

IN THE UTAH COURT OF APPEALS

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Phil Babcock Construction,)	MEMORANDUM DECISION
a Utah corporation,)	(Not For Official Publication)
)	
Plaintiff,)	Case No. 20060458-CA
)	
v.)	F I L E D
)	(July 28, 2006)
<u>Bodell Construction Company,</u>)	
et al.,)	2006 UT App 308
)	
Defendants and Appellee,)	
)	
_____)	
)	
Jeshua Construction)	
Corporation,)	
)	
Third-party Defendant and)	
Appellant.)	

Third District, Silver Summit Department, 020500212
The Honorable Bruce Lubeck

Attorneys: Ray G. Martineau, Anthony R. Martineau, and Brett D. Cragun, Salt Lake City, for Appellant
Thomas R. Karrenberg and Scott A. Call, Salt Lake City, for Appellee Bodell Construction Company

Before Judges Greenwood, Davis, and Orme.

PER CURIAM:

Jeshua Construction Corporation (Jeshua) appeals the trial court's orders dismissing its claims against appellees Bodell Construction Company (Bodell), Black Diamond Lodge, LLC, and High Country Title Company. This case is before the court on Bodell's motion to dismiss for lack of jurisdiction.

"An appeal is improper if it is taken from an order or judgment that is not final, see Utah R. App. P. 3(a), unless it fits within an exception to the final judgment rule." Bradbury v. Valencia, 2000 UT 50, ¶9, 5 P.3d 649. "For an order or judgment to be final, it must dispose of the case as to all the

parties, and finally dispose of the subject-matter of the litigation on the merits of the case." Id. (quotations and citation omitted). In other words, a judgment is final when it "ends the controversy between the parties litigant." Id. (citation omitted).

The trial court entered three separate summary judgment orders against Jeshua on March 14 and March 23, 2006. There is no dispute that when Jeshua filed its notice of appeal from these orders, claims were still pending against it. As a result, these were not final, appealable orders. See id.; see also Don Houston, M.D., Inc. v. Intermountain Health Care, 933 P.2d 403, 406 (Utah App. 1997) ("Generally, a judgment is not a final, appealable order if it does not dispose of all the claims in a case."). Moreover, Jeshua does not argue that an exception to the final judgment rule applies here. Consequently, we lack jurisdiction over the appeal and must dismiss. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Accordingly, this appeal is dismissed without prejudice to the timely filing of an appeal from a final order or proper certification pursuant to rule 54(b) of the Utah Rules of Civil Procedure.

Pamela T. Greenwood,
Associate Presiding Judge

James Z. Davis, Judge

Gregory K. Orme, Judge