

IN THE UTAH COURT OF APPEALS

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Stichting Mayflower Mountain Fonds;)
and Stichting Mayflower Recreations)
Fonds,)

Plaintiffs, Counterclaim)
Defendants, and Appellants,)

v.)

Utah Department of Transportation,)
Defendant, Counterclaim)
Plaintiff, and Appellee.)

Utah Department of Transportation,)
Counterclaim Plaintiff and)
Appellee,)

v.)

Robert W. Dunlap; Kathy L. Dunlap;)
United Park City Mines Company;)
Mayfinance, C.V.; and Cooperative)
Centrale Raiffenisen Boerenleenbank,)
B.A.,)

Counterclaim Defendants and)
Appellees,)

v.)

Park City Municipal Corporation,)
Third-party Defendant and)
Appellee.)

PER CURIAM DECISION

Case No. 20110068-CA

F I L E D
(March 24, 2011)

2011 UT App 88

Third District, Silver Summit Department, 050500159
The Honorable Robert K. Hilder

Attorneys: E. Craig Smay, Salt Lake City, for Appellants
Mark R. Gaylord and Melanie J. Vartabedian, Salt Lake City, for
Appellee Park City Municipal Corporation

Before Judges Davis, Voros, and Christiansen.

PER CURIAM:

¶1 Stichting Mayflower Mountain Fonds and Stichting Mayflower Receptions Fonds (collectively Stichting) seek to appeal the district court's November 29, 2010 order. This matter is before the court on a sua sponte motion for summary disposition for lack of jurisdiction due to the absence of a final order.

¶2 Generally, "[a]n appeal is improper if it is taken from an order or judgment that is not final." *Bradbury v. Valencia*, 2000 UT 50, ¶ 9, 5 P.3d 649. For an order or judgment to be final, it must "dispose of all parties or claims to an action." *Id.* ¶ 10. When an appeal is taken from a non-final order, this court lacks jurisdiction over the appeal. *See id.* ¶ 8. When this court lacks jurisdiction over an appeal, we have only the authority to dismiss the appeal. *See Varian-Eimac, Inc. v. Lamoreaux*, 767 P.2d 569, 570 (Utah Ct. App. 1989). The only exceptions to the final judgment rule are where: (1) an appeal is permitted under the circumstances by statute, (2) the appellate court grants interlocutory appeal under rule 5 of the Utah Rules of Appellate Procedure, or (3) the trial court certifies the order as final under rule 54(b) of the Utah Rules of Civil Procedure. *See Bradbury*, 2000 UT 50, ¶ 12.

¶3 Stichting's notice of appeal is not taken from a final, appealable order. The district court denied Stichting's motion to certify the November 29, 2010 order as final pursuant to rule 54(b). Stichting fails to demonstrate that the order satisfies any exception to the final judgment rule. Because the appeal is taken from a non-final order, this court lacks jurisdiction to consider the appeal and we have only the authority to dismiss the appeal. *See Varian-Eimac, Inc.*, 767 P.2d at 570.

¶4 Accordingly, the appeal is dismissed without prejudice to the filing of a timely appeal from a final order.¹

James Z. Davis,
Presiding Judge

J. Frederic Voros Jr., Judge

Michele M. Christiansen, Judge

¹It follows that Park City Municipal Corporation's motion for fees and double costs is denied without prejudice.