

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28330

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

NICHOLAS R. AGORASTOS and LESLIE M. AGORASTOS
Plaintiffs-Appellees,

v.

SUSAN N. BROWN and THE HEIRS
AND ASSIGNS OF HENRY K. KAMALII AND NAKAIKUAANA,
et al., Defendants-Appellants.

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIV. NO. 05-1-0380)

ORDER DISMISSING APPEAL FOR DEFAULT OF THE OPENING BRIEF
(By: Recktenwald, C.J., Watanabe and Leonard, JJ.)

Upon review of the record, it appears that:

- (1) Defendant-Appellant Susan Brown (Appellant Brown) filed a notice of appeal on December 22, 2006;
- (2) Appellant Brown's appeal is fully briefed and ready for assignment to a merit panel;
- (3) on December 22, 2006, Defendant-Appellant Lillian Whitney (Appellant Whitney) filed a notice of appeal;
- (4) on September 12, 2007, the appellate clerk filed an amended notice of entering case on calendar and notified Appellant Whitney that a jurisdictional statement was due on September 22, 2007 and an opening brief was due on October 22, 2007;
- (5) Appellant Whitney did not file a jurisdictional statement or an opening brief;
- (6) on January 23, 2008, the appellate clerk informed Appellant Whitney that: (a) the time to file the statement of jurisdiction and the opening brief expired; (b) the matter would be brought to the attention of the court on January 30, 2008 for such action as

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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the court deems proper; and (c) the appeal may be dismissed pursuant to HRAP Rule 30; (7) on February 8, 2008, this court issued an order directing Appellant Whitney to file the opening brief within thirty days from the date of the order and informing her that failure to file the opening brief within the time provided will result in dismissal of the appeal pursuant to HRAP Rule 30; and (8) Appellant Whitney did not file the opening brief. Therefore,

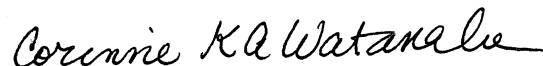
IT IS HEREBY ORDERED that the appeal filed by Appellant Whitney is dismissed. The appeal of Appellant Brown remains pending.

IT IS FURTHER ORDERED that the appellate clerk shall place the appeal of Appellant Brown on the ready calendar for assignment to a merit panel.

DATED: Honolulu, Hawai'i, March 31, 2008.



Chief Judge



Associate Judge


Associate Judge