

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the Amendment
of the
Hawai'i Rules of Appellate Procedure

FILED
2007 NOV -8 AM 10:16
CLERK OF APPELLATE COURTS
STATE OF HAWAII
E.L. RINALDO

FILED

ORDER AMENDING
RULES 3.1(e), 28(b)(4)(C), 32(c), AND FORMS 6, 7, AND 8
OF THE HAWAI'I RULES OF APPELLATE PROCEDURE
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rules 3.1(e), 28(b)(4)(C), and 32(c) of the Hawai'i Rules of Appellate Procedure, are amended, effective January 1, 2008, as follows (new material is underscored):

Rule 3.1. CIVIL APPEAL DOCKETING STATEMENT.

(e) **Relationship to Rules 10 and 11.** Upon notice from the appellate clerk that an appeal has been accepted into the appellate conference program, preparation of transcripts, the record, and briefs shall be stayed pending further notification from the appellate clerk, notwithstanding anything to the contrary in Rules 10, 11, and 28 of these rules. If an appeal is accepted into the appellate conference program, the appellate clerk shall notify the parties, the clerk of the court from which appeal is taken, and the court reporters. Likewise, the appellate clerk shall notify the parties, the clerk of the court from which appeal is taken, and the court reporters if an appeal is returned to the appeals docket. The appellate clerk's notices shall be in writing and may be transmitted by interoffice mail, United States mail, email, or facsimile.

Rule 28. BRIEFS.

(b) **Opening brief.** Within 40 days after the filing of the record on appeal, the appellant shall file an opening brief, containing the following sections in the order here indicated:

(4) A concise statement of the points of error set forth in separately numbered paragraphs. Each point shall state: (i) the alleged error committed by the court or agency; (ii) where in the record the alleged error occurred; and (iii) where in the record the alleged error was objected to or the manner in which the alleged error was brought to the attention of the court or agency. Where applicable, each point shall also include the following:

(A) when the point involves the admission or rejection of evidence, a quotation of the grounds urged for the objection and the full substance of the evidence admitted or rejected;

(B) when the point involves a jury instruction, a quotation of the instruction, given, refused, or modified, together with the objection urged at the trial;

(C) when the point involves a finding or conclusion of the court or agency, either a quotation of the finding or conclusion urged as error or reference to appended findings and conclusions;

(D) when the point involves a ruling upon the report of a master, a quotation of the objection to the report.

Rule 32. FORM OF PAPERS.

(c) **Signature.** All original documents filed with the appellate court must be signed in black ink by the party or, if the party is represented, by the party's attorney. The name of the signator shall be typed or printed under the signature. The page on which the signature(s) appear(s) shall contain at least two lines of text and/or a notation at the bottom of the page with the following information: case number, case name, and title of document.

IT IS FURTHER ORDERED that effective January 1, 2008, Form 6 is amended by adding space to provide e-mail addresses; and along with minor grammatical or word changes, Forms 7 and 8 are amended to delete the monetary amount of the hourly rate, provide space to insert the monetary amount of the hourly rate, and provide space for citation to statutory or other authority for a claimed expense of fee. Therefore, current Forms 6, 7, and

8 shall be deleted and the attached Forms 6, 7, and 8 shall be added to the Hawai'i Rules of Appellate Procedure in place thereof.

DATED: Honolulu, Hawai'i, November 8, 2007.



Stephen H. Levinson

Huna C. Nakayama



Karen E. Duffy

Form 6

IN THE _____
(Court or Agency From Which Appeal is Taken)

CIVIL APPEAL DOCKETING STATEMENT
(For Use By The Appellate Conference Program)

INTERNAL USE ONLY

PLEASE TYPE OR PRINT, ATTACH ADDITIONAL PAGES IF NECESSARY.

TITLE		Lower Court/Agency Docket Number:		
		Is this a Cross-Appeal? ____ Yes ____ No		
		Has this matter previously been before the Hawai'i Appellate Courts? ____ Yes ____ No If yes, state when: Case Name: SC Docket Number:		
CHECK AS MANY AS APPLICABLE				
JURISDICTION		LOWER COURT/AGENCY DISPOSITION		
1. LOWER COURT/AGENCY	2. APPELLATE	1. STAGE OF PROCEEDINGS	2. TYPE OF JUDGMENT / ORDER APPEALED	3. RELIEF
<input type="checkbox"/> Statutory <input type="checkbox"/> Other Grounds (specify)	<input type="checkbox"/> Final Decision of Lower Court / Agency <input type="checkbox"/> Interlocutory Decision <input type="checkbox"/> Other (Specify)	<input type="checkbox"/> Pre-Trial <input type="checkbox"/> During Trial <input type="checkbox"/> After Trial	<input type="checkbox"/> Default Judgment <input type="checkbox"/> Judgment/Court Decision <input type="checkbox"/> Dismissal/Jurisdiction <input type="checkbox"/> Judgment/Jury Verdict <input type="checkbox"/> Dismissal/Merits <input type="checkbox"/> Summary Judgment <input type="checkbox"/> Judgment NOV <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Directed Verdict <input type="checkbox"/> Other (Specify)	<input type="checkbox"/> Damages: Amount Sought: \$ _____ Amount Granted: \$ _____ <input type="checkbox"/> Injunctions <input type="checkbox"/> Preliminary <input type="checkbox"/> Permanent <input type="checkbox"/> Granted <input type="checkbox"/> Denied <input type="checkbox"/> Other (Specify)

BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW:

ANTICIPATED ISSUES PROPOSED TO BE RAISED ON APPEAL:

MAY THE MEDIATOR CONTACT THE TRIAL JUDGE TO DISCUSS THE CASE?

