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Intermediate Court of Appeals
CAAP-23-0000341
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NO. CAAP-23-0000341

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STUART B. GLAUBERMAN, by his Managing Agent,
KFG PROPERTIES, INC., Plaintiff-Appellee, v.
CELESTE M. GONSALVES, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
KO'OLAUPOKO DIVISION
(CASE NO. 1DRC-21-0002121)

SUMMARY DISPOSITION ORDER

(By: Hiraoka, Presiding Judge, Wadsworth and Guidry, JJ.)

Celeste M. **Gonsalves**, representing herself, appeals from the March 4, 2024 **Judgment** for Stuart B. **Glauber**man entered by the District Court of the First Circuit, Ko'olaupoko Division.¹ Gonsalves challenges **(1)** the April 12, 2023 denial of her motion to continue the April 14, 2023 trial on Glauber's damage claims,² and **(2)** the May 9, 2023 order denying her motion to set aside her default.³ We affirm.

Glauberman sued Gonsalves on March 3, 2021, for refusing to vacate rented premises after being given a 45-day notice terminating her tenancy. A judgment for possession and

¹ The Honorable Shellie K. Park-Hoapili presided.

² The Honorable Karin L. Holma presided.

³ The Honorable James C. McWhinnie presided.

APPX: A

writ of possession were entered on September 29, 2021.⁴ Gonsalves appealed. We affirmed. Glaubergerman v. Gonsalves, No. CAAP-21-0000536 & No. CAAP-21-0000545, 2024 WL 244468 (Haw. App. Jan. 19, 2024), cert. rejected, SCWC-21-0000536, 2024 WL 2669093 (Haw. May 24, 2024).

The trial date for Glaubergerman's damage claims was set and continued several times. It was ultimately set for April 14, 2023. On April 12, 2023, Gonsalves again moved to continue the trial. The motion was denied. Gonsalves went to the courthouse on April 14, 2023, but left and did not appear for the trial. The district court conducted a proof hearing and ordered judgment by default for \$43,417.20.

Gonsalves moved to set aside her default on April 17, 2023. The motion was heard on May 5, 2023. The order denying the motion was entered on May 9, 2023. Gonsalves filed her notice of appeal on May 10, 2023. The Judgment was entered on March 4, 2024, on a temporary remand.

(1) Gonsalves contends the district court erred by denying her April 12, 2023 motion to continue the April 14, 2023 trial date. After the district court denied a continuance, Gonsalves went to the courthouse and checked in with the bailiff on April 14, 2023. She says she was "very distraught and [c]onstantly experiencing an ongoing [p]anic [a]ttack." She says the bailiff asked if she needed medical attention. She said she got "more scared" and instead asked the bailiff to show the judge a "letter and verifying documents, but he refused." The bailiff's refusal was appropriate because ex parte communication with the court is not allowed. She was instructed to wait until her case was called. She says her panic attack worsened; she told the bailiff she was not well and needed to get medical treatment; and left the courtroom before her case was called. She could have explained her situation to the presiding judge after her case was called, but she did not. Under these

⁴ Judge Holma presided.

circumstances, and given the several prior continuances, the district court's denial of Gonsalves' motion to continue was not an abuse of discretion.

(2) Gonsalves contends the district court erred by denying her motion to set aside her default. We review for abuse of discretion. Bassan v. Holzman, 3 Haw. App. 677, 678, 657 P.2d 1065, 1065-66 (1983).

A motion to set aside a default judgment is subject to District Court Rules of Civil Procedure (DCRCP) Rule 60(b). Bassan, 3 Haw. App. at 678, 657 P.2d at 1065-66. The moving party must show three things: (1) the nondefaulting party will not be prejudiced by the reopening, (2) the defaulting party has a meritorious defense, and (3) the default was not the result of inexcusable neglect or a wilful act. Id. at 678, 657 P.2d at 1066; cf. Chen v. Mah, 146 Hawai'i 157, 173, 457 P.3d 796, 812 (2020) (describing "three-prong test applicable to motions to set aside default judgments under [Hawai'i Rules of Civil Procedure] Rule 60(b)"). The elements are conjunctive; failure to establish one will result in relief being denied. Chen, 146 Hawai'i at 174, 457 P.3d at 813.

Gonsalves had the burden to show she had a meritorious defense to Glauberman's damage claims. Gonsalves did not request the trial transcript for the record on appeal, but the record shows the district court awarded Glauberman \$42,402.20 for rent, \$350.00 for repairs, and \$665.00 for locksmith costs. Gonsalves's moving papers discussed her mental health and her father's death, but offered no evidence she did not owe rent or was not responsible for repair or locksmith costs.

Gonsalves argues she "was not properly served" with Glauberman's opposition. Rules of the District Court Rule 7 requires that an opposition to a motion be filed and served "not later than 72 hours" before the time set for the hearing. The hearing on Gonsalves's motion was set for 9:30 a.m. on May 5, 2023. Glauberman's opposition was filed at 6:19 a.m. on May 3, 2023. It was untimely. It was served on Gonsalves by email,

which is not allowed by DCRCP Rule 5(b). But there was no harm to Gonsalves because her moving papers didn't satisfy her burden to show she had a meritorious defense to Glauberman's damage claims.

Gonsalves made representations to the district court, and argues that the court did not view her exhibits. But during the hearing on her motion she stated she didn't file her exhibits. She has not provided a citation to the record on appeal where her exhibits, or any other documents supporting the representations she made to the district court, may be found. We are not obligated to search the record for information that should have been provided by Gonsalves. Hawaii Ventures, LLC v. Otaka, Inc., 114 Hawai'i 438, 480, 164 P.3d 696, 738 (2007). We conclude that the district court acted within its discretion by denying Gonsalves's motion to set aside the default judgment after she failed to meet her burden of proving she had a meritorious defense to Glauberman's damage claims.

The Judgment entered by the district court on March 4, 2024, is affirmed.

DATED: Honolulu, Hawai'i, June 16, 2025.

On the briefs:

Celeste M. Gonsalves,
Self-represented
Defendant-Appellant.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

Stuart B. Glauberman,
Self-represented
Plaintiff-Appellee.

/s/ Kimberly T. Guidry
Associate Judge

KENNETH K.S. LAU #2158-0
Suite 1308, Century Square
1188 Bishop Street
Honolulu, Hawaii 96813
Telephone: 524-2215

Attorney for Plaintiff

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FIRST CIRCUIT
1DRC-21-0002121
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IN THE DISTRICT COURT OF THE FIRST CIRCUIT

KOOLAUPOKO DIVISION

STATE OF HAWAII

STUART B. GLAUBERMAN, by his
Managing Agent, KFG PROPER-
TIES, INC.,

Plaintiff,

vs.

CELESTE M. GONSALVES,

Defendant.

Civil No. 1DRC-21-2121

(Summary Possession)

ORDER DENYING DEFENDANT'S
MOTION TO SET ASIDE DEFAULT
FILED ON APRIL 17, 2023;
CERTIFICATE OF SERVICE

Hearing: 5/5/2023
9:30 a.m.

Judge James C. McWhinnie

CLERK
C. A. ROYO

LEGAL DOCUMENTS

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DISTRICT COURT OF
THE FIRST CIRCUIT


ORDER DENYING DEFENDANT'S MOTION TO SET ASIDE DEFAULT
FILED ON APRIL 17, 2023

Defendant's Motion To Set Aside Default filed on April
17, 2023 having come on for hearing before the Honorable James C.
McWhinnie on Friday, May 5, 2023, with KENNETH K.S. LAU appearing on
behalf of Plaintiff and Defendant CELESTE M. GONSALVES, and after
hearing argument and taking into consideration the pleadings filed
in this matter,

Appx B

IT IS HEREBY ORDERED AND DECREED that Defendant's Motion
To Set Aside Default filed on April 17, 2023 be DENIED.

DATED: Honolulu, Hawaii, MAY 09 2023


JUDGE OF THE ABOVE-ENTITLED COURT
AM/50

APPROVED AS TO FORM AND CONTENT:


CELESTE M. GONSALVES
Defendant Pro Se

Civil No. 1DRC-21-2121

Order Denying Defendant's Motion To Set Aside Default filed on
April 17, 2023

STUART B. GLAUBERMAN, by his Managing Agent, KFG PROPERTIES, INC. vs.
CELESTE M. GONSALVES

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SCWC-23-0000341

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STUART B. GLAUBERMAN, by his Managing Agent,
KFG PROPERTIES, INC.,
Respondent/Plaintiff-Appellee,

vs.

