§ 25-1937 was also applicable to the plaintiff's action in district court and provided him with two alternative means of seeking judicial review.

The same is not true in Meints' case. There is no legislative grant of a right to appeal a decision of a board of appeals in a city of the first class, as the City is in this case. As a result, distinguishable from *In re Application of Olmer, supra*, Meints' case is not one where the Legislature has specifically provided a right for him to appeal the Board of Appeals' decision but has not prescribed the proper method for taking such an appeal. Section 25-1937 does not apply to provide an alternative basis for the district court's jurisdiction in the present case, and we find Meints' assertions to the contrary to be without merit.

V. CONCLUSION

Meints sought judicial review of the City's Board of Appeals' decision to uphold the notice and order that Meints demolish a structure on residential property. Meints sought judicial review of an order of a lower tribunal that had performed judicial functions, and the provisions of § 25-1901 et seq. were applicable, including the requirement that Meints file with his petition in error a transcript of the lower tribunal proceedings or a praecipe requesting the preparation of such a transcript. Meints failed to comply with this jurisdictional prerequisite, and the district court did not err in dismissing his action. We affirm.

AFFIRMED.

CYNTHIA A. FRIEDMAN, APPELLEE, V.
BRUCE R. FRIEDMAN, APPELLANT.
819 N.W.2d 732

Filed August 21, 2012. No. A-11-747.

1. **Jurisdiction.** Before reaching the legal issues presented for review, it is the duty of an appellate court to determine whether it has jurisdiction over the matter before it.
2. **Jurisdiction: Appeal and Error.** Notwithstanding whether or not the parties raise the issue of jurisdiction, an appellate court has a duty to raise and determine the issue of jurisdiction sua sponte.

3. **Equity.** Where a situation exists which is contrary to the principles of equity and which can be redressed within the scope of judicial action, a court of equity will devise a remedy to meet the situation.
4. **Final Orders: Appeal and Error.** The three types of final orders that an appellate court may review are (1) an order that affects a substantial right and that determines the action and prevents a judgment, (2) an order that affects a substantial right made during a special proceeding, and (3) an order that affects a substantial right made on summary application in an action after a judgment is rendered.
5. **Divorce: Child Custody: Final Orders: Appeal and Error.** Custody determinations and proceedings regarding marital dissolution are special proceedings within the meaning of a statute defining final, appealable orders.
6. **Final Orders: Appeal and Error.** A substantial right is affected if the order affects the subject matter of the litigation, such as diminishing a claim or defense that was available to the appellant prior to the order from which the appeal is taken.
7. **Courts: Judgments: Appeal and Error.** Where the appellate court remands a cause with directions to enter judgment for the plaintiff in a certain amount, the judgment of the appellate court is a final judgment in the cause and the entry thereof in the lower court is a purely ministerial act.
8. **Courts: Judgments: Jurisdiction: Appeal and Error.** The trial court must enter judgments in accordance with the direction of an appellate court, and in so doing, the trial court has no jurisdiction to change those judgments.
9. **Judgments: Appeal and Error.** Judgment on a mandate entered in strict conformity with the latter is a final determination of all matters decided and disposed of by the reviewing court.
10. **Final Orders: Appeal and Error.** An order spreading the mandate entered in accordance with an appellate court decision does not affect a substantial right and is thus not a final, appealable order.

Appeal from the District Court for Howard County: KARIN L. NOAKES, Judge. Appeal dismissed.

Amy Sherman, of Sherman & Gilner, P.C., L.L.O., for appellant.

Bruce R. Friedman, pro se.

James A. Wagoner for appellee.

IRWIN, SIEVERS, and PIRTLE, Judges.

SIEVERS, Judge.

Bruce R. Friedman appeals from an August 15, 2011, order of the district court for Howard County spreading our mandate

in cases Nos. A-10-919 and A-10-920 filed on June 22, 2011, as an unpublished memorandum opinion. Bruce claims that the district court did not follow our mandate because it failed to "'balance the books,'" brief for appellant at 6, which he asserts we ordered the district court to do in our unpublished memorandum opinion. Bruce asks that we remand the cause with instructions for it to do so. Because the order spreading our mandate from which Bruce appeals does not affect a substantial right, we dismiss this appeal for lack of jurisdiction, pursuant to Neb. Ct. R. App. P. § 2-107(A)(2) (rev. 2012).

JURISDICTIONAL ANALYSIS

[1,2] Before reaching the legal issues presented for review, it is the duty of an appellate court to determine whether it has jurisdiction over the matter before it. *State v. Silvers*, 255 Neb. 702, 587 N.W.2d 325 (1998). Notwithstanding whether or not the parties raise the issue of jurisdiction, an appellate court has a duty to raise and determine the issue of jurisdiction sua sponte. *Schmidt v. State*, 255 Neb. 551, 586 N.W.2d 148 (1998).

In our unpublished memorandum opinion, we reversed the finding of the district court for Howard County that Bruce's garnishment of Cynthia A. Friedman's wages was a frivolous action and we vacated the award of attorney fees and costs imposed on him by the trial court. We also reversed the court's finding that Bruce was in contempt for failure to pay unreimbursed medical expenses in the amount of $6,541.12, although we affirmed the finding that he owed that amount. The opinion regarding those two cases details some of the disputes between Bruce and Cynthia, and it resolves some of them. In a bit of dicta, we observed in our opinion that this case

> cries out for a complete "balancing of the books." And our decision in *Griess* [*v. Griess*, 9 Neb. App. 105, 608 N.W.2d 217 (2000)], provides authority for the trial court to use its equitable powers to accomplish that in a fair and equitable manner. Perhaps, by now, the court has ruled on Bruce's filing of June 2, 2010, seeking credit and "who owes who what" has been resolved—but if not, such obviously needs to be done.

