

NO. 27274

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

AFL HOTEL & RESTAURANT WORKERS HEALTH & WELFARE TRUST FUND, by its Trustees, Plaintiff-Appellee, DOMINGO RAMOS aka DOMIE RAMOS and RONALD N. FEDERIZO, Defendants-Appellants, and RONALD N. FEDERIZO, Third-Party Plaintiff-Appellant, v. DEREK R. KOBAYASHI and REGAN M. IWAO, Third-Party Defendants-Appellees.

NORMA T. YARRA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2008 JUN -5 AM 10:33

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. No. 02-1-0338)

ORDER DENYING PLAINTIFF-APPELLEE AFL HOTEL & RESTAURANT WORKERS HEALTH & WELFARE TRUST FUND AND THIRD-PARTY DEFENDANTS-APPELLEES' MOTION FOR RECONSIDERATION OF SUMMARY DISPOSITION ORDER, FILED MAY 21, 2008
(By: Nakamura, Presiding J., Fujise and Leonard, JJ.)

We have reviewed and considered Plaintiff-Appellee AFL Hotel & Restaurant Workers Health & Welfare Trust Fund and Third-Party Defendants-Appellees' (**Appellees**) May 30, 2008 motion to reconsider this Court's May 21, 2008 summary disposition order pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure and the records and files herein.

Appellees urge us to reconsider our ruling that the Circuit Court of the First Circuit (**Circuit Court**) lacked jurisdiction over Appellees' breach of contract claim in the amount of \$5,262.24 because Appellees also raised an equitable claim for unjust enrichment. Although we recognize that the circuit courts have exclusive jurisdiction over equitable claims, that jurisdiction does not extend the jurisdiction of the circuit courts over claims for which the district courts have exclusive jurisdiction. On the meaning of exclusive jurisdiction, the Hawai'i Supreme Court has held as follows:

Nor can there be any doubt as to the meaning the legislature intended to give to the word exclusive. In its usual and

generally accepted sense, as given by lexicographers, and in the ordinary speech of the people, it means, possessed to the exclusion of others; appertaining to the subject alone, individual, sole; to confer exclusive jurisdiction on one court deprives all other courts of such jurisdiction, whether theretofore exclusive or concurrent, conferred by statute possessed and enjoyed to the exclusion of others; debarred from participation and enjoyment to any other; nor including, admitting or pertaining to any other; opposed to inclusive: The word exclusive is of Latin derivation *ex* meaning out and *cludere* meaning to shut. Exclusive precludes any idea of co-existence and its usual, ordinary and generally accepted meaning is sole, undivided and possessed to the exclusion of others.

Sherman v. Sawyer, 63 Haw. 55, 59, 621 P.2d 346, 349-50 (1980) (citations, internal quotation marks, and ellipses omitted);¹ see also Lum v. Sun, 70 Haw. 288, 297, 769 P.2d 1091, 1097 (1989) (upholding the trial in different courts of separate issues arising from same factual situation).

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, June 5, 2008.

On the motion:

Regan M. Iwao
(Goodsill Anderson Quinn &
Stifel)
for Plaintiff-Appellee and
Third-Party Defendants-
Appellees.


Presiding Judge


Associate Judge


Associate Judge

¹ In Sherman, the supreme court rejected the argument that certain claims over which district court had exclusive jurisdiction were properly joined in the circuit court because the circuit court had jurisdiction over two other counts in the complaint. 63 Haw. at 61-62, 621 P.2d at 351.