

**\*\*\* NOT FOR PUBLICATION \*\*\***

NO. 22612

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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E. BLOSSOM WANG, M.D., Plaintiff-Appellant

vs.

HAWAI'I MEDICAL SERVICE ASSOCIATION, Defendant-Appellee

and

JOHN DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10  
and DOE ENTITY 1-10, Defendants

and

ALFRED ANAWATI; SUE AGOSTINELLI; and ARBA A. KNAPP, Intervenors

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 96-1379)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson and Nakayama, JJ.,  
Circuit Judge Perkins, assigned by reason of vacancy,  
and Acoba, J., dissenting)

Plaintiff-appellant Elsie Blossom Wang, M.D., appeals from the amended final judgment of the first circuit court, the Honorable Kevin S. C. Chang presiding, and all pre-trial orders, the Honorable Virginia Lea Crandall and Kevin S. C. Chang, presiding, granting in part and denying in part defendant-appellee Hawaii Medical Service Association's (HMSA) motion for summary judgment, granting in part HMSA's motion for sanctions dismissing all of Wang's remaining claims due to Wang's continuing discovery violations, denying applicants-intervenors' motion to intervene, and denying Wang's joinder in applicants-

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intervenor's motion to intervene. On appeal,<sup>1</sup> Wang argues that the circuit court erred when it: (1) concluded that Wang contracted away her patients' rights to privacy; (2) found that HMSA members authorized HMSA to review their medical records; (3) found that patients waived future rights to privacy; (4) failed to conclude that patients did not waive the doctor-patient privilege; (5) failed to employ the "least sophisticated consumer" standard to determine whether waiver was knowing; (6) found that HMSA did not breach the provider agreement in bad faith or tortiously; (7) failed to conclude that the HMSA waiver was void against public policy; (8) failed to conclude that HMSA fraudulently induced members to sign enrollment cards that included authorization for HMSA to review medical records; (9) failed to conclude that HMSA is a quasi-public entity that violated her patients' due process rights; (10) declared Wang's refusal to produce documents wrongful; (11) erroneously granted HMSA's motion to dismiss; (12) denied Wang's Hawai'i Rules of Civil Procedure (HRCPP) Rule 60 motion based upon fraud on the court; and (13) approved HMSA's HRCPP Rule 23 submission of judgment.

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 decline to address issue nos. 5, 7, 8, 9, and 10 because they are being raised for the first time on appeal. We decline to address

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<sup>1</sup> Wang's points of error do not consistently apply to her arguments and some of the points of error are not argued, or even mentioned, in the argument section of her brief.

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issue nos. 12 and 13 because Wang failed to comply with Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(7) when she provided no argument to support these points of error. We further decline to address the issue proposed by the dissent that the circuit court should have permitted HMSA members to intervene. This court lacks jurisdiction to address this issue because Wang has no standing to contest a denial of a motion to intervene and the affected parties themselves did not appeal. Of the remaining six issues, we affirm the judgment of the circuit court in all respects because HMSA members signed a limited waiver upon enrollment in any HMSA health plan and HMSA did not act in bad faith. Therefore,

IT IS HEREBY ORDERED that the circuit court's judgment is affirmed.

DATED: Honolulu, Hawai'i, March 5, 2003.

On the briefs:

Stephen M. Shaw  
for plaintiff-appellant

Ellen Godbey Carson and  
Troy T. Fukuhara of  
Alston Hunt Floyd & Ing  
for defendant-appellee