

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25364

IN THE SUPREME COURT OF THE STATE OF HAWAII

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DEBRA YAMAGATA; and JOSEPH T. TOMA, Individually and as the  
Special Administrator for the Estate of ROSS YAMAGATA-TOMA,  
Plaintiffs-Appellants,

vs.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,  
Defendant-Appellee

and

HERB USHIRODA; and JOHN DOES 1-5, JANE DOES 1-5,  
DOE CORPORATIONS 1-5, DOE PARTNERSHIPS 1-5,  
DOE ENTITIES 1-5 and DOE GOVERNMENTAL UNITS 1-5, Defendants

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APPEAL FROM THE SECOND CIRCUIT COURT  
(CIV. NO. 00-1-0530)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.,  
and Circuit Judge Waldorf, assigned by reason of vacancy)

Upon review of the record, it appears that the  
September 25, 2002 judgment in Civil No. 00-1-0530, the Honorable  
Shackley F. Raffetto presiding, does not satisfy the requirements  
of Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP). "An  
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 v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119,  
869 P.2d 1334, 1338 (1994).

[I]f a judgment purports to be the final judgment  
in a case involving multiple claims or multiple  
partes, the judgment . . . must . . . specifically  
identify the party or parties for and against whom  
the judgment is entered, and . . . must . . .

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identify the claims for which it is entered, and .  
. . dismiss any claims not specifically  
identified[.]

Id.

For example: "Pursuant to the jury verdict entered 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." A statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so; for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphases added).

"[A]n 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. at 119, 869 P.2d at 1338.

Although Plaintiffs-Appellants Debra Yamagata and Joseph T. Toma's (Appellants Yamagata and Toma) amended complaint asserted five separate counts against multiple defendants, the September 25, 2002 judgment enters judgment only on Count 5 as to State Farm. The September 25, 2002 judgment neither identifies nor dismisses the other counts.

Granted, the September 25, 2002 judgment does not need to refer Appellants Yamagata and Toma's dismissal of their claims against Defendant Herb Ushiroda (Defendant Ushiroda) through the December 20, 2001 stipulation for dismissal pursuant to HRCF Rule 41(a)(1)(B), because "a separate judgment is neither

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required nor authorized, inasmuch as a plaintiff's dismissal of an action [pursuant to HRCF Rule 41(a)(1)(B)], by filing a stipulation of dismissal signed by all parties, is effective without order of the court." Amantiad v. Odum, 90 Hawai'i 152, 158 n.7, 977 P.2d 160, 266 n.7 (1999) (internal quotation marks and original brackets omitted) (emphasis added).

However, Appellants Yamagata and Toma's March 13, 2002 and July 25, 2002 stipulations to dismiss Counts 2, 3, 4, and 5 as to State Farm were not effective without order of the circuit court because they were not "signed by all parties who have appeared in the action[," as HRCF Rule 41(a)(1)(B) requires. No attorney signed these two stipulations on behalf of Defendant Ushiroda, who appeared in this action. Nevertheless, the March 13, 2002 and July 25, 2002 stipulations contain the signature and approval of the circuit court, and, thus, they operated as orders of the circuit court that dismissed Counts 2, 3, 4, and 5 as to State Farm pursuant to HRCF Rule 41(a)(2). The HRCF Rule 58 separate document requirement under Jenkins v. Cades Schutte Fleming & Wright requires the circuit court to reduce all dispositive orders, including dismissal orders, to a judgment so that it is unnecessary for the supreme court to search the record to determine finality. See, e.g., Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996) ("Although RCCH [Rule] 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCF [Rule] 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'"); CRSC, Inc. v. Sage Diamond Co., Inc., 95 Hawai'i 301, 306, 22 P.3d 97, 102 (App. 2001) ("[W]here all claims are dismissed and

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there is no relevant HRCP Rule 54(b) certification as to one or more but not all of the dismissals, there must be one final order (judgment) dismissing all claims against all parties.”). The September 25, 2002 judgment does not satisfy the requirements of HRCP Rule 58 according to our holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai‘i at 119, 869 P.2d at 1338, and, thus, Appellants Yamagata and Toma’s appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai‘i, March 20, 2003.