

NO. CAAP-15-0000462

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

DIANNE KAWASHIMA, individually and on behalf of  
all others similarly situated,  
Plaintiff/Appellee/Cross-Appellant,  
v.

STATE OF HAWAII, DEPARTMENT OF EDUCATION,  
KATHERYN S. MATAYOSHI, in her official capacity as  
Superintendent of Schools, DONALD G. HORNER, BRIAN J. DELIMA,  
KEITH AMEMIYA, CHERYL KA'UHANE LUPENI, PATRICIA HALAGAO,  
NANCY JO YAMAKAWA BUDD, JIM D. WILLIAMS, AMY ASSELBAYE,  
and GRANT CHUN, in their official capacities as members of the  
State of Hawaii Board of Education,  
Defendants/Appellants/Cross-Appellees,  
and  
DOE DEFENDANTS 1-10, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CIVIL NO. 06-1-0244-02)

ORDER GRANTING FEBRUARY 12, 2016 HRAP RULE 40  
MOTION FOR RECONSIDERATION OF FEBRUARY 3, 2016  
ORDER DISMISSING APPELLATE COURT CASE NUMBER  
CAAP-15-0000462 FOR LACK OF APPELLATE JURISDICTION  
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of (1) the February 3, 2016 order  
dismissing appellate court case number CAAP-15-0000462 for lack  
of appellate jurisdiction, (2) Defendants/Appellants/Cross-  
Appellees State of Hawaii Department of Education, Katheryn S.  
Matayoshi, Donald G. Horner, Brian J. Delima, Keith Amemiya,  
Cheryl Ka'uhane Lupeni, Patricia Halagao, Nancy Jo Yamakawa Budd,  
Jim D. Williams, Amy Asselbaye, Grant Chun and the State of  
Hawaii Board of Education's (the State Appellants) and  
Plaintiff/Appellee/Cross-Appellant Dianne Kawashima's (Cross-  
Appellant Kawashima) February 12, 2016 joint motion for  
reconsideration of the February 3, 2016 dismissal order pursuant

to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), and (3) the record, it appears that, although we did not overlook or misapprehend any points of law or fact when we entered the February 3, 2016 dismissal order, the circuit court subsequently entered a February 11, 2016 amended judgment that satisfies the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) §641-1(a) (1993 & Supp. 2015), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP) and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Therefore, IT IS HEREBY ORDERED that the State Appellants' and Cross-Appellant Kawashima's February 12, 2016 joint motion for reconsideration is granted, appellate court case number CAAP-15-0000462 is reinstated, and the appellate court clerk shall make the case ready for review by a merit panel of the Hawai'i Intermediate Court of Appeals.

IT IS FURTHER HEREBY ORDERED that, pursuant to HRAP Rule 10(e)(2)(C), the circuit court clerk shall, within ten days after entry of this order, supplement the record on appeal with the February 11, 2016 amended judgment in Civil No. 06-1-0244-02 (ECN).

DATED: Honolulu, Hawai'i, February 23, 2016.

Presiding Judge

Associate Judge

Associate Judge