

NO. 28412

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

TERRI T. OKAMURA, Plaintiff-Appellant, v.
C.T.C. CONSTRUCTION, LTD., a Hawaii corp.; HERMAN Y. HO;
HYUNDAE PLUMBING; DOE INDIVIDUALS 1-10; DOE
CORPORATIONS 1-20; DOE ENTITIES 1-20, Defendants-Appellees

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civil Nos. 03-1-2037 and 06-1-0126)

ORDER DENYING AUGUST 30, 2007 MOTION TO DISMISS APPEAL
(By: Recktenwald, C.J., Watanabe and Nakamura, JJ.)

Upon review of (1) Plaintiff-Appellant Terri T. Okamura's (Appellant Okamura) August 30, 2007 motion to dismiss appellate court case number 28412 for lack of jurisdiction, and (2) the record, it appears that Appellant Okamura's August 30, 2007 motion to dismiss appellate court case number 28412 lacks merit.

Appellant Okamura argues that the appealed January 24, 2007 arbitration judgment is not appealable under HRS § 641-1(a) (Supp. 2006), because the January 24, 2007 arbitration judgment does not resolve all claims against all parties in this case, as Rule 58 of the Hawaii Rules of Civil Procedure (HRCP) generally requires for civil cases in circuit courts under the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaii 115, 119, 869 P.2d 1334, 1338 (1994).

However, the applicable statute for an appeal arising out of an arbitration is HRS § 658A-28 (Supp. 2006), which provides:

§ 658A-28. Appeals.

(a) An appeal may be taken from:

- (1) An order denying a motion to compel arbitration;

- (2) An order granting a motion to stay arbitration;
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or
- (6) A final judgment entered pursuant to this chapter.

(b) An appeal under this section shall be taken as from an order or a judgment in a civil action.

HRS § 658A-28 (Supp. 2006) (emphasis added).

Pursuant to subsection (3) of HRS § 658A-28(a) (Supp. 2006), the January 24, 2007 "Order Granting Defendant C.T.C. Construction Company, Limited's Motion for Order Confirming Final Arbitration Award and Entry of Final Judgment" (the January 24, 2007 order confirming the arbitration award) is an appealable order. The circuit court reduced the January 24, 2007 order confirming the arbitration award to the separate January 24, 2007 arbitration judgment, and, pursuant to subsection (6) of HRS § 658A-28(a) (Supp. 2006), the January 24, 2007 arbitration judgment is an appealable judgment. Accordingly, it appears that both the January 24, 2007 order confirming the arbitration award and the January 24, 2007 arbitration judgment are appealable pursuant to HRS § 658A-28(a) (Supp. 2006).

Appellant Okamura filed her February 21, 2007 notice of appeal within thirty days after entry of the January 24, 2007 order confirming the arbitration award and the January 24, 2007 arbitration judgment, as Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure requires. Therefore, Appellant Okamura's appeal is timely, and we have appellate jurisdiction over this case pursuant to HRS § 658A-28(a) (Supp. 2006). Accordingly,

IT IS HEREBY ORDERED that Appellant Okamura's August 30, 2007 motion to dismiss appellate court case number

28412 for lack of jurisdiction is denied.

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

On the motion:

Junsuke Otsuka and
Matthew Grieder
(Otsuka & Buffington)
for Plaintiff-Appellant

Mr. E. Peditanoff

Chief Judge

Corinne K. Watanabe

Associate Judge

Craig W. Nakamura

Associate Judge