CELESTE M. GONSALVES,
Petitioner/Defendant-Appellant.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP-23-0000341; CASE. NO. 1DRC-21-0002121)

ORDER REJECTING APPLICATION FOR WRIT OF CERTIORARI
(By: McKenna, Acting C.J., Eddins, Ginoza, and Devens, JJ.,
and Circuit Judge DeWeese, assigned by reason of vacancy)

Petitioner Celeste M. Gonsalves' Application for Writ
of Certiorari, filed on September 15, 2025, is hereby rejected.

DATED: Honolulu, Hawai'i, October 21, 2025.

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens

/s/ Wendy M. DeWeese



Appx: C

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SCWC-23-0000341

IN THE SUPREME COURT OF THE STATE OF HAWAII

STUART B. GLAUBERMAN, by his) CASE NUMBER: SCWC-23-0000341
Managing Agent KFG Properties, Inc.)
Respondent-Plaintiff-Appellee)
(CAAP-23-0000341))

v.

CELESTE M. GONSALVES,
Petitioner-Defendant-Appellant)

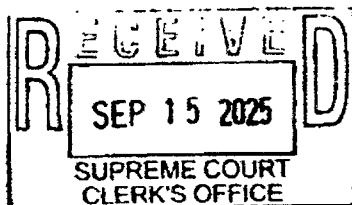
) APPLICATION FOR WRIT OF CERTIORARI
) OF THE INTERMEDIATE COURT OF APPEALS'
) FINAL JUDGMENT ORDER AFFIRMING ON
) JULY 16, 2025; CERTIFICATE OF SERVICE
)
) ICA Associate Judge Keith K. Hiraoka, Presiding
) ICA Associate Judge Clyde J. Wadsworth
) ICA Associate Judge Kimberly T. Guidry

APPLICATION FOR A WRIT OF CERTIORARI

APPENDICES "A" – "K"

Celeste M. Gonsalves
P. O. Box 620
Kailua, Hawaii 96734
Telephone: (808) 445-5553
Email: cmgonsal@hawaii.edu
Petitioner-Defendant-Appellant

Celeste M. Gonsalves
Representing as Pro Se



Appx: D

APPLICATION FOR WRIT OF CERTIORARI

Petitioner-Defendant-Appellant Celeste M. Gonsalves (Petitioner) in the Intermediate Court of Appeals ("ICA") for Case: CAAP-23-0000341, pursuant to Hawaii Rules of Appellate Procedure Rule 40.1 respectfully prays that an application for Writ of Certiorari be issued by the Hawaii Supreme Court to review the ICA's Summary Disposition Order ("SDO") filed on June 16, 2025, in Dkt. 70; Appendix "A" attached. Judgment on Appeal ("JOA") was filed on July 15, 2025, in Dkt. 72; Appendix "B" attached.

The Hawaii Supreme Court has jurisdiction to entertain and consider this application for a Writ of Certiorari pursuant to Hawaii Revised Statutes ("HRS") § 602-5.

I. QUESTIONS PRESENTED

- 1.) Whether the ICA gravely erred by affirming a judgment where KFG Properties, Inc., a corporate plaintiff, proceeded without counsel and the individual landlord filed briefs pro se, which is considered a legally nullity under Hawaii precedent.
- 2.) Whether the ICA gravely erred in affirming a damages judgment arising from an uncertified Section 8 lease by failing to recognize that the judgment was void under the Supremacy Clause due to noncompliance with governing federal regulations."
- 3.) Whether the ICA abused its discretion by affirming the trial court's denial of a continuance for medical reasons despite a certified doctor's note covering the hearing date, particularly when a subsequent ICA decision on August 8, 2025 held similar facts constituted an abuse of discretion of the trial judge.
- 4.) Whether the ICA commit a grave error of law by applying an incorrect standard of review to the administrative decision below, where its Summary Disposition Order relied on a factual assessment that is demonstrably inconsistent with the record?

II. STATEMENT OF PRIOR PROCEEDINGS

This case began in the District Court of the First Circuit, Koolaupoko Division, in Case: 1DRC-21-0002121, where Plaintiff-Appellees Stuart B. Glauberman, by his Managing Agent KFG Properties, Inc., filed a Complaint for Summary Possession against Defendant-Appellant

Celeste M. Gonsalves on March 3, 2021. This case derived from a Granted Plaintiff's Motion for Summary Judgment for Possession ruled on September 24, 2021, and this case reflects the Damages portion of this Hawaii Eviction Case.

District Court Case: 1DRC-21-0002121 Damages Trial was originally scheduled for July 29, 2022, however due to a conflict with the Court's schedule, was rescheduled for August 12, 2022, in Dkt. 188. Defendant-Appellant filed a Motion to Dismiss her Counterclaim and a Motion for Protective Order that was heard on August 12, 2022, which continued the Trial for Damages to October 21, 2022, in Dkts. 206 & 208. Trial for Damages set for October 21, 2022 was again Continued due to Plaintiff's request to have Judge Karin L. Holma preside, over Defendant Celeste M. Gonsalves' Objections stating she was ready for the Trial for Damages and all her Witnesses were Subpoenaed and there. New Trial date of December 9, 2022 issued. Defendant was on Medical Leave until January 23, 2023, Dkt. 226. Status Conference held on January 27, 2023, and Trial for Damages set for April 14, 2023., Dkt. 236. Defendant Celeste M. Gonsalves filed a Continuance on April 11, 2023 with a submitted doctor's letter, which was Denied on April 12, 2023, DKt. 238. Defendant was focused to attend Court on April 14, 2023, left to seek emergency medical treatment, and the Trial for Damages was deemed a Default Judgment and converted to a Proof Hearing for Daamges, Dkt. 240. Defendant filed a Motion to Set Aside Default in Dkt. 243, which was heard and Denied on May 5, 2023 in Dkt. 275. Final Judgment was issued on May 9, 2023, in Dkt 278. Notice of Appeal filed was timely filed on May 10, 2023, in Dkt. 280.

ICA Appeal Case: CAAP-23-0000341 was generated and docketed on May 12, 2023. SDO was issued on June 16, 2025 in Dkt. 70, and JOA Affirming issued thereafter on July 15, 2025 in Dkt. 72. Petitioner Celeste M. Gonsalves requested an Extension to file an application

for a Writ of Certiorari on July 21, 2025, which was Granted by the Clerk. Dkts. 74 & 76. Computation of time allows for an additional three days due to Petitioner Celeste M. Gonsalves' non-JEF user status to allow for mailing time. JOA was issued on July 15, 2025. Thirty plus three days equals an application filing deadline of August 17, 2025. An approved extension to file adds another thirty days, which results in a due date for filing on September 16, 2025. Petitioner Celeste M. Gonsalves' Application for a Writ of Certiorari is timely filed and eligible for consideration from the Hawaii Supreme Court.

III. STATEMENT OF THE CASE

Petitioner was a tenant under the federally subsidized Section 8 Housing Choice Voucher Program. The landlord obtained a judgment for possession without complying with mandatory federal eviction procedures and laws set forth in CFR's. Petitioner raised these federal rule violations during Plaintiff's Motion for Summary Judgment on September 24, 2021 for Possession, and in the subsequent ICA appeal. However, the trial court declared the federal arguments "moot," and the ICA affirmed the possession judgment without addressing many of Petitioner's 'Points of Errors,' which included references to the federal rules and laws for Section 8 Tenants. Petitioner is addressing her illegal evictions in other, separate legal actions.

This Appeal's case arose from the Damages portion of the Possession case, in which Petitioner complied with all the steps to request an emergency Continuance, filed on April 11, 2023, for one month because her father was about to die any day. Continuance was Denied on April 12, 2023, and a half hour from picking up the Motion Petitioner's father died. Petitioner was forced to report to Court on April 14, 2023, although not mentally stable enough to handle a Trial for Damages and other Motions in two different cases. Petitioner suffered greatly with ongoing panic attacks that began to affect her Heart, so she left court and went to seek

emergency medical treatment at the nearest hospital, Castle Medical Center. The Court proceeded with the Trial for Damages, Declared Default Judgment, and instantly conducted a Proof Hearing to assess and determine the amount of Damages.

Petitioner filed a Motion to Set Aside Default, which was heard on May 5, 2023, and Denied due to many reasons that Judge stated that were irrelevant and improper. Petitioner file this Appeal on May 10, 2023, immediately after the Final Judgment Order was issued on May 9, 2023. ICA's Summary Disposition Order was issued on June 16, 2025, and Judgment on Appeal was issued on July 15, 2025. Petitioner is challenging the ICA's SDO decisions, respectively.

