

IN THE UTAH COURT OF APPEALS

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Collection Center Inc.,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20080734-CA
v.)	
)	F I L E D
Vu Thuong Nguyen,)	(November 28, 2008)
)	
Defendant and Appellant.)	2008 UT App 432

Third District, Salt Lake Department, 060916332
The Honorable Stephen L. Henriod

Attorneys: Vu Thong Nguyen, Sacramento, California, Appellant
Pro Se
Jonathan K. Jensen, Bountiful, for Appellee

Before Judges Bench, Davis, and McHugh.

PER CURIAM:

Plaintiff Collection Center Inc. pursued a collection case against Defendant Vu Thuong Nguyen. After Defendant failed to appear at the May 5, 2008 bench trial, the district court struck Defendant's answer and entered his default. In a ruling and order dated August 15, 2008, the district court rejected a proposed judgment submitted by Plaintiff. The Ruling and Order also denied Defendant's motion to dismiss the complaint. Defendant seeks to appeal this ruling. This case is before the court on a sua sponte motion for summary dismissal.

The record does not contain a final judgment from which an appeal of right may be taken. To the extent that the August 15, 2008 ruling denies a motion to dismiss, it is an interlocutory ruling that is not appealable as a matter of right. Furthermore, there are unresolved issues regarding whether Plaintiff may recover its fees, costs, and attorney fees. There has been no final judgment that resolves those issues and determines the amount of damages to be awarded to Plaintiff.

Once we determine that we lack jurisdiction over an appeal, "we retain only the authority to dismiss the action." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Because the appeal is not taken from a final, appealable order, we dismiss the appeal without prejudice to a timely appeal taken from a final judgment.

Russell W. Bench, Judge

James Z. Davis, Judge

Carolyn B. McHugh, Judge