

NO. CAAP-21-0000385

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ALEX D. HERRERA, ROSE A. HALSEY, LAWRENCE T. HALSEY,
THOMAS J. BROOKS and JAMIE V. MANTEGNA,
Plaintiffs-Appellants, v.
BRAD ROCKWELL, LARRY SHERRER, MARK SULLIVAN,
all three in their separate individual capacities and as
Directors and Officers of AOA Kulana,
Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CCV-20-0000090)

ORDER GRANTING MOTION TO DISMISS APPEAL

(By: Ginoza, Chief Judge, Leonard and McCullen, JJ.)

Upon review of the record, it appears that:

(1) Plaintiffs-Appellants Alex D. Herrera, Rose A. Halsey, Lawrence T. Halsey, Thomas J. Brooks, and Jamie V. Mantegna (Appellants) failed to file the statement of jurisdiction and opening brief, or seek an extension of time, before the respective deadlines set forth in the August 25, 2021 notice of entering case on calendar expired;

(2) On October 12, 2021, the appellate clerk entered Appellants' default as to both documents and informed Appellants that, among other things, the appeal could be dismissed, under Hawai'i Rules of Appellate Procedure (HRAP) Rules 12.1(e) and 30, as a result of their default;

(3) On November 18, 2021, the court denied without prejudice Defendants-Appellees Brad Rockwell, Larry Sherrer, and Mark Sullivan's (Appellees) October 6, 2021 motion to dismiss the

appeal for failure to file the statement of jurisdiction and opening brief, and granted Appellants' October 22, 2021 motion for relief from default and a first extension of time for the statement of jurisdiction and opening brief. The court extended the deadline for both documents to December 22, 2021;

(4) Appellants failed to file either document or request an extension of time, and are in default a second time in this appeal; and

(5) On January 11, 2022, Appellees filed a renewed motion to dismiss the appeal with prejudice for failure to file the statement of jurisdiction and opening brief. The motion indicates Appellants' counsel informed Appellees' counsel that Appellants intended to dismiss this appeal in December 2021, but apparently neglected to do so. Appellants did not file a response, or take any further action in this appeal.

Therefore, IT IS HEREBY ORDERED that the motion to dismiss the appeal is granted and the appeal is dismissed.

DATED: Honolulu, Hawai'i, March 16, 2022.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge