

NO. 29974

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

WANDA SHELTON, Petitioner,

vs.

THE HONORABLE DERRICK H.M. CHAN, JUDGE OF THE CIRCUIT COURT OF THE FIRST CIRCUIT, STATE OF HAWAI'I; and KAISER FOUNDATION HEALTH PLAN, INC., Respondents.

ORIGINAL PROCEEDING  
(S.P. NO. 09-1-0025)

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioner Wanda Shelton and the papers in support, it appears that the notice of removal filed by petitioner in the Hawai'i federal district court pursuant to 28 U.S.C. § 1446(a) was the Notice of Removal filed on July 7, 2009 as Civil No. 09-00309 SOM/LEK. Petitioner did not file a copy of that notice in S.P. No. 09-1-0025 pursuant to 28 U.S.C. § 1446(d). It further appears that petitioner can move, in S.P. No. 09-1-0025, for the disqualification of the respondent judge and for the dismissal of the motion to compel arbitration. Therefore, petitioner is 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

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to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action.). Accordingly,

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

DATED: Honolulu, Hawai'i, August 26, 2009.



Pamela A. Nakayama



James E. Dubay, Jr.

