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SCRU-10-0000086

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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In the Matter of the  
HAWAI‘I COURT RECORDS RULES

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ORDER AMENDING THE HAWAI‘I COURT RECORDS RULES

(By: Recktenwald, C.J., Nakayama, Acoba, and McKenna, JJ., and  
Intermediate Court of Appeals Chief Judge Nakamura,  
assigned by reason of vacancy)

IT IS HEREBY ORDERED that Rules 2, 4, 5, 6, 9, 10 and  
Forms 1, 2, 3, and 4 of the Hawai‘i Court Records Rules, are  
amended, effective September 1, 2012, as follows (deleted  
material is bracketed and stricken; new material is underscored):

**Rule 2. DEFINITIONS.**

\* \* \*

**2.2. Account number** means numbers, letters, symbols or  
combinations thereof that identify [~~tangible or intangible property~~] financial  
accounts or instruments. Such property includes, but is not limited to, bank  
accounts, credit union accounts, credit cards, savings bonds, investment

accounts, lines of credit, revolving fund accounts, and the like[-],but does not include up to the last 4 digits of such accounts, provided that no more than half of the account's digits are disclosed.

\* \* \*

**2.6. Business hours** are the hours the office of the record custodian is open to conduct public business. Business hours are established pursuant to HRS § 78-1.6. Judiciary offices are open 7:45 a.m. to 4:30 p.m., Monday through Friday, except State holidays.

\* \* \*

**2.9. Confidential** means not accessible, *i.e.* not available for public inspection and copying. Synonyms include, but are not limited to, protected, restricted, and sealed. Access to confidential documents is governed by Rule 10.4 of these rules.

**2.10. Designated confidential** means presented in accordance with Rule 9 of these rules.

~~[2-10:]~~ **2.11. Discrete information** means specific data from a particular court or ADLRO record.

~~[2-11:]~~ **2.12. Docket** means a chronological listing of documents and proceedings for each court or ADLRO record.

~~[2-12:]~~ **2.13. Document** means pleading, motion, exhibit, order, judgment, decree, or other form of written communication or memorialization whether prepared on paper or electronically, including electronic documents, electronic forms, electronic templates, and electronic reports;

~~[2-13:]~~ **2.14. Electronic record** means the information and documents maintained for each court or ADLRO case in any of the various Judiciary case management systems and data bases.

~~[2-14:]~~ **2.15. Hearing officer** means a person designated by the Administrative Director to adjudicate ADLRO cases.

~~[2-15:]~~ **2.16. In camera** means submitted ~~[solely]~~ for a judge's review. Access to *in camera* documents is governed by Rule 10.5 of these rules.

~~[2-16:]~~ **2.17. Individual** means a natural person.

~~[2-17:]~~ **2.18. Maintain** means to hold, possess, preserve, retain, store, or administratively control.

~~[2-18:]~~ **2.19. Personal information** means ~~[data used to identify an individual or entity, or locate personal assets, income, or debts, and in which the individual or entity has a significant privacy interest, but does not include the~~

~~address, electronic mail address, and telephone number provided for court contact and service of process. Personal information includes, but is not limited to,] social security numbers, dates of birth (except for traffic citations), names of minor children, bank or investment account [statements] numbers, [financial records, property inventories,] medical and health records, and social service reports[, and the like]. To the extent a social security or account number is required in an accessible document, the last 4 digits may be displayed, provided that no more than half of the social security or account digits are disclosed. To the extent a birthdate is required in an accessible document, the birth year may be displayed. Except as provided in Rule 9.1, to the extent the name of a minor is required in an accessible document, the initials of the minor may be displayed. To the extent a complete social security number, account number, birthdate, or name of a minor child is required for adjudication of a case, the complete number or birthdate shall be submitted in accordance with Rule 9.1 of these rules.~~

~~[2.19;]~~ **2.20. Protected** means not accessible, *i.e.* not available for public inspection and copying. Synonyms include, but are not limited to, confidential, restricted, and sealed.

