

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 25131

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

MICHAEL K. SPERKA dba OLD HAWAIIAN COFFEE  
Plaintiff-Appellee,

vs.

DOUG WHITING, NILDA WHITING dba  
ROYAL HAWAIIAN AND PACIFIC TRADING CO.,  
Defendants and Third-Party Plaintiffs-Appellants,

vs.

UESHIMA COFFEE CORPORATION, a Hawai'i corporation,  
Third-Party Defendant-Appellee,

and

YOSHIAKI KAWASHIMA, Third-Party Defendant.

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT  
(CIV. NO. 99-026K)

ORDER DISMISSING APPEAL PURSUANT TO HRAP RULE 30  
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, it appears that:

(1) on May 24, 2002, Defendant and Third Party-Plaintiffs Doug and Nilda Whiting, dba Royal Hawaiian and Pacific Trading Company (Appellants), filed a notice of appeal; (2) on July 24, 2002, the appellate clerk filed a notice of entering case on calendar and notified Appellant the jurisdictional statement was due on August 3, 2002 and the opening brief was due on September 2, 2002; (3) Appellant did not file the jurisdictional statement or the opening brief; (4) on March 21, 2003, Appellants filed a notice of bankruptcy; (5) on March 5, 2008, this court issued an order directing Appellants to file with this court a report on the status of the bankruptcy proceedings within thirty (30) days from the date of the order; (6) on March 18, 2008, Appellants

K. HAMAKAOU  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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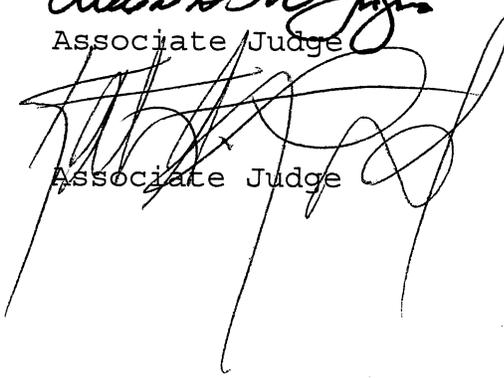
filed a notice of Discharge of Debtors; (6) the Discharge of Debtors was filed on April 12, 2004; (7) on April 16, 2008, the appellate clerk notified Appellants that: (a) as a result of the discharge of debtors, the opening brief became due on May 22, 2004; (b) the opening brief was in default; (c) the matter would be brought to the attention of the court on April 23, 2008 for such action as the court deems proper; (d) the appeal may be dismissed pursuant to HRAP Rule 30; and (8) Appellants did not file the opening brief or seek relief from default. Therefore,

IT IS HEREBY ORDERED that the appeal is dismissed pursuant to HRAP Rule 30.

DATED: Honolulu, Hawai'i, July 10, 2008.

  
Daniel R. Foley  
Presiding Judge

  
Associate Judge

  
Associate Judge