

RE: **Proposals to Amend:**
 Rule 72(b) of the Hawai'i Rules of Civil Procedure;
 Rule 72(b) of the District Court Rules of Civil Procedure; and
 Rule 72(b) of the Hawai'i Family Court Rules

TIMELINESS OF APPEALS CONVENTIONALLY FILED BY MAIL

The Supreme Court of Hawai'i seeks public comment regarding proposals to amend Rule 72(b) of the Hawai'i Rule of Civil Procedure, Rule 72(b) of the District Court Rules of Civil Procedure, and Rule 72(b) of the Hawai'i Family Court Rules. The proposals would create a five-day mailbox rule for notices of appeal 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

(New material is underlined)

HAWAI'I RULES OF CIVIL PROCEDURE

Rule 72. APPEAL TO A CIRCUIT COURT.

(a) How taken. Where a right of redetermination or review in a circuit court is allowed by statute, any person adversely affected by the decision, order or action of a governmental official or body other than a court, may appeal from such decision, order or action by filing a notice of appeal in the circuit court having jurisdiction of the matter. As used in this rule, the term "appellant" means any person or persons filing a notice of appeal, and "appellee" means every governmental body or official (other than a court) whose decision, order or action is appealed from, and every other party to the proceedings.

(b) Time. The notice of appeal shall be filed in the circuit court within 30 days after the person desiring to appeal is notified of the rendering or entry of the decision or order, or of the action taken, in the manner provided by statute. 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.

(c) Service. Promptly after filing the notice of appeal, the appellant shall serve a certified copy thereof upon each appellee.

* * *

DISTRICT COURT RULES OF CIVIL PROCEDURE

Rule 72. JUDICIAL REVIEW TO A DISTRICT COURT.

(a) How taken. Where a right of redetermination or review in a district court is allowed by statute, any person adversely affected by the decision, order or action of a governmental official or body other than a court, may appeal from such decision, order or action by filing a petition for judicial review in the district court having jurisdiction of the matter. As used in this rule, the term "petitioner" means any person or persons filing a petition for judicial review, and "respondent" means every governmental body or official (other than a court) whose decision, order or action is appealed from, and every other party to the proceedings.

(b) Time. The petition for judicial review shall be filed in the district court within 30 days after the mailing of the decision or order or mailing of notification of the action taken, in the manner provided by statute. The petition shall include a statement of the case and prayer for relief as provided in Rule 72(e). 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.

(c) Service. Promptly after filing the petition for judicial review, the petitioner shall serve a certified copy thereof upon each respondent.

* * *

HAWAI‘I FAMILY COURT RULES

Rule 72. APPEAL TO THE FAMILY COURT

(a) How taken. Where a right of appeal to the family court is allowed by statute, any person or party allowed by statute may appeal from such decision, order or action by filing a notice of appeal in the family court having jurisdiction of the matter. As used in this rule, the term “appellant” means any person or party filing a notice of appeal, and “appellee” means every governmental body or official (other than a court) whose decision, order or action is appealed from, and every other party to the proceedings.

(b) Time. The notice of appeal shall be filed in the family court of the circuit court in which the appellant resides within 30 days of the preliminary ruling or within 30 days after the service of the certified copy of the final decision and 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.

(c) Service. Promptly after filing the notice of appeal, the appellant shall serve a certified copy thereof upon each appellee.

* * *