

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 Hawaii

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 Hawaii 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.~~

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 Hawaii, 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, Hawaii, May 13, 2008.