

*** NOT FOR PUBLICATION ***

NO. 27809

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

KAMALI C.E.M. MCELVANEY; JOHN E. MCELVANEY
Plaintiffs-Appellants,

vs.

HARVELEE H. LEITE-AH YO, R.P.T., D.C., et al.
Defendants-Appellees.

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 03-1-169)

ORDER DISMISSING APPEAL
(By: Nakayama, J., for the court¹)

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant Kamali C.E.M. McElvaney and Jon E. McElvaney's (the McElvaney Appellants) appeal in this case, because the Honorable Greg K. Nakamura's November 7, 2005 judgment does 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 (HRCP), and our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Under the HRCP 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 HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

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

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STATE OF HAWAII

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[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).

Although the McElvaney Appellants asserted their complaint against three defendants, i.e., Defendants-Appellees Harvelee H. Leite-Ah Yo, R.P.T., D.C., Otagani Maysonet, D.C., and Hawaii Physical Therapy & Chiropractic Clinic, Inc., the November 7, 2005 judgment enters judgment "in favor of Defendant" without specifically identifying the defendant for whom the judgment is entered. Therefore, the November 7, 2005 judgment does not satisfy the appealability requirements of HRS § 641-1(a) (1993) and the HRCP 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,

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

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

FOR THE COURT:

Devin A. Nakemano

Associate Justice

