

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

VIVIAN TSUKAMOTO, individually,)	CIV. NO. 97-3254
and as Personal Representative)	
of the Estate of Randall)	
Charles Kim, and as Personal)	
Representative of the Estate)	FIRST CIRCUIT COURT
of Carol Ann Kim, and as)	
Guardian of Toby James Kim, a)	
Minor, and as Guardian of)	
Carlee Ann Kim, a Minor,)	
NORMA I. KIM, CHARLES S.C. KIM)	
ROBIN C. KIM, ERNEST CLIFFORD)	
PRIOR, IRENE BARCLAY, SANDRA)	
PRIOR and STUART PRIOR,)	
)	
Plaintiffs-Appellants,)	
)	
vs.)	
)	
PATRICIA MIYOKO LAU,)	
)	
Defendant-Appellee,)	
)	
and)	
)	
THE ESTATE OF MICHAEL LAU,)	
DOE DEFENDANTS 1-10,)	
)	
Defendants.)	
)	

SUMMARY DISPOSITION ORDER

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that, inasmuch as Defendant-appellee Patricia Lau (Patricia)

did not, as a matter of law, commit affirmative acts of "misfeasance" that created an unreasonable risk of harm to Randall Charles Kim (Mr. Kim) and Carol Ann Kim (Mrs. Kim), see Restatement of Torts (Second) sections 302, 302A, and 302B; Touchette v. Ganai, 82 Hawai'i 293, 922 P.2d 347 (1996), the circuit court did not err in granting Patricia's October 9, 1998 motion for summary judgment. Therefore,

IT IS HEREBY ORDERED that the judgment from which this appeal is taken is affirmed.

DATED: Honolulu, Hawai'i,¹, June 6, 2000.

On the briefs:

Keith S. Shigetomi
for plaintiffs-appellants

RONALD T.Y. MOON, Chief Justice

Michael N. Tanoue
(Ralph R. LaFountaine
with him on the brief),
of The Pacific Law
Group, for defendant-
appellee

STEVEN H. LEVINSON, Associate Justice

PAULA A. NAKAYAMA, Associate Justice

MARIO R. RAMIL, Associate Justice

EDEN ELIZABETH HIFO, Substitute Justice

¹ Substitute Justice Hifo was assigned by reason of the vacancy created by the resignation of Justice Klein, effective February 4, 2000. On May 19, 2000, Simeon R. Acoba, Jr. was sworn-in as associate justice of the Hawai'i Supreme Court. However, Substitute Justice Hifo remains on the above-captioned case, unless otherwise excused or disqualified.