

IN THE UTAH COURT OF APPEALS

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William Petty,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellant,	)	
	)	Case No. 20100809-CA
v.	)	
	)	F I L E D
Jeffery Flamm,	)	(December 16, 2010)
	)	
Defendant and Appellee.	)	<span style="border: 1px solid black; padding: 2px;">2010 UT App 364</span>

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Third District, West Jordan Department, 070417880  
The Honorable Mark S. Kouris

Attorneys: Stephen R. Nemelka and Cary L. Nemelka, Salt Lake  
City, for Appellant  
Ryan J. Schriever, South Jordan, for Appellee

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Before Judges Davis, Thorne, and Voros.

PER CURIAM:

William Petty appeals the district court's minute entry ruling entered on September 2, 2010. This matter is before the court on a sua sponte motion for summary disposition. We dismiss the appeal without prejudice.

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. This court lacks jurisdiction to consider an appeal unless it is taken from a final, appealable order. See id. ¶ 8. Previously, a signed minute entry could be considered a final, appealable order so long as the minute entry or order specified with certainty a final determination of the rights of the parties and was susceptible to enforcement. See Dove v. Cude, 710 P.2d 170, 171 (Utah 1985); see also Cannon v. Keller, 692 P.2d 740, 741 (Utah 1984).

In 2009, the Utah Supreme Court determined that the prior framework for analyzing the finality of a minute entry or order for purposes of appeal was unworkable. See Giusti v. Sterling Wentworth Corp., 2009 UT 2, ¶¶ 30-36, 201 P.3d 966. As of the supreme court's decision in Giusti, a minute entry or order contemplated as final by the district court "must explicitly

direct that no additional order is necessary." Id. ¶ 32. Otherwise, when the district court does not expressly direct that its order is the final order of the court, rule 7(f)(2) of the Utah Rules of Civil Procedure requires the parties to prepare and file an order to trigger finality for purposes of appeal. See id. ¶ 30.

The September 2, 2010 minute entry ruling does not satisfy the requirements of a final, appealable order as set forth in Giusti. The district court did not expressly indicate that the September 2, 2010 minute entry ruling was the final order of the court. Furthermore, neither party prepared a final, appealable order from the September 2, 2010 minute entry ruling as required by rule 7(f)(2) of the Utah Rules of Civil Procedure. See Utah R. Civ. P. 7(f)(2). Thus, the September 2, 2010 minute entry ruling is not final for purposes of appeal and this court is required to dismiss the appeal without prejudice.

Accordingly, the appeal is dismissed without prejudice to the filing of a timely appeal from a final order.

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James Z. Davis,  
Presiding Judge

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William A. Thorne Jr., Judge

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J. Frederic Voros Jr., Judge