

NO. 29716

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

LOLA SUZUKI, Petitioner,

vs.

ROLAND Q.F. THOM, CHAIRMAN, LABOR AND INDUSTRIAL
RELATIONS APPEALS BOARD; HEALTHWAYS, INC.; and
ST. PAUL TRAVELERS, Respondents.

NORMA T. JARA
CLERK - APPELLATE COURTS
STATE OF HAWAII

2009 APR -9 AM 11:02

FILED

ORIGINAL PROCEEDING

(CASE NO. AB 2007-497 (2-06-14727))

(CASE NO. AB 2007-498 (2-07-04617))

ORDER

(By: Moon, C.J., Nakayama, Acoba, and Duffy, JJ., and Circuit Judge Valenciano, assigned by reason of vacancy)

Upon consideration of the petition for a writ of mandamus filed by petitioner Lola Suzuki and the papers in support, it appears that petitioner fails to demonstrate that the respondent chairman of the Labor and Industrial Relations Appeals Board (LIRAB) had a duty to rule in favor of petitioner on the matters of treatment, discovery, appeal issues, summary judgment, and sanctions. Respondent's rulings will be reviewable on appeal to the intermediate court of appeals from the LIRAB's final decision in AB 2007-497 and AB 2007-498. See HRS § 386-88 (Supp. 2008). Therefore, petitioner is not entitled to mandamus relief. See HRS § 602-5(3) (Supp. 2008) (The supreme court has jurisdiction and power to issue writs of mandamus directed to public officers to compel them to fulfill the duties of their offices.); In Re Disciplinary Bd. Of Hawaii Supreme Court, 91 Hawai'i 363, 368, 984 P.2d 688, 693 (1999) (Mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and

certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available.); Salling v. Moon, 76 Hawai'i 273, 274 n. 3, 874 P.2d 1098, 1099 n.3 (1994) ("A duty is ministerial where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion and judgment."). Accordingly,

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

IT IS FURTHER ORDERED that the motion for leave to amend the petition is denied.

DATED: Honolulu, Hawai'i, April 9, 2009.



Anna C. Nasabayana



Ramon E. Dullogi Jr.