Yes No

BASED ON YOUR PRESENT KNOWLEDGE:

1. Does this appeal involve a question of first impression or present a novel legal question?

_____ Yes _____ No

2. Does this appeal involve a question of state or federal constitutional interpretation?

_____ Yes _____ No

3. Does this case raise a question of law regarding the validity of a state statute, county ordinance, or agency regulation?

_____ Yes _____ No

4. Does this case involve issues upon which there is an inconsistency in the decisions of the Intermediate Court of Appeals or the Supreme Court?

_____ Yes _____ No

5. Will the determination of this appeal turn on the interpretation or application of particular case or statute?

_____ Yes _____ No If Yes, provide:

Case name/statute:

Citation:

Docket Number, if unreported:

DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:

_____ Likelihood of a motion to expedite the appeal.

_____ Multiple parties on either side for whom joint briefing is possible.

_____ Likelihood of motions to intervene on appeal.

_____ Likelihood of motions to file *amicus* briefs.

_____ Likelihood of motions to stay appeal pending resolution of a related case. Identify case name, docket number, and court or agency:

_____ Other procedural complexities. If so, please identify them:

<p>COUNSEL FOR APPELLANTS:</p> <p>NAME:</p> <p>ADDRESS:</p> <p>TELEPHONE ()</p> <p>EMAIL:</p>	<p>TRIAL COUNSEL FOR APPELLANT(S) (If different from appeal counsel)</p> <p>NAME:</p> <p>ADDRESS:</p> <p>TELEPHONE ()</p> <p>EMAIL:</p>
--	--

I CERTIFY THAT A COPY OF THIS CIVIL APPEAL DOCKETING STATEMENT WAS SUBMITTED TO THE CLERK OF THE LOWER COURT/AGENCY AND THAT IT WAS SERVED ON EACH PARTY/COUNSEL SHOWN ON THE ATTACHED SERVICE LIST.

Signature

Date

REMEMBER TO ATTACH COPIES OF (1) THE ORDER/JUDGMENT APPEALED FROM, (2) ANY WRITTEN OPINION OR FINDINGS OF FACT AND CONCLUSIONS OF LAW SUPPORTING THE ORDER/JUDGMENT, AND (3) PROOF OF SERVICE ON ALL OTHER PARTIES TO THE PROCEEDINGS BELOW (WITH TELEPHONE NUMBERS)

Form 7

NO. _____

IN THE (SUPREME COURT or INTERMEDIATE COURT OF APPEALS)
OF THE STATE OF HAWAI'I

IN RE ATTORNEYS' FEES AND
NECESSARY EXPENSES FOR

CR. NO. _____

_____,
Defendant-Appellant.

REQUEST AND DECLARATION OF COUNSEL

In accordance with Hawai'i Rules of Appellate Procedure (HRAP) Rule 39(d), I,
_____, Defendant-Appellant's attorney, request compensation for
necessary and authorized expenses and attorneys' fees incurred on appeal on Defendant-Appellant's
behalf and, in conjunction herewith aver, as follows:

1. I was appointed to represent Defendant-Appellant _____ by order of the
_____ court of the _____ circuit, on _____, which order is attached
as Appendix A.

2. I request reimbursement for necessary and authorized expenses as follows:

<u>Expense</u>	<u>Amount</u>	<u>Authority</u>
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____
TOTAL EXPENSES	\$ _____	

A true and correct itemized accounting of these necessary expenses, including relevant
invoices and receipts, is attached as Appendix B.

3. I have expended the following hours in attorney work for this appeal and, pursuant to Hawaii Revised Statutes § ____, request amounts as follows:

	<u>Activity</u>	<u>Hours</u>	<u>@ \$</u>	<u>Amount</u>
a.	Correspondence, Interviews and Conferences	_____	@ \$_____	\$_____
b.	Obtaining & Reviewing Records	_____	@ \$_____	\$_____
c.	Legal Research	_____	@ \$_____	\$_____
d.	Drafting	_____	@ \$_____	\$_____
e.	Oral Argument (In-court)	_____	@ \$_____	\$_____
f.	Other (Specify) _____	_____	@ \$_____	\$_____
TOTAL FEES				\$_____

Attached hereto as Appendix C are hourly worksheets, prepared in accordance with HRAP Form 7 and contemporaneously with the work performed as noted thereon and truthfully reflecting the amount of work actually performed in the representation of the Defendant-Appellant.

