

**RULES OF THE
CIRCUIT COURTS
OF THE
STATE OF HAWAI‘I**
(SCRU-11-0000632)

**Adopted and Promulgated by
the Supreme Court
of the State of Hawai‘i**

**As adopted February 11, 1971
With Amendments as Noted**

**The Judiciary
State of Hawai‘i**

RULES OF THE CIRCUIT COURTS

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**RULES OF THE CIRCUIT COURTS
OF THE STATE OF HAWAI‘I**

**Rule 1. CLASSIFICATION OF
PROCEEDINGS.**

All proceedings shall be divided into classes, viz.: CIVIL; CRIMINAL; CONSERVATORSHIP; CONSERVATORSHIP-GUARDIANSHIP; SMALL CONSERVATORSHIP; PROBATE; GUARDIANSHIP; SMALL ESTATE; SMALL GUARDIANSHIP; TRUST; SPECIAL PROCEEDINGS; MECHANIC'S AND MATERIALMAN'S LIEN; AND FAMILY COURT.

Proceedings in mandamus, habeas corpus, quo warranto, prohibition and any other proceedings not specifically included herein shall be classified under special proceedings.

(Amended May 31, 2005, effective July 1, 2005.)

Rule 1.1. CONSTRUCTION OF RULES.

(a) Interpretation and enforcement of the rules. These 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 Service 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 Service Rules for definitions.

(Added August 26, 2011, effective January 1, 2012; further amended October 4, 2019, effective October 28, 2019.)

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.

(e) Service of pleadings and other documents.

(1) FILING: ORIGINAL KEPT ON FILE; COPIES FOR SERVICE. For conventionally filed documents and subject to subsection (2) of this subsection (e), 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, 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 Service Rules, 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 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.** 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 1 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.

(h) **Place of filing.** If conventionally filed, pleadings 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 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.

(Amended March 6, 1980, effective March 6, 1980, further amended March 16, 1984, partly effective March 16, 1984, fully effective May 1, 1984; further amended August 26, 2011, effective January 1, 2012; further amended October 4, 2019, effective October 28, 2019.)

Rule 2.1. EX OFFICIO FILING.

The respective clerks of the circuit courts shall be ex officio clerks of all the courts of record and as such may accept documents for filing and may issue summons returnable in all such courts. The party filing the ex officio document, shall, on the day of filing, notify the trial court of the ex officio filing and provide the required copies to the trial judge's chambers in an expeditious manner consistent with Rule 7.2(g)(6) of these Rules.

(Added July 26, 1990, effective September 1, 1990; further amended March 20, 2014, effective July 1, 2014.)

Rule 2.2. COSTS AND FEES TO BE COLLECTED BY THE CLERK.

The clerk shall collect costs and fees provided by Chapter 607 of the Hawai'i Revised Statutes except that the clerk shall collect the amounts specified herein as follows:

1. For copies of any document in any public record maintained by the clerk:
 - a. in the clerk's office:
 - i. \$1.00 for the first page
 - ii. \$.50 for each additional page
 - b. in an off-site storage location:
 - i. \$5.00 plus usual copying charge
 - c. on microfilm:
 - i. \$5.00 when provided by the clerk plus \$1.00 per page
 - ii. \$1.00 per page when obtained via self-service
2. For telefaxing of any document in any public record, the applicable charges plus:
 - i. within Hawai'i:
 - \$2.00 first page
 - \$1.00 each additional page
 - ii. outside Hawai'i, within the United States:
 - \$5.00 first page
 - \$2.00 each additional page
 - iii. outside the United States:
 - \$10.00 first page
 - \$5.00 each additional page
3. For copies of audio tapes, electronic copy of any document: \$10.00
4. For copies of video tapes: cost of production
5. For any expedited or rush requests (copy(ies) provided within 4 hours if request received before noon):
 - \$10.00 plus all other applicable charges
6. Transfer of an action to circuit court from district court, in addition to district court fees:
 - \$125.00
7. Certification under seal of a copy of a pleading or other paper subsequent to the initial filing of the pleading or paper, except the record on appeal:
 - \$2.00
8. Making of copy; comparing of copy with original; certification or authentication of notaries:
 - \$3.00

9. Ex officio filing (in addition to the usual filing fee):
 - \$10.00
10. Exemplification, instead of item (26) in HRS § 607-5(c): \$4.00
11. Filing of notary commission:
 - \$6.00
12. Filing of initial paper under HRS § 507-43 by person asserting mechanic's or materialman's lien (in addition to the fee prescribed by part I of HRS § 607-5 for bringing an action under HRS § 507-47):
 - \$30.00
13. Notice of completion of contract:
 - \$5.00
14. Filing of motion to set aside dismissal pursuant to Rules 12(q), 28, and 29 of these rules:
 - \$30.00
15. Search of records by the clerk (when a request does not include a case number that is available through a self-search of case record indexes):
 - \$5.00
16. Retrieval of files from storage:
 - \$5.00
17. Parties to a pending case shall not be charged for the first copy of the court order, opinion, judgment or any other item entered in the case by the court, whether provided on paper or electronically.
18. The clerk shall charge the actual cost of mailing paper copies of any item, provided that the parties to a pending case shall not be charged for the mailing of the first paper copy of a court order, opinion, or other item entered in the case by the court.
19. The court may waive costs and fees for good cause shown. In lieu of copying and mailing fees, the administrative judge or the senior judge of the family court division may authorize the clerk to provide copies of orders, opinions, or other items to publishing companies in exchange for published materials for the benefit of the court or the judiciary.

(Added June 15, 2005, effective July 1, 2005; further amended November 23, 2005, effective January 1, 2006; further amended and effective February 19, 2009; further amended October 23, 2012, effective January 1, 2013.)

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 13 pound weight, 8 1/2 x 11 inches in size. 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 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. 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. 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.

Rule 3(c)(1)

Version in effect prior to January 1, 2022

(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, attorney number, office address, 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 the party is appearing unrepresented by counsel;

Rule 3(c)(1)

Effective January 1, 2022

(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, attorney number, office address, 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 the party is self-represented;

(Amended October 8, 2020, effective January 1, 2021; further amended November 5, 2020, to extend effective date to July 1, 2021; further amended March 30, 2021, to extend effective date to January 1, 2022.)

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

(4) 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);

Rule 3(c)(5)

Version in effect prior to January 1, 2022

(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

Rule 3(c)(5)

Effective January 1, 2022

(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

(Amended August 3, 2021, effective January 1, 2022.)

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

(7) 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 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 Rule.

(Amended June 21, 1983, partly effective July 1, 1983, fully effective July 1, 1984; further amended April 23, 1984, fully effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990; further amended January 9, 1996, effective March 1, 1996; further amended June 23, 1997 and July 2,

1997, effective August 1, 1997; further amended October 8, 2004, effective January 1, 2005; further amended August 26, 2011, effective January 1, 2012; further amended June 10, 2015, effective July 1, 2015; further amended October 4, 2019, effective October 28, 2019.)

Rule 4

Version in effect prior to January 1, 2022

Rule 4. PARTIES WITHOUT COUNSEL.

Parties who appear in person without counsel shall notify the clerk in writing of their names, their mailing and residence addresses, and telephone numbers and shall keep the clerk informed by proper written notices of changes in the addresses and telephone numbers so given. All such notices shall be duly indexed and filed in the folio for the case.

Rule 4

Effective January 1, 2022

Rule 4. PARTIES WITHOUT COUNSEL.

Parties who appear in person without counsel shall notify the clerk in writing of their names, their mailing and residence addresses, email address, and telephone numbers and shall keep the clerk informed by proper written notices of changes in the addresses and telephone numbers so given. All such notices shall be duly indexed and filed in the folio for the case.

(Amended October 8, 2020, effective January 1, 2021, further amended November 5, 2020, to extend effective date to July 1, 2021; further amended March 30, 2021, to extend effective date to January 1, 2022.)

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.

(Amended October 4, 2019, effective October 28, 2019.)

Rule 6. WITHDRAWAL OF PAPERS AND EXHIBITS.

The clerk shall permit no pleading or paper to be taken from his custody except as provided by Rule 2(d), or as ordered by the judge. Exhibits may be withdrawn on the written approval of a judge against a written receipt therefor, and the party shall file a copy in its place unless otherwise ordered. Unless otherwise ordered by the court, the parties in all civil actions shall withdraw all exhibits not attached to the pleadings, and all interrogatories, answers thereto, and depositions within one year after final judgment. If not so withdrawn, they shall be deemed abandoned and may be disposed of by the clerk.

Rule 7. FORM OF MOTIONS.

(a) Form. All motions, except when made during a hearing or trial, shall be in writing, shall state the grounds therefor, shall set forth the relief or order sought, and if involving a question of law shall be accompanied by a memorandum in support of the motion. Every motion, except one entitled to be heard ex parte, shall be accompanied by a notice of hearing or of setting for hearing thereof. The motion may be stated in the notice of hearing. If a motion requires the consideration of facts not appearing of record, it shall be supported by affidavit. The motion shall be filed and served on all parties not less than 18 days before the date set for the hearing.

(b) Opposition and reply. An opposing party may serve and file counter affidavits and a memorandum in opposition to the motion, which shall be served and filed not less than 8 days before the date set for the hearing, except as otherwise provided by the Hawai'i Rules of Civil Procedure or ordered by the Court. The movant may file and serve a reply not less than 3 days before the date set for the hearing. A reply must respond only to arguments raised in the opposition. Unless permitted by another rule or statute, no party may file or serve any papers other than those provided for in this rule. No party may file any papers less than 3 days before the date set for the hearing unless otherwise ordered by the court.

(c) Required notice; effect of failure to appear. A party who does not oppose or who intends to support a motion, or who desires a continuance, shall immediately give written notification to the court and opposing counsel. Failure to appear at the hearing may be deemed a waiver of objections to the granting of the motion.

(d) Motions for continuance. If a date has been assigned for trial of an action, a motion for continuance of the trial shall include on the first page of the notice of motion the trial date assigned and any previously assigned trial dates.

(e) Consent of party to continuance of trial. A motion for continuance of any assigned trial date, whether or not stipulated to by respective counsel, shall be granted only upon a showing of good cause, which shall include a showing that the client-party has consented to the continuance. Consent may be demonstrated by the client-party's signature on a motion for continuance or by the personal appearance in court of the client-party.

(f) Time to file motion. Unless otherwise ordered for good cause shown, all pretrial motions that request entry of judgment or dismissal of any claim shall be filed not later than 50 days prior to the assigned trial date.

(g) Declaration in lieu of affidavit. In lieu of an affidavit, an unsworn declaration may be made by a person, in writing, subscribed as true under penalty

of law, and dated, in substantially the following form:

I, (name of person) , do declare under penalty of law that the foregoing is true and correct.

Dated:

(Signature)

(Amended June 22, 1983, effective July 1, 1983, further amended May 24, 1984, effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990; further amended November 22, 1994, effective December 5, 1994; further amended September 11, 1996, effective January 1, 1997; further amended May 15, 1997, effective June 2, 1997.)

Rule 7.1. LENGTH OF MEMORANDA.

Memoranda in support of or in opposition to any motion shall not exceed 20 pages in length exclusive of affidavits, exhibits and attachments. Reply memoranda shall not exceed 10 pages in length exclusive of affidavits, exhibits and attachments. Upon the filing of an ex parte motion, and for good cause shown, the court may grant permission to exceed page limits. All attached exhibits shall have appropriately labeled tabs. Memoranda exceeding 15 pages shall have a table of contents and a table of authorities.

(Added September 11, 1996, effective January 1, 1997.)

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 Rules, shall be designated as hearing motions and calendared for 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 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 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 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”, 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 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.

(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 § 431:10C-213(b) and the Hawai‘i Arbitration Rules attached as Exhibit A to these 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. 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. 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 the motion with the hearing date and time or

(b) conventionally file the motion and the clerk 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.

(3) *EX PARTE* MOTIONS.

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.

(4) APPLICATION FOR HEARING. A party desiring a hearing on a non-hearing motion may file an application for hearing. The application for a 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 accompanied by a proposed order granting the application, which shall 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.

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

(A) A motion to shorten time for hearing or motion to advance hearing shall be electronically filed or conventionally filed if the filing party is not a JEFS User. 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.

(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.

(Added August 26, 2011, effective January 1, 2012; further amended March 20, 2014, effective July 1, 2014; further amended October 4, 2019, effective October 28, 2019.)

Rule 8. SETTING OF MOTIONS.

Motions will be heard upon 18 days written notice in accordance with Rule 7 herein, unless otherwise ordered by the court or unless a different notice is required by the Hawai’i Rules of Civil Procedure, upon having the same placed on the judge’s docket by the attorney, and upon filing the moving papers not less than 18 days before the date set for the hearing.

Rule 8

RULES OF THE CIRCUIT COURTS

The court on its own motion may order anymatter submitted on the briefs and/or affidavits, without oral argument.

(Amended June 22, 1983, effective July 1, 1983; further amended September 11, 1996, effective January 1, 1997; further amended May 15, 1997, effective June 2, 1997.)

Rule 9. TITLES TO ORDERS.

Every order shall indicate the nature thereof in its title.

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 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 by the clerk.

(Amended October 8, 2004, effective January 1, 2005; further amended October 4, 2019, effective October 28, 2019.)

Rule 10.1. REPEALED AND RESERVED.

Rule 11. PROOF OF PUBLICATION.

