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Supreme Court
SCRU-11-0000632
04-OCT-2019
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SCRU-11-0000632

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAI‘I

ORDER AMENDING THE RULES OF THE
CIRCUIT COURTS OF THE STATE OF HAWAI‘I

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

IT IS HEREBY ORDERED that Rules 1.1, 2, 3, 5, 7.2, 10, 16, 21, 23, and 32 of the Rules of the Circuit Courts of the State of Hawai‘i are amended, effective October 28, 2019, as follows:

Rule 1.1. CONSTRUCTION OF RULES.

(a) Interpretation and enforcement of the rules. These [r]Rules shall be construed and administered to secure the just, speedy, and inexpensive determination of every action. These Rules shall be read and construed with reference to each other, the Hawai‘i Electronic Filing and Service Rules, and the Hawai‘i Court Records Rules. In any conflict amongst these Rules of the Circuit Courts of the State of Hawai‘i, the Hawai‘i Electronic Filing and Service Rules, and the Hawai‘i Court Records Rules, the Hawai‘i Electronic Filing and Service Rules shall prevail. Additionally, to the extent there is any conflict between these Rules and the Hawai‘i Rules of Civil Procedure or the Hawai‘i Rules of Penal Procedure the latter shall prevail.

(b) Effect of Hawai‘i Electronic Filing and Service Rules. Documents filed and notices given in accordance with the Hawai‘i Electronic Filing and Services Rules shall be deemed to comply with any filing or notice requirements of any part of these Rules.

(c) Effects of automation on processes and procedures. Duties set out in these Rules may be performed by automation.

(d) Definitions. See Rule 1 of the Hawai'i Electronic Filing and Services Rules for definitions.

Rule 2. FILING PROCEDURE.

(a) **Classification.** Upon the filing of the initial pleading or other documents, and before the issuance of process, the clerk shall classify and assign a number to such proceeding. All subsequent pleadings and documents to be filed shall bear the number assigned to the initial documents, which shall appear on the first page.

(b) **Stamp by clerk.** The clerk shall promptly stamp the time and date upon all documents conventionally filed.

(c) **Docket entry and filing.** Upon the filing of any documents, an appropriate entry shall be made in a docket sheet kept for each case. The docket may be an electronic record within a court-maintained computer. Each case shall be filed separately and its file shall contain an index sheet identifying particularly each document in such file and stating the date of filing.

(d) **Original kept on file.** The original of any document historically maintained in a paper file shall be kept by the clerk of court. Documents maintained in JIMS are deemed original documents for all purposes under these Rules.

~~(d)~~(e) **Service of pleadings and other documents.**

(1) FILING: ORIGINAL KEPT ON FILE; COPIES FOR SERVICE. For conventionally filed documents and [S]subject to subsection (2) of this subsection (d), pertaining to interrogatories and other discovery documents, when a pleading or other document requiring service is presented for filing, the original shall be accompanied with a sufficient number of copies for service. The original shall be kept on file by the clerk in accordance with electronic filing requirements, provided, however, the original summons may be withdrawn by the serving officer. For conventionally filed documents and those parties not registered with JEFS, [S]service may be made with the certified copy or copies of the documents together with the certified copy or copies of the summons, and the serving officer shall make proof of service to the court promptly by returning the original summons to the clerk.

(2) SERVICE AND FILING OF INTERROGATORIES AND OTHER DISCOVERY DOCUMENTS.

(A) Unless otherwise provided by the Hawai'i Electronic Filing and Services Rules, [F]the filing of interrogatories and other discovery documents shall be governed by Rule 5 of the Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules.

(B) If conventionally served, [A]a party seeking admissions or answers to interrogatories shall serve 2 copies of the request for admissions or interrogatories upon the party from whom the admissions or answers are sought.

(C) A discovery request shall be served on all parties. The discovery response shall also be served on all parties, except as provided in (D) of this Rule.

