

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Clyde W. Stevens,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20100871-CA
v.)	
)	F I L E D
James Dean Wall,)	(December 23, 2010)
)	
Defendant and Appellant.)	2010 UT App 386

Second District, Farmington Department, 100700340
The Honorable Glen R. Dawson

Attorneys: James Dean Wall, Kaysville, Appellant Pro Se
 Randall T. Gaither, Salt Lake City, for Appellee

Before Judges Thorne, Voros, and Christiansen.

PER CURIAM:

James Dean Wall seeks to appeal the district court's order granting summary judgment in favor of Clyde W. Stevens. This is before the court on its own motion for summary disposition based on the lack of jurisdiction due to the absence of a final order under Giusti v. Sterling Wentworth Corp., 2009 UT 2, 201 P.3d 966.

Generally, appeals may be taken only from final orders. See Utah R. App. P. 3(a). Pursuant to rule 7(f)(2) of the Utah Rules of Civil Procedure, unless the trial court approves an order submitted with a motion or otherwise directs that no further order is necessary, the prevailing party must formalize any decision by the trial court in a proposed order. See Utah R. Civ. P. 7(f)(2); Giusti, 2009 UT 2, ¶¶ 27-28. If the prevailing party fails to provide an order, the nonprevailing party may do so to perfect the right to appeal a decision. See Giusti, 2009 UT 2, ¶ 28. If neither party submits an order, "the appeal rights of the nonprevailing party will extend indefinitely" because the appeal time will not be triggered by the entry of a final order. Id. ¶ 35.

Here, the district court's ruling and order disposing of multiple motions was entered on September 20, 2010. Although the

order determined the outcome of several motions, it did not constitute a final order under rule 7(f)(2) because it did not specify that no further order was necessary. Rather, it merely announced the court's ruling on the outstanding motions and ordered specific action. At this time, neither party has submitted a proposed formal order memorializing the court's decision and no formal order has been entered. Accordingly, there is no final order for purposes of appeal. See id. Where an appeal is not properly taken, this court lacks jurisdiction and must dismiss it. See Bradbury v. Valencia, 2000 UT 50, ¶ 9, 5 P.3d 649.

Accordingly, this appeal is dismissed without prejudice to the timely filing of a notice of appeal after the entry of a final order.¹

William A. Thorne Jr., Judge

J. Frederic Voros Jr., Judge

Michele M. Christiansen, Judge

¹Because this case is dismissed on jurisdictional grounds, we do not reach the issue raised in Stevens's motion for summary disposition and it is denied as moot.