

NO. 22823

IN THE SUPREME COURT OF THE STATE OF HAWAII

SUSAN ALBERTS, Plaintiff-Appellant,

vs.

AIG, INC., a Hawai'i corporation, Defendant-Appellee
(NO. 22823/CIV. NO. 97-1030)

RALPH RIVEIRA, Plaintiff-Appellant,

vs.

AIG, INC., a Hawai'i corporation, Defendant-Appellee
(NO. 22824/CIV. NO. 97-1031)

VIRGILIO BALAGSO, JR., Plaintiff-Appellant,

vs.

AIG, INC., a Hawai'i corporation, Defendant-Appellee
(NO. 22960/CIV. NO. 97-152K)

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NOS. 97-1030 & 97-1031)

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 97-152K)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

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:

(1) neither Hawai'i Revised Statutes (HRS) § 431:10C-308.5(b) nor Hawai'i Administrative Rules (HAR) § 16-23-116 contravenes a claimant's contractual obligation to submit to a no-fault carrier's request for an independent medical examination (IME). Neither the statute nor the administrative rule requires defendant-appellee AIG Hawai'i Insurance Co., Inc. (AIG) to certify the fee schedules of proposed IME physicians as a condition precedent to plaintiffs-appellants Susan Alberts's, Ralph Riveira's, and Virgilio Balagso's submission to an IME;

(2) the circuit court did not err when it granted summary judgment in favor of AIG because there were no genuine issues of material fact as to whether the Appellants refused to submit to an IME unless, and until, AIG certified the IME fees; and

(3) AIG's denial of Alberts's and Riveira's claims for no-fault benefits complied with HRS § 431:10C-304(3)(B). Accordingly,

IT IS HEREBY ORDERED that the judgments from which these appeals are taken are affirmed.

DATED: Honolulu, Hawai'i, October 30, 2000.

On the briefs:

Roy M. Yoshino and
Linda S. Birn, for
plaintiffs-appellants
in all cases

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No. 22960