

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the Amendment
of the
HAWAII RULES OF APPELLATE PROCEDURE

ORDER AMENDING RULE 36 OF THE
THE HAWAII RULES OF APPELLATE PROCEDURE
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that the comment to Rule 36 of the Hawaii Rules of Appellate procedure is amended, effective January 1, 2007, as follows (deleted material is bracketed and stricken; new material is underscored):

COMMENT:

[~~The judgment on appeal should not be entered until all post-decision motions for reconsideration and attorney's fees and costs or necessary expenses have been decided in the intermediate court of appeals or the supreme court. The judgment on appeal should include any attorney's fees and costs or necessary expenses awarded.]~~

See Rule 41 and its commentary ("the intermediate court of appeals judgment cannot be effective and jurisdiction cannot revert to the court or agency from which appeal was taken until the time for filing the application has expired or, if an application is filed, the supreme court has rejected or dismissed the application or affirmed the intermediate court of appeals judgment in whole.")

IT IS NOTED that Comment is provided by rules committees for interpretive assistance. Comments express the views of the committees and are not binding on the courts.

DATED: Honolulu, Hawaii, November 1, 2006.