

NOT FOR PUBLICATION

NOS. 25448 and 25525

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

JOSEPH R. THAMES, Plaintiff-Appellant, v.
DEBORAH Y. MILLER, aka DEBORAH YOLANDA MILLER,
DEBORAH Y. RICHARDSON, DEBORAH YOLANDA RICHARDSON,
DEBORAH Y. MILLER-RICHARDSON, DEBORAH YOLANDA
MILLER-RICHARDSON, Defendant-Appellee, and
DOES 1 THROUGH 500, INCLUSIVE, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 00-1-1056)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe and Nakamura, JJ.)

Plaintiff-Appellant Joseph R. Thames (Plaintiff or Thames) appeals from the November 8, 2002 Judgment, entered in the Circuit Court of the First Circuit, Judge Eden Elizabeth Hifo, presiding, that dismissed with prejudice his complaint against Defendant-Appellee Deborah Y. Miller (Defendant or Miller); decided that Thames never had ownership interest in the property located at 404 Kalama Street, Kailua, Hawai'i, 96734; and ordered Thames to pay \$15,828 to Miller on her counterclaim.

On January 28, 2002, Judge Hifo scheduled a four-day jury-waived trial for the week of November 4, 2002. On September 19, 2002, Judge Hifo scheduled the trial to commence on November 6, 2002 at 8:45 a.m. When Thames failed to appear at the trial, Judge Hifo received and considered Miller's evidence, awarded a judgment in favor of Miller and against Thames on the

complaint, and awarded a \$15,828 judgment in favor of Miller and against Thames on the counterclaim.

Thames, in his handwritten amended opening brief filed on June 23, 2003, states, in relevant part:

4)A) The Court denied Plaintiff the right to obtain discovery and/or deposition from the Defendant and/or Defendant's attorney(s). The Court denied Plaintiff's motions to compel. Court's denial was based and subject to Defendant's and Defendant's attorney(s) oathful (sworn) submission statement to the Court that the Defendant had not been served. However, Defendant's attorney did not accept service which was via U.S. mail as stated by Plaintiff to the Court and submitted by certificate of service. Defendant and Defendant's attorney committed perjury and fraud on the Court for an illegal and tactical advantage. Such document of Defendant's and Defendant's non acceptance has been submitted to the Court. Upon and at the hearing, Plaintiff objected then and further objects now.

B) The underlying case had/has been removed to federal/U.S. District Court which the lower case overlooked and Plaintiff objected then and objects now.

C. The lower Courts judgment is based on fraud on the Court and improper tactic to bring Plaintiff to Hawaii for impromptu and prejudice hearing. These actions (Court actions impromptu and prejudice) created an undue burden and hardship (to include primarily financial burden and hardship) upon Plaintiff limiting (seriously) Plaintiff prosecution of the underlying and this action. . . .

. . . .

8) Plaintiff/Appellant is entitled to due process under Hawaii State Laws and U.S. Laws and the Constitution.

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, and duly considering and analyzing the law relevant to the arguments and the issues raised by the parties, we resolve Thames' points of error as follows:

(1) Assuming Thames has shown a pre-trial judicial error, he has not shown a pre-trial judicial error that was

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prejudicial to him because he, without explanation, was not present at the trial. Without proof that his absence at trial was authorized, he cannot legitimately complain that his prosecution of his action was erroneously burdened, inhibited or limited by pre-trial judicial error.

(2) Thames has not proven his allegations that "[t]he underlying case had/has been removed to federal/U.S. District Court" and that the Hawai'i State courts have asserted jurisdiction in a case where the federal court has exclusive jurisdiction.

Therefore,

IT IS HEREBY ORDERED that the November 8, 2002 Judgment is affirmed.

DATED: Honolulu, Hawai'i, September 20, 2004.

On the briefs:

Joseph R. Thames
Pro Se Plaintiff-Appellant.

Chief Judge

Associate Judge

Associate Judge