IV. ARGUMENT

1.) Whether the ICA gravely erred by affirming a judgment where KFG Properties, Inc., a corporate plaintiff, proceeded without counsel and the individual landlord filed briefs pro se, which is considered a legally nullity under Hawaii precedent.

It is a legal nullity under Hawaii precedent for a Corporation in a lawsuit, either as Plaintiff or Defendant, to be deemed as representing as Pro Se by an ICA Judge to allow pleadings and briefs to be filed. The Captioned Title for ICA Case: CAAP-21-0000341 is Stuart B. Glauberman, by his Managing Agent KFG Properties, INC., Plaintiff-Appellee v. Celeste M. Gonsalves, Defendant-Appellant. The Plaintiff in the underlying District Court Case: 1DRC-21-0002121 was legally represented by Attorney Kenneth Law, who was an attorney hired through KFG Properties, INC. After the Appeal was filed in ICA Case: CAAP-23-000341, Attorney Kenneth Law filed a Notice of Withdrawal of Counsel on August 14, 2023, shown in **Appx: C**. An ICA Order dated September 15, 2023, accepted Attorney Lau's Notice, although it stated it was improper under the rule he cited, and deemed the landlord as approved to proceed as pro se unless *he decides* to get new counsel. **Appx: D**. The result is that all of Stuart B. Glauberman's documents and brief filings are legally null because a Corporation **MUST** be represented by legal

counsel, and cannot legally be represented as pro se. The ICA also accepted his filings as submitted, even though he changed the caption title to his single name and omitted the Corporation Plaintiff itself.

This action by the ICA Judge warrants review under a Writ of Certiorari, as the outcome of any ruling as depicted in the SDO and JOA are legally Void.

2.) Whether the ICA gravely erred in affirming a damages judgment not arising from a Certified Section 8 lease by failing to recognize that the judgment was void under the Supremacy Clause due to noncompliance with governing federal regulations."

The Certified Section 8 Lease and its Mandatory HUD Tenancy Addendum was not filed in the original Complaint for Summary Possession on March 3, 2021. **Appx: E.** During the course of litigation and in hearings for Motions, Plaintiff did not request for leave of court to amend the complaint. However, Plaintiff did later submit the Mandatory HUD Tenancy Addendum as an attachment in the Motion for Summary Judgment. Plaintiff included the originally filed defective rental lease, along with the HUD Tenancy Addendum in the Exhibits filed with the Court for this Damages case as Exhibit 1. **Appx: F.** However, this action does not cure an unconscionable filing per Hawaii State Landlord/Tenant Code, and it does not conform to Federal HUD Section 8 Mandatory Eviction Laws, as follows:

Title 24 CFR 882-511 Lease and Termination of Tenancy (a)(1)(b)(c)(1)(2)(3):

(a) Lease.

(1) The lease must include all provisions required by HUD, and must not include any provisions prohibited by HUD.

HRS 521-3 Supplementary General Principles of Law, Other Laws, Applicable:

(c) Nothing in this chapter shall be applied to interfere with any right, obligation, duty, requirement, or remedy of a landlord or tenant which is established as a condition or requirement of any program receiving subsidy from the government of the United States. To the extent that any provision of this chapter is inconsistent with such a federal condition or requirement then as to such subsidized project the federal condition or requirement shall control.

HRS 521-75 Unconscionability:

(a) In any court action or proceeding with respect to a rental agreement, if the court as a matter of law finds the agreement or any provision of the agreement to have been unconscionable at the time it was made the court may refuse to enforce the agreement, or it may enforce the remainder of the agreement without the unconscionable provision, or it may so limit the application of any unconscionable provision as to avoid any unconscionable result.

Plaintiff's Damages Trial was converted to a Proof Hearing on April 14, 2023, in District Court Case: 1DRC-21-0002121 in Dkt. 241. Federal HUD Fair Housing Laws and Section 8 Rules depict specific mandatory policies for evictions that landlords MUST follow to be deemed valid per federal law. The legal, Certified Section 8 Lease was never filed in the Summary Possession Eviction case, which is also deemed as invalid and an illegal eviction not supported by federal law. This issue is being addressed separately. However, the ICA erred in not confirming if the lease filed with the Exhibits for the Proof Hearing was a valid, Certified Section 8 Lease per federal law. Plaintiff Exhibits located in **Appx: F** supports this argument due to grave error of law. Exhibit:1 located within **Appx: F** is not the Certified, Legal Lease between landlord/tenant that federal law recognizes as legal and binding. Petitioner presents **Appx: G** as her legal, Certified Section 8 Lease that is legal and binding to all Federal HUD Laws, and the Section 8 Program.

This action conforms to the Supremacy Clause because an invalid lease filed in a legal action where the underlying rental tenant was on a federal rental assistance program supersedes Hawaii State Law, and any filing in connection with a rental property with federally funded assistance must abide by all mandatory Federal HUD Laws to be deemed valid.

The ICA Damages Judgment was not based on the landlord/tenant's Certified Section 8 Lease, contrary to 24 C.F.R. §§ 982.308 and 982.451 and 42 U.S.C. § 1437f. Federal Law requires the Certified Lease and HUD Tenancy Addendum to be filed, and in their absence, any

filings are unconscionable and legally void.

The ICA's affirmation of the judgment compounded this violation, rendering the judgment void under the Supremacy Clause and FRCP & HRCF Rule 60(b)(4).

This action by the ICA warrants review under a Writ of Certiorari, as the outcome of any ruling as depicted in the SDO and JOA are legally Void by Supremacy Clause.

3.) *Whether the ICA abused its discretion by affirming the trial court's denial of a continuance for medical reasons despite a certified doctor's note covering the hearing date, particularly when a subsequent ICA decision on August 8, 2025 held similar facts constituted an abuse of discretion of the trial judge.*

The ICA SDO in **Appx: A, pages 2-3** describe their reasons for affirming the Denial of a Motion to Continue filed on April 11, 2023. However, Petitioner's Motion contained her own attachment that explained in detail what her current mental condition was at the time and the symptoms she was dealing with that warranted a break to further deal with the upcoming death of her father. The ICA did not mention that her father died just a half hour after learning her Continuance was Denied on April 12, 2023, nor did they reference that she was distraught because her father had died just two days prior, that she was unable to sleep, but still forced to attend Court on April 14, 2023. Petitioner left Court to go to the hospital to seek emergency treatment because those were the steps she was trained to take as part of her coping plan when she experiences ongoing panic attacks.

The issue here is that the ICA did not account for the Board-Certified Doctor's Note dated April 11, 2023, that specifically stated Petitioner was under his care and incapacitated from this district court case for the next four weeks and requested for the case to be rescheduled to May 12, 2023 or after. **Appx: H.** The result of the Denied Continuance was that Petitioner further suffered immensely by having a mental break-down at the Courthouse, and all the ICA stated in their SDO is that *she could have waited until her case was called to explain to the*

judge. However, the case was not called until well over an hour later and it was an emergency.

The ICA affirmation of this Denied Motion for Continuance issued on June 16, 2025, directly contradicts an ICA SDO in CAAP-23-0000127 issued just weeks later that ruled the Denial of a Motion for Continuance as an *abuse of discretion* on August 8, 2025. **Appx: I.**

These two requests for a Motion for Continuances due to health matters correlate because both litigants informed the Court of their medical status and need for immediate treatment, both filed a Board-Certified Doctor's Letter, both doctor's notes contain the time frame for medical leave to include the Court Hearing date, both Motions were Denied by the Court, and both litigants filed and pursued Appeals to challenge this aspect, as well as other alleged infractions. If the standard of review and consideration was exhausted in **Appx: I** that granted a reversal order, then the ICA abused its discretion when they Denied the same outcome to Petitioner.

This action by the ICA warrants review under a Writ of Certiorari for abuse of discretion because it demonstrates a grave error of inconsistencies within its own, subsequent ICA decision contrasting their August 8, 2025 decision holding similar circumstances that deemed it as an abuse of discretion.

4.) Whether the ICA commit a grave error of law by applying an incorrect standard of review to the administrative decision below, where its Summary Disposition Order relied on a factual assessment that is demonstrably inconsistent with the record?