~~[2.20. Record means the information and documentation of the processes for the exercise of judicial or ADLRO authority, including the documents and process categories set out in Rule 4 of these rules.]~~

\* \* \*

**2.23. Restricted** means not accessible, *i.e.* not available for public inspection and copying. Synonyms include, but are not limited to, confidential, protected, and sealed.

**2.24. Sealed** means not accessible, *i.e.* not available for public inspection and copying. Synonyms include, but are not limited to, confidential, protected, and restricted.

\* \* \*

~~[2.26. Submitted under seal means presented in accordance with Rule 9 of these rules.]~~

**Rule 4.            CONTENT OF COURT AND ADLRO RECORDS;**  
**INFORMATION DISCREPANCY.**

The record of each case, whether electronic, paper, or a combination thereof, shall include:

\* \* \*

(g) information contained in the electronic case management system; provided that in the event of a discrepancy between information in the case management system and information in a document, the information in the document prevails, unless a court of competent jurisdiction rules to the contrary.

**Rule 5. DOCKETING [~~SEALED~~] CONFIDENTIAL DOCUMENTS, EXHIBITS, OR EVIDENCE.**

A confidential document, exhibit, or other evidence [~~that is sealed, made confidential by rule, order or statute, or otherwise protected from public disclosure~~] shall be listed on the docket in the same manner as other documents, exhibits, or evidence. Access to [~~sealed~~] confidential documents, exhibits, or other evidence is governed by Rule 10.4 of these rules.

**Rule 6. DOCKETING [~~PROPOSED DOCUMENTS SUBMITTED FOR SIGNATURE~~] DOCUMENTS FROM SELF-REPRESENTED PARTIES.**

~~[Except as provided in Rule 9 of the Hawai'i Electronic Filing and Service Rules, proposed findings, conclusions, orders, or judgments submitted for signature]~~ Subject to Rule 8 of these rules, case related documents received from self-represented criminal defendants, self-represented petitioners under Rule 40 of the Hawai'i Rules of Penal Procedure, or any prisoner shall be dated and stamped "lodged" or "received" by the Clerk, listed on the docket, and transmitted to a judge or hearing officer for consideration. [Judgments or orders shall be filed only at the direction of a judge, hearing officer, or as otherwise authorized by law or rule of court.]

**Rule 9. PARTIES' RESPONSIBILITY TO PROTECT PERSONAL INFORMATION [~~AND ACCOUNT NUMBERS~~].**

**9.1. Prohibition; [~~Required~~] Form.**

(a) Except as provided in this Rule 9 [~~, in cases initiated after September 27, 2010~~] and notwithstanding any other rule to the contrary, a party shall not include personal information [~~or account numbers~~] in any accessible document filed in any state court or with ADLRO. [~~P~~] Required personal information shall be [~~submitted under seal~~] submitted by means of a Confidential Information Form [~~or a Sealed Financial Account Numbers Form~~] that substantially conforms to [~~either~~] HCRR Form [~~1 or HCRR Form~~] 2 of these rules; provided the name and birth date of a minor charged with a traffic infraction may be displayed on the citation and the name of a minor may be displayed in submissions in proceedings under HRS chapter 586 and section 604-10.5. The Confidential Information Form shall be designated confidential, protected, restricted, sealed, or not accessible.

(b) When the identity or age of a non-defendant minor is required to charge a criminal offense or to state a claim, the accessible charging instrument, complaint, information, indictment, or petition shall include the initials and birth year of the minor. When the identity of an account is required to charge a criminal offense or to state a claim, the accessible charging instrument, complaint, information, indictment, or petition may include the last 4 digits of the account number, provided not more than half of the account's digits are disclosed, as provided by Rule 2.2 of these rules. A full name, birthdate, or

account number shall be submitted on a confidential information form in accordance with section (a) of this rule.

**9.2. ~~[Sealed Envelope]~~ Maintenance of the Confidential Information Form.** ~~[The completed paper form containing personal information shall be placed in a 9" x 12" envelope (or larger) and sealed.]~~ If submitted for a record maintained on paper, each completed confidential information form shall be marked "confidential" and the clerk shall retain the document in a manner that prevents public access to the document.

