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K. HAMAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

NO. 24392  
IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, by its Office of Consumer Protection, Plaintiff-Appellee, v. METRO CLUB, INC., a foreign corporation, and DAVID A. KERSH, individually and as an officer of METRO CLUB, INC., Defendants-Appellants, and METRO CLUB, INC., a Michigan corporation, and DAVID A. KERSH, Defendants/Third-Party Plaintiffs/Appellants, and INTERNATIONAL KITCHENS, a Hawai'i corporation, WYMT, INC., dba FOGCUTTER RESTAURANT, a Hawai'i corporation, TRATTORIA, C&W CORPORATION, dba KING TSIN, a Hawai'i corporation, CHURCH'S FRIED CHICKEN, INC., a Texas corporation, GANNETT PACIFIC CORPORATION, dba HONOLULU STAR-BULLETIN, a foreign corporation, BETTER BUSINESS BUREAU OF HAWAII, INC., a Hawai'i corporation, Third-Party Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(Civ. No. 00-0-63668)

ORDER DENYING DEFENDANT/THIRD-PARTY PLAINTIFF/APPELLANT DAVID KERSH'S JUNE 25, 2009 HRAP RULE 40 MOTION FOR RECONSIDERATION OF THE JUNE 17, 2009 ORDER DENYING THE JUNE 8, 2009 MOTION TO SET ASIDE ALL ORDERS ENTERED IN THIS APPEAL AND DISMISS APPEAL FOR LACK OF APPELLATE JURISDICTION  
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of (1) the intermediate court of appeals' April 2, 2003 memorandum opinion in appellate court case number 24393, (2) Defendant/Third-Party Plaintiff/Appellant David Kersh's (Appellant Kersh) May 19, 2003 application for a writ of certiorari in appellate court case number 24393, (3) the supreme court's May 29, 2003 order denying Appellant Kersh's May 19, 2003 application for a writ of certiorari in appellate court case number 24393, (4) the intermediate court of appeals' June 17, 2009 order denying Appellant Kersh's June 8, 2009 motion to set aside all orders entered in this appeal and dismiss this appeal for lack of appellate jurisdiction, (5) Appellant Kersh's June 25, 2009 motion for reconsideration of the June 17, 2009

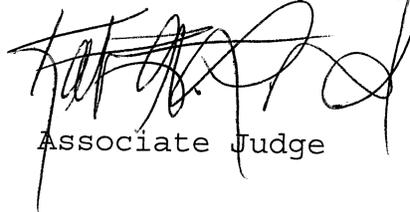
order pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), and (6) the record, we conclude that, with respect to the June 17, 2009 order, we have not overlooked or misapprehended any points of law or fact, and, thus, Appellant Kersh's June 25, 2009 HRAP Rule 40 motion for reconsideration of the June 17, 2009 order lacks merit. Therefore,

IT IS HEREBY ORDERED that Appellant Kersh's June 25, 2009 HRAP Rule 40 motion for reconsideration of the June 17, 2009 order is denied.

DATED: Honolulu, Hawai'i, June 30, 2009.

  
Presiding Judge

  
Associate Judge

  
Associate Judge