

**Electronically Filed
Intermediate Court of Appeals
CAAP-15-0000452
13-OCT-2015
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NO. CAAP-15-0000452

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

GIAMPAOLO BOSCHETTI, aka G. PAUL BOSCHETTI,
Plaintiff-Appellee,
v.
ERNESTINE K. MARFIL,
Defendant-Appellant,
and
HEIRS and/or DEVISEES OF NAPOE(K), et al.,
Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 11-1-0889(1))

ORDER GRANTING AUGUST 18, 2015 MOTION
TO DISMISS APPELLATE COURT CASE NUMBER CAAP-15-0000452
FOR LACK OF APPELLATE JURISDICTION

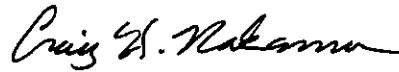
(By: Nakamura, Chief Judge, Foley and Reifurth, JJ.)

Upon review of (1) Plaintiff-Appellee Giampaolo Boschetti's (Appellee Boschetti) August 18, 2015 motion to dismiss appellate court case number CAAP-15-0000452 for lack of appellate jurisdiction, (2) Defendant-Appellant Ernestine K. Marfil's (Appellant Marfil) August 24, 2015 statement of jurisdiction, (3) Defendant-Appellee County of Maui's statement of no position as to Appellee Boschetti August 18, 2015 motion to dismiss, (4) Defendant-Appellee Office of Hawaiian Affairs' statement of no opposition to Appellee Boschetti's August 18, 2015 motion to dismiss, and (5) the record, it appears that we lack appellate jurisdiction over the appeal that Appellant Marfil

has asserted from the Honorable Rhonda I.L. Loo's May 8, 2015 judgment, because Appellant Marfil did not file her June 9, 2015 appeal within thirty days after entry of the May 8, 2015 judgment, as Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (HRAP) required for a timely appeal from the May 8, 2015 judgment. The failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that the parties cannot waive and the appellate courts cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986); HRAP Rule 26(b) ("[N]o court or judge or justice is authorized to change the jurisdictional requirements contained in Rule 4 of [the HRAP]."). Consequently, we lack appellate jurisdiction over this case. Therefore,

IT IS HEREBY ORDERED that Appellee Boschetti's August 18, 2015 motion to dismiss appellate court case number CAAP-15-0000452 for lack of appellate jurisdiction is granted, and appellate court case number CAAP-15-0000452 is dismissed.

DATED: Honolulu, Hawai'i, October 13, 2015.



Chief Judge



Associate Judge



Associate Judge