Whenever the publication in a newspaper of any summons, process, notice or order is required, evidence of such publication shall be given by the affidavit of the editor, publisher, manager, foreman, clerk or printer of such newspaper, not interested in the suit, action, matter or proceeding to which such publication relates, to which affidavit shall be attached a copy of such summons, process, notice or order, and which affidavit shall also specify the dates and times when and the newspaper in which the publication was made. The publisher shall file said

affidavit with the clerk before the time fixed for hearing.

Rule 12

Version in effect prior to January 1, 2022

Rule 12. READY CIVIL CALENDAR.

(a) Preparation of calendar by clerk. At least once in each calendar month, the clerk shall prepare a list of all civil cases wherein a pretrial statement has been filed. Such list shall be known as the "Ready Calendar" and shall be available for public examination.

(b) Pretrial statement. No case shall be placed on the "Ready Calendar" unless a "Pretrial Statement" has been filed and served in accord with Rule 5 of the Hawai'i Rules of Civil Procedure. The pretrial statement shall be filed within 8 months after a complaint has been filed or within any further period of extension granted by the court. It shall contain the following information:

(1) A statement of facts;

(2) Admitted facts;

(3) All claims for relief and all defenses advanced by the party submitting the pretrial statement and the type of evidence expected to be offered in support of each claim and defense;

(4) The names, addresses, categories (i.e., lay, eye, investigative), and type (i.e., liability, damages) of all non-expert witnesses reasonably expected to be called by the party submitting the statement and a general statement concerning the nature of the testimony expected;

(5) The name, address and field of expertise of each expert witness expected to testify and a general statement concerning the nature of the testimony expected;

(6) A statement that each party, or the party's lead counsel, conferred in person with the opposing party, or with lead counsel for each opposing party, in a good faith effort to limit all disputed issues, including outstanding discovery, and considered the feasibility of settlement and alternative dispute resolution options. A face-to-face conference is required under these rules and shall not be satisfied by a telephone conference or written correspondence. The face-to-face conference shall take place in the judicial circuit where the action is pending unless otherwise agreed by counsel and/or the parties; and

(7) A statement identifying any party who objects to alternative dispute resolution and the reasons for objecting. If the parties have agreed to an alternative dispute resolution process, a statement identifying the process.

(c) Selection of trial date and consideration of alternative dispute resolution.

(1) Except in cases which have been designated as complex litigation, within 60 days of the filing of the initial pretrial statement, the plaintiff in all cases filed in the First Circuit shall schedule a trial setting status conference that shall be attended by each party or each party's lead counsel and shall be conducted by the Civil Administrative Judge, or the Civil Administrative Judge's designee. The Civil Administrative Judge, or designee, shall:

(A) Establish the trial date; and

(B) Discuss alternative dispute resolution options.

The court may consider other matters which may be conducive to the just, efficient and economical determination of the case.

(2) In the Second, Third and Fifth Circuits, unless the court to which the case is assigned orders that the procedure set forth above in paragraph (c)(1) of this rule shall apply, the plaintiff shall, within 60 days of the filing of the initial pretrial statement, file a document with the court indicating the following:

(A) That counsel has agreed upon 3 separate weeks in which the trial can occur, which dates will fall within 150-240 days from the filing date of the initial pretrial statement and that if the trial can be for any one of these 3 weeks, all counsel will be ready to proceed; provided, if the court's calendar cannot accommodate any of the dates, then counsel will meet for a trial setting status conference or agree to a date by conference call; or

(B) That counsel cannot agree and the parties wish a trial setting status conference.

Any party may request a trial setting status conference to establish a trial date and discuss alternative dispute resolution options.

(d) Extension of time to file pretrial statement. By motion, and upon a showing of good cause, the 8-month period in which plaintiff has to file a pretrial statement may be extended by the court.

(e) Designation and order of actions. The cases on the Ready Calendar shall be designated by their respective numbers and by the surname of the

first-named party of each side and shall be listed in the order of the filing of the initial pretrial statement.

(f) Motion to strike from calendar. Within 10 days after a pretrial statement has been served, any party may move to strike the statement or the action from the calendar. The motion to strike shall be supported by an affidavit that clearly sets forth why the statement is incorrect or deficient, or why the case should otherwise be stricken from the calendar. The fact that the statement has been filed prior to substantial completion of discovery by other parties to the action shall not be grounds to strike the statement or the action from the calendar.

(g) Restoration to calendar. A case stricken from the ready calendar shall be restored thereto upon the filing of another pretrial statement and its place shall be determined by the filing date of the later statement, unless the court upon motion determines a different priority, e.g., restores the action to the date of the first pretrial statement. Any such motion for a different priority shall be filed at the same time as the new pretrial statement and must be accompanied by an affidavit stating why the case was previously stricken from the calendar and demonstrating good cause why the different priority should be fixed.

(h) Responsive pretrial statement. Every defendant shall file a "Responsive Pretrial Statement", served as required by Rule 5 of the Hawai'i Rules of Civil Procedure, that sets forth the same kind of information required in the pretrial statement within 60 days of the filing of the first pretrial statement.

(i) Extension of time to file responsive pretrial statement. Parties may stipulate once as a matter of course at any time before the responsive pretrial statement is due to extend the time in which to file the responsive pretrial statement. Parties shall not extend the time in which to file the responsive pretrial statement for more than 30 days. Otherwise, a motion seeking court approval to file a responsive pretrial statement more than 60 days after the filing of a pretrial statement shall be filed within 30 days of filing of a pretrial statement and shall specifically state why a responsive pretrial statement cannot be timely filed. If incomplete discovery is the reason why a responsive pretrial statement cannot be submitted, the motion shall include a schedule for completing discovery and the date when the responsive pretrial statement shall be filed.

(j) **Amending pretrial statements.** Pretrial statements must be continually amended in the same manner in which answers to interrogatories must be amended.

(k) **Designation as complex litigation.** Any party may move to have a case designated by the court as Complex Litigation within 8 months after a complaint has been filed or at any time upon good cause shown. The judge hearing the Motion for Designation as Complex Litigation will have complete and unreviewable discretion in making the determination. Upon such a designation by the court, in cases where a jury will decide all issues the case will be assigned to a trial judge for handling until conclusion. In non-jury cases, the case will be assigned to a trial judge for handling until trial, but may be reassigned to a separate judge for the actual trial. This rule shall apply to cases filed in the First Circuit and other circuits as ordered by the Civil Administrative Judge of that circuit.

(1) **CRITERIA.** In determining whether a case should be designated as Complex Litigation, the court shall consider the following criteria:

(i) The estimated amount in controversy is in excess of \$750,000, excluding interest, attorney's fees and costs;

(ii) The estimated length of trial is six weeks or more;

(iii) The number of parties, including all plaintiffs and defendants is ten or more;

(iv) One or more of the parties is a person who is not a citizen or resident of the United States;

(v) The anticipated number of expert witnesses is eight or more;

(vi) The case involves complex and multiple issues;

(vii) The subject matter of the case involves either asbestos, natural catastrophes, national trends, construction or class actions;

(viii) Discovery is anticipated to be complex; or

(ix) Any other matters which may be conducive to the just, efficient, and economical determination of the case.

(2) **MOTION FOR DESIGNATION.** The motion for designation as Complex Litigation shall identify which of the criteria set forth in section (1) applies to the case, and shall set forth wherever applicable, the following information;

(i) A short statement of the nature of the case;

(ii) A list of parties served, in the process of being served or anticipated to be joined in the action;

(iii) Whether jury trial has been demanded or will be demanded;

(iv) A list of anticipated discovery, discovery in progress and completed discovery;

(v) A list of anticipated motions, motions pending and hearing dates; and

(vi) Any other matters which may be conducive to the just, efficient, and economical determination of the action or proceeding, including the definition or limitation of issues.

(3) **CASE MANAGEMENT CONFERENCES.** The judge assigned to the complex case shall conduct case management conference(s) to determine all deadlines under these rules at which the court may:

(i) Establish deadlines for the following:

(A) A meeting with the Judiciary Center for Alternative Dispute Resolution; and

(B) Other matters as deemed applicable by the court.

(ii) Discuss the following:

(A) Appointment of special masters pursuant to Rules 26 and 53 of the Hawai'i Rules of Civil Procedure;

(B) Discovery schedule, including setting of any further case management conferences; and

(C) Other matters which may be conducive to the just, efficient, and economic determination of the case.

(4) **COMPLEX CASE MANAGEMENT ORDER(S).** The court may issue complex case management order(s) which may include, but shall not be limited to, the items set forth in section (3). The order(s) shall be binding as to all parties. The provisions of any order shall not excuse compliance with otherwise applicable rules or deadlines unless specifically ordered by the court.

(l) **Final naming of witnesses.** Sixty (60) days prior to the discovery cut off date plaintiff must name all theretofore unnamed witnesses. Thirty (30) days prior to the discovery cut off date defendant must name all theretofore unnamed witnesses.

(m) Further discovery. After the deadline for Final Naming of Witnesses, a Motion for Further Discovery can be filed upon a showing of good cause and substantial need.

(n) Exclusion of witnesses. Any party may move the court for an order excluding a witness named by an opposing party if said witness was or should have been known at an earlier date and allowing the witness to testify will cause substantial prejudice to the movant. The movant under this motion must make a statement concerning the prejudice that will be suffered should this new witness be allowed to testify, and why the opposing party either knew or should have known of the witness at an earlier date. The opposing attorney must submit an affidavit stating that the witness was not known at an earlier date, nor with due diligence should have been known.

(o) Additional witness. At any time after the time for Final Naming of Witnesses, upon a showing of good cause and substantial need a party may move for the addition of a witness.

(p) Deviation in time for filing. Deviations from the time requirements for the filing of any document under this rule shall be allowed only upon good cause shown.

(q) Dismissal for want of prosecution. An action may be dismissed sua sponte with written notice to the parties if a pretrial statement has not been filed within 8 months after a complaint has been filed (or within any further period of extension granted by the court) or if a trial setting status conference has not been scheduled as required by Rule 12(c). Such dismissal may be set aside and the action reinstated by order of the court for good cause shown upon motion duly filed not later than ten (10) days from the date of the order of dismissal.

(r) Discovery cut off. Discovery shall be cut off 60 days before the assigned trial date.

(s) Additional party practice. Ten (10) days after the appearance of any additional party who has been joined following the service of the initial pretrial statement or one year after the filing of the complaint, whichever is later, the party joining the additional party and all other parties asserting affirmative claims against the additional party shall each file and serve (in accord with Rule 5 of the Hawai'i Rules of Civil Procedure) a pretrial statement against the additional party. The pretrial statement shall set forth the same kind of information as required by Rule 12(b) of these rules. The additional party shall file and serve

(in accord with Rule 5 of the Hawai'i Rules of Civil Procedure) a responsive pretrial statement that sets forth the same kind of information required by Rule 12(b) of these rules within 60 days of the service of the pretrial statement against the additional party. The additional party shall move the court for any deviation from the time requirements under these rules within 30 days of the filing of the pretrial statement against said additional party.

(t) Sanctions. Failure of a party or his attorney to comply with any section of this rule is deemed an undue interference with orderly procedures and unless good cause is shown, the court may, in its discretion, impose sanctions in accord with Rule 12.1(a)(6) of these rules.

(Amended June 22, 1983, effective July 1, 1983, further amended May 24, 1984, effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990; further amended September 11, 1996, effective January 1, 1997; further amended September 20, 1996, effective January 1, 1997; further amended May 15, 1997, effective June 2, 1997; further amended May 16, 2007, effective July 1, 2007.)

Rule 12

Effective January 1, 2022

Rule 12. SCHEDULING.

(a) Scheduling order.

(1) ISSUING ORDER. Except in categories of actions exempted by Rule 12(b) of this Rule and cases designated as complex litigation under Rule 12(c) of this Rule, the trial judge must issue a scheduling order after consulting with the parties' attorneys and any self-represented parties at a scheduling conference.

(2) TIME TO ISSUE. The judge must issue the scheduling order as soon as practicable, but unless the judge finds good cause for delay, the judge must issue it within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared.

(3) CONTENTS OF THE SCHEDULING ORDER.

(A) *Required contents.* The judge shall enter an order governing and addressing:

(i) the setting of a date for trial;

(ii) disclosures under Rule 26(a) of the Hawai'i Rules of Civil Procedure;

(iii) the extent of discovery to be permitted;

(iv) the discovery completion date;

(v) deadlines for motions to be filed and heard, to join other parties, and to amend pleadings; and

(vi) the assignment of a case to a track under Rule 16.1 of the Hawai'i Rules of Civil Procedure.

(B) *Permitted Contents.* The scheduling order may:

(i) modify the timing of disclosures under Rules 26(a) and 26(e) of the Hawai'i Rules of Civil Procedure;

(ii) modify the extent of discovery;

(iii) provide for disclosure, discovery, or preservation of electronically stored information;

(iv) include any agreements the parties reach for asserting claims of privilege or of protection as trial-preparation material after information is produced;

(v) direct that before moving for an order relating to discovery, the movant must request a conference with the court;

(vi) set dates for pretrial conferences, including a final pretrial conference;

(vii) set deadlines for the exchange and submission of trial materials, including exhibits, stipulations, depositions and trial preservation testimonies, proposed jury instructions, and proposed questions for jury selection; and

(viii) include other appropriate matters.

