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SCRU-10-0000012

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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In the Matter of the  
HAWAI'I RULES OF APPELLATE PROCEDURE

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ORDER AMENDING RULE 28(b)(4) OF THE  
HAWAI'I RULES OF APPELLATE PROCEDURE

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

IT IS HEREBY ORDERED that Rule 28(b)(4) of the Hawai'i Rules of Appellate Procedure is amended, effective January 1, 2022, as follows (new material is underscored):

**Rule 28. BRIEFS.**

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**(b) Opening brief.** Within 40 days after the filing of the record on appeal, the appellant shall file an opening brief, containing the following sections in the order here indicated:

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(4) A concise statement of the points of error set forth in separately numbered paragraphs. Each point shall state: (i) the alleged error committed by the court or agency; (ii) where in the record the alleged error occurred; and (iii) where in the record the alleged error was objected to or the manner in which the alleged error was brought to the attention of the court or agency. Where applicable, each point shall also include the following:

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(D) when the point involves a ruling upon the report of a master, a quotation of the objection to the report.

Points not presented in accordance with this section will be disregarded, except that the appellate court, at its option, may notice a plain error not

presented. If an appellate court, when acting on a case on appeal, contemplates basing the disposition of the case wholly or in part upon an issue of plain error not raised by the parties through briefing, it shall not affirm, reverse, or vacate the case without allowing the parties the opportunity to brief the potential plain-error issue prior to disposition. Lengthy parts of the transcripts that are material to the points presented may be included in the appendix instead of being quoted in the point.

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DATED: Honolulu, Hawai'i, August 30, 2021.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins

