

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-22-0000517

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

THE BANK OF NEW YORK MELLON FKA
THE BANK OF NEW YORK AS TRUSTEE FOR THE BENEFIT OF THE
CERTIFICATE HOLDERS OF THE CWALT, INC.,
ALTERNATIVE LOAN TRUST 2004-6CB, MORTGAGE PASS THROUGH
CERTIFICATES, SERIES 2004-6CB, Plaintiff-Appellee, v.
NELIA C. GRAFILO; ANTONIO A. GRAFILO, INDIVIDUALLY;
ANTONIO A. GRAFILO AS TRUSTEE OF ANG FAMILY TRUST,
Defendants-Appellants, and MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., AS NOMINEE FOR COUNTRYWIDE BANK,
A DIVISION OF TREASURY BANK, N.A.; AURORA LOAN SERVICES LLC;
KEALAKEKUA BAY ESTATES COMMUNITY ASSOCIATION,
Defendants-Appellees, and DOES 1 through 20, Inclusive,
Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CASE NO. 3CC18100234K)

ORDER APPROVING STIPULATION FOR DISMISSAL OF APPEAL
(By: Hiraoka, Presiding Judge, McCullen and Guidry, JJ.)

Upon consideration of Plaintiff-Appellee The Bank of
New York Mellon fka the Bank of New York as Trustee for the
Benefit of the Certificate Holders of the CWALT, Inc.,
Alternative Loan Trust 2004-6CB, Mortgage Pass Through

Certificates, Series 2004-6CB (**Bank of New York Mellon**) and Defendants-Appellants Nelia C. Grafilo, Antonio A. Grafilo, and Antonio A. Grafilo as Trustee of Ang Family Trust (**Grafilos**) January 16, 2024 "Stipulation for Dismissal with Prejudice of Notice of Appeal Filed August 26, 2022" (**Stipulation to Dismiss**), the papers in support, and the record and files herein, it appears that;

(1) On January 16, 2024, Bank of New York Mellon and the Grafilos filed the Stipulation to Dismiss pursuant to Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 42(b);

a. The Stipulation to Dismiss states that Bank of New York Mellon and the Grafilos "stipulate and agree" that the Grafilos' notice of appeal "is hereby dismissed with prejudice";

b. "Each party shall bear their own attorneys' fees and costs"; and

c. The Stipulation to Dismiss is dated and signed by counsel for all parties appearing in the appeal;

(2) This appeal was docketed on October 21, 2022.

(3) No payment is due.

The Stipulation to Dismiss complies with HRAP Rule 42(b) (providing in part that if "parties to a docketed appeal or other proceeding sign and file a stipulation for dismissal, specifying the terms as to payment of costs and" pay the fees that are due, "the case shall be dismissed upon approval by the appellate court").

Therefore, IT IS ORDERD that the Stipulation to Dismiss is approved and the appeal is dismissed with prejudice. The parties shall bear their own attorneys' fees and costs on appeal.

DATED: Honolulu, Hawai'i, February 2, 2024.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Sonja M.P. McCullen
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge