

NO. CAAP-16-0000149

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

IN THE MATTER OF THE YOSHIKO SHIMABUKURO
REVOCABLE TRUST DATED MARCH 15, 1995

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(TRUST NO. 15-1-0218)

ORDER GRANTING IN PART AND DENYING IN PART
THE MAY 16, 2016 MOTION TO DISMISS APPEAL

(By: Fujise, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon consideration of Petitioner-Appellant Makimi Magsanay's (Appellant) May 16, 2016 Motion to Dismiss Appeal (Motion), Grantor-Appellee Yoshiko Shimabukuro's (Appellee Shimabukuro) May 18, 2016 Response to Motion to Dismiss Appeal, Trustee-Appellee Shin Domen's (Appellee Domen) May 19, 2016 Response to Motion to Dismiss Appeal, the papers in support, and the record, it appears that (1) Appellant seeks to dismiss the appeal, with each party to bear their own appellate costs and attorneys' fees; (2) in response, Appellee Shimabukuro and Appellee Domen separately ask the court to dismiss the appeal

with prejudice and assess costs against Appellant but neither appellee provides details concerning costs incurred on appeal, or cites authority for the requested relief; (3) Hawai'i Rules of Appellate Procedure Rule 42(b) authorizes the court, upon a motion, to dismiss a docketed appeal; and (4) the circuit court clerk docketed the appeal on May 2, 2016.

Therefore, IT IS HEREBY ORDERED that the Motion is granted in part and denied in part as follows:

(1) The request to dismiss the appeal is granted and the appeal is dismissed. Each party shall bear their own attorneys' fees on appeal.

(2) The request that each party shall bear their own costs on appeal is denied without prejudice.

IT IS FURTHER ORDERED that Appellee Shimabukuro's and Appellee Domen's separate requests to assess costs against Appellant are denied without prejudice to filing in this court a motion or separate motions detailing the costs incurred on appeal and authority for granting the requested relief.

DATED: Honolulu, Hawai'i, May 26, 2016.

Presiding Judge

Associate Judge

Associate Judge