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EM RIMANDO
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STATE OF HAWAII

NO. 30555

IN THE SUPREME COURT OF THE STATE OF HAWAII

IKAIKA BUILDERS, INC., Petitioner,

vs.

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD; JAMES C. CARVALHO; FIRST INSURANCE COMPANY OF HAWAII, LTD.; and SPECIAL COMPENSATION FUND, Respondents.

ORIGINAL PROCEEDING
(CASE NO. AB 2008-082)

ORDER

(By: Moon, C.J., Nakayama, Acoba, Duffy, and Recktenwald, JJ.)

Upon consideration of the petition for a writ of mandamus filed by petitioner Ikaika Builders, Inc. and the papers in support, it appears that the granting or denial of petitioner's motion for partial dismissal of Case No. AB 2008-082 was within the discretion and judgment of respondent Labor and Industrial Relations Appeals Board. Therefore, petitioner is not entitled to mandamus relief. See HRS § 602-5(3) (Supp. 2009) (The supreme court has jurisdiction and power to issue writs of mandamus directed to public officers to compel them to fulfill the duties of their offices.); In Re Disciplinary Bd. Of Hawaii Supreme Court, 91 Hawai'i 363, 368, 984 P.2d 688, 693 (1999) (Mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available.); Salling v. Moon, 76 Hawai'i 273, 274 n. 3, 874 P.2d 1098, 1099 n.3 (1994) ("A duty is ministerial where the law prescribes and defines the duty to be performed with such

precision and certainty as to leave nothing to the exercise of discretion and judgment."). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, July 2, 2010.



Faima A. Nakayama



Karina E. Duester

Mr. E. Reed