

NO. 27595

IN THE SUPREME COURT OF THE STATE OF HAWAII

CLERK, APPELLATE COURTS  
STATE OF HAWAII  
E. N. RINLANDO

2005 DEC 20 PM 2:51

FILED

UNITY HOUSE, INC., Plaintiff-Appellee

vs.

HEAVENLY ROAD PRODUCTIONS, INC. and MICHAEL LUCAS,  
Defendants-Appellants

APPEAL FROM THE FIRST CIRCUIT COURT  
(CIV. NO. 98-5043)

ORDER

(By: Duffy, J.)

Upon consideration of Plaintiff-Appellee Unity House, Inc.'s motion to dismiss the appeal of Defendants-Appellants Heavenly Road Productions, Inc. and Michael Lucas, the papers in support, and the records and files herein, it appears: (1) Appellee contends the notice of appeal filed November 14, 2005 is premature; and (2) the record on appeal will not be transmitted to the appellate court until January 13, 2006, and without the record, this court cannot determine whether the notice of appeal is premature. Therefore,

IT IS HEREBY ORDERED that the motion to dismiss is denied without prejudice to Appellee filing a subsequent motion to dismiss after the record on appeal is transmitted to the appellate court.

DATED: Honolulu, Hawai'i, December 20, 2005.

David J. Gierlach  
and Brian A. Duus  
for plaintiff-appellee  
on the motion

*James S. Duffy, Jr.*  
Associate Justice

