

NO. CAAP-15-0000011

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

AURORA LOAN SERVICES, LLC, Plaintiff/Counterclaim
Defendant-Appellee, v. LEWIS EDWARD GRAHAM, II,
Defendant/Counterclaimant-Appellant, and MARINA D.
GRAHAM; ASSOCIATION OF APARTMENT OWNERS OF
LANIKAI; ROBERT HEYERLY; DUANE STUTZMAN; JOHN
WITTRIG; WASHINGTON MUTUAL BANK, a Federal
Association, Defendants/Counterclaimants-
Appellees, and DOES 1-20, Defendants/
Counterclaimants

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CIVIL NO. 11-1-0065)

ORDER DISMISSING THE APPEAL

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

Upon review of the record, it appears that:

(1) Defendant/Counterclaimant-Appellant Lewis Edward
Graham, II (Graham), *pro se*, filed a notice of appeal on
January 7, 2015;

(2) Graham filed his opening brief on January 19, 2016;

(3) On March 29, 2016, Plaintiff-Appellee Aurora Loan
Services (Aurora) filed its answering brief;

(4) There being no reply brief filed, this appeal was
placed on the ready calendar on May 17, 2016;

(5) On June 21, 2017, Aurora filed a suggestion of
death, stating that Graham had died on March 9, 2017 and that
Thomas Yano, Esq. (Yano), was attorney for Graham;

(6) This court entered an Order on July 10, 2017,
directing the appellate clerk to conventionally serve Yano with a

copy of the order and that the parties, including Yano "shall file position statements stating how the death of [Graham] affects this appeal" within fifteen days of the Order;

(7) On July 10, 2017, the appellate clerk mailed a copy of this Order to Yano at KMPC, 4374 Kukui Grove St. Ste 204, Lihue, HI 96766;

(8) On July 25, 2017, Aurora filed its position statement, providing a copy of an obituary for Graham appearing in The Garden Island online publication and a copy of the circuit court's July 16, 2015 order approving Graham's former attorney, Rhonda M. Fosbinder's motion to withdraw as Graham's counsel;

(9) Aurora also represented that it reviewed "the court docket" and "found no indication that Graham or his estate is the subject of any pending actions other than this appeal, and Aurora has found no public record of the designation of personal representative for Graham;"

(10) On August 16, 2017, Yano filed his declaration stating that he "was not retained to represent [Graham] in the instant appeal" and does not "presently know how [Graham's] Suggestion of Death will affect this appeal;"

(11) No one representing Graham's estate has moved to substitute as a party for Graham in this action.

Therefore, IT IS HEREBY ORDERED that this appeal is dismissed.

DATED: Honolulu, Hawai'i, August 21, 2017.

Presiding Judge

Associate Judge

Associate Judge