

Electronically Filed
Supreme Court
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SCWC-16-0000890 and SCWC-17-0000216

IN THE SUPREME COURT OF THE STATE OF HAWAII

PRUDENTIAL LOCATIONS, LLC,
Respondent/Plaintiff-Appellant,

vs.

LORNA GAGNON and PRESTIGE REALTY
GROUP LIMITED LIABILITY COMPANY,
Petitioners/Defendants/Cross-Claim Defendants-Appellees,

and

RE/MAX LLC and LORRAINE CLAWSON,
Respondents/Defendants/Cross-Claimants/
Third-Party Plaintiffs-Appellees,

and

KEVIN TENGAN,
Respondent/Third-Party Defendant-Appellee.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP-16-0000890 & CAAP-17-0000216; CIV. NO. 13-1-2328)

CONCURRENCE IN PART TO ORDERS GRANTING MOTIONS
FOR CLARIFICATION OF THE OPINION OF THE COURT
(By: Recktenwald, C.J., with whom Nakayama, J., joins)

I concur in the Majority's orders granting Respondent/
Plaintiff-Appellant Prudential Locations, LLC N/K/A Locations

LLC's (Locations) motion for clarification filed on February 28, 2022, and Petitioners/Defendants-Appellees Lorna Gagnon and Prestige Realty Group Limited Liability Company's motion for clarification filed on February 28, 2022, in order to amend language in the majority opinion filed on February 17, 2022, relating to the non-solicitation agreement and Sherrie Au, and to attorneys' fees and costs.

However, for reasons set forth in my concurrence and dissent filed on February 17, 2022, I conclude that Locations' breach of contract claims against Gagnon based on the non-compete clause may be enforceable. For that reason, I would grant Respondent/Plaintiff-Appellant Prudential Locations, LLC N/K/A Locations LLC's motion for clarification and vacate the circuit court's grant of summary judgment to Gagnon with respect to the non-compete clause.

DATED: Honolulu, Hawai'i, March 31, 2022.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

