

IN THE UTAH COURT OF APPEALS

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H&H Network Services, Inc., a Washington corporation,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellant,	)	Case No. 20100009-CA
	)	
v.	)	F I L E D
	)	(April 8, 2010)
Unicity International, Inc., a Utah corporation; and John Does 1-10,	)	2010 UT App 81
	)	
Defendants and Appellees.	)	
_____	)	
	)	
Unicity International, Inc., a Delaware corporation,	)	
	)	
Counterclaimant,	)	
	)	
v.	)	
	)	
H&H Network Services, Inc., a Washington corporation; Roger Hooban; and Does 1-10,	)	
	)	
Counterclaim Defendants.	)	

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Fourth District, Provo Department, 090400468  
The Honorable Steven L. Hansen

Attorneys: Chad C. Shattuck, Draper, for Appellant  
Steven C. Smith and Derrick C. Hughes, Santa Ana,  
California, for Appellees

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Before Judges McHugh, Orme, and Voros.

PER CURIAM:

H&H Network Services, Inc. (H&H Network) appeals the district court's order entered on November 25, 2009. This matter is before the court on a sua sponte motion for summary disposition for lack of jurisdiction due to the absence of a final order.

Generally, "[a]n appeal is improper if it is taken from an order or judgment that is not final." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649. For an order or judgment to be final, it must "dispose of all parties or claims to an action." Id. ¶ 10. The only exceptions to the final judgment rule are where: (1) an appeal is permitted under the circumstances by statute, (2) the appellate court grants interlocutory appeal under rule 5 of the Utah Rules of Appellate Procedure, or (3) the trial court certifies the order as final under rule 54(b) of the Utah Rules of Civil Procedure. See id. ¶ 12. The district court must resolve the amount of reasonable attorney fees awarded to a party, if any, before the judgment becomes final for the purposes of an appeal. See Promax Dev. Corp. v. Raile, 2000 UT 4, ¶ 15, 998 P.2d 254.

The record indicates that the district court's November 25, 2009 order did not resolve the outstanding issue of attorney fees, and it also requested Unicity to file a proposed judgment. Unicity filed a motion for attorney fees and costs prior to submitting a proposed judgment. In response, H&H Network filed a motion to stay the district court proceeding pending appeal. The parties do not assert, nor demonstrate, that this matter meets any exception to the final judgment rule. A proposed judgment has not been submitted to the district court. Furthermore, the district court has yet to resolve the outstanding motion for attorney fees and costs. Thus, the judgment is not final for purposes of appeal. See id. As such, this court lacks jurisdiction and is required to dismiss the appeal without prejudice. See Bradbury 2000 UT 50, ¶ 8.

Accordingly, the appeal is dismissed without prejudice to the filing of a new notice of appeal once a final judgment, including resolution of reasonable attorney fees, is announced or entered.

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Carolyn B. McHugh,  
Associate Presiding Judge

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Gregory K. Orme, Judge

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J. Frederic Voros Jr., Judge