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HONOLULU, HAWAII 96814

March 18, 2024

Ms. Lara P. Deguzman
Arbitration Administrator
Court Annexed Arbitration Program
First Circuit Court
State of Hawaii
777 Punchbowl Street, 4th Floor
Honolulu, Hawaii 96813-5093

Re: Civil 24-0000003
Marjorie J. Walsh et. al. -v.- MMI Realty Services, Inc.

Dear Ms. Deguzman:

Mahalo for your *Assignment of a Case to an Arbitrator* dated March 11, 2024.

We, the Plaintiffs *pro se* in the captioned litigation, hereby OBJECT to the assignment of Johnathan L. Ortiz, Esq. as the assigned arbitrator.

We are not attorneys, so the hallways and courtrooms at 777 Punchbowl and 1111 Alakea Street are not our natural environment and we have not encountered Mr. Ortiz in our everyday lives. As a consequence, when we received your notification of his assignment, we set out to find what we could about him.

Neither Mr. Ortiz nor his current firm, Ortiz & Associates, maintain a website. We searched the archives of the Hawaii newspapers at www.newspapers.com and obtained the names of his prior firms. We were unable to find websites for these firms in the Internet Archive/Wayback Machine.¹

¹ <https://web.archive.org/>

The Martindale legal directory² shows that Mr. Ortiz's has eight areas of practice:

- Premises Liability
- Products Liability
- Personal Injury
- Insurance Defense
- Insurance Coverage
- Construction Litigation

We asked the Supreme Court Law Library if they could find any information (such as published articles, etc.) and they replied, "I looked online to see if I could find anything and also couldn't seem to locate any additional information regarding Mr. Ortiz."³

We understand that the 30% plaintiff 70% defendant breakdown provided for Mr. Ortiz by your office is based simply upon his estimate. Since we hadn't come up with any other information, we downloaded the details of Mr. Ortiz's 99 most recent cases from a Party Search Report on the eCourt Kokua system. The spreadsheet is attached: the information in columns G, H, and I were added by us after looking at each case. We did not, however, download any of the documents filed in any of the cases.

This is, of course, not necessarily a statistically significant sample. We're sure Mr. Ortiz, like other good attorneys, tries his best to avoid litigation whenever possible. That said, the sample shows he acted for the defense 93% of the time – much more frequently than his 70% estimate.

It would appear that Mr. Ortiz does not have a website (or any other form of marketing that we could locate) because he has an established group of clients who are frequently involved with defending their customers – namely insurance companies.

² <https://www.martindale.com/attorney/jonathan-l-ortiz-891195/>

³ E-mail from Joley at the Hawaii Supreme Court Law Library, March 15, 2024

Craig happened to be in our State Farm agent's office today, and asked if they'd ever heard of Mr. Ortiz. They confirmed that he was currently defending one of their other insurance clients.

Under Rule 10(d) of the Rules Governing the Court Annexed Arbitration Program:

Arbitrators shall be sworn or affirmed by the Chief Justice or his designee to uphold these rules of the Program, the laws of the State of Hawai'i, and the Code of Ethics of the American Arbitration Association.

The document from the American Arbitration Association says:

The sponsors of this Code believe that it is preferable for all arbitrators including any party-appointed arbitrators to be neutral, that is, independent and impartial, and to comply with the same ethical standards.

The United States Supreme Court, in *Commonwealth Coatings v. Continental Cas.*, 393 U.S. 145 (1968), wrote:

It is true that arbitrators cannot sever all their ties with the business world, since they are not expected to get all their income from their work deciding cases, but **we should, if anything, be even more scrupulous to safeguard the impartiality of arbitrators than judges**, since the former have completely free rein to decide the law as well as the facts [...] [emphasis added].”

We are sure that Mr. Ortiz is a fine man and an ethical attorney, and that if he was appointed the arbitrator in this matter he would do his best to be neutral and impartial.

That said, this lawsuit involves personal injury and premises liability. The attorney representing the Defendant in this case, Randall Y. Kaya, Esq., is an employee of the Defendant's insurance company, First Insurance Company of Hawaii.

If the arbitrator in this matter was also an attorney whose career is based (in large part) on defending property owners/managers who have a premises liability issue on behalf of insurance companies, we would not feel we were getting a "neutral" hearing. I think anyone in our shoes would feel the same way.

Please assign another potential arbitrator to this case.

Thank you for your assistance.



Marjorie J. Walsh



Craig W. Walsh

Copy to: Randall Y. Kaya, Esq.