

NO. CAAP-16-0000367

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

PIKO FARMS & NURSERY, LLC, Plaintiff-Appellee,  
v.  
DEPARTMENT OF HEALTH, STATE OF HAWAII, and VIRGINIA  
PRESSLER, Health Director, Defendants-Appellees,

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CIVIL NO. 16-1-0826-04 VLC)

ORDER  
DISMISSING APPELLATE COURT CASE NUMBER  
CAAP-16-0000367 FOR LACK OF APPELLATE JURISDICTION  
AND  
DISMISSING AS MOOT ALL PENDING MOTIONS  
(By: Foley, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of documents and files in CAAP-16-0000367, Piko Farms & Nursery, LLC, v. Department of Health, which includes an April 29, 2016 motion for injunction filed by Appellant Piko Farms & Nursery, LLC (**Piko Farms**), it appears that we lack appellate jurisdiction over the appeal by Piko Farms from the April 28, 2016 order on an ex parte motion for a temporary restraining order, which was stamped "Denied," because the

Circuit Court of the First Circuit has not yet entered a separate final judgment as to all claims in Civil No. 16-1-0826-04 VLC.<sup>1</sup>

Hawaii Revised Statutes ("HRS") § 641-1(a) (1993 & Supp. 2014) authorizes appeals to the Hawai'i Intermediate Court of Appeals from final judgments, orders, or decrees. Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c). Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement under HRCP Rule 58, the Supreme Court of Hawai'i has held that "[a]n appeal may be taken . . . only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). Consequently, "[a]n appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Jenkins, 76 Hawai'i at 120, 869 P.2d at 1339 (footnote omitted).

Piko Farms does not assert in its Notice of Appeal or its motion for injunction that a final judgment has been filed. Additionally, although no record on appeal has yet been filed in the instant appeal, a review of documents listed on Ho'ohiki does not reflect any final judgment. Although exceptions to the final judgment requirement exist under the doctrine in Forgay v.

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<sup>1</sup> The "Denied" stamp on the order that is attached to the Notice of Appeal references the 9th Division, but is not signed by a presiding judge.

Conrad, 47 U.S. 201 (1848) (the Forgay doctrine), the collateral order doctrine, and HRS § 641-1(b) (1993 & Supp. 2014), the April 28, 2016 interlocutory order denying a motion for a temporary restraining order does not satisfy the requirements for appealability under the Forgay doctrine, the collateral order doctrine, or HRS § 641-1(b). See Ciesla v. Reddish, 78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995) (regarding the two requirements for appealability under the Forgay doctrine); Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 322, 966 P.2d 631, 634 (1998) (regarding the three requirements for the collateral order doctrine); HRS § 641-1(b) (regarding the requirements for an appeal from an interlocutory order). Absent an appealable final judgment, we lack appellate jurisdiction, and Appellant Piko Farms' appeal is premature.

THEREFORE, IT IS HEREBY ORDERED that the appellate court case number CAAP-16-0000367 is dismissed for lack of appellate jurisdiction, and all pending motions are dismissed as moot.

DATED: Honolulu, Hawai'i, April 29, 2016.

Presiding Judge

Associate Judge

Associate Judge