(D) Copies of documents produced pursuant to a request for production need not be served upon a party that did not make, or join in, the request and pay for the costs of production.

(f) Signatures. Any order or judgment that is filed electronically bearing a facsimile signature in lieu of an original signature of a judge or clerk has the same force and effect as if the judge or clerk had affixed the judge's or clerk's signature to a paper copy of the order or judgment and it had been entered on the docket in a conventional manner. For purposes of this Rule and any rules of court, the facsimile signature may be either an image of a handwritten signature or the software printed name of the judge preceded by /s/.

(g) Wills of decedents. ~~[In domiciliary probate cases, the original and a certified copy of the will shall be filed, together with the initial petition.]~~ Wills to be probated shall be presented to the clerk and accompanied by a pleading stating the reason the will is being presented to the court.

For conventionally filed pleadings, the paper will and one copy shall be submitted with the pleadings.

For electronically filed pleadings through which the filing party presents a will to the court for probate, the filing party shall electronically file the pleadings and then shall submit to the clerk:

- (1) the original paper will and 1 copy; and
- (2) a paper copy of the electronically filed pleading bearing the electronic file stamp;

These paper documents shall be delivered within 1 day of the electronic filing, either in person or by mail bearing a postmark indicating the documents were mailed within 1 day of the electronic filing.

Parties submitting a paper will for probate shall attach a coversheet to the will, in compliance with Rule 3 of these Rules. Upon receipt of the paper will presented for probate, the clerk shall electronically scan into the record of the case a certified copy of the will. The original paper will shall be retained according to standard court practices.

Wills of decedents may be deposited for safekeeping, pursuant to Rule 74 of the Hawai'i Probate Rules.

~~(f)~~(h) Place of filing. If conventionally filed, [P]leadings and documents for filing shall be presented to the Office of the Clerk except as otherwise directed by the court. The clerk shall furnish certified copies of all conventionally filed documents [filed] if so requested at the time of filing.

(i) Electronic filing of documents submitted on paper; filing date and time preserved. Pursuant to Rule 2.5 of the Hawai'i Electronic Filing and Service Rules, upon introduction of electronic filing in civil matters in the circuit courts, the clerk shall electronically file any paper document submitted to the clerk. The receipt date and time reflected on the conventionally filed document, subsequently filed in JIMS, shall be deemed the filing date for all purposes under these Rules. Once electronically filed, the clerk shall not retain the paper document.

Rule 3. FORM OF PLEADINGS AND MOTIONS.

(a) **Form.** All pleadings and documents to be filed shall be typewritten, printed, photocopied, or otherwise similarly prepared by a duplication process that will produce clear and permanent copies equally legible to printing. Conventionally filed documents shall be printed upon unruled, opaque, unglazed white paper of standard quality not less than thirteen pound weight, 8 1/2 x 11 inches in size. ~~and~~ Each sheet shall have a margin at the top and bottom of 1 inch (except as otherwise provided in paragraph (c) of this Rule). The left-hand and right-hand side margin shall be not less than 1 inch. ~~Such~~ and documents shall be typewritten in heavily inked black ribbon or printed in black. The type shall be standard 12 point pica or equivalent. For conventionally filed documents, copies, but not originals, may be two-sided. ~~and~~ The lines on each page shall be double-spaced or one and one-half spaced; provided, however, descriptions of real property, and quotations, may be single spaced. All pages shall be numbered consecutively at the bottom. Conventionally filed documents shall be firmly bound together at the top and exhibits may be fastened to pages of the specified size. ~~and~~ Documents, when prepared by a machine-copying process, shall be equal to typewritten material in legibility and permanency of image. Conventional signatures and all other handwritten entries on documents shall be in black ink.

(b) **No flyleaf shall be attached to any document.** No flyleaf shall be attached to any document. All documents shall be filed without backs and shall be neat, clean, legible and free of interlineations.

