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SCRU-11-0000083

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the
HAWAI'I RULES OF PENAL PROCEDURE

ORDER ADOPTING TEMPORARY RULE 58
OF THE HAWAI'I RULES OF PENAL PROCEDURE

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

In order to promote uniformity in the practices and procedures relating to counsel appearance by telephone or other electronic means for criminal matters in the circuit courts of the State of Hawai'i, and to provide access to justice, promote judicial efficiency and to reduce litigation costs,

IT IS HEREBY ORDERED that temporary Rule 58 of the Hawai'i Rules of Penal Procedure is adopted for all cases in the criminal division of the circuit courts of the State of Hawai'i, as follows:

Rule 58. COUNSEL APPEARANCE BY TELEPHONE OR OTHER ELECTRONIC MEANS.

(a) **Pretrial and status conferences.** Unless otherwise provided by rules of court, the court should, absent good reason, as determined in the court's discretion, allow counsel to appear by telephone or other electronic means at any pretrial or status conference.

(b) All other proceedings where defendant's appearance is not required. In all other proceedings where the defendant's presence is not required by Rule 43 of these rules, the court, in its discretion, may allow counsel to appear by telephone or other electronic means.

(c) Court may require personal appearance. If, at any time during a conference, hearing or proceeding conducted by telephone or other electronic means, the court determines personal appearance is necessary, the court may continue the matter and require a personal appearance.

(d) Arranging Telephone Conference Call. Unless otherwise directed by the court, Counsel who requests an appearance by telephone or other electronic means is responsible for arranging the telephone conference call with all counsel and ensuring the call is ready for court participation at the time appointed.

COMMENTARY:

The intent of this rule is to promote uniformity in the practices and procedures for appearance of counsel by telephone or other electronic means for criminal matters in the courts of the State. To provide access to justice, promote judicial efficiency and to reduce litigation costs, the courts of the State should permit counsel, to the extent feasible, to appear by telephone or other electronic means as provided by this rule.

IT IS FURTHER ORDERED that temporary Rule 58 shall be effective January 1, 2014 through December 31, 2014, unless extended further by order of the Supreme Court of Hawai'i.

DATED: Honolulu, Hawai'i, July 29, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