(4) SCHEDULING CONFERENCE. Within the earlier of 14 days after any defendant has been served with the complaint or has appeared, the plaintiff shall file a notice requesting a Scheduling Conference to be set by the court. The court shall then issue an order or a notice setting the Scheduling Conference date. The plaintiff shall promptly serve the order or notice issued by the court setting the Scheduling Conference date on all parties who have been served with the complaint, except those who have appeared in the case before the order or notice was issued. The Scheduling Conference shall be attended by each party who has appeared in the case or that party's lead counsel. In a case with multiple defendants, where despite plaintiff's diligent efforts it appears likely that not all defendants will be served with the complaint prior to the first Scheduling Conference, the plaintiff may request that the Scheduling Conference be rescheduled to allow additional time for service.

(5) MODIFYING A SCHEDULE. A schedule may be modified only for good cause and with the judge's consent.

(6) CONFERENCE OF THE PARTIES; PLANNING FOR DISCOVERY.

(A) *Timing of parties' conference.* Except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B) of the Hawai'i Rules of Civil Procedure or when the court orders otherwise, the parties must confer as soon as practicable – and in any event at least 21 days before a scheduling conference is to be held under Rule 16(b) of the Hawai'i Rules of Civil Procedure.

(B) *Matters considered in parties' conference; parties' responsibilities.* In conferring, the parties must consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; make or arrange for the disclosures required by Rule 26(a)(1) of the Hawai'i Rules of Civil Procedure; discuss whether the case should be assigned to an expedited or non-expedited track under Rule 16.1 of the Hawai'i Rules of Civil Procedure; discuss any issues about preserving discoverable information; and develop a proposed discovery plan. The attorneys of record and all self-represented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the court within 14 days after the conference a written report outlining the plan. The court may order the parties or attorneys to attend the conference in person.

(C) *Discovery plan.* A discovery plan must state the parties' views and proposals on:

- (i) what changes should be made in the timing, form, or requirement for disclosures under Rule 26(a) of the Hawai'i Rules of Civil Procedure, including a statement of when initial disclosures were made or will be made;
- (ii) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues;
- (iii) any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced;
- (iv) any issues about claims of privilege or of protection as trial-preparation materials, including – if the parties agree on a procedure to assert these claims after production – whether to ask the court to include their agreement in an order;
- (v) what changes should be made in the limitations on discovery imposed under the Hawai'i Rules of Civil Procedure or these rules, and what other limitations should be imposed; and

- (vi) any other orders that the court should issue under Rule 26(c) or under Rule 16(b) and (c) of the Hawai'i Rules of Civil Procedure.

(7) SCHEDULING CONFERENCE STATEMENT. Unless otherwise ordered by the court, each party shall file with the court and serve on all parties a "Scheduling Conference Statement" no later than 7 days prior to the scheduling conference. The Scheduling Conference Statement shall include the following:

- (A) A short statement of the nature of the case;
- (B) A statement of jurisdiction with cited authority for jurisdiction and a short description of the facts conferring venue;
- (C) Whether jury trial has been demanded;
- (D) Whether the case should be assigned to an expedited or non-expedited track under Rule 16.1 of the Hawai'i Rules of Civil Procedure;
- (E) A statement addressing the appropriateness, extent, and timing of disclosures pursuant to Rule 26 of the Hawai'i Rules of Civil Procedure that are not covered by the report(s) filed pursuant to Rule 26(f) of the Hawai'i Rules of Civil Procedure;
- (F) A list of discovery completed, discovery in progress, motions pending, and hearing dates;
- (G) A statement addressing the appropriateness of any of the special procedures or other matters specified in Rule 16(c) of the Hawai'i Rules of Civil Procedure that are not covered by the report(s) filed pursuant to Rule 26(f) of the Hawai'i Rules of Civil Procedure;
- (H) A statement identifying any related case, including pending cases as well as cases that have been adjudicated or have otherwise been terminated, in any state or federal court; and
- (I) Additional matters at the option of the parties.

Each party shall certify that it has conferred pursuant to paragraph (a)(6) of this Rule or state the reasons why the parties did not fulfill the requirement to confer.

(8) ATTENDANCE AND MATTERS FOR CONSIDERATION AT A SCHEDULING CONFERENCE. All parties receiving notice of the scheduling conference shall attend remotely (either through counsel or personally) or in person as ordered by the court. Lead counsel and self-represented parties shall be prepared to discuss the following subjects:

(A) Service of process on parties not yet served;

(B) Jurisdiction and venue;

(C) Anticipated motions, and deadlines as to the filing and hearing of motions;

(D) Appropriateness and timing of motions for dismissal or for summary judgment under Rule 12 or Rule 56 of the Hawai'i Rules of Civil Procedure;

(E) Deadlines to join other parties and to amend pleadings;

(F) Whether the case should be assigned to an expedited or non-expedited track under Rule 16.1 of the Hawai'i Rules of Civil Procedure;

(G) Anticipated or remaining discovery, including discovery cut-off;

(H) The control and scheduling of discovery, including orders affecting disclosures and discovery pursuant to Rule 16.1, Rule 26, and Rules 29 through 37 of the Hawai'i Rules of Civil Procedure;

(I) Further proceedings, including setting dates for additional pretrial conference(s), settlement conference, final pretrial conference, submission and exchange of trial materials, and trial, and compliance with Rule 12.1 of these Rules;

(J) Appropriateness of special procedures such as consolidation of actions for discovery or pretrial, alternative dispute resolution procedures, or application of procedures for cases designated as complex litigation;

(K) Modification of the standard pretrial procedures specified by this rule on account of the relative simplicity or complexity of the action or proceeding;

(L) Prospects for settlement, including participation in the court's mediation program or any other alternative dispute resolution process; and

(M) Any other matter that may be conducive to the just, efficient, and economical determination of the action or proceeding, including the definition or limitation of issues, or any of the other matters specified in Rule 16(c) of the Hawai'i Rules of Civil Procedure.

(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:

(A) foreclosure;

(B) cases included in and not exempted from the Court Annexed Arbitration Program established by Hawai'i Revised Statutes § 601-20;

(C) agency appeals pursuant to Hawai'i Revised Statutes;

(D) consumer debt collection;

(E) quiet title; and

(F) asbestos.

(2) SCHEDULING FOR EXEMPT ACTIONS. For actions exempted under paragraph (b)(1) of this Rule, unless otherwise ordered by the court, within 8 months after the complaint has been filed, the plaintiff shall file a notice requesting a trial setting/status conference to be set by the court. After holding the trial setting/status conference, or based on the pleadings, the court shall establish the trial date or other appropriate deadlines for resolving the case. The court, in its discretion, may require the parties in whole or in part to follow the scheduling conference procedures set forth in Rule 12(a) of this Rule. The court may also consider alternative dispute resolution options and other matters which may be conducive to the just, efficient, and economical determination of the case.

(c) Designation as complex litigation. Any party may move to have a case designated by the court as Complex Litigation within 8 months after a complaint has been filed or at any time upon good cause shown. The judge hearing the Motion for Designation as Complex Litigation will have complete and unreviewable discretion in making the determination. Upon such a designation by the court, in cases where a jury will decide all issues the case will be assigned to a trial judge for handling until conclusion. In non-jury cases, the

case will be assigned to a trial judge for handling until trial, but may be reassigned to a separate judge for the actual trial. This rule shall apply to cases filed in the First Circuit and other circuits as ordered by the Civil Administrative Judge of that circuit. Once a case is designated by the court as Complex Litigation, the scheduling and case management of the case shall be governed by orders issued by the judge assigned to the case pursuant to this paragraph (c).

(1) CRITERIA. In determining whether a case should be designated as Complex Litigation, the court shall consider the following criteria:

(A) The estimated amount in controversy is in excess of \$750,000, excluding interest, attorney's fees and costs;

(B) The estimated length of trial is 6 weeks or more;

(C) The number of parties, including all plaintiffs and defendants is 10 or more;

(D) One or more of the parties is a person who is not a citizen or resident of the United States;

(E) The anticipated number of expert witnesses is 8 or more;

(F) The case involves complex and multiple issues;

(G) The subject matter of the case involves either natural catastrophes, national trends, construction or class actions;

(H) Discovery is anticipated to be complex; or

(I) Any other matters which may be conducive to the just, efficient, and economical determination of the case.

(2) MOTION FOR DESIGNATION. The motion for designation as Complex Litigation shall identify which of the criteria set forth in section (1) above applies to the case, and shall set forth wherever applicable, the following information:

(A) A short statement of the nature of the case;

(B) A list of parties served, in the process of being served or anticipated to be joined in the action;

(C) Whether jury trial has been demanded or will be demanded;

(D) A list of anticipated discovery, discovery in progress and completed discovery;

(E) A list of anticipated motions, motions pending and hearing dates; and

(F) Any other matters which may be conducive to the just, efficient, and economical determination of the action or proceeding, including the definition or limitation of issues.

(3) CASE MANAGEMENT CONFERENCES. The judge assigned to the complex case shall conduct case management conference(s) to determine all deadlines under these rules at which the court may:

(A) Establish deadlines for the following:

(i) A meeting with the Judiciary Center for Alternative Dispute Resolution; and

(ii) Other matters as deemed applicable by the court.

(B) Discuss the following:

(i) Appointment of special masters pursuant to Rules 26 and 53 of the Hawai'i Rules of Civil Procedure;

(ii) Discovery schedule, including setting of any further case management conferences; and

(iii) Other matters which may be conducive to the just, efficient, and economic determination of the case.

(4) COMPLEX CASE MANAGEMENT ORDER(S). The court may issue complex case management order(s) which may include, but shall not be limited to, the items set forth in section (3) above. The order(s) shall be binding as to all parties. The provisions of any order shall not excuse compliance with otherwise applicable rules or deadlines unless specifically ordered by the court.

(d) Final naming of witnesses. 60 days prior to the discovery cut off date plaintiff must name all theretofore unnamed witnesses. 30 days prior to the discovery cut off date defendant must name all theretofore unnamed witnesses.

(e) Further discovery. After the deadline for Final Naming of Witnesses, a Motion for Further Discovery can be filed upon a showing of good cause and substantial need. In ruling on a

Motion for Further discovery, the court shall give due consideration to the factors under Rule 26(b)(2)(iii) of the Hawai‘i Rules of Civil Procedure.

(f) Exclusion of witnesses. Any party may move the court for an order excluding a witness named by an opposing party if said witness was or should have been known at an earlier date and allowing the witness to testify will cause substantial prejudice to the movant. The movant under this motion must make a statement concerning the prejudice that will be suffered should this new witness be allowed to testify, and why the opposing party either knew or should have known of the witness at an earlier date. The opposing attorney must submit an affidavit stating that the witness was not known at an earlier date, nor with due diligence should have been known.

(g) Additional witness. At any time after the time for Final Naming of Witnesses, upon a showing of good cause and substantial need a party may move for the addition of a witness.

(h) Deviation in time for filing. Deviations from the time requirements for the filing of any document under this rule shall be allowed only upon good cause shown.

(i) Dismissal for want of prosecution. An action may be dismissed sua sponte with written notice to the parties if a notice requesting a Scheduling Conference or trial setting/status conference has not been filed as required by this Rule 12. Such dismissal may be set aside and the action reinstated by order of the court for good cause shown upon motion duly filed not later than 10 days from the date of the order of dismissal.

(j) Discover cut off. Discovery shall be cut off 60 days before the assigned trial date.

(k) Additional party practice. Any party joining a new party after trial has been set must serve, with the initiating pleading, a copy of the current order(s) setting the trial date and pretrial deadlines. Within 30 days of filing a responsive pleading, any newly joined party may move for a

continuance of the trial date or other deviation from the time requirements under these rules or orders setting pretrial deadlines.

(l) Sanctions. Failure of a party or the party’s attorney to comply with any section of this rule is deemed an undue interference with orderly procedures and unless good cause is shown, the court may, in its discretion, impose sanctions in accord with Rule 12.2(a)(6) of these Rules.

(Amended October 8, 2020, effective January 1, 2021; further amended November 5, 2020, to extend effective date to July 1, 2021; further amended March 30, 2021, to extend effective date to January 1, 2022; further amended August 3, 2021, effective January 1, 2022.)

Rule 12.1

Version in effect prior to January 1, 2022

Rule 12.1. CIVIL SETTLEMENT CONFERENCE; SETTLEMENT CONFERENCE STATEMENT; CONFIDENTIAL SETTLEMENT CONFERENCE LETTER.

(a) Settlement conference. A settlement conference may be ordered by the court at any time before trial. Any party may also file a request for settlement conference at any time prior to trial. A settlement conference in civil cases shall be subject to the following guidelines:

(1) If a party settles or otherwise disposes of any action prior to a scheduled settlement conference, the party shall immediately notify the judge who scheduled the conference;

(2) Each party to the action shall attend the conference or be represented by an attorney or other representative who has authority to settle the case;

(3) For each party represented by counsel an attorney who is assigned to try the case shall attend the settlement conference. It is expected that the attorney will have become familiar with all aspects of the case prior to the conference;

(4) Each party to the action shall have thoroughly evaluated the case and shall have

discussed and attempted to negotiate a settlement through an exchange of written bona fide and reasonable offers of settlement prior to the conference;

(5) The judge conducting the settlement conference may, at the conclusion of said conference, continue said conference to another time and date, and from time to time thereafter for continued settlement negotiations if he has reason to believe a settlement can thereby be effectuated;

(6) SANCTIONS. The failure of a party or his attorney to appear at a scheduled settlement conference, the neglect of a party or his attorney to discuss or attempt to negotiate a settlement prior to the conference, or the failure of a party to have a person authorized to settle the case present at the conference shall, unless a good cause for such failure or neglect is shown, be deemed an undue interference with orderly procedures. As sanctions, the court may, in its discretion:

(i) Dismiss the action on its own motion, or on the motion of any party or hold a party in default, as the case may be;

(ii) Order a party to pay the opposing party's reasonable expenses and attorneys' fees;

(iii) Order a change in the calendar status of the action;

(iv) Impose any other sanction as may be appropriate.