The ICA provides many statements on their findings that are either false or purposely misrepresented in their SDO to justify the Denial of Petitioner's Motion to Set Aside Default. Petitioner quotes ICA's SDO directly, and provides factual documental proof from the actual Record included in her Opening Brief, as follows.

ICA SDO Pages 3-4:

"Gonsalves had the burden to show she had a meritorious defense to Glauberman's damage claims. Gonsalves did not request the trial transcript for the record on appeal, but the record shows the district court awarded Glauberman \$42,402.20 for rent.

\$350.00 for repairs, and \$665.00 for locksmith costs. Gonsalves's moving papers discussed her mental health and her father's death, but offered no evidence she did not owe rent or was not responsible for repair or locksmith costs."

May 5, 2023, TRANSCRIPT located in Appx: J.

Petitioner's Opening Brief ICA Case: CAAP-23-0000314 Pages 17 & 18:

My Exhibits did not reflect a Meritorious Defense in Section C and

Trial Judge stated he viewed my Exhibits in Section D:

Case: CAAP-23-0000341 (Dkt. 26) (May 5, 2023 Transcript, 4:13-25)

THE COURT: And you submitted some exhibits that were not relevant to the only claim, which was regarding those damages.

MS. GONSALVES: So, Your Honor, my exhibit -- did -- did you see my exhibits? Is that what you are saying?

THE COURT: You filed your exhibits or what you shared with Mr. Lau.

MS. GONSALVES: Ah, I didn't file my exhibits. I -- I -- I gave him the copy because I was being prepared -- I -- I was -- I was -- my intention was to come to court and to -- and to fight my case. Now, that's his perception of my exhibits. And.

Case: CAAP-23-0000341 (Dkt. 26) (May 5, 2023 Transcript, 5:1-25)

within the trial, I would have had the opportunity to show my exhibits and to show how and prove my -- my stance as a -- as a defendant, how I'm (sic) actually not owed the unpaid rent. I'm not a holdover tenant. I'm a Section 8 recipient. And the dates on the lease were not correct. And I -- and that's why my information is different from what he wants it to be, because he claimed that because there was no, you know, canceled checks or anything, no canceled checks or receipts for paid rent, then I don't have a right to a new trial. Well, that one was decided on. This is to set aside the default judgment. Now, I also want to state, there are other things that I would have been able to mention in the trial. And there are two very important things. And one of them is that, you know, the rental assistance program did approve to pay all the back rent. And Mr. Glauberman refused it and told me to cancel the check. And I called Mr. Lau, and told him what had happened. And he said, okay, well, I'll talk to him. And they never did. And so that was an opportunity for him to get 19 thousand -- about 18, \$19,000 back. And when he didn't -- he refused it, he said, no, I'm waiting for the sheriffs to come and kick you out. So then, okay, well, then now there no

Case: CAAP-23-0000341 (Dkt. 26) (May 5, 2023 Transcript, 6:1-16)

opportunity for that, now the rental program is closed. I no longer live there. And that's all the information that I could have prove -- I could -- I could have presented in the defense, as well as the wrong lease even being filed. So it -- you know, that's why there's no canceled checks or anything in there. And another thing is when we went to mediation, they didn't follow the rules. Mr. Glauberman refused to participate. He -- he said he was only there to observe. KFG Properties said they're only to observe. And when Mr. Lau spoke to me, he was

just aggressive at me. And I had a proposal for them, because I may -- I -- I -- my Section 8 worker had a proposal. And I was never able to present it because they wouldn't speak to me. So I was stuck every which way, you know. And then I appealed the case, and it's still on the appellate court.

Petitioner reports that her Witness List submitted to opposing counsel with her Exhibit List showed many witnesses she planned on questioning on direct examination, and on cross-examination to refute any claims, receipts, and testimonies. **Appx: K.** For example:

- a.) **BACK RENT:** Petitioner could have questioned the landlord and the attorney (he was on her *Witness List*, too) during the Damage Trial because both knew about the Approved Rental Assistance Payment that the landlord refused and ordered Petitioner to cancel. Also, Petitioner would have also challenged the 'Holdover Tenant' double rent, since the bulk of the rental tenancy occurred during the Covid-19 Eviction Moratorium when Landlords were not allowed to raise the rent or charge as a 'Holdover' fees.
- b.) **DAMAGES to UNIT:** The pictures of the damages to the unit that were approved by the Court did not conform to the rules in **HRS 521-42**, which Petitioner planned on challenging.

Prior to the initial date of initial occupancy, the landlord shall inventory the premises and make a written record detailing the condition of the premises and any furnishings or appliances provided. Duplicate copies of this inventory shall be signed by the landlord and by the tenant and a copy given to each tenant. In an action arising under this section, the executed copy of the inventory shall be presumed to be correct. If the landlord fails to make such an inventory and written record, the condition of the premises and any furnishings or appliances provided, upon the termination of the tenancy shall be rebuttably presumed to be the same as when the tenant first occupied the premises.

The landlord did not conduct a mandatory inventory review, therefore there was no signed document verifying the condition of the unit from move-in to compare to move-out. When preparing for trial exhibits, a litigant does not include rules, laws, and/or statutes.

- c.) As for the locksmith bill, Petitioner was prepared to challenge that bill as well because she did her research and learned that that company did not exist, and that the receipt provided was for an estimate with no proof of payment.
- d.) Petitioner provided the email in the Appendix of her Opening Brief that depicts the fact that she was not responsible to pay for utilities, however the Plaintiff still

submitted electric bills. Petitioner could not provide her opposition and proof, which would have been to refer to the language in her Certified Section 8 Lease.

"Gonsalves argues she "was not properly served" with Glauberman's opposition. Rules of the District Court Rule 7 requires that an opposition to a motion be filed and served "not later than 72 hours" before the time set for the hearing. The hearing on Gonsalves's motion was set for 9:30 a.m. on May 5, 2023. Glauberman's opposition was filed at 6:19 a.m. on May 3, 2023. It was untimely. It was served on Gonsalves by email, which is not allowed by DCRCP Rule 5(b). But there was no harm to Gonsalves because her moving papers didn't satisfy her burden to show she had a meritorious defense to Glauberman's damage claims."

The ICA admitted that Plaintiff's Opposition was filed untimely, and that it is against the rules to email it as a way of serving it upon the opposing party. Then, stated that Petitioner did receive it by email with no proof whatsoever that this really occurred and determined that she was not prejudiced. The facts are that Petitioner did not receive any such communication through email from the attorney, and she was prejudiced because she could not prepare for her Motion to Set Aside Default court hearing equitably.

"Gonsalves made representations to the district court, and argues that the court did not view her exhibits. But during the hearing on her motion she stated she didn't file her exhibits. She has not provided a citation to the record on appeal where her exhibits, or any other documents supporting the representations she made to the district court, may be found."

Petitioner reports that the ICA once again referred to the Record inaccurately.

Case: CAAP-23-0000341 (Dkt. 26) (May 5, 2023 Transcript, 4:13-25)

THE COURT: And you submitted some exhibits that were not relevant to the only claim, which was regarding those damages.

MS. GONSALVES: So, Your Honor, my exhibit - - did - - did you see my exhibits? Is that what you are saying?

THE COURT: You filed your exhibits or what you shared with Mr. Lau.

MS. GONSALVES: Ah, I didn't file my exhibits. I - - I - - I gave him the copy because I was being prepared - - I - - I was - - I was - - my intention was to come to court and to - - and to fight my case. Now, that's his perception of my exhibits. And.

Petitioner did not argue because the court did not view her exhibits. For a Trial in District Court, the Exhibits are filed AFTER the Trial. In this case, the Damages Trial was

converted to a Proof Hearing and directly after a ruling was issued the Plaintiff's attorney filed his Exhibits the very same day. Petitioner was not there, as she left Court to seek emergency medical treatment. Petitioner's only option after the Proof Hearing was to file Motions to challenge it, which she did, and not to file her Exhibits.

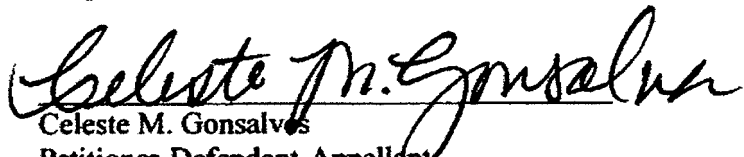
This action by the ICA Judge warrants review under a Writ of Certiorari, as it demonstrates grave errors of facts, which qualifies for consideration for an application of a Writ of Certiorari.

