

NO. 29841

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

CECIL LORAN LEE,
Plaintiff/Counterclaim-Defendant/Appellant,

v.

LEONARD GEORGE HOROWITZ, JACQUELINE LINDENBACH HOROWITZ,
and THE ROYAL BLOODLINE OF DAVID,
Defendants/Counterclaim-Plaintiffs/Appellees,

and

JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-10,
DOE CORPORATIONS 1-10, DOE ENTITIES, DOE GOVERNMENTAL UNITS,
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 05-1-0196K)

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

Upon review of the record, it appears that we lack jurisdiction over the appeal that Plaintiff/Counterclaim-Defendant/Appellant Cecil Loran Lee (Appellant Lee) has asserted from the Honorable Ronald Ibarra's February 23, 2009 amended judgment because the February 23, 2009 amended judgment does not satisfy the requirements for an appealable 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. 2008) authorizes appeals to the intermediate court of 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). Rule 58 of the Hawai'i Rules of

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Civil Procedure (HRCP) 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 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 115, 119, 869 P.2d 1334, 1338 (1994).

[I]f 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. (emphases added).

For example: "Pursuant to the jury verdict entered on (date), judgment in the amount of \$ _____ is hereby entered in favor of Plaintiff X and against Defendant Y upon counts I through IV of the complaint." A statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so: for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphases added).

Although the parties have asserted multiple claims in this case, the February 23, 2009 amended judgment fails to specifically identify some of the claims on which the circuit court purports to be entering judgment. For example, the February 23, 2009 amended judgment vaguely enters judgment in favor of Appellant Lee and against Defendants/Counterclaim-Plaintiffs/Appellees Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David as to

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Appellant Lee's complaint without specifically identifying which of the multiple claims from Appellant Lee's complaint that the circuit court is entering judgment on. Furthermore, the February 23, 2009 amended judgment vaguely awards money damages in favor of the Defendants/Counterclaim-Plaintiffs/Appellees Leonard George Horowitz, Jacqueline Lindenbach Horowitz and The Royal Bloodline of David and against Appellant Lee in the amount of \$200,000.00, but without specifically identifying the cause of action for which the circuit court is entering judgment and awarding these money damages. Without specifically identifying each of the claims on which the circuit court is entering judgment, the February 23, 2009 amended judgment fails to satisfy the requirements for an appealable judgment under the holding in Jenkins.

Absent an appealable final judgment, Appellant Lee's appeal is premature and we lack appellate jurisdiction over appellate court case number 29841. Accordingly,

IT IS HEREBY ORDERED that appellate court case number 29841 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, October 6, 2009.



Chief Judge



Associate Judge



Associate Judge