

RE:           **Hawai'i Rules of Appellate Procedure**

*ADDITIONAL CLARIFICATIONS OF PROCEDURES*

The Supreme Court of Hawai'i seeks public comment regarding proposals to amend Rules 4(a)(1), 4(a)(3), and 4(b)(1) of the Hawai'i Rules of Appellate Procedure. The proposals clarify procedures of the appellate courts. The proposals are attached hereto.

Comments about the proposed amendments should be submitted, in writing, **no later than Monday, February 8, 2016**, to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the Judiciary's website.

Attachment

**PROPOSED AMENDMENTS TO  
HAWAII RULES OF APPELLATE PROCEDURE**

(Deleted material is bracketed and stricken; new material is underlined)

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**Rule 4. APPEALS - WHEN TAKEN.**

**(a) Appeals in civil cases.**

(1) TIME AND PLACE OF FILING. When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order.

A motion for leave to file an interlocutory appeal from an order of the circuit court must be filed within 30 days of the court's entry of the substantive order. If such a motion is filed and granted, then the notice of appeal shall be filed within 30 days after entry of the circuit court's granting permission for leave to file an interlocutory appeal.

Unless filed electronically, as required by Rule 25 of these Rules and Rules 2.2 and 4.1 of the Hawai'i Electronic Filing and Services Rules, the notice of appeal shall be filed with the clerk of the court or agency from which the appeal is taken. If a notice of appeal is mistakenly submitted to the appellate clerk, the appellate clerk shall note on it the date of receipt and shall electronically file the notice of appeal. The date of receipt by the appellate clerk shall be deemed to be the date the notice of appeal was filed with the clerk of the court or agency appealed from.

When filed electronically, the notice of appeal shall be filed in the appellate case created for that appeal. A notice of appeal filed through JEFS or JIMS is deemed filed with the clerk of the court or agency appealed from.

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(3) TIME TO APPEAL AFFECTED BY POST- JUDGMENT MOTIONS. If any party files a timely motion for judgment as a matter of law, to amend findings or make additional findings, for a new trial, to reconsider, alter or amend the judgment or order, or for attorney's fees or costs, and court or agency rules specify the time by which the motion shall be filed, then the time for filing the notice of appeal is extended for all parties until 30 days after entry of an order disposing of the motion. ~~[; provided, that the failure]~~ The presiding court or agency in which the motion was filed shall ~~[to]~~ dispose of any such post-judgment motion by entering an order ~~[entered]~~ upon the record within 90 days after the date the motion was filed ~~[shall constitute a denial of the motion]~~. If the court or agency fails to do so, then within 5 days after the 90th day, the clerk of the relevant court or agency shall notify the parties that, by operation of this Rule, the post-judgment motion is denied and that any orders entered thereafter shall be nullity. The time of appeal shall run from the date of entry of the court or agency's order disposing of the post-judgment motion, if the order is filed within the 90 days, or from the filing date of the clerk's notice to the parties that the post-judgment motion is denied pursuant to the operation of the Rule.

The notice of appeal shall be deemed to appeal the disposition of all post-judgment motions that are timely filed after entry of the judgment or order.

The 90-day period shall be computed as provided in Rule 26 of these Rules.

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**(b) Appeals in criminal cases.**

(1) TIME AND PLACE OF FILING. In a criminal case, the notice of appeal shall be filed within 30 days after entry of the judgment or order appealed from.

A motion for leave to file an interlocutory appeal from an order of the circuit court must be filed within 30 days of the court's entry of the substantive order. If such a motion is filed and granted, then the notice of appeal shall be filed within 30 days after entry of the circuit court's granting permission for leave to file an interlocutory appeal.

Unless filed electronically, as required by Rule 25 of these Rules and Rules 2.2 and 4.1 of the Hawai'i Electronic Filing and Service Rules, the notice of appeal shall be filed with the clerk of the court from which the appeal is taken. If a notice of appeal is mistakenly submitted to the appellate clerk, the appellate clerk shall note on it the date of receipt and shall electronically file the notice of appeal. The date of the receipt by the appellate clerk shall be deemed to be the date the notice of appeal was filed with the clerk of the court appealed from.

When filed electronically, the notice of appeal shall be filed in the appellate case created for that appeal. A notice of appeal filed through JEFS or JIMS is deemed filed with the clerk of the court appealed from.

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