[3] In *Griess v. Griess*, 9 Neb. App. 105, 608 N.W.2d 217 (2000), we recounted our holding from *Janke v. Chace*, 1 Neb. App. 114, 487 N.W.2d 301 (1992), that where a situation exists which is contrary to the principles of equity and which can be redressed within the scope of judicial action, a court of equity will devise a remedy to meet the situation. It was in this vein that our earlier unpublished memorandum opinion made the suggestion quoted above. This is also the basis of Bruce's present appeal.

In any event, the trial court entered its order spreading our mandate on August 15, 2011. The order is in conformity with the conclusions and directions in our opinion, but it does not address in any way "'who owes who what'" or the "'balancing of the books'" that our dicta suggested needed to be done. The trial court clearly made no order or directive with reference thereto. In short, the trial court properly did not include our dicta in its order spreading our mandate. On September 6, Bruce filed his notice of appeal from the district court's order spreading our mandate, which notice of appeal expressly states that he is appealing from the August 15 order.

We note, however, that another order was entered by the district court on September 2, 2011, before Bruce filed this appeal. That order, which was added to our record via a supplemental transcript requested by Cynthia, orders the parties to attend mediation within 60 days from the date the order was filed "regarding the issues raised in [Bruce's M]otion for Credit of Child Support and [Cynthia's] Motion and Application to Modify and [Cynthia's] Renewed Motion to Retroactively Amend [Bruce's] Child Support Deviation for Travel Expense and Medical Care Obligation." We have located two of the three motions identified in the September 2 order in our voluminous record. After reviewing those motions, it is clear that the September 2 order directing the parties to mediation is an attempt to have the parties figure out "'who owes who what'" and the "'balancing of the books,'" to use our earlier opinion's terminology.

The essence of Bruce's two assignments of error is that the trial court's order spreading our mandate was not in compliance

with our mandate because it did not decide what debits and credits related to this divorce needed to be applied to Bruce's financial obligations to Cynthia. Cynthia's response is that the only thing that kept the trial court from balancing the books was the fact that Bruce filed this appeal on September 9, 2011, preventing the parties, and ultimately the court, from acting on its order of September 2 regarding mediation of the issues raised by the three unresolved motions.

[4-6] The three types of final orders that an appellate court may review are (1) an order that affects a substantial right and that determines the action and prevents a judgment, (2) an order that affects a substantial right made during a special proceeding, and (3) an order that affects a substantial right made on summary application in an action after a judgment is rendered. *McCaul v. McCaul*, 17 Neb. App. 801, 771 N.W.2d 222 (2009). Custody determinations and proceedings regarding marital dissolution, such as this one, are special proceedings within the meaning of a statute defining final, appealable orders to include orders affecting a substantial right made during a special proceeding. See *id*. A substantial right is affected if the order affects the subject matter of the litigation, such as diminishing a claim or defense that was available to the appellant prior to the order from which the appeal is taken. *Holste v. Burlington Northern RR. Co*., 256 Neb. 713, 592 N.W.2d 894 (1999).

[7,8] "'Where the appellate court remands a cause with directions to enter judgment for the plaintiff in a certain amount, the judgment of the appellate court is a final judgment in the cause and the entry thereof in the lower court is a purely ministerial act. . . .'" *Jurgensen v. Ainscow*, 160 Neb. 208, 212, 69 N.W.2d 856, 858 (1955) (quoting 3 Am. Jur. *Appeal and Error* § 1236 (1936)). The trial court must enter judgments in accordance with the direction of this court, and in so doing, the trial court has no jurisdiction to change those judgments. See *Jurgensen v. Ainscow, supra*. No modification of the judgment so directed can be made, nor may any provision be engrafted on or taken from it. *Id*. That order is conclusive on the parties, and no judgment or order different from, or

in addition to, that directed by it can have any effect. *Id*. The order spreading our mandate that Bruce appeals from comports with these well-established principles.

Moreover, the order spreading our mandate does not diminish a claim or defense that was available to Bruce, and thus, it does not affect his substantial rights. This is true even if we were to include the September 2, 2011, order directing the parties to mediation in our jurisdictional analysis. That order for mediation is statutorily authorized given that the unresolved motions are essentially proceedings to modify. See Neb. Rev. Stat. §§ 42-364(6) and 43-2937 (Cum. Supp. 2010). The September 2 order does not affect Bruce's substantial rights because his claims remain intact and unresolved, notwithstanding the September 2 order.

[9,10] Judgment on a mandate entered in strict conformity with the latter is a final determination of all matters decided and disposed of by the reviewing court. *Jurgensen v. Ainscow, supra*. Given that a trial court must enter judgments in accordance with the decision and directions of this court and that the trial court has no jurisdiction to change those judgments, the order spreading our mandate in the present case is not an order that affects a substantial right and is thus not a final, appealable order.

CONCLUSION

We conclude that the order Bruce appeals from that spreads our mandate is an order made in a special proceeding, but it does not affect a substantial right. Therefore, we lack jurisdiction and this appeal is hereby dismissed.

APPEAL DISMISSED.