

RED-LINE SHOWING HOW THE TASK FORCE'S PROPOSED AMENDMENTS WILL CHANGE THE EXISTING HAWAI'I RULES OF CIVIL PROCEDURE AND THE EXISTING RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAI'I

I. RED-LINE SHOWING HOW THE TASK FORCE'S PROPOSED AMENDMENTS WILL CHANGE THE EXISTING HAWAI'I RULES OF CIVIL PROCEDURE (HRCP)

HRCP Rule 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS.

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(b) Same: How made. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party is ordered by the court.

(1) Service upon the attorney or upon a party shall be made (a) by delivering a copy to the attorney or party; or (b) by mailing it to the attorney or party at the attorney's or party's last known address; or (c) if no address is known, by leaving it with the clerk of the court; or (d) if service is to be upon the attorney, by facsimile transmission to the attorney's business facsimile receiver; or (e) by electronic mailing (email) if the attorney or party has consented in writing to service by email.

(2) Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the attorney's or party's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Facsimile transmission means transmission and receipt of the entire document without error with a cover sheet which states the attorney(s) to whom it is directed, the case name and court case number, and the title and number of pages of the document. Documents served by email must (a) be attached to an email transmission; (b) be in Portable Document Format (PDF); and (c) be less than 10 megabytes (MB) in total per email; to meet the 10MB limit with large documents, multiple emails can be sent. Unless otherwise agreed in writing, providing a link to documents on a web server or file-sharing service does not fulfill the service requirement.

(3) Service by mail is complete upon mailing. Service by facsimile transmission is complete upon receipt of the entire document by the intended recipient ~~and between the hours of 8:00 a.m. and~~ by 5:00 p.m. on a court day. Service by facsimile

transmission that occurs after 5:00 p.m., or that occurs on a non-court day, shall be deemed to have occurred on the next court day. Service by email is complete upon transmission of the entire document in .pdf format to the intended recipient by 5:00 p.m. on a court day, but is not complete if the sender learns that it did not reach the person to be served; transmission by email that occurs after 5:00 p.m., or that occurs on a non-court day, shall be deemed to have occurred on the next court day.

(4) Service by facsimile transmission shall be confirmed by a certificate of service which declares that service was accomplished by facsimile transmission to a specific phone number, on a specific date, at a specific time. Service by email shall be confirmed by a certificate of service, which declares that service was accomplished by email to a specific email address, on a specific date, at a specific time.

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