(c) **Form of first page.** The first page of each document, except as provided hereinbelow in (d), shall be in the following form:

(1) The space at the top left of the center of the page shall contain the name, ~~code~~ attorney number, office address, ~~and~~ telephone number, facsimile number (if any), and electronic mail address of the attorney for the party in whose behalf the document is filed, or of the party, if ~~he is~~ the party is appearing ~~in person~~ unrepresented by counsel;

(2) The space at the top right of the center of the page shall contain at least a 3-inch top margin to be left blank for the use of the clerk of the court, including for affixing the electronic file stamp;

(3) ~~Next, there shall be centered the name of the court, which shall be not less than 3 inches from the top of the page~~ The name of the court shall be centered and not less than 3 inches from the top of the page;

(4) ~~Next,~~ The space to the left of the center of the page shall contain the title of the cause (which title shall include the names of all of the parties in the initial pleading, but thereafter may be appropriately abbreviated);

(5) In the space to the right of the title of the cause, there shall be listed the class and case number followed in civil cases by the category best describing the claims asserted in the case and followed in all cases by a title describing the document (which shall include an appropriate notation if a jury trial is demanded in the document).

The category best describing the claims asserted in a civil case shall be selected from the following:

Agency Appeal
Agreement of Sale Foreclosure
Assault & Battery
Condemnation
Construction Defects
Contract
Declaratory Judgment
Environmental Court
Foreclosure
Legal Malpractice
Medical Malpractice
Motor Vehicle Tort
Product Liability
Other Civil Action
Other Non-Vehicle Tort

(6) At the bottom margin, the Certification or acknowledgment of service may be entered [~~at the bottom margin~~].

(7) [~~Each document shall indicate b~~]Below the title of the document shall indicate:

(A) the name of the judge or "none" if the case is not assigned to a judge, and

(B) the trial date or "none" if the case has not been set for trial.

(8) In cases involving multiple plaintiffs or defendants, the title of any pleading or other document shall identify:

(A) The name of the party filing the pleading or other document; and

(B) In the case of a responsive pleading or other document (i) the name of the party that filed the pleading or other document to which the responsive pleading or other document is addressed and (ii) the title and filing date of the pleading or other document to which the responsive pleading or other document is addressed.

(d) Two or more pleadings or other documents filed together.

Where 2 or more pleadings or other documents are conventionally filed together, only the first page of the first document shall follow all of the requirements of (c) hereinabove; and in addition thereto, there shall be listed, after the case number and before the title of the document, the title of all of the documents that are being filed together. The top of the first page of each document other than the first shall start with the name of the court and include the class and case number, the title of the cause and the title of the document, in appropriate spaces as set forth in (c) hereinabove. For electronically filed documents, the documents shall be filed as separate docket items, pursuant to Rule 2 of the Hawai'i Electronic Filing and Service Rules.

(e) **Sanctions.** The court may impose sanctions for non-compliance with these [r]Rules.

(f) **Forms furnished by the court.** The court shall furnish such forms as shall have been approved by the supreme court, and those forms shall be used by counsel in all appropriate instances. Such forms shall not be subject to the format requirements of this [r]Rule.

Rule 5. SERVICE OF PAPERS AND PROOF THEREOF.

(a) **Service required.** In all civil actions, pleadings and papers shall be served either electronically, as provided by Rule 6 of the Hawai'i Electronic Filing and Service Rules, for JEFS Users, or conventionally, as provided in the Hawai'i Rules of Civil Procedure, for non-JEFS Users.

(b) **Proof of service.** Proof of service may either be provided electronically, for cases filed through JEFS, or may be by written acknowledgment of service, by affidavit of the person making service, or by any other proof satisfactory to the court, unless otherwise provided by law or by the Hawai'i Rules of Civil Procedure. A party who has been prejudiced by failure to receive due notice or to be served, or who has been prejudiced by reason that service was made by mail, may apply to the court for appropriate relief.

Rule 7.2. CIVIL MOTIONS PRACTICE.

