

NO. 28825

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

AUDREY THEISEN LEE, Plaintiff-Appellant,

v.

SO JANG LEE, STUART ODA, ESQ., RAYMOND K. HASEGAWA, ESQ.,
Defendants-Appellees,

and

WOO WAN LEE, JUSTIN YONG MIN LEE, GERARD LEELOY, ESQ.,
CHERYL DE LIMA, BAI-ALLA FINLEY, SARAH WATANABE,
JEREMY KELLEY, WAIAKEA SETTLEMENT YMCA, a Branch of the
Island of Hawaii YMCA, ELLIOTT FRIAS, JOHN DOES 1-10,
JANE DOES 1-10, DOE CORPORATIONS 1-10, et al., Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIV. NO. 07-1-0049 (HILO))

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Watanabe, Presiding Judge, Nakamura and Fujise, JJ.)

Upon review of the record and Defendant-Appellee Raymond K. Hasegawa's Objection to Appellate Jurisdiction, it appears that we lack jurisdiction over the appeal of Plaintiff-Appellant Audrey Theisen Lee (Appellant Lee) from the Honorable Ronald Ibarra's

- October 2, 2007 "Order Granting Defendant [-Appellee] Stuart H. Oda's Motion for Summary Judgment, Filed August 28, 2007,"
- October 2, 2007 "Order Partially Granting and Partially Denying Defendant [-Appellee Soo Jang] Lee's Motion to Dismiss and Strike Pleadings and/or Other Further Relief, Filed August 24, 2007," and
- October 2, 2007 "Order Granting Motion for Judgment on the Pleadings, Filed June 25, 2007,"

because the circuit court has not yet entered a separate judgment that resolves all of the parties' claims, as the supreme court requires under Hawaii Revised Statutes (HRS) § 641-1(a)

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STATE OF HAWAII

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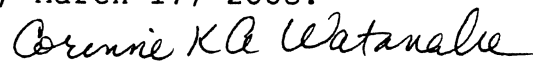
(Supp. 2007), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

HRS § 641-1(a) (Supp. 2007) authorizes appeals to the intermediate court of appeals from "final judgments, orders, or decrees[.]" (Emphasis added). Appeals under HRS § 641-1 (Supp. 2007) "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c) (Supp. 2007). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." HRCP Rule 58. Based on this requirement under HRCP Rule 58, the supreme court has held that "[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[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338 (1994). "An appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Id. at 120, 869 P.2d at 1339 (footnote omitted). In the instant case, the circuit court has not yet reduced the dispositive orders to a separate judgment that resolves all claims in favor of and against the appropriate parties, as HRCP Rule 58 requires under the holding in Jenkins v. Cades Schutte Fleming & Wright. Therefore, Appellant Lee's appeal is premature.

Absent an appealable final judgment, we lack appellate jurisdiction. Accordingly,

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

DATED: Honolulu, Hawai'i, March 17, 2008.



Presiding Judge



Associate Judge



Associate Judge