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SCRU-11-0000051

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
HAWAI‘I RULES OF CIVIL PROCEDURE

ORDER AMENDING THE HAWAI‘I RULES OF CIVIL PROCEDURE
(By: Recktenwald, C.J., McKenna, Eddins, Ginoza, and Devens, JJ.)

IT IS HEREBY ORDERED that Rules 4, 6, 36, 37, 43, and 69 of the Hawai‘i Rules of Penal Procedure are amended, effective January 1, 2026, as follows (deleted material is bracketed and stricken; new material is underscored):

Rule 4. PROCESS.

(d) **Same: Personal service.** The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

(6) Upon a county, as provided by statute or the county charter, or by delivering a copy of the summons and of the complaint to the corporation counsel or county attorney or any of ~~his or her~~ the corporation counsel's or county attorney's deputies.

Rule 6. TIMES.

(e) Additional time after service by mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon ~~him~~ that party and the notice or paper is served upon ~~him~~ that party by mail, 2 days shall be added to the prescribed period.

Rule 36. REQUESTS FOR ADMISSION.

(b) **Effect of Admission.** Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 of these Rules governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice that party in maintaining ~~his or her~~ that party's action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission for any other purpose nor may it be used against the party in any other proceeding.

Rule 37. FAILURE TO MAKE OR COOPERATE IN DISCOVERY; SANCTIONS.

(b) Failure to Comply With Order.

(2) SANCTIONS BY COURT IN WHICH ACTION IS PENDING. If a party or an officer, director, or managing agent of a party or a person designated under Rule 30(b)(6) or 31(a) of these Rules to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subdivision (a) of this ~~Rule~~ Rule or Rule 35 of these Rules, or if a party fails to obey an order entered under Rule 26(f) of these Rules, the court in which the action is pending may make such orders in regard to the failure as are just, and among others the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting ~~him or her~~ the disobedient party from introducing designated matters in evidence;

(c) Failure to Disclose; False or Misleading Disclosure; Refusal to Admit.

(2) If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36 of these Rules, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that (A) the request was held objectionable pursuant to Rule 36(a) of these Rules, or (B) the admission sought was of no substantial importance, or (C) the party failing to admit had reasonable ground to believe that [~~he or she~~] they might prevail on the matter, or (D) there was other good reason for the failure to admit.

Rule 43. TAKING OF TESTIMONY.

(c) Record of excluded evidence. In an action tried by a jury, if an objection to a question propounded to a witness is sustained by the court, the examining attorney may make a specific offer of what [~~he~~] the examining attorney expects to prove by the answer of the witness. The court may require the offer to be made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed, except that the court upon request shall take and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.

Rule 69. EXECUTION.

Process to enforce a judgment for the payment of money shall be a writ of execution, unless the court directs otherwise. The procedure on execution, in proceedings supplementary to and in aid of a judgment, and in proceedings on and in aid of execution shall be in the manner provided by the law of the State. In aid of the judgment or execution, the judgment creditor or [~~his~~] the judgment creditor's successor in interest when that interest appears of record, may obtain discovery from any person, including the judgment debtor, in the manner provided in these rules for taking depositions.

IT IS FURTHER ORDERED that Forms 3, 9, 10, 11, 13, 20, 21, 23, and 26 are amended, as attached hereto, and shall be appended to the Hawai'i Rules of Civil Procedure, effective January 1, 2026. The forms replace the prior forms bearing the same Form number.

IT IS FURTHER ORDERED that trial courts are authorized to insert circuit and court identifiers, appearance information, addresses, and contact information in the form and to publish the form in print or electronic format for the respective courts and circuits.

DATED: Honolulu, Hawai'i, July 9, 2025.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens



Form 3. Complaint on a Promissory Note.

1. Allegation of residence of parties.
2. Defendant on or about June 1, 1951, executed and delivered to plaintiff a promissory note in the following words and figures: (here set out the note verbatim) ; [a copy of which is hereby annexed as Exhibit A]; [whereby defendant promised to pay to plaintiff or order on June 1, 1952, the sum of ten thousand dollars with interest thereon at the rate of six percent per annum].
3. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the sum of ten thousand dollars, interest, and costs.

Dated: Honolulu, Hawai'i, _____

Signed: _____

Attorney for Plaintiff

Address: _____

Notes

1. *The pleader may use the material in one of the three sets of brackets. The pleader's choice will depend upon whether the pleader desires to plead the document verbatim, or by exhibit, or according to its legal effect.*
2. *Under the rules free joinder of claims is permitted. See Rules 8(e) and 18. Consequently the claims set forth in each and all of the following forms may be joined with this complaint or with each other. Ordinarily each claim should be stated in a separate division of the complaint, and the divisions should be designated as counts successively numbered. In particular the rules permit alternative and inconsistent pleading. See Form 10.*

Form 9. Complaint for Negligence.

1. Allegation of residence of parties.
2. On June 1, 1952, in a public highway called King Street in Honolulu, Hawai‘i, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.
3. As a result plaintiff was thrown down and had plaintiff’s leg broken and was otherwise injured, was prevented from transacting plaintiff’s business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against defendant in the sum of _____ dollars and costs.

Notes

Since contributory negligence is an affirmative defense, the complaint need contain no allegation of due care of plaintiff.