(a) **Applicability.** Rule 7.2 applies only to cases that are governed by the Hawai'i Rules of Civil Procedure.

(b) **Designation as hearing or non-hearing motion.** All written motions, other than motions entitled to be heard *ex parte* or those listed in Exhibit B attached to these [r]Rules, shall be designated as hearing motions and calendared for ~~oral~~ hearing; provided that discovery motions brought pursuant to Rules 26 through 37 of the Hawai'i Rules of Civil Procedure shall be governed by subsection (e) of this [r]Rule.

(c) **Non-hearing motions.** Non-hearing motions shall be decided on written submissions, unless otherwise ordered by the court. The court[;] in its discretion[;] may set any non-hearing motion for hearing[;] *sua sponte*[;] or upon application by a party pursuant to subsection (g)(4) of this [r]Rule. A non-hearing motion shall be accompanied by a notice of motion that provides notice of the deadline by which a response must be filed and served. Any opposition to a non-hearing motion shall be filed and served no later than 10 days after the service date indicated on the certificate of service accompanying the motion or no later than 12 days after the service date if the motion is served by mail. Any reply shall be filed and served no later than 3 days after the service of the opposition or 5 days after the service date if the opposition is mailed. No party may file any documents later than 5 days after the service date of the opposition[;] unless otherwise ordered by the court.

(d) Form of motions. In addition to the requirements of Rule 3 of these [r]Rules:

(1) Every motion and any document submitted concerning such motion shall indicate below the title of the document:

- (A) the title of the motion;
- (B) the name of the judge;
- (C) the hearing date and time or “non-hearing”, [if]as applicable; and
- (D) the trial date or “none” if a trial date has not been set:

HEARING MOTION

JUDGE: _____

HEARING DATE: _____

HEARING TIME: _____

TRIAL DATE: _____

NON-HEARING MOTION

JUDGE: _____

TRIAL DATE: _____

(2) Hearing and non-hearing motions shall be presented in a form that substantially complies with Form C (1-5) (Hearing Motion) and Form D (1-5) (Non-Hearing Motion) of the Appendix of Forms attached to these [r]Rules.

(e) Discovery motions:

(1) Any discovery motion brought pursuant to Rules 26 through 37 of the Hawai‘i Rules of Civil Procedure shall be designated, at the option of the moving party, a hearing motion or a non-hearing motion, except as provided in subsection (e)(2) below or as otherwise ordered by the court.

(2) The following discovery motions shall be hearing motions:

- (A) motion concerning a protective order;
- (B) motion concerning sequence of discovery under Rule 26(d) of the Hawai‘i Rules of Civil Procedure;
- (C) motion for discovery conference under Rule 26(f) of the Hawai‘i Rules of Civil Procedure; and
- (D) motion concerning discovery cut-off.

(f) Ex parte motions. A motion entitled to be heard *ex parte* shall:

- (1) cite the statute, rule, or other authority authorizing the court to entertain the motion *ex parte*;
- (2) be supported by an affidavit or declaration stating the reason(s) for filing the motion *ex parte*, the efforts made to notify parties, and, if the motion is to shorten time or advance a hearing pursuant to subsection (g)(5) of this Rule, the efforts made to obtain a stipulation or response from the other parties in the case or the reason(s) why no attempt was made;
- (3) be accompanied by a proposed order; and
- (4) be served on the date that the motion was filed [~~presented to the court~~].

(g) Presentation of motions; copies for judge. Unless otherwise provided by Rule 6 of the Hawai'i Court Records Rules, the following rules shall apply:

(1) HEARING MOTIONS.

