

NO. 24734

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

IN THE MATTER OF THE CLAIM OF VERONICA MERCADO,
Claimant-Appellant, v. AIG HAWAII INSURANCE COMPANY and
WAYNE C. METCALF, III, INSURANCE COMMISSIONER,
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, STATE OF
HAWAI'I, Respondents-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. No. 01-1-1573)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Lim, and Foley, JJ.)

Claimant-Appellant Veronica Mercado (Mercado) appeals the Decision and Order Affirming Commissioner's Final Order and the Judgment, both entered on November 2, 2001 by the Circuit Court of the First Circuit (the circuit court), Judge Eden Elizabeth Hifo presiding, which affirmed the Commissioner's Final Order, entered on May 14, 2001 by Respondent-Appellee Wayne C. Metcalf, III, Insurance Commissioner, Department of Commerce and Consumer Affairs, State of Hawai'i that, in turn, upheld the denial by Respondent-Appellee AIG Hawaii Insurance Company (AIG) of no-fault motor vehicle insurance benefits to Mercado.

The sole argument raised by Mercado on appeal is that the circuit court incorrectly concluded that she had the burden

of proving, by a preponderance of the evidence, that AIG's denial of benefits to her was improper. In light of our decision in In re Hoffacker v. State Farm Mutual Auto. Ins. Co., slip op. (App. No. 24293, Dec. 17, 2002), which presented the identical issue, we reject Mercado's argument.

Affirmed.

DATED: Honolulu, Hawai'i, December 17, 2002.

On the briefs:

Christopher R. Evans
for claimant-appellant.

Katharine M. Nohr (Miyagi,
Nohr & Myhre) for
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appellee Wayne C. Metcalf,
III, Insurance Commissioner,
Department of Commerce and
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Hawai'i.