(b) Settlement conference statement. In all civil cases, including those which have been designated as Complex Litigation, a settlement conference statement shall be filed not less than 5 working days prior to the date of the settlement conference. The settlement conference statement shall be filed with the clerk of court and a file-marked copy shall be delivered to the office of the judge conducting the settlement conference, and copies served upon all other parties. The statement shall set forth, wherever applicable, the following information:

(1) FOR THE PLAINTIFF:

(i) The name, age, marital status and occupation of all noncorporate plaintiffs;

(ii) The relief claimed by each plaintiff;

(iii) A factual summary of the case;

(iv) Plaintiff's theories of liability against each defendant;

(v) The name, address, field of expertise and summary of substance of testimony of each expert witness who supports plaintiff's theories of liability;

(vi) The name, address and summary of substance of testimony of all other witnesses who support plaintiff's theories of liability;

(vii) A statement of plaintiff's position on general damages, including a statement of all injuries and damages claimed by plaintiff, together with the names of plaintiff's expert witnesses, including doctors, and copies of their reports;

(viii) Plaintiff's claim of special damages including an itemized statement of all special damages claimed by plaintiff;

(ix) The name, address, field of expertise and summary of substance of testimony of each expert witness who supports the plaintiff's claim of special damages;

(x) The name, address and summary of substance of testimony of all other witnesses who support plaintiff's position on damages; and

(xi) A statement of the status of settlement negotiations.

(2) FOR THE DEFENDANTS:

(i) The age, marital status, occupation and corporate or other legal status of each defendant;

(ii) The name of applicable insurance carriers and the stated policy limits;

(iii) A factual summary of the case;

(iv) The defense to each of plaintiff's theories of liability;

(v) The name, address, field of expertise and summary of substance of testimony of each expert witness who supports the defenses to plaintiff's theories of liability;

(vi) The name, address and summary of substance of testimony of all other witnesses who support the defenses to plaintiff's theories of liability;

(vii) A statement of the defense position on general damages, including a statement of all injuries and damages disputed by defendant, together with the names of defendant's expert witnesses including doctors, and copies of their reports;

(viii) The defendant's position on special damages including a statement of which special damages are disputed;

(ix) The name, address, field of expertise and summary of substance of testimony of each expert witness who supports the defense position on special damages;

(x) The name, address and summary of substance of testimony of other witnesses who support the defense position on damages; and

(xi) A statement of the status of settlement negotiations.

(c) Confidential settlement conference letter.

At least five (5) working days before the settlement conference, each party shall deliver directly to the settlement conference judge a confidential settlement conference letter, which shall not be filed or served upon the other parties. The confidential settlement conference letter shall not be made a part of the record and confidential information contained in the letter shall not be disclosed to the other parties without express authority from the party submitting the letter. The court will destroy the confidential settlement conference letter no later than entry of final judgment in the case.

The confidential settlement conference letter shall include a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses, a description of the major issues in dispute, including damages, counsel's good faith evaluation of the case, and other information requested by the court.

(Added June 22, 1983, effective July 1, 1983; further amended May 24, 1984, effective July 1, 1984; further amended June 28, 1984, effective July 1, 1984; further amended October 21, 1999, effective January 1, 2000.)

Rule 12.1

Effective January 1, 2022

Rule 12.1. PRETRIAL STATEMENT.

Unless otherwise ordered by the court, the parties shall serve and file separate pretrial statements no later than 7 days before any final pretrial conference scheduled by the court, and if no such conference has been set, then no later than 14 days before trial. The pretrial statement shall contain the following information:

(a) Party. The name of the party or parties on whose behalf the statement is filed.

(b) Substance of action. A brief description of the substance of the claims and defenses presented.

(c) Undisputed facts. A plain and concise statement of all material facts not reasonably disputable. Counsel are expected to make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(d) Disputed factual issues. A plain and concise statement of all disputed factual issues.

(e) Relief prayed. A detailed statement of all relief requested for all claims and defenses asserted, including a particularized itemization of all elements of damages claimed.

(f) Points of law. A concise statement of each disputed point of law with respect to liability and relief, with reference to statutes and decisions relied upon. Extended legal argument is not to be included in the pretrial statement.

(g) Witnesses to be called. A list of all witnesses likely to be called at trial.

(h) Exhibits, schedules, and summaries. A list of all documents and other items to be offered as exhibits at the trial, except for impeachment or rebuttal, with a brief statement following each, describing its substance or purpose and the identity of the sponsoring witness.

(i) Further discovery or motions. A statement of any uncompleted discovery or undecided motions that may impact the trial proceeding as scheduled.

(j) Stipulations and requests for judicial notice. A statement of stipulations requested or proposed for pretrial or trial purposes. Identification of any requests for judicial notice of fact or law with supporting documentation and certification by the party that notice pursuant to the Hawai‘i Rules of Evidence, statute, rule, or case law has been provided to all other parties.

(k) Amendments, dismissals. A statement of requested or proposed amendments to pleadings or dismissals of parties, claims, or defenses.

(l) Alternative dispute resolution. A statement summarizing the status of any alternative dispute resolution process that may impact trial.

(m) Estimate of trial time. An estimate of the number of court days expected to be required for the presentation of each party’s case. Counsel must make a good faith effort to reduce the time required for trial by all means reasonably feasible, including stipulations, agreed statements of facts, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.

(n) Miscellaneous. Any other subjects relevant to the trial of the action or proceeding, or material to its just, efficient and economical determination. Each party shall specify any equipment or technology not provided by the court that it plans to use in presenting its case. Every party must use reasonable efforts to share the cost of equipment or technology not provided by the court that is necessary and is used to present evidence, giving due consideration to each party’s financial means to share costs.

(Added October 8, 2020, effective January 1, 2021; further amended November 5, 2020, to extend effective date to July 1, 2021; further amended March 30, 2021, to extend effective date to January 1, 2022.)

Rule 12.2
Version in effect prior to January 1, 2022

Rule 12.2. ALTERNATIVE DISPUTE RESOLUTION.

(a) Authority to order. The court, sua sponte or upon motion by a party, may, in exercise of its discretion, order the parties to participate in a non-binding Alternative Dispute Resolution process (ADR or ADR process) subject to terms and conditions imposed by the court. ADR includes mediation, summary jury trial, neutral evaluation, non-binding arbitration, presentation to a focus group, or other such process the court determines may be helpful in encouraging an economic and fair resolution of all or any part of the disputes presented in the matter. Subsections (a) through (e) do not apply to ADR administered by the Hawai‘i Judiciary, such as the Court Annexed Arbitration Program.

(b) Factors to consider; fees and expenses.

(1) Before ordering a case to ADR, the court may consider factors, including, but not limited to, the current status of the case, whether the parties would be better served by a settlement conference held by a court, whether the parties are willing to participate in ADR, and whether the parties have previously participated in ADR in the pending matter. In addition, the court may consider whether ordering a case into ADR would result in an unfair or unreasonable economic burden to any party.

(2) All ADR fees and expenses of the neutral shall be borne equally by the parties unless otherwise agreed to by the parties, ordered by the court, or provided by law. A party who cannot afford to pay all or any portion of fees or expenses charged under this rule may file a motion with the court to be excused from payment or to pay an appropriately reduced amount or rate.

(c) Selection of the neutral. If the ADR process ordered by the court involves the selection of a neutral, the parties shall first attempt to select a neutral by mutual agreement. If the parties cannot agree, then each party shall submit a list to the court nominating up to 3 prospective neutrals by a date determined by the court. The court shall provide the parties with a combined list of all nominees and allow each party to rank all prospective neutrals. The person receiving the highest rank on the combined list shall be selected as the neutral. In the event of a tie, the judge shall decide which person shall serve as

the neutral. If at any time the neutral becomes unable or unwilling to serve, and the parties are unable to agree on the selection of another neutral, the judge will select the next highest ranking nominee available to serve.

(d) Disclosure. Unless waived by all parties, the parties, counsel, and neutral shall make a reasonable inquiry concerning and disclose to each other the identity of the parties, potential witnesses who may be called at trial, and other participants who may be included in the ADR process. In addition, the neutral shall make a reasonable inquiry and disclose as soon as practical before accepting mediation any other facts and information, including a financial or personal interest in the outcome of the mediation and any existing or past relationships, that a reasonable person would consider likely to affect the impartiality of the neutral, including the neutral’s relationships with counsel, a mediation party, foreseeable mediation party, or non-party participant in the mediation. The parties, counsel, and neutral shall have a continuing obligation to disclose as soon as practicable any information they subsequently learn during the ADR process that a reasonable person would consider likely to affect impartiality of the neutral.

(e) Physical presence of counsel and parties required.

(1) Lead trial counsel and clients, representatives, and third persons with full settlement authority shall attend, in person, all ADR conferences scheduled by the neutral, unless excused by the neutral.

(2) A governmental entity satisfies the attendance requirement if its lead counsel is in attendance and has been delegated full settlement authority, or has reasonable access to the person who has full settlement authority (recognizing that any such authority may be subject to the appropriation process). In the event that the neutral determines it appropriate, the neutral shall have reasonable access to the person who has full settlement authority with appropriate accommodation given to the person’s competing public duties.

(f) Communication by parties, counsel, neutral, and the court. Unless the parties otherwise agree in writing or it is otherwise authorized and approved by the adjudicating court pursuant to the Uniform Mediation Act or other law, the neutral, counsel, the parties, and other participants in any mediation, shall not communicate with the civil court

adjudicating the merits of the mediated matter (including the settlement or trial judge) about the substance of any position, offer, or other matter related to mediation, nor shall a court request or order disclosure of such information unless such disclosure is required to enforce a settlement agreement, adjudicate a dispute over mediator fees, or provide evidence in any attorney disciplinary proceeding, and then only to the extent required to accomplish such purpose. However, the neutral may disclose to a court whether the ADR process is concluded or terminated; who attended; and, if applicable, whether a settlement or resolution was reached with regard to some or all issues presented.

(Added September 11, 1996, effective January 1, 1997; further amended June 22, 2012, effective July 1, 2012; further amended August 26, 2014, effective January 1, 2015.)

<p>Rule 12.2</p> <hr/> <p><i>Effective January 1, 2022</i></p> <hr/> <p>Rule 12.2. MANDATORY CIVIL SETTLEMENT CONFERENCE; CONFIDENTIAL SETTLEMENT CONFERENCE LETTER.</p> <p>(a) Settlement conference. During the scheduling conference held pursuant to Rule 12(a) of these Rules, the judge shall set a settlement conference for a date before trial, unless the judge believes another judge should conduct the settlement conference, in which case a settlement conference date shall be issued no later than 30 days after the scheduling conference. Alternative dispute resolution options, including but not limited to mediation, shall be discussed at the scheduling conference held pursuant to Rule 12(a) of these Rules, and if the alternative dispute resolution process(es) are determined to be appropriate, the court should consider including orders scheduling and to facilitate the alternative dispute resolution process(es) in the scheduling</p>
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order. Any party may also file a request for settlement conference at any time prior to trial. A settlement conference in civil cases shall be subject to the following guidelines:

(1) If a party settles or otherwise disposes of any action prior to a scheduled settlement conference, the party shall immediately notify the judge who scheduled the conference;

(2) Each party to the action shall attend the conference or be represented by an attorney or other representative who has authority to settle the case;

(3) For each party represented by counsel an attorney who is assigned to try the case shall attend the settlement conference. It is expected that the attorney will have become familiar with all aspects of the case prior to the conference;

(4) Each party to the action shall have thoroughly evaluated the case and shall have discussed and attempted to negotiate a settlement through an exchange of written bona fide and reasonable offers of settlement prior to the conference. Unless otherwise ordered by the court, the Plaintiff(s)' offer(s) shall be made prior to the Defendant(s)' offer(s). The specific timing of the offers shall be discussed at the scheduling conference held pursuant to Rule 12(a) of these Rules, and the court should consider including deadlines for the offers in the scheduling order;

(5) The judge conducting the settlement conference may, at the conclusion of said conference, continue said conference to another time and date, and from time to time thereafter for continued settlement negotiations if the judge has reason to believe a settlement can thereby be effectuated;

(6) SANCTIONS. The failure of a party or the party's attorney to appear at a scheduled settlement conference, the neglect of a party or the party's attorney to discuss or attempt to negotiate a settlement prior to the conference, or the failure of a party to have a person authorized to settle the case present at the conference shall, unless a good cause for such failure or neglect is shown, be deemed an undue interference with orderly procedures. As sanctions, the court may, in its discretion:

(i) Dismiss the action on its own motion, or on the motion of any party, or hold a party in default, as the case may be;

(ii) Order a party to pay the opposing party's reasonable expenses and attorneys' fees;

(iii) Order a change in the calendar status of the action; and/or

(iv) Impose any other sanction as may be appropriate.

