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FILED

UNITED STATES COURT OF APPEALS

FEB 04 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK U.S. COURT OF APPEALS

ALIKA ATAY; et al.,

Plaintiffs - Appellants,

v.

COUNTY OF MAUI; et al.,

Defendants - Appellees.

No. 15-16466

D.C. No. 1:14-cv-00582-SOM-BMK District of Hawaii, Honolulu

ORDER

ROBERT ITO FARM, INC.; et al.,

Plaintiffs - Appellees,

v.

COUNTY OF MAUI,

Defendant - Appellee,

ALIKA ATAY; et al.,

Intervenor-Defendants - Appellants.

No. 15-16552

D.C. No. 1:14-cv-00511-SOM-BMK District of Hawaii, Honolulu

Before: Peter L. Shaw, Appellate Commissioner.

The motion to dismiss these consolidated appeals for lack of jurisdiction is denied without prejudice to renewing the arguments in the answering brief. *See*

KML/MOATT

Nat'l Indus. v. Republic Nat'l Life Ins. Co., 677 F.2d 1258, 1262 (9th Cir. 1982) (stating that merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

The motion of Center for Food Safety, Moms On a Mission (MOM) Hui, Moloka'o Mahi'ai, and Gerry Ross for leave to file an amicus curiae brief is referred to the panel assigned to hear the merits of these consolidated appeals.

Within 7 days after the date of this order, the prospective amici shall file 7 copies of the motion for leave to file an amicus curiae brief, including the proposed brief (with a green cover), in paper format, accompanied by certification (attached to the end of each paper copy) that the motion and proposed brief are identical to the version submitted electronically. A sample certificate is available on the court's website, www.ca9.uscourts.gov, at the Electronic Filing-ECF link.

The paper copies shall be printed from the PDF version of the motion and brief created from the word processing application, not from PACER or Appellate ECF. The Clerk shall file the consolidated opening brief, submitted on November 30, 2015.

The consolidated answering brief is due March 4, 2016; and the consolidated optional reply brief is due within 14 days after service of the answering brief.