

*** NOT FOR PUBLICATION ***

NO. 27034

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CAROL L. NEPAGE-FONTES, Petitioner-Appellant

vs.

JOHN E. NEPAGE, Respondent-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(TRUST NO. 00-1-0069)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the November 29, 2004 judgment is not a final judgment closing Trust No. 00-1-0069 entered pursuant to HPR 34(c) and no final judgment closing Trust No. 00-1-0069 has been entered. Absent certification of the November 29, 2004 judgment and the May 16, 2002 judgment in the manner provided for by HRCP 54(b) or entry of a final judgment closing Trust No. 00-1-0069, the appeal of the November 29, 2004 judgment and the May 16, 2002 judgment is premature and we lack jurisdiction. See HPR 34(a), (c) and (d); HRS § 641-1(a). Therefore,

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

DATED: Honolulu, Hawai'i, April 20, 2005.

Steven Levinson

Hana C. Nakayama

James E. Duffy, Jr.

CLERK, APPELLATE COURTS
STATE OF HAWAII
L. R. RICHMOND

2005 APR 20 PM 2:49

FILED