**9.3. Fly Sheet.** A fly sheet that substantially complies with HCRR Form 1 ~~[3 of these rules]~~ shall be submitted with the completed confidential information form. The flysheet shall be filed in the accessible record, whether the record is maintained on paper or electronically. ~~[appended to the front of the sealed envelope.]~~ The fly sheet shall be captioned in accordance with the rules governing the proceeding, titled "CONFIDENTIAL INFORMATION," and shall include the following: (a) the case name and number; (b) the title of the form ~~[used (i.e., Confidential Information Form or Sealed Financial Account Numbers Form)]~~; (c) ~~[the title(s) or]~~ a brief description of the submitted ~~[item(s)]~~ information; (d) the name, address, and telephone number of the individual submitting the personal ~~[or financial]~~ information ~~[under seal]~~; and (e) the statement ~~["submitted under seal,"]~~ "confidential information submitted pursuant to Rule 9 of the Hawai'i Court Record Rules" and any other statute(s), rule(s), or order(s) that make[s] the ~~[item]~~ information confidential~~[-protected, sealed, or restricted]~~.

**9.4. Authorized Electronic Filing.** If the flysheet and form are submitted by means of the authorized electronic filing process, the flysheet shall be filed as the lead document; the form shall be designated ~~[for submission under seal]~~ confidential and the "sealed" and "supporting document" options shall be selected before uploading [and filed as the supporting document].

**9.5. Sanctions.** The court or hearing officer may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this Rule 9, where the parties or attorneys have not shown good cause for failure to comply, or a good faith attempt to comply with this rule.

## **Rule 10. ACCESS TO COURT AND ADLRO RECORDS.**

\* \* \*

**10.4. ~~[Restricted]~~ Confidential Records and Documents.** Except as otherwise provided by statute or court rule or as ordered by (a) the court that has jurisdiction over a court case, (b) the Administrative Director or the hearing officer's designee having jurisdiction over an ADLRO case, (c) the court that has jurisdiction over an appeal from a court or ADLRO case, or (d) the supreme court, access to ~~[restricted]~~ confidential records, documents, exhibits, and information shall be limited to the court and court personnel in the performance

of their duties, the Administrative Director and his or her subordinates in the performance of their duties, the hearing officer, attorneys of record, parties to the court or ADLRO case, and duly authorized service providers.

\* \* \*

**10.6. Requests to Inspect or Copy Records; Description; Writing.**

Requests to inspect or copy records may be made orally, in writing, or electronically. Requests shall include a reasonable description of the record, including the name of at least one party, the case number (if known), the case type, and the court or ADLRO office in which the case was filed. The Clerk may request additional information to identify or locate the requested record. The Clerk may require that a request be made in writing or on a form that substantially complies with HCRR Form [4] 3 of these rules.

\* \* \*

**10.10. Time to Make Record Available; Notice.** Upon receipt of a request for an accessible record, the Clerk shall make the record available for inspection and copying within a reasonable time, subject to the court's or ADLRO's priority use of the record and the payment of fees, if any. If the request to inspect or copy cannot be accommodated within 10 business days, the Clerk shall notify the requestor and provide an estimated date when the record will be available for inspection or copying. If the request is for a [restricted] confidential record and the requestor is not of the class of persons having a right of access to the [restricted] confidential record under Rule 10.4 of these rules, the Clerk shall notify the requestor forthwith that the Clerk cannot provide the record without an order of the court for court records, or an order of the Administrative Director for ADLRO records. No later than 10 days after the Clerk's denial of a request for a confidential record, the requestor may move for access. The Clerk shall notify all parties of the motion. Within 10 days after notice of the motion for access any party may file opposition to the request.

\* \* \*

**10.15. Review of Action on Request for Record.** A person or entity may seek review of a denial or grant of access to a record by petitioning the supreme court, in accordance with Rule 21 of the Hawai'i Rules of Appellate Procedure. If the record is confidential, the Clerk of the trial court or ADLRO, upon notice of the petition, shall provide notice of the petition to all parties to the case, shall file a copy of the Clerk's certificate of service on each party, [under seal] and shall designate the certificate of service as confidential in the record of proceeding before the supreme court.

