

Electronically Filed
Supreme Court
SCPW-22-0000526
14-OCT-2022
11:13 AM
Dkt. 50 ODDP

SCPW-22-0000526

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

SOF-XI KAUAI PV GOLF, L.P.,
a Delaware limited partnership, Petitioner,

vs.

THE HONORABLE KATHLEEN N.A. WATANABE,
Judge of the Circuit Court of the Fifth Circuit,
State of Hawai‘i, Respondent Judge,

and

LORRAINE MULL, as Trustee of the Lorraine S. Mull Revocable
Trust; and FRANCES R. WHITE, as Co-Trustee of the Andrew and
Frances White Trust dated April 11, 2019, Respondents.

ORIGINAL PROCEEDING
(CASE NO. 5CCV-21-0000063)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., McKenna, Wilson, and Eddins, JJ.,
and Circuit Judge Kuriyama, in place of Nakayama, J., recused)

Upon consideration of the petition for a writ of mandamus, filed on August 30, 2022, the documents attached and submitted in support, and the record, the Respondent Judge had jurisdiction to consider whether the circuit court had jurisdiction, and it was within the Respondent Judge’s discretion to grant or deny a motion to dismiss for lack of jurisdiction.

If Petitioner disagreed with the Respondent Judge’s ruling

on a motion to dismiss, Petitioner had alternative means to seek relief by pursuing an interlocutory appeal. See Hawai'i Revised Statutes § 641-1(b); Hawai'i Rules of Appellate Procedure Rule 4(a)(1). A writ of mandamus is not intended to be used in lieu of normal appellate procedures.

The Findings of Fact, Conclusions of Law, and Order granting the second motion for order to show cause, filed on August 24, 2022, which was filed after and based in part on the August 2, 2022 hearing, does not require the production of work product. See State v. Milne, 149 Hawai'i 329, 335, 489 P.3d 433, 439 (2021) ("[A] judge's written order generally controls over its oral statements."). The Order instead requires Petitioner to provide a privilege log at the time of document production, which does not constitute a flagrant and manifest abuse of discretion. See Hawai'i Rules of Civil Procedure Rule 26(b)(6). An extraordinary writ is thus not warranted. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999). Accordingly,

It is ordered that the petition is denied.

DATED: Honolulu, Hawai'i, October 14, 2022.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins

/s/ Christine E. Kuriyama

