



## In the Matter of the Estate of Ralph T. v. Mike Wall

2012 UT App 105 (2012) | Cited 0 times | Court of Appeals of Utah | April 5, 2012

### DECISION

Before Judges Voros, Orme, and Roth.

¶1 Dean Wall (Wall) filed a notice of appeal from the district court's Order on Motion to Enforce Settlement Agreement and on Prejudgment Writ of Attachment, entered on January 4, 2012. Although also characterizing herself as an appellant, Julie Barthlow (Barthlow) did not file a notice of appeal from the January 4, 2012 order. This case is before the court on a sua sponte motion for summary disposition for lack of jurisdiction.

¶2 "An appeal may be taken from a district . . . court to the appellate court with jurisdiction over the appeal from all final orders and judgments." Utah R. App. P. 3(a). An order is final and appealable only when it disposes of all of the claims against all parties on the merits. See *Loffredo v. Holt*, 2001 UT 97, ¶ 12, 37 P.3d 1070; *Bradbury v. Valencia*, 2000 UT 50, ¶ 9, 5 P.3d 649. An appeal taken from an order that is not final must be dismissed for lack of appellate jurisdiction. See *Bradbury*, 2000 UT 50, ¶ 8.

¶3 In the January 4, 2012 order, the district court found that the parties had entered into a settlement agreement, although ambiguities existed as to the terms of that agreement. The district court reserved its determination on the terms of the settlement agreement pending a trial, an evidentiary hearing, or a summary proceeding occurring after discovery had been conducted pursuant to a scheduling order or as otherwise agreed by the parties. The balance of the court's order provisionally granted a motion for a prejudgment writ of attachment of funds in certain bank accounts. Wall filed a notice of appeal from the order, which by its terms was interlocutory and not final.

¶4 Because the order that Wall seeks to appeal is not final and appealable, we lack jurisdiction to consider the appeal on its merits. Furthermore, because Barthlow did not file a notice of appeal on her own behalf, we lack jurisdiction to consider her purported appeal on that additional ground. 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 this appeal for lack of jurisdiction without prejudice to a timely appeal taken from the final judgment.

J. Frederic Voros Jr., Associate Presiding Judge



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Gregory K. Orme, Judge

Stephen L. Roth, Judge

