth District, St. George Department, 040500373
The Honorable James L. Shumate

Attorneys: Christopher W. Edwards, Hurricane, and Gregory P. Miner, Springdale, for Appellants
Russell S. Mitchell, St. George, for Appellee

Before Judges Davis, McHugh, and Orme.

PER CURIAM:

Julie Gregoric, Max Gregoric, and Brent Heaton (Appellants) appeal the trial court's grant of summary judgment against them, finding no cause of action. This is before the court on Scott Pincus's motion for summary disposition based on lack of jurisdiction. Appellants did not respond.

Appellants initiated this action in 2004 by filing a complaint for eviction and unlawful detainer. Pincus filed an answer and a counterclaim. Although the trial court granted summary judgment resolving Appellants' claims in May 2006, Pincus's counterclaim remains pending before the trial court.

"An appeal is improper if it is taken from an order or judgment that is not final, unless it fits within an exception to the final judgment rule." Bradbury v. Valencia, 2000 UT 50, ¶9, 5 P.3d 649. Appellants have not asserted any exception here, so the order must be final to be appealable. To be final, the order must dispose of all claims and parties in an action. See id. at

¶10. An order is not final if a counterclaim remains pending. See id. at ¶11.

Appellants filed their notice of appeal after the entry of summary judgment disposing of their claims but before the disposition of Pincus's counterclaim. Because the counterclaim remains pending, the order appealed is not a final order. See id. As a result, this court lacks jurisdiction and must dismiss the appeal. See id. at ¶8.

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

James Z. Davis, Judge

Carolyn B. McHugh, Judge

Gregory K. Orme, Judge