

IN THE UTAH COURT OF APPEALS

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Shari Harper and Glenn Harper,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiffs and Appellants,)	
)	Case No. 20090658-CA
v.)	
)	F I L E D
Zane Froerer and Kevin A.)	(November 19, 2009)
Harper,)	
)	2009 UT App 337
Defendants and Appellees.)	

Second District, Ogden Department, 090900622
The Honorable W. Brent West

Attorneys: Shari Harper and Glenn Harper, Huntsville, Appellants
Pro Se
Zane S. Froerer, Ogden, for Appellees

Before Judges Orme, Thorne, and McHugh.

PER CURIAM:

Appellants Shari and Glenn Harper (the Harpers) appeal the district court's order dismissing their complaint. We affirm.

The Harpers assert that the district court erred by dismissing their complaint for lack of jurisdiction. The district court "shall have jurisdiction from the time of filing the complaint or service of the summons and a copy of the complaint." Utah R. Civ. P. 3(b). If a lawsuit is commenced by the service of a summons and a copy of a complaint, the complaint, summons, and proof of service must be filed within ten days of service. See id. R. 3(a)(2). If the complaint, summons, or proof of service are not filed within ten days of service, the district court is required to dismiss the complaint for lack of jurisdiction. See id.

The record indicates that the Defendants were served with a summons and complaint on January 26, 2009. The Harpers did not file the proof of service until nearly two months after serving the Defendants. Thus, the district court determined that it lacked jurisdiction because the Harpers failed to timely file the

proof of service as required by rule 3(a)(2) of the Utah Rules of Civil Procedure.

On appeal, the Harpers assert that rule 4(e)(3) of the Utah Rules of Civil Procedure provides that their failure to file a proof of service does not affect the validity of service. See id. R. 4(e)(3). However, although the district court may have acquired jurisdiction over the Defendants upon proper service of the summons and complaint, the district court was later divested of jurisdiction once the Harpers failed to file proof of service within ten days of service as required by rule 3(a)(2). Thus, the district court did not err in determining that it lacked jurisdiction when proof of service was not timely filed.

The Harpers next assert that the district court erred by failing to enter default judgment against the Defendants. The record indicates that the district court did not enter default judgment because it was divested of jurisdiction once the Harpers failed to comply with rule 3(a)(2). Thus, the district court did not err by failing to enter default judgment.

Affirmed.¹

Gregory K. Orme, Judge

William A. Thorne Jr., Judge

Carolyn B. McHugh, Judge

¹To the extent that the Harpers raise other issues not specifically addressed above, we determine that such issues lack merit, and we decline to address them further. See State v. Carter, 888 P.2d 629, 648 (Utah 1994).