

NO. CAAP-11-0000050

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

KOSHIRO KITAZATO, Individually and as President of SOCIETY TO PROTECT DIAMOND HAWAII, a Japan unincorporated association; YOSHIKIMI KOMODA, Individually and as Vice President of SOCIETY TO PROTECT DIAMOND HAWAII, a Japan unincorporated association; TOSHIHIKO IKENAGA, Individually and as Vice President of SOCIETY TO PROTECT DIAMOND HAWAII, a Japan unincorporated association; SOCIETY TO PROTECT DIAMOND HAWAII, a Japan unincorporated association by and through KOSHIRO KITAZATO, acting on his own behalf and on behalf of members of an association; Plaintiffs-Appellants, v. BLACK DIAMOND HOSPITALITY INVESTMENTS, LLC, a Hawaii limited liability company; DIAMOND SOCIETY COMPANY, LTD., a Japanese corporation; DIAMOND RESORT CORPORATION, a Japanese company; DIAMOND RESORT HAWAII CORPORATION, a Hawaii corporation; JANIC CORPORATION, a Hawaii corporation; DIAMOND RESORT HAWAII OWNERS ASSOCIATION, INC., a Hawaii nonprofit corporation; DIAMOND RESORT MANGEMENT, INC., a Hawaii corporation; JOE G. LEONI; KYOKO KIMURA; JERRY LYNCH; TIMOTHY JOHN YOUNG; JOSEPH M. TOY; MATTHEW GAMBETTA; JONATHAN M. MCMANUS; Jon Does 1-20; Jane Does 1-20; Doe Partnerships 1-20; Doe Corporations 1-20; Doe Governmental Entities 1-20; Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 08-1-0746(1))

ORDER GRANTING MOTION TO PARTIALLY DISMISS APPEAL
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon consideration of Plaintiffs-Appellants' Motion to Partially Dismiss Appeal, the papers in support, and the records and filed herein, it appears that: (1) Plaintiffs-Appellants (Appellants) filed a notice of appeal on January 25, 2011; (2)

after the filing of the notice of appeal, Appellants entered into a settlement agreement and filed stipulations to dismiss the appeal as to all appearing parties, except Black Diamond Hospitality Investments, LLC, a company that is no longer in business; and (3) pursuant to the settlement agreement, Appellants are obligated to dismiss this case. Therefore,

IT IS HEREBY ORDERED that Appellants' motion is granted.

IT IS FURTHER ORDERED that this appeal is dismissed. The parties shall bear their own appellate costs and fees.

DATED: Honolulu, Hawai'i, March 13, 2012.

Presiding Judge

Associate Judge

Associate Judge