V. CONCLUSION

In consideration of the foregoing arguments and referenced exhibits, Petitioner-Defendant-Appellant Celeste M. Gonsalves prays that this Honorable Court Grants her Application for a Writ of Certiorari to properly and thoroughly examine the ICA's Summary Disposition Order filed on June 16, 2025, and the ICA's Judgment on Appeal filed on July 15, 2025 for grave errors in laws, grave errors in facts, and inconsistencies within their own rulings.

Dated: Kailua, Hawaii, September 15, 2025.

Respectfully submitted,


Celeste M. Gonsalves
Petitioner-Defendant-Appellant
Representing as Pro Se

CERTIFICATE OF SERVICE THROUGH JEFS COMMUNICATION

PLEASE RUSH

NON-HEARING MOTION FOR CONTINUANCE; DECLARATION;
NOTICE OF MOTION; CERTIFICATE OF SERVICE; ORDER

Form IDC11

IN THE DISTRICT COURT OF THE FIRST CIRCUIT
KO'OLAUPOKA DIVISION
STATE OF HAWAII

FILED
DISTRICT COURT OF
THE FIRST CIRCUIT

Plaintiff
Stuart B. Glauberman, by his Managing Agent, KFG
Properties, Inc.

2023 APR 12 A 9:18
D. S. ...

Electronically Filed
FIRST CIRCUIT
1DRC-21-0002121
12-APR-2023
09:18 AM
Dkt. 238 NHM

Reserved for Court Use

Civil No. 1DRC-21-2121

DENIED

Defendant
Celeste M. Gonsalves

Filing Party/Attorney Name, Attorney Number, Firm Name (if applicable), Address, Telephone and Fax Number or Email
Celeste M. Gonsalves
P. O. Box 620
Kailua, Hawaii 96734
cmgonsal@hawaii.edu
(808) 445-5553

NON-HEARING MOTION FOR CONTINUANCE

- Answer Returnable (Summary Possession cases)
- Hearing-Type of Motion: _____
- Trial Pre-Trial Other-Specify: _____

The Filing Party requests that this Motion be granted for the reasons stated in the Declaration below.

DECLARATION

I have read this Motion, know the contents and verify that the statements are true to my personal knowledge and belief. **DECLARE**
UNDER PENALTY OF PERJURY THAT THE FOLLOWING IS TRUE AND CORRECT: that Filing Party wishes to continue this proceeding to the date and for the reason stated below. I have contacted the Opposing Party or their attorney and they will not agree to the continuance, or I have tried several times to contact them by telephone and/or mail and they have not returned my calls or answered my letters. Explain why you will not be available and want this continuance: (Attach continuation page, if necessary).

Please see attachment for Reasons. Thank you.

Old Date/Time: 04/14/2023 9:35am

New Date/Time: 05/12/2023 9:35am

No. of Prior Continuances: _____

NOTICE OF MOTION

TO: Kenneth Lau

NOTICE IS GIVEN that the undersigned has filed this Motion. Any response to this Motion must be in writing on the reverse side and filed with the Court no later than 5 days from the date shown on the Certificate of Service when the Motion is hand-delivered or 7 days excluding Saturday, Sunday, and legal holidays when the Motion is mailed. Your written response can be delivered or mailed to the Court at 1111 Alakea Street, Civil Division, Third Floor, Honolulu, Hawai'i 96813. **IF NO RESPONSE IS RECEIVED BY THE COURT BY THE DATES SPECIFIED IN THIS NOTICE, THIS MOTION MAY BE GRANTED.**

Signature of Declarant/Attorney: *Celeste M. Gonsalves*
Print/Type Name: Celeste M. Gonsalves

Date: 04/11/2023

SEE AND USE REVERSE SIDE TO RESPOND TO MOTION

I certify that this is a full, true, and correct copy of the original on filed in this office.

Clerk, District Court of the above Circuit, State of Hawai'i

APPX: E

**Celeste M. Gonsalves
P. O. Box 620
Kailua, Hawaii 96734
cmgosal@hawaii.edu
(808) 445-5553**

April 11, 2023
Oahu First Circuit Court
Honolulu District Court
1111 Alakea Street
Honolulu, Hawaii 96813

Case: 1DRC-21-0002121

RE: Continuance for Medical Reasons for Case: 1DRC-21-0002121

Dear Honorable Judge:

Please Continue District Court Case: 1DRC-21-0002121 from April 14, 2023 at 9:35 a.m. to May 12, 2023 at 9:35 a.m. for medical reasons.

Dr. Iizuka Letter is attached as Exhibit 1.

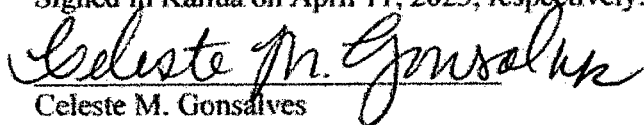
Unfortunately, the actions of opposing counsel in Case: 1DRC-21-0001879 affects my ability to properly experience access to justice in Case: 1DRC-21-0002121, so I also have a need for a Continuance for Mr. Lau's case too. My request is for a short leave of four weeks so that I may begin my treatment to stabilize my own psychological challenges and conclude the responsibilities of caring for my Father's well-being.

I would like the Judge that is reading this letter to understand that I really wanted to attend the court trial for damages scheduled for April 14, 2023, but my panic attacks (which are presently also occurring in my sleep) are too overwhelming for me to handle right now in court. I know that opposing counsel in Case: 1DRC-21-0001879 will be very aggressive and rigid, so I will not be able to defend myself in a fair manner. I need a break from them to regroup and gain strength, so I can present my evidence in an equitable manner in a few weeks. This outcome would affect my diminished capacity to properly present my evidence in Case: 1DRC-21-0002121, which would commence after the first case with the aggressive attorneys. Please do not schedule the cases for the same day, as I have been requesting this as a Reasonable Accommodation for nearly year.

Please GRANT my Non-Hearing Motion to Continue Case: 1DRC-21-0002121 from April 14, 2023 at 9:35 a.m. to May 12, 2023 9:35 a.m., or a date shortly thereafter. Please do not require me to attend court on April 14, 2023 in any form.

I, Celeste Manulani Gonsalves, declare the statements presented in this document are truthful to the best of my knowledge and understanding at the time of signing. I attest to providing factual evidence and understand the penalties for perjury in the Hawaii State Law.

Signed in Kailua on April 11, 2023, respectively.



Celeste M. Gonsalves
Pro Se Litigant

**HAWAII
PACIFIC
HEALTH** | **STRAUB
MEDICAL CENTER**

CREATING A HEALTHIER HAWAII

4/11/2023

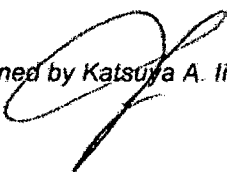
RE: Celeste M Gonsalves
DOB: [REDACTED]

Dear Judge;

Celeste M. Gonsalves is under my care for anxiety, panic attacks, and depression. Celeste is incapacitated from District Court Case: 1DRC-21-0002121 for the next four weeks. Please Continue this case on or after May 12, 2023.

Please do not schedule this case with another case for the same court day.

Sincerely,


Electronically signed by Katsuya A. Iizuka, MD 4/11/2023 11:39 AM

Katsuya A. Iizuka, MD
Straub Medical Center - Ward Village Clinic & Urgent Care
Family Medicine - Ward Village Clinic And Urgent Care
1001 Queen Street Suite 102
Honolulu HI 96814-5243
Dept: 808-462-5200
Dept Fax: 808-462-5299

EXHIBIT # 1

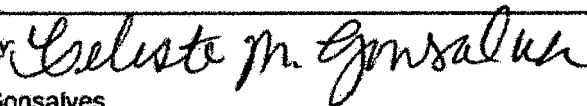
CERTIFICATE OF SERVICE

I certify that I served a copy of this Motion to the Opposing Party or Opposing Party's attorney on (date) 04/11/2023 by

Hand-delivery or Mail, addressed as follows:

Kenneth Lau
1188 Bishop Street, Suite 1308
Honolulu, Hawaii 96813

Signature of Filing Party/Attorney:



Date: 04/11/2023

Print/Type Name: Celeste M. Gonsalves

RESPONSE TO MOTION/CERTIFICATE OF SERVICE

- I DO NOT OBJECT to this Motion.
- I DISAGREE with this Motion for the following reasons:
(Attach continuation page, if necessary).

