

NO. CAAP-11-0000623

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAI'I

KEAHI YOUNG, TRUSTEE OF THE PRISCILLA C. YOUNG TRUST,  
Plaintiff-Appellee,  
v.  
Kumukoa (w) aka EMILY KUMUKOA KEAKUANUU OHIA, et al.,  
Defendants-Appellants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT  
(CIVIL NO. 08-1-0087)

ORDER DISMISSING THE CROSS-APPEAL OF THE CROSS-APPELLANTS  
(By: Fujise, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon review of the record, it appears that:

(1) On August 23, 2011, Defendant-Appellant/Cross-Appellee Dawn Whitney (Appellant Dawn Whitney) filed a notice of appeal;

(2) on August 26, 2011, Defendants-Appellees/Cross-Appellants Gary G. Kuikahi, Lana R. Lancaster, and Kim K. Kuikahi (Cross-Appellants) filed a notice of appeal (cross appeal);

(3) the record on appeal was filed on October 17, 2011, and the appellate clerk informed Cross-Appellants by mail to the address reflected on their filed documents (155 Mamo Street, Hilo, Hawaii [96720]) that the opening brief was due on November 28, 2011;

(4) Cross-Appellants obtained a clerk's extension to December 28, 2011 to file their opening brief and filed a Notice of Extension on November 23, 2011;

(5) Cross-Appellants did not file the opening brief;

(6) from February, 2012, through July, 2012, orders of this court that were conventionally served upon Cross-Appellants at the same address reflected above were returned by the U.S. Postal Service as undeliverable, and Cross-Appellants had not informed the court of any alternative mailing address;

(7) a notice of default filed on August 9, 2012, which the appellate clerk mailed to the same above-referenced address to Cross-Appellants, informed Cross-Appellants that:

(a) the time for filing the opening brief expired;

(b) pursuant to Rule 30 of the Hawai'i Rules of Appellate Procedure, the matter would be called to the attention of the court on August 19, 2012 for such action as the court deems proper; and

(c) the appeal may be dismissed;

(8) on August 27, 2012, the August 9, 2012 notice of default that was mailed to Cross-Appellants was returned by the U.S. Postal Service as undeliverable; and

(9) thereafter, Cross-Appellants did not file the opening brief, did not provide the court with any alternative mailing address, and did not seek further extensions for filing the opening brief or relief from the filing deadline. Therefore,

IT IS HEREBY ORDERED that the cross appeal of Cross-Appellants is dismissed. The appeal of Appellant Dawn Whitney remains.

DATED: Honolulu, Hawai'i, September 18, 2012.

Presiding Judge

Associate Judge

Associate Judge