

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

July 3, 2008

Elisabeth A. Shumaker
Clerk of Court

VICKI KOCH, a/k/a Vicki Butrick,

Plaintiff - Appellant,

v.

No. 08-6117

CITY OF DEL CITY, a municipal
corporation; JOHN BEECH, an
individual,

Defendants - Appellees.

ORDER

Before **LUCERO**, **HARTZ**, and **O'BRIEN**, Circuit Judges.

Appellant was advised, through counsel, that the appellate filing fees of \$455.00 had not been paid when the notice of appeal was filed in the district court. On May 29, 2008, this court advised Appellant that she must do one of two things within 30 days to resolve the filing fees deficiency: she must either pay the filing fees in full to the district court or she must file a motion in the district court to proceed on appeal *in forma pauperis*. Thirty days have now passed, and she has done neither.

Accordingly, this appeal is dismissed for failure to prosecute. 10th Cir. R. 3.3(B),
42.1.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink that reads "Lara Smith". The signature is written in a cursive, flowing style.

by: Lara Smith
Counsel to the Clerk

No. 08-6117 Koch v. City of Del City

Lucero, J., concurring:

I concur but write separately to state that even if the plaintiff had paid the filing fee or requested to proceed in forma pauperis, the appeal would be futile because this court lacks jurisdiction. The orders being appealed are not final or otherwise immediately appealable, see 28 U.S.C. § 1291, and no exception to the final judgment rule is present here.