

NO. 24607

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

KEITH KITAMURA, LARRY KITAMURA and ELAINE KITAMURA,  
Plaintiffs-Appellees,

v.

DILLINGHAM CONSTRUCTION PACIFIC, LTD,  
dba HAWAIIAN BITUMULS & PAVING COMPANY; STATE OF HAWAI'I  
DEPARTMENT OF TRANSPORTATION; SUN INDUSTRIES, INC., a Hawai'i  
corporation; JOHN DOES 1-10; DOE CORPORATIONS 2-10; DOE  
GOVERNMENTAL ENTITIES 1-10 and OTHER DOE ENTITIES 1-10,  
Defendants-Appellees.

and

HAWAI'I MEDICAL SERVICE ASSOCIATION,  
Non-Party Lien Holder-Appellant.

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT  
(CIV. NO. 98-0336)

ORDER DISMISSING APPEAL

(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon consideration of the Stipulation of Dismissal of Appeal and Order and the records and files herein, it appears that (1) the parties to this appeal agree that the issues on appeal have become moot; and (2) the parties agree to the dismissal of the appeal filed by Non-Party Lien-Holder/Appellant Hawaii Medical Services Association. Therefore,

IT IS HEREBY ORDERED that the stipulation to dismiss the appeal is granted, and this appeal is dismissed. Each party shall bear its own attorney's fees and costs. This court makes

EMERMAN  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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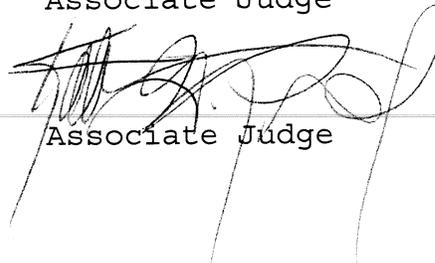
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no other finding or mandate. See Hawaii Rules of Appellate Procedure Rule 42(b)<sup>1</sup>.

DATED: Honolulu, Hawai'i, February 29, 2008.

  
Daniel R. Foley  
Presiding Judge

  
Anna Rose Jizina  
Associate Judge

  
Associate Judge

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<sup>1</sup> Rule 42. DISMISSAL.

(b) Dismissal in the appellate courts. If the parties to a docketed appeal or other proceeding sign and file a stipulation for dismissal, specifying the terms as to payment of costs, and pay whatever fees are due, the case shall be dismissed upon approval by the appellate court, but no mandate or other process shall issue without an order of the court. Upon motion and notice, the appellate court may dismiss the appeal upon terms fixed by the appellate court.