

IN THE UTAH COURT OF APPEALS

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Golden Meadows Properties, LC,)	MEMORANDUM DECISION
aka Golden Meadows Properties,)	(Not For Official Publication)
LLC,)	
)	Case No. 20081008-CA
Plaintiff and Appellee,)	
)	
v.)	F I L E D
)	(February 12, 2009)
)	
Michael Strand and Cari Allen,)	2009 UT App 38
)	
Defendants and Appellants.)	

Second District, Bountiful Department, 070700488
The Honorable Thomas L. Kay

Attorneys: Michael Strand and Cari Allen, Centerville,
Appellants Pro Se
James C. Swindler, Salt Lake City, for Appellee

Before Judges Greenwood, Thorne, and Orme.

PER CURIAM:

Michael Strand and Cari Allen (collectively, Strand) appeal the district court's order entered on November 7, 2008, wherein the district court affirmed its October 31, 2008 order denying Strand's motion to disqualify the assigned judge. This matter is before the court on its own motion for summary disposition for lack of jurisdiction due to the absence of a final, appealable order.

This court does not have jurisdiction to consider an appeal unless it is taken from a final judgment or order, or qualifies for an exception to the final judgment rule. See Loffredo v. Holt, 2001 UT 97, ¶ 10, 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.

The denial of a motion to disqualify a judge is not a final, appealable order because it does not dispose of all of the issues in the litigation. See id. An order denying a motion to disqualify a judge is, instead, an interlocutory order. Thus,

there is no right to appeal from that order. See Utah R. App. P. 5(a). Strand could have filed a timely petition for permission to appeal an interlocutory order under rule 5 of the Utah Rules of Appellate Procedure. However, Strand did not do so. Because the order from which Strand appeals is not a final order, this court lacks jurisdiction to consider it and must dismiss the appeal. See Loffredo, 2001 UT 97, ¶ 10.

Accordingly, we dismiss this appeal without prejudice to the filing of a timely appeal from a final order.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Gregory K. Orme, Judge