

IN THE UTAH COURT OF APPEALS

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South Temple Holding, LLC,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20090792-CA
v.	)	
	)	F I L E D
	)	(December 10, 2009)
Robert Sizemore,	)	
	)	2009 UT App 373
Defendant and Appellant.	)	

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Third District, Salt Lake Department, 080900769  
The Honorable Sheila K. McCleve

Attorneys: D. Joseph Cartwright, Salt Lake City, for Appellant  
Jonathan T. Tichy and Roger J. McConkie, Salt Lake  
City, for Appellee

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Before Judges Greenwood, Orme, and Thorne.

PER CURIAM:

Robert Sizemore purports to appeal from the district court's order granting South Temple Holding, LLC's motion for summary judgment and the subsequent judgment against Sizemore. This matter is before the court on South Temple Holding's motion for summary disposition based upon lack of jurisdiction.

This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order, see Utah R. App. P. 3(a), or qualifies for an exception to the final judgment rule. See Loffredo v. Holt, 2001 UT 97, ¶¶ 10, 15, 37 P.3d 1070. An order is final only if it disposes of the case as to all parties and "finally dispose[s] of the subject-matter of the litigation on the merits of the case." Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649 (internal quotation marks omitted).

Neither the order granting South Temple Holding's motion for summary judgment nor the subsequent judgment against Sizemore disposed of the case as to all parties and as to all issues. Specifically, the district court has yet to resolve claims South Temple Holding raised against other defendants and a cross-claim filed by Sizemore. Thus, the judgment entered against Sizemore

did not finally resolve the subject-matter of the dispute between the parties. Further, Sizemore did not seek to have the judgment certified as final under rule 54(b) of the Utah Rules of Civil Procedure. See Utah R. Civ. P. 54(b). Therefore, the judgment was not a final, appealable order, and we lack jurisdiction over this matter. See id. When this court lacks jurisdiction, it must dismiss the appeal. See Loffredo, 2001 UT 97, ¶ 11.

The appeal is dismissed without prejudice to the filing of a timely appeal after the district court enters a final, appealable order.

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Pamela T. Greenwood,  
Presiding Judge

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge