

IN THE UTAH COURT OF APPEALS

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Charles B. Lee,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellant,)	
)	Case No. 20100148-CA
v.)	
)	
Susan J. Jero; Paul H. Liapis;)	F I L E D
and Paul H. Liapis, LC,)	(April 22, 2010)
)	
Defendants and Appellees.)	2010 UT App 99

Third District, Salt Lake Department, 090902520
The Honorable Sandra N. Peuler

Attorneys: Charles B. Lee, Murray, Appellant Pro Se
Matthew L. Lalli and Amber M. Mettler, Salt Lake
City, for Appellees Paul H. Liapis and Paul H.
Liapis, LC
Craig G. Adamson and Joelle S. Kesler, Salt Lake
City, for Appellee Susan J. Jero

Before Judges Davis, McHugh, and Voros.

PER CURIAM:

Charles B. Lee appeals the district court's order entered on January 26, 2010. This matter is before the court on Appellees' 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 and 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 expressly certifies the order as final under rule 54(b) of the Utah Rules of Civil Procedure. See id. ¶ 12. Rule 54(b) provides that a district court "may direct the entry of a final judgment as to one or more but fewer than all of the claims or

parties only upon an express determination by the court." Utah R. Civ. P. 54(b).

The record indicates that the district court's January 26, 2010 order did not "dispose of all parties and claims to the action." Specifically, the sixth cause of action remains pending in the district court. Thus, in order for the order to be considered final for purposes of appeal, the order must be certified as final pursuant to rule 54(b). See id. The record does not indicate that the district court's order was expressly certified as final pursuant to rule 54(b). The parties do not demonstrate that this matter meets any other exception to the final judgment rule. Thus, the judgment is not final for purposes of appeal, and this court 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 timely appeal from a final order.

James Z. Davis,
Presiding Judge

Carolyn B. McHugh,
Associate Presiding Judge

J. Frederic Voros Jr., Judge