

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28269

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

YI JIANG, BERYL MING YU YOU, Individually,
Plaintiffs-Appellants,
and

YI JIANG, BERYL MING YU YOU,
as Legal Guardian of Irwin Jiang, a Minor,
Plaintiffs,

v.

KAPIOLANI MEDICAL CENTER FOR WOMEN AND CHILDREN; and
DR. ROBERT W. WILKINSON,
Defendants-Appellees,

and

JOHN DOES 1-10; JANE DOES 1-10;
DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10;
and ROE A NON-PROFIT @ CORPORATIONS 1-10

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 03-1-2338)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we lack jurisdiction over Plaintiffs-Appellants Yi Jiang and Beryl Ming Yu You's appeal from the Honorable Karen S.S. Ahn's November 24, 2006 "Order Denying Plaintiffs Yi Jiang and Beryl Ming Yu You's Motion to Reconsider Dismissal of Case" and the July 19, 2006 "Order Granting Defendant Robert W. Wilkinson, M.D.'s Motion for Partial Summary Judgment as to Individual Claims of Plaintiffs Yi Jiang and Beryl Ming Yu You, Filed May 9, 2006," because the circuit court has not yet reduced its dispositive orders to a separate, appealable final judgment under Hawaii Revised Statutes § 641-1(a) (Supp. 2005), Rule 58 of the Hawai'i Rules of Civil

NORMA T. YAIRA
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STATE OF HAWAII

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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[.]" Jenkins, 76 Hawai'i at 119, 869 P.2d at 1338. Furthermore, "if 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 HRCP [Rule] 54(b)[.]" Id. 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 HRCP [Rule] 54(b)." Id.

For example, "an order disposing of a circuit court case is appealable when the order is reduced to a separate judgment." Alford v. City and Count of Honolulu, 109 Hawai'i 14, 21, 122 P.3d 809, 816 (2005) (citation omitted) (emphasis added). Thus, the supreme court has held that, "[a]lthough RCCH [Rule] 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCP [Rule] 58, as amended in 1990, expressly requires that

'every judgment be set forth on a separate document.'" Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996) (emphasis added)).


The circuit court has not yet reduced its dispositive orders to a separate judgment, as HRCP Rule 58 requires under the holding in Jenkins. Absent an appealable final judgment, this appeal is premature and must be dismissed. Accordingly,

IT IS HEREBY ORDERED that this appeal in appellate court case number 28269 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, February 6, 2007.


Chief Judge


Associate Judge


Associate Judge