

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-21-0000399

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

JARED K. MURAYAMA, Plaintiff-Appellant,
v.
KALANI CONSTRUCTION INCORPORATED, a Hawaii corporation;
RANDAL K. MIYASHIRO, SR.; HILDEGARDE MIYASHIRO; JOHN MUNDON;
KIP FURUGEN; EARTHWORKS PACIFIC, INC., a Hawaii corporation;
SAMUEL K. THRONAS CONSTRUCTION, INC., a Hawaii corporation,
Defendants-Appellees,
and
JOHN DOES 1-10; JANE DOES 1-10; and DOE ASSOCIATIONS,
CORPORATIONS OR OTHER ENTITIES 1-10, Defendants

KALANI CONSTRUCTION INCORPORATED, a Hawaii corporation and
RANDAL K. MIYASHIRO, SR., Counterclaimants-Appellees,
v.
JARED KAWAOKA MURAYAMA and DONNA MOI LINN MURAYAMA, individually
and as Co-Trustees of the JARED AND DONNA MURAYAMA 1997 TRUST
dated January 8, 1997, Counterclaim Defendants-Appellees

KALANI CONSTRUCTION INCORPORATED, a Hawaii corporation and
RANDAL K. MIYASHIRO, SR., Third-party Plaintiffs-Appellees,
v.
JARED KAWAOKA MURAYAMA, as Co-Trustee of the JARED AND DONNA
MURAYAMA 1997 TRUST dated January 8, 1997; DONNA MOI LINN
MURAYAMA, individually and as Co-Trustee of the JARED AND DONNA
MURAYAMA 1997 TRUST dated January 8, 1997,
Third-party Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CC191000062)

SUMMARY DISPOSITION ORDER

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

Jared K. **Murayama** appeals from the June 4, 2021 "**Order Denying [Murayama]'s Second Motion for Reconsideration of Denial of Motion for Partial Summary Judgment, or in the Alternative to Preclude Counterclaim Plaintiffs from Seeking or Obtaining Any Interest in the Puhi Lot**" entered by the Circuit Court of the Fifth Circuit.¹

We have jurisdiction only to review paragraph nos. 2 and 3 of the Order, which ordered Murayama to pay \$6,887.43 in attorneys fees and costs to **Kalani** Construction Incorporated and Randal K. **Miyashiro**, Sr. within 30 days. See Harada v. Ellis, 60 Haw. 467, 480, 591 P.2d 1060, 1070 (1979) (noting order for payment of discovery sanction enforceable through contempt proceedings was immediately appealable under collateral order doctrine). We review for abuse of discretion. Kaina v. Gellman, 119 Hawai'i 324, 329, 197 P.3d 776, 781 (App. 2008).

The Order did not state the authority for the circuit court's award of fees and costs, as required by Kaina, 119 Hawai'i at 331, 197 P.3d at 783.

If the circuit court relied on Hawai'i Rules of Civil Procedure (**HRCP**) Rule 11, it did not follow the procedure prescribed by HRCP Rule 11(c)(1)(B).

If the circuit court relied on its inherent power, it didn't make "a specific finding of bad faith." Kaina, 119 Hawai'i at 331, 197 P.3d at 783. The record does not show "clear evidence that the challenged actions [were] entirely without color, and [were] taken for reasons of harassment or delay or for other improper purposes[.]" Enos v. Pac. Transfer & Warehouse, Inc., 79 Hawai'i 452, 458, 903 P.2d 1273, 1279 (1995). The transcript of the May 12, 2021 hearing on Murayama's motion for reconsideration does not show "a high degree of specificity in the factual findings of the" circuit court. Id.

¹ The Honorable Kathleen N.A. Watanabe presided.

The circuit court acted outside of its discretion by assessing Kalani's and Miyashiro's attorneys fees and costs against Murayama without stating the authority for the award and either following the procedure under HRCF Rule 11(c)(1)(B) or making a specific finding of bad faith. Paragraph nos. 2 and 3 of the circuit court's June 4, 2021 Order are reversed.

DATED: Honolulu, Hawai'i, November 1, 2024.

On the briefs:

Daniel Hempey,
Keith Matsuoka,
Michelle Premeaux,
for Plaintiff/
Counterclaim Defendant-
Appellant Jared K. Murayama.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge

Margery S. Bronster,
Sunny S. Lee,
Lanson K. Kupau,
Kelly A. Higa Brown,
for Defendants/Counter-
claimants-Appellees
Kalani Construction, Inc. and
Randal K. Miyashiro
and Defendants-Appellees
Hildegard Miyashiro and
Earthworks Pacific, Inc.