

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 23926

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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ROBERT REED and JENNIFER REED, Claimants-Appellants

vs.

ALLSTATE INSURANCE COMPANY, Respondent-Appellee

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APPEAL FROM THE FIRST CIRCUIT COURT  
(S.P. NO. 00-1-0486)

SUMMARY DISPOSITION ORDER

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

Claimants-appellants Robert Reed and Jennifer Reed [hereinafter, collectively, "the Reeds"] appeal from the November 1, 2000 order of the circuit court of the first circuit, the Honorable Eden E. Hifo presiding, granting confirmation of arbitration award in favor of the Reeds and denying the Reeds' request for attorney's fees and costs. On appeal, the Reeds argue that they are entitled to attorney's fees and costs pursuant to Hawai'i Revised Statutes (HRS) §§ 431:10-242 (1993), 607-14 (Supp. 1999), and 607-9 (1993). The Reeds further argue that "[t]he arbitration clause in this case requiring that claimants who are forced into arbitration pay their own attorney's fees and costs is void as against public policy."

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, we hold that: (1) HRS §§ 431:10-242 and 607-14 are inapplicable, see Labrador v. Liberty Mut. Group, 103 Hawai'i 206, 81 P.3d 386 (2003); Hamada v. Westcott, 102 Hawai'i 210, 74 P.3d 33 (2003); (2) the Reeds' failed to provide any discernable argument as to why HRS § 607-9 is applicable, see Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(7); and (3) because attorney's fees and costs are not recoverable, this court need not address whether the arbitration language is against public policy. Therefore,

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

DATED: Honolulu, Hawai'i, July 26, 2004.

On the briefs:

Collin M. Fritz of  
Trecker & Fritz for the  
claimants-appellants  
Robert and Jennifer Reed

Richard B. Miller  
of Tom Petrus & Miller  
for the respondent-appellee  
Allstate Insurance Company