

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-25-0000020

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

MAUI MUSCLE SPORTS CLUB KAHANA, LLC AND DALE SMITH,
Plaintiffs-Appellees, v.
ASSOCIATION OF APARTMENT OWNERS OF VALLEY ISLE RESORT,
Defendant-Appellant; and
JOHN DOES 1-10; JANE DOES 1-10; AND DOE ENTITIES 1-10,
Defendants.

ASSOCIATION OF APARTMENT OWNERS OF VALLEY ISLE RESORT,
Third-Party Plaintiff-Appellant, v.
FIRST INSURANCE COMPANY OF HAWAII, LTD., and
INSURANCE ASSOCIATES, INC., Third-Party Defendants-Appellees,
and JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-10;
and DOE CORPORATIONS 1-10, Defendants.

FIRST INSURANCE COMPANY OF HAWAII, LTD.,
Counterclaimant-Appellee, v.
ASSOCIATION OF APARTMENT OWNERS OF VALLEY ISLE RESORT,
Counterclaim Defendant-Appellant.

FIRST INSURANCE COMPANY OF HAWAII, LTD.,
Counterclaimant-Appellee, v.
MAUI MUSCLE SPORTS CLUB KAHANA, LLC,
Counterclaim Defendant-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CASE NO. 2CC181000160)

ORDER GRANTING MOTION TO DISMISS APPEAL FOR LACK OF JURISDICTION
(By: Leonard, Acting Chief Judge, Hiraoka and McCullen, JJ.)

Upon consideration of Third-Party Defendant/Third-Party Counterclaimant/Crossclaimant-Appellee First Insurance Company of Hawaii, Ltd.'s (**First Insurance**) March 13, 2025 Motion to Dismiss Appeal for Lack of Jurisdiction, the papers in support and in

opposition, and the record, it appears that First Insurance seeks dismissal of the appeal for lack of jurisdiction because the December 13, 2024 "Judgment" (**Purported Judgment**) from which Defendant/Third-Party Plaintiff/Counterclaim Defendant-Appellant Association of Apartment Owners of Valley Isle Resort appeals is not a final, appealable judgment.

We conclude that the Purported Judgment is not a final, appealable order or judgment under Hawai'i Revised Statutes (**HRS**) § 641-1(a) (2016), Hawai'i Rules of Civil Procedure (**HRCP**) Rules 58 and/or 54(b), and Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994), as it does not enter final judgment as to all claims and parties, nor does it "contain[] the language necessary for certification under HRCP [Rule] 54(b)," Jenkins, 76 Hawai'i at 119, 869 P.2d at 1338. The Purported Judgment is not independently appealable under the collateral order doctrine or the Forgay¹ doctrine, and the Circuit Court has not granted leave for interlocutory appeal under HRS § 641-1(b). See Greer v. Baker, 137 Hawai'i 249, 253, 369 P.3d 832, 836 (2016) (setting forth the requirements for appealability under the collateral order and Forgay doctrines); HRS § 641-1(b) (specifying requirements for leave to file interlocutory appeal).

Therefore, IT IS HEREBY ORDERED that the motion is granted, and the appeal is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, May 5, 2025.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge

¹ Forgay v. Conrad, 47 U.S. 201 (1848).