

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 27904

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

HAWAIIAN ASSOCIATION OF SEVENTH-DAY ADVENTISTS
a Hawaii Non-Profit Corporation,
Plaintiff-Appellant/Cross-Appellee,

v.

STACEY T.J. WONG, As Trustee of the Eric A. Knudsen Trust,
Defendant-Appellee/Cross-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CV. NO. 03-1-0026)

ORDER DISMISSING APPEAL AND CROSS-APPEAL
(By: Watanabe, Presiding J., Lim and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant/Cross-Appellee Hawaiian Association of Seventh-Day Adventists' (Appellant HASDA) appeal, and Defendant-Appellee/Cross-Appellant Stacey T. J. Wong's (Appellee Wong) cross-appeal, from the judgment entered on March 28, 2006 by the Circuit Court of the Fifth Circuit, Judge Kathleen Watanabe presiding, because the March 28, 2006 judgment is not an appealable final judgment under HRS § 641-1(a) (Supp. 2005), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and the 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[.]"

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338.

[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). "For example: 'Pursuant to the jury verdict on (date), judgment in the amount of \$_____ is hereby entered in favor of Plaintiff X and against Defendant Y upon counts I through IV of the complaint.'" Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4. "[I]f the judgment resolves fewer than all claims against all parties, or reserves any claim for later action by the court, an appeal may be taken only if the judgment contains the language necessary for certification under HRCF [Rule] 54(b)[.]" Id. at 119, 869 P.2d at 1338. Therefore, "an appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCF [Rule] 54(b)." Id.

The March 28, 2006 judgment purports to resolve all claims against all parties. However, although Appellant HASDA and Appellee Wong asserted multiple claims against each other through the complaint and the counterclaim, the March 28, 2006 judgment does not enter judgment on specifically identified counts in the complaint and counterclaim. Instead, the March 28, 2006 judgment enters judgment on the titles of individual orders

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that led up to the March 28, 2006 judgment. The titles of some of the orders are ambiguous as to whether those orders completely resolved the count or counts to which they refer. For example, some of the titles of the orders merely indicate that the circuit court granted "partial" summary judgment on one or more counts, and the word "partial" in the titles of those orders creates a question whether those orders completely resolved the count or counts to which those orders refer. The judgment should enter judgment on specifically identified counts rather than the titles of orders. Because the March 28, 2006 judgment does not clearly resolve all claims against all parties, the March 28, 2006 judgment does not satisfy the requirements for an appealable final judgment under HRCF Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, this appeal and cross-appeal are premature and must be dismissed. Accordingly,

IT IS HEREBY ORDERED that this appeal and cross-appeal in appellate court case number 27904 are dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, January 29, 2007.


Presiding Judge


Associate Judge


Associate Judge