

CONCURRING OPINION BY RAMIL, J.

I concur with the majority. I write separately to emphasize that the majority's analysis in this case, in contrast to Casumpang v. ILWU, Local 142, 94 Hawai'i 330, 13 P.3d 1235 (2000), demonstrates proper application of the preemption doctrine. In Casumpang, I noted that the "state court action involve[d] not only the same factual inquiry, but also essentially the same legal theory that was rejected in Casumpang's Labor Management Reporting and Disclosure Act (LMRDA) claims." Id. at 345, 13 P.3d at 1250 (Ramil, J., dissenting). Accordingly, I would have held that Casumpang's state claim was preempted by federal labor law. See id. at 347, 13 P.3d at 1252 (Ramil, J., dissenting). In the present case, the majority concludes that McCormick's state claims are preempted by federal law. See majority at 2. Although the present case involves a different statute from Casumpang, the analysis in the present case should have resulted in preemption in Casumpang. Thus, in my view, the present case should overrule Casumpang.