

DISSENTING OPINION BY FUJISE, J.

Upon review of the record in this case, it appears to me that we lack jurisdiction over Appellants' appeal because the November 26, 2004 Judgment entered by the Circuit Court of the Fifth Circuit does not satisfy the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming and Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994).

HRS § 641-1(a) authorizes appeals in civil matters from "all final judgments, orders, or decrees[.]" Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c) (1993). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement, the Supreme Court of Hawai'i has held that

(1) [a]n appeal may be taken . . . 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; (2) if 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[.]

Jenkins, 76 Hawai'i at 119, 869 P.2d at 1338.

Therefore, "an appeal from any judgment will be dismissed as premature if the judgment does not, *on its face*,

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either resolve all claims against all parties or contain the finding necessary for certification under HRCP [Rule] 54(b)."

Id.

The November 26, 2004 Judgment does not resolve, on its face, all claims against all parties nor does it contain the finding necessary for certification under HRCP Rule 54(b). Rather, the judgment fails to specifically identify the defendants against whom judgment is entered or to specifically identify the claim or claims on which judgment is entered. In addition, the judgment refers to the dismissal of the counterclaim as a future event and does not provide the operative language necessary to dismiss all the remaining claims. Therefore, the November 26, 2004 Judgment is not an appealable final judgment. Absent an appealable final judgment, this appeal is premature and must be dismissed.

