

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).

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 HAWAI‘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