

*** NOT FOR PUBLICATION ***

NO. 26950

IN THE SUPREME COURT OF THE STATE OF HAWAII

DR. GEORGE R. HARKER, Plaintiff-Appellant

vs.

TODD Y. HIRAI, NELSON B. BEFITEL, GREGORY W. KUGLE, Attorneys,
DAMON KEY LEONG KUPCHAK HASTERT, A law firm, GERI SAMSONAS,
CITY BANK, DON G. LOYOLA, AMERICAN SAVINGS BANK,
Defendants-Appellees

CLERK OF THE SUPREME COURT
STATE OF HAWAII

2005 MAR 22 PM 2:14

FILED

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 04-1-0133)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the circuit court's October 19, 2004 order denying the motion for extension of time to appeal is an interlocutory order in Civil No. 04-1-0133. The order is not immediately appealable as a final order under the collateral order doctrine inasmuch as the September 14, 2004 summary judgment order -- which was not reduced to a separate judgment pursuant to HRCP 58 -- was not an appealable order and consequently, the right to appeal the September 14, 2004 order will not be irretrievably lost if review of the October 19, 2004 order has to await entry of a certified judgment on the September 14, 2004 order or entry of a final judgment in Civil No. 04-1-0133. Thus, we lack jurisdiction. See HRS § 641-1(a). Therefore,

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

DATED: Honolulu, Hawai'i, March 22, 2005.



Steven B. Levinson

Hana U. Nakayama



Sharon S. Duggan