

STATE OF VERMONT
ORANGE COUNTY

FILED

NOV - 4 2008

ORANGE SUPERIOR COURT

TIM FERGUSON)	Orange Superior Court
)	Docket No. 51-3-08 Oecv
v.)	
)	on appeal from
COBBLESTONE LANDSCAPING)	Docket No. 319-11-07 Oesc

SMALL CLAIMS COURT APPEAL
Entry Order

In Small Claims Docket No. 319-11-07 Oesc, the Small Claims Court entered judgment in favor of plaintiff Tim Ferguson on February 6, 2008. Defendant Cobblestone Landscaping then filed a notice of appeal on February 25, 2008.


The present appeal is not yet ripe, however, because the judgment is not yet "final" as a matter of formality. Specifically, the document from which Cobblestone Landscaping has appealed was entered on the docket by the Small Claims Court as a judgment pursuant to V.R.S.C.P. 6, but was not signed by the Small Claims Judge as required by V.R.C.P. 58. Rule 58 clearly requires judgment orders to be approved and signed by the judge who presided over the rendering of judgment. *Baker v. Town of Goshen*, 169 Vt. 145, 150-51 (1999). This formality is designed to ensure the accuracy and reliability of the judgment order, and to certify the presiding judge's approval of its contents.

When a judgment order has not been signed by the presiding judge, "the docket entry of the court's decision does not constitute entry of judgment and does not commence the running of the appeal period." *Baker*, 169 Vt. at 150. Thus, the present appeal, which has been taken from an unsigned order of the court, is not yet ripe, and the appeal period has not yet begun to run.

In these circumstances, the proper course of action is for the matter to be *remanded* to the Small Claims Court for further consideration in light of V.R.C.P. 58. The Superior Court shall retain jurisdiction. Upon entry of final judgment, the Superior Court shall treat the notice of appeal as having been timely filed on the same day as the entry of final judgment, V.R.A.P. 4, and shall proceed with the appeal under the present docket (No. 51-3-08 Oecv).

SO ORDERED.

Dated at Chelsea, Vermont this 4th day of November, 2008.


Hon. Mary Miles Teachout
Superior Court Judge