

RE: **Proposal to Amend Rule 54 of the Hawai'i Rules of Appellate Procedure**

*AMENDMENTS TO HRAP RULE 54 REGARDING
BANKRUPTCY PROCEEDINGS WHICH STAY AN APPEAL*

The Supreme Court of Hawai'i seeks public comment regarding a proposal to amend Rule 54 of the Hawai'i Rules of Appellate Procedure. The amendments would require parties to notify the appellate courts of bankruptcy proceedings that stay an appeal. The proposal is attached hereto.

Comments about the proposed amendments should be submitted, in writing, **no later than Tuesday, September 11, 2018**, 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 (HRAP)
RULE 54**

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

**Rule 54. NOTICE OF BANKRUPTCY FILING; LIFTING OR
TERMINATION OF STAY OF PROCEEDINGS BY
~~FEDERAL~~ BANKRUPTCY COURT.**

(a) Notice of appeal; record on appeal; briefing. Whenever a ~~federal~~ bankruptcy court lifts or terminates a stay of proceedings that has been entered with respect to a civil case in which an appeal is permitted by law and no notice of appeal has been filed, the provisions of Rule 4 shall apply as if the date of lifting or termination of the stay was the date of entry of the judgment appealed from; if a notice of appeal has been filed but the record not yet docketed, provisions of Rules 10, 11, and 12 shall apply as if the date of lifting or termination of the stay was the date of filing the notice of appeal; if the record has been filed and briefing has not been completed, the provisions of Rules 28, 29, and 30 shall apply as if the date of lifting or termination of the stay was the date of the filing of the last appropriate document.

(b) Notice. If any party has knowledge of a bankruptcy action that stays an appeal, including when a party files for bankruptcy while an appeal is pending, the party with knowledge shall immediately file a notice of bankruptcy with the appellate court. The notice shall include the name of the bankruptcy court, case number of the bankruptcy filing, and the date of initiation. On the lifting or termination by the bankruptcy court of a stay of proceedings pending in the Hawai'i appellate courts, each party with such knowledge shall file a notification thereof with the appellate court within 7 days.

(c) Appellate court action during pendency. The appellate court shall not consider motions or requests for relief during the pendency of the bankruptcy. Parties claiming that a bankruptcy stay is not in effect shall file a certified copy of the bankruptcy court's order vacating or modifying the stay or granting permission for the case to proceed.