

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 26463

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STEPHANIE C. STUCKY, Plaintiff-Appellant, v. PAUL R. BROWN  
IN HIS OFFICIAL CAPACITY AS INTERIM DISTRICT  
SUPERINTENDENT, DEPARTMENT OF EDUCATION, STATE OF  
HAWAII; DEPARTMENT OF EDUCATION, STATE OF HAWAII;  
ELIZABETH AYSON, INDIVIDUALLY AND IN HER OFFICIAL  
CAPACITY AS PRINCIPAL, IAO INTERMEDIATE SCHOOL; NOEL  
KURAYA IN HIS OFFICIAL CAPACITY AS AN EMPLOYEE OF THE  
DEPARTMENT OF EDUCATION, STATE OF HAWAII, Defendants-  
Appellees, JOHN DOES 1-10; JANE DOES 1-10; DOE  
CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; DOE  
GOVERNMENTAL AGENCIES 1-10; DOE BUSINESS ENTITIES 1-10;  
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(Civ. No. 99-0068(3))

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Lim, Presiding Judge, Foley and Fujise, JJ.)

Plaintiff-Appellant Stephanie C. Stucky's (Stucky)

November 21, 2006 Motion for Reconsideration of Summary

Disposition Order Filed on November 13, 2006 points out that this  
court did not explicitly rule on, and urges that the recent  
decision in Burlington Northern & Santa Fe Ry. Co. v. White, 126  
S. Ct. 2405 (2006) is relevant to, her retaliation claim.

As to the former, we take this opportunity to make  
patent that this court's expression of approval of the trial  
court's determination, that the personnel actions taken against  
Stucky in this case were not motivated by the filing of her  
complaints, was an adverse ruling on her retaliation claim.

As to the latter, Stucky's retaliation claim is no  
longer based on any federal statute and Burlington Northern was  
not a case construing Hawaii Revised Statutes Chapters 368 and

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STATE OF HAWAII

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378. Thus, it is inapposite to the present dispute. Assuming, arguendo, that Burlington Northern should nevertheless be taken as guidance in state law-based retaliation claims, it is of no moment as it does not illuminate the topic at issue here, whether Stucky's employer had non-retaliatory motives for the personnel actions taken.

Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, November 30, 2006.

On the motion:

Mary Blaine Johnston,  
for Plaintiff-Appellant.



Presiding Judge



Associate Judge



Associate Judge