

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-24-0000476

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

NAVATEK CAPITAL, INC., individually and derivatively on behalf of
Nominal Defendant PACMAR TECHNOLOGIES LLC,
fka MARTIN DEFENSE GROUP LLC, fka NAVATEK LLC,
Plaintiff-Appellee, v.
MARTIN KAO, Defendant/Cross-claim Defendant-Appellant, and
JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-5;
DOE CORPORATIONS 1-10; DOE ENTITIES 1-10; and
DOE GOVERNMENTAL UNITS 1-10, Defendants, and
PACMAR TECHNOLOGIES LLC, fka MARTIN DEFENSE GROUP LLC,
fka NAVATEK LLC, Nominal Defendant/Cross-claimant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CCV-20-0001511)

ORDER

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

Upon consideration of Plaintiff-Appellee Navatek Capital Inc., individually and derivatively on behalf of Nominal Defendant **PACMAR** Technologies LLC, fka Martin Defense Group, LLC, fka Navatek LLC's October 15, 2024 Motion to Partially Dismiss Appeal, the papers in support, the record, and there being no opposition, it appears that PACMAR seeks to dismiss the appeal in part for lack of jurisdiction.

According to Defendant-Appellant Martin Kao's (**Kao**) July 15, 2024 Notice of Appeal, he appeals from the following post-judgment orders entered in the Circuit Court of the First Circuit:

March 15, 2023 Order Granting Nominal Defendant PACMAR Technologies LLC, fka Martin Defense Group LLC, fka Navatek LLC's Ex Parte Motion for Issuance of Garnishee Summons After Judgment [Michelle Chapman];

September 5, 2023 Order Denying Defendant/
Respondent Martin Kao's Motion to Quash Garnishee
Summons Directed to Michelle Chapman (Dkt 707) and/or
to Discharge or Release Garnishee;

December 12, 2023 Order Granting Nominal
Defendant PACMAR Technologies LLC's Motion for
Instructions on (1) Garnishee Order [Michelle Chapman]
and (2) Garnishee Order [Jeremy Robinson]
[(**December 12, 2023 Order**)];

January 31, 2024 Order Denying Tiffany Jennifer
Lam's Non Hearing Motion to Intervene Filed as Dkt.
840 on October 11, 2023 [(**January 31, 2024 Order**)];

March 27, 2024 Order to Show Cause Why Defendant
Martin Kao Should not be Held in Civil Contempt for
Knowingly Violating this Court's Orders, and for
Sanctions;

May 2, 2024 Findings of Fact, Conclusions of Law
and Order Granting Nominal Defendant PACMAR
Technologies LLC's Motion for an Order to Show Cause
Why Defendant Martin Kao, Should Not be Held in Civil
Contempt for Knowingly Violating This Court's Orders
and for Sanctions [(**May 2, 2024 Order**)]; and

June 14, 2024, Findings of Fact, Conclusions of
Law, and Order Granting Nominal Defendant PACMAR
Technologies LLC's Motion for Civil Contempt Sanctions
Against Defendant Kao for Knowingly Violating this
Court's Contemp Order [(**June 14, 2024 Order**)].

PACMAR contends each of the post-judgment orders from
which Kao seeks to appeal were independently appealable when
entered, but the Notice of Appeal was not timely-filed with
respect to any those orders, except for the June 14, 2024 Order.

"A post-judgment order is an appealable final order
under [Hawaii Revised Statutes (**HRS**)] § 641-1(a) if the order
ends the proceedings, leaving nothing further to be
accomplished." Ditto v. McCurdy, 103 Hawai'i 153, 157, 80 P.3d
974, 978 (2003).

The December 12, 2023 Order ended the post-judgment
garnishment proceedings that were initiated by PACMAR's March 2,
2023 Ex Parte Motion for Issuance of Garnishee Summons After
Judgment [Michelle Chapman], as it finally determined PACMAR's
garnishment rights with respect to non-party Michelle Chapman,
leaving nothing further to be accomplished. Familian Nw., Inc.
v. Cent. Pac. Boiler & Piping, Ltd., 68 Haw. 368, 369, 714 P.2d
936, P.2d 938 (1986).

The January 31, 2024 Order ended the post-judgment proceedings with respect to Non-Party Tiffany Jennifer Lam's October 11, 2023 Non-Hearing Motion to Intervene, as it finally decided all issues raised in that motion.

The May 2, 2024 Order ended the post-judgment proceedings with respect to PACMAR's February 9, 2024 Motion for an Order to Show Cause Why [Kao] Should not Be Held in Civil Contempt for Knowingly Violating this Court's Orders and for Sanctions, as it finally decided all issues raised in that motion.

The June 14, 2024 Order ended the post-judgment proceedings with respect to PACMAR's May 10, 2024 Motion for Civil Contempt Sanctions Against Defendant Kao for Knowingly Violating this Court's Contempt Order, as it finally decided all issues raised in that motion. Accordingly, each of the above-mentioned orders were independently-appealable under Ditto, and all other orders appealed from are interlocutory.

Kao's July 15, 2024 Notice of Appeal was not timely-filed within thirty days of any of the above-mentioned except for the June 14, 2024 Order. Hawai'i Rules of Appellate Procedure Rule 4(a)(1). "An appellant's failure to file a timely notice of appeal is a jurisdictional defect that can neither be waived by the parties nor disregarded by the court in the exercise of judicial discretion." Enos v. Pac. Transfer & Warehouse, Inc., 80 Hawai'i 345, 349, 910 P.2d 116, 120 (1996).

Therefore, IT IS HEREBY ORDERED that the Motion to Partially Dismiss Appeal is granted, and the appeal is dismissed as to the:

1. March 15, 2023 Order Granting Nominal Defendant PACMAR Technologies LLC, fka Martin Defense Group LLC, fka Navatek LLC's Ex Parte Motion for Issuance of Garnishee Summons After Judgment;

2. September 5, 2023 Order Denying Defendant/Respondent Martin Kao's Motion to Quash Garnishee Summons Directed to Michelle Chapman (Dkt 707) and/or to Discharge or Release Garnishee;

3. December 12, 2023 Order Granting Nominal Defendant PACMAR Technologies LLC's Motion for Instructions on (1) Garnishee Order [Michelle Chapman] and (2) Garnishee Order [Jeremy Robinson];

4. January 31, 2024 Order Denying Tiffany Jennifer Lam's Non Hearing Motion to Intervene Filed as Dkt. 840 on October 11, 2023;

5. March 27, 2024 Order to Show Cause Why Defendant Martin Kao Should not be Held in Civil Contempt for Knowingly Violating this Court's Orders, and for Sanctions; and

6. May 2, 2024 Findings of Fact, Conclusions of Law and Order Granting Nominal Defendant PACMAR Technologies LLC's Motion for an Order to Show Cause Why Defendant Martin Kao, Should not be Held in Civil Contempt for Knowingly Violating This Court's Orders and for Sanctions.

DATED: Honolulu, Hawai'i, May 8, 2025.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge