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Supreme Court
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NO. SCPW-11-0000035

IN THE SUPREME COURT OF THE STATE OF HAWAII

LOLA SUZUKI, Petitioner,

vs.

WALTER KAWAMURA, ADMINISTRATOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS, DISABILITY COMPENSATION
DIVISION, Respondent.

ORIGINAL PROCEEDING
(Case Nos. 2-06-14727 & 2-07-04617)

ORDER

(By: Recktenwald, C.J., Nakayama, Acoba, and Duffy, JJ.
and Circuit Judge To'oto'o, assigned by reason of vacancy)

Upon consideration of the petition for a writ of mandamus filed by petitioner Lola Suzuki and the papers in support, it appears that: (1) HRS § 386-86(e) (Supp. 2009) expressly authorizes a deposition, upon oral examination, in petitioner's worker's compensation case; (2) petitioner presents no evidence showing that the director denied petitioner's January 8, 2011 request for ADA accommodations for the oral deposition; and (3) the issuance, pursuant to HRS § 386-79 (Supp. 2009), of more than one medical examination order in petitioner's worker's compensation case was a discretionary decision of the director that is not subject to challenge by mandamus. Therefore,

petitioner is not entitled to mandamus relief. See HRS § 602-5(3) (Supp. 2009) (The supreme court has jurisdiction and power to issue writs of mandamus directed to public officers to compel them to fulfill the duties of their offices.); In Re Disciplinary Bd. Of Hawaii Supreme Court, 91 Hawai'i 363, 368, 984 P.2d 688, 693 (1999) (Mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available.); Salling v. Moon, 76 Hawai'i 273, 274 n.3, 874 P.2d 1098, 1099 n.3 (1994) ("A duty is ministerial where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion and judgment."). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, February 8, 2011.

/s/ Mark E. Recktenwald
/s/ Paula A. Nakayama
/s/ Simeon R. Acoba, Jr.
/s/ James E. Duffy, Jr.
/s/ Fa'auuga To'oto'o

