

SUPREME COURT OF THE STATE OF HAWAI‘I

Charles v. Kapalua Bay, LLC

SCWC-14-0000387 (Haw. Dec. 24, 2015) · No. SCWC-14-0000387 · Decided December 24, 2015

SUMMARY

The Supreme Court of Hawai‘i accepts the petitioners’ application for a writ of certiorari in Charles v. Kapalua Bay, LLC. The court orders that no oral argument will be heard unless a party timely moves for retention of oral argument under Hawai‘i Rule of Appellate Procedure 34(c).

CASE DETAILS

COURT	Supreme Court of the State of Hawai‘i
WRITING FOR THE COURT	Mark E. Recktenwald, C.J.; Paula A. Nakayama, J.; Sabrina S. McKenna, J.; Richard W. Pollack, J.; Michael D. Wilson, J.
JURISDICTION	Hawaii
DECIDED	December 24, 2015
DOCKET	SCWC-14-0000387
DISPOSITION	cert_granted
PROCEDURAL POSTURE	Petitioners/Plaintiffs-Appellants applied for a writ of certiorari to review the Intermediate Court of Appeals. The Supreme Court accepted the application and ordered that no oral argument would be heard unless a party moved for retention of oral argument under Hawai‘i Rules of Appellate Procedure Rule 34(c).
PRECEDENTIAL VALUE	published
PARTIES	Earl C. Charles and Patricia A. Charles, et al. v. Kapalua Bay, LLC, et al.

TOPICS

- writ of certiorari
- appellate procedure
- appellate jurisdiction
- civil procedure

PRACTICE AREAS

- appellate procedure
- civil procedure

PROCEDURAL HISTORY

The matter arose from Civil No. 13-1-0640(2) and was before the Intermediate Court of Appeals under CAAP-14-0000387. Petitioners filed an application for writ of certiorari on November 10, 2015. On December 24, 2015, the Supreme Court accepted the application and declined to schedule oral argument absent a timely motion for retention.

DISPOSITION

cert_granted

OPINION

PER CURIAM.

Electronically Filed Supreme Court SCWC-14-0000387 24-DEC-2015 02:18 PM SCWC-14-0000387 IN THE SUPREME COURT OF THE STATE OF HAWAII#I EARL C. CHARLES and PATRICIA A. CHARLES, in their individual capacities and as co-trustees of the Earl C. Charles and Patricia A. Charles Revocable Living Trust Dated December 12, 1990; PETER COAD JR. and JUDY E. COAD, in their individual capacities and as co-trustees of the Coad Family Trust Dated April 14, 2006; JOHN E. CORK; SUSAN M. CORK; AL P. BRENDE; DOUGLAS M. DROESE and RENEE S. DROESE, in their individual capacities and as co-trustees of the 1995 Droese Family Trust 08/02/95; MARTIN GIUFFRE; PATRICIA GIUFFRE; MATTHEW GIUFFRE; WILLIAM G. GLENNON and CAROLYN N. GLENNON, in their individual capacities and as co-trustees of the Glennon Living Trust dated 01/16/97; BRIAN HOYLE, in his individual capacity and as trustee of The Brian H. Hoyle Trust; WILLARD S. JOHNSTON, in his individual capacity and as trustee of The Willard Spencer Johnston Jr. Trust Dated 4-27-92; MICHAEL M. KEMPS, in his individual capacity and as co-trustee of the Kemps Family Trust Dated October 23, 2003; GEMMA KEMPS, in her individual capacity and as co-trustee of The Kemps Family Trust Dated October 23, 2003; DOCTOR ROHIT KHANNA; THERESA KHANNA; TERRY G. NEGENDANK and PAULA T. NEGENDANK, in their individual capacities and as co-trustees of The Terry G. Negendank and Paula T. Negendank 2000 Revocable Living Trust; JULIA NEGENDANK; HEIDI NEGENDANK; STEPHEN E. PENFOLD; BARBARA A. PENFOLD; DONALD RECCHIO; MARIE WEBER; MARLON A. REYES; PATRICIA Y. SIGUENZA; THOMAS D. ROSINSKI; JANET S. ROSINSKI; CHARLES P. SCHULMAN; RICHARD J. STUART, in his individual capacity and as trustee of The Richard J. Stuart Trust Under Agreement Dated June 27, 2005; RICHARD VICKERS; NICOLE VITULLO; ANDREW H.W.