(b) Confidential settlement conference letter. At least 5 working days before the settlement conference, each party shall deliver directly to the settlement conference judge a confidential settlement conference letter, which shall not be filed or served upon the other parties. The confidential settlement conference letter shall not be made a part of the record and confidential information contained in the letter shall not be disclosed to the other parties without express authority from the party submitting the letter. The court will destroy the confidential settlement conference letter no later than entry of final judgment in the case.

The confidential settlement conference letter shall include the following:

(1) FOR THE PLAINTIFF:

(A) The name, age, marital status and occupation of all noncorporate plaintiffs;

(B) A brief statement of the case;

(C) A brief statement of the claims and defenses, e.g. statutory and other grounds upon which claims are founded, a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses, and a description of the major issues in dispute, including damages;

(D) A summary of the proceedings to date, including a statement as to the status of discovery;

(E) An estimate of the time and expenses (including attorney's fees and all litigation costs) to be expended for further discovery, pretrial proceedings, and trial;

(F) A brief statement of present demands and offers and the history of past settlement discussions, offers, and demands; and

(G) A brief statement of the party's position on settlement.

(2) FOR THE DEFENDANT:

(A) The age, marital status, occupation and corporate or other legal status of each defendant;

(B) The name of the applicable insurance carriers and the stated policy limits;

(C) A brief statement of the case;

(D) A brief statement of the claims and defenses, e.g. statutory and other grounds upon which claims are founded, a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses, and a description of the major issues in dispute, including damages;

(E) A summary of the proceedings to date, including a statement as to the status of discovery;

(F) An estimate of the time and expenses (including attorney's fees and all litigation costs) to be expended for further discovery, pretrial proceedings, and trial;

(G) A brief statement of present demands and offers and the history of past settlement discussions, offers, and demands; and

(H) A brief statement of the party's position on settlement.

All written settlement offers submitted pursuant to paragraph (a)(4) of this Rule shall be appended to the confidential settlement conference letter.

(Added June 22, 1983, effective July 1, 1983; further amended May 24, 1984, effective July 1, 1984; further amended June 28, 1984, effective July 1, 1984; further amended October 21, 1999, effective January 1, 2000; further amended October 8, 2020, effective January 1, 2021; further amended November 5, 2020, to extend effective date to July 1, 2021; further amended March 30, 2021, to extend effective date to January 1, 2022.)

Rule 12.3

Effective January 1, 2022

Rule 12.3. ALTERNATIVE DISPUTE RESOLUTION.

(a) Authority to order. The court, sua sponte or upon motion or request by a party, may, in exercise of its discretion, order the parties to participate in a non-binding Alternative Dispute Resolution process (ADR or ADR process) subject to terms and conditions imposed by the court. ADR includes mediation, summary jury trial, neutral evaluation, non-binding arbitration, presentation to a focus group, or other such process the court determines may be helpful in encouraging an economic and fair resolution of all or any part of the disputes presented in the matter. Subsections (a) through (e) of this Rule do not apply to ADR administered by the Hawai'i Judiciary, such as the Court Annexed Arbitration Program.

(b) Factors to consider; fees and expenses.

(1) Before ordering a case to ADR, the court may consider factors, including, but not limited to, the current status of the case, whether the parties would be better served by a settlement conference held by a court, whether the parties are willing to participate in ADR, and whether the parties have previously participated in ADR in the pending matter. In addition, the court may consider whether ordering a case into ADR would result in an unfair or unreasonable economic burden to any party.

(2) All ADR fees and expenses of the neutral shall be borne equally by the parties unless otherwise agreed to by the parties, ordered by the court, or provided by law. A party who cannot afford to pay all or any portion of fees or expenses charged under this rule may file a motion with the court to be excused from payment or to pay an appropriately reduced amount or rate.

(c) Selection of the neutral. If the ADR process ordered by the court involves the selection of a neutral, the parties shall first attempt to select a neutral by mutual agreement.

If the parties cannot agree, then each party shall submit a list to the court nominating up to 3 prospective neutrals by a date determined by the court. The court shall provide the parties with a combined list of all nominees and allow each party to rank all prospective neutrals. The person receiving the highest rank on the combined list shall be selected as the neutral. In the event of a tie, the judge shall decide which person shall serve as the neutral. If at any time the neutral becomes unable or unwilling to serve, and the parties are unable to agree on the selection of another neutral, the judge will select the next highest ranking nominee available to serve.

(d) Disclosure. Unless waived by all parties, the parties, counsel, and neutral shall make a reasonable inquiry concerning and disclose to each other the identity of the parties, potential witnesses who may be called at trial, and other participants who may be included in the ADR process. In addition, the neutral shall make a reasonable inquiry and disclose as soon as practical before accepting mediation any other facts and information, including a financial or personal interest in the outcome of the mediation and any existing or past relationships, that a reasonable person would consider likely to affect the impartiality of the neutral, including the neutral’s relationships with counsel, a mediation party, foreseeable mediation party, or non-party participant in the mediation. The parties, counsel, and neutral shall have a continuing obligation to disclose as soon as practicable any information they subsequently learn during the ADR process that a reasonable person would consider likely to affect impartiality of the neutral.

(e) Physical presence of counsel and parties required.

(1) Lead trial counsel and clients, representatives, and third persons with full settlement authority shall attend, in person, all ADR conferences scheduled by the neutral, unless excused by the neutral.

(2) A governmental entity satisfies the attendance requirement if its lead counsel is in attendance and has been delegated full settlement

authority, or has reasonable access to the person who has full settlement authority (recognizing that any such authority may be subject to the appropriation process). In the event that the neutral determines it appropriate, the neutral shall have reasonable access to the person who has full settlement authority with appropriate accommodation given to the person’s competing public duties.

(f) Communication by parties, counsel, neutral, and the court. Unless the parties otherwise agree in writing or it is otherwise authorized and approved by the adjudicating court pursuant to the Uniform Mediation Act or other law, the neutral, counsel, the parties, and other participants in any mediation, shall not communicate with the civil court adjudicating the merits of the mediated matter (including the settlement or trial judge) about the substance of any position, offer, or other matter related to mediation, nor shall a court request or order disclosure of such information unless such disclosure is required to enforce a settlement agreement, adjudicate a dispute over mediator fees, or provide evidence in any attorney disciplinary proceeding, and then only to the extent required to accomplish such purpose. However, the neutral may disclose to a court whether the ADR process is concluded or terminated; who attended; and, if applicable, whether a settlement or resolution was reached with regard to some or all issues presented.

(Added October 8, 2020, effective January 1, 2021; further amended November 5, 2020, to extend effective date to July 1, 2021; further amended March 30, 2021, to extend effective date to January 1, 2022.)

Rule 13. TRIAL CALENDARS AND THE FIRST CIRCUIT ON-CALL STATUS; CIVIL CASES.

(a) Trial calendars. The court shall prepare and maintain a trial calendar for jury trials and a separate trial calendar for jury-waived trials of all civil cases which may require hearing or trial.

All such cases placed on the trial calendars shall be called and assigned to any available judge for hearing or trial during the week the same shall be set unless continued for good cause.

When any action on the ready calendar is called during a calendar call or when any action is called for a pretrial or settlement conference after timely notice to all attorneys or parties not represented by counsel, the court, may, on its own motion or on the motion of any party, dismiss such action or hold the defendant in default, as the case may be, if any of the parties fails to appear.

Any case at issue, whether on the ready calendar or not, may be advanced and set for a pretrial or settlement conference or be immediately placed on the trial calendar for hearing or trial.

All civil cases appealed to the circuit court, when docketed, shall be placed on the appropriate trial calendars of civil cases.

(b) The first circuit on-call status.

(1) All first circuit trials in which doctors or other experts will be offered as witnesses will have a fixed trial date and counsel will be on "24-hour notice" to commence trial the entire week. However, by Friday of the assigned week, if the trial cannot commence, then the trial judge will return the file to the administrative judge and the parties will:

(i) either agree to a new trial week which will fall within 90 days from the date of the original trial week, subject to the administrative judge's approval, or

(ii) if the parties cannot agree or the administrative judge cannot accommodate the agreed upon date, then the parties will meet with the administrative judge for a trial setting which will, in any event, be no later than 90 days from the date of the originally scheduled week.

(2) In cases not involving doctors or other expert witnesses, trial counsel will be on a 24-hour notice during the week trial is set, and if trial does not commence during said week, they will then be on a "48-hour notice" for the next 2 calendar weeks.

(Amended June 22, 1983, effective July 1, 1983, further amended May 24, 1984, effective July 1, 1984; further amended July 26, 1990, effective September 1, 1990.)

Rule 14. DISTRICT COURT CASES, DEMAND FOR JURY TRIAL, WITHDRAWAL OF DEMAND.

(a) Notification; demand for jury trial of additional issues. Upon the docketing in the circuit court of a case transferred from the district court because of a demand for jury trial, the clerk of the circuit court shall notify the parties. Within ten days after notice of the docketing, any party may, if the demand transmitted by the clerk of the district court was for trial by jury of only specific issues, serve a demand for trial by jury of any other or all of the issues which are triable of right by a jury.

(b) Waiver or withdrawal of demand. A case transferred from the district court to the circuit court for trial by jury may be remanded by the circuit court to the district court for further proceedings if the demand for jury trial is waived or withdrawn in the circuit court.

(Amended May 15, 1972, effective July 1, 1972.)

Rule 15. EXPEDITION OF COURT BUSINESS.

(a) Required notice. Attorneys shall advise the court promptly if a case is settled. An attorney who fails to give the court such prompt advice may be subject to such discipline as the court deems appropriate.

(b) Effect of failure to appear. An attorney who, without just cause, fails to appear when his case is before the court on a call or motion or on pre trial or trial, or unjustifiably fails to prepare for a presentation to the court necessitating a continuance, may be subject to such discipline as the court deems appropriate.

Rule 15.1. STREAMLINED DISCOVERY ASSISTANCE.

(a) Upon agreement of all parties involved in a discovery dispute, the parties may seek resolution of the dispute through this streamlined procedure.

(1) Parties desiring streamlined discovery assistance shall agree upon a deadline for the simultaneous submission of letter briefs to the court.

(2) The letter brief of a party shall be delivered to chambers and served on all other parties by the deadline. The letter brief shall contain all relevant information, including:

(A) confirmation of the deadline for submission of letter briefs;

(B) dates of discovery cut-off and trial; and

(C) a discussion of the dispute and relief sought.

Unless otherwise ordered by the court, the letter briefs shall be 5 pages or less, inclusive of all exhibits.

(3) Upon receipt of the letter briefs, the court shall determine the procedure for resolving the dispute. The court may announce a decision without a conference or hearing. If a conference or hearing is set by the court, the court shall specify whether counsel must attend in person or may attend by telephonic or video conferencing. The court may request that one or more of the parties file a motion pursuant to the Hawai‘i Rules of Civil Procedure.

(4) The prevailing party shall prepare an order in compliance with Rule 23 of these Rules. All letter briefs shall be appended to the order for purposes of appellate review.

(b) Conference required. The court will not entertain a request for streamlined discovery assistance unless the parties involved in the dispute have previously conferred, in person and/or by telephonic or video conferencing, to attempt to resolve or minimize the scope of the dispute, including but not limited to addressing whether the burden or expense of the proposed discovery outweighs its likely benefit under Rule 26(b)(2)(iii) of the Hawai‘i Rules of Civil Procedure, in a good faith effort to eliminate the need for streamlined discovery assistance. Communication by email does not satisfy this requirement.

(c) Certificate of compliance. When submitting a letter brief in accordance with this rule, a party shall certify compliance with paragraph (b) of this Rule. Certification shall include the date, time and length of the meeting and/or telephonic or video conference, and the names of all participants.

(Added October 8, 2020, effective January 1, 2021; further amended November 5, 2020, to extend effective date to July 1, 2021; further amended March 30, 2021, to extend effective date to January 1, 2022.)

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) 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.

(Amended March 16, 1984, partly effective March 16, 1984, fully effective May 1, 1984; further amended October 4, 2019, effective October 28, 2019.)

Rule 17. CONDUCT OF A TRIAL.

(a) Sequence of presentation. Subject to the orders of the court, which may alter the sequence of presentation of the case when there are numerous parties or for other reasons:

(1) The plaintiff (or the prosecuting officer in a criminal case) shall have the right to make an opening statement. The defendant shall also have the right to make an opening statement, either immediately after the plaintiff's or the prosecuting officer's statement or at the beginning of defendant's case.

(2) After the opening statement or statements the plaintiff or prosecuting officer shall produce the evidence on his part.

(3) The defendant may then open his or her defense and offer his or her evidence in support thereof.

(4) The parties may then respectively offer rebutting evidence only.

(5) When the presentation of evidence is concluded, unless the case is submitted on either side or both sides without argument, the plaintiff or prosecuting officer shall open the argument; the defendant may then reply; and the plaintiff or prosecuting officer may conclude the argument, and in the conclusion shall confine himself or herself to answering any new matter or arguments presented by the defendant. In the event the defendant has presented an affirmative defense, the court may allow surrebuttal argument but shall confine counsel to answering or otherwise responding to the arguments presented by the plaintiff or prosecuting officer on the issue of the affirmative defense.

(b) Address to jury is not instruction upon the law. In his or her address to the jury each party shall be allowed to fully and fairly state his or her theory of the case and the reasons which entitle him to a verdict. He or she shall not assume to instruct the jury upon the law, in such manner as to encroach upon the function of the court to so instruct the jury.

(c) Instruction to the jury. The court shall instruct the jury in accordance with the provisions of the Hawai'i Rules of Civil Procedure and the Hawai'i Rules of Penal Procedure.

(d) Presence of counsel at verdict. Unless excused by the court, counsel for all parties shall be present upon receiving the verdict of a jury.

(e) Limitations on number of counsel. Except by leave of court:

(1) Only one counsel for each party shall examine and cross-examine the same witness or be heard on any question.

(2) No more than two counsel shall appear for any party on the trial.

(f) Sequence for challenging of jurors. In the challenging of jurors, the following order and sequence shall be observed: the plaintiff, in civil actions, and the State in criminal cases, shall first challenge for cause, after which the defendant shall challenge for cause. After the challenges for cause, if any, have been determined, the State or plaintiff (as the case may be), and the defendant, shall alternately state their peremptory challenges, if any, the State or plaintiff beginning, and the defendant ending. In case there are more than two parties in any

case, the order of precedence of their challenges, if not agreed upon by them, shall be determined by the court.

(Amended May 15, 1972, effective July 1, 1972; further amended July 12, 1993, effective August 26, 1993; further amended March 24, 2000, effective July 1, 2000; further amended May 5, 2000, effective July 1, 2000.)

Rule 18. PRE-TRIAL DISCLOSURE AND MARKING OF EXHIBITS.

(a) Disclosures and exhibits. When a pretrial is held, except as and to the extent otherwise ordered by the court:

(1) Each party shall disclose the theory of his case, including the basic facts that he intends to prove and the names and addresses of all witnesses that he intends to call.

(2) Each party shall disclose to all others and permit examination of all exhibits which are in his possession or under his control and which he intends to offer in evidence at the trial.

(3) Unless so disclosed, no exhibits required to be disclosed by paragraph (2) shall be received in evidence at the trial over objection unless the court finds that there was reasonable ground for failing to disclose such exhibits prior to trial. Objections to receipt of exhibits for violation of this rule shall be made without the presence of the jury.

(4) All exhibits required to be disclosed by paragraph (2), and any other exhibits as may be requested by counsel presenting the same, shall be marked for identification at least one day prior to the trial and shall be listed in any pre-trial order.

(b) Effect of pre-trial order. The pre-trial order shall supersede the pleadings where there is any conflict; and shall supplement the pleadings in all other respects.

Rule 19. STIPULATIONS AND ORDERS THEREON.

(a) Forms of stipulations and orders. Unless made in open court, a stipulation shall be in writing, signed by the parties or their attorneys, and filed with the clerk. A stipulation requiring court approval shall cite the authority and state the reason(s) and factual or other basis for the stipulation therein. An order based upon a stipulation shall be sufficient if the words "It is so ordered" or their equivalent are endorsed on the stipulation at the close thereof and if this endorsement is signed by the judge, or by the clerk if permitted under Rule 10.

(b) Stipulations extending or enlarging time. A stipulation for court approval to act under Rule 6(b)(1), Hawai'i Rules of Civil Procedure and Rule 45(b)(1), Hawai'i Rules of Penal Procedure shall include the following:

- (1) the title of the document and shall indicate the sequential number of such extension or enlargement;
- (2) citation to authority for the extension or enlargement;
- (3) reason(s) for the extension or enlargement; and
- (4) the expiration date of the originally prescribed period or as extended or enlarged by a previous order.

(Amended August 26, 2011, effective January 1, 2012.)

Rule 20. INSTRUCTIONS TO JURIES.

(a) Requests for instruction. Each instruction requested shall designate at the top thereof by whom it is being requested and the number of the request, e.g., PLAINTIFFS INSTRUCTION NO. 3. Each requested instruction shall be written on a separate page or group of pages. The original and one copy of each requested instruction shall be filed with the court and a copy served upon opposing counsel.

(b) Copy of charge for jurors. The court may permit a copy of its charge without citations or any identification with any party to be taken into the jury room.

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 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. 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.

(Amended March 6, 2009, effective July 1, 2009; further amended October 4, 2019, effective October 28, 2019.)

Rule 22. REQUEST FOR DRAFT OF DECISION ON ISSUE OF LAW.

Whenever the court proposes to file a written decision on any motion or issue of law, it may at any time request one or more of the parties to submit a draft of decision. In such event, the court shall advise all parties of its action, and the draft so submitted shall be served, and an opportunity shall be given to opposing counsel to present comments with respect thereto. The failure of any party to submit comments with respect to any such draft shall not affect the right of such party to appeal from any judgment incorporated in or based on the decision as issued.

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.

(Amended October 27, 1993, effective November 27, 1993; further amended December 20, 1993, effective December 20, 1993; further amended September 11, 1996, effective January 1, 1997; further amended March 6, 2009, effective July 1, 2009; further amended January 28, 2010, effective July 1, 2010; further amended October 4, 2019, effective October 28, 2019.)

Rule 24. IMMEDIATE NOTICE OF COURT ACTION.

The court shall immediately notify counsel of the filing of findings of fact and conclusions of law, or of any opinion or memorandum of decision stating the facts and the court's opinion of the law, or of any other decision or opinion of the court.

Rule 25. ORDER FOR TRANSCRIPT OF EVIDENCE.

Upon the request of any person for a transcript of the evidence or other court proceeding, the official reporter shall furnish such transcript in the regular order of cases tried or in such order as the court administrator directs. The official reporter shall not furnish a transcript of a confidential proceeding without the court's written approval, unless otherwise authorized by law. The provisions of the Hawai'i Rules of Appellate Procedure relating to transcripts shall govern requests for transcripts for purposes of appeal. Each request shall be in writing, filed, and a copy shall be served upon opposing counsel and the reporter, and shall be accompanied by a prepayment to the reporter or deposit with the clerk of the court, as provided by Hawai'i Revised Statutes Section 606-13 of the approximate cost of the transcript fees as computed by the reporter in advance in writing at the rate established by the Rules Governing Court Reporting in the State of Hawai'i. If a request is accompanied by a deposit with the clerk, the deposit shall be further accompanied by directions to the clerk of the court to use it to pay for the reporter's fees when the transcript is complete. A reporter need not commence preparation of the transcript until the required prepayment is or deposit has been made.

(Amended effective July 1, 1999; further amended October 8, 2004, effective January 1, 2005; further amended November 24, 2004, effective January 1, 2005.)

Rule 25.1. RECORDING OF TESTIMONY AND PROCEEDINGS.

(a) Preservation of testimony. Whenever a court reporter is not in attendance, the court shall order that the testimony and other matters required to be preserved by a reporter shall be preserved on tape or by such other device as may be appropriate. It is the responsibility of the court to see to it that the record so made is sufficiently clear to permit full transcription and truly discloses what occurred in the court, and that a log is kept with such particularity, and with such references to the record made on tape or by other device, as will enable the record to be reviewed and transcribed as occasion arises.

(b) Effect of certain terms; obtaining transcript. Whenever in Rule 25 or other rules of court, or in the provisions of Hawai'i Revised Statutes Section 606-13 relating to transcripts, reference is made to the report of the evidence or

proceedings at a hearing or trial, or to the court reporter or official reporter, these terms and words of like import shall, if no court reporter was in attendance and the record has been preserved on tape or by other device, be deemed to refer to the record so preserved except as otherwise provided. Upon the request of any person for preparation of a transcript of a record so preserved, the supervising court reporter or, if there is no supervising court reporter, the court administrator shall cause the transcript to be furnished in the regular order of cases so recorded or in such order as the court administrator directs. A transcriber shall not furnish a transcript of a confidential proceeding without the court's written approval, unless otherwise authorized by law. Transcript fees shall be prepaid or deposited as in other cases, and the transcriber shall not be required to commence transcribing the record until the required prepayment or deposit is made.

(c) Preparation of transcript. A transcript in a case recorded as provided by this rule shall be prepared by a competent person approved by the court. Unless the court otherwise directs (1) the transcript shall be certified by the transcriber who, for this purpose, shall have the powers of a clerk of the court, and (2) the transcript fees shall be paid to the transcriber upon completion of the work.

(Added November 29, 1974, effective November 29, 1974; further amended October 8, 2004, effective January 1, 2005.)

Rule 26. ATTORNEY'S LIABILITY FOR COSTS; DISQUALIFICATION OF SURETIES.

(a) Liability for court costs. Attorneys shall be liable to the court for court costs incurred by their clients.

(b) Who may not be surety. No attorney or other officer or employee of the court shall become surety on any bond or undertaking in any action or proceeding in this court, unless authorized by the court.

Rule 27. PREPARATION OF CLERK'S MINUTES AND DEPOSIT OF EXHIBITS.

The court shall cause minutes to be prepared for its own use. Such minutes shall be appended chronologically at the bottom of the case folio.

Immediately upon the conclusion of a proceeding, all exhibits received, together with the original of the exhibit list, shall be deposited with the clerk, who shall acknowledge receipt of same on a copy of the exhibit list, which shall be filed in the folio.

Rule 28. DISMISSAL FOR WANT OF SERVICE.

A diligent effort to effect service shall be made in all actions. An action or claim may be dismissed sua sponte with written notice to the parties if no service is made within 6 months after the action or claim has been filed. Such dismissal may be set aside and the action or claim reinstated by order of the court for good cause shown upon motion duly filed not later than ten (10) days from the date of the order of dismissal.

(Amended May 16, 2007, effective July 1, 2007.)

Rule 29. DISMISSAL FOR WANT OF PROSECUTION IN DEFAULT CASES.

An action may be dismissed with prejudice sua sponte with written notice to the parties for want of prosecution where all defendants are in default and if the plaintiff fails to obtain entry of default and fails to apply for default judgment within six months after all defendants are in default. Such dismissal may be set aside and the action reinstated by order of the court for good cause shown upon motion duly filed not later than ten (10) days from the date of the order of dismissal.

(Amended May 16, 2007, effective July 1, 2007.)

Rule 30. INTERROGATORIES AND ADMISSIONS.

(a) Objection by party. The party objecting to an interrogatory shall serve an answer thereto within 10 days after receiving notice of the court's order overruling the objection, unless otherwise ordered by the court. Answers or objections to interrogatories pursuant to Rule 33 of the Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules shall identify and quote each interrogatory in full

immediately preceding the statement of any answer or objection thereto. Motions to compel answers to specific interrogatories shall also identify and quote each interrogatory in full. Responses and objections to requests for admissions pursuant to Rule 36 of the Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules shall identify and quote each request for admission in full immediately preceding the statement of any answer or objection thereto.

(b) Form. Interrogatories and requests for admission served pursuant to Rule 33 and Rule 36, Hawai'i Rules of Civil Procedure or Hawai'i Family Court Rules, shall provide reasonably sufficient space for the answer after each interrogatory or request. Two sets of the interrogatories or requests for admission shall be served upon the adverse party. Those interrogatories shall not exceed 60 in number, counting any subparts or subquestions as individual questions, without prior leave of court or written stipulation of the parties pursuant to Rule 29 of the Hawai'i Rules of Civil Procedure.

(Amended March 6, 1980, effective March 6, 1980, further amended March 16, 1984, partly effective March 16, 1984, fully effective May 1, 1984; further amended October 8, 2004, effective January 1, 2005.)

Rule 31. PROCEEDINGS NOT GOVERNED BY HAWAI'I RULES OF CIVIL PROCEDURE.

(a) Procedure. Except as provided by statute or by other rules of court, where a civil proceeding is not governed by the Hawai'i Rules of Civil Procedure:

(1) The proceeding shall be commenced by petition;

(2) The petition shall be verified by the oath of the petitioner, or someone on his behalf, deposing to the best of his knowledge and belief;

(3) Service of the petition and order to show cause and any other process or order shall be made as provided by the Hawai'i Rules of Civil Procedure;

(4) A return to the petition shall be made within the time ordered by the court, and if it presents an issue of fact shall be supported by oath;

(5) The court may designate and order that any one or more of the Hawai'i Rules of Civil Procedure shall be applicable in such case.

Rule 32. RESERVED.

Rule 33. PROCEDURES FOR PROCESSING POST-CONVICTION PRISONER DOCUMENTS.

(a) Submission to office of clerk; docketing; SPP number. All written or typed post-conviction prisoner pleadings, correspondence, applications or requests mailed to, delivered to, or received by any court, judge, the public defender, the prosecuting attorney, or the chief clerk of the circuit court, shall be transmitted to the documents section of the circuit court for processing. All such prisoner documents shall be received as public documents and no such documents shall be considered or treated as "confidential," "private," "personal," etc. Each document received by the documents section shall be docketed and filed under an SPP (Special Proceeding - Prisoner) number and a separate file shall be established for each document, provided, however, that the court may direct that there be one SPP number for each prisoner so that all subsequent post-trial documents by the same prisoner shall be filed in the same SPP number.

(b) Disposition. All documents processed pursuant to subsection (a) shall be governed by Rule 40 of the Hawai'i Rules of Penal Procedure.

(Amended April 18, 1994, effective April 28, 1994.)

Rule 34. HAWAI'I ARBITRATION RULES.

The Hawai'i Arbitration Rules (Rules Governing the Court Annexed Arbitration Program), attached to these Rules of the Circuit Courts as Exhibit A, shall govern the Court Annexed Arbitration Program in the circuit courts of this state, and shall be effective as provided in Hawai'i Arbitration Rule 27.

(Added January 22, 1986, effective February 15, 1986; amended September 28, 1987, effective October 1, 1987.)

RULES OF THE CIRCUIT COURTS

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APPENDIX OF FORMS

Suggested forms - First pages of pleadings.

