

NO. 28396

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

BARBARA K. STANTON; JOSEPH C. STANTON, Petitioners,

vs.

THE HONORABLE RANDAL K. O. LEE, JUDGE OF THE
CIRCUIT COURT OF THE FIRST CIRCUIT, STATE
OF HAWAI'I, Respondent,

KENNETH M. CHO, CHAD D. TOMIYASU; COSTCO WHOLESALE
CORPORATION; JOHN DOES 1-10; JANE DOES 1-10; DOE
PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10; ROE "NON-PROFIT"
CORPORATIONS 1-10; and ROE GOVERNMENTAL ENTITIES 1-10,
Respondents, Real Parties In Interest.

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2007 FEB 15 PM 2:57

FILED

ORIGINAL PROCEEDING
(CIV. NO. 04-1-2186-11(RKOL))

ORDER

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

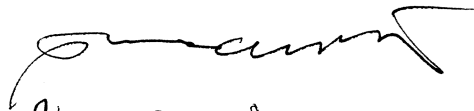
Upon consideration of the petition for a writ of
mandamus filed by petitioners Barbara Stanton and Joseph Stanton
and the papers in support, it appears that the extent of
discovery was within the discretion of the respondent judge,
petitioners fail to demonstrate that the respondent judge
flagrantly and manifestly abused his discretion in denying and
limiting discovery, and the denial and limitation of discovery is
reviewable for abuse of discretion, not harmless error, on appeal
from a final judgment (see Acoba v. General Tire, Inc., 92
Hawai'i 1, 9, 986 P.2d 288, 296 (1999). Therefore, petitioners
are not entitled to mandamus relief. See Kema v. Gaddis, 91
Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus is

an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures. Where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances in which it has a legal duty to act.). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, February 15, 2007.

Arthur Y. Park,
Laurent J. Remillard, Jr.
and John C. McLaren
for petitioners



James E. Duffy, Jr.

