

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the Amendment
of the
RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAII

ORDER AMENDING RULES 21 AND 23 OF THE
RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAII
(By: Moon, C.J., Nakayama, Acoba, and Duffy, JJ., and
Intermediate Court of Appeals Chief Judge Recktenwald,
by reason of vacancy)

IT IS HEREBY ORDERED that Rules 21 and 23 of the Rules of the Circuit Courts of the State of Hawaii are amended, effective July 1, 2009, as follows (deleted material is bracketed and stricken; new material is underscored):

Rule 21. SUBMISSION OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The party who prevails after the presentation of evidence in a jury-waived case shall submit to the court proposed findings of fact and conclusions of law pursuant to Rule 52, Hawaii Rules of Civil Procedure. The party required to prepare such proposed findings of fact and conclusions of law shall have 10 days, unless such time is extended by the court, to draft the same and secure the approval as to form of opposing counsel thereon and deliver the original and one copy to the court, or, if not so approved, serve a copy thereof upon each party who has appeared in the action and deliver the original and one copy to the court. If the form of the proposed findings of fact and conclusions of law has not been approved, a party served with the proposed findings and conclusions may, within 5 days ~~thereafter~~ after service of the proposed findings of fact and conclusions of law, serve and deliver to the court objections and a copy of his proposed findings and conclusions. The court shall determine the findings of fact and conclusions of law to be entered.

If after the conclusion of all testimony in a jury-waived case, and after the submission thereof, the court does not indicate which party has prevailed in the action, the respective parties involved may be requested to submit proposed findings of fact and conclusions of law.

Rule 23. SETTLEMENT OF JUDGMENTS, DECREES, AND ORDERS.

Within 10 days after decision of the court awarding any judgment, decree or order that requires settlement and approval by a judge, including any interlocutory order, the prevailing party, unless otherwise ordered by the court, shall prepare a judgment, decree or order in accordance with the decision, attempt to secure the approval as to form of opposing parties thereon, and following such approval deliver the original and one copy to the court. If there is no objection to the form of a proposed judgment, decree or order, the party shall promptly approve as to form. In the event a proposed judgment, decree or order is not approved as to form by an opposing party within 5 days of a written request for such approval, the prevailing party shall deliver the original and one copy to the court along with notice of service on all parties and serve a copy thereof upon each party who has appeared in the action. If any party objects to the form of a proposed judgment, decree or order, that party shall, within 5 days [thereafter] after service of the proposed judgment, decree, or order, serve upon the prevailing party and deliver to the court a statement of that party's objections and the reasons therefor, and the form of the party's proposed judgment, decree or order, and in such event, the court shall proceed to settle the judgment, decree or order. Failure to file and serve objections and a proposed judgment, decree or order shall constitute approval as to form of the prevailing party's proposed judgment, decree or order. Approval as to form shall not affect the right, or constitute waiver of the right, of any party to appeal from any judgment, decree or order issued.

DATED: Honolulu, Hawaii, March 6, 2009.