

*** NOT FOR PUBLICATION ***

NO. 27680

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CATHERINE CURTIS, Plaintiff-Appellee,

vs.

JEFF DORN, Defendant-Appellant.

APPEAL FROM THE FIFTH CIRCUIT COURT
(CIV. NO. 03-1-0103)

ORDER DISMISSING APPEAL

(By: Nakayama, J., for the court¹)

Upon review of the record, it appears that we lack jurisdiction over Defendant-Appellant Jeff Dorn's (Appellant Dorn) appeal in this case, because the Honorable Kathleen N. A. Watanabe's December 12, 2005 judgment and February 8, 2006 amended judgment do not satisfy the requirements for an appealable final judgment under HRS § 641-1(a) (1993), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP), and our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Under the HRCPP Rule 58 separate document rule, "[a]n appeal may be taken from circuit court orders resolving claims against parties 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 HRCPP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

[I]f a judgment purports to be the final judgment

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

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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).

Neither the December 12, 2005 judgment nor the February 8, 2006 amended judgment contains operative language that enters judgment in favor of and against the appropriate party on the respective claims that Plaintiff-Appellee Catherine Curtis (Appellee Curtis) asserted against Appellant Dorn. Furthermore, neither the December 12, 2005 judgment nor the February 8, 2006 amended judgment identifies, enters judgment on, or dismisses Appellee Curtis's claim for breach of contract against Appellant Dorn in count two of Appellee Curtis's complaint. "If the circuit court intends that claims other than those listed in the judgment language should be dismissed," then the circuit court should include operative language within the judgment that orders "all other claims, counterclaims, and cross-claims are dismissed." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 120 n.4, 869 P.2d at 1339 n.4. (internal quotation marks omitted).

Therefore, neither the December 12, 2005 judgment nor the February 8, 2006 amended judgment satisfies the appealability requirements of HRS § 641-1(a) (1993) and the HRCPC Rule 58 separate document rule under our holding in Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, the appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai'i, June 16, 2006.

FOR THE COURT:

Demetrius C. Nakayama

Associate Justice

