

# SUPREME COURT OF THE STATE OF HAWAI‘I

## Fung v. Hoi

Fung · No. SCWC-XX-XXXXXXX · Decided May 20, 2026

### SUMMARY

The Supreme Court of the State of Hawai‘i dismissed Petitioners’ motion seeking clarification or, alternatively, recall of the order denying certiorari. The court construed the filing as a motion for reconsideration and held that such a motion is barred by Hawai‘i Rules of Appellate Procedure Rule 40.1(h); it also denied Respondent’s request for attorney fees and costs.

### CASE DETAILS

|                       |                                                                                                                                                                                                           |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Hawai‘i                                                                                                                                                                     |
| WRITING FOR THE COURT | Vladimir P. Devens, C.J.; Sabrina S. McKenna, J.; Todd W. Eddins, J.; Lisa M. Ginoza, J.; Jeannette H. Castagnetti, Circuit Judge, assigned by reason of vacancy                                          |
| JURISDICTION          | Supreme Court of the State of Hawai‘i                                                                                                                                                                     |
| DECIDED               | May 20, 2026                                                                                                                                                                                              |
| DOCKET                | SCWC-XX-XXXXXXX                                                                                                                                                                                           |
| DISPOSITION           | dismissed                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Petitioners moved for clarification or, alternatively, recall of the Hawai‘i Supreme Court's order rejecting certiorari. The court construed the motion as a motion for reconsideration and dismissed it. |
| PRECEDENTIAL VALUE    | Published                                                                                                                                                                                                 |
| PARTIES               | Wei Ling Fung, Fugang Xia aka Summer v. Wa Cham Hoi                                                                                                                                                       |

### TOPICS

- writ of certiorari
- motion for reconsideration
- appellate procedure
- attorney fees
- costs

### PRACTICE AREAS

- appellate procedure
- civil procedure

### QUESTIONS PRESENTED

1. Whether a motion seeking clarification or recall of the Supreme Court's rejection of an application for a writ of certiorari may be treated as a motion for reconsideration and considered by the court.
2. Whether Respondent was entitled to attorney fees and costs.

#### **HOLDINGS**

1. A rejection of an application for a writ of certiorari is not subject to a motion for reconsideration in the Hawai‘i Supreme Court and is final; the court therefore dismissed Petitioners' motion.
2. Respondent's request for attorney fees and costs was denied.

#### **KEY QUOTATIONS**

*“Neither acceptance nor rejection of an application for a writ of certiorari shall be subject to a motion for reconsideration in the supreme court. The rejection of an application for certiorari shall be final.” (2)*

#### **FACTUAL BACKGROUND**

The opinion concerns a post-disposition motion filed after the Hawai‘i Supreme Court rejected an application for a writ of certiorari. The motion was styled as one for clarification or, alternatively, recall of the rejection order. The record also included Respondent's opposition and a request for attorney fees and costs.

#### **PROCEDURAL HISTORY**

The matter was before the Hawai‘i Supreme Court on certiorari to the Intermediate Court of Appeals. The Supreme Court had rejected the application for a writ of certiorari on April 20, 2026. Petitioners then filed a motion seeking clarification or recall of that order, which the court dismissed; the court also denied Respondent's request for attorney fees and costs.

#### **DISPOSITION**

dismissed