

NO. 29341

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

OLGA MARY LANSING,
Plaintiff/Counterclaim-Defendant/Appellant

v.

NANCEE JENKO-CRISPIN,
Defendant/Counterclaim-Plaintiff/Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 06-1-1891-10)

ORDER DENYING APPELLANT LANSING'S
FEBRUARY 17, 2009 MOTION TO REINSTATE THE APPEAL
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of (1) the January 26, 2009 order dismissing this appeal, (2) the February 11, 2009 order denying Plaintiff/Counterclaim-Defendant/Appellant Olga M. Lansing's (Appellant Lansing) February 4, 2009 motion to reconsider the January 26, 2009 dismissal order and denying Appellant Lansing's February 6, 2009 motion to reinstate this appeal, (3) Appellant Lansing's February 17, 2009 "Motion to Reinstate the Appeal[,] " apparently pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP) and (4) the record, it appears that Appellant Lansing's February 17, 2009 HRAP Rule 40 motion to reinstate the appeal is untimely, unauthorized, and lacks merit. Pursuant to HRAP Rule 40(a), the ten-day deadline for a motion for relief from the January 26, 2009 order dismissing this appeal pursuant to HRAP Rule 40 expired on February 5, 2009, and, thus, Appellant Lansing's February 17, 2009 HRAP Rule 40 motion to reinstate the appeal is untimely. HRAP Rule 40(e) limits a party to one motion for reconsideration. Appellant Lansing's February 17, 2009 HRAP Rule 40 motion to reinstate the appeal is, in effect, Appellant Lansing's third motion for reconsideration of the January 26, 2009 dismissal order, and, thus, Appellant Lansing's February 17,

CM RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 FEB 19 AM 9:01

FILED

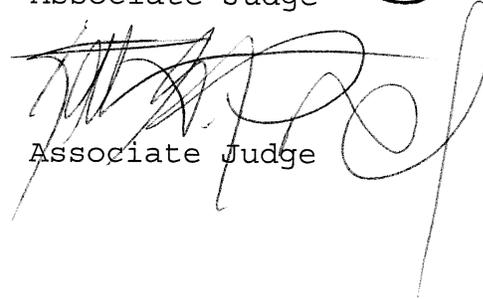
2009 HRAP Rule 40 motion to reinstate the appeal is unauthorized. We have not overlooked or misapprehended any point of law or fact, and, thus, Appellant Lansing's February 17, 2009 HRAP Rule 40 motion to reinstate the appeal lacks merit.

Therefore, IT IS HEREBY ORDERED that Appellant Lansing's February 17, 2009 HRAP Rule 40 motion to reinstate the appeal is denied.¹

DATED: Honolulu, Hawai'i, February 19, 2009.


Presiding Judge


Associate Judge


Associate Judge

¹ In light of Plaintiff/Counterclaim-Defendant/Appellant Olga M. Lansing's assertion that the circuit court has recently filed a February 4, 2009 amended judgment, we note that our dismissal of appellate court case number 29341 is without prejudice to any party's right to file, in the circuit court, a timely notice of appeal from the February 4, 2009 amended judgment.