(A) *Cases Assigned to a Judge.*

(i) In the First Circuit, except for cases that fall under (a) - (c) below, and as otherwise provided by HRS Section 431:10C-213(b) and the Hawai'i Arbitration Rules attached as Exhibit A to these [r]Rules, the assigned judge shall designate the date and time of a hearing motion or joinder. Upon presentation of the hearing motion or joinder to the assigned judge, the motion or joinder shall be assigned a hearing date and time by the assigned judge. [date-stamped, indicating date of receipt.] Upon designation of the hearing date and time, the motion or joinder shall be electronically filed by the filing party or conventionally filed if the filing party is not a JEFS User. [transmitted to the Legal Documents Branch/Section for filing.] Motions falling under any of the following exceptions shall be presented to the Legal Documents Branch/Section[;] instead of the assigned judge[;] for designation of a hearing/return date and time, if applicable, and filing:

(a) Civil Administrative Judge's Hearing Motions (not related to the Court Annexed Arbitration Program);

(b) *Ex Parte* Motions for Service by Publication, Examination of Judgment Debtor, and Issuance of Garnishee Summons; and

(c) Motions in Foreclosure Actions.

(ii) In the Second, Third, and Fifth Circuits, for motions not falling under the Hawai'i Arbitration Rules, the filing party may

(a) contact the assigned judge's chambers for the hearing date and time and subsequently electronically file [submit] the motion with the hearing date and time [to the Legal Documents Branch/Section for filing] or

(b) conventionally file the motion and the clerk [present the motion to the Legal Documents Branch/Section which] will coordinate with the assigned judge to assign a hearing date and time.

(B) *Cases Not Assigned to a Judge.* A hearing motion or joinder for a case that is not assigned to a judge shall be presented to the Legal Documents Branch/Section for assignment to a judge. Upon assignment to a judge, the appropriate procedures in subsection (g)(1)(A) of this Rule shall apply.

(2) NON-HEARING MOTIONS. A non-hearing motion or joinder shall be electronically filed or conventionally filed if the filing party is not a JEFS User. [presented to the Legal Documents Branch/Section for filing.]

(3) EX PARTE MOTIONS.

~~[(A) *Cases Assigned to a Judge.*]~~ An *ex parte* motion accompanied by a proposed order shall be electronically filed or conventionally filed if the filing party is not a JEFS User. Proposed orders attached to *Ex Parte* Motions for Service by Publication, Examination of Judgment Debtor, and Issuance of Garnishee Summons shall provide appropriate space for the hearing/return date and time. [dated and stamped "lodged" or "received" by the Legal Documents

Branch/Section clerk, listed on the docket, and transmitted to the assigned judge. Upon the judge's action on the motion, it shall be transmitted to the Legal Documents Branch/Section for filing, as well as for the designation of a hearing/return date and time pursuant to subsection (g)(1)(A)(i)(b), if applicable.]

~~[(B) *Cases Not Assigned to a Judge.* The procedures stated in above paragraph (3)(A) shall apply except that the *ex parte* motion shall be transmitted to the assigned judge only after the assignment of a judge by the Legal Documents Branch/Section.]~~

(4) APPLICATION FOR ~~[ORAL]~~ HEARING. A party desiring a hearing on a non-hearing motion may file an application for hearing. ~~[A non-hearing motion for which an oral hearing is desired shall first be filed with the Legal Documents Branch/Section. An]~~ The application for a~~[n oral]~~ hearing~~[;]~~ shall be supported by a statement of reasons for the hearing, shall reference the title and filing date of the non-hearing motion, and shall be ~~[, shall thereafter be presented to the judge assigned the case, along with a copy of the non-hearing motion attached to the application as an exhibit. Upon presentation, the application shall be date stamped, indicating date of receipt. The application shall be]~~ accompanied by a proposed order granting the application, which shall ~~[and including]~~ include an appropriate space for the date and time of the hearing. The assigned judge may grant or deny the application, and such grant or denial shall not be subject to review or reconsideration. If granted, the date and time for the hearing shall be indicated on the order. ~~[The application and order shall be transmitted to the Legal Documents Branch/Section for filing.]~~

(5) MOTION TO SHORTEN TIME FOR, ADVANCE, OR RESCHEDULE HEARING.

