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IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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

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ORDER AMENDING RULE 23 OF THE  
HAWAI‘I RULES OF CIVIL PROCEDURE

(By: Recktenwald, C.J., Nakayama, Acoba, and Duffy, JJ., and  
Intermediate Court of Appeals Chief Judge Nakamura,  
assigned by reason of vacancy)

IT IS HEREBY ORDERED that Rule 23 of the Hawai‘i Rules  
of Civil Procedure is amended, effective July 1, 2011, as follows  
(new material is underscored):

**Rule 23. CLASS ACTIONS.**

\* \* \*

**(f) Distribution.** Prior to the entry of any judgment under subdivision (c)(3) or the approval of any compromise under subdivision (e), the court shall determine the total amount payable to each class member. The court shall set a date when the parties shall report to the court the total amount actually paid to class members. After the report is received, the court shall direct the defendant, by order entered on the record, to distribute the sum of any unpaid residue after the payment of approved class member claims, expenses, litigation costs, attorneys’ fees, and other court-approved disbursements. Unless otherwise required by governing law, it shall be within the discretion of the court to approve the timing and method of distribution of residual funds and to approve the recipient(s) of residual funds, as agreed to by the parties, including nonprofit tax exempt organizations eligible to receive

assistance from the indigent legal assistance fund under HRS section 607-5.7 (or any successor provision) or the Hawai'i Justice Foundation, for distribution to one or more of such organizations.

DATED: Honolulu, Hawai'i, January 27, 2011.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ James E. Duffy, Jr.

/s/ Craig H. Nakamura