BRANION; JOYCE L. ZIEBELL; WILLIAM BENDUSH and SOPHIA BENDUSH, in their individual capacities and as co-trustees of The Bendush Family Trust Dated March 25, 1987; DOCTOR THOMAS M. PROSE; RONALD A. ABELMANN; JERYL J. ABELMANN; ABELMANN INVESTMENTS, LP; FRANCIS R. ZAMBON, in his individual capacity and as trustee of The Francis R. Zambon Living Trust Dated April 21, 2000, and as co-trustee of The

Francis R. Zambon and Karen E. Zambon Living Trust Dated May 13, 2011; KAREN E. ZAMBON, in her individual capacity and as co-trustee of The Francis R. Zambon and Karen E. Zambon Living Trust Dated May 13, 2011; JOHN R. HENKEL; SUSAN A. HENKEL; CAROLINE GAUTHIER; MARC LEFEBVRE; DOUGLAS C. MCCORD; TRACEY A. MCCORD; KEVIN R. DUNCAN; GREG H. GIESLER and ANN L. GIESLER, in their individual capacities and as co-trustees of the Giesler Family Trust; LEE J. CHIMERAKIS; THERESA A. CHIMERAKIS; JOHN FITZPATRICK; BARBARA FITZPATRICK; DAVID APLIN, in his individual capacity and as a trustee of The Aplin Kapalua Trust; RICHARD GIARAMITA; LISA GIARAMITA; DOCTOR ROBERT M. JACKSON and JUDITH JACKSON, in their individual capacities and as co-trustees of The Robert M. Jackson and Judith Jackson Revocable Trust; CRAIG L. CAPRETTA; ARLINDA CAPRETTA; ALEX WERNBERG; JANE WERNBERG; JEFFREY L. ROTHENBERGER and STACY L. ROTHENBERGER, in their individual capacities and as co-trustees of The Jeff Lynn Rothenberger and Stacy Leah Rothenberger Revocable Living Trust; WILLIAM C. GABRIELSON, in his individual capacity and as trustee of The William C. Gabrielson Trust; GLENNA ANTHONY; KEITH DELLER; AL A. KASHANI; TRI M. LA; JOHN W. HARKINS; RENEE LA FORCE HARKINS, Petitioners/Plaintiffs-Appellants, vs. KAPALUA BAY, LLC, MAUI LAND & PINEAPPLE CO., INC.; THE RITZ-CARLTON HOTEL COMPANY, LLC; THE RITZ-CARLTON DEVELOPMENT CO., INC.; MARRIOTT INTERNATIONAL, INC.; EXCLUSIVE RESORTS, LLC; MARRIOTT VACATIONS WORLDWIDE CORPORATION; THE RITZ-CARLTON MANAGEMENT COMPANY, LLC; MARRIOTT TWO FLAGS, LP; MH KAPALUA VENTURE, LLC; MLP KB PARTNER, LLC; EXCLUSIVE RESORTS CLUB I HOLDINGS, LLC; EXCLUSIVE RESORTS DEVELOPMENT COMPANY, LLC; ER KAPALUA INVESTORS FUND HOLDINGS, LLC; ER KAPALUA INVESTORS FUND, LLC; KAPALUA BAY HOLDINGS, LLC, Respondents/Defendants-Appellees.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS (CAAP-14-0000387; CIV. NO. 13-1-0640(2)) ORDER ACCEPTING APPLICATION FOR WRIT OF CERTIORARI (By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.) Petitioners/Plaintiffs-Appellants' application for writ of certiorari filed on November 10, 2015, is hereby accepted. IT IS FURTHER ORDERED that no oral argument will be heard in this case.

Any party may, within ten days and pursuant 2 to Rule 34(c) of the Hawai#i Rules of Appellate Procedure, move for retention of oral argument. DATED: Honolulu, Hawai#i, December 24, 2015. Mark J. Bennett and /s/ Mark E. Recktenwald Andrew J. Lautenbach for petitioners /s/ Paula A. Nakayama Bert T. Kobayashi, Jr., Lex R. Smith, Maria Y. /s/ Sabrina S. McKenna Wang, and Aaron R. Mun for respondents The /s/ Richard W. Pollack Ritz-Carlton Hotel Company, LLC, The Ritz- /s/ Michael D. Wilson Carlton Development Co., Inc., Marriott International, Inc., Marriott

Vacations Worldwide Corp., The Ritz- Carlton Management Company, LLC, Marriott Two Flags, LP, and MH Kapalua Venture, LLC 3

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