<p style="text-align: right;">at least 1" →</p> <p>JOHN DOE, 817 171 Waiianuenu Avenue Hilo, Hawai'i 96720 Tel. No. 935 2321 Attorney for Plaintiff</p>	<p style="text-align: center;">at least 3" →</p> <p style="text-align: center;">IN THE CIRCUIT COURT OF THE THIRD CIRCUIT</p> <p style="text-align: center;">STATE OF Hawai'i</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 40%; vertical-align: top;"> <p>A. B., Plaintiff,</p> <p style="text-align: center;">v.</p> <p>C. D. and E. F., Defendants</p> </td> <td style="width: 5%; vertical-align: top; text-align: center;"> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> </td> <td style="width: 55%; vertical-align: top;"> <p>Civil No. ____</p> <p>COMPLAINT; SUMMONS; MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTIONS; AFFIDAVIT IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION; NOTICE OF MOTION</p> </td> </tr> </table> <p style="text-align: center;">COMPLAINT</p> <p>The Plaintiff, A. B., complains of the Defendant C. D. and E. F., as follows:</p> <p style="text-align: center;"><i>(Suggested Form: First page of the first paper)</i></p>	<p>A. B., Plaintiff,</p> <p style="text-align: center;">v.</p> <p>C. D. and E. F., Defendants</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Civil No. ____</p> <p>COMPLAINT; SUMMONS; MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTIONS; AFFIDAVIT IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION; NOTICE OF MOTION</p>
<p>A. B., Plaintiff,</p> <p style="text-align: center;">v.</p> <p>C. D. and E. F., Defendants</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Civil No. ____</p> <p>COMPLAINT; SUMMONS; MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTIONS; AFFIDAVIT IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION; NOTICE OF MOTION</p>		

at least 1" →

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF Hawai'i

A. B., Plaintiff,

) Civil No. ____

)

v.

)

) MOTION FOR TEMPORARY

) RESTRAINING ORDER AND

C. D. and E. F., Defendants

)

) PRELIMINARY INJUNCTION

)

)

**MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

The Plaintiff, A. B., moves this Court

(Suggested Form: First page of the first paper)

FORM A

(Reserved)

FORM B

IN FORMA PAUPERIS DECLARATION

[Insert appropriate court]

DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS

State of Hawai'i

v.

(Petitioner)

I, _____, de clare that I am the petitioner in the above entitled case; that in support of my petition to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed?

Yes _____ No _____

a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and address of your employer.

-

-

b. If the answer is "no," state the date of last employment and the amount of the salary and wages per month which you received.

-

-

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or form of self-employment?

Yes _____ No _____

b. Rent payments, interest or dividends?

Yes _____ No _____

c. Pensions, annuities or life insurance payments?

Yes _____ No _____

d. Gifts or inheritances?

Yes _____ No _____

e. Any other sources?

Yes _____ No _____

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. _____

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts.)
Yes _____ No _____

If the answer is "yes," state the total value of the items owned.

4. Do you own real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?
Yes _____ No _____

If the answer is "yes," describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.
Executed on _____ (date) .

Signature of Petitioner

CERTIFICATE

I hereby certify that the petitioner herein has the sum of \$ _____ on account to his credit at the _____ institution where he is confined. I further certify that petitioner likewise has the following securities to his credit according to the records of said _____ institution:

Authorized Officer of Institution

Form C-1. Sample Format for Hearing Motion: MOTION

DAVID JONES 0000
1234 King Street
Honolulu, HI 96813
Tel: (808) 524-1234

Attorney for Plaintiff ABC, Inc.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,	)	Civil No. _____
	)	(Case category, <i>see</i> RCCH Rule 3(c)(5))
Plaintiff,)	
	)	PLAINTIFF ABC, INC.'S MOTION FOR
vs.	)	SUMMARY JUDGMENT; MEMORANDUM IN
	)	SUPPORT OF MOTION; AFFIDAVIT OF JOHN
XYZ, INC.,	)	SMITH; DECLARATION OF MARY SMITH;
	)	EXHIBITS 1-5; NOTICE OF HEARING; AND
Defendant.	)	CERTIFICATE OF SERVICE
)	
	)	<u>HEARING MOTION</u>
	)	JUDGE: _____
	)	TRIAL DATE: _____
	)	HEARING DATE: _____
	)	HEARING TIME: _____
)	

PLAINTIFF ABC, INC.'S MOTION FOR SUMMARY JUDGMENT

(Text of motion with citation to legal authority)

DATED: Honolulu, Hawai'i, _____ (date) _____.

(signature)
DAVID JONES
Attorney for Plaintiff ABC, Inc.

Form C-2. Sample Format for Hearing Motion: MEMORANDUM IN SUPPORT OF MOTION

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,

Plaintiff,

vs.

XYZ, INC.,

Defendant.

) Civil No. _____
) (Case category, see RCCH Rule 3(c)(5))

) MEMORANDUM IN SUPPORT OF MOTION

)
)
)
)
)
)
)

MEMORANDUM IN SUPPORT OF MOTION

(Text of Memorandum)

DATED: Honolulu, Hawai'i, _____ (date) _____.

(signature)
DAVID JONES
Attorney for Plaintiff ABC, Inc.

Form C-3. Sample Format for Hearing Motion: AFFIDAVIT

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,	)	Civil No. _____
	)	(Case category, <i>see</i> RCCH Rule 3(c)(5))
Plaintiff,)	
	)	AFFIDAVIT OF JOHN SMITH
vs.)	
)	
XYZ, INC.,)	
)	
Defendant.)	
_____)	

AFFIDAVIT OF JOHN SMITH

State of Hawai'i)
) ss.
 City and County of Honolulu)

JOHN SMITH, being first duly sworn on oath, deposes and says:

(Text of Affidavit)

Further affiant sayeth naught.

 (signature)
 JOHN SMITH

Subscribed and sworn to before me
 this ____ day of _____, 20__.

(Notary Public Seal)

 (signature)
 NOTARY PUBLIC, State of Hawai'i

My commission expires: (date)

Form C-4. Sample Format for Hearing Motion: DECLARATION

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,	)	Civil No. _____
	)	(Case category, <i>see</i> RCCH Rule 3(c)(5))
Plaintiff,)	
	)	DECLARATION OF MARY SMITH
vs.)	
)	
XYZ, INC.,)	
)	
Defendant.)	
_____)	

DECLARATION OF MARY SMITH

(Text of Declaration)

I, MARY SMITH, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, _____ (date) _____.

_____ (signature)
 MARY SMITH

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing motion was served on the above-identified parties at their respective addresses by (*hand delivery or depositing the same in the United States mail, postage prepaid*) on _____ (service date).

DATED: Honolulu, Hawai'i, _____ (date).

(signature)
DAVID JONES
Attorney for Plaintiff ABC, Inc.

Form D-1. Sample Format for Non-Hearing Motion: MOTION

DAVID JONES 0000
1234 King Street
Honolulu, HI 96813
Tel: (808) 524-1234

Attorney for Plaintiff ABC, Inc.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,	)	Civil No. _____
	)	(Case category, <i>see</i> RCCH Rule 3(c)(5))
Plaintiff,)	
	)	PLAINTIFF ABC, INC.'S MOTION TO
vs.	)	COMPEL DISCOVERY; MEMORANDUM IN
	)	SUPPORT OF MOTION; AFFIDAVIT OF JOHN
XYZ, INC.,	)	SMITH; DECLARATION OF MARY SMITH;
	)	EXHIBITS 1-5; NOTICE OF MOTION AND
Defendant.	)	CERTIFICATE OF SERVICE
)	
)	
	)	<u>NON-HEARING MOTION</u>
)	
	)	JUDGE: _____
)	
	)	TRIAL DATE: _____
_____)	

PLAINTIFF ABC, INC.'S MOTION TO COMPEL DISCOVERY

(Text of motion with citation of legal authority)

DATED: Honolulu, Hawai'i, _____ (date) _____.

(signature)
DAVID JONES
Attorney for Plaintiff ABC, Inc.

Form D-2. Sample Format for Non-Hearing Motion: MEMORANDUM IN SUPPORT OF MOTION

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,	)	Civil No. _____
	)	(Case category, <i>see</i> RCCH Rule 3(c)(5))
Plaintiff,)	
	)	MEMORANDUM IN SUPPORT OF MOTION
vs.)	
)	
XYZ, INC.,)	
)	
Defendant.)	
_____)	

MEMORANDUM IN SUPPORT OF MOTION

(Text of Memorandum)

DATED: Honolulu, Hawai'i, _____ (date) _____.

 (signature)
 DAVID JONES
 Attorney for Plaintiff ABC, Inc.

Form D-4. Sample Format for Non-Hearing Motion: DECLARATION

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,	)	Civil No. _____
	)	(Case category, <i>see</i> RCCH Rule 3(c)(5))
Plaintiff,)	
	)	DECLARATION OF MARY SMITH
vs.)	
)	
XYZ, INC.,)	
)	
Defendant.)	
_____)	

DECLARATION OF MARY SMITH

(Text of Declaration)

I, MARY SMITH, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, _____ (date).

 (signature)
 MARY SMITH

Form D-5. Sample Format for Non-Hearing Motion:
NOTICE OF MOTION AND CERTIFICATE OF SERVICE

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

ABC, INC.,	)	Civil No. _____
	)	(Case category, <i>see</i> RCCH Rule 3(c)(5))
Plaintiff,)	
	)	NOTICE OF MOTION AND CERTIFICATE OF
vs.	)	SERVICE
)	
XYZ, INC.,)	
)	
Defendant.)	
_____)	

NOTICE OF MOTION

TO: Jane Brown
87 King Street
Honolulu, Hawai'i 96813

Attorney for Defendant XYZ, Inc.

NOTICE IS HEREBY GIVEN that the undersigned has filed with the above-entitled court the motion attached hereto. Any response to said motion must be filed and served no later than 10 days after the service date indicated on the attached Certificate of Service. Pursuant to Rule 6(e) of the Hawai'i Rules of Civil Procedure, if the motion is served by mail, any response to said motion must be filed and served no later than 12 days after the service date indicated on the attached Certificate of Service.

DATED: Honolulu, Hawai'i, _____ (date) _____.

(signature)
DAVID JONES
Attorney for Plaintiff ABC, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing motion was served on the above-identified parties at their respective addresses by (*hand delivery or depositing the same in the United States mail, postage prepaid*) on _____ (service date).

DATED: Honolulu, Hawai'i, _____ (date).

(signature)
DAVID JONES
Attorney for Plaintiff ABC, Inc.

Form E-1. NOTICE OF REQUEST FOR SCHEDULING CONFERENCE (Effective 1/1/2022)

[Name of Attorney & Bar Number or Self-represented Party]
[Address]
[Telephone No.]
[Email]

[Attorney for Plaintiff(s) or Plaintiff]

IN THE CIRCUIT COURT OF THE _____ CIRCUIT

STATE OF HAWAI'I

XXX,) CIVIL NO. _____
)
Plaintiff(s),)
vs.) NOTICE OF REQUEST FOR SCHEDULING
) CONFERENCE; [PROPOSED] ORDER
) SETTING SCHEDULING CONFERENCE
XXX,)
)
Defendant(s).) JUDGE: _____
)
)
)

NOTICE OF REQUEST FOR SCHEDULING CONFERENCE

Plaintiff enters a Notice of Request for Scheduling Conference pursuant to Rule 16)(b)(4) of the Hawai'i Rules of Civil Procedure (HRCP) and Rule 12(a)(4) of the Rules of the Circuit Courts of the State of Hawai'i (RCCH).

HRCP 16(b)(2) and RCCH 12(a)(2) require the court to issue a Scheduling Order within the earlier of 90 days after any defendant has been served with the complaint or 60 days after any defendant has appeared, unless the court finds good cause for delay. The undersigned certifies that (check all that apply):

[] the first service of the complaint on any defendant was on _____ (date)

[] the first appearance by any defendant was on _____ (date)

[Footer language to be added specifying docket code to be used by filing party]

(11/18/21)

and requests that the Scheduling Conference be held before _____ (insert the applicable 60 or 90 day deadline).

DATED: _____, Hawai'i, _____.

Signature of Attorney or Self-Represented Party

Form E-2. [PROPOSED] ORDER SETTING SCHEDULING CONFERENCE
(Effective 1/1/2022)

[Name of Attorney & Bar Number or Self-Represented Party]
[Address]
[Telephone No.]
[Email]

[Attorney for Plaintiff(s) or Plaintiff]

IN THE CIRCUIT COURT OF THE _____ CIRCUIT

STATE OF HAWAI'I

XXX,) CIVIL NO. _____
)
Plaintiff(s),)
)
vs.) [PROPOSED] ORDER SETTING
) SCHEDULING CONFERENCE
XXX,)
)
Defendant(s).) Date: _____
) Time: _____
) Judge: _____
_____)

[PROPOSED] ORDER SETTING SCHEDULING CONFERENCE

(READ THIS ORDER CAREFULLY)

IT IS HEREBY ORDERED that the parties shall appear (check one):

[] In person

[] Video Conference

for a scheduling conference on _____ at _____ .m. before the Honorable
_____, pursuant to Rule 16(b) of the Hawai'i Rules of Civil Procedure (HRCP)
and Rule 12(a) of the Rules of the Circuit Courts of the State of Hawai'i (RCCH).