(A) A motion to shorten time for hearing (A motion to advance hearing shall be electronically filed or conventionally filed if the filing party is not a JEFS User. ~~[presented to the judge assigned the case. Upon presentation, the motion shall be date stamped, indicating date of receipt.]~~ The motion shall cite the authority and state the reason(s) and factual or other basis for the request. The motion shall be accompanied by a proposed order granting the motion and including an appropriate space for the date and time of the hearing. The assigned judge may grant or deny the motion, and such grant or denial shall not be subject to review or reconsideration. If granted, the date and time for the hearing shall be indicated on the order. ~~[The motion and order shall be transmitted to the Legal Documents Branch/Section for filing.]~~

(B) Requests to reschedule hearings shall be made by motion or stipulation. The stipulation shall state the reason for rescheduling the hearing and shall be presented for approval to the judge assigned the case at least 48 hours before the scheduled hearing. Upon the judge's approval or denial of the stipulation, it shall be presented to the Legal Documents Branch/Section for filing.

(6) COPIES FOR JUDGE. A party filing a motion, response to a motion, or other document pertaining to a motion, shall deliver 2 file-stamped courtesy copies of the motion, response, or document to the chambers of the assigned judge in an expeditious manner. All exhibits attached to the motion, response, or other document shall be appropriately tabbed.

Rule 10. ORDERS AND JUDGMENTS GRANTABLE BY THE CLERK.

The clerk may grant, sign, and enter the following orders without further direction by the court, but any orders so entered may be set aside or modified by the court:

(a) **Orders on consent extending time.** Orders on consent extending once for 20 days the time within which to plead or move to a pleading if the time originally prescribed to plead or move has not expired.

~~(b) **Orders granting extension.** Orders granting an extension of time once for 15 days the time within which to object to or answer interrogatories to a party if the time to answer such interrogatories has not expired.]~~

(b) **Order of dismissal.** Orders of dismissal pursuant to Rules 12, 28, and 29 of these Rules.

(c) **Substitution of attorneys.** Orders on consent for the substitution of attorneys.

(d) **Judgments.** Default judgments as provided in Rule 55(b) (1) of the Hawai'i Rules of Civil Procedure.

(e) **Other orders.** Any other order referred to in the Hawai'i Rules of Civil Procedure which is grantable ~~[of course]~~ by the clerk.

Rule 16. DEPOSITIONS.

(a) **Preparation and sealing by officer taking deposition.** Unless an extension of time is granted by the court, the officer taking the deposition shall prepare and seal the deposition within 30 days after the taking of the deposition.

~~(b) **Depositions taken outside this state.** Unless an extension of time is granted by the court, depositions taken outside this state shall be filed with the court within 30 days after the taking of the deposition; provided, however, that if a deposition is taken less than 30 days prior to trial, the party taking the deposition shall make appropriate arrangements with the officer taking the deposition for the filing thereof prior to the commencement of trial.]~~

Production or filing of original deposition. Counsel or the unrepresented litigant who is responsible for the preservation and storage of the original transcript, tape, or other means of preservation of any deposition shall produce the original transcript, tape, or other means of preservation of such deposition if needed for court proceedings by any party, or when filing or using the same in court proceedings, or, if so ordered by the court, shall file only copies of the portion(s) thereof that are germane to the court proceedings.

(c) **Unsigned depositions.** If the officer prepares and seals an unsigned deposition, the officer shall certify on the deposition the fact of waiver, illness, absence, or failure of the witness to appear, or the refusal to sign together with the reason, if any, given therefor.

(d) **Sealing.** Once the officer has sealed a deposition it shall remain sealed unless opened temporarily by the officer or opened by the direction of a judge; provided that copies may be obtained pursuant to Rule 30(f)(2) of the Hawai'i Rules of Civil Procedure.

