

NO. CAAP-22-0000428

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

CITY AND COUNTY OF HONOLULU AND HONOLULU BOARD OF WATER SUPPLY,
Plaintiffs-Appellees, v. SUNOCO LP; ALOHA PETROLEUM, LTD.;
ALOHA PETROLEUM LLC; EXXON MOBIL CORPORATION;
EXXONMOBIL OIL CORPORATION; ROYAL DUTCH SHELL OIL PRODUCTS
COMPANY; SHELL OIL PRODUCTS COMPANY LLC; BHP GROUP LIMITED;
BHP GROUP PLC; BP AMERICA INC.; MARATHON PETROLEUM CORP.;
CONOCOPHILLIPS; CONOCOPHILLIPS COMPANY; PHILLIPS 66;
PHILLIPS 66 COMPANY; AND DOES 1 through 100, inclusive,
Defendants-Appellees, and CHEVRON CORP.; CHEVRON USA INC.,
Defendants-Appellants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CCV200000380)

ORDER DENYING MOTION TO CONSOLIDATE AND FOR DISMISSAL OF APPEAL
(By: Nakasone, Presiding Judge, McCullen and Chan, JJ.)

Upon consideration of Defendants-Appellants Chevron Corporation and Chevron USA Inc.'s (collectively, **Chevron**) November 9, 2022 Unopposed Motion to Consolidate Appeals, filed in CAAP-22-0000135 and CAAP-22-0000428 (**Motions to Consolidate**), the papers in support, and the record in case numbers CAAP-22-0000135 and CAAP-22-0000428, it appears that:

(1) Chevron seeks to consolidate the appeals in case numbers CAAP-22-0000135 and CAAP-22-0000428;

(2) In case number CAAP-22-0000135, Chevron appeals from the Circuit Court of the First Circuit's February 15, 2022 Order Denying Chevron Defendants' Special Motion to Strike and/or Dismiss the Complaint Pursuant to California's Anti-SLAPP Law (**Denial Order**);

(3) The court has already determined that it has appellate jurisdiction in CAAP-22-0000135 over part, but not all, of the appeal from the Denial Order, pursuant to the collateral order doctrine. See CAAP-22-0000135 docket 31;

(4) In case number CAAP-22-0000428, Chevron also appeals from the Denial Order;

(5) Chevron filed the notice of appeal in CAAP-22-0000428 on July 5, 2022, more than thirty days after entry of the Denial Order, and the record does not indicate Chevron received an extension of time to appeal under Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(a)(4) or that the deadline was otherwise tolled by a timely-filed post-judgment motion under HRAP Rule 4(a)(3). Therefore, the notice of appeal in CAAP-22-0000428 was untimely filed under HRAP Rule 4(a)(1);

(6) "As a general rule, compliance with the requirement of timely filing a notice of appeal is jurisdictional, and we must dismiss an appeal on our motion if we lack jurisdiction." Grattafiori v. State, 79 Hawaii 10, 13, 897 P.2d 937, 940 (1995) (quotation marks & citations omitted); HRAP Rule 4(a)(4). Thus, we must dismiss the appeal in CAAP-22-0000428 as untimely.

Therefore, IT IS HEREBY ORDERED that the appeal in case number CAAP-22-0000428 is dismissed, and all pending motions in CAAP-22-0000428 are dismissed as moot.

IT IS FURTHER ORDERED that the Motion to Consolidate filed in CAAP-22-0000135 is denied as moot.

IT IS FURTHER ORDERED that the appellate clerk shall file this order in case numbers CAAP-22-0000135 and CAAP-22-0000428.

DATED: Honolulu, Hawai'i, November 30, 2022.

/s/ Karen T. Nakasone
Presiding Judge

/s/ Sonja M.P. McCullen
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge