

NO. 27439

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

KAM CENTER SPECIALTY CORPORATION,
a Hawai'i corporation, Plaintiff-Appellee

vs.

LWC IV CORPORATION, a Hawai'i corporation,
dba Eastern Garden Chinese Seafood Restaurant;
LAWRENCE CHAN; and LINDA CHAN, Defendants-Appellants

LWC IV CORPORATION, a Hawai'i corporation,
dba Eastern Garden Chinese Seafood Restaurant,
LAWRENCE CHAN; and LINDA CHAN,
Third-Party Plaintiffs-Appellants

vs.

JOHN E. KOBAYASHI and V.I.P. INVESTMENTS, INC
a Hawai'i corporation, Third-Party Defendants-Appellees

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 STATE OF HAWAII

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APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 03-1-2075)

ORDER RE: MOTIONS FOR RECONSIDERATION
AND ORDER OF AMENDMENT

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

Upon consideration of the motions for reconsideration filed by Defendants-Appellants LWC IV Corporation, dba Eastern Garden Chinese Seafood Restaurant, Lawrence Chan and Linda Chan (collectively, Defendants) and Third-Party Defendants-Appellees John E. Kobayashi and VIP Investments, Inc. (collectively, Third-Party Defendants) the attachments thereto, and the record,

IT IS HEREBY ORDERED that the Defendants' motion is granted and the memorandum opinion filed on September 27, 2007 is amended as follows (deleted material is bracketed and new material is double underscored):

Lines 20-24 from the top of page 46: not in fact raised below. [Assuming arguendo that a claim for unfair competition includes a claim for tortious interference with contractual relations, we concluded supra that the court did not abuse its discretion in denying Defendants' motion for leave to amend their Third-Party Complaint to raise a claim for unfair competition under HRS § 480-2 against TPDs.] Even if the court had allowed Defendants to amend their Third-Party Complaint to include the claim for unfair trade practices, it would not have been sufficient to implicitly raise a claim for tortious interference with a contractual relationship. See Robert's Waikiki U-Drive, Inc. v. Budget Rent-A-Car Sys., Inc., 491 F. Supp. 1199, 1227 (D.Haw. 1980) (setting forth the expansive definition of "unfair practices" under HRS § 480-2 and applicable federal authorities (quoting F.T.C. v. Sperry & Hutchinson Co., 405 U.S. 233, 244-45 n.5 (1972) (citation omitted))); compare Lee, 85 Hawai'i at 32, 956 P.2d at 668 (setting forth the elements of tortious interference with contractual relations (citation omitted)). Accordingly,

The Clerk of the Court is directed to incorporate the foregoing changes in the original memorandum opinion and take all necessary steps to notify the publishing agencies of these changes.

IT IS FURTHER ORDERED that Third-Party Defendants' Motion for Reconsideration is denied.

DATED: Honolulu, Hawai'i, November 6, 2007.

Steven K.S. Chung and
Lauren A. Stern (Steven
Chung and Associates LLC)
on the motion for
Defendants-Appellants.

Sidney K. Ayabe, Gail M.
Kang, and Edmund K.U. Yee
(Ayabe Chong Nishimoto
Sia & Nakamura) on the motion
for Third-Party Defendants-
Appellees.

