

this case and that default has not been set aside. Although Miju Mulsan Co. had appeared at the preliminary injunction hearing, it has not answered the plaintiffs' complaint or sought to have its default set aside. Since an entry of default is similar to a finding of liability but it is not a final judgment, the entry of default does not relieve plaintiffs of their burden of proving the damages that flowed from any liability thus established. Lee v. FSM, 18 FSM Intrm. 558, 560 (Pon. 2013). Since a defendant who is in default may participate in a damages hearing if necessary and proper to determine the amount of damages, it would seem that a defaulting defendant might be able to conduct some discovery in that regard.

[Luen Thai Fishing Venture, Ltd. v. Pohnpei, 20 FSM R. 41a, 41c (Pon. 2015).]

Although the Order addressed Mulsan's default and the fact that no action has been taken to set aside the default, it took Mulsan nearly seven (7) months after the issuance of this Order before the motion to set aside was filed, further supporting the unreasonableness of the delay in filing the motion to set aside by Mulsan.

III. CONCLUSION

THEREFORE, the defendant Miju Mulsan's Motion to Set Aside Entry of Default is HEREBY DENIED.

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FSM SUPREME COURT APPELLATE DIVISION

BENJAMIN M. ABRAMS,)
)
 Appellant,)
)
 vs.)
)
 FSM DEVELOPMENT BANK,)
)
 Appellee.)
 _____)

APPEAL CASE NO. P10-2014

ORDER CORRECTING CAPTION

Dennis K. Yamase
Chief Justice

Decided: February 12, 2016

APPEARANCE:

For the Appellant: Benjamin M. Abrams, Esq. (pro se)
International Guam Law Offices, P.C.
P.O. Box 141
Hagatna, Guam 96932

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HEADNOTES

Appellate Review – Decisions Reviewable; Appellate Review – Notice of Appeal

Sanctions against an attorney may only be appealed when the attorney makes the appeal in the attorney's own name and as a real party in interest. When the attorney was named in the notice of appeal's caption and in its body as the real party in interest, that requirement has been satisfied. Abrams v. FSM Dev. Bank, 20 FSM R. 309, 310 (App. 2016).

Appellate Review – Parties

An appellant should include in the caption only those persons or entities that are a party to the appeal. Abrams v. FSM Dev. Bank, 20 FSM R. 309, 310 (App. 2016).

Appellate Review – Parties

In an appeal from an attorney sanction order only the sanctioned attorney and the a party to whom the sanction is payable are parties to the appeal. Abrams v. FSM Dev. Bank, 20 FSM R. 309, 310 (App. 2016).

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COURT'S OPINION

DENNIS K. YAMASE, Chief Justice:

This appeal is from the trial court's imposition on attorney Benjamin M. Abrams of Rule 11 monetary sanctions of \$10,262.50 in attorney's fees payable to the FSM Development Bank.

Sanctions against an attorney may only be appealed when the attorney makes the appeal in the attorney's own name and as the real party in interest. In re Sanction of Woodruff, 9 FSM R. 374, 375 (App. 2000); In re Sanction of Berman, 7 FSM R. 654, 656 (App. 1996); *see also* Palsis v. Tafunsak Mun. Gov't, 16 FSM R. 116, 122 (App. 2008). Since attorney Benjamin Abrams was named in the notice of appeal's caption and in its body as the real party in interest in this appeal, that requirement has been satisfied.

Benjamin M. Abrams, as the only real party in interest in the appeal, is thus the sole appellant that should be named in this appeal case. His clients are not parties to this appeal case since the sanction was imposed only on their attorney, Abrams. In another attorney sanction appeal, the court noted that an appellant should include in the caption only those persons or entities that are a party to the appeal. In re Sanction of Woodruff, 9 FSM R. 374, 375 (App. 2000). In this appeal, that would be Benjamin A. Abrams, Appellant and FSM Development Bank, Appellee. No other party to the case below is a party to the sanction order(s) attorney Abrams appealed from and for which, in this appeal case, Abrams now seeks appellate review. Furthermore, none of the parties in the case below have appeared in this case.

NOW THEREFORE IT IS HEREBY ORDERED that the caption of Appeal Case No. P10-2014 is corrected to reflect the actual parties in this appeal case, AND IT IS FURTHER ORDERED that all future filings in this case shall bear the corrected caption, as displayed above.

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