NO. 24897

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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MATHEW S. MIKELSON, Plaintiff-Appellee,

vs.

UNITED SERVICES AUTOMOBILE ASSOCIATION, Defendant-Appellant,

vs.

JOHN DOES 1-25; JANE DOES 1-25; DOE CORPORATIONS 1-25; DOE CORPORATIONS 1-25; DOE PARTNERSHIPS 1-25; and DOE GOVERNMENTAL ENTITIES 1-25, Defendants

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APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 99-1856)

ORDER DISMISSING APPEAL
(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon review of the record, it appears that the "Order Denying Defendant United Services Automobile Association's Motion for Order or Declaration Regarding Choice of Law Filed February 6, 2001," filed April 30, 2001, and the "Findings of Fact, Conclusions of Law, and Order re Bench Trial on Stipulated Record," filed July 16, 2001, in Civil No. 99-1856-05 are not final and appealable orders pursuant to HRS § 641-1(a) (1993). Although the circuit court, the Honorable Dexter D. Del Rosario presiding, certified these two orders for appeal pursuant to Rule 54(b) of the Hawai'i Rules of Civil Procedure (HRCP), the April 30, 2001 "Order Denying Defendant United Services Automobile Association's Motion for Order or Declaration Regarding Choice of Law Filed February 6, 2001" is not certifiable under HRCP Rule 54(b) because it does not resolve a claim. It is an interlocutory order, and, absent certification under HRS § 641-1(b) (1993), Defendant-Appellant United Services Automobile Association (Appellant USAA) can contest its validity

only by appealing from a final judgment on the claim to which the order relates. State v. Adam, 97 Hawai‘i 475, 482, 40 P.3d 877, 884 (2002) ("As a general rule, an appeal from a final judgment in a case brings up for review all preceding interlocutory orders in the case." (Citations omitted).). The July 16, 2001 "Findings of Fact, Conclusions of Law, and Order re Bench Trial on Stipulated Record" is certifiable under HRCP Rule 54(b), but the circuit court has not reduced it to a separate judgment, as HRCP Rule 58 requires. "An appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP 58." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai‘i 115, 119, 869 P.2d 1334, 1338 (1994).

> An appeal from an order that is not reduced to a judgment in favor of or against the party by the time the record is filed in the supreme court will be dismissed. If a judgment purports to be certified under HRCP 54(b), the necessary finding of no just reason for delay . . . must be included in the judgment.

Id. at 120, 869 P.2d at 1339 (citation and footnote omitted). This appeal is premature and we lack appellate jurisdiction over this case. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai‘i, May 3, 2002.