

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 26806

IN THE SUPREME COURT OF THE STATE OF HAWAII

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FORD ISLAND HOUSING, LLC, by their Managing Agent,  
Chaney, Brooks & Company, Inc., a Hawai'i corporation,  
Plaintiff/Counterclaim-Defendant Appellee

vs.

CHARLES W. BROOKS and DONNA J. BROOKS,  
Defendants/Counterclaimants Appellants

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(1RC04-1-3084)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the district court's denial of the August 13, 2004 motions to set aside the mediation agreement, the judgment for possession and the writ of possession was not appealable as an appeal from the judgment for possession inasmuch as the August 13, 2004 motions were not filed within ten days after entry of the judgment for possession. See HRAP 4(a)(3). The denial of the August 13, 2004 motions did not finally end the litigation in Civil No. 1RC04-1-3084 inasmuch as the plaintiff's claim for damages and the defendants' counterclaim have not been resolved. Thus, the appeal of the denial of the August 13, 2004 motions and related matters is premature and we lack jurisdiction. See HRS § 641-1(a); Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 427, 984 P.2d 1251, 1253 (1999) (a district court judgment or order is final and

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appealable under HRS § 641-1(a) if it ends the litigation by fully deciding the rights and liabilities of all parties and leaves nothing further to be adjudicated.); Ciesla v. Reddish, 78 Hawai'i 18, 889 P.2d 702 (1995) (a district court summary possession case is appealable within thirty days after entry of a judgment for possession and/or after entry of an order finally determining all claims). Therefore,

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

DATED: Honolulu, Hawai'i, February 11, 2005.