

IN THE UTAH COURT OF APPEALS

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Melany Zoumadakis,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellant,	)	
	)	Case No. 20070814-CA
v.	)	
	)	F I L E D
Uintah Basin Medical Center,	)	(December 6, 2007)
Inc.; Dr. Mark Mason; Lloyd	)	
Nielson; Carolyn Smith; and	)	<span style="border: 1px solid black; padding: 2px;">2007 UT App 387</span>
John Does 1-10,	)	
	)	
Defendants and Appellees.	)	

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Eighth District, Duchesne Department, 030800083  
The Honorable John R. Anderson

Attorneys: Jay L. Kessler, Magna, for Appellant  
Carolyn Cox, Salt Lake City, for Appellees

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Before Judges Bench, Greenwood, and Billings.

PER CURIAM:

Appellant Melany Zoumadakis filed a notice of appeal from the "jury's decision dated September 7, 2007," and from a partial summary judgment entered earlier in the case. The notice of appeal attached a copy of the unsigned minutes from the jury trial, but it did not attach a judgment that had been signed and entered by the district court. Based upon a review of the district court record, no such judgment appears in that record.

Rule 58A of the Utah Rules of Civil Procedure states:

Unless the court otherwise directs, and subject to the provisions of Rule 54(b), judgment upon the verdict of a jury shall be forthwith signed by the clerk and filed. If there is a special verdict or a general verdict accompanied by answers to interrogatories returned by a jury pursuant to Rule 49, the court shall direct the appropriate judgment which shall be signed by the clerk and filed.

Utah R. Civ. P. 58A(a). The Utah Supreme Court clarified that "rule 58A states that judgments based on a jury verdict shall be

signed by the court clerk, while judgments not based on the jury verdict must be signed by the judge." Peirce v. Peirce, 2000 UT 7, ¶ 15, 994 P.3d 193; see also Phoenix Indem. Ins. Co. v. Smith, 2002 UT 49, ¶ 6, 48 P.3d 976 (noting that a final judgment entered by the trial court following a jury verdict is a prerequisite to an appeal).

In this case, the district court record contains no judgment signed by the court clerk based upon the jury verdict. There is a certificate of service indicating that the minutes were mailed to counsel, but there is no judgment signed and filed, as required by rule 58A(a). Counsel for Zoumadakis represents that he has been advised by the district court that there will be no judgment prepared and counsel will receive only the minutes of the jury trial and the actual jury verdict. The record contains a special verdict form signed by the jury foreman. This does not satisfy the requirements for a final judgment that must be "forthwith signed by the clerk and filed." Utah R. Civ. P. 58A(a).

Zoumadakis argues that this court has jurisdiction over her appeal because it was filed within thirty days of the announcement of the verdict. However, in the absence of a signed judgment filed in the district court, there is no final, appealable judgment, and we lack jurisdiction over the appeal. Having determined that we lack jurisdiction, we retain only the authority to dismiss the appeal. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

We dismiss the appeal for lack of jurisdiction, without prejudice to a timely appeal filed after entry of a final judgment. Under the unique circumstances presented by this appeal, we remand the case to the district court for purposes of entering a final judgment on the jury verdict in compliance with rule 58A of the Utah Rules of Civil Procedure. After entry of a final judgment, Zoumadakis must file a new notice of appeal in order to appeal from the final judgment in this case; however, she should not be required to pay a filing fee for the new appeal.

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Russell W. Bench,  
Presiding Judge

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Pamela T. Greenwood,  
Associate Presiding Judge

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Judith M. Billings, Judge