

**Electronically Filed
Supreme Court
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SCPW-13-0000313

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

TRAVELOCITY.COM LP, SITE59.COM LLC, EXPEDIA, INC.,
HOTWIRE, INC., HOTELS.COM, L.P., ORBITZ, LLC,
INTERNETWORK PUBLISHING CORP., TRIP NETWORK, INC.,
PRICELINE.COM, INC., and TRAVELWEB LLC, Petitioners,

vs.

GARY W.B. CHANG, JUDGE OF THE CIRCUIT COURT
OF THE FIRST CIRCUIT, Respondent,

and

DEPARTMENT OF TAXATION, STATE OF HAWAI‘I, Real-Party in Interest.

ORIGINAL PROCEEDING
(T.A. No. 11-1-0021)

ORDER DENYING WITHOUT PREJUDICE PETITION FOR WRIT OF MANDAMUS AND
REQUEST FOR IMMEDIATE STAY OF ALL TRIAL PROCEEDINGS, OR,
ALTERNATIVELY, A STAY OF THE "PAY FIRST" OBLIGATION
UNDER HRS § 235-114, PENDING RESOLUTION OF PETITION

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

Upon consideration of Petitioners' Petition for Writ of Mandamus and Request for Immediate Stay of All Trial Proceedings, or Alternatively, a Stay of the "Pay First" Obligation Under HRS § 235-114 Pending Resolution of Petition, filed on March 28, 2013, the papers in support, and the records and files herein, it appears that: (1) in this petition for a writ of mandamus,

Petitioners are asking this court to stay enforcement of the tax appeal court ruling and review the decision of the tax appeal court; (2) a writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action; where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion or has refused to act on a subject properly before the court under circumstances in which he or she has a legal duty to act, Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999); (3) such writs are not meant to serve as legal remedies in lieu of normal appellate procedures; and (4) HRS § 232-19 (Supp. 2012) sets forth the procedure for appeals from the tax appeal court. Therefore,

IT IS HEREBY ORDERED that the Petition for Writ of Mandamus and Request for Immediate Stay of All Trial Proceedings, or, Alternatively, a Stay of the "Pay First" Obligation Under HRS § 235-114 Pending Resolution of Petition, is denied without prejudice.

DATED: Honolulu, Hawai'i, April 22, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

