

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28329

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

LESLIE L. HAMAOKA, Plaintiff-Appellant,
v.
HYATT CORPORATION, foreign corporation doing business
under the trade name HYATT REGENCY WAIKIKI RESORT,
JILL FISHER, BONNIE KIYABU, and CARLA THOMAS,
Defendants-Appellees

NORMA T. YARA
CLERK, APPELLATE COURTS,
STATE OF HAWAI'I

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CV. NO. 04-1-0390)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant Leslie L. Hamaoka's (Appellant Hamaoka) appeal from the Honorable Randal Kwai On Lee's November 14, 2006 amended judgment because Appellant Hamaoka's appeal is not timely under Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (HRAP).

HRS § 641-1(a) (Supp. 2006) authorizes appeals from final judgments, orders, or decrees. Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP) additionally requires that every judgment shall be set forth on a separate document, and, thus, "[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 HRCPP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). The November 14, 2006 amended

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judgment substantially satisfies the requirements for an appealable final judgment under HRS § 641-1(a) (Supp. 2006), HRCF Rule 58, and the holding in Jenkins v. Cades Schutte Fleming & Wright, and, thus, the November 14, 2006 amended judgment is an appealable final judgment. However, Appellant Hamaoka did not file her December 22, 2006 notice of appeal within thirty days after entry of the November 14, 2006 amended judgment, as HRAP Rule 4(a)(1) required. Therefore, Appellant Hamaoka's appeal is not timely. The failure of an appellant to file a timely notice of appeal in a civil matter is a jurisdictional defect that the parties cannot waive and an appellate court cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1129 (1986); HRAP Rule 26(b) ("[N]o court or judge or justice thereof is authorized to change the jurisdictional requirements contained in Rule 4 of [the HRAP]."). Therefore, we lack jurisdiction over this appeal. Accordingly,

IT IS HEREBY ORDERED that the appeal in appellate court case number 28329 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, March 23, 2007.


Chief Judge


Associate Judge


Associate Judge