

2004

Patrick T. Panos v. Olsen and Associates Construction, Inc. : Unknown

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

FILED
UTAH APPELLATE COURTS
OCT 20 2004

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Patrick T. Panos,)	
)	
Plaintiff and Appellant,)	ORDER
)	
v.)	Case No. 20040716-CA
)	
Olsen and Associates)	
Construction, Inc.,)	
)	
Defendant and Appellee.)	
)	

This is before the court on Olsen and Associates Construction's (Olsen) motion for summary disposition. Olsen asserts that Panos's notice of appeal is untimely, and that there is no substantial question for review warranting further consideration by this court.

Panos filed his notice of appeal on August 19, 2004, ten days after the trial court entered an order dismissing an outstanding counterclaim, thus finally disposing of the issues between the parties. Olsen asserts that Panos should have filed his notice of appeal within thirty days of the entry of the order dismissing his claim on summary judgment. However, such an order would not have been a final appealable order with Olsen's counterclaim still pending. See U.P.C., Inc. v. R.O.A. General, Inc., 1999 UT App 303, ¶24, 990 P.2d 945 (noting where a "counterclaim was still pending before the trial court, [a] summary judgment was not a final, appealable order"). Because Panos timely filed his notice of appeal from the order finally disposing of all claims, this court has jurisdiction over this appeal.

IT IS HEREBY ORDERED that Olsen's motion for summary disposition is denied, and a ruling on the issues raised on appeal is deferred pending plenary presentation and consideration of the case.

Dated this 20 day of October, 2004.

FOR THE COURT:


James Z. Davis, Judge

CERTIFICATE OF MAILING

I hereby certify that on October 21, 2004, a true and correct copy of the foregoing ORDER was deposited in the United States mail to the parties listed below:

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Dated this October 21, 2004.

By 
Deputy Clerk

Case No. 20040716