

NO. CAAP-13-0006030

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

CONTINENTAL PACIFIC, LLC by their Managing Agent,
ELITE PACIFIC PROPERTIES, LLC, Plaintiff-Appellee,
v.
JOHN WESLEY ERRETT and KAY ANNE KROEHLER, Defendants-Appellants

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
KO'OLAU LOA DIVISION
(CASE NO. 1RC13-1-6195)

ORDER
(1) DISMISSING THE APPEAL PURSUANT TO HRAP RULE 11(c)(2),
AND
(2) ORDER TO SHOW CAUSE
(By: Foley, Presiding Judge, Fujise and Reifurth, JJ.)

Upon review of the record in appellate case numbers
CAAP-13-0006030 and SCPW-13-0006068, it appears that:

(1) On December 11, 2013, Defendants-Appellants John
Wesley Errett and Kaye Anne Kroehler (Appellants) filed a notice
of appeal and a motion to expedite the appeal in appellate case
number CAAP-13-0006030;

(2) Appellants appeal from the district court's December 10, 2013 order denying their motion to stay destruction of a security video in the possession of the district court's administrative office, and seek an order directing the district court's administrative office not to destroy the video;

(3) On December 12, 2013, the court denied the motion to expedite the appeal without prejudice to Appellants seeking mandamus relief in the Hawai'i Supreme Court;

(4) That same day, the appellate clerk informed Appellants that filing fees due upon submission of the notice of appeal had not been paid, Appellants had not moved to proceed in forma pauperis, and the \$270 filing fee was to be paid by December 22, 2013, or the matter would be called to court's attention for such action as the court deems proper, including dismissal of the appeal;

(5) Thereafter, Appellants took no further action in this appeal;

(6) Also on December 12, 2013, Appellants filed a petition for writ of mandamus in the Hawai'i Supreme Court in case number SCPW-13-0006068, paid the required \$150 filing fee, and filed an ex parte motion to shorten time to decide the petition. The petition notes Appellants incorrectly filed an "emergency expedited appeal" in this court, and this court "correctly denied the ex parte motion for immediate ruling" because the correct form of relief was by writ of mandamus; and

(7) On December 13, 2013, the supreme court denied the mandamus petition and denied the motion to shorten time as moot.

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

IT IS FURTHER ORDERED that within ten (10) days from the date of this order, Appellant's counsel, Anthony P. Locricchio, shall show good cause why he should not be sanctioned for failure to pay the \$270 filing fee.

DATED: Honolulu, Hawai'i, January 8, 2014.

Presiding Judge

Associate Judge

Associate Judge