Form 10. Complaint for Negligence Where Plaintiff Is Unable to Determine Definitely Whether the Person Responsible Is C. D. or E. F. or Whether Both Are Responsible and Where Plaintiff's Evidence May Justify a Finding of Willfulness or of Recklessness or of Negligence.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

A. B., Plaintiff,)	Civil No. _____
)	
v.)	
)	COMPLAINT
C. D. and E. F., Defendants.)	
_____)	

1. Allegation of residence of parties.

2. On June 1, 1952, in a public highway called King Street, Honolulu, Hawai'i, defendant C. D. or defendant E. F., or both defendants C. D. and E. F. willfully or recklessly or negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

3. As a result plaintiff was thrown down and had plaintiff's leg broken and was otherwise injured, was prevented from transacting plaintiff's business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against C. D. or against E. F. or against both in the sum of _____ dollars and costs.

Form 11. Complaint for Conversion.

1. Allegation of residence of parties.

2. On or about December 1, 1952, defendant converted to defendant's own use ten bonds of the _____ Company (here insert brief identification as by number and issue) of the value of ten thousand dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the sum of ten thousand dollars, interest, and costs.

Form 13. Complaint on Claim for Debt and to Set Aside Fraudulent Conveyance Under Rule 18(b).

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

A. B., Plaintiff,)	Civil No. _____
)	
v.)	
)	COMPLAINT
C. D. and E. F., Defendants.)	
_____)	

1. Allegation of residence of parties.

2. Defendant C. D. on or about _____ executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is hereto annexed as Exhibit A); (whereby defendant C. D. promised to pay to plaintiff or order on _____ the sum of five thousand dollars with interest thereon at the rate of _____ percent per annum).

3. Defendant C. D. owes to plaintiff the amount of said note and interest.

4. Defendant C. D. on or about _____ conveyed all C. D.'s property, real and personal (or specify and describe) to defendant E. F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands:

(1) That plaintiff have judgment against defendant C. D. for _____ dollars and interest; (2) that the aforesaid conveyance to defendant E. F. be declared void and the judgment herein be declared a lien on said property; (3) that plaintiff have judgment against the defendants for costs.

Form 20. Answer Presenting Defenses Under Rule 12(b).

FIRST DEFENSE

The complaint fails to state a claim against defendant upon which relief can be granted.

SECOND DEFENSE

Defendant admits the allegation contained in paragraphs 1 and 4 of the complaint; alleges that defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint; and denies each and every other allegation contained in the complaint.

THIRD DEFENSE

The complaint is time-barred by the applicable statute of limitations and/or statute of repose.

COUNTERCLAIM

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a complaint.)

CROSS-CLAIM AGAINST DEFENDANT M. N.

(Here set forth the claim constituting a cross-claim against defendant M. N. in the manner in which a claim is pleaded in a complaint.)

Form 21. Answer to Complaint Set Forth in Form 8, With Counterclaim for Interpleader.

DEFENSE

Defendant admits the allegations stated in paragraph 1 of the complaint; and denies the allegations stated in paragraph 2 to the extent set forth in the counterclaim herein.

COUNTERCLAIM FOR INTERPLEADER

1. Defendant received the sum of ten thousand dollars as a deposit from E. F.
2. Plaintiff has demanded the payment of such deposit by virtue of an assignment of it which plaintiff claims to have received from E. F.
3. E. F. has notified the defendant that E. F. claims such deposit, that the purported assignment is not valid, and that E. F. holds the defendant responsible for the deposit.

Wherefore defendant demands:

- (1) That the court order E. F. to be made a party defendant to respond to the complaint and to this counterclaim.¹

¹Rule 13(h) provides for the court ordering parties to a counterclaim, but who are not parties to the original action, to be brought in as defendants.

- (2) That the court order the plaintiff and E. F. to interplead their respective claims.
- (3) That the court adjudge whether the plaintiff or E. F. is entitled to the sum of money.
- (4) That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.
- (5) That the court award to the defendant its costs and attorney's fees.

Form 23. Motion to Intervene as a Defendant Under Rule 24.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

A. B., Plaintiff,)	Civil No. _____
)	
v.)	
)	MOTION TO INTERVENE AS DEFENDANT
C. D. and E. F., Defendant.)	
)	
E.F., Applicant for Intervention)	
_____)	

MOTION TO INTERVENE AS A DEFENDANT

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in E. F.'s proposed answer, a copy of which is hereto attached and marked Exhibit A, on the ground that E. F. has a prior lien on the property referred to in the complaint and as such has a defense to plaintiff's claim presenting both questions of law and of fact which are common to the main action.

Dated: Honolulu, Hawai'i, _____

Signed: _____
Attorney for E. F., Applicant for Intervention

Address: _____

(Contents the same as in Form 19.)

For other grounds of intervention, either of right or in the discretion of the court, see Rules 24(a) and (b). Under Rule 24(c), the motion to intervene must be served upon all parties as provided in Rule 5.

(Rev. 7/9/25)

Form 26. Allegation of Reason for Omitting Party.

When it is necessary, under Rule 19(c), for the pleader to set forth in pleading the names of persons who ought to be made parties, but who are not so made, there should be an allegation such as the one set out below:

Doe Defendant named in this complaint is not made a party to this action (because Doe Defendant is not subject to the jurisdiction of this court).

(Rev. 7/9/25)