I, _____, declare under penalty of law, as provided by HRAP Rule 52, that the foregoing is true and correct.

DATED: _____

Form 7b. COMPLETED HOURLY WORKSHEET (Indigent Representation)

Appellate Case Number: 12345

Case Name: State v. Doc

Date	Brief Description of Activity	Correspondence Interviews & Conferences	Obtaining & Reviewing Records	Legal Research	Drafting	Oral Argument (In-court)	Other (Specify)
1/1/00	review file/draft notice of appeal		.25		.25		
1/2/00	confer w/ ct. rptpr re: transcripts	.5					
1/2/00	call ct. re: amended judgment	.3					
2/3/00	prepare statement of jurisdiction				.5		
3/5/00	review record on appeal		2.0				
3/29/00	review transcripts		8.0				
4/1/00	draft statement of the case				2.1		
4/2/00	draft statement of the case				2.3		
4/3/00	research/draft standards of review			.3	.5		
4/15/00	research issues for appeal			2.0			
5/3/00	draft opening brief				4.0		
5/5/00	draft opening brief				4.0		
6/10/00	review answering brief						1.5
6/11/00	draft reply brief				1.5		
6/12/00	teleconference w/ client	.2					
	Sub-Total for this page	1.0	10.25	2.3	14.7		1.5
	GRAND TOTAL	1.0	10.25	2.3	14.7		1.5

(Added May 7, 2001, effective July 1, 2001)

Form 8

NO. _____

IN THE (SUPREME COURT or INTERMEDIATE COURT OF APPEALS)
OF THE STATE OF HAWAI'I

_____ ,)	_____ NO. _____
Plaintiff- _____ ,)	
v.)	
_____ ,)	
Defendant- _____ .)	
_____)	

REQUEST AND DECLARATION OF COUNSEL

In accordance with Hawai'i Rules of Appellate Procedure (HRAP) Rule 39(d), I, _____, attorney for _____, request compensation for costs and attorneys' fees and, in conjunction herewith aver, as follows:

1. (Appellant or Appellee) _____ prevailed in this appeal.

2. I request reimbursement for necessary and authorized costs as follows:

	<u>Item</u>	<u>Amount</u>	<u>Authority</u>
a.	_____	\$ _____	_____
b.	_____	\$ _____	_____
c.	_____	\$ _____	_____
d.	_____	\$ _____	_____
	TOTAL COSTS	\$ _____	_____

A true and correct itemized accounting of these costs, including relevant invoices and receipts, is attached as Appendix A.

3. I have expended the following hours in attorney work and, pursuant to Hawaii Revised Statutes § ____ or _____, am entitled to charge the following amounts for this appeal:

<u>Activity</u>	<u>Hours</u>		<u>Amount</u>
a. Correspondence, Interviews and Conferences	_____	@ \$ _____	\$ _____
b. Obtaining & Reviewing Records	_____	@ \$ _____	\$ _____
c. Legal Research	_____	@ \$ _____	\$ _____
d. Drafting	_____	@ \$ _____	\$ _____
e. Oral Argument (In-court)	_____	@ \$ _____	\$ _____
f. Other (Specify) _____	_____	@ \$ _____	\$ _____
TOTAL FEES			\$ _____

Attached hereto as Appendix B are hourly worksheets, prepared in accordance with HRAP Form 8 and contemporaneously with the work performed as noted thereon and truthfully reflecting the amount of work actually performed in the representation of (Appellant or Appellee)

_____. Additional information [including the language of the contract authorizing attorneys' fees] and authority [including appropriate case authority] supporting my request for costs and attorneys' fees is included in the memorandum of law attached hereto.

I, _____, declare under penalty of law, as provided by HRAP Rule 52, that the foregoing is true and correct.

DATED: _____

Form 8b. COMPLETED HOURLY WORKSHEET (Non-Indigent Representation)

Appellate Case Number: 12345

Case Name: State v. Doe

Date	Brief Description of Activity	Correspondence Interviews & Conferences	Obtaining & Reviewing Records	Legal Research	Drafting	Oral Argument (In-court)	Other (Specify)
1/1/00	review file/draft notice of appeal		.25		.25		
1/2/00	confer w/ ct. rpt. re: transcripts	.5					
1/2/00	call ct. re: amended judgment	.3					
2/3/00	prepare statement of jurisdiction				.5		
3/5/00	review record on appeal		2.0				
3/29/00	review transcripts		8.0				
4/1/00	draft statement of the case				2.1		
4/2/00	draft statement of the case				2.3		
4/3/00	research/draft standards of review			.3	.5		
4/15/00	research issues for appeal			2.0			
5/3/00	draft opening brief				4.0		
5/5/00	draft opening brief				4.0		
6/10/00	review answering brief						1.5
6/11/00	draft reply brief				1.5		
6/12/00	teleconference w/ client	.2					
	Sub-Total for this page	1.0	10.25	2.3	14.7		1.5
	GRAND TOTAL	1.0	10.25	2.3	14.7		1.5

(Added May 7, 2001, effective July 1, 2001)