


NOTICE OF APPEAL

Notice is hereby given that Plaintiffs JASON KAWAKAMI, individually and on behalf of all others similarly situated (collectively "Plaintiffs"), by and through their attorneys, John F. Perkin and Brandee J.K. Faria, pursuant to Hawaii Revised Statutes § 641-1 and Rule 3 of the Hawaii Rules of Appellate Procedure, appeals to the Intermediate Court of Appeals of the State of Hawaii from:

- (1) The *Final Judgment* filed July 15, 2011, attached hereto as Exhibit A.
- (2) The *Order Granting Defendant Kahala Hotel Investors, LLC DBA the Kahala Hotel & Resort's Renewed Motion for Judgment as a Matter of Law* filed February 8, 2011, attached hereto as Exhibit B.

DATED: Honolulu, Hawaii, August 5, 2011



JOHN FRANCIS PERKIN
BRANDEE J.K. FARIA
Attorneys for Appellants,
JASON KAWAKAMI,
individually and on behalf of
all others similarly situated

EXHIBIT A

FINAL JUDGMENT

The Order Granting Defendant Kahala Hotel Investors, LLC dba the Kahala Hotel & Resort's Renewed Motion for Judgment as a Matter of Law, Filed February 8, 2011, having been entered on _____,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that, pursuant to Rule 58 of the Hawai'i Rules of Civil Procedure, judgment be entered in favor of Defendant Kahala Hotel Investors, LLC dba the Kahala Hotel & Resort's (the "Kahala Hotel") and against Plaintiff Jason Kawakami, individually and on behalf of all others similarly situated pursuant to the Order Granting Plaintiff Jason Kawakami's Motion for Class Certification and for Approval of Class Notice and Dissemination Plan filed January 12, 2010 (collectively referred to as the "Class Plaintiffs"), as to all claims asserted in the Complaint.

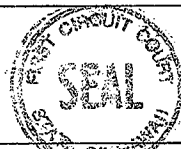
This Final Judgment resolves all claims asserted between the Kahala Hotel and the Class Plaintiffs. There are no remaining claims or parties.

Any and all remaining claims, if any, are dismissed with prejudice. GWBC/DS

GWBC/DS

DATED: Honolulu, Hawai'i, JUL 14 2011

GARY W. B. CHANG



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

JOHN FRANCIS PERKIN, ESQ.
BRANDEE J. FARIA, ESQ.

Attorneys for Class Plaintiffs

Jason Kawakami, et al. v. Kahala Hotel Investors, LLC; Civil No. 08-1-2496-12 (GWBC); FINAL JUDGMENT

EXHIBIT B

MCCORISTON MILLER MUKAI MACKINNON LLP

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1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2011 JUL 15 PM 3:29

J. KUBO
CLERK

Attorneys for Defendant
KAHALA HOTEL INVESTORS, LLC dba
THE KAHALA HOTEL & RESORT

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JASON KAWAKAMI, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

KAHALA HOTEL INVESTORS, LLC, dba
KAHALA HOTEL AND RESORT; and DOE
DEFENDANTS 1-50,

Defendants.

) CIVIL NO. 08-1-2496-12 (GWBC)
) (Class Action)
)
) ORDER GRANTING DEFENDANT
) KAHALA HOTEL INVESTORS, LLC
) DBA THE KAHALA HOTEL &
) RESORT'S RENEWED MOTION FOR
) JUDGMENT AS A MATTER OF LAW,
) FILED FEBRUARY 8, 2011
)
) Hearing
) Date: March 8, 2011
) Time: 3:00 p.m.
) Judge: Hon. Gary W. B. Chang
)
)
)
) Trial: December 14, 2010
)
)
)

If the jury awarded to Plaintiffs, as Chapter 480 damages, Defendant Kahala Hotel's Management's Share of the service charge, that was not an appropriate measure or evidence of financial or economic loss or harm to Plaintiffs.

Hawai'i Revised Statutes section 480-13(a)(1) provides that a Chapter 480 plaintiff may sue for damages and may recover a sum of not less than \$1,000 or treble damages, whichever sum is greater. This establishes a minimum damages award of \$1,000 where a Chapter 480 violation is shown to have occurred. However, Section 480-13(c) provides further that in the case of class actions, the minimum \$1,000 recovery in subsection (a)(1) does not apply. Therefore, Plaintiffs may only recover three times their actual damages.

Where no damages have been proven or established, there can be no treble damages. In the absence of any bases for Plaintiffs to recover any Chapter 480 damages for financial or economic loss or harm from the violation of Chapter 480, the Court is unable to find a basis to sustain the jury's verdict.

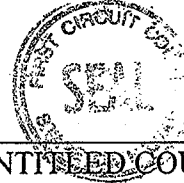
There is good cause to grant the instant renewed Rule 50 motion because the record reveals that Plaintiffs failed to prove or establish the following two elements of proof for a Chapter 480 claim: (1) Defendant Kahala Hotel's violation of Chapter 480 caused an injury to Plaintiffs' business or property and, (2) the amount of Plaintiffs' damages.

Accordingly, for the foregoing reasons and any other good cause shown in the record, IT IS HEREBY ORDERED that Defendant Kahala Hotel Investors, LLC dba The Kahala Hotel &

Resort's Renewed Motion for Judgment as a Matter of Law, filed on February 8, 2011, is hereby GRANTED.

DATED: Honolulu, Hawai'i, Jul 14 2011

GARY W. B. CHANG



JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

JOHN FRANCIS PERKIN, ESQ.
BRANDEE J. K. FARIA, ESQ.

Attorneys for Plaintiffs

Jason Kawakami, et al. v. Kahala Hotel Investors, LLC; Civil No. 08-1-2496-12 (GWBC); ORDER GRANTING DEFENDANT KAHALA HOTEL INVESTORS, LLC DBA THE KAHALA HOTEL & RESORT'S RENEWED MOTION FOR JUDGMENT AS A MATTER OF LAW, FILED FEBRUARY 8, 2011

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

JASON KAWAKAMI, individually and on) Civil No. 08-1-2496-12 GWBC
behalf of all others similarly situated,) (Class Action)
)
Plaintiff,) CERTIFICATE OF SERVICE
vs.)
)
KAHALA HOTEL INVESTORS, LLC,)
d.b.a. KAHALA HOTEL AND RESORT;)
and DOE DEFENDANT 1-50,)
)
Defendant.)
_____)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document on the date of filing will be served on the above-named parties at their respective address by hand delivery as follows:

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LISA W. CATALDO
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Attorney for Defendant
KAHALA HOTEL INVESTORS, LLC dba
KAHALA HOTEL AND RESORT

DATED: Honolulu, Hawaii, August 5, 2011

BAK F
JOHN FRANCIS PERKIN
BRANDEE J.K. FARIA
Attorneys for Appellants,
JASON KAWAKAMI,
individually and on behalf of
all others similarly situated