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SCWC-13-0000391

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

GALINA OGEONE, Petitioner/Plaintiff-Appellant,

vs.

DENTIST W. RUTH YANG, Respondent/Defendant-Appellee.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP-13-0000391; CIV. NO. 12-1-3278)

ORDER REJECTING PETITION FOR WRIT OF CERTIORARI

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

On August 28, 2013, petitioner/plaintiff-appellant Galina Ogeone filed a petition for a writ of certiorari to review the ICA's June 28, 2013 order dismissing her appeal for lack of jurisdiction. The ICA dismissed the appeal for lack of jurisdiction upon the conclusion that the circuit court's April 5, 2013 "Order Granting Defendant Dentist W. Ruth Yang's Motion to Set Aside Entry of Default of February 25, 2013 (Filed March 19, 2013)" ("Order Setting Aside Default") was not an order, judgment, or decree from which an appeal can be taken. The ICA correctly concluded that the Order Setting Aside Default is not

an appealable order. More importantly, we note that the ICA lacked jurisdiction because the case was removed to the United States District Court for the District of Hawai'i on the same day that the notice of appeal was filed and no remand order has been filed. See Mathewson v. Aloha Airlines, Inc., 82 Hawai'i 57, 70, 919 P.2d 969, 982 (1996) ("[A]fter removal, a federal court acquires full and exclusive jurisdiction over the litigation."). Accordingly,

IT IS HEREBY ORDERED that the petition for writ of certiorari, filed on August 28, 2013, is rejected.

DATED: Honolulu, Hawai'i, October 10, 2013.

Galina Ogeone,
petitioner pro se

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

