

DISSENT BY NAKAYAMA, J.

I respectfully dissent and would reject the Application
for Writ of Certiorari filed on November 10, 2011 by Petitioner/
Defendant-Appellant, Wayne Foster Berry.

Timothy J. Hogan
for petitioner/
defendant-appellant,
on the application.

/s/ Paula A. Nakayama

Carl H. Osaki
for respondent/
plaintiff-appellee,
on the response.