

NO. 25409

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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BENJAMIN YIN, Plaintiff-Appellee

vs.

JULIE LEWIS, Defendant-Appellant

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(CIVIL NO. 1RC02-1-05257)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.  
and Circuit Judge Hirai, assigned by reason of vacancy)

Upon review of the record, it appears that Civil No. 1RC02-1-05257 has not been finally resolved inasmuch as the plaintiff's claim for damages remains pending. The August 27, 2002 judgment for possession was immediately appealable by notice of appeal filed by September 26, 2002, but notice of appeal was not filed until October 11, 2002. The immediate appeal of the judgment for possession is untimely and appellate review of such judgment must await entry of judgment on the claim for damages. See Ciesla v. Reddish, 78 Hawai'i 18, 889 P.2d 702 (1995). It further appears that the October 17, 2002 order denying the motion to set aside the settlement is an interlocutory order for which appellate review must also await entry of judgment on the claim for damages. See HRS § 641-1(a). Thus, this appeal is

premature and we lack jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, January 17, 2003.