\* \* \*

**10.17. Electronic Court and ADLRO Records: Requests for Bulk or Discrete Data and Compiled Information.**

(a) The Administrative Director may grant requests for bulk, discrete, or compiled information from accessible electronic court and ADLRO records or from [restricted] confidential records, provided (1) the bulk or discrete data distribution, compiling of information, and/or transmission of data will not unreasonably interfere with the Judiciary's operations and/or governmental functions, (2) the requestor pays all charges for programming the computers, linking systems, and transmitting the data, and (3) when required by law, access

is approved by a court of competent jurisdiction. A requestor should not be granted direct access to any production computer system or data base in the usual course. The Administrative Director may take such actions as are necessary to protect the Judiciary's computer systems, data bases, and web sites from automated data mining or other threats to the integrity of the systems.

\* \* \*

(f) Personal [~~and financial~~] information shall be safeguarded. Except for data transmission to law enforcement agencies, a bulk, discrete, or compiled data distribution shall not contain complete personal information. A bulk, discrete, or compiled data distribution may provide the last four digits of social security numbers, and zip codes of home addresses. The restriction on the release of personal [~~and financial~~] information from court and ADLRO records may be waived only by the Administrative Director or the Administrative Director's designee.

\* \* \*

**10.19. Electronic Court and ADLRO Records: Service Providers.**

\* \* \*

(b) REVIEW AND SEGREGATION OF RECORDS. Before records are provided to information service providers, the Judiciary may review, redact, and/or segregate records to filter confidential information [~~protected~~] from disclosure.

\* \* \*

(f) CONFIDENTIALITY. Any contract with an information service provider shall include a provision that agrees to maintain confidentiality [~~of restricted information~~] in accordance with the terms of the contract.

IT IS FURTHER ORDERED that Forms 1, 2, 2 Sample, and 3 attached hereto, shall be substituted for the current Forms 1, 2, 3, and 4 and shall be appended to the Hawai'i Court Records Rules, effective September 1, 2012.

DATED: Honolulu, Hawai'i, June 21, 2012.

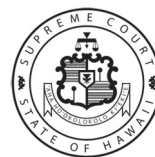
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Craig H. Nakamura



**HCRR Form 1. Fly Sheet for document(s) containing confidential information.**

Name of Person Submitting Confidential Information  
Address  
Telephone Number

(TITLE OF COURT OR OFFICE IN WHICH CASE IS FILED)

STATE OF HAWAII

A.B., Plaintiff, ) (CASE NUMBER): \_\_\_\_\_  
 )  
 v. )  
 ) INFORMATION DESIGNATED CONFIDENTIAL  
 C.D., Defendant. ) PURSUANT TO RULE 9 OF THE HAWAII  
 ) COURT RECORDS RULES  
 )  
 )  
 \_\_\_\_\_ )

**\* \* \* CONFIDENTIAL INFORMATION \* \* \***

Confidential information submitted pursuant to Rule 9 of the Hawai'i Court Records Rules and \_\_\_\_\_ . *(cite authorizing statute(s), rule(s), or order(s)).* Information includes name and birthdate of minor, social security number, account number. The documents are titled:

*List documents by title, without disclosing confidential information in the title.*

DATED: \_\_\_\_\_, Hawai'i, (date).

(signature of submitting individual)  
Typed name of submitting individual



**HCRR Form 2. CONFIDENTIAL INFORMATION FORM.**

Name of Person Submitting Confidential Information  
 Address  
 Telephone Number

(TITLE OF COURT OR OFFICE IN WHICH CASE IS FILED)

STATE OF HAWAII

A.B., Plaintiff, ) (CASE NUMBER): \_\_\_\_\_  
 )  
 v. )  
 ) INFORMATION DESIGNATED CONFIDENTIAL  
 C.D., Defendant. ) PURSUANT TO RULE 9 OF THE HAWAII  
 ) COURT RECORDS RULES  
 )  
 )  
 \_\_\_\_\_ )

