

**Electronically Filed
Intermediate Court of Appeals
CAAP-22-0000403
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NO. CAAP-22-0000403

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

CSMC MORTGAGE-BACKED PASS-THROUGH CERTIFICATES,
SERIES 2007-3, U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE,
Plaintiff-Appellee, v. RICHARD MICHAEL MORGENSTEIN, JR.;
KIM'S JOY MORGENSTEIN, Defendants-Appellants, and
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.,
SOLELY AS NOMINEE FOR ALLIANCE BANCORP; STATE OF HAWAII-
DEPARTMENT OF TAXATION; VIVINT SOLAR, INC.,
Defendants-Appellees, and
JOHN DOES 1-50; JANE DOES 1-50; DOE PARTNERSHIPS 1-50;
DOE CORPORATIONS 1-50; DOE ENTITIES 1-50; and
DOE GOVERNMENTAL UNITS 1-50, Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC181001969)

ORDER (1) DENYING MOTION TO EXTEND DEADLINES,
(2) APPROVING STIPULATION FOR DISMISSAL OF APPEAL, AND
(3) DISMISSING ALL PENDING MOTIONS
(By: Hiraoka, Presiding Judge, Wadsworth and McCullen, JJ.)

Upon consideration of Plaintiff-Appellee **CSMC**
Mortgage-Backed Pass Through Certificates, Series 2007-3, U.S.
Bank National Association, as Trustee, Defendants-Appellants
Richard Michael Morgenstein Jr. and Kim's Joy Morgenstein
(collectively **Morgensteins**), and Proposed Intervenors/Third-

Party Purchasers Lovehome Realty, LLC, Sini **Zhang**, and Haixin Tan's (collectively **Proposed Intervenors**) September 17, 2024 "Stipulation for Dismissal with Prejudice of Defendants Richard Michael Morgenstein, Jr., and Kim's Joy Morgenstein's Notice of Appeal filed June 21, 2022" (**Stipulation to Dismiss**), and the Morgensteins' September 13, 2024 "Motion to Extend Deadlines in Order of Temporary Remand Filed on August 5, 2024" (**Motion to Extend Deadlines**), the papers in support, and the record and files herein, it appears that:

(1) On August 5, 2024, this court entered an order in response to Prospective Intervenors' "Motion to Intervene and Dismiss Appeal as Moot" temporarily remanding the case to "the circuit court for an evidentiary hearing to determine whether Zhang is a good-faith, third-party purchaser of the Property" and explaining jurisdiction would revert to this court upon the filing of a motion to extend the temporary remand period, the filing of a supplemental record on appeal including the circuit court's findings of fact and conclusions of law following its evidentiary hearing on Zhang's status, or within sixty-three days from the order, whichever occurred first;

(2) On September 13, 2024, the Morgensteins filed the Motion to Extend Deadlines pursuant to Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 27, asking this court to extend deadlines in the August 5, 2024 order of temporary remand to allow

additional time to seek dismissal of this appeal and the underlying complaint as the Morgensteins and Prospective Intervenors had reached a settlement;

(3) The Motion to Extend Deadlines does not explain why additional time is needed to seek dismissal of the appeal and/or the underlying complaint;

(4) On September 17, 2024, CSMC, the Morgensteins, and non-party Proposed Intervenors filed the Stipulation to Dismiss pursuant to HRAP Rule 42(b);

- a. The Stipulation to Dismiss states all parties to the appeal stipulated "the above-entitled appeal . . . is dismissed with prejudice";
- b. "[E]ach party [is] to bear his or her own costs and attorneys' fees"; and
- c. The Stipulation to Dismiss is dated and signed by counsel for both appearing parties (CSMC and the Morgensteins) and non-party Proposed Intervenors;

(5) The appeal was docketed on August 24, 2022;

(6) No payment is due;

(7) 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"); and

(8) On October 7, 2024, jurisdiction automatically reverted to this court as sixty-three days passed since this court entered its order temporarily remanding the case to circuit court, no supplemental record on appeal was filed in the case, and the Motion to Extend Deadlines did not explain why additional time was needed to seek dismissal of the appeal and/or the underlying complaint.

Therefore, IT IS ORDERED that the Motion to Extend Deadlines is denied, 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.

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, October 14, 2024.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge