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SCRU-10-0000086

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
HAWAI‘I COURT RECORDS RULES

ORDER ADOPTING RULE 15 AND FORM 4
OF THE HAWAI‘I COURT RECORDS RULES

(By: McKenna, Acting C.J., Eddins, Ginoza, and Devens, JJ., and
Intermediate Court of Appeals Chief Judge Nakasone,
assigned by reason of vacancy)

IT IS HEREBY ORDERED that the Rules 11, 12, 13, 14, 15
and Form 4 of the Hawai‘i Court Records Rules are adopted,
effective upon the filing of the order, as follows:

Rule 11. Reserved. [NEW RULE]

Rule 12. Reserved. [NEW RULE]

Rule 13. Reserved. [NEW RULE]

Rule 14. Reserved. [NEW RULE]

[NEW RULE]

Rule 15. TRANSCRIPT PREPARATION - NO OFFICIAL COURT REPORTER AVAILABLE

(a) Preparation of transcripts by private court reporter; non-hearing motion. As to any proceeding recorded as provided by court rule, a party for good cause may by non-hearing motion seek court approval to have the transcript prepared by a private court reporter. The motion shall be decided on written submissions, unless otherwise ordered by the court.

The motion shall be submitted on a form that substantially complies with Form 4 in the Appendix of Forms of these Rules and shall contain the following information:

(1) The date of the relevant proceeding, the type of proceeding (e.g., trial, motion, sentencing), the portion of proceedings for which a transcript is being requested (e.g., all or partial), and the name of the presiding judge.

(2) The motion shall be accompanied by a declaration establishing that the private court reporter is qualified to prepare the transcript, disclosing the financial terms for the reporter's services, and providing the private court reporter's telephone number, email address, and mailing address.

(3) If the recorded proceeding is confidential, the motion shall state whether the appearing parties have agreed to allow the release of the recorded proceeding to the private court reporter, and whether the private court reporter has agreed to be bound by a protective order assuring the confidentiality of the proceeding in question. The protective order shall prohibit and restrict the private court reporter from revealing or discussing any information involving the confidential proceeding with any person. If applicable, a copy of the proposed or previously entered protective order shall be attached to the motion.

(4) That the moving party is prepared to pay the court the necessary cost of production to obtain a copy of the audio recording of the court proceeding. The motion shall be accompanied by a proposed order that substantially conforms to Form 4 in the Appendix of Forms of these Rules.

(5) The motion shall be served on all appearing parties on the date the motion is filed.

Any response to a motion under this rule shall be filed and served no later than six business days after the service date indicated on the certificate of service or no later than eight business days after the service date if the motion is served by mail. Any reply shall be filed and served no later than three business days after the service of the opposition or five business days after the service date if the opposition is mailed.

If the motion is granted, unless the court otherwise directs (1) the transcript shall be certified by the private court reporter as a true and correct transcription of the recorded proceeding, and (2) the transcript fees shall be paid by the requesting party directly to the private court reporter. When authorized by law, the court may direct for the Judiciary to pay for the cost of the requested transcript.

"Good cause" under this rule shall mean the unavailability of an official court reporter in the circuit to complete the transcript of the recorded proceeding in question within the time needed by the requesting party or within the time required by court rule or order.

(b) Per diem court reporter hired by parties. Where an official court reporter is not available, any party may file a motion for a private court reporter to attend a live court session to prepare a transcript of a live proceeding. The court shall also preserve the testimony by way of a recording.

The motion shall be accompanied by a declaration from the private court reporter that establishes the private court reporter is qualified to prepare the live, verbatim transcript. If the proceeding is confidential, the motion shall state whether the parties have agreed to the presence of the private court reporter, and whether the private court reporter has agreed to be bound by a protective order assuring the confidentiality of the proceeding in question. The protective order shall include that the private court reporter is prohibited and restricted from revealing or discussing any information involving the confidential proceeding with any person. A copy of the proposed protective order shall be attached to the motion.

The parties shall be obligated to pay all expenses related to the attendance of the private court reporter, and the motion shall state whether the filing party, or parties jointly, have agreed to pay the private court reporter directly for all expenses incurred, including whether the final transcript will be filed in the case.

(c) Per diem court reporter hired by court. Where the number of official court reporters is insufficient to meet the temporary demands and needs of the circuit, the chief court administrator of the circuit may request the procurement of additional court reporters for such circuit on a contract basis. The chief court administrator shall notify the Administrative Director of the Courts, in writing, of such determination. The Administrative Director of the Courts is authorized, subject to funding availability, to contract with any suitable person, firm, association, or corporation for the providing of court reporters to serve such circuit under such terms and conditions as the Administrative Director of the Courts finds will best serve the needs of the court.

(d) Administration; Official Transcript Requests. In all courts of the State of Hawai'i, where an official court reporter is not available to facilitate the preparation of transcripts of recorded proceedings the court administrator is authorized to contract with private court reporters and transcription providers, such as a transcriber certified by the American Association of Electronic Reporters and Transcribers as an electronic transcriber, or another transcription certification that the Administrative Director of the Courts deems suitable.

(e) Confidential Proceedings. A private court reporter or transcriber utilized under the provisions of this rule shall not provide a transcript of a confidential proceeding to any person without obtaining the court's written approval, unless the release was previously authorized by court order or is otherwise authorized by law.

(f) Official Record of Proceeding. A transcript prepared in accordance with this Rule that is filed in the case shall be an official record of the transcribed proceeding.

(g) Transcripts Prepared for Record on Appeal. If the transcript is prepared for the record on appeal:

- (1) The motion shall be filed in the court from which the appeal is taken.
- (2) Notwithstanding the filing of a notice of appeal, the trial court retains jurisdiction to enter an order under this Rule.
- (3) The trial court clerk shall file in the appellate record a copy of the trial court order granting the motion.
- (4) The private court reporter or transcriber shall comply with Rule 10 of the Hawai'i Rules of Appellate Procedure and conventionally file the transcript in the appellate case.
- (5) If the transcript is from a confidential proceeding, it shall be filed under seal.

COMMENTS:

[1] As used in this Rule, “private court reporter” means a certified shorthand reporter who offers services on a freelance basis and who is not employed by the Judiciary. See *Hawai‘i Revised Statutes* § 606-13.5 (2016). “Official court reporter” means a certified shorthand reporter that is employed by the Judiciary. *Id.*

[2] Subsection (a)(2) requires the moving party to set forth the contact information for the private court reporter. This information is necessary to allow the court administrator, upon approval by the court, to provide the private court reporter with the electronic copy of the recorded proceeding.

[3] As used in this Rule, “confidential proceeding” refers to a proceeding that is, in general, confidential by law such as juvenile proceedings, *Hawai‘i Revised Statutes (HRS)* § 571-84(a) (2018), adoption proceedings, *HRS* § 578-15 (Supp. 2024), and Child Protective Act proceedings, *HRS* § 587A-25 (2018). A hearing that is sealed from public access, for example to address a claim of an evidentiary privilege, would also qualify as a confidential proceeding for purposes of this Rule.

[4] If applicable, where the parties are not able to agree on the terms of a protective order the court may enter a protective order that prohibits the private court reporter from revealing or discussing any information involving the confidential proceeding with any person.

[5] Notwithstanding the filing of a notice of appeal, the trial court retains jurisdiction to enter an order under this Rule, to allow a party to utilize a private court reporter to prepare a transcript needed for a pending appeal, because such an order is entered in aid of the pending appeal.

[6] The court may on its own motion order a transcript to be prepared of the testimony in a civil case and may, in its discretion, direct the payment of the charges and the taxation of the same as costs. *HRS* § 606-13(b) (2016).

[7] As used in this Rule, “good cause” may be established where a party submits a declaration establishing that the requesting party had previously sought the subject transcript from the official court reporter but was informed by the official court reporter, supervising court reporter, or court administrator that the transcript request could not be completed within the time needed by the requesting party, or within the time required by court rule or order.

