

NO. 29914

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

WILLIAM F. MOWRY and MARTHA J. MOWRY, Trustees of the  
William F. Mowry Living Trust dated November 16, 2000;  
WILLIAM F. MOWRY and MARTHA J. MOWRY, Trustees of the  
Martha J. Mowry Living Trust dated November 16, 2000,  
Plaintiffs-Appellees,

v.

MICHAEL A. ZAPARA and GINA A. ZAPARA, husband and wife,  
Defendants-Appellants

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT  
(CIVIL NO. 5RC08-1-0316)

ORDER DENYING NOVEMBER 3, 2009 MOTION FOR  
RECONSIDERATION OF THE OCTOBER 23, 2009 ORDER OF DISMISSAL  
(By: Nakamura, Chief Judge, Watanabe and Leonard, JJ.)

Upon review of (1) the October 23, 2009 order dismissing this appeal for lack of jurisdiction, (2) Defendants-Appellants Michael A. Zapara and Gina A. Zapara's (the Zapara Appellants) November 3, 2009 motion for reconsideration of the October 23, 2009 order of dismissal pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), and (3) the record, it appears that the Zapara Appellants' November 3, 2009 HRAP Rule 40 motion for reconsideration is untimely because the Zapara Appellants' did not file their November 3, 2009 HRAP Rule 40 motion for reconsideration within ten days after the filing of the October 23, 2009 order of dismissal, as HRAP Rule 40(a) required. It further appears that we have not misapprehended or overlooked any material points of law or fact when we entered the October 23, 2009 order of dismissal. Even if, as asserted by the

Zapora Appellants, their notice of appeal was received by the circuit court on June 5, 2009, it is untimely. Therefore,

IT IS HEREBY ORDERED that the Zapara Appellants' November 3, 2009 HRAP Rule 40 motion for reconsideration of the October 23, 2009 order of dismissal is denied.

DATED: Honolulu, Hawai'i, November 12, 2009.

Chief Judge

Associate Judge

Associate Judge