

IN THE UTAH COURT OF APPEALS

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Karen Gae Fullmer Kasteler,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Petitioner and Appellee,)		
)	Case No. 20070620-CA	
v.)		
)	F I L E D	
Steven G. Kasteler,)	(November 1, 2007)	
)		
Respondent and Appellant.)	<table border="1"><tr><td>2007 UT App 355</td></tr></table>	2007 UT App 355
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Third District, Salt Lake Department, 944905348
The Honorable Denise P. Lindberg

Attorneys: Vernon C. Jolley and Alexander D. Jolley, Sandy, for
Appellant
David J. Berceau, Salt Lake City, for Appellee

Before Judges Bench, Davis, and Thorne.

PER CURIAM:

Steven Kasteler appeals the district court's order granting judgment in favor of Karen Kasteler and the district court's order denying his motion for leave to amend his memorandum in opposition to Karen Kasteler's motion for summary judgment and for clarification of the district court's final order.

The district court entered its order resolving Karen Kasteler's motion for summary judgment on June 4, 2007. The order specifically stated that it was the final order of the court and that judgment "shall enter in the amount of \$11,266.49." Thus, this order constituted the final order of the court. Steven Kasteler then filed a post-judgment motion for leave to amend his summary judgment opposition and for clarification of the court's order. He claims that in substance this motion equated to a post-judgment motion under rule 52 or rule 59 of the Utah Rules of Civil Procedure. As such, he claims that the time to file his appeal was tolled. See Utah R. App. P. 4(b). However, the Utah Supreme Court has made clear that post-judgment motions that are not recognized by the rules of civil procedure do not toll the time for appeal. See Gillett v. Price, 2006 UT 24, ¶ 7, 135 P.3d 861 ("[R]egardless of the motion's substance, post-judgment motions to reconsider and other similarly titled motions will not toll the time for appeal

because they are not recognized by our rules."). Thus, because the motion was not made pursuant to rule 50(b), 52(b), or 59 of the Utah Rules of Civil Procedure, the time for appeal was not tolled.¹

Accordingly, in order for this court to have jurisdiction to review the district court's June 4, 2007 order, Steven Kasteler would have had to file his notice of appeal no later than thirty days after June 4, 2007. However, he did not file his notice of appeal until July 25, 2007, well after the thirty-day time period had expired. See Utah R. App. P. 4(a).² Therefore, this court lacks jurisdiction to review issues associated with the final order. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616.

This court does have jurisdiction to review the district court's order denying Steven Kasteler's motion to amend his summary judgment opposition and for clarification of the court's June 4, 2007 order. The court entered the order denying the post-judgment motion on July 9, 2007, and Steven Kasteler filed his notice of appeal on July 25, 2007. However, in response to our sua sponte motion for summary disposition, Steven Kasteler acknowledged that he is asserting no issues for review based upon the denial of this motion. Accordingly, there are no substantive issues remaining for this court to decide. We therefore affirm the denial of the post-judgment motion.³

Russell W. Bench,
Presiding Judge

James Z. Davis, Judge

William A. Thorne Jr., Judge

¹We also note that the substance of Steven Kasteler's motion would not have qualified as a rule 52 or 59 motion, especially in light of the lack of substantive argument made within the motion.

²Although it is true that the district court entered a "judgment" on July 11, 2007, there is no separate document to support the entry and it is merely a re-entry of the previously entered final order of the court.

³Karen Kasteler's request for fees is denied.