

**Electronically Filed
Intermediate Court of Appeals
CAAP-24-0000324
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NO. CAAP-24-0000324

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

NICOLE JADAN, Plaintiff-Appellant, v.
STATE OF HAWAI'I, DEPARTMENT OF LAND AND NATURAL RESOURCES,
Defendant/Third-Party Plaintiff-Appellee, and
IMUA LANDSCAPING CO., INC., Third-Party Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CCV-20-0000707)

ORDER APPROVING STIPULATION TO DISMISS APPEAL

(By: Leonard, Acting Chief Judge, Hiraoka and McCullen, JJ.)

Upon consideration of the Notice of Firm Name Change and Disassociation of Cary T. Tanaka as Counsel for Third-Party Defendant-Appellee Imua Landscaping Co., Inc. [(Imua Landscaping)] (Notice), filed October 4, 2024, by attorney Jared J. Say (Say), which the court construes as a motion to withdraw as counsel, under Hawai'i Rules of Appellate Procedure (HRAP) Rule 50(a), the Stipulation for Dismissal with Prejudice of all Claims and Parties (Stipulation), filed October 4, 2024, by Imua Landscaping, the papers in support, and the record, it appears that:

(1) Imua Landscaping is represented in this appeal by Cary T. Tanaka (Tanaka), Greg H. Takase (Takase), and Say from the Law Office of Cary T. Tanaka;

(2) The Notice states the Law Office of Cary T. Tanaka changed its name to the Law Office of Darlene F. Itomura; Tanaka is no longer associated with the firm; Tanaka's name should be

removed from the JEFS record for this case; and Takase and Say should continue to be served with e-filings;

(3) HRAP Rule 50(a) provides with respect to withdrawal, that an attorney moving to withdraw as counsel of record "must show that notice of the motion was given by service upon the attorney's client." HRAP Rule 50(a);

(4) The Notice does not specify whether the client was informed of the withdrawal of counsel. Nonetheless, the court will allow Tanaka to withdraw, but require Say to demonstrate service of the Notice upon the client;

(5) The filing fees have been paid and the appeal has been docketed;

(6) In the Stipulation, the parties stipulate to dismiss the appeal with prejudice and bear their own attorneys' fees and costs, under HRAP Rule 42. The Stipulation is signed by counsel for all appearing parties; and

(7) Dismissal of the appeal is authorized by HRAP Rule 42(a).

Therefore, IT IS HEREBY ORDERED that the Notice, construed as a motion to withdraw as counsel, is granted. Within ten days from the date of this order, Say shall file a declaration, affidavit, or certificate of service indicating the Notice was provided to the client, or that the client was otherwise informed of Tanaka's withdrawal.

IT IS FURTHER ORDERED that the appellate clerk shall end Tanaka as a party to this appeal in the Judiciary Information Management System.

IT IS FURTHER ORDERED that the Stipulation is approved and the appeal is dismissed with prejudice. The parties shall bear their own attorneys' fees and costs.

DATED: Honolulu, Hawai'i, October 17, 2024.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge