

NO. CAAP-14-0000930

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ASSOCIATION OF APARTMENT OWNERS OF WAIPOULI BEACH RESORT,
through its Board of Directors, Plaintiff-Appellant,
v.
UNLIMITED CONSTRUCTION SERVICES, INC.;
UNLIMITED WBR, LLC; UPONOR, INC.; DORVIN LEIS CO., INC.;
STO CORP.; GROUP BUILDERS, INC., Defendants-Appellees,
and
DOES -1-100, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CIVIL NO. 13-1-0059)

ORDER

(By: Nakamura, Chief Judge, Ginoza and Chan, JJ.)

Upon consideration of (1) Defendant-Appellee Uponor, Inc.'s Motion for Reconsideration of Memorandum Opinion Filed July 25, 2017; (2) Defendants-Appellees Dorvin D. Leis Co., Inc. and Group Builders, Inc.'s Motion for Reconsideration of Memorandum Opinion, Filed July 25, 2017; and (3) Defendant-Appellee Sto [Corp.'s] Motion for Reconsideration of Memorandum Opinion, Filed July 25, 2017 (collectively **Defendants' Motions for Reconsideration**), all filed pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure on August 4, 2017, it

appears that we did not overlook or misapprehend any points of law or fact when we entered the July 25, 2017 Memorandum Opinion.¹

Therefore, IT IS HEREBY ORDERED that Defendants' Motions for Reconsideration are denied.

DATED: Honolulu, Hawai'i, August 24, 2017.

Chief Judge

Associate Judge

Associate Judge

¹ We note that Uponsor, Inc. requests that we take judicial notice of a nationwide class action settlement that Uponsor, Inc. contends supports its *res judicata* argument. However, we decline to take judicial notice of the class action settlement as it was not raised to the Circuit Court of the Fifth Circuit. Moreover, it remains unclear how the class action settlement affects the claims in this case. Uponsor, Inc. may raise the class action settlement in the circuit court on remand.