

*** NOT FOR PUBLICATION ***

NO. 26738

IN THE SUPREME COURT OF THE STATE OF HAWAII

SURVIVORS OF DANIEL V. BACKMAN, DECEASED,
Claimant-Appellant

vs.

FIRST INSURANCE COMPANY OF HAWAII, LTD. and RSKCO,
Employer/Insurance Adjuster-Appellees

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2003-328 (M))

ORDER DISMISSING APPEAL

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

Upon review of appellant's statement of jurisdiction and the record, it appears that the June 30, 2004 amended decision and order and the July 26, 2004 order denying the motion for attorney's fees and costs do not finally end the proceeding before the Labor and Industrial Relations Appeals Board (LIRAB) in Case No. AB 2003-328 (M). Deferring review of the June 30, 2004 amended decision and order and the July 26, 2004 order pending entry of a final decision and order by the LIRAB would not deprive appellant of adequate relief inasmuch as the June 30, 2004 amended decision and order will be appealable by appellant after entry of a final decision and order in the appeal and appellant may request attorney's fees and costs after entry of a final decision and order in the appeal. Thus, we lack

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jurisdiction over this appeal. See HRS §§ 91-14(a) and 386-88.

Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, November 4, 2004.