

NO. CAAP-20-0000445

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

ATC MAKENA N GOLF LLC, ATC MAKENA S GOLF LLC,
ATC MAKENA LAND SF1 LLC, ATC MAKENA LAND MF1 LLC,
ATC MAKENA LAND MF2 LLC, ATC MAKENA LAND MF3 LLC,
ATC MAKENA LAND C1 LLC, ATC MAKENA LAND U1 LLC,
ATC MAKENA LAND B1 LLC, ATC MAKENA LAND MF4 LLC,
ATC MAKENA LAND SF2 LLC and ATC MAKENA LAND AH1 LLC,
Plaintiffs-Appellees, v. AZIZI K. KAIAMA, HEIR TO PIENA,
Defendant-Appellant, and DOES 1-100, Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CASE NO. 2CCV-20-0000099)

ORDER

GRANTING JULY 21, 2020 MOTION TO DISMISS APPELLATE COURT
CASE NUMBER CAAP-20-0000445 FOR LACK OF APPELLATE JURISDICTION
(By: Chan, Presiding Judge, Hiraoka and Wadsworth, JJ.)

Upon review of (1) Plaintiffs-Appellees ATC Makena N Golf, LLC, ATC Makena S Golf, LLC, ATC Makena Land SF1, LLC, ATC Makena Land MF1, LLC, ATC Makena Land MF2 LLC, ATC Makena Land MF3, LLC, ATC Makena Land C 1, LLC, ATC Makena Land U1, LLC, ATC Makena Land B1, LLC, ATC Makena Land MF4, LLC, ATC Makena Land SF2, LLC, and ATC Makena Land AH1, LLC's (the ATC Makena Appellees) July 21, 2020 "objection" to this appeal by Defendant-Appellant Azizi Kaiama (Kaiama), self-represented, based on a lack of appellate jurisdiction, (2) the lack of any response by Kaiama to the ATC Makena Appellees' July 21, 2020 "objection," and (3) the record, we construe the ATC Makena Appellees'

July 21, 2020 "objection" as a non-conforming motion to dismiss Kaiama's appeal for lack of appellate jurisdiction.

Kaiama is appealing from the Honorable Peter T. Cahill's July 9, 2020 interlocutory order denying Kaiama's June 12, 2020 motion to disqualify Judge Cahill from presiding over circuit court case number 2CCV-20-0000099. However, the circuit court has neither adjudicated the claims nor entered a final judgment in circuit court civil case number 2CCV-20-0000099, as Hawaii Revised Statutes § 641-1(a) (2016) and Rule 58 of the Hawai'i Rules of Civil Procedure require for an appeal under the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). Absent an appealable final judgment, Kaiama's appeal is premature, and we lack appellate jurisdiction.

Therefore, IT IS HEREBY ORDERED that the ATC Makena Appellees' July 21, 2020 motion to dismiss Kaiama's appeal is granted, and appellate court case number CAAP-20-0000445 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, July 29, 2020.

/s/ Derrick H.M. Chan
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge