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SCRU-13-0000071

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the

HAWAI‘I PROBATE RULES

ORDER AMENDING RULES 81 AND 103 OF THE HAWAI‘I PROBATE RULES

(By: Recktenwald, C.J., McKenna, and Eddins, JJ., and
Intermediate Court of Appeals Chief Judge Ginoza, and
Intermediate Court of Appeals Associate Judge Leonard,
assigned by reason of vacancies)

IT IS HEREBY ORDERED that Rules 81 and 103 of the
Hawai‘i Probate Rules are amended, effective January 1, 2024, as
follows (new material is underscored):

PART B. PROBATE PROCEEDINGS

X. FLAG SHEETS

Rule 81. FLAG SHEETS REQUIRED.

An original and 2 copies of flag sheets in substantially the same form as set forth in Appendix A herein, containing the information sought therein, shall be presented to the clerk of the court for all hearings to admit a will to probate, to adjudicate intestacy, to appoint a personal

representative, to confirm the sale of real property, to determine an elective share, and to approve the final accounts of the personal representative. These flag sheets shall conform to the requirements of Rule 4 of these Rules and shall be presented to the court no later than 10 days prior to the scheduled hearing. While flag sheets may be submitted through the Judiciary Electronic Filing System, flag sheets submitted conventionally shall not be file-marked as a pleading, but shall be date-stamped by the clerk and placed in the court file for reference. Failure to present a required flag sheet in time shall cause the hearing to be continued to the next available date, unless otherwise ordered by the court. Where the facts of the case as set forth in the flag sheet change after submission of the flag sheet to the court, an amended flag sheet shall be presented.

COMMENTARY:

This Rule makes flag sheets mandatory in all probate proceedings in all circuits. Conventionally submitted flag sheets are not filed as pleadings but are date-stamped as having been received by the clerk to eliminate the chance for lost documents and to provide a clear record. The flag sheet is normally placed in the court's file for ready reference by the judge and court staff. Sample flag sheets are available at the court and may be available on-line.

**PART C. CONSERVATORSHIP AND
GUARDIANSHIP PROCEEDINGS**

II. HEARINGS

Rule 103. FLAG SHEETS.

An original and 2 copies of flag sheets in substantially the same form as set forth in Appendix A herein, containing the information sought therein, shall be presented to the clerk of the court for all hearings to appoint a conservator, to appoint a conservator and a guardian for an incapacitated adult, to compromise a tort claim on behalf of a minor or incapacitated person, and to confirm the sale of real property. These flag sheets shall be presented to the court no later than 10 days prior to the scheduled hearing. While flag sheets may be submitted through the Judiciary Electronic Filing System, flag sheets submitted conventionally shall not be file-marked as a pleading but shall be date-stamped by the clerk and placed in the court file for reference. Failure to present a required flag sheet in time shall cause the hearing to be continued to the next available date, unless otherwise ordered by the court. Where the facts of the case as set forth in the flag sheet change after submission of the flag sheet to the court, an amended flag sheet shall be presented.

COMMENTARY:

This Rule makes flag sheets mandatory in all conservatorship and guardianship proceedings in all circuits. Conventionally submitted flag sheets are not filed as pleadings but are date-stamped as having been received by the clerk, to eliminate the chance for lost documents and to provide a clear record. The flag sheet is normally placed in the court's file for ready reference by the judge and court staff.

DATED: Honolulu, Hawai'i, August 29, 2023.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Katherine G. Leonard

