

SUPREME COURT OF THE STATE OF HAWAII

Villon v. Marriott Hotel Services, Inc.; Rodriguez v. Starwood Hotels & Resorts Worldwide, Inc.

No. SCCQ-11-0000747, Supreme Court of the State of Hawai'i (November 8, 2011)

SUMMARY

The Hawai'i Supreme Court issued an order in an original proceeding arising from certified questions submitted by the United States District Court for the District of Hawai'i. The court determined that only question one was presently amenable to certification and established filing, record-transmission, briefing, and party-designation requirements for the Villon/Apana and Rodriguez/Basler plaintiffs and the Marriott and Starwood defendants.

CASE DETAILS

COURT	Supreme Court of the State of Hawai'i
WRITING FOR THE COURT	Mark E. Recktenwald, C.J.; Paula A. Nakayama, J.; Simeon R. Acoba, Jr., J.; James E. Duffy, Jr., J.; Sabrina S. McKenna, J.
JURISDICTION	Hawaii
DECIDED	November 8, 2011
DOCKET	SCCQ-11-0000747
DISPOSITION	other
PROCEDURAL POSTURE	Original proceeding in the Hawai'i Supreme Court arising from certified questions submitted by the United States District Court for the District of Hawai'i.
PRECEDENTIAL VALUE	Published procedural order addressing certification of questions to the Hawai'i Supreme Court.
PARTIES	Bert Villon, Mark Apana, Reneldo Rodriguez, Johnson Basler v. Marriott Hotel Services, Inc., dba Wailea Marriott Resort, Starwood Hotels & Resorts Worldwide, Inc., dba Westin Maui Resort & Spa

TOPICS

[appellate procedure](#) [appellate jurisdiction](#) [civil procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the certified questions submitted by the United States District Court for the District of Hawai'i were amenable to answer under Hawai'i Rules of Appellate Procedure Rule 13.
2. Whether the Hawai'i Supreme Court should accept and proceed with question #1 while declining to address questions #2 and #3.

HOLDINGS

1. Only certified question #1 appeared amenable to answer under HRAP Rule 13; questions #2 and #3 did not satisfy the certification requirements identified in the federal court's order.
2. The plaintiffs were designated appellants and the defendants appellees for purposes of the original proceeding, and the parties were required to transmit the federal records and proceed with briefing under the applicable Hawai'i appellate rules.

KEY QUOTATIONS

“it appears that question #1 -- and only that question -- is amenable to answer by this court pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 13” (at 1)

“without conclusively determining whether this court will answer question #1” (at 1)

FACTUAL BACKGROUND

The plaintiffs in two related federal actions, involving Marriott and Starwood hotels, sought resolution of certified questions of Hawai'i law. The federal district court transmitted three questions to the Hawai'i Supreme Court, identifying only question #1 as satisfying the certification criteria under HRAP Rule 13. The Hawai'i Supreme Court's order addressed only the procedural propriety of the certification and the steps necessary to prepare the matter for possible consideration.

PROCEDURAL HISTORY

The United States District Court for the District of Hawai'i issued an October 11, 2011 order requesting answers to three certified questions concerning Hawai'i law. The Hawai'i Supreme Court determined that only question #1 appeared amenable to certification under Hawai'i Rules of Appellate Procedure Rule 13 because the federal court certified that question as determinative of the plaintiffs' cause and lacking clear controlling Hawai'i precedent. The court entered procedural orders governing designation of parties, transmission of the federal records, filing fees, and briefing, without conclusively deciding whether it would ultimately answer question #1.

DISPOSITION

other

OPINION

PER CURIAM.

Electronically Filed Supreme Court SCCQ-11-0000747 08-NOV-2011 02:33 PM NO. SCCQ-11-0000747 IN THE SUPREME COURT OF THE STATE OF HAWAII BERT VILLON and MARK APANA, Plaintiffs, vs. MARRIOTT HOTEL SERVICES, INC., dba WAILEA MARRIOTT RESORT, Defendant. RENELDO RODRIGUEZ and JOHNSON BASLER, on behalf of themselves and all others similarly situated, Plaintiffs, vs. STARWOOD HOTELS & RESORTS WORLDWIDE, INC., dba WESTIN MAUI RESORT & SPA, Defendant.

ORIGINAL PROCEEDING ORDER ON CERTIFIED QUESTION (By: Recktenwald, C.J., Nakayama, Acoba, Duffy, and McKenna, JJ.) Upon consideration of the October 11, 2011 order of the United States District Court for the District of Hawai'i requesting the Supreme Court of the State of Hawai'i to answer certified questions identified as questions #1, #2 and #3, it appears that question #1 -- and only that question -- is amenable to answer by this court pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 13 inasmuch as the October 11, 2011 order certifies, as to question #1, but not as to questions #2 and #3, that the question concerns the law of Hawai'i that is determinative of the plaintiffs' cause and that there is no clear controlling precedent in the Hawai'i judicial decisions.

See HRAP Rule 13. Therefore, IT IS HEREBY ORDERED, without conclusively determining whether this court will answer question #1, that: 1. Pursuant to HRAP Rule 28(e), plaintiffs Bert Villon and Mark Apana and plaintiffs Reneldo Rodriguez and Johnson Basler are designated appellants for purposes of this proceeding and shall collectively pay the required filing fee for an original proceeding in this court.

2. Defendant Marriott Hotel Services, Inc. and defendant Starwood Hotels & Resorts, Inc. are designated appellees for this proceeding. 3. Pursuant to HRAP Rule 13(c), the plaintiffs-appellants shall make all necessary arrangements with the clerk of the United States District Court for the District of Hawai'i to transmit the original or certified copies of the pending federal court cases to this court.

It shall be the responsibility of the plaintiffs-appellants to ensure that the record is received in this court within thirty days from the date of this order. 4. After the record is filed in the supreme court, plaintiffs-appellants Villon and Apana and plaintiffs-appellants Rodriguez and Basler shall each file an opening brief within the 2 time provided by HRAP Rule 28(b).

The opening briefs shall conform to the format and content requirements of HRAP Rule 28, insofar as applicable. A statement of jurisdiction pursuant to HRAP Rule 12.1 is not necessary. 5. Thereafter, defendant-appellee Marriott shall file an answering brief to plaintiffs-appellants Villon and Apana's opening brief. Defendant-appellee Starwood shall file an answering brief to plaintiffs-appellants Rodriguez and Basler's opening brief.

The answering briefs shall be filed within the time provided by HRAP Rule 28(c) and shall conform to the format and content requirements of HRAP Rule 28, insofar as applicable. 6. The plaintiffs-appellants may file reply briefs in accordance with HRAP Rule 28(d). DATED: Honolulu, Hawai' November 8, 2011. i, /s/ Mark E. Recktenwald /s/ Paula A. Nakayama /s/ Simeon R. Acoba, Jr. /s/ James E. Duffy, Jr. /s/ Sabrina S. McKenna 3