

NO. 28273

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CIV. NO 97-0448

HOWARD K. LESLIE, JR., Petitioner-Plaintiff-Appellant,

and

LEIMOMI LESLIE FRESCH, individually, and as next friend for
HOWARD K. LESLIE, JR., and HOWARD K. LESLIE, SR.,
Respondents-Plaintiffs-Appellees,

vs.

THE ESTATE OF JAMIE K. TAVARES, Deceased
Respondent-Defendant-Appellee,

and

JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-10; DOE
CORPORATIONS 1-10; and DOE ENTITIES 1-10, Defendants.

K. HAMAKA'DO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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STATE OF HAWAI'I, DEPARTMENT OF HUMAN SERVICES,
Respondent-Lien Holder-Appellee,

and

JOSEPH L. WILDMAN and SIBILLA & WILDMAN, Intervenors-Appellees.

CIV. NO. 98-5468

HOWARD K. LESLIE, JR., MEGAN LESLIE and MALYSSA LESLIE, minors,
through their Guardian Ad Litem MARLENE L. ANDUHA, Plaintiffs,

vs.

JEFFREY K. KANUI, personal representative of THE ESTATE OF
JAMIE K. TAVARES, Defendant,

and

JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-10; DOE
CORPORATIONS 1-10; and DOE ENTITIES 1-10, Defendants.

JEFFERY K. KANUI, personal representative of THE ESTATE OF
JAMIE K. TAVARES, Third-Party Plaintiff,

vs.

LEIMOMI L. FRESCH and HOWARD K. LESLIE, SR.,
Third-Party Defendants.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CIV. NOS. 97-0448 and 98-5468)

ORDER ACCEPTING APPLICATION FOR WRIT OF CERTIORARI,
VACATING ORDER DISMISSING APPEAL AND
REMANDING APPEAL TO THE INTERMEDIATE COURT OF APPEALS
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

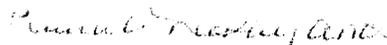
Petitioner-plaintiff-appellant Howard Leslie, Jr.
applies for a writ of certiorari to review the Intermediate Court
of Appeals' February 12, 2007 order dismissing his appeal for
lack of appellate jurisdiction and the March 2, 2007 order
denying reconsideration thereof. The Intermediate Court of
Appeals determined that the August 22, 2001 order affirming the
apportionment of the settlement proceeds in Civ. No. 97-0448,
certified as final pursuant to Hawai'i Rules of Civil Procedure
(HRCP) Rule 54(b) on October 11, 2006, is not appealable because
the order was not reduced to a separate certified judgment
pursuant to HRCP Rule 58. However, the supreme court determined
in Leslie v. Estate of Tavares, 109 Hawai'i 8, 12, 122 P.3d 803,
807 (2005), that the August 22, 2001 order would be a "final
order" appealable pursuant to Hawai'i Revised Statutes (HRS)
§ 641-1(a) (Supp. 2006) upon the circuit court's designation of
the order as final pursuant to HRCP Rule 54(b). The supreme

court's determination is the law of the case. See Thompson v. AIG Hawaii Ins. Co., Inc., 111 Hawai'i 413, 423 n.14, 142 P.3d 277, 287 n.14 (2006) ("[A] determination of a question of law made by an appellate court in the course of an action becomes the law of the case and may not be disputed by a reopening of the question at a later stage of the litigation." (Citation omitted.)). The August 22, 2001 order, certified as final pursuant to HRCF Rule 54(b) on October 11, 2006, is an appealable final order, and the Intermediate Court of Appeals has jurisdiction to review the order. See HRS § 641-1(a). Therefore,

IT IS HEREBY ORDERED that the application for a writ of certiorari is accepted.

IT IS FURTHER ORDERED that: (1) the February 12, 2007 order of the Intermediate Court of Appeals dismissing No. 28273 for lack of appellate jurisdiction and the March 2, 2007 order denying reconsideration thereof are vacated; and (2) No. 28273 is remanded to the Intermediate Court of Appeals for disposition on the merits.

DATED: Honolulu, Hawai'i, June 25, 2007.



Karen E. Duggan, Jr.