

NO. 27479

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

BUENA VISTA INVESTORS, LLC, a Hawai'i limited liability company,
Plaintiff-Appellee

vs.

DAMON SCHMIDT, Defendant-Appellant

and

INDYMAC BANK, a federal banking corporation, KALOKO II
ASSOCIATION, a Hawai'i non-profit corporation, KALOKO LANI
TERRACE, an unincorporated association, COUNTY OF HAWAI'I,
JOHN and JANE DOES 1-10, DOE PARTNERSHIPS, CORPORATIONS and
ENTITIES 1-10, and DOE GOVERNMENTAL UNITS 1-10,
Defendants

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 03-1-0097K)

ORDER DENYING MOTION TO DISMISS APPEAL
AND GRANTING ALTERNATIVE MOTION
FOR RELIEF FROM DEFAULT OF OPENING BRIEF
(By: Duffy, J. for the court¹)

Upon consideration of appellant's motion to dismiss
appeal for lack of jurisdiction, or in the alternative, for
relief from default of the opening brief, the papers in support
and in opposition and the record, it appears that the July 29,
2005 "Judgment for Interlocutory Decree of Foreclosure" is a
judgment entered on a decree of foreclosure that is appealable
pursuant to HRS § 667-51(a)(1)(Supp. 2004). Therefore,

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy,
JJ.

KHAMAKAHO
CLERK, APPELLATE COURT
STATE OF HAWAII

2006 JAN 11 PM 1:55

FILED

IT IS HEREBY ORDERED that the motion to dismiss appeal for lack of jurisdiction is denied.

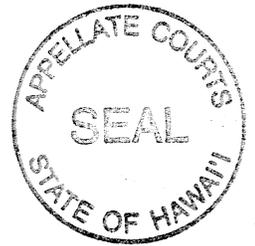
IT IS FURTHER ORDERED that the alternative motion for relief from default of the opening brief is granted. Appellant shall file his opening brief on or before February 10, 2006.

DATED: Honolulu, Hawai'i, January 11, 2006.

FOR THE COURT:

James E. Duff, Jr.

Associate Justice



Gary Victor Dubin
for appellant
on the motion