

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25571

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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CURT DUKE PRATT and JUDITH HILOKO PRATT, Plaintiffs-Appellees

vs.

JOYCELYN WANDA UNCIANO, and DEBORAH ANN HOKULANI JOSHUA,  
Defendants-Appellants

and

JOHN DOES 1-30, MARY DOES 1-30, DOE PARTNERSHIPS 1-30,  
CORPORATIONS AND OTHER ENTITIES 1-30, Defendants

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 01-1-2330)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson and Nakayama, JJ.,  
and Circuit Judge Town, in place of Acoba, J., unavailable,  
and Circuit Judge Alm, assigned by reason of vacancy)

Upon review of the statements supporting and contesting jurisdiction, the motion to dismiss appeal and the record, it appears that notice of appeal from the September 25, 2002 amended final judgment and the December 2, 2002 order denying reconsideration of the judgment was filed by appellants on January 3, 2003, but the thirty-day period for appeal expired on January 2, 2003. See HRAP 4(a)(3) and 26(a). The December 25, 2002 legal holiday was not excluded from computing the thirty-day period for appeal inasmuch as the exclusion of intervening holidays from the computation of time applies only for filing deadlines of less than seven days. See HRAP 26(a). The claimed late service of the December 2, 2002 order did not affect the time for appeal inasmuch as the record shows that appellants had

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received the order by December 11, 2002, three weeks before the appeal deadline. Thus, the notice of appeal filed on January 3, 2003 is untimely and we lack jurisdiction over this appeal. See HRAP 26(b); Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (The failure of an appellant to file a timely notice of appeal in a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion). Therefore,

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

DATED: Honolulu, Hawai'i, April 25, 2003.