

NO. 29201

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

ROXANNE RIVERO, Claimant-Appellee, v.  
RICHARD SCHIAVI, Respondent-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(S.P. NO. 07-1-0080)

ORDER VACATING THE ORDER DISMISSING APPEAL  
PURSUANT TO HRAP RULE 30 FILED ON DECEMBER 3, 2008  
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon consideration of Respondent-Appellant Richard Schiavi's (Schiavi) letter filed on January 5, 2009<sup>1</sup> requesting that the Order Dismissing Appeal Pursuant to HRAP Rule 30 (Order) filed on December 3, 2008 be set aside and the appeal be re-opened, the memorandum in opposition filed by Claimant-Appellee Roxanne Rivero, and the records and files herein, it appears that the letter notifying Schiavi of the default and the Order was sent to the wrong address for Schiavi and in light of this court's policy to hear cases on the merits whenever possible, the Order should be set aside and the appeal re-opened.

Therefore, IT IS HEREBY ORDERED that the Order Dismissing Appeal Pursuant to HRAP Rule 30 filed on December 3, 2008 is vacated, Respondent-Appellant Richard Schiavi shall file an opening brief no later than February 23, 2009. The appeal will be dismissed if the opening brief is not filed within the time provided by this order. The clerk of the court shall send a

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<sup>1</sup> The letter referred to "attached documents," but no attachments were received.

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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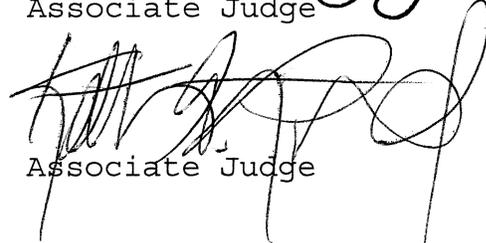
FILED

copy of this order to the address contained in Schiavi's letter  
filed on January 5, 2009.

DATED: Honolulu, Hawai'i, January 23, 2009.

  
Presiding Judge

  
Associate Judge

  
Associate Judge