

Electronically Filed  
Supreme Court  
SCWC-14-0000387  
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SCWC-14-0000387

IN THE SUPREME COURT OF THE STATE OF HAWAII

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EARL C. CHARLES and PATRICIA A. CHARLES, in their individual capacities and as co-trustees of the Earl C. Charles and Patricia A. Charles Revocable Living Trust Dated December 12, 1990; PETER COAD JR. and JUDY E. COAD, in their individual capacities and as co-trustees of the Coad Family Trust Dated April 14, 2006; JOHN E. CORK; SUSAN M. CORK; AL P. BRENDE; DOUGLAS M. DROESE and RENEE S. DROESE, in their individual capacities and as co-trustees of the 1995 Droese Family Trust 08/02/95; MARTIN GIUFFRE; PATRICIA GIUFFRE; MATTHEW GIUFFRE; WILLIAM G. GLENNON and CAROLYN N. GLENNON, in their individual capacities and as co-trustees of the Glennon Living Trust dated 01/16/97; BRIAN HOYLE, in his individual capacity and as trustee of The Brian H. Hoyle Trust; WILLARD S. JOHNSTON, in his individual capacity and as trustee of The Willard Spencer Johnston Jr. Trust Dated 4-27-92; MICHAEL M. KEMPS, in his individual capacity and as co-trustee of the Kemps Family Trust Dated October 23, 2003; GEMMA KEMPS, in her individual capacity and as co-trustee of The Kemps Family Trust Dated October 23, 2003; DOCTOR ROHIT KHANNA; THERESA KHANNA; TERRY G. NEGENDANK and PAULA T. NEGENDANK, in their individual capacities and as co-trustees of The Terry G. Negendank and Paula T. Negendank 2000 Revocable Living Trust; JULIA NEGENDANK; HEIDI NEGENDANK; STEPHEN E. PENFOLD; BARBARA A. PENFOLD; DONALD RECCHIO; MARIE WEBER; MARLON A. REYES; PATRICIA Y. SIGUENZA; THOMAS D. ROSINSKI; JANET S. ROSINSKI; CHARLES P. SCHULMAN; RICHARD J. STUART, in his individual capacity and as trustee of The Richard J. Stuart Trust Under Agreement Dated June 27, 2005; RICHARD VICKERS; NICOLE VITULLO; ANDREW H.W. BRANION; JOYCE L. ZIEBELL; WILLIAM BENDUSH and SOPHIA BENDUSH, in their individual capacities and as co-trustees of The Bendush Family Trust Dated March 25, 1987; DOCTOR THOMAS M. PROSE; RONALD A. ABELMANN; JERYL J. ABELMANN; ABELMANN INVESTMENTS, LP; FRANCIS R. ZAMBON, in his individual capacity and as trustee of The Francis R. Zambon Living Trust Dated April 21, 2000, and as co-trustee of The Francis R. Zambon and Karen E. Zambon Living Trust Dated May 13, 2011; KAREN E. ZAMBON, in her individual capacity and as co-trustee of The Francis R. Zambon and Karen E. Zambon Living Trust Dated

May 13, 2011; JOHN R. HENKEL; SUSAN A. HENKEL; CAROLINE GAUTHIER;  
MARC LEFEBVRE; DOUGLAS C. MCCORD; TRACEY A. MCCORD;  
KEVIN R. DUNCAN; GREG H. GIESLER and ANN L. GIESLER, in their  
individual capacities and as co-trustees of the Giesler Family  
Trust; LEE J. CHIMERAKIS; THERESA A. CHIMERAKIS; JOHN  
FITZPATRICK; BARBARA FITZPATRICK; DAVID APLIN, in his individual  
capacity and as a trustee of The Aplin Kapalua Trust; RICHARD  
GIARAMITA; LISA GIARAMITA; DOCTOR ROBERT M. JACKSON and JUDITH  
JACKSON, in their individual capacities and as co-trustees of  
The Robert M. Jackson and Judith Jackson Revocable Trust;  
CRAIG L. CAPRETTA; ARLINDA CAPRETTA; ALEX WERNBERG; JANE  
WERNBERG; JEFFREY L. ROTHENBERGER and STACY L. ROTHENBERGER,  
in their individual capacities and as co-trustees of The Jeff  
Lynn Rothenberger and Stacy Leah Rothenberger Revocable Living  
Trust; WILLIAM C. GABRIELSON, in his individual capacity and  
as trustee of The William C. Gabrielson Trust; GLENNA ANTHONY;  
KEITH DELLER; AL A. KASHANI; TRI M. LA; JOHN W. HARKINS;  
RENEE LA FORCE HARKINS, Petitioners/Plaintiffs-Appellants,

vs.

KAPALUA BAY, LLC, MAUI LAND & PINEAPPLE CO., INC.;  
THE RITZ-CARLTON HOTEL COMPANY, LLC; THE RITZ-CARLTON  
DEVELOPMENT CO., INC.; MARRIOTT INTERNATIONAL, INC.;  
EXCLUSIVE RESORTS, LLC; MARRIOTT VACATIONS WORLDWIDE  
CORPORATION; THE RITZ-CARLTON MANAGEMENT COMPANY, LLC;  
MARRIOTT TWO FLAGS, LP; MH KAPALUA VENTURE, LLC; MLP KB  
PARTNER, LLC; EXCLUSIVE RESORTS CLUB I HOLDINGS, LLC;  
EXCLUSIVE RESORTS DEVELOPMENT COMPANY, LLC; ER KAPALUA  
INVESTORS FUND HOLDINGS, LLC; ER KAPALUA INVESTORS FUND, LLC;  
KAPALUA BAY HOLDINGS, LLC, Respondents/Defendants-Appellees.

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CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS  
(CAAP-14-0000387; CIV. NO. 13-1-0640(2))

ORDER ACCEPTING APPLICATION FOR WRIT OF CERTIORARI  
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Petitioners/Plaintiffs-Appellants' application for writ  
of certiorari filed on November 10, 2015, is hereby accepted.

IT IS FURTHER ORDERED that no oral argument will be  
heard in this case. Any party may, within ten days and pursuant

to Rule 34(c) of the Hawai'i Rules of Appellate Procedure, move for retention of oral argument.

DATED: Honolulu, Hawai'i, December 24, 2015.

Mark J. Bennett and  
Andrew J. Lautenbach  
for petitioners

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

Bert T. Kobayashi, Jr.,  
Lex R. Smith, Maria Y.  
Wang, and Aaron R. Mun  
for respondents The  
Ritz-Carlton Hotel  
Company, LLC, The Ritz-  
Carlton Development  
Co., Inc., Marriott  
International, Inc.,  
Marriott Vacations  
Worldwide Corp., The Ritz-  
Carlton Management Company,  
LLC, Marriott Two Flags,  
LP, and MH Kapalua  
Venture, LLC

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

