

RE:           **Proposal to further amend the Rules of the Circuit Courts of the State of Hawai'i and the Hawai'i Rules of Civil Procedure designed to improve civil litigation**

**FURTHER AMENDMENTS TO THE RULES OF THE CIRCUIT  
COURTS OF THE STATE OF HAWAII AND THE HAWAII RULES OF  
CIVIL PROCEDURE TO IMPROVE CIVIL LITIGATION**

The Supreme Court of Hawai'i seeks public comment regarding proposals to further amend Rules 3 and 12 of the Rules of the Circuit Courts of the State of Hawai'i and Rules 16.1, 16.2, and 26 of the Hawai'i Rules of Civil Procedure, as promulgated on October 8, 2020, currently effective on January 1, 2022, to further improve the process of civil litigation.

Comments about the proposed amendments should be submitted, in writing, **no later than Friday, July 9, 2021**, 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](#).

Attachments

***PROPOSED AMENDMENTS TO 10/08/20 ORDER AMENDING THE  
RULES OF THE CIRCUIT COURT OF THE STATE OF HAWAII***  
(Deleted material is bracketed and stricken; new material is underlined)

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***ADDITIONAL AMENDMENTS***

**Rule 3. FORM OF PLEADINGS AND MOTIONS.**

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

(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  
Asbestos  
Assault & Battery  
Condemnation  
Construction Defects  
Consumer Debt Collection  
Contract  
Declaratory Judgment  
Environmental Court  
Foreclosure  
Legal Malpractice  
Medical Malpractice  
Motor Vehicle Tort  
Product Liability  
Other Civil Action  
Other Non-Vehicle Tort  
Quiet Title

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***FURTHER AMENDMENTS***

**Rule 12. SCHEDULING.**

**(a) Scheduling order.**

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(8) ATTENDANCE AND MATTERS FOR CONSIDERATION AT A SCHEDULING CONFERENCE. All parties receiving notice of the scheduling conference shall

appear personally [~~attend in person~~] or by counsel and shall be prepared to discuss the following subjects:

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**(b) Exempt actions.**

(1) CATEGORIES OF EXEMPT ACTIONS. The following categories of actions are exempt from the provisions of Rule 12(a) of this Rule:

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(C) agency appeals pursuant to Hawai'i Revised Statutes [~~Chapter 91~~];

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(F) [~~mechanic's and materialmen's lien~~] asbestos.

**PROPOSED AMENDMENTS TO 10/08/20 ORDER AMENDING THE  
THE HAWAII RULES OF CIVIL PROCEDURE**

(Deleted material is bracketed and stricken; new material is underlined)

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**FURTHER AMENDMENTS**

**Rule 16.1. EXPEDITED OR NON-EXPEDITED TRACK ASSIGNMENT  
BASED ON CASE CHARACTERISTICS; DISCOVERY  
LIMITATIONS; TRIAL SETTING.**

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(b) **Exempt actions.** The following categories of actions are exempt from the provisions of this Rule 16.1.

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(3) agency appeals pursuant to Hawai'i Revised Statutes [~~Chapter 91~~];

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(6) [~~mechanic's and materialmen's lien~~] asbestos.

**Rule 16.2. APPEARANCE BY TELEPHONIC OR VIDEO  
CONFERENCE CALL.**

(a) **Telephonic or video conferencing call allowed.** Except as otherwise provided by statute or rule, the court should, absent good reason, as determined in the court's discretion, allow any party, to appear by telephonic or video conferencing for any of the following motions, conferences, hearings, or proceedings:

- (1) Trial setting conferences;
- (2) Status conferences;
- (3) Uncontested motions; [~~and~~]
- (4) Trials; and
- (5) Such other conferences or hearings which the trial court approves.

If, at any time during a motion, conference, hearing or proceeding conducted by telephonic or video conferencing the court determines a personal appearance is necessary by one or more of the parties, the court may continue the matter and require a personal appearance by one or more of the parties.

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**Rule 26. GENERAL PROVISIONS GOVERNING DISCOVERY.**

(a) **Required disclosures.**

(1) INITIAL DISCLOSURE.

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(B) *Proceedings exempt from initial disclosure.* The following categories of civil actions are exempt from initial disclosures:

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(iii) agency appeals pursuant to Hawai'i Revised Statutes [~~Chapter 91~~];

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(vi) [~~mechanic's and materialmen's lien~~] asbestos.

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