

*** NOT FOR PUBLICATION ***

NO. 25533

IN THE SUPREME COURT OF THE STATE OF HAWAII

KYO-YA COMPANY, LTD., Plaintiff-Appellee

vs.

JAMES HARDIE BUILDING PRODUCTS, INC., and
JAMES HARDIE INDUSTRIES (USA), INC., Defendants-Appellants

and

JHRC, LTD., formerly known as HONOLULU ROOFING CO., LTD.,
Defendant-Appellee

and

JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-10; DOE
CORPORATIONS 1-10 and DOE GOVERNMENTAL ENTITIES 1-10, Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 01-1-0865)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears the Honorable Richard W. Pollack's November 12, 2002 discovery order requiring the disclosure of, among other things, Defendants-Appellants James Hardie Building Products, Inc., and James Hardie Industries (USA), Inc.'s (the James Hardie Appellants), trade secrets in Civil No. 02-1-0865-03 (RWP), is neither an appealable final order under HRS § 641-1(a) (1993) nor a certified interlocutory order under HRS § 641-1(b) (1993). The November 12, 2002 discovery order does not qualify as an appealable order under the Forgay doctrine or the collateral order doctrine. See Ciesla v.

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Reddish, 78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995) (regarding the Forgay doctrine); Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 321-22, 966 P.2d 631, 633-34 (1998) (regarding the collateral order doctrine). Final judgment having not been entered, the November 12, 2002 discovery order is not appealable, and this appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, March 27, 2003.