NO. CAAP-10-0000009

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

THE ESTATE OF LYDIA L. NEUFELD, Deceased

PEARL MARIE MARTINEZ, et al., Plaintiffs-Appellants, v.
DAVID N. NEUFELD, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(PROBATE NO. 05-1-0179(2))

ORDER
(1) GRANTING DEFENDANT-APPELLEE'S MOTION TO DISMISS
and
(2) DENYING MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS
(By: Nakamura, C.J., Leonard and Ginoza, JJ.)

Upon consideration of Appellee David Neufeld's

(Appellee) Motion to Dismiss and for Award of Attorney's Fees and

Costs, the papers in support, and the records and files herein,

it appears that: (1) on September 15, 2010, Plaintiffs-Appellants

(Appellants) filed a notice of appeal; (2) on November 17, 2010, the appellate clerk notified Appellants that the jurisdictional statement was due November 26, 2010 and the opening brief was due December 27, 2010; (3) Appellants did not file the jurisdictional statement or the opening brief; (4) in this motion, filed on April 8, 2011, Appellee moves to dismiss the appeal due to Appellants' failure to file the jurisdictional statement and opening brief; (5) Appellee also moves for award of attorneys' fees and costs pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 38; (6) Appellants filed no response to the motion to dismiss; (7) pursuant to HRAP Rule 30, the court may dismiss an appeal if the appellant fails to file the opening brief; and (8) pursuant to HRAP Rule 38, if a Hawai'i appellate court determines that an appeal decided by it was frivolous, it may award attorneys' fees and costs.

IT IS HEREBY ORDERED that the motion to dismiss is granted, and this appeal is dismissed.

IT IS FURTHER ORDERED that the motion for award of attorneys' fees and costs pursuant to HRAP Rule 38 is denied.

DATED: Honolulu, Hawai'i, May 03, 2011.

Chief Judge
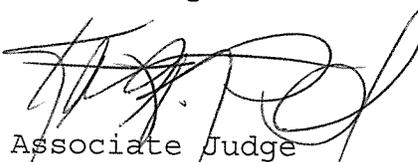
Associate Judge

Associate Judge