

NO. CAAP-21-0000664

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

WILMINGTON SAVINGS FUND SOCIETY, FSB, AS OWNER TRUSTEE OF THE RESIDENTIAL CREDIT OPPORTUNITIES TRUST V-B, Plaintiff-Appellee, v. HEP YANEZ GUINN, also known as HEPHZIBAH YANEZ LUSICA, Defendant-Appellant, and FALEPUNA MAUI; KATERINA MAUI; DAVIS & POOVEY, INC.; J/R MOTORS 744, LLC, DBA JAGUAR OF HONOLULU AND LAND ROVER OF HONOLULU; BEATRIZ L. RODRIGUEZ; ABOVE ALL BAIL BOND, LLC; STATE OF HAWAII, Defendants-Appellees; and JOHN DOES 2-20; JANE DOES 1-20; DOE CORPORATIONS 1-20; DOE ENTITIES 1-20; AND DOE GOVERNMENTAL UNITS 1-20, Defendants-Appellees

J/R MOTORS 744, LLC, DBA JAGUAR OF HONOLULU AND LAND ROVER OF HONOLULU, Defendant/Counterclaimant/Crossclaimant-Appellee, v. WILMINGTON SAVINGS FUND SOCIETY, FSB, AS OWNER TRUSTEE OF THE RESIDENTIAL CREDIT OPPORTUNITIES TRUST V-B, Plaintiff/Counterclaim Defendant-Appellee, and HEP YANEZ GUINN, also known as HEPHZIBAH YANEZ LUSICA, Defendant/Crossclaim Defendant-Appellant, and FALEPUNA MAUI; KATERINA MAUI; DAVIS & POOVEY, INC.; BEATRIZ L. RODRIGUEZ; ABOVE ALL BAIL BOND, LLC; STATE OF HAWAII, Defendants/Crossclaim Defendants-Appellees, and JOHN DOES 2-20; JANE DOES 1-20; DOE CORPORATIONS 1-20; DOE ENTITIES 1-20; AND DOE GOVERNMENTAL UNITS 1-20, Defendants/Crossclaim Defendants-Appellees

BEATRIZ L. RODRIGUEZ, Defendant/Counterclaim Plaintiff-Appellee, v. WILMINGTON SAVINGS FUND SOCIETY, FSB, AS OWNER TRUSTEE OF THE RESIDENTIAL CREDIT OPPORTUNITIES TRUST V-B, Plaintiff/Counterclaim Defendant-Appellee, and JOHN DOES 2-20; JANE DOES 1-20; DOE CORPORATIONS 1-20; DOE ENTITIES 1-20; AND DOE GOVERNMENTAL UNITS 1-20, Defendants/Counterclaim Defendants-Appellees

BEATRIZ L. RODRIGUEZ, Defendant/Crossclaim Plaintiff-Appellee, v. HEP YANEZ GUINN, also known as HEPHZIBAH YANEZ LUSICA, Defendant/Crossclaim Defendant/Appellant, v. FALEPUNA MAUI; KATERINA MAUI; DAVIS & POOVEY, INC.; J/R MOTORS 744, LLC, DBA JAGUAR OF HONOLULU AND LAND ROVER OF HONOLULU; ABOVE ALL BAIL BOND, LLC; STATE OF HAWAII, Defendants/Crossclaim Defendants-Appellees, and JOHN DOES 2-20; JANE DOES 1-20; DOE CORPORATIONS 1-20; DOE ENTITIES 1-20; AND DOE GOVERNMENTAL UNITS 1-20, Defendants/Crossclaim Defendants-Appellees

STATE OF HAWAII, BY ITS OFFICE OF CONSUMER PROTECTION, Third-Party Plaintiff-Appellee, v. HEP YANEZ GUINN, also known as HEPHZIBAH YANEZ LUSICA, Third-Party Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC191000820)

ORDER GRANTING MOTION TO DISMISS APPEAL

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

Upon consideration of the Third Motion to Dismiss (**Motion to Dismiss**), filed August 11, 2022, by Third-Party Plaintiff/Appellee State of Hawaii by its Office of Consumer Protection (**OCP**), the papers in support, the record, and noting no opposition, it appears that:

(1) On December 29, 2021, the appeal was docketed, and the opening brief was due by February 7, 2022;

(2) Self-represented Defendant/Crossclaim Defendant/Third-Party Defendant-Appellant Hep Yanez Guinn, also known as Hephzibah Yanez Lusica (**Guinn**), failed to file the opening brief and did not request an extension of time until April 8, 2022;

(3) The court granted Guinn's April 8, 2022 request for an extension of time to file the opening brief, and subsequent extension requests, extending the deadline to June 13, 2022;

(4) Guinn again failed to file the opening brief, and on June 22, 2022, the appellate clerk entered a default notice informing her that the time for filing the opening brief had expired, the matter would be called to the court's attention on July 5, 2022, for appropriate action, which could include dismissal of the appeal, under Hawaii Rules of Appellate

Procedure Rule 30, and Guinn could request relief from default by motion;

(5) On June 28, 2022, Guinn filed what the court construed as a motion for relief from default and an extension of time to file the opening brief. The court granted the motion and extended the opening brief deadline to August 1, 2022, with no further extensions absent extraordinary circumstances, and cautioned Guinn that any further default of the opening brief may result in sanctions, including, without limitation, monetary sanctions, the appeal being dismissed, or both;

(6) Guinn failed to file the opening brief or request another extension of time, and therefore is in default of the opening brief a third time in this appeal;

(7) In the Motion to Dismiss, OCP seeks to dismiss the appeal due to Guinn's default; and

(8) Guinn has not moved for relief from default, filed a response to the Motion to Dismiss, or taken any other action in this appeal.

Therefore, IT IS HEREBY ORDERED that the Motion to Dismiss is granted, and the appeal is dismissed.

DATED: Honolulu, Hawai'i, December 21, 2022.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge