

Electronically Filed
Intermediate Court of Appeals
28958
22-OCT-2013
10:15 AM

NO. 28958

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

C. BREWER AND COMPANY, LTD.,
Plaintiff-Appellant

vs.

INDUSTRIAL INDEMNITY COMPANY; INDUSTRIAL INSURANCE
COMPANY OF HAWAII, LTD.; NATIONAL UNION FIRE INSURANCE COMPANY
OF PITTSBURGH; UNITED STATES FIRE INSURANCE COMPANY;
LIBERTY MUTUAL INSURANCE COMPANY; TIG INSURANCE COMPANY;
COLUMBIA CASUALTY COMPANY; JAMES RIVER INSURANCE COMPANY;
THE HOME INSURANCE COMPANY; MARINE INDEMNITY INSURANCE
COMPANY OF AMERICA; RELIANCE INSURANCE COMPANY;
LEXINGTON INSURANCE COMPANY; CIGNA PROPERTY AND
CASUALTY INSURANCE CO.; PACIFIC EMPLOYERS INSURANCE CO., INC.;
SCOTTSDALE INSURANCE COMPANY; FIREMAN'S FUND INSURANCE COMPANY
OF HAWAII; FIRST STATE INSURANCE CO.; KILAUEA IRRIGATION CO.,
INC.; KEHALANI HOLDINGS CO., INC.; STATE OF HAWAII;
HAWAII INSURANCE GUARANTY ASSOCIATION; and
DOE DEFENDANTS 2-30, Defendants-Appellees

and

STATE OF HAWAII, Third-Party Plaintiff-Cross-Appellant,

vs.

MARSH USA, INC.; and DOE THIRD-PARTY DEFENDANTS 1-30,
Third-Party Defendants-Appellees

and

KEHALANI HOLDINGS COMPANY, INC.,
Third-Party Plaintiff-Cross-Appellant

vs.

UNITED NATIONAL INSURANCE COMPANY; COMMONWEALTH INSURANCE
COMPANY; ALEXANDER HOWDEN LIMITED; INTEGRITY INSURANCE
COMPANY; HAWAIIAN INSURANCE & GUARANTY COMPANY, LIMITED;
HOLLAND-AMERICA; INTERNATIONAL INSURANCE COMPANY;
TRADEWIND INSURANCE COMPANY, LIMITED; ISLAND INSURANCE
COMPANY, LIMITED and DOE THIRD-PARTY DEFENDANTS 1-30,
Third-Party Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CV. NO. 06-1-0140)

ORDER OF CORRECTION

(By: Nakamura, Chief Judge, for the court^{1/})

The Memorandum Opinion of the court, filed on August 7, 2013, is hereby corrected as follows:

1. On page 1, in the caption, above the reference to "Third-Party Plaintiff-Cross-Appellant," the name "KEHAULANI" is misspelled and should be replaced with "KEHALANI" so that as corrected, the entity name reads: "KEHALANI HOLDINGS COMPANY, INC."

2. On page 4, in the tenth line, the word "the" should be inserted between "of" and "Kaloko" so that as corrected, the text reads: " . . . the date of the Kaloko Dam breach."

3. On page 10, in the first line of paragraph (2) of the indented text, the word "thorough" should be replaced with "through".

4. On page 12, in the third line of text from the bottom of the page, the words "first amended" should be inserted before "complaint" so that as corrected, the text reads: "C. Brewer filed its first amended complaint for declaratory relief"

5. On page 15, in the third line, the word "Funds'" should be replaced with "Fund's".

6. On page 26, in the first line, the word "Insured" should be replaced with "Insureds".

7. On page 31, in the sixteenth line, the word "the" should be inserted between "regarding" and "nature" so that as corrected, the text reads: ". . . regarding the nature"

8. On page 32, in the ninth line, the word "the" which appears before "there" should be deleted so that as corrected, the text reads: " . . . the Circuit Court found that there was no coverage"

^{1/} Nakamura, Chief Judge, and Foley, J., and Circuit Court Judge Alm, in place of Fujise and Leonard, JJ., all recused.

9. On page 32, in the fifteenth line, the word "judgment" should be inserted after "summary" so that as corrected, the text reads: " . . . granting summary judgment in favor"

10. On page 33, in the eleventh line, the word "of" which appears between "question" and "for" should be deleted so that as corrected, the text reads: "' . . . a question for the trier '"

11. On page 33, in the sixteenth line, the word "parties" should be made possessive and replaced with "parties'" so that as corrected, the text reads: " . . . parties' intent"

12. On page 35, in the eighteenth line, the word "decision" should be replaced with "decisions".

13. On page 36, in the first line, the word "the" which appears before the word "both" should be deleted so that as corrected, the text reads: "We conclude that both of the"

14. On page 38, in the tenth line, the word "it" should be replaced with "in" so that as corrected, the text reads: " . . . exclusions in its policy,"

15. On page 38, in the sixth line under Section VI., the word "owned" should be replaced with "owed" so that as corrected, the text reads: "the property insurers owed a duty"

The clerk of the court is directed to take all necessary steps to notify the publishing agencies of these changes.

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

FOR THE COURT:

Craig H. Nakamura

Chief Judge