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SCWC-29553

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

HIROKAZU NAKAJIMA, Petitioner/Plaintiff-Appellant,

vs.

AKI NAKAJIMA, Respondent/Defendant-Appellee.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(ICA NO. 29553; FC-D NO. 05-1-0587)

CONCURRING AND DISSENTING ORDER BY RECKTENWALD, C.J.

I respectfully dissent from the majority's conclusion that the division and distribution of property and debts was not final and appealable until the November 26, 2008 order on petitioner's motion for clarification. In my view, the June 24, 2008 Decree Granting Absolute Divorce fully and finally determined the division and distribution of the parties' property and debts, and therefore was immediately appealable as to those issues. See Richter v. Richter, 108 Hawai'i 504, 122 P.3d 284 (App. 2005) (concluding that an award of "one-half of the aggregate value of the stocks and mutual funds" constituted a final division of property). Accordingly, I would hold that

petitioner's December 26, 2008 notice of appeal was untimely as to the June 24, 2008 decree.

However, in my view, the November 26, 2008 order denying petitioner's motion for clarification was an independently appealable post-judgment order. I therefore would hold that the notice of appeal was timely as to the issues decided in that order.

DATED: Honolulu, Hawai'i, February 13, 2014.

/s/ Mark E. Recktenwald

