

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CLERK OF THE SUPREME COURT
STATE OF HAWAII

2004 OCT 18 PM 2:56

FILED

In the Matter of the Amendment
of the
Rules of the Circuit Courts of the State of Hawai'i

ORDER AMENDING THE RULES
OF THE CIRCUIT COURTS OF THE STATE OF HAWAI'I
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that the following amendments to the Rules of the Circuit Courts of the State of Hawai'i are made, effective January 1, 2005, as follows (deleted material is bracketed and stricken, and new material is underlined):

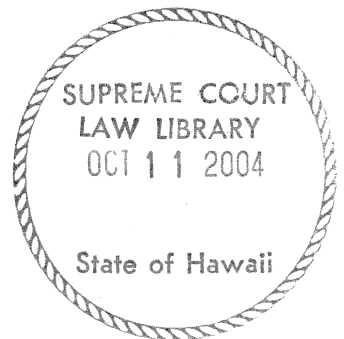
1. Subsection (c) (5) of Rule 3 is amended as follows:

RULE 3. FORM OF PLEADINGS AND MOTIONS.

. . .
(c) Form of First Page. The first page of all papers, except as provided hereinbelow in (d), shall be in the following form:

. . .
(5) In the space to the right of the title of the cause, there shall be listed the class and case number followed in civil cases by the category best describing the claims asserted in the case and followed in all cases by the character of the paper (which shall include an appropriate notation if a jury trial is demanded in the paper).

The category best describing the claims asserted in a civil case shall be selected from the following:



[Agency Appeals	<u>Agency Appeal</u>
Assault and Battery	<u>Agreement of Sale Foreclosure</u>
Class Action	<u>Assault & Battery</u>
Condemnation	<u>Condemnation</u>
Construction Defects	<u>Construction Defects</u>
Contract	<u>Contract</u>
Declaratory Judgments	<u>Declaratory Judgment</u>
Defamation	<u>Foreclosure</u>
Foreclosure	<u>Legal Malpractice</u>
Guardianship	<u>Medical Malpractice</u>
Injunctions	<u>Motor Vehicle Tort</u>
Legal Malpractice	<u>Product Liability</u>
Medical Malpractice	<u>Other Civil Action</u>
Motor Vehicle Tort	<u>Other Non-Vehicle Tort.</u>
Non-Motor Vehicle Tort	
Probate	
Product Liability	
Special Proceeding	
Toxic Tort	
Other Civil Action.]	

2. Section (d) of Rule 10 is amended as follows:

Rule 10. ORDERS GRANTABLE BY THE CLERK.

The clerk may grant, sign, and enter the following orders without further direction by the court, but any orders so entered may be set aside or modified by the court:

. . .

(d) Judgments. Default judgments as provided in Rule 55(b)(1) of the Hawai'i Rules of Civil Procedure. ~~[Where the instrument provides for the payment of attorney's fee, such fee shall be allowed, except that the fee allowable shall not exceed the amount obtainable under the following schedule:—~~

~~—25 per cent on first \$1000 or fraction thereof.—~~

~~—20 per cent on second \$1000 or fraction thereof.—~~

~~—15 per cent on third \$1000 or fraction thereof.—~~

~~—10 per cent on fourth \$1000 or fraction thereof.—~~

~~—5 per cent on fifth \$1000 or fraction thereof.—~~

~~—2.5 per cent on any amount in excess of \$5000.—~~

~~The foregoing percentages are to be computed on the total of principal and interest due.]~~

3. Rule 25 is amended as follows:

RULE 25. ORDER FOR TRANSCRIPT OF EVIDENCE.

Upon the [~~application~~] request of any person for [~~a direction to the official reporter to prepare~~] a transcript of the evidence or other court proceeding, [~~the judge shall direct~~] the official reporter shall [~~to~~] furnish such transcript in the regular order of cases tried or in such order as the court administrator [~~judge~~] directs. The official reporter shall not furnish a transcript of a confidential proceeding without the court's written approval, unless otherwise authorized by law. [~~Where an appeal is taken, the application shall be filed concurrently with the notice of appeal.~~] The provisions of the Hawai'i Rules of Appellate Procedure relating to transcripts shall govern requests for transcripts for purposes of appeal. [~~The direction~~] Each request shall be in writing [~~, signed by the judge and~~] filed, and a copy shall be served upon opposi[~~te~~]ng counsel and the reporter, and shall [~~provide that the person so ordering such transcript shall, within 5 days following the date of the filing of such direction,~~] be accompanied by a prepayment to the reporter or deposit with the clerk of the court, as provided by Hawai'i Revised Statutes Section 606-13 [~~, the amount~~] of the [~~estimated~~] approximate cost of the transcript fees [~~for the transcript.~~] as computed by the reporter in advance in writing at the rate established by the Rules Governing Court Reporting in the State of Hawai'i. [~~Upon completion and certification of the transcript by the official reporter, the clerk shall pay the official reporter the fees earned by him to the extent that they have been deposited as aforesaid and shall return to the depositor any amount deposited in excess thereof.~~] If a request is accompanied by a deposit with the clerk, the deposit shall be further accompanied by directions to the clerk of the court to use it to pay for the reporter's fees when the transcript is complete. A reporter need not commence preparation of the transcript until the required prepayment is or deposit has been made.

4. Subsection (b) of Rule 25.1 is amended as follows:

RULE 25.1 RECORDING OF TESTIMONY AND PROCEEDINGS.

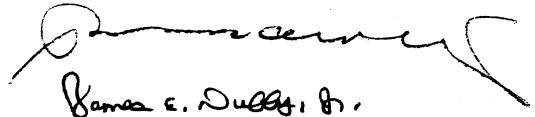
(b) **Effect of Certain Terms; Obtaining Transcript.** Whenever in Rule 25 or other rules of court, or in the provisions of Hawai'i Revised Statutes Section 606-13 relating to transcripts, reference is made to the report of the evidence or proceedings at a hearing or trial, or to the court reporter or official reporter, these terms and words of like import shall, if no court reporter was in attendance and the record has been preserved on tape or by other device, be deemed to refer to the record so preserved ~~[and to the chief clerk of the court]~~ except as otherwise provided. Upon the ~~[application]~~ request of any person for preparation of a transcript of a record so preserved, the ~~[judge]~~ supervising court reporter or, if there is no supervising court reporter, the court administrator shall ~~[direct the chief clerk to]~~ cause the transcript to be furnished in the regular order of cases so recorded or in such order as the court administrator ~~[judge]~~ directs. A transcriber shall not furnish a transcript of a confidential proceeding without the court's written approval, unless otherwise authorized by law. Transcript fees shall be prepaid or deposited as in other cases, and the ~~[chief clerk]~~ transcriber shall not be required to ~~[complete arrangements for]~~ commence transcribing the record until the required prepayment or deposit is made.

DATED: Honolulu, Hawai'i, October 8, 2004.



Steven H. Levinson

Diana A. Nakayama



James C. Duffy, Sr.