

NO. 27920

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

DWAYNE M. TSUKIYAMA, Plaintiff-Appellant,

v.

LAMER'S ENTERPRISE, INC., Defendant-Appellee

APPEAL FROM DISTRICT COURT OF THE FIRST CIRCUIT
(Civ. No. 1RC05-1-6956)

ORDER OF DISMISSAL

(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of the record, it appears that we do not have jurisdiction over Plaintiff/Counterclaim Defendant/Appellant Dwayne M. Tsukiyama's (Appellant Tsukiyama) appeal.

Pursuant to HRS § 641-1(a) (1993), appeals are allowed in civil matters from all final judgments, orders, or decrees of circuit and district courts. In district court cases, a judgment includes any order from which an appeal lies. A final order means an order ending the proceeding, leaving nothing further to be accomplished. When a written judgment, order, or decree ends the litigation by fully deciding all rights and liabilities of all parties, leaving nothing further to be adjudicated, the judgment, order, or decree is final and appealable.

Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 426, 984 P.2d 1251, 1252 (1999) (citations, internal quotation marks, and footnote omitted) (emphasis added).

The district court, the Honorable Barbara P. Richardson presiding, has not yet entered a written final order that resolves Appellant Tsukiyama's complaint and Defendant/Counterclaim Plaintiff/Appellee Lamer's Enterprise, Inc.'s, counterclaim, and, thus, ends the proceeding, leaving nothing

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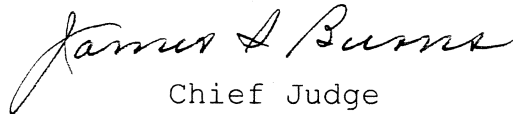
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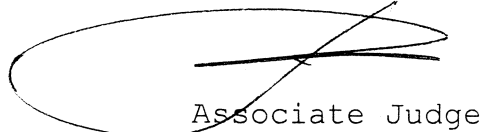
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further to be adjudicated. See HRS § 641-1(a) (Supp. 2005); Haw. Dist. Ct. R. Civ. P. 58; Haw. R. App. P. 4(a)(5). Although the district court issued a minute order, "a minute order is not an appealable order." Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 321 n.3, 966 P.2d 631, 633 n.3 (1998). Absent a written final order, Appellant Tsukiyama's appeal is premature and we lack appellate jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, July 21, 2006.


Chief Judge


Associate Judge


Associate Judge