Reserved for Court Use

I have read this Response, know the contents and verify that the statements are true to my personal knowledge and belief. **I DECLARE UNDER PENALTY OF PERJURY THAT WHAT I HAVE STATED IS TRUE AND CORRECT.**

CERTIFICATE OF SERVICE

I certify that I served a copy of this Response to the Filing Party or Filing Party's attorney on (date) _____ by

Hand-delivery or Mail, addressed as follows:

Signature of Opposing Party/Attorney:

Date:

Print/Type Name:

Reserved for Court Use

COURT ORDER

- This Motion is granted and you must appear at the new date and time stated in the Declaration on the reverse side.
- This Motion is denied and you must appear at the old date and time stated in the Declaration on the reverse side.
- This Motion is partially granted and you must appear at _____ .m. on _____ for

- ANSWER
- RETURNABLE
- TRIAL
- HEARING ON MOTION
- PRE-TRIAL
- OTHER: _____

Date:

4/11/2023

Judge



In accordance with the Americans with Disabilities Act and other applicable state and federal laws, if you require an accommodation for a disability when working with a court program, service, or activity, please contact the District Court Administration Office at PHONE NO. (808) 538-5121, FAX (808) 538-5233, or TTY (808) 539-4853 at least ten (10) working days before your proceeding, hearing, or appointment date. For all Civil related matters, please call (808) 538-5151 or visit the District Court Service Center, 1111 Alakea Street, Third (3rd) Floor.

MOTION TO SET ASIDE DEFAULT JUDGMENT OR
 DISMISSAL; DECLARATION; NOTICE OF MOTION;
CERTIFICATE OF SERVICE

FILED
DISTRICT COURT OF
THE FIRST CIRCUIT

Form # 1DC42

2023 APR 17 A 8:21

LEGAL DOCUMENTS
CLERK E. RAMIREZ

Electronically Filed
FIRST CIRCUIT

1DRC-21-0002121

17-APR-2023

08:27 AM

Dkt. 243 MOT

Reserved for Court Use

Civil No. **1DRC-21-2121**

IN THE DISTRICT COURT OF THE FIRST CIRCUIT
KO'OLAUPOKO DIVISION
STATE OF HAWAII

Plaintiff(s)

Stuart B. Glauberman, by his Mangaing Agent, KFG
Properties, Inc.

Defendant(s)

Celeste M. Gonsalves

Filing Party(ies)/Filing Party(ies)' Attorney (Name, Attorney
Number, Firm Name (if applicable)), Address, Telephone and
Facsimile Numbers

Celeste M. Gonsalves
P. O. Box 620
Kailua, Hawaii 96734
cmgonsal@hawaii.edu
(808) 445-5553

Date of Default, Judgment or Dismissal entered:

April 14, 2023

MOTION TO SET ASIDE DEFAULT JUDGMENT or DISMISSAL

Filing Party(ies) requests that this Motion be set for hearing on a date and time certain. This Motion is based on the Declaration below
and is made pursuant to the District Court Rules of Civil Procedure, Rule 7.

DECLARATION

I have read this Motion, know the contents and verify that the statements are true to my personal knowledge and belief. I DECLARE
UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF HAWAII THAT THE FOLLOWING IS TRUE
AND CORRECT:

1. I am the Movant or associated with Movant as _____;

2. The following are facts why the Motion should be granted (attach continuation page, if necessary);
Please review Attachments with All Associated Exhibits and Evidence.

Thank you.

Signature of Declarant: *Celeste M. Gonsalves*

Print/Type Name: Celeste M. Gonsalves

Date: 04/17/2023

SEE AND USE REVERSE SIDE TO RESPOND TO MOTION

APPX:F

Celeste M. Gonsalves
P. O. Box 620
Kailua, Hawaii 96734
cmgonsal@hawaii.edu
(808) 445-5553

April 17, 2023
Oahu First Circuit Court
Honolulu District Court
1111 Alakea Street
Honolulu, Hawaii 96813

Case: 1DRC-21-0002121

RE: Motion to Set Aside Default Judgment

Dear Judge:

Please **GRANT** my Motion to Set Aside Default Judgment in docket 240 due to the extreme psychological distress I was experiencing in the Kaneohe Courtroom on April 14, 2023. I did ask repeatedly for help, but ending up leaving to seek medical treatment. I had been having severe Panic Attacks for the past few weeks due to the stress relating to my terminally ill Father and all the pending court cases.

My request to Continue the Trial for Damages was DENIED on April 12, 2023 by Judge Holma in docket 238, which made my situation and condition instantly worsen. Then, an hour or so later I learned via text message that my Father died at 12:46 p.m. I did not sleep much the next two days, which depleted my mental capacity and increased the fear and anxiety to the point where I could not function.

Exhibits 1- 6 Support and Prove my Statements to be Truthful are Attached:

Exhibit 1 ~ April 3, 2023 ~ Dr. Iizuka Progress Notes from Office Visit.

Exhibit 2 ~ April 11, 2023 ~ Dr. Iizuka Letter Requesting Continuance for Medical Conditions.

Exhibit 3 ~ April 13, 2023 ~ Email to Dr. Iizuka with update.

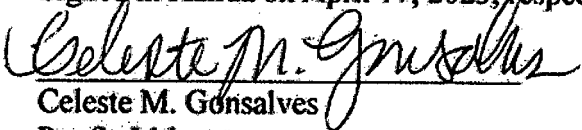
Exhibit 4 ~ April 14, 2023 ~ Letter to Presiding Judge for court hearings and trial on April 14, 2023 about my current mental condition; copies of documents from Hawaiian Memorial Park dated April 12, 2023 to prove my Father's death.

Exhibit 5 ~ April 14, 2023 ~ Doctor's Note from E.R.; Castle Hospital Discharge Diagnosis

Exhibit 6 ~ April 14, 2023 ~ Dr. Iizuka's Progress Notes

I, Celeste Manulani Gonsalves, declare the statements presented in this document are truthful to the best of my knowledge and understanding at the time of signing. I attest to providing factual information and understand the penalties for perjury in the Hawaii State Law.

Signed in Kailua on April 17, 2023, respectively.


Celeste M. Gonsalves
Pro Se Litigant

Adventist Health Castle

640 Ulukahiki Street, Kailua, Hawaii 96734

(808) 263-5164

Name: GONSALVES, CELESTE MANULANI MRN [REDACTED] Acct# [REDACTED]

DOB: [REDACTED]

Visit Information

Visit Date Date: 04/14/2023 09:34:00

Discharge Diagnosis: Anxiety

ED Care Provider: Providers:

Covant, DO, Sean S

Covant, DO, Sean S

Summersgill, MD, Andrew M

Patient Education Materials Provided This Visit

GONSALVES, CELESTE MANULANI has been given the following list of patient education materials, prescriptions, and follow-up instructions:

Follow-up Instructions

With:

Address:

When:

Katsuya Iizuka

1001 Queen Street Ste 102 Honolulu, Within 1-2 days

HI 96814

(808) 462-5200 Business (1)

To schedule an appointment online, type this link into your web browser:

<https://www.adventisthealth.org/doctors/>.

EXHIBIT # 5

04/14/2023 11:31

1 of 11

Name GONSALVES, CELESTE MANULANI

MRN 053-772-20

FIN 42700610378

Hawaii Emergency Physicians Associated, Inc.
P.O. BOX 1266
KAILUA, HAWAII 96734

MEDICAL CERTIFICATE
Honolulu County Medical Society

This is to certify that Celeste Goncalves
has been under my professional care and in my opinion was incapacitated
from performing his/her usual duties from 4/14/23
thru 4/14/23

4/14/23
Date

Signed [Signature] M.D.
Dr. Summers

Remarks:

EXHIBIT # 5

Name: Celeste M Gonsalves | DOB: [REDACTED] PCP: Katsuya A. Iizuka, MD | Legal Name: Celeste M Gonsalves

Progress Notes

Katsuya A. Iizuka at 4/14/2023 4:40 PM

Hawaii Pacific Health

FAMILY MEDICINE - WARD VILLAGE CLINIC AND URGENT CARE

Celeste M Gonsalves

Date of Birth: [REDACTED]

Sex: female

MRN: [REDACTED]

Preferred name: Celeste

Medical Decision Making:

Major depression, recurrent, chronic (*) (primary encounter diagnosis)

Plan: With everything occurring in her life right now, very vulnerable.

-Recommend following up as scheduled with psychologist/therapist and rest until then.
Contact us if feeling unsafe.

Follow up as needed.

