

IN THE UTAH COURT OF APPEALS

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Levi Juddson Whitney,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Petitioner and Appellee,	)	
	)	Case No. 20100825-CA
v.	)	
	)	F I L E D
Nicole Ray Whitney,	)	(December 9, 2010)
	)	
Respondent and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2010 UT App 343</span>

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Seventh District, Moab Department, 074700092  
The Honorable Lyle R. Anderson

Attorneys: Sharon L. Preston, Salt Lake City, for Appellant  
            Craig C. Halls, Blanding, for Appellee

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Before Judges McHugh, Thorne, and Voros.

PER CURIAM:

Nicole Ray Whitney appeals the district court's order granting a petition to modify a divorce decree. This case is before the court on a sua sponte motion for summary disposition.

Rule 4(a) of the Utah Rules of Appellate Procedure requires a notice of appeal to be filed with the clerk of the trial court within thirty days after the date of entry of the order being appealed. See Utah R. App. P. 4(a). An order is entered when it is signed by the trial court judge and filed with the clerk. See Utah R. Civ. P. 58A(c). The order being appealed was entered on September 2, 2010. Therefore, the notice of appeal must have been filed no later than Monday, October 4, 2010. The notice of appeal filed on October 6, 2010, was untimely and did not establish jurisdiction in this court to consider the merits of the appeal.

"If an appeal is not timely filed, this court lacks jurisdiction to hear the appeal." Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616. Once a court has determined that it lacks jurisdiction, it "retains only the authority to dismiss the action." Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d

569, 570 (Utah Ct. App. 1989). Accordingly, we dismiss the appeal for lack of jurisdiction.

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Carolyn B. McHugh,  
Associate Presiding Judge

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William A. Thorne Jr., Judge

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J. Frederic Voros Jr., Judge