

NO. 22288

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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ALFRED A. YEE, trustee in dissolution for Aiken, Inc.,  
fka Alfred A. Yee & Associates, Inc., Plaintiff-Appellant  
vs. VSL PRESTRESSING (GUAM), INC., a Guam corporation,  
Defendant-Appellee, and BLACK MICRO CORPORATION,  
a Saipan corporation, et al., Defendants  
(NO. 22288 (CIV. NO. 98-1463-03))

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In re: Petition of ALFRED A. YEE,  
Trustee in dissolution for Aiken, Inc.,  
fka Alfred A. Yee & Associates, Inc., Petitioner-Appellant  
(NO. 22628 (S.P. NO. 98-0154))

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APPEALS FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 98-1463-03 & S.P. NO. 98-0154)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Nakayama, Ramil, and Acoba, JJ. and  
Intermediate Court of Appeals Judge Watanabe, in place of  
Levinson, J., recused)

Plaintiff-appellant/petitioner-appellant Alfred A. Yee  
(Yee), trustee in dissolution for Aiken, Inc. (Aiken), formerly  
known as Alfred A. Yee & Associates, Inc., appeals from the  
following orders and judgments of the first circuit court: 1)  
the January 12, 1999 order granting specially-appearing defendant  
VSL Prestressing (Guam), Inc.'s motion to dismiss Yee's complaint  
with prejudice filed October 15, 1998, and denying Yee's motion  
for summary judgment, filed September 25, 1998 (January 12, 1999  
Order); and 2) the June 24, 1999 order denying Yee's bill for  
instructions by trustee in dissolution filed March 27, 1998 and  
dismissing said bill for instructions without prejudice (June 24,

1999 Order). Both orders were entered based on "comity between nations" and "without ruling on the merits" of the underlying motion or petition. Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments made and the issues raised by the parties, we hold as follows:

With respect to the suit for declaratory and injunctive relief, VSL lacks the minimum contacts necessary to bring it within the jurisdiction of Hawai'i courts. See HRS § 634-35 (1993). Mere service of process is insufficient to establish personal jurisdiction in cases, like the present one, not involving abuse of process. Cf. Shaw v. North American Title Co., 76 Hawai'i 323, 328, 876 P.2d 1291, 1296 (1994). Having found, as a threshold matter, a lack of jurisdiction over VSL, we vacate the circuit court's January 12, 1999 Order, without addressing the merits of the court's reasoning.

With respect to the bill for instructions, the relevant statute, HRS § 416-124 (1985) (repealed 1987) granted trustees the power to request instructions "on any matters concerning the administration of the assets under the control." It is undisputed that none of Aiken's assets remain in Yee's control. Thus, reserving judgment on the merits of Yee's claims, and without prejudice to any procedural and substantive rights and defenses available to Yee, we affirm the circuit court's June 24, 1999 Order, albeit on a different ground than stated by the

circuit court. See Kawamata Farms v. United Agri Prods., 86 Hawai'i 214, 247, 948 P.2d 1055, 1088 (1997) ("Where the circuit court's decision is correct, its conclusion will not be disturbed on the ground that it gave the wrong reason for its ruling.").

DATED: Honolulu, Hawai'i, September 29, 2000.

On the briefs:

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