**CONFIDENTIAL INFORMATION**

LIST ALL CONFIDENTIAL INFORMATION:

Title of Document Containing Referenced Information (e.g. Defendant's Motion for Extension of Time)				
Document File Date	Reference in Document	Type of Information	Complete Information	Authority for Confidentiality
Title of Document Containing Referenced Information (e.g. Defendant's Motion for Summary Judgment)				
Document File Date	Reference in Document	Type of Information	Complete Information	Authority for Confidentiality

**HCRR Form 2 SAMPLE. SAMPLE CONFIDENTIAL INFORMATION FORM.**

Name of Person Submitting Confidential Information  
 Address  
 Telephone Number

(TITLE OF COURT OR OFFICE IN WHICH CASE IS FILED)

STATE OF HAWAII

A.B., Plaintiff, ) (CASE NUMBER): \_\_\_\_\_  
 )  
 v. )  
 ) INFORMATION DESIGNATED CONFIDENTIAL  
 C.D., Defendant. ) PURSUANT TO RULE 9 OF THE HAWAII  
 ) COURT RECORDS RULES  
 )  
 )  
 \_\_\_\_\_ )

**CONFIDENTIAL INFORMATION**

LIST ALL CONFIDENTIAL INFORMATION:

DEFENDANT'S MOTION FOR EXTENSION OF TIME				
Document File Date	Reference in Document	Type of Information	Complete Information	Authority for Confidentiality
	0000	Social Security Number for NAME	000-00-0000	HCRR Rules 2.18, 9
	2010	Birthdate of minor JJJ	January 1, 2010	HCRR Rules 2.18, 9
	JJJ	Name of Minor	John Jason Jordon	HCRR Rules 2.18, 9; HRS § 571-54
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT				
Document File Date	Reference in Document	Type of Information	Complete Information	Authority for Confidentiality
	7890	Bank of Hawai'i retirement account number	1234567890	HCRR Rules 2.18, 9

**HCRR Form 3. REQUEST TO ACCESS COURT OR ADLRO RECORD.**

REQUEST TO ACCESS COURT OR ADLRO RECORD

DATE:

TO:

FROM:

\_\_\_\_\_

\_\_\_\_\_

\*If we do not have enough information to contact you, we cannot process the request for information. Please provide any information that will allow us to contact you (name or alias, telephone or fax number, mailing address, e-mail address, etc.)

I WANT INFORMATION OR DOCUMENTS FROM THE FOLLOWING COURT RECORD:

Name(s) of Party(ies) to Case:

Case Number:

Case Type:

Circuit: \_\_\_ 1<sup>st</sup> \_\_\_ 2<sup>d</sup> \_\_\_ 3<sup>d</sup> \_\_\_ 5<sup>th</sup>

Court or Agency in which case was filed:

\_\_\_ ADLRO \_\_\_ District \_\_\_ Family \_\_\_ Circuit \_\_\_ ICA \_\_\_ SCT

I WANT:

\_\_\_ To inspect the record

\_\_\_ To get a \_\_\_ complete \_\_\_ partial copy of the record.

If partial, please identify the document(s) you want copied:

\_\_\_ To pick up ordered copies from the office where it is maintained.

\_\_\_ To have ordered copies \_\_\_ mailed, \_\_\_ faxed, or \_\_\_ emailed to me at the contact address noted above.

FEES:

The fee for paper copies of documents from a court record is: \$1.00 for the first page of each document, plus 50¢ for each additional page. See Rule 2.2 of the Rules of the District Courts of the State of Hawai'i, Rule 2.2 of the Rules of the Circuit Courts of the State of Hawai'i, and Rule 45(e) of the Hawai'i Rules of Appellate Procedure.

The fee for paper copies of documents from an ADLRO record is usually 15¢ per page for self service; 15¢ per page plus a \$2 handling fee if the clerk makes the copies. Other fees may apply. See the Judiciary's Schedule of Administrative Fees.

FOR OFFICIAL USE ONLY			
Received:	Notified of Estimated Charge:	Charged:	Receipt No.
Completed:	Order filled by:		