

NO. CAAP-17-0000762

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

THEODORICO ERUM, JR., Plaintiff-Appellant, v.  
JOSUE BUMATAY LLEGO, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT  
(CIVIL NO. 14-1-0199)

SUMMARY DISPOSITION ORDER

(By: Leonard, Presiding Judge, Reifurth and Chan, JJ.)

Plaintiff-Appellant Theodorico Erum, Jr. (**Erum**),  
appeals from the September 27, 2017 Judgment Re: Order Granting  
Defendant Josue Bumatay Llego's Oral Motion for Dismissal with  
Prejudice (**Judgment**) entered by the Circuit Court of the Fifth  
Circuit (**Circuit Court**).<sup>1</sup>

Erum raises one point of error on appeal, contending  
that the Circuit Court abused its discretion in dismissing Erum's  
case with prejudice.

Upon careful review of the record and the briefs  
submitted by the parties, and having given due consideration to

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<sup>1</sup> The Honorable Randal G.B. Valenciano presided.

the arguments advanced and the issues raised by the parties, we resolve Erum's point of error as follows:

This case arises out of a 2012 automobile accident and liability was not contested. Throughout the case, Erum missed deadlines, refused to voluntarily dismiss the property damage claim resolved in a prior action, was found not to have conducted settlement negotiations in good faith,<sup>2</sup> failed and refused to submit pretrial documents required by court orders, and failed to attend court-ordered conferences. The Circuit Court awarded monetary sanctions against Erum five times, as well as granted Erum various extensions of time and declined, at various points, to impose harsher sanctions against Erum (including earlier requests for dismissal and exclusion of documents not timely filed).<sup>3</sup> Finally, after multiple trial settings and numerous extensions of deadlines, Erum again missed pretrial filing deadlines and failed to attend an August 24, 2017 final pretrial conference in advance of a September 18, 2017 trial. Erum offered no reason for the failure to attend the pretrial conference, and instead, on September 13, 2017, requested a further continuance of the trial. An order was entered on September 15, 2017, dismissing the case with prejudice based on, *inter alia*, the Circuit Court's consideration of the entire

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<sup>2</sup> It appears that Erum agreed to a settlement and then changed his mind. Rather than enforce the settlement agreement, the Circuit Court found that Erum's actions in the settlement negotiations were not made in good faith and sanctioned Erum.

<sup>3</sup> Erum has reportedly not paid any of the monetary sanctions awarded against him.

record in the case, and Hawai'i Rules of Civil Procedure Rules 16(b) and 37(b) (2) (C) .

On the record in this case, we conclude that the Circuit Court did not abuse its discretion in dismissing Erum's case with prejudice. See, e.g., Webb v. Harvey, 103 Hawai'i 63, 67, 79 P.3d 681, 685 (App. 2003) .

Accordingly, the Circuit Court's September 27, 2017 Judgment is affirmed.

DATED: Honolulu, Hawai'i, April 30, 2019.

On the briefs:

Theodorico Erum, Jr.,  
Plaintiff-Appellant *Pro Se*.

Presiding Judge

Lisa Strandtman,  
Jason M. Tani,  
Shawn M. Nakoa,  
(Rush Moore LLP),  
for Defendant-Appellee.

Associate Judge

Associate Judge