Pertinent History of Present Illness / ROS / Physical exam

HPI: Gonsalves, Celeste M presents with Panic Attack (Panic attack)

Here today for panic attack/depression. Has been going through a lot the past 2 days.

Court cases as well as her father passing. She has to be at court today but due to the

panic attack, could not stay in court. Had to go from court to the ER as she felt scared

and felt like her chest was tight and could not breathe. Felt much worse than her usual

anxiety attack. This episode felt much worse that was building on one another and could

not handle it anymore.

At ER, was evaluated, released. Patient here with me to follow up. Patient admits she is

extremely fatigued and hasn't gotten much sleep due to the whole events that have

occurred.
The court issue is a stressor as well as [REDACTED]

I have reviewed the following: Past Medical history, Past Surgical history, Family history and Social history

Review of Systems

Physical Exam:

Blood pressure 121/79, pulse 62, temperature 36.4 °C (97.6 °F), temperature source

Temporal, weight 134 lb (60.8 kg) [REDACTED]

Heart: Regular rhythm and rate, no murmur, Normal S1, S2.

Lungs: Clear bilaterally, no wheezing.

Mental: thought process intact, very emotional and tearful.

I spent a total of 40 minutes (Charting time included) providing care for this patient on the day of the encounter.

Katsuya A. Iizuka, MD

EXHIBIT # 6

NOTICE OF MOTION

TO: Kenneth Lau

Please take notice that this Motion will be heard by the District Judge of this Court, in his/her Courtroom, at the address checked below on Friday, MAY 05 2023 20 at 9:30 A.M., or as soon thereafter as parties may be heard.

COURT ADDRESSES

- Honolulu Division
- 'Ewa Division
- Ko'olaupoko OR Ko'olauloa Division
- Wahiawā OR Waialua Division
- Wai'anae Divison

1111 Alakea Street, 10th Floor, Honolulu, Hawai'i
 870 Fourth Street, Pearl City, Hawai'i
 45-939 Po'okela Street, Kāne'ohe, Hawai'i
 1034 Kilani Avenue, Wahiawā, Hawai'i
 4675 Kapolei Parkway, Kapolei, Hawai'i

Mailing address for the above Courts: 1111 Alakea Street, Civil Division, Third Floor, Honolulu, Hawai'i 96813

CERTIFICATE OF SERVICE

I certify that a copy of this Motion was served at the last known address(es) of the Opposing Party(ies) or Opposing Party(ies)' attorney on April 17, 2023 by Hand-delivery or Mail, Postage Prepaid, at the following address(es):

Kenneth Lau
1188 Bishop Street, Suite 1308
Honolulu, Hawaii 96813

Signature of Filing Party(ies)/Filing Party(ies)' Attorney: *Celeste M. Gonsalves*

Date: 04/17/2023

Print/Type Name: Celeste M. Gonsalves

RESPONSE TO MOTION/CERTIFICATE OF SERVICE

- I DO NOT OBJECT to this Motion.
- I DISAGREE with this Motion for the following reasons:
(Attach continuation page, if necessary).

Reserved for Court Use

I have read this Response, know the contents and verify that the statements are true to my personal knowledge and belief. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF HAWAII THAT THE FOLLOWING IS TRUE AND CORRECT:

CERTIFICATE OF SERVICE

I certify that a copy of this Response was served at the last known address(es) of the Opposing Party(ies) or Opposing Party(ies)' attorney on _____ by Hand-delivery or Mail, Postage Prepaid, at the following address(es):

Signature of Responding Party(ies)/Responding Party(ies)' Attorney:

Date:

Print/Type Name:



In accordance with the Americans with Disabilities Act and other applicable state and federal laws, if you require an accommodation for a disability when working with a court program, service, or activity, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days before your proceeding, hearing, or appointment date. For all Civil related matters, please call 538-5151 or visit the District Court Service Center at 1111 Alakea Street, Third (3rd) Floor.

Electronically Filed
Intermediate Court of Appeals
CAAP-23-0000127
08-AUG-2025
07:59 AM
Dkt. 63 SO

NO. CAAP-23-0000127

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

WILLIAM H. GILLIAM, Plaintiff-Appellant,
v.
DAN ELLIOTT, a/k/a DANIEL J. ELLIOTT, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CC191000045)

SUMMARY DISPOSITION ORDER

(By: Nakasone, Chief Judge, Wadsworth and McCullen, JJ.)

In this second appeal,¹ self-represented Plaintiff-Appellant William H. Gilliam (**Gilliam**) challenges an order denying his request to continue a hearing on Defendant-Appellee Dan Elliott's (**Elliott**) motion to dismiss, and the subsequent order granting dismissal. We vacate and remand.

¹ In the prior appeal, Gilliam v. Elliott, NO. CAAP-19-0000767, 2022 WL 2189308, at *5 (Haw. App. June 17, 2022) (SDO), this court affirmed a grant of summary judgment on all claims, except for the "Unfair and Deceptive Trade Practice" (**UDAP**) and "Fraud" claims.

Appx:G

Gilliam appeals from the Circuit Court of the Fifth Circuit's **(Circuit Court)**² February 9, 2023 Final Judgment **(Judgment)** entered in favor of Elliott, and January 31, 2023 "Order Granting [Elliott]'s Motion to Dismiss Complaint Filed March 22, 2019" **(Dismissal Order)**.

While Gilliam's Opening Brief lacks an "Argument" section and his "Points of Error" section does not fully comply with Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 28(b), we are able to discern Gilliam's essential contentions. See Erum v. Llego, 147 Hawai'i 368, 380-81, 465 P.3d 815, 827-28 (2020) (affording liberal review to pleadings by self-represented litigants "to facilitate access to justice" and to afford opportunity for appellate review (citation omitted)).

On appeal, Gilliam appears to challenge, among other things,³ **(1)** the denial of an "HRCP 16 conference" request; and **(2)** the denial of his "Motion to Reschedule Hearing on Motion to Dismiss" **(motion to continue)**.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we resolve Gilliam's contentions as follows.

(1) Hawai'i Rules of Civil Procedure (**HRCP**) Rule 16 conference request: Gilliam points to HRCP Rule 16(b)(1) and **(2)**⁴ to argue that the scheduling conference under that rule was

² The Honorable Randal G.B. Valenciano presided.

³ Gilliam's remaining points of error (Points 1, 3, 4, 5, and 6) appear to raise arguments pertaining to the motion to dismiss. Because we conclude the continuance should have been granted and the motion to dismiss should not have gone forward, we need not reach these contentions. Gilliam's "Point 8" contention regarding his motion for leave to amend filed August 26, 2019, was not raised in Gilliam's prior appeal filed October 31, 2019, and it is waived.

⁴ HRCP Rule 16, entitled "Pre-trial Conferences; Scheduling; Management," provides in pertinent part:

"mandatory"; the Circuit Court was required to "set the same on request"; Gilliam submitted his September 16, 2022 request for a scheduling conference; and the Circuit Court erroneously "denied" the request "with a bold rubber stamp" on October 4, 2022.

Here, Elliott was served with the March 22, 2019 Complaint on March 27, 2019, and the 90-day time frame specified in HRCF Rule 16(b) ran from March 27, 2019. HRCF Rule 16(b) did not apply to Gilliam's request filed September 16, 2022.

(2) Denial of the motion to continue: Elliott's motion to dismiss the remaining UDAP and Fraud claims was set for hearing on November 17, 2022. Gilliam argues that the Circuit Court should have granted his November 15, 2022 motion to continue the November 17, 2022 hearing due to his illness. Gilliam points to his "health declaration" and attached letter from his "board certified treating physician," which was also submitted on November 15, 2022. Gilliam claims that he experienced a "genuine health issue" that made him "foreseeably unavailable" for the hearing.⁵ Gilliam quotes the following

(b) Scheduling and planning.

(1) *Issuing order.* Except in cases exempted by the Rules of the Circuit Courts of the State of Hawai'i, the court must issue a scheduling order after consulting with the parties' attorneys and any self-represented parties at a scheduling conference.

(2) *Time to issue.* The court must issue the scheduling order as soon as practicable, but unless the court finds good cause for delay, the court must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.

. . . .

(Emphasis added.)

⁵ William's Reply Brief also asserts, without any citation to the record, that he flew back to "Lihue" on the "16th and 17th" and did not

and that it had received Gilliam's motion to continue the hearing, as follows:

THE COURT: You know, and the reason for that is he submitted a declaration regarding a continuance. And attached to the declaration, there was an excuse from 11-14 to 11-18. And there was a discussion about a possible surgery that could occur. Or scheduling of a surgery. But I thought depending on when the surgery was scheduled, there would be a window for us to actually deal with this matter even if I continued it until next week.

