

NO. 22532

IN THE SUPREME COURT OF THE STATE OF HAWAII

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RANGER INSURANCE COMPANY, Plaintiff-Appellee

vs.

SHU HUA KAO HINSHAW, Real Party in Interest-Appellant

and

JUAN RAMON RIVAS, KYOKO TAKEDA, DAVID REARDON,  
STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,  
NATIONWIDE INSURANCE COMPANY, JOHN DOES 1-10,  
DOE PARTNERSHIPS 1-10, DOE CORPORATIONS 1-10, Defendants  
(CIV. NO. 98-0477)

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STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, AN Illinois  
Corporation, Plaintiff

vs.

FRANK HINSHAW; JUAN RAMON RIVAS; SKYDIVE ACADEMY OF HAWAII  
CORPORATION, dba SKYDIVE HAWAII; and KYOKO TAKEDA, Defendants  
(CIV. NO. 98-0159)

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NOS. 98-0477 and 98-159)

ORDER OF AMENDMENT

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

The Opinion of the Court filed on November 14, 2003, is  
hereby amended as follows (amended material in bold):

1. PAGE 6, LINE 5 from the TOP of the page:  
**(3) Ranger was "entitled to reimbursement of  
attorney's fees and costs in the defense of the  
underlying case[,]" and (4) "Ranger be awarded its  
costs, reasonably [sic] attorney's fees, and such  
other relief as the Court may deem just and  
proper."**

2. PAGE 14, LINE 5 from the BOTTOM of the page following the sentence: "It is undisputed that the insurance policy is a contract between Skydive and Ranger." Add: **Moreover, Ranger's request for attorneys' fees and costs for the defense it provided in Takeda's lawsuit constitutes a request for consequential damages. See S. Utsunomiya Enters., Inc., 76 Hawai'i at 401, 879 P.2d at 506 (holding that "attorneys' fees incurred in defending an attack on title against a third party would be recoverable as consequential damages in a corresponding breach of covenant action against the grantor of the 'defective' property").**
3. PAGE 14, LINE 5 from the BOTTOM of the page: **Thus, Ranger's declaratory action is in the nature of assumpsit,**

The Dissenting Opinion by Acoba, J. is hereby amended as follows (amended material in bold):

1. PAGE 1, LINE 5 from the TOP of the page reads: "See majority opinion at 15." It is amended to read: **See majority opinion at 15-16.**
2. PAGE 1, LINE 7 from the BOTTOM of the page reads: "See majority opinion at 8-11." It is amended to read: **See majority opinion at 10-11.**
3. PAGE 1, NOTE 1, LINE 7 from the TOP of note 1 reads: "See majority opinion at 15." It is amended to read: **See majority opinion at 15-16.**
4. PAGE 1, NOTE 1. LINE 1, from the bottom of the note reads: "See majority opinion at 15." It is amended to read: **See majority opinion at 16.**

An amended opinion is being filed concurrently with this order, incorporating the foregoing amendments. The Clerk of the Court is directed to provide a copy of this order and a copy of the amended opinion to the parties and notify the publishing agencies of the changes. The Clerk of the Court is further

instructed to distribute copies of this order of amendment to those who received the previously filed opinion.

DATED: Honolulu, Hawai'i, December 18, 2003.