

NOT FOR PUBLICATION

NOS. 25902 AND 25903

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

EMERSON M.F. JOU, M.D., Provider-Appellant, v.
J.P. SCHMIDT, Insurance Commissioner,
Department of Commerce and Consumer Affairs,
State of Hawai'i, Appellee-Appellee,
and ISLAND INSURANCE COMPANY, LTD., Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. Nos. 03-1-0013 and 03-1-0012)

SUMMARY DISPOSITION ORDER

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

In each of two secondary appeals (Nos. 25902 and 25903) involving disputes over payment of motor vehicle insurance benefits, which we consolidated for purposes of rendering a decision, Provider-Appellant-Appellant Emerson M.F. Jou, M.D., M.P.H. (Jou), appeals the May 23, 2003 judgment of the Circuit Court of the First Circuit (circuit court).¹

The contemporaneous judgments were entered in two agency appeals (Civil Nos. 03-1-0013-01 and 03-1-0012-01, respectively), in favor of Respondent-Appellee-Appellee Island Insurance Company, Ltd. (Island) and Appellee-Appellee Insurance Commissioner, Department of Commerce and Consumer Affairs, State of Hawai'i (Commissioner), and against Jou. Each judgment (1) affirmed the underlying December 13, 2002 final order of the Commissioner (in MVI-2002-9-P and MVI-2002-10-P, respectively) that denied Jou's motion for summary judgment and granted Island's cross-motion for summary judgment, and (2) dismissed the

¹ The Honorable Eden Elizabeth Hifo presided.

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corresponding agency appeal brought by Jou.

After a thoughtful review of the records and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we conclude the circuit court was correct in affirming the Commissioner's final orders because Jou's claims were moot, see McCabe v. Chung, 98 Hawai'i 107, 116-17, 43 P.3d 244, 253-54 (App. 2002), and did not involve "questions that affect the public interest and are capable of repetition yet evading review." Okada Trucking Co., Ltd. v. Bd. of Water Supply, 99 Hawai'i 191, 196, 53 P.3d 799, 804 (2002) (citations and internal quotation marks omitted.) See also McCabe, 98 Hawai'i at 117-18, 43 P.3d at 254-55.

Therefore,

IT IS HEREBY ORDERED that, in each case, the circuit court's May 23, 2003 judgment is affirmed.

DATED: Honolulu, Hawai'i, September 2, 2005.

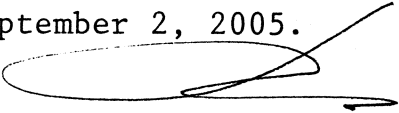
On the briefs:

Stephen M. Shaw,
for Provider-Appellant.

David A. Webber and
Deborah Day Emerson,
Deputy Attorneys General,
State of Hawai'i,
for Appellee-Appellee.

Michael N. Tanoue and
Patrick K. Kelly
(The Pacific Law Group),
for Respondent-Appellee.

Acting Chief Judge


Associate Judge


Associate Judge