

NO. 29481

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

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CLERK, APPELLATE COURTS  
STATE OF HAWAII

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FILED

DIANA FREEMAN and WAYNE UTA, Plaintiffs-Appellants and HAWAII  
EMPLOYERS MUTUAL INSURANCE COMPANY, INC., Plaintiff-  
Intervenor/Appellee, v. NATIONAL INTERSTATE INSURANCE COMPANY OF  
HAWAII, SERVO INSURANCE SERVICES CORP., doing business as  
AMERICAN INSURANCE AGENCY, INC., Defendants

and

SERVO INSURANCE SERVICES CORP., doing business as AMERICAN  
INSURANCE AGENCY, INC., Third-Party Plaintiff/Appellee, v. HMP,  
INC., doing business as BUSINESS SERVICES HAWAII, Third-Party  
Defendant/Appellee

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT  
(CIVIL NO. 05-1-0240)

ORDER DISMISSING APPEAL

(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, it appears that we lack jurisdiction over this appeal that Real Party-in-Interest/Appellant James Ireijo (Appellant Ireijo) and Plaintiffs/Counterclaim-Defendants/Appellants Diana Freeman (Appellant Freeman) and Wayne Uta (Appellant Uta) have asserted from the Honorable Glenn S. Hara's October 27, 2008 amended judgment, because the October 27, 2008 amended judgment does not satisfy the requirements for an appealable final judgment under the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007) authorizes appeals from "final judgments, orders, or decrees[.]" Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c) (1993 & Supp. 2007). Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement the

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Supreme Court of Hawai'i 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, 76 Hawai'i at 119, 869 P.2d at 1338. "[A]n appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCP [Rule] 54(b)."

Id. Furthermore,

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[.]

Id. (emphasis added).

The October 27, 2008 amended judgment enters judgment in favor of Plaintiff-Intervenor/Appellee Hawaii Employers' Mutual Insurance Company, Inc (Appellee HEMIC), and against Appellant Ireijo, Appellant Freeman and Appellant Uta. Furthermore, the October 27, 2008 amended judgment contains an express finding of no just reason for delay in the entry of judgment pursuant to HRCP Rule 54(b). However, the October 27, 2008 amended judgment does not identify the claim or claims on which the circuit court intends to enter judgment. We note that, according to the record on appeal, Appellee HEMIC did not file a copy of its complaint-in-intervention after entry of the March 1, 2008 order granting Appellant HEMIC leave to intervene in this case. But Appellant HEMIC's proposed complaint-in-intervention asserted seven separate and distinct counts. Despite that Appellant HEMIC intended to assert seven separate and distinct counts, the October 27, 2008 amended judgment does not identify the claim or claims on which the circuit court intends to enter judgment. Therefore, the October 27, 2008 amended judgment does not satisfy the requirements for an appealable final judgment under the holding in Jenkins.

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Absent an appealable final judgment, this appeal is premature, and we lack appellate jurisdiction. Accordingly,

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

DATED: Honolulu, Hawai'i, March 20, 2009.

  
Presiding Judge

  
Associate Judge

  
Associate Judge