

NO. CAAP-12-0000697

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

KAREN RYAN, Plaintiff/Appellant,  
v.  
TERRENCE D. PALMER, MARY LYNNE BOLAND, KAHANA MANOR AOA, AOAO,  
Defendants/Cross-Claim Defendants/Appellees,  
ALPHA EXECUTIVE SECURITY, INC., LOWSON AND ASSOCIATES,  
Defendants/Cross-Claim Plaintiffs/Cross-Claim  
Defendants/Appellees,  
JOHN DOES 1-5, JANE DOES 1-5, DOE CORPORATIONS 1-5,  
DOE PARTNERSHIPS 1-5, DOE ENTITIES 1-5, AND  
DOE GOVERNMENTAL UNITS 1-5,  
Defendants/Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(CIVIL NO. 10-1-0791(1))

ORDER GRANTING IN PART AND DENYING IN PART  
MOTION FOR RECONSIDERATION  
AND  
AMENDING THE OPINION OF THE COURT

(By: Nakamura, C.J., Foley and Ginoza, JJ.)

Upon consideration of "Defendants-Appellees Mary Lynne Boland and Kahana Manor AOAO's Motion for Reconsideration" filed August 30, 2013, the memorandum/papers in support of the motion, and the records and files in this case,

IT IS HEREBY ORDERED that the motion is granted in part and denied in part and the Opinion of the Court filed August 20, 2013 is amended as follows.

(1) The last sentence on page 3 is amended to read "Because the circuit court's order of dismissal did not specify

otherwise, the circuit court's dismissal was with prejudice. See Hawai'i Rules of Civil Procedure (HRCPP) Rule 41(b)(3)."

(2) Footnote 2 on page 3 is amended with emphases added to read:

HRCPP Rule 41(b) states, in pertinent part:

**(b) Involuntary dismissal: Effect thereof.**

. . . .

(2) For failure to prosecute or to comply with these rules or any order of the court, the court may sua sponte dismiss an action or any claim with written notice to the parties. Such dismissal may be set aside and the action or claim reinstated by order of the court for good cause shown upon motion duly filed not later than 10 days from the date of the order of dismissal.

(3) Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

(Emphases added.)

The Clerk of the Court is directed to take all necessary steps to notify the publishing agencies of this change.

DATED: Honolulu, Hawaii, September 12, 2013.

Sidney K. Ayabe  
Ryan I. Inouye  
(Ayabe, Chong, Nishimoto,  
Sia & Nakamura)  
on the motion for  
Defendants/Cross-Claim  
Defendants/Appellees Mary  
Lynne Boland and Kahana  
Manor AOA.

Chief Judge

Associate Judge

Associate Judge