

RE: **Proposals to Amend Rules 4(a), 4(b), and 40.1 of the Hawai‘i Rules of Appellate Procedure**

TIMELINESS OF APPEALS CONVENTIONALLY FILED BY MAIL

The Supreme Court of Hawai‘i seeks public comment regarding proposals to amend Rules 4(a), 4(b), and 40.1 of the Hawai‘i Rules of Appellate Procedure. The proposals would create a five-day mailbox rule for notices of appeal and applications for writs of certiorari conventionally filed by mail. The proposals are attached hereto.

Comments about the proposed amendments should be submitted, in writing, **no later than Monday, May 13, 2019**, to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the Judiciary’s website.

**PROPOSED AMENDMENTS TO
HAWAII RULES OF APPELLATE PROCEDURE**
(New material is underlined)

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. However, if the notice of appeal is mailed, the notice of appeal shall be deemed timely filed if the mailing is postmarked within the time fixed for filing and is received by the clerk no later than 5 days after the postmarked date.

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.

(2) PREMATURE FILING OF APPEAL. If a notice of appeal is filed after announcement of a decision but before entry of the judgment or order, such notice shall be considered as filed immediately after the time the judgment or order becomes final for the purpose of appeal.

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(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. However, if the notice of appeal is mailed, the notice of appeal shall be deemed timely filed if the mailing is postmarked within the time fixed for filing and is received by the clerk no later than 5 days after the postmarked date.

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.

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Rule 40.1. APPLICATION FOR WRIT OF CERTIORARI IN THE SUPREME COURT.

(a) Application; when filed; extension of time.

(1) APPLICATION; TIME TO FILE. A party may seek review of the intermediate court of appeals' decision by filing an application for a writ of certiorari in the supreme court. The application shall be filed within 30 days after the filing of the intermediate court of appeals' judgment on appeal or dismissal order, unless the time for filing the application is extended in accordance with this Rule. However, if the notice of appeal is mailed, the notice of appeal shall be deemed timely filed if the mailing is postmarked within the time fixed for filing and is received by the clerk no later than 5 days after the postmarked date.

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