

FILED

2005 MAY 11 AM 9:30

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

IN THE SUPREME COURT OF THE STATE OF HAWAII

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AAMES FUNDING CORPORATION, a California corporation, dba Aames Home Loan, Plaintiff-Appellee

vs.

PONCIANO MILLORA MORES and PATRICIA ROSETE MORES, Defendants-Appellants

and

JOHN DOE 1-10, JANE DOES 1-10, and DOE PARTNERSHIPS, CORPORATIONS and OTHER ENTITIES 1-20, Defendants

NO. 24758

ORDER OF AMENDMENT
(CIV. NO. 1RC01-5476)

MAY 11, 2005

MOON, C.J., LEVINSON, NAKAYAMA, ACOBA, AND DUFFY, JJ.

The opinion of the court, filed on April 22, 2005, is amended as follows (deletions are stricken and additions are double underscored):

1. Lines 16 from the top of page 10 to line 9 from the top of page 11: assert the "source," "nature," and "extent" of their title claims ~~in an affidavit.~~

~~First, the Moreses' declaration was not an affidavit that was "confirmed" by the Moreses before a person~~

~~authorized to administer the Moreses' oath or affirmation.⁶
An affidavit is "[a] written or printed declaration or
statement of facts, made voluntarily, and confirmed by the
oath or affirmation of the party making it, taken before a
person having authority to administer such oath or
affirmation." Black's Law Dictionary 58 (6th ed. 1990)
(emphasis added).~~

~~Second, assuming arguendo that the declaration may be
construed as an affidavit for the purposes of HDCRCP Rule
12.1, ~~†~~ The declaration merely asserts that title was at
issue, and fails~~

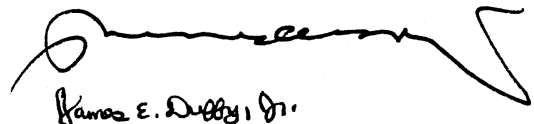
**2. Renumber footnote no. 7 to no. 6 and all
subsequent footnotes thereafter.**

The Clerk of the Court is directed to incorporate the
foregoing changes in the original opinion and take all necessary
steps to notify the publishing agencies of these changes.



Steven A. Levinson

Sumu A. Nakayama



James E. Duffy, Jr.

⁶ ~~An unsworn declaration may be treated as an affidavit in other
instances. See, e.g., Hawai'i Rules of Penal Procedure Rule 47(d) (2001) ("In
lieu of affidavit, an unsworn declaration may be made by a person, in writing,
subscribed as true under penalty of law, and dated[.]") However, there is no
HDCRCP Rule that provides for substitution of a declaration for an affidavit.
HDCRCP Rule 6(d) (2001) provides in relevant part that "[w]hen a motion is
supported by affidavit, the affidavit shall be served with the motion[.]"~~