



expressly directs the entry of final judgment." See generally Utah R. Civ. P. 54(b).

Westgate concedes that we lack jurisdiction over the appeal, but it requests this court to retain the appeal until the disposition of the post-trial motions and probable rule 54(b) certification. We decline. Unless and until the district court, having first resolved the post-trial motions, determines that certification of the order resolving a portion of the claims below is appropriate under rule 54(b) and makes the requisite findings, we lack jurisdiction and must dismiss the appeal. In the alternative, this court has not been presented with a timely petition for permission to appeal under rule 5 of the Utah Rules of Appellate Procedure, see Utah R. App. P. 5.

"[T]he initial inquiry of any court should always be to determine whether the requested action is within its jurisdiction." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989). "When a matter is outside the court's jurisdiction it retains only the authority to dismiss the action." Id. Because this appeal is not taken from a final and appealable judgment, we dismiss the appeal, without prejudice to a timely appeal filed after the entry of a final appealable judgment resolving the entire case or certification by the district court of this judgment as final pursuant to rule 54(b) of the Utah Rules of Civil Procedure.

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Pamela T. Greenwood,  
Presiding Judge

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Gregory K. Orme, Judge

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James Z. Davis, Judge