1. Lead trial counsel and self-represented parties are required to attend.

2. In person conferences are held in the judge's courtroom located at

_____ (insert address). Please

Footer language to be added specifying docket code to be used by filing party]

(11/18/21)

be prompt and inform the Law Clerk of your presence. **Video conferences** are conducted via **Zoom**. Parties are instructed to read the court’s Zoom Video Conferencing Instructions for Attorneys and Other Participants filed in this case to participate in a video conference.

3. The parties are reminded that a meeting of the parties must occur at least 21 days before the scheduling conference. The parties must confer in good faith on the following:

- The basis of their claims and defenses;
- Possibilities for promptly settling or resolving the case;
- Initial disclosures as required by HRCP 26(a)(1);
- Assignment of the case to an expedited or non-expedited track under HRCP 16.1;
- Issues about preserving discoverable information; and
- A proposed discovery plan as required by HRCP 26(f)(3) and RCCH 12(a)(6)(C).

HRCP 26(f); RCCH 12(a)(6). The parties are expected to review the applicable court rules which set forth in detail the information the parties are required to discuss.

4. A joint report of the parties outlining the parties’ discovery plan must be filed within 14 calendar days after the meeting of the parties. HRCP 26(f); RCCH 12(a)(6)(B).

5. Each party shall file a scheduling conference statement in accordance with RCCH 12(a)(7) no later than 7 calendar days before the scheduling conference.

6. Plaintiff(s) is(are) required to promptly serve this Order on all parties who have been served with the complaint, but who have not yet appeared in this case. Plaintiff(s) must also serve this Order on all unrepresented parties who are not JEFS Users and who have not consented to electronic service.

7. Failure to comply with either any part of this Order or to attend the scheduling conference may result in sanctions (including fines, dismissal, entry of default, and an award of attorneys’ fees and costs). RCCH 12(l).

DATED: _____, Hawai‘i, _____.

 Judge of the above-entitled Court

Form E-3. CERTIFICATE OF SERVICE (Effective 1/1/2022)

[Attorney Name & Bar No. or Name of self-represented party]
[Address]
[Telephone no.]
[Email]

[Attorney for Plaintiff(s) or Unrepresented Plaintiff]

IN THE CIRCUIT COURT OF THE _____ CIRCUIT
STATE OF HAWAI'I

XXX,) CIVIL NO. _____
)
Plaintiff(s),)
) CERTIFICATE OF SERVICE
vs.)
) (RE: ORDER SETTING SCHEDULING
XXX,) CONFERENCE)
)
Defendant(s).)
_____)

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct file marked copy of the ORDER SETTING SCHEDULING CONFERENCE was served on all parties who have been served with the complaint either electronically through the Hawai'i Judiciary Electronic Filing System ("JEFS") or conventionally via U.S. Mail at their last known address(es) on the date indicated below:

[Name of Party] [Manner of Service] [Date]

DATED: _____, Hawai'i _____.

Plaintiff/Plaintiff's Counsel

Footer language to be added specifying docket code to be used by filing party]

(11/18/21)

Form E-4. JOINT REPORT OF PARTIES (Effective 1/1/2022)

[Attorney Name & Bar No. or Name of self-represented party]

[Address]

[Telephone no.]

[Email]

[Attorney for _____ or self-represented party]

IN THE CIRCUIT COURT OF THE _____ CIRCUIT

STATE OF HAWAI'I

XXX,	)	CIVIL NO. _____
)	
Plaintiff,)	
	)	JOINT REPORT OF THE PARTIES
vs.)	
)	
XXX,	)	Scheduling Conference: _____
	)	Judge: _____
Defendant.)	
_____)	

JOINT REPORT OF THE PARTIES

(HRCP 26(f)(2) and RCCH 12(a)(6)(B) require the parties to file a joint report within 14 days after the parties' meeting.)

In accordance with Rule 26(f)(2) of the Hawai'i Rules of Civil Procedure (HRCP) and Rule 12(a)(6)(B) of the Rules of the Circuit Courts of the State of Hawai'i (RCCH), the parties signing below met (*check one*) [] in person [] by telephone [] by video on _____ (*insert date*) and certify they conferred in good faith about the following:

- ✓ the nature and basis of their claims and defenses;
- ✓ the possibilities for promptly settling or resolving the case;
- ✓ making or arranging for disclosures required by HRCP 26(a)(1);
- ✓ whether the case should be assigned to an expedited or non-expedited track for trial under HRCP 16.1;

Footer language to be added specifying docket code to be used by filing party]

(11/18/21)

- ✓ preserving discoverable information; and
- ✓ a proposed discovery plan.

A. Disclosures under HRCP 26(a) (check all that apply):

Initial Disclosures – HRCP 26(a)(1):

- Initial disclosures were or will be made by Plaintiff(s) on _____ (date).
- Initial disclosures were or will be made by Defendant(s) on _____ (date).
- Changes in the timing, form, or requirements for initial disclosures under HRCP 26(a)(1) should be made as follows:

Expert Disclosures – HRCP 26(a)(2):

- Expert Disclosures will be made:
 1. By parties having the burden of proof on a claim or an affirmative defense no later than **120 days** before the trial date to be set by the court;
 2. By parties opposing a claim for relief or an affirmative defense no later than **90 days** before the trial date to be set by the court; and
 3. By parties intending to present evidence solely to rebut evidence on the subject matter identified for the first time by a party opposing a claim for relief or an affirmative defense no later than **60 days** before the date set for trial.

OR

- Changes in the timing, form, or requirements for expert disclosures under HRCP 26(a)(2) should be made as follows:

B. Discovery:

1. Discovery may be needed on the following subjects:

2. Discovery should be completed by: _____ (date).

3. Discovery should be conducted in phases or be limited to or focused on particular issues as follows:

C. Electronically Stored Information (ESI):

As to any issues about disclosure, discovery, or preservation of ESI, including the form or forms in which it should be produced, the parties report:

D. Claims of Privilege or of Protection as Trial-Preparation Materials: (parties should identify whether they anticipate any claims of privilege or of protection as trial-preparation materials; whether the parties agree on a procedure to assert these claims after production (i.e., claw back), and whether they ask the court to include their agreement in an order under Rule 502 of the Hawai'i Rules of Evidence):

E. Changes, if any, to be Made in Limitations on Discovery: (parties should discuss and report on whether any changes should be made to the limitations on discovery set forth in the HRCP or the RCCH, and any other limitations that should be imposed):

F. Other Orders: (parties should report on whether there are any other orders that the court should issue under HRCP 26(c) or under HRCP 16(b) and (c)).

G. Other Matters: (parties should report on whether they are amenable to ADR; and any other miscellaneous matter they believe is relevant to the scheduling conference with court):

SUBMITTED BY:

Plaintiff / Counsel for Plaintiff(s)

Defendant / Counsel for Defendant(s)

<<additional signature lines to be added if multiple parties>>

Form E-5. SCHEDULING CONFERENCE STATEMENT (Effective 1/1/2022)

[Name of Attorney & Bar Number or Self-represented Party]
[Address]
[Telephone No.]
[Email]

[Attorney for _____ OR Self-represented Party]

IN THE CIRCUIT COURT OF THE _____ CIRCUIT

STATE OF HAWAI'I

XXX,) Civil No. _____
)
Plaintiff,) SCHEDULING CONFERENCE STATEMENT
) OF PLAINTIFF / DEFENDANT
vs.)
)
XXX,)
)
Defendant.) SCHEDULING CONFERENCE:
) DATE: _____
) TIME: _____
)
) JUDGE: _____
_____)

SCHEDULING CONFERENCE STATEMENT OF _____

Must be filed and served no later than 7 days before the Scheduling Conference unless otherwise ordered by the court. RCCH 12(a)(7).

Pursuant to Rule 12(a)(7) of the Rules of Circuit Courts of the State of Hawai'i (RCCH),
PLAINTIFF/DEFENDANT NAME OF PARTY submits the following Scheduling Conference Statement.

Footer language to be added specifying docket code to be used by filing party]
(11/18/21)

A. BRIEF DESCRIPTION OF THE CASE (also specify if asserting legal and equitable claims):

If a party is seeking a remedy other than monetary damages, please specify the relief sought:

B. STATEMENT OF JURISDICTION AND VENUE (WITH CITED AUTHORITY) AND A SHORT DESCRIPTION OF THE FACTS CONFERRING VENUE:

C. JURY OR NON-JURY TRIAL (check one):

JURY TRIAL. A demand for a jury trial was filed on _____.

NON-JURY TRIAL.

D. ASSIGNMENT OF CASE TO AN EXPEDITED OR NON-EXPEDITED TRACK UNDER RULE 16.1 OF THE HAWAI'I RULES OF CIVIL PROCEDURE (HRCP) (check one):

Expedited Track: Based on considerations of fairness, cost-effectiveness, and expedition, this case should be assigned to an expedited trial track to secure the just, speedy, and efficient resolution of the case.

Non-Expedited Track: Considering factors such as the number of claims and parties involved, the monetary value of the case, the extent and nature of the claims, the volume and extent of discovery, and the number of witnesses, experts and documents, this case should be assigned to a non-expedited trial track.

E. APPROPRIATENESS, EXTENT, AND TIMING OF DISCLOSURES (check one):

The undersigned has or will provide all disclosures pursuant to HRCP 26 within the time limits prescribed within the rule or will provide disclosures as set forth in the Joint Report of the Parties.

DISCLOSURES pursuant to HRCP 26 not covered by the Joint Report of the Parties: _____

F. DISCOVERY COMPLETED: _____
DISCOVERY IN PROGRESS: _____
MOTIONS PENDING AND HEARING DATE(S): _____

G. STATEMENT ADDRESSING APPROPRIATENESS OF ANY SPECIAL PROCEDURES OR OTHER MATTERS SPECIFIED IN HRCP 16(c) THAT ARE NOT COVERED BY THE JOINT REPORT OF THE PARTIES FILED PURSUANT TO HRCP RULE 26(f):

H. RELATED CASES (IN STATE OR FEDERAL COURT) WITH CASE STATUS (e.g., pending, adjudicated or otherwise terminated): _____

I. ANY ADDITIONAL MATTERS: _____

J. THE UNDERSIGNED CERTIFIES (CHECK ONE):

THE PARTIES CONFERRED ON _____ (AT THE LEAST 21 DAYS BEFORE THE SCHEDULING CONFERENCE) ON THE FOLLOWING MATTERS:

- ✓ the nature and basis of their claims and defenses;
- ✓ the possibilities for promptly settling or resolving the case;
- ✓ making or arranging for disclosures required by HRCP 26(a)(1);

(11/18/21)

- ✓ whether the case should be assigned to an expedited or non-expedited track for trial under HRCP 16.1;
- ✓ preserving discoverable information; and
- ✓ a proposed discovery plan.

THE PARTIES DID NOT CONFER AS REQUIRED BY RULE 12(a)(6) OF THE RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAII BECAUSE:

DATED: _____, Hawai'i _____, 202_.

Name of Party / Party's Attorney

EXHIBIT B

Non-Hearing Motions

Add to Record on Appeal (Agency Appeal)

Alter or Amend Order or Judgment

Amend Pre-Trial Statement or Responsive Pre-Trial Statement

Amend Answer

Amend Complaint, Crossclaim, Counterclaim or Any Other Claim

Attorney's Charging Lien

Attorney's Fees (except motions for attorneys fees as a sanction pursuant to HRCP 11 or in a foreclosure case are hearing motions)

Bifurcation as to Issues or as to Third Party Claims (motion for bifurcation as to parties is a hearing motion)

Change of Venue

Clarification of Order or Judgment

Clerk to Sign Quitclaim Deed

Consolidate (Must have consolidated captions)

Note: Decided by judge assigned to case with earliest filing date.

Continue Action by or Against Representative of Incompetent Party (HRCP 25(b))

Doe Defendants, Allow Additional Time to Name or Identify (HRCP 17)

Doe Defendants, Certify or Identify

Doe Defendants, Extend Time to File Certification of Doe Defendants

Expunge Lis Pendens

Extend, Review, Revive Judgment pursuant to HRS §657-5

Note: HRS §657-5 allows hearing or non-hearing motion to extend life of judgment.

Extend Time for Third Party to File Pre-Trial Statement or Responsive Pre-Trial Statement

Extend Time to File Motion for Summary Judgment (less than 50 Days Before Trial Date)(HRCP 56(c))

Extend Time to File Pre-Trial Statement or Responsive Pre-Trial Statement

Note: may be done ex parte or by Stipulation and Order

Extend Time to Respond to Non-Hearing Motions Filed

File Counterclaim, Crossclaim or Any Other Claim

File Third-Party Complaint (HRCP 14(a))

Intervene

Joinder or Non-Joinder of Parties

Jury Trial

Leave to Dispose of Property Free and Clear

Leave to Present Counterclaim Maturing or Acquired After Pleading

Leave to Set Up Omitted Counterclaim by Amendment

More Definite Statement

Open Sealed Deposition

Payment of Undisputed Portion of Estimated Compensation

Reconsideration of Order or Judgment

Rehear a Hearing Motion (where no written order was filed)

Rehear Non-Hearing Motion (where no written order was filed)

Reimbursement of Out-of-Pocket Expenses

Release Mortgage

Set Aside Default or Vacate Default Entered by Clerk or by the Court

Set Aside Entry of Default Judgment

Set Aside or Vacate Order or Judgment

Sever Claims

Strike Claim

Substitution of Parties

Withdraw Monies

Witness, Extend Time to Name Witness or Name Final Witness

Witness, Extend Witness Cut-Off Date