

NO. CAAP-15-0000437

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

FIRST HAWAIIAN BANK,
Plaintiff/Counterclaim Defendant/Appellee,
v.
RORY BRIDGES AND JUANITA GAE BRIDGES,
Defendants/Counterclaim Plaintiffs/Appellants,
and
JOHN DOES 1-50, JANE DOES 1-50,
DOE PARTNERSHIPS 1-50, DOE CORPORATIONS 1-50,
DOE ENTITIES 1-50, AND DOE GOVERNMENTAL UNITS 1-50,
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 12-1-0610(3))

ORDER

(1) GRANTING THE OCTOBER 21, 2016
"MOTION FOR SUBSTITUTION OF PARTIES";

AND

(2) APPROVING THE OCTOBER 21, 2016
"STIPULATION FOR DISMISSAL OF APPEAL"

(By: Nakamura, C.J., Foley and Reifurth, JJ.)

Upon consideration of the October 21, 2016 "Motion for Substitution of Parties and Order" and "Stipulation for Dismissal of Appeal and Order," both filed by Bankruptcy Trustee Elizabeth A. Kane (**Trustee**), the papers in support, and the record, and noting no opposition by Defendants-Appellants Rory Bridges or

Juanita Gae Bridges (collectively **Appellants**), the following appears:

(1) Trustee seeks to substitute for Appellants in the appeal.

(2) Rule 43(b) of the Hawai'i Rules of Appellate Procedure (**HRAP**) provides, "If substitution . . . is necessary for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in subsection (a)."

(3) HRAP Rule 43(a) requires a motion for substitution of parties to be filed and service of the motion to be made on the parties.

(3) On September 19, 2015, Appellants filed a petition under the U.S. Bankruptcy Code, commencing a Chapter 7 bankruptcy case, case no. 15-01144 (**Bankruptcy Case**), in the United States Bankruptcy Court for the District of Hawaii.

(4) Trustee was appointed trustee in the Bankruptcy Case.

(5) In March, 2016, Trustee and Plaintiff-Appellee First Hawaiian Bank (**Appellee**) entered into a settlement agreement in which Appellee agreed to the avoiding of its judgment lien against real property in the bankruptcy estate, in exchange for Trustee's agreement to dismiss the appeal. On May 12, 2016, the Bankruptcy Court filed an order granting the Trustee's motion to approve the settlement agreement.

(6) Trustee and Appellee stipulate to the dismiss the appeal.

(7) HRAP Rule 42(b) provides:

If the parties to a docketed appeal or other proceeding sign and file a stipulation for dismissal, specifying the terms as to payment of costs, and pay whatever fees are due, the case shall be dismissed upon approval by the appellate court[.]

(8) Trustee and Appellee's respective attorneys have filed the stipulation, which provides that each party shall be responsible for its own fees and costs, and no appellate fees are due.

(9) Appellants were conventionally served with the motion for substitution of parties, to which Trustee has attached a copy of the stipulation to dismiss the appeal.

Therefore, IT IS HEREBY ORDERED that the motion for substitution is granted.

IT IS HEREBY FURTHER ORDERED that the stipulation to dismiss is approved, and the appeal is dismissed.

DATED: Honolulu, Hawai'i, November 9, 2016.

Chief Judge

Associate Judge

Associate Judge