NO. 26129

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JOHN M. DUBOIS, Plaintiff

vs.

ASSOCIATION OF APARTMENT OWNERS OF 2987 KALAKAUA and DOE ENTITIES 1-50, Defendants
(CIV. NO. 00-1-1277)

JOHN M. DUBOIS, Petitioner/Plaintiff-Appellant

vs.

ASSOCIATION OF APARTMENT OWNERS OF 2987 KALAKAUA, Respondent/Defendant-Appellee

and

DOE ENTITIES 1-50, Defendants
(CIV. NO. 01-1-0709)

JOHN M. DUBOIS, Petitioner/Plaintiff-Appellant

vs.

ASSOCIATION OF APARTMENT OWNERS OF 2987 KALAKAUA, Respondent/Defendant-Appellee

and

CERTIFIED MANAGEMENT, INC., a Hawai'i corporation, Defendant
(CIV. NO. 01-1-2386)

ASSOCIATION OF APARTMENT OWNERS OF 2987 KALAKAUA, by its Board of Directors, Respondent/Plaintiff-Appellee

and

DOE ENTITIES 1-50, Plaintiffs

vs.

JOHN M. DUBOIS, Petitioner/Defendant-Appellant
(CIV. NO. 01-1-2637)

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS

ORDER DISMISSING CERTIORARI PROCEEDING
(By: Moon, C.J., for the court[1])

Upon further consideration of the records and files in this case,[2] and it appearing that the writ of certiorari herein was improvidently granted,

IT IS HEREBY ORDERED that this certiorari proceeding is dismissed.

DATED: Honolulu, Hawai'i, June 30, 2006.

FOR THE COURT:

RONALD T.Y. MOON
Chief Justice

APPELLATE COURTS SEAL STATE OF HAWAI'I

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[1] Considered by Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

[2] Respondent/Defendant/Plaintiff-Appellee Association of Apartment Owners of 2987 Kalakaua (Respondent) and Defendant Certified Management, Inc. (Certified) filed a response to the application for writ of certiorari on June 7, 2006, citing Hawai'i Rules of Appellate Procedure (HRAP) Rule 26. While HRAP Rule 26(c) allows an extra period of two days "[w]henever a party is required . . . to do an act within a prescribed time after service of a paper, and the paper is served by mail," HRAP Rule 40.1(e) specifically states that a written response to an application for writ of certiorari may be filed "[w]ithin 5 days after the filing of an application." (Emphasis added.) Thus Rule 26 does not apply here. That being the case, the response was not considered.