

NO. 22240

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ANDREW J. DUDA, Plaintiff-Appellee

and

BURTON D. GOULD, Real Party-in-Interest-Appellant

vs.

ROCKWELL POWER SYSTEMS CO., a Delaware Corporation;
RON CHAPMAN, LARRY DECAMBRA, and ART SCHROEDER,
Defendants-Appellees

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 95-0251(2))

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,
and Ramil, J.J., and Circuit Judge Marks,
assigned by reason of vacancy)

Burton D. Gould appeals from the second circuit court's January 12, 1999 judgment granting Rockwell Power Systems, Co., Ron Chapman, Larry DeCambra, and Art Schroeder's motion for award of attorneys' fees and costs and Hawai'i Rules of Civil Procedure (HRCP) Rule 11 sanctions.

Gould argues that the circuit court erred in (1) sanctioning him jointly and severally with his former client Andrew J. Duda; (2) finding that Gould failed to make a reasonable investigation into the facts and law; (3) finding that Gould withdrew because he thought that the case was unworthy; and (4) construing Gould's opposition to the request for fees, costs,

and sanctions as a basis for holding him jointly and severally liable with Duda.

Gould did not properly raise, and we therefore decline to address, whether HRCP Rule 11 provided the appropriate sanctioning authority in this case. See Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4) (Appellant must include a "concise statement of the points on which appellant intends to rely, set forth in separate, numbered paragraphs. Each point shall refer to the alleged error committed by the court or agency upon which appellant intends to rely[.]"); HRAP Rule 28(b)(7) (Appellant must set forth "[t]he argument, exhibiting clearly the points of fact and of law being presented."). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, August 15, 2000.

On the briefs:

Burton D. Gould,
real party-in-interest-
appellant

Jared H. Jossem and
Lynne T. Toyofuku for
defendants-appellees