

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-25-0000612

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

THOMAS SCHMIDT, Plaintiff/Counterclaim Defendant-Appellant, v.
JERE GEARHART and DALE GEARHART,
Defendants/Counterclaimants/Third-Party Plaintiffs-Appellees,
and BRIGIDA A. SCHMIDT, Third-Party Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. ICCV-19-0002015)

ORDER DISMISSING APPEAL

(By: Leonard, Presiding Judge, McCullen and Guidry, JJ.)

Upon consideration of Plaintiff/Counterclaim Defendant-Appellant Thomas Schmidt's (**Schmidt**) November 26, 2025 Motion to Remand to Circuit Court for Entry of a Judgment, the papers in support and in opposition, and the record, it appears that:

(1) The statement of jurisdiction and opening brief were due October 13, 2025 and November 12, 2025, respectively;

(2) Schmidt failed to file either document or request an extension of time;

(3) On November 17, 2025, the appellate clerk entered a default notice informing Schmidt that the time for filing the statement of jurisdiction and opening brief had expired, the matter would be called to the court's attention on November 27, 2025 for appropriate action, which could include dismissal of the appeal under Hawai'i Rules of Appellate Procedure Rules 12.1(e) and 30, and Schmidt could request relief from default by motion;

(4) Schmidt has not taken any further action in this appeal;

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

(5) Schmidt seeks a temporary remand of the appeal, arguing that the September 19, 2022 Final Judgment and March 4, 2024 Final Judgment in Favor of Brigida A. Schmidt and against Thomas Frank Schmidt (**March 4, 2024 Final Judgment**) fail to comply with the requirements of Jenkins v. Cades Schutte Fleming & Wright, 76 Haw. 115, 869 P.2d 1334 (1994), and the September 19, 2022 Final Judgment contains an error in the caption;

(6) The September 19, 2022 Final Judgment complies with Jenkins, as it "show[s] finality as to all claims against all parties" on its face, 76 Haw. at 120, 869 P.2d at 1339, and Schmidt has not sought relief from the Circuit Court under Hawai'i Rules of Civil Procedure Rule 60(a) to correct any clerical error; and

(7) The March 4, 2024 Final Judgment is not subject to Jenkins requirements. Ditto v. McCurdy, 103 Hawai'i 153, 158, 80 P.3d 974, 979 (2003) ("[T]he separate judgment requirement articulated in Jenkins is inapposite in the post-judgment context.").

Therefore, IT IS HEREBY ORDERED that the November 26, 2025 Motion to Remand to Circuit Court for Entry of a Judgment is denied.

IT IS FURTHER ORDERED that the appeal is dismissed under Hawai'i Rules of Appellate Procedure Rules 12.1(e) and 30.

DATED: Honolulu, Hawai'i, January 8, 2026.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Sonja M.P. McCullen
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge