

NO. 24229

IN THE SUPREME COURT OF THE STATE OF HAWAII

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SANDRA JEAN DELMONTE and JAMES RICHARD DELMONTE,  
Petitioners,

vs.

THE HONORABLE DAN T. KOCHI, Judge of the Circuit Court  
of the First Circuit, State of Hawai'i;  
STATE FARM FIRE AND CASUALTY COMPANY, an Illinois  
corporation; WATANABE ING & KAWASHIMA,  
a Hawaii corporation; and DOES 1-50, Respondents.

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ORIGINAL PROCEEDING  
(CIV. NOS. 96-0434-01 and 96-2698-07 (DTK))

ORDER

(By: Moon, C.J., Levinson, Nakayama,  
Ramil, and Acoba, JJ.)

Upon consideration of Petitioners Sandra Jean Delmonte and James Richard Delmonte's petition for a writ of mandamus directed to a judge, the papers in support and opposition, and the records and files herein, it appears that: (1) Petitioners are seeking the issuance of a writ of mandamus directing the circuit court to disqualify the law firm of McCorrison Miller Mukai MacKinnon, counsel for Defendant State Farm Fire and Casualty Co., from further participation in Delmonte v. State Farm Fire and Casualty Co., Civil No 96-0434 and Civil No. 96-2698; (2) on September 6, 2001, State Farm filed a notice in the circuit court that McCorrison Miller Mukai MacKinnon withdrew as counsel for State Farm in the above mentioned circuit court proceeding and Kevin P. H. Sumida of the law firm Matsui, Chung, Sumida & Tsuchiyama, entered an appearance as counsel for State Farm; (3) the

withdrawal and substitution of counsel was approved by the circuit court; (4) upon the circuit court's approval of the withdrawal of McCorriston Miller Mukai MacKinnon and the substitution of new counsel, the McCorriston law firm is no longer representing State Farm, and Petitioners obtained the relief requested; and (5) this petition is moot. See AIG Hawai'i Ins. Co., Inc. v. Bateman, 82 Hawai'i 453, 458-459, 923 P.2d 395, 400-401 (1996) (the mootness doctrine is properly invoked where events has so affected the relations between the parties that the two conditions for justiciability relevant on appeal -- adverse interest and effective remedy -- have been compromised; the duty of the supreme court, as of every judicial tribunal, is to decide actual controversies by a judgment that can be carried into effect and not to give opinions upon moot questions that cannot affect the matter in issue in the case before it).

Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is dismissed as moot.

DATED: Honolulu, Hawai'i, September 18, 2001.