

**Electronically Filed
Supreme Court
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NO. SCWC-11-0000613

IN THE SUPREME COURT OF THE STATE OF HAWAII

ARYN NAKAOKA, individually and on behalf
of all others similarly situated,
Petitioner/Plaintiff-Appellee/Cross-Appellant,

vs.

HILTON HAWAIIAN VILLAGE, LLC, dba HILTON HAWAIIAN VILLAGE
BEACH RESORT AND SPA,
Respondent/Defendant-Appellant/Cross-Appellee.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CIVIL NO. 08-1-2512-12)

ORDER ACCEPTING APPLICATION FOR WRIT OF CERTIORARI AND
AFFIRMING ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION
(By: Recktenwald, C.J., Nakayama, Acoba, and McKenna, JJ. and
Circuit Judge Trader, in place of Duffy, J., recused)

Petitioner/plaintiff-appellee/cross-appellant Aryn Nakaoka filed an application for writ of certiorari on February 27, 2012 to review the ICA's January 27, 2012 order dismissing petitioner's cross-appeal for lack of appellate jurisdiction. Petitioner cross-appealed from the June 2, 2011 Final Judgment entered in Civil No. 08-1-2512-12, but the ICA dismissed the cross-appeal for lack of jurisdiction upon concluding that the cross-appeal was untimely. We conclude that the ICA lacked jurisdiction because the cross-appeal was premature, not

untimely.

Petitioner's circuit court complaint in Civil No. 08-1-2512-12 asserted claims for "unfair or deceptive acts or practices in the conduct of a trade or commerce and/or unfair methods of competition." The claim for unfair methods of competition was resolved in favor of the defendant by an October 20, 2010 summary judgment order. The claim for unfair or deceptive practices was resolved in favor of petitioner by a July 7, 2011 summary judgment order on liability, a February 2, 2011 jury verdict on damages, and the June 2, 2011 Final Judgment. The June 2, 2011 judgment entered judgment "in favor of [petitioner] and against [the defendant] in the amount of \$337,435.32[.]" The judgment did not identify the claim -- unfair or deceptive practices -- for which the judgment was entered, nor did it enter judgment in favor of the defendant on claim for unfair methods of competition. The judgment, which purported to be the final judgment in Civil No. 08-1-2512-12, was not an appealable final judgment pursuant to HRCP 58 and Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994) (in a multiple claim circuit court action, the judgment entered pursuant to HRCP 58 must identify the claims for which the judgment is entered and must, on its face, show finality as to all claims). Petitioner's cross-appeal from the June 2, 2011 Final Judgment was premature and the ICA lacked appellate jurisdiction. Therefore,

IT IS HEREBY ORDERED that: (1) the application for writ of certiorari, filed on February 27, 2012, is accepted and (2) the ICA's January 27, 2012 order dismissing the cross-appeal for lack of jurisdiction is affirmed for the reason that the cross-appeal was premature.

DATED: Honolulu, Hawai'i, April 9, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Rom A. Trader

