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DISTRICT APPELLATE COURTS  
STATE OF HAWAII

In the Matter of the Amendment  
of the

District Court Rules of Civil Procedure  
and Forms for Use in the  
District Courts of the State of Hawai'i

ORDER AMENDING RULE 70 OF THE DISTRICT COURT  
RULES OF CIVIL PROCEDURE AND FORMS

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rule 70 of the District Court Rules of Civil Procedure, is amended, effective July 1, 2008 as follows (deleted material is bracketed and stricken; new material is underscored):

**Rule 70. GARNISHMENT.**

(a) ~~[Nonconclusory affidavit]~~ Declaration and service ~~[of TANF notice on individuals]~~.

(1) Any motion for issuance of garnishee summons for funds of an individual held by a financial institution must be accompanied by a separate ~~[affidavit or]~~ declaration of the movant/judgment creditor or movant/judgment creditor's attorney setting forth those facts which lead the ~~[affiant or]~~ declarant to conclude that the ~~[assets]~~ funds to be garnished are not traceable to ~~[Temporary Aid to Needy Families - Federal and State (TANF), formerly known as Aid to Families with Dependent Children (AFDC) grants, or to]~~ funds that are non-garnishable under the law. The sufficiency of each ~~[nonconclusory affidavit or]~~ declaration in support of the motion for issuance of garnishee summons for funds shall be reviewed by the presiding judge prior to issuance of the garnishee summons.

(2) ~~[After issuance of the garnishee summons and before issuance of the garnishment order, a TANF Notice must be served upon the individual/judgment debtor. Service shall be by personal service or by certified or express mail. If service of the notice cannot be effected by any of the aforesaid methods, service may be effected by publication pursuant to Section 634-36 of the Hawai'i Revised Statutes, as the same may be renumbered. The judgment creditor shall file a declaration with the court regarding the service attempts and the result. If service was obtained, a copy of the TANF Notice~~

~~together with proof of service thereof shall be filed with the court immediately after such notice has been served upon the individual/judgment debtor. A garnishee order may issue after proof of service has been made, or after the judgment creditor has filed a return of service, or an affidavit or declaration with the court describing the service and the result.]~~ Service shall be made in accordance with Rule 5(b) of these rules.

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IT IS FURTHER ORDERED that Form#DC01 is deleted and the attached Form#DC29 is adopted for use in the District Courts of the State of Hawai'i, effective July 1, 2008. Form#DC29 replaces the prior form designated as Form#1DC29.


IT IS FURTHER ORDERED that the district courts are authorized to insert circuit identifiers, addresses and contact information and to publish the form in print or electronic format.

DATED: Honolulu, Hawai'i, May 13, 2008.



Steven A. Levinson

Annunziata Nakamura



James E. Dully, Sr.

**MOTION FOR ISSUANCE OF GARNISHEE  
SUMMONS AFTER JUDGMENT; DECLARATION;  
DECLARATION; ORDER; EXHIBIT(S);  
GARNISHEE SUMMONS; GARNISHEE INFORMATION**

IN THE DISTRICT COURT OF THE \_\_\_\_\_ CIRCUIT  
\_\_\_\_\_ DIVISION  
STATE OF HAWAI'I

Plaintiff(s)

Reserved for Court Use  
Civil No.

Defendant(s)

Filing Party/Attorney Name, Attorney Number, Firm Name (if applicable), Address, Telephone and Fax Numbers

Garnishee(s) (Name and Address)

Copy of Judgment attached as Exhibit A  
  
Current Amount Due: \$ \_\_\_\_\_  
(If this amount is different from the Judgment Amount, please attach separate sheet showing calculations as Exhibit B)

**MOTION FOR ISSUANCE OF GARNISHEE SUMMONS AFTER JUDGMENT**  
**TO THE JUDGE OF THE ABOVE-ENTITLED COURT:** Judgment Creditor(s) moves that a Garnishee Summons issue according to Law directed to the Garnishee(s) named above for:

**WAGES** (including and salary, stipend, commissions, annuity or net income or portion of net income under a trust) payable to and/or earned by Judgment Debtor(s), \_\_\_\_\_

**FUNDS/GOODS/EFFECTS/COMMISSIONS/COMPENSATION** as to Judgment Debtor(s), \_\_\_\_\_

If this is a garnishment for "funds" (other than wages) belonging to a Judgment Debtor(s) who is an individual and a Garnishee who is a financial institution, then the second Declaration on page 2 must be completed.

Date:

Signature of Filing Party/Attorney:  
Print/Type Name:



In accordance with the Americans Disability Act, and other applicable State and Federal laws, if you require an accommodation for a disability when working with a court program, service, or activity please contact the District Court Administration Office at PHONE NO. \_\_\_\_\_, FAX \_\_\_\_\_, or TTY \_\_\_\_\_ at least ten (10) working days before your proceeding, hearing, or appointment date.

SEE PAGE 2

I certify that this is a full, true, and correct copy of the original on file in this office.  
\_\_\_\_\_  
Clerk, District Court of the above Circuit, State of Hawai'i

**DECLARATION**

I have read this Motion, know the contents and verify that the statements are true to my personal knowledge and belief. **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOLLOWING IS TRUE AND CORRECT:**

1. I am Judgment Creditor(s) or Judgment Creditor(s)' attorney;
2. The Judgment (a copy of which is attached as Exhibit A) was entered on the date shown on said Judgment for Judgment Creditor(s) and against Judgment Debtor(s) in the sum of the Judgment Amount Due stated;
3. There is still due and owing
  - the amount shown in the copy of the Judgment attached as Exhibit A or
  - the amount shown in the attached Exhibit B;
4. The Judgment has not been appealed (or if appealed, no bond has been filed), reversed, modified, set aside or satisfied except as aforesaid and otherwise remains in full force and effect; and
5. The Judgment Creditor(s) is still the owner and holder of said Judgment.
6. I am informed and believe that Garnishee(s) is indebted to Judgment Debtor(s) or is holding moneys or goods or effects of Judgment Debtor(s) for safekeeping, or is paying to Judgment Debtor(s) salaries, stipends, commissions, wages, annuities or net income or portions of net income under a trust.

Date:	Signature of Declarant:  Print/Type Name:
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**DECLARATION**

1. Based on the following information, the funds sought to be garnished are not traceable to funds that would be exempt from garnishment under the provisions of Federal and State laws as the judgment debtor does not receive:
  - a. Temporary Assistance for Needy Families (TANF) benefits or funds;
  - b. unemployment benefits (Hawai'i Revised Statutes §383-163);
  - c. social security payments;
  - d. worker's compensation benefits (Hawai'i Revised Statutes §386-57); or
  - e. pension or retirement program payments exempt from garnishment under Hawai'i Revised Statutes §653-3 or 651-124.
2. I know the information in the above paragraph is true and correct based upon:
  - an examination of the Judgment Debtor or Person having knowledge conducted on \_\_\_\_\_
  - the Judgment Debtor's answer to interrogatories
  - the Judgment Debtor's deposition answers
  - the Judgment Debtor's production of documents, or
  - my personal knowledge of the Judgment Debtor (state the specific basis for you personal knowledge):  
(Attach continuation page, if necessary).

I have read this Declaration, know the contents and verify that the statements are true to my personal knowledge and belief. **I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

Date:	Signature of Filing Party/Attorney:  Print/Type Name:
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**ORDER**

Filing Party is Ordered to provide a blank Garnishee Disclosure to all Garnishees named above. This motion is granted and IT IS ORDERED that Garnishee Summons issue according to law.

Date:	Judge of the above-entitled Court
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