

*** NOT FOR PUBLICATION ***

NO. 25070

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JOHN CANEDA, SR., Plaintiff-Appellant

vs.

AMY LOU OKUYAMA, Defendant-Appellee

APPEAL FROM THE THIRD CIRCUIT COURT
(CIV. NO. 01-1-0027)

K. HAMAKA'DO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 MAY 16 AM 9:59

FILED

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Plaintiff-Appellant John Caneda, Sr. ("Caneda") appeals from the Findings of Fact, Conclusions of Law and Order, and Judgment of the Circuit Court of the Third Circuit¹ ("circuit court") filed on April 1, 2002, following the granting of summary judgment in favor of Defendant-Appellee Amy Lou Okuyama ("Okuyama"). On summary judgment, the circuit court found that Caneda's motor vehicle tort claim was time-barred as a matter of law under the applicable statute of limitations, Hawai'i Revised Statutes ("HRS") § 431:10C-315(b) (Supp. 1998)², because (1) the

¹ The Honorable Riki May Amano presided.

² HRS § 431:10C-315(b) reads:

No suit arising out of a motor vehicle accident shall be brought in tort more than the later of:

(1) Two years after the date of the motor vehicle accident upon which the claim is based;

(2) Two years after the date of the last payment of motor vehicle insurance or optional additional benefits; or

(3) Two years after the date of the last payment of

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alleged claim arose on July 5, 1996, (2) Caneda's complaint was not filed until January 23, 2001, (3) Caneda did not have no-fault motor vehicle insurance at the time of the accident, (4) there was a gap of more than two years between Caneda's public assistance benefit payments (from May 16, 1997, the last payment by the Department of Human Services ("DHS"), to approximately August 7, 2000, the first known payment by Medicare), and (5) medical payments from Caneda's private health insurance (HMSA) for medical services rendered from 1996 to 1999 did not toll the statute of limitations.

On appeal, Caneda essentially argues that his claim should not have been time-barred under HRS § 431:10C-315(b)(3), inasmuch as (1) the trial court erred by failing to consider the HMSA private health insurance benefits (which Caneda received for his alleged July 5, 1996 car accident injuries) as "public assistance benefits" within the meaning of HRS § 431:10C-103³, such that the statute of limitations was tolled, and (2) when viewing the evidence in the light most favorable to him, the

²(...continued)

workers' compensation or public assistance benefits arising from the motor vehicle accident.

(Emphasis added.) Only HRS § 431:10C-315(b)(3) is at issue in this appeal.

³ HRS § 431:10C-103 provides in pertinent part:

"Person receiving public assistance benefits" means:

(1) Any person receiving benefits consisting of direct cash payments through the department of human services; or

(2) Any person receiving benefits from the Supplemental Security Income Program under the Social Security Administration.

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circuit court erred in finding no genuine issue of material fact as to whether there was a 2-year-or-greater gap between the last DHS public assistance benefit payment (made on May 16, 1997) and the first Medicare public assistance benefit payment (which was made on August 7, 2000 on the face of the record).

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold as follows:

(1) As per the plain and unambiguous language of HRS § 431:10C-103, private health insurance benefit payments do not qualify as "public assistance benefits." The statute clearly states that there are only two specifically enumerated sources of such benefits: DHS and the Social Security Administration. And "where the language of the statute is plain and unambiguous, our only duty is to give effect to its plain and obvious meaning." Allstate Ins. Co. v. Schmidt, 104 Hawai'i 261, 265, 88 P.3d 196, 198 (2004) (citations omitted). Even assuming arguendo that 431:10C-103 is ambiguous, interpreting "public assistance benefits" to mean "private health insurance" such as Caneda's HMSA coverage is a nonsensical statutory construction that this court must reject. HRS § 1-15(3) (1955) ("Where the words of a law are ambiguous [e]very construction which leads to an absurdity shall be rejected."); see also Zanakis-Pico v. Cutter Dodge, Inc., 98 Hawai'i 309, 316, 47 P.3d 1222, 1229 (stating that "the legislature is presumed not to intend an absurd result" (citation omitted)). In any event, confining "public assistance benefits" to those received from DHS and the Social Security

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Administration furthers the legislature's express intent to create a no-fault insurance compensation system which is intended to limit the imposition of tort liability with respect to motor vehicle accidents. HRS § 431:10C-102(a).⁴ Therefore, the circuit court did not err in concluding that Caneda's HMSA benefits were not "public assistance benefits" under HRS § 431:10C-103.

(2) Even when viewing the evidence in a light most favorable to Caneda, we must conclude that his claim is time-barred by HRS § 431:10C-315(b)(3). On her motion for summary judgment, Okuyama had shown that given the known facts at the time of her motion, there had been no public assistance benefit payments between May 16, 1997 and January 23, 2001, when Caneda's complaint was initially filed. No evidence of the Medicare payments was on the record at the time. The burden of production thus shifted from Okuyama to Caneda, and Caneda was required to respond with specific facts showing that a genuine issue for trial still remained. Hawai'i Rules of Civil Procedure ("HRCP") Rule 56(e) (2000); see also Lee v. Puamana Community Ass'n, 109 Hawai'i 561, 567, 128 P.3d 874, 880 (2006) (quoting French v.

⁴ HRS § 431:10C-102(a) provides:

The purpose of this article is to:

- (1) Create a system of reparations for accidental harm and loss arising from motor vehicle accidents;
- (2) Compensate these damages without regard to fault; and
- (3) Limit tort liability for these accidents.

(Emphasis added.)

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Hawai'i Pizza Hut, Inc., 105 Hawai'i 462, 99 P.3d 1046 (2004)). Caneda responded by attaching the declaration of his treating physician, Kevin Kurohara, M.D., as well as an exhibit in the form of Dr. Kurohara's payment ledger for Caneda, in an apparent attempt to show that Medicare had made qualifying public assistance benefit payments before the statute of limitations had run. This purported evidence, which Caneda candidly admits is ambiguous, cannot defeat summary judgment for two reasons.

First, the declaration and Dr. Kurohara's payment ledger are inadmissible evidence under the best evidence rule, insofar as no reason was given as to why the original payment statements from Medicare itself (or copies thereof) could not be produced. Hawai'i Rules of Evidence ("HRE") Rule 1004 (1993); see also HRE Rules 1001-1003 (1993). Second, even assuming Dr. Kurohara's declaration and attached exhibit do not run afoul of HRE Rule 1004, they do not constitute "specific facts" needed to defeat summary judgment. Caneda's counsel admits that more time could have been requested to obtain some form of clarification from Dr. Kurohara, but now argues that the alleged ambiguity created by Dr. Kurohara's declaration "should have been enough to defeat summary judgment on the issue." On its face, such an ambiguity does not constitute the "specific facts" required for Caneda to overcome summary judgment. In any event, this court cannot rationally infer that a patient ledger indicating payment activity on and after August 4, 2000 means that Medicare had made payments prior to May 16, 1999, when the two-year statute of limitations under HRS § 431:10C-315(b)(3) had run. Thus, the

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circuit court properly granted summary judgment in Okuyama's favor. Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

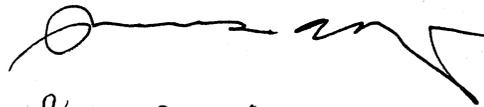
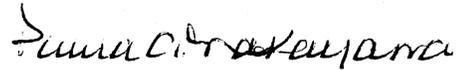
DATED: Honolulu, Hawai'i, May 16, 2006.

On the briefs:

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