

IN THE UTAH COURT OF APPEALS

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Gloria Sontag, Bernadine)	MEMORANDUM DECISION
Hiser, and Karen Bacon,)	(Not For Official Publication)
)	
Plaintiffs and Appellees,)	Case No. 20090738-CA
)	
v.)	F I L E D
)	(November 19, 2009)
William A. Ward, individually)	
and as trustee of the Kell)	2009 UT App 338
Family Trust,)	
)	
Defendant and Appellant.)	

Second District, Ogden Department, 030907005
The Honorable W. Brent West

Attorneys: William A. Ward, Ogden, Appellant Pro Se
Michael F. Leavitt and Melinda L. Hill, St. George,
for Appellees

Before Judges Greenwood, Orme, and Thorne.

PER CURIAM:

William A. Ward appeals the district court's judgment entered on June 26, 2009. This matter is before the court on a motion for summary disposition for lack of jurisdiction. We dismiss the appeal.

Ward filed his notice of appeal on August 31, 2009. Pursuant to rule 4 of the Utah Rules of Appellate Procedure, a notice of appeal must be filed within thirty days of the entry of the final order or judgment appealed. See Utah R. App. P. 4(a). If a notice of appeal is not timely filed, this court lacks jurisdiction to consider the appeal. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616. If the court lacks jurisdiction over an appeal, it has only the authority to dismiss the appeal. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Only motions filed pursuant to the rules expressly set forth in rule 4(b) of the Utah Rules of Appellate Procedure extend the time for filing a notice of appeal. See Gillett v. Price, 2006

UT 24, ¶ 7, 135 P.3d 861. Otherwise, a timely motion for extension of time to appeal must be filed in the district court pursuant to rule 4(e) of the Utah Rules of Appellate Procedure.

Ward's notice of appeal was filed more than thirty days after the entry of the final order. After the entry of judgment, the record indicates that Ward filed a motion to set aside judgment. A motion to set aside judgment does not toll the time period for appeal. See Utah R. App. P. (4)(b). Furthermore, the record indicates that Ward failed to file a motion for extension of time to appeal. Thus, Ward's appeal is untimely, and this court is required to dismiss it. See Varian-Eimac, 767 P.2d at 570.

Accordingly, the appeal is dismissed.

Pamela T. Greenwood,
Presiding Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge