

NO. 30025

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

DEAN YOUNG, Plaintiff-Appellant,
v.
DAN DUDDEN, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CIVIL CASE NO. 1RC08-1-9942)

ORDER DENYING PLAINTIFF-APPELLANT'S
MOTION FOR RECONSIDERATION OF SUMMARY DISPOSITION ORDER
(By: Foley, Presiding J., Fujise and Ginoza, JJ.)

Upon consideration of the "Motion for Reconsideration of [the March 7, 2011] Summary Disposition Order" filed on March 21, 2011 by Plaintiff-Appellant Dean Young (Young) and the records and files in this case, we conclude that Young's contention that the District Court of the First Circuit, Honolulu Division, (district court) improperly awarded attorney's fees and costs against him was waived. Prior to the end of trial, Young and Defendant-Appellee Dan Dudden (Dudden) were instructed by the district court that if Dudden sought fees and costs, Dudden was to file a motion for fees and costs no later than July 31, 2009 and Young must respond by August 20, 2009. Young was served with a copy of a motion for fees and costs by Dudden on July 31, 2009. Dudden claimed that he should be awarded attorney's fees and

costs pursuant to HRS § 607-14 because Young's main claim was for bailment, which is in the nature of assumpsit. There is nothing in the record on appeal to indicate that Young opposed Dudden's motion for fees and costs. Dudden's motion for fees and costs was subsequently granted by the district court. Young does not point to where in the record he objected to Dudden's motion for fees and costs based upon his argument that his suit was not in the nature of assumpsit. Therefore, the point of error is waived. Hawai'i Rules of Appellate Procedure Rule 28(b)(4).

IT IS HEREBY ORDERED that the motion is denied.

DATED: Honolulu, Hawaii, March 28, 2011.

On the motion:

Dean Young,
Plaintiff-Appellant pro se.

Presiding Judge

Associate Judge

Associate Judge