

IN THE UTAH COURT OF APPEALS

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North Fork Special Service District,)	MEMORANDUM DECISION
)	(Not For Official Publication)
)	
Plaintiff and Appellee,)	Case No. 20060222-CA
)	
v.)	F I L E D
)	(November 2, 2006)
Robert Bennion,)	
)	2006 UT App 447
Defendant and Appellant.)	

Fourth District, Provo Department, 040401235
The Honorable Derek P. Pullan

Attorneys: Claire Summerhill, West Jordan, for Appellant
 Kasey L. Wright, Orem, for Appellee

Before Judges Bench, Billings, and McHugh.

PER CURIAM:

Robert Bennion appeals from the district court's judgment awarding damages to North Fork Special Service District. This case is before the court on its own motion for summary dismissal based upon lack of jurisdiction due to the failure to file a timely notice of appeal. See Utah R. App. P. 4(a).

A notice of appeal must be filed "with the clerk of the trial court within 30 days after the date of entry of the judgment or order appealed from." Id. If an appeal is not timely filed, this court lacks jurisdiction to hear the appeal and must dismiss. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶7, 13 P.3d 616.

The district court entered its judgment on January 26, 2006. Bennion filed his notice of appeal on March 3, 2006, four days beyond the time limitation set forth in rule 4(a). See Utah R. App. P. 4(a). Bennion argues that he filed the notice of appeal on February 27, 2006, as that is the date that bears his counsel's signature. However, the date stamp on the notice of appeal indicates it was not filed in the district court until March 3, 2006. "[T]his court must be bound by the filing date

indicated on the notice of appeal transmitted to it by the trial court." In re M.S., 781 P.2d 1287, 1288 (Utah Ct. App. 1989) (per curiam). Therefore, because Bennion did not timely file his notice of appeal, this court lacks jurisdiction to hear the appeal and must dismiss. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989) (stating that if the court lacks jurisdiction over an appeal, it has only the authority to dismiss the action).

The appeal is dismissed.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

Carolyn B. McHugh, Judge