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Supreme Court
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SCPW-13-0002631

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CITY AND COUNTY OF HONOLULU and NATHAN EVANS, Petitioners,

vs.

THE HONORABLE KAREN T. NAKASONE, JUDGE OF THE CIRCUIT
COURT OF THE FIRST CIRCUIT, STATE OF HAWAI'I, Respondent Judge,

and

CLEO JUSTO, ROSALINDA JUSTO, SHIERYL JUSTO, JASON JUSTO, and
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, Respondents.

ORIGINAL PROCEEDING
(CIV. NO. 10-1-1558-07; CIV. NO. 10-1-2552-01;
CIV. NO. 11-1-02392)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

Upon consideration of petitioners City and County of Honolulu and Nathan Evans' petition for a writ of mandamus, filed on August 7, 2013, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioners do not have a clear and indisputable right to the requested relief and can seek appellate review of the November 7, 2012 summary judgment order once final judgment is entered in the case. Petitioners, therefore, are not entitled to a writ of mandamus. 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); Honolulu Advertiser, Inc. v. Takao, 59 Haw. 237, 241, 580 P.2d 58, 62 (1978) (a writ of mandamus is not intended to supersede the legal discretionary authority of the trial courts, cure a mere legal error or serve as a legal remedy in lieu of normal appellate procedure; rather, it is meant to restrain a judge of an inferior court from acting beyond or in excess of his or her jurisdiction); HRS § 641-1(b) (1993) ("The refusal of the circuit court to allow an appeal from an interlocutory judgment, order, or decree shall not be reviewable by any other court."). Accordingly,

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

DATED: Honolulu, Hawai'i, August 22, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

