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SCRU-10-000012

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
HAWAI‘I RULES OF APPELLATE PROCEDURE

ORDER AMENDING RULE 4 OF THE
HAWAI‘I RULES OF APPELLATE PROCEDURE

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

IT IS HEREBY ORDERED that Rule 4 of the Hawai‘i Rules of Appellate Procedure is amended, effective July 1, 2016, as follows (deleted material is bracketed and stricken; new material is underscored):

Rule 4. APPEALS - WHEN TAKEN.

(a) Appeals in civil cases.

(1) TIME AND PLACE OF FILING. When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order.

A motion for leave to file an interlocutory appeal from an order of the circuit court must be filed within 30 days of the court’s entry of the order. If such a motion is filed and granted, then the notice of appeal shall be filed within 30 days after entry of the circuit court’s order granting permission for leave to file an interlocutory appeal.

Unless filed electronically, as required by Rule 25 of these Rules and Rules 2.2 and 4.1 of the Hawai‘i Electronic Filing and Services Rules, the notice of appeal shall be filed with the clerk of the court or agency from which the

appeal is taken. If a notice of appeal is mistakenly submitted to the appellate clerk, the appellate clerk shall note on it the date of receipt and shall electronically file the notice of appeal. The date of receipt by the appellate clerk shall be deemed to be the date the notice of appeal was filed with the clerk of the court or agency appealed from.

When filed electronically, the notice of appeal shall be filed in the appellate case created for that appeal. A notice of appeal filed through JEFS or JIMS is deemed filed with the clerk of the court or agency appealed from.

(3) TIME TO APPEAL AFFECTED BY POST- JUDGMENT MOTIONS. If any party files a timely motion for judgment as a matter of law, to amend findings or make additional findings, for a new trial, to reconsider, alter or amend the judgment or order, or for attorney's fees or costs, and court or agency rules specify the time by which the motion shall be filed, then the time for filing the notice of appeal is extended for all parties until 30 days after entry of an order disposing of the motion.~~;~~ ~~provided, that the failure~~ The presiding court or agency in which the motion was filed shall [to] dispose of any such post-judgment motion by entering an order [entered] upon the record within 90 days after the date the motion was filed [shall constitute a denial of the motion]. If the court or agency fails to enter an order on the record, then, within 5 days after the 90th day, the clerk of the relevant court or agency shall notify the parties that, by operation of this Rule, the post-judgment motion is denied and that any orders entered thereafter shall be a nullity. The time of appeal shall run from the date of entry of the court or agency's order disposing of the post-judgment motion, if the order is entered within the 90 days, or from the filing date of the clerk's notice to the parties that the post-judgment motion is denied pursuant to the operation of the Rule.

The notice of appeal shall be deemed to appeal the disposition of all post-judgment motions that are timely filed after entry of the judgment or order.

The 90-day period shall be computed as provided in Rule 26 of these Rules.

(b) Appeals in criminal cases.

(1) TIME AND PLACE OF FILING. In a criminal case, the notice of appeal shall be filed within 30 days after entry of the judgment or order appealed from.

A motion for leave to file an interlocutory appeal from an order of the circuit court must be filed within 30 days of the court's entry of the order. If such a motion is filed and granted, then the notice of appeal shall be filed within 30 days after entry of the circuit court's order granting permission for leave to file an interlocutory appeal.

Unless filed electronically, as required by Rule 25 of these Rules and Rules 2.2 and 4.1 of the Hawai'i Electronic Filing and Service Rules, the notice of appeal shall be filed with the clerk of the court from which the appeal is taken. If a notice of appeal is mistakenly submitted to the appellate clerk, the appellate clerk shall note on it the date of receipt and shall electronically file the notice of

appeal. The date of the receipt by the appellate clerk shall be deemed to be the date the notice of appeal was filed with the clerk of the court appealed from.

When filed electronically, the notice of appeal shall be filed in the appellate case created for that appeal. A notice of appeal filed through JEFS or JIMS is deemed filed with the clerk of the court appealed from.

DATED: Honolulu, Hawai'i, March 7, 2016.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

