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Supreme Court
SCWC-29454
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SCWC-29454

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

THOMAS FRANK SCHMIDT and LORINNA JHINCIL SCHMIDT,
Petitioners/Plaintiffs-Appellants, Cross-Appellees,

vs.

HSC, INC., a Hawai'i corporation,
RICHARD HENDERSON, SR., and ELEANOR R.J. HENDERSON,
Respondents/Defendants-Appellees, Cross-Appellants.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(ICA NOS. 29454 and 29589; CIV. NO. 06-1-0228)

ORDER DISMISSING APPLICATION FOR WRIT OF CERTIORARI
(By: Nakayama, Acting C.J., Acoba, McKenna, and Pollack, JJ.
and Circuit Judge Garibaldi, in place of Recktenwald, C.J., recused)

It appearing that the judgment on appeal in the above-referenced matter not having been filed by the Intermediate Court of Appeals at the time the application for writ of certiorari was filed, see Hawai'i Revised Statutes § 602-59(a) (Supp. 2011); see also Hawai'i Rules of Appellate Procedure (HRAP) Rule 36(b)(1) (2012),

IT IS HEREBY ORDERED that Petitioners/Plaintiffs-Appellants, Cross-Appellees' application for writ of certiorari, filed on September 26, 2013, is dismissed without prejudice to

re-filing the application pursuant to HRAP Rule 40.1()a) (2012)
("The application shall be filed within thirty days after the
filing of the intermediate court of appeals' judgment on appeal
or dismissal order, unless the time for filing the application is
extended in accordance with this rule.").

DATED: Honolulu, Hawai'i, October 3, 2013.

R Steven Geshell
and Thomas P. Dunn
for petitioners

/s/ Paula A. Nakayama
/s/ Simeon R. Acoba, Jr.
/s/ Sabrina S. McKenna
/s/ Richard W. Pollack
/s/ Colette Y. Garibaldi

