

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the Amendment
of the
HAWAI'I RULES OF CIVIL PROCEDURE

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

ORDER AMENDING RULE 41(b) OF THE
HAWAI'I RULES OF CIVIL PROCEDURE

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rule 41(b) of the Hawai'i Rules of Civil Procedure, is amended, effective January 1, 2007 as follows (deleted material is bracketed and stricken; new material is underscored):

Rule 41. DISMISSAL OF ACTIONS.

...

(b) Involuntary dismissal: Effect thereof.

(1) For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against it.

(2) For failure to prosecute or to comply with these rules or any order of the court, the court may sua sponte dismiss an action or any claim with written notice to the parties. Such dismissal may be set aside and the action or claim reinstated by order of the court for good cause shown upon motion duly filed not later than 10 days from the date of the order of dismissal.

(3) Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or

for failure to join a party under Rule 19, operates as an adjudication upon the merits.

DATED: Honolulu, Hawai'i, November 21, 2006.

[Handwritten signature]

Steven K. Levinson

Aunani. Takayama

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Samoa E. Dubby, Jr.