But given that Mr. Gilliam may not be present today .

(Ellipses in original.) The Circuit Court then noted that while Gilliam made the motion to continue, he "didn't physically appear for the motion[,] and "didn't make arrangements through Zoom" or "even by telephone." Elliott's counsel responded that when Gilliam called her office "less than 48 hours ago . . . asking for a continuance[,] she told Gilliam that she "could not" agree to a continuance, and "advised him to contact the Court and that maybe he can appear by video-conferenc[e]." The Circuit Court then ruled: "So on the motion to continue, he's not here to advocate for his own motion. So the Court's going to deny the motion." The Circuit Court then took up the motion to dismiss, and granted it because Gilliam was "not here on the motion to dismiss[.]" The Circuit Court later filed its January 31, 2023 "Order Denying with Prejudice [Gilliam]'s Motion to Reschedule Hearing on Motion to Dismiss" (**Order Denying Continuance**) and the Dismissal Order.

Here, the record as of November 17, 2022 when the motion to continue was heard, reflects that Gilliam had set forth a medical reason and attached a medical note to explain his absence at the hearing. The medical note indicated that Gilliam should be excused from necessary duties from November 14 to 18, 2022. This time period included the hearing date. Under these circumstances, we conclude that the Circuit Court acted

outside its discretion by denying the motion to continue based on Gilliam's failure to appear. See id. at 378, 146 P.3d at 93 (reviewing grant or denial of a continuance for abuse of discretion). Accordingly, we reverse the January 31, 2023 Order Denying Continuance. On remand, the motion to dismiss should be heard on the merits.

For the foregoing reasons, we vacate the Circuit Court of the Fifth Circuit's February 9, 2023 Judgment, and January 31, 2023 Dismissal Order. We remand for proceedings consistent with this Summary Disposition Order.

DATED: Honolulu, Hawai'i, August 8, 2025.

On the briefs:	/s/ Karen T. Nakasone Chief Judge
William H. Gilliam, Self-represented Plaintiff- Appellant.	/s/ Clyde J. Wadsworth Associate Judge
Cathy S. Juhn, for Defendant-Appellee.	/s/ Sonja M.P. McCullen Associate Judge

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IN THE INTERMEDIATE COURT OF APPEALS

STATE OF HAWAII

Stuart B. Glauberman,
by his Managing Agent
KFG Properties, Inc.

Appellee Plaintiff

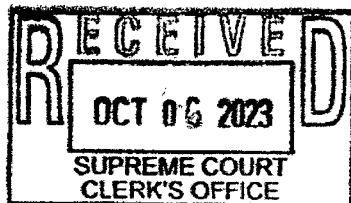
v.

Celeste M. Gonsalves
Appellant Defendant

) ICA CASE NUMBER: CAAP-23-0000341
)
)
) APPELLANT'S OPENING BRIEF;
) APPENDICES; CERTIFICATE OF
) SERVICE
)
) Hawaii District Court Koolauapoko Division
) Trial Judge: Judge James C. McWhinnie
) Appeal from Judgment on May 9, 2023
)
)
) Celeste M. Gonsalves, On The Briefs

APPEAL FROM MOTION TO SET ASIDE DEFAULT JUDGMENT
of Hawaii District Court, Koolauapoko Division, Kaneohe, Hawaii
Honorable Judge James C. McWhinnie
Judgment on May 9, 2023

APPELLANT'S OPENING BRIEF



Celeste M. Gonsalves
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Celeste M. Gonsalves
Appellant-Defendant
Pro Se Litigant

Appx: H

Letter. I filed a Motion for Reconsideration or New Trial on April 18, 2023 in Docket 250.

Here were the Results:

Case: 1DRC-21-0002121 Non-Hearing Motion for Continuance DENIED on April 12, 2023, in Docket 238.

Case: 1DRC-21-0002121 Motion for Reconsideration or New Trial DENIED on April 28, 2023, in Docket 263.

Case: 1DRC-21-0002121 Motion to Set Aside Default Judgement DENIED on May 5, 2023, in Docket 275.

I, Celeste M. Gonsalves, Appellant-Defendant in ICA Case: CAAP-23-000341 challenge the Final Ruling and Order in Case: 1DRC-21-0002121 through this appeal and provide my points of error and arguments in its relevant sections of this Opening Brief.

STATEMENT OF POINTS OF ERROR

- 1.) The Administrative Judge erred when she denied my Motion for Continuance for ADA Federal Reasonable Accommodations for Mental Illness on April 12, 2023. (Dkt. 238).
- 2.) The Trial Judge erred because I was not properly served Mr. Lau's Opposition to my Motion to Set Aside Default, although I made a clear objection in the very beginning of the court hearing. Trial judge did not address my objection or rule on it at any time during the entire court hearing.
- 3.) The Trial Judge erred when my Motion to Set Aside Default Judgment was DENIED for the following reasons:
 - A.) Too Many Continuances in Case
 - B.) I filed a Motion to Recuse Judge James C. McWhinnie and previously to Recuse Judge Karin L. Holma
 - C.) My exhibits did not reflect a Meritorious Defense
 - D.) Trial Judge stated he viewed my Exhibits
- 4.) The Trial Judge erred when my extenuating circumstances were not considered, even though I provided assurance that my health condition and situation had improved.

STANDARD OF REVIEW

The Intermediate Court of Appeals' Chief Judge and Associate Judges assigned to this case will determine the proper *Standard of Review* for the four points of error introduced in this opening brief because I am a Pro Se Litigant with very limited legal knowledge of this matter.

ARGUMENT

I am appealing the administrative judge's Order Denying my ADA Federal Reasonable Accommodations Request for Mental Illness in Hawaii District Court Koolaupoko Division.

I am appealing the trial judge's ruling for Denying my Motion to Set Aside Default Judgment in Hawaii District Court Koolaupoko Division. I present the following trial judge's errors, along with factual proof cited by way of the record, additional documentation, and procedural laws.

1.) The Administrative Judge erred when she denied my Motion for Continuance for ADA Federal Reasonable Accommodations for Mental Illness on April 12, 2023 in Case: 1DRC-21-0002121 Docket 238. My doctor's letter attached in my Motion for a Continuance explained the severity of my current mental health condition and stated that the situation will become worse soon with the upcoming pending loss of my father. My doctor requested for me to take leave from court for one month, so that I could handle the very difficult days and transition into living in a world without my father. This extra time would have also allowed time for grieving and to attend his funeral and burial. My request was not unreasonable and the administrative judge, Judge Karin L. Holma, knew my psychological challenges.

The facts are that I suffer from various chronic mental illnesses that are triggered and exasperated by undue stress, violent abuse, and life-changing events. I pleaded for help to manage what would become one of the most challenging weeks of my life; learning how to breathe in a world where my father wasn't. Instead, I suffered additionally and needlessly with the burden of trying to keep it together to handle court on April 14, 2023.

2.) The trial judge erred because I was not properly served Mr. Lau's Opposition to my Motion to Set Aside Default, although I made a clear objection in the very beginning of the court

court hearing should have been continued until I received and reviewed Mr. Lau's late submission.

CONCLUSION AND REMEDY SOUGHT

In conclusion of my appeal in the Hawaii Supreme Court Intermediate Court of Appeals for Case: CAAP-23-0000341, I infer that the information presented provided factual evidence through the record and other supporting documents to warrant a win on its merits.

I am confident that based on the validity of the arguments outlined and its factual proof that supported each claim, that I have the right to be afforded my requested remedy:

- 1.) Vacate the Judgment entered on May 9, 2023 DENYING the Motion to Set Aside Default Judgment.
- 2.) Remand case back to Hawaii District Court to schedule a new Trial for Damages.
- 3.) Provide clear guidelines for Judges to consider when dealing with a Mental illness litigant.

DECLARATION OF CELESTE MANULANI GONSALVES

I, Celeste Manulani Gonsalves, Pro Se Litigant and Appellant-Defendant in ICA Case: CAAP- 23-0000341 declare the information in this statement is truthful to the best of my knowledge and understanding. I understand the penalties for perjury in the Hawaii State Court of Law.

The signature of the party submitting this Opening Bried is below and is dated the 6th of October in the year 2023, and was signed in Kailua, Hawaii.



CELESTE M. GONSALVES
PRO SE Litigant