

IN THE UTAH COURT OF APPEALS

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Stephanie Sims,)	MEMORANDUM DECISION
)	(Not For Official Publication
Plaintiff,)	
)	Case No. 20070069-CA
v.)	
)	
Jennie Wood and Tom Wood,)	F I L E D
)	(April 19, 2007)
)	
Defendants, Third-party)	2007 UT App 135
Plaintiffs and Appellants,)	
)	
v.)	
)	
Melissa Harrison,)	
)	
Third-party Defendant and)	
Appellee.)	

Third District, Salt Lake Department, 060904798
The Honorable William W. Barrett

Attorneys: Jennie Wood and Tom Wood, Salt Lake City,
Appellants Pro Se
Daniel O. Duffin, Salt Lake City, for Appellee

Before Judges Greenwood, Billings, and Orme.

PER CURIAM:

Jennie Wood and Tom Wood (the Woods) appeal the district court's order granting Melissa Harrison's motion to strike answer and counterclaim. This case is before the court on its own motion for summary dismissal for lack of jurisdiction due to the absence of a final, appealable order or judgment.

On December 13, 2006, the district court entered an order and judgment striking the Woods' answer and third-party counterclaim, thereby dismissing all claims as to Harrison. This was not a final, appealable order because claims remained pending against the Woods. See Don Houston, M.D., Inc. v. Intermountain Health Care, 933 P.2d 403, 406 (Utah Ct. App. 1997) ("Generally, a judgment is not a final, appealable order if it does not dispose of all the claims in a case, including counterclaims.").

Nonfinal orders may be appealed pursuant to rule 5 of the Utah Rules of Appellate Procedure, see Utah R. App. P. 5, "or if the trial court expressly certifies them as final for purposes of appeal under [r]ule 54 of the Utah Rules of Civil Procedure." Id. Rule 54 allows the trial court to "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 that there is no just reason for delay and upon an express direction for the entry of judgment." Utah R. Civ. P. 54(b). No certification order satisfying the requirements of rule 54(b) was entered in this case.

Because the order appealed from was not final and was not properly certified under rule 54(b), this appeal was not properly taken. See, e.g., Backstrom Family Ltd. P'ship v. Hall, 751 P.2d 1157, 1159 (Utah Ct. App. 1988) (concluding failure to comply with procedural requirements resulted in order not being properly certified). We therefore lack jurisdiction over the appeal and must dismiss. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Accordingly, this appeal is dismissed without prejudice to the timely filing of an appeal from a final order or proper certification pursuant to rule 54(b).

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

Gregory K. Orme, Judge