Rule 21. SUBMISSION OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(a) **Proposed findings and conclusions.** The party who prevails after the presentation of evidence in a jury-waived case shall submit to the court proposed findings of fact and conclusions of law pursuant to Rule 52[;]of the Hawai'i Rules of Civil Procedure. The party required to prepare such proposed findings of fact and conclusions of law shall have 10 days, unless such time is extended by the court, to draft the same and secure the approval as to form of opposing counsel thereon and deliver the original and [~~one~~]1 copy to the court, or, if not so approved, serve a copy thereof upon each party who has appeared in the action and deliver the original and [~~one~~]1 copy to the court. If the form of the proposed findings of fact and conclusions of law has not been approved, a party served with the proposed findings and conclusions may, within 5 days after service of the proposed findings of fact and conclusions of law, serve and deliver to the court objections and a copy of his proposed findings and conclusions. The court shall determine the findings of fact and conclusions of law to be entered.

If after the conclusion of all testimony in a jury-waived case, and after the submission thereof, the court does not indicate which party has prevailed in the action, the respective parties involved may be requested to submit proposed findings of fact and conclusions of law.

(b) **Cases maintained as paper records.** The prevailing party shall deliver the original and 1 copy to the court, or, if not so approved, serve a copy thereof upon each party who has appeared in the action and deliver the original and 1 copy to the court.

(c) **Cases maintained in JIMS.** Proposed findings and conclusions shall be submitted in accordance with Rule 9 of the Hawai'i Electronic Filing and Service Rules.

Rule 23. SETTLEMENT OF JUDGMENTS, DECREES, AND ORDERS.

(a) Preparation. Within 10 days after a decision of the court awarding any judgment, decree, or order, including any interlocutory order, the prevailing party, unless otherwise ordered by the court, shall prepare a judgment, decree, or order in accordance with the decision, attempt to secure approval as to form from all other parties, and following such approval deliver, by filing conventionally or electronically, the original and 1 copy to the court.

(b) Party Approval or Objection to Form; Delivery to Court. If there is no objection to the form of a proposed judgment, decree, or order, the other parties shall promptly approve as to form. If a proposed judgment, decree, or order is not approved as to form by the other parties within 5 days after a written request for approval, the drafting party shall deliver, by filing conventionally or electronically, the original and 1 copy to the court along with notice of service on all parties and serve a copy thereof upon each party who has appeared in the action. If any party objects to the form of a proposed judgment, decree, or order, that party shall, within 5 days after service of the proposed judgment, decree, or order, serve upon each party who has appeared in the action and deliver to the court, either conventionally or through electronic filing:

- (1) A statement of objections and the reasons therefor, and
- (2) The form of the objecting party's proposed judgment, decree, or order.

In such event, the court shall proceed to settle the judgment, decree, or order. Failure to file and serve objections and a proposed judgment, decree, or order shall constitute approval as to form of the drafting party's proposed judgment, decree, or order.

(c) No Waiver of Right to Appeal. Approval as to form shall not affect the right, or constitute waiver of the right, of any party to appeal from any judgment, decree, or order issued.

(d) Court Approval; Sanctions. If a proposed judgment, decree, or order is consistent with the verdict of the jury or the decision of the court, the court shall cause the judgment, decree, or order to be entered forthwith. If a proposed judgment, decree, or order is not consistent with the verdict of the jury or the decision of the court, the court may require submission of a conforming judgment, decree, or order. The court may impose a monetary sanction against a party who submits a defective or untimely judgment, decree, or order.

(e) Request for Entry. If the drafting party fails to timely submit a proposed judgment, decree, or order to the court, any other party may present, through conventional or electronic filing, a proposed judgment, decree, or order to the court for approval and entry. A request for entry must represent that the drafting party failed to timely submit a proposed judgment, decree, or order as required by this Rule.

Rule 32. [INAPPLICABILITY OF RULES.] RESERVED.

[To the extent that there is any conflict between these rules and the Hawai'i Rules of Civil Procedure or the Hawai'i Rules of Penal Procedure the latter shall prevail.]

DATED: Honolulu, Hawai'i, October 4, 2019.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

