

NO. 28496

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CUTTER MOTOR CARS, INC.,
dba CUTTER ALA MOANA VOLKSWAGEN MAZDA, Petitioner

vs.

THE HONORABLE BERT I. AYABE, Respondent

ORIGINAL PROCEEDING
(CIV. NO. 06-1-1498-08 (BIA))

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2007 APR 27 PM 3:04

FILED

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioner Cutter Motor Cars, Inc. and the papers in support, it appears that petitioner fails to demonstrate irreparable and immediate harm from the denial of the motion to disqualify plaintiff's counsel in Civil No. 06-1-1498 and the denial of the motion is reviewable on appeal from a final judgment in Civil No. 06-1-1498. Therefore, petitioner is not entitled to mandamus relief. See Wong v. Fong, 60 Haw. 601, 593 P.2d 386 (1979) (a writ of mandamus may be brought where irreparable and immediate harm would result from an order denying a motion for disqualification of counsel); Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or

obtain the requested action. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures.). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, April 27, 2007.



Steven B. Levinson

Honua A. Nakayama



James E. Dubby, Jr.