

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25991

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

---

LEE WERNER, individually and as Special Administrator of the  
Estate of the ESTATE OF STANLEY WERNER; GARY WERNER; MARK WERNER,  
Plaintiffs-Appellants

vs.

FOSTER WHEELER CORPORATION, THE FLINTKOTE COMPANY, and OWENS-  
ILLINOIS, INC., Defendants-Appellees

and

AcandS, INC.; ATLAS TURNER, INC., ARMSTRONG WORLD INDUSTRIES,  
INC., ASBESTOS CORPORATION LIMITED, BELL ASBESTOS MINES LTD., GAF  
CORPORATION, GARLOCK, INC., GASKET HOLDINGS, INC., GATKE  
CORPORATION, JIM WALTER CORPORATION, KEENE CORPORATION, L.H.  
BUTCHER COMPANY, METROPOLITAN LIFE INSURANCE COMPANY, OWENS  
CORNING, PARKER-HANNIFIN CORPORATION, PITTSBURGH CORNING  
CORPORATION, PNEUMO ABEX CORPORATION, QUIGLEY COMPANY, QUINTEC  
INDUSTRIES INC., RAPID-AMERICAN CORPORATION, T&NPLC, UNITED  
STATES GYPSUM COMPANY, and DOE ENTITIES 1-500, Defendants

---

APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 01-1-0186)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that (1) a stipulation for dismissal of the appeal was submitted but was not approved without prejudice on October 31, 2003, (2) this court informed appellants by letter dated December 5, 2003 that the time for filing the opening brief expired on November 1, 2003, and that, pursuant to Rule 30 of the Hawai'i Rules of Appellate Procedure, the matter would be called to the attention of the court for such action as the court deemed proper including

**\*\*\* NOT FOR PUBLICATION \*\*\***

dismissal of the appeal, and (3) by letter dated December 9, 2003, counsel for appellants indicated that all parties desire that this matter be dismissed. Therefore,

IT IS HEREBY ORDERED that the appeal is dismissed.

DATED: Honolulu, Hawai'i, January 20, 2004.