

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 26208

IN THE SUPREME COURT OF THE STATE OF HAWAII

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UNITED PUBLIC WORKERS, AFSCME, LOCAL 656, AFL-CIO,  
Plaintiff-Appellant

vs.

COUNTY OF HAWAII; STEPHEN K. YAMASHIRO; MICHAEL BEN; DONNA FAY  
K. KIYOSAKI; GEORGE YOSHIDA, MILTON D. PAVAO; C.W. MAINTENANCE  
INC.; JULIA A. PAQUIN, dba PACIFIC ALL AMERICAN; SPARKLE  
CLEANING, DOUGLAS A. GASKIN dba DESIGN LANDSCAPE MGMT.; T.  
KOBAYASHI YARD MAINTENANCE; and JOHN DOES 1-10; JANE DOES 1-10;  
DOES 1-10; DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10, ROE NON-  
PROFIT ORGANIZATIONS 1-10; and ROE GOVERNMENTAL ENTITIES 1-10,  
Defendants-Appellees

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APPEAL FROM THE THIRD CIRCUIT COURT  
(CIV. NO. 98-244)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears the Honorable Terence T. Yoshioka's October 21, 2003 amended judgment in Civil No. 98-244 does not satisfy the requirements of Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP). "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 [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

[I]f a judgment purports to be the final judgment in a case involving multiple claims or multiple parties, the judgment (a) must specifically identify the party or parties for and against whom the judgment is entered, and (b) must (i) identify the claims for which it is entered, and (ii) dismiss any claims not specifically identified[.]

Id. (emphases added). "[A]n appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the

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finding necessary for certification under HRCP [Rule] 54(b).”  
Id. (emphasis added).

Although the parties have asserted multiple claims and cross-claims, the October 21, 2003 amended judgment does not specifically identify the claims for which the circuit court entered judgment in favor of Plaintiff-Appellant United Public Workers, AFSCME, Local 646, AFL-CIO’s (Appellant UPW) and against Defendants-Appellees County of Hawai’i, Stephen K. Yamashiro, Michael Ben, Donna Fay K. Kiyosaki, George Yoshida, and Milton D. Pavo. The October 21, 2003 amended judgment also does not resolve any of Appellant UPW’s claims against Defendants C.W. Maintenance, Inc., Julia A. Paquin dba Pacific All American, Sparkle Cleaning, Douglas A. Gaskin dba Design Landscape Management, and T. Kobayashi Yard Maintenance. Although the October 21, 2003 amended judgment provides that “[a]ll other claims, counterclaims, and cross-claims have been dismissed,” this provision does not contain legally operative language; it merely provides a conclusory assertion regarding previous orders. As we have previously explained, “[a] statement that declares ‘there are no other outstanding claims’ is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so[.]” Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai’i 119-20 n.4, 869 P.2d at 1338-39 n.4. For example: “[A]ll other claims, counterclaims, and cross-claims are dismissed.” Id. (internal quotation marks omitted) (emphasis added).

Granted, the October 21, 2003 amended judgment does not need to resolve Appellant UPW’s claims against Defendant Sparkle Cleaning, because Appellant UPW dismissed all of its claims against Defendant Sparkle Cleaning by filing a notice of dismissal without an order of the court pursuant to HRCP Rule 41(a)(1)(A). Cf. Amantiad v. Odum, 90 Hawai’i 152, 158 n.7, 977 P.2d 160, 166 n.7 (1999) (“We . . . hold that a separate judgment

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is neither required nor authorized, inasmuch as a plaintiff's dismissal of an action, by filing a stipulation of dismissal signed by all parties, is effective without order of the court [pursuant to HRCF Rule 41(a)(1)]." (Citation, internal quotation marks, and original brackets omitted). In contrast, however, the circuit court "approved" and "ordered" all of the other stipulations to dismiss the parties' remaining claims and cross-claims, and, thus, those stipulations were dismissal orders by the circuit court pursuant to HRCF Rule 41(a)(2). When a circuit court dismisses claims through court orders, the HRCF Rule 58 separate document rule requires the circuit court to reduce the dismissal orders to a separate judgment. See, e.g., Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996) ("Although RCCH 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCF 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'"); CRSC, Inc. v. Sage Diamond Co., Inc., 95 Hawai'i 301, 306, 22 P.3d 97, 102 (App. 2001) ("[W]here all claims are dismissed and there is no relevant HRCF Rule 54(b) certification as to one or more but not all of the dismissals, there must be one final order (judgment) dismissing all claims against all parties."). Therefore, in addition to specifically identifying the claims for which the circuit court enters judgment, the judgment must include a provision that dismisses all other claims and cross-claims.

We additionally note that the August 19, 2003 stipulation and order for dismissal is not effective in dismissing Appellant UPW's claims against Defendant Julia A. Paquin dba Pacific All American. Although Appellant UPW's complaint asserts claims against Defendant Julia A. Paquin dba Pacific All American, the August 19, 2003 stipulation and order for dismissal provides for the dismissal of "Steven B. Robertson

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dba Pacific All American formerly known as Defendant A. Paquin dba Pacific All American." Appellant UPW's complaint does not name Steven B. Robertson as a defendant. The record does not contain an order substituting Steven B. Robertson formerly known as Defendant A. Paquin dba Pacific All American for Defendant Julia A. Paquin dba Pacific All American. Without a more detailed explanation, it is not clear why the August 19, 2003 stipulation and order for dismissal should be effective as to Defendant Julia A. Paquin dba Pacific All American. The October 21, 2003 amended judgment would have compensated for this apparent error in the August 19, 2003 stipulation and order for dismissal if the October 21, 2003 amended judgment had dismissed all the remaining claims and cross-claims.

One important purpose of the separate document requirement under HRCF Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright is to make the judgment complete within itself so that it is not necessary for appellate courts to search the entire record to determine finality. Because the October 21, 2003 amended judgment neither resolves nor dismisses all of the parties' claims and cross-claims, the October 21, 2003 amended judgment does not satisfy the requirements for a separate judgment under HRCF Rule 58 and Jenkins v. Cades Schutte Fleming & Wright. Therefore, this appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai'i, April 7, 2004.