**HCRR Form 4. NON-HEARING MOTION TO UTILIZE PRIVATE COURT REPORTER
TO PREPARE TRANSCRIPT OF RECORDED PROCEEDING;
DECLARATION; NOTICE OF MOTION; CERTIFICATE OF SERVICE;
INSTRUCTIONS; PROPOSED ORDER; REQUEST**

[The proposed form appears on the following pages.]

<p>STATE OF HAWAI'I</p> <p>In the _____ of the _____</p> <p>NON-HEARING MOTION TO UTILIZE PRIVATE COURT REPORTER TO PREPARE TRANSCRIPT OF RECORDED PROCEEDING; DECLARATION; NOTICE OF MOTION; CERTIFICATE OF SERVICE; INSTRUCTIONS; PROPOSED ORDER; REQUEST</p>	
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<input type="checkbox"/> Check here if the transcript(s) covered by this motion are for the Record on Appeal, and identify the appellate case numbers: _____	Case No.
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vs.	Name (Requestor): Firm (if applicable): Address: Phone No.: Email: Attorney for: <input type="checkbox"/> Plaintiff/Petitioner <input type="checkbox"/> Defendant/Respondent <input type="checkbox"/> Other (specify):
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NON-HEARING MOTION TO UTILIZE PRIVATE COURT REPORTER TO PREPARE TRANSCRIPT OF RECORDED PROCEEDING

Moving party requests this motion be granted for the reasons stated in the declaration below and pursuant to:

- Hawai'i Court Records Rules (HCRR), Rule 15
- _____.

DECLARATION

1. I am the Moving Party or associated with the Moving Party as _____.
2. Moving Party seeks court approval, for good cause detailed below, to have a transcript(s) prepared by the following private court reporter (as such term is defined in HRS § 606-13.5):
 - Private Court Reporter – Name and/or Firm: _____
 - Phone No. _____ Email: _____
 - Address: _____.
3. The complete financial terms between Moving Party and the private court reporter follow:
 - _____
 - _____.

4. Good cause exists under HCRR Rule 15 because an official court reporter in the circuit is not available to complete the transcript of the recorded proceeding in question as established by the following:

Moving Party previously sought the subject transcript(s) from the official court reporter but was informed by the official court reporter, supervising official court reporter or court administrator that the transcript request could not be completed within the time needed by the requesting party, or within the time required by court rule or order.

Further details:

5. Moving Party is prepared to pay the necessary cost of production to obtain a copy of the recording of the court proceeding.

6. CONFIDENTIAL PROCEEDINGS ONLY. If the recorded proceeding is a confidential proceeding, explain whether a protective order has been or should be entered (see HCRR 15(a)(3)):

7. The case number, date of proceeding, the type of proceeding, the portion of proceedings for which a transcript is being requested (e.g., all or partial), and the name of the presiding judge are:

Case No.	Date	Type of proceeding (e.g. trial, motion, sentencing, etc.)	Portion of proceeding for which transcript is being requested	Name of Judge/Hearing Officer/Agency

8. The proposed order granting the motion is submitted concurrently with this motion.

I, _____, declare under penalty of law that the foregoing is true and correct based on personal knowledge, and I am competent to testify to the matters stated.

Date: _____ Signature of Declarant: _____

Printed Name: _____

NOTICE OF MOTION

To: _____

Notice is hereby given that any response to this Non-Hearing Motion shall be filed within six business days of service, or where service was made by regular mail, within eight business days.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served on the above-identified parties at their respective addresses or by electronic means on _____.

Filing Party/Attorney:

Date: _____ . Signature: _____
Print/Type Name: _____

INSTRUCTIONS RE: NON-HEARING MOTION FOR LEAVE TO UTILIZE PRIVATE COURT REPORTER TO PREPARE TRANSCRIPT OF RECORDED PROCEEDING

1. Make sure the form is typed or neatly written. Fill in the form by completing all of the information identified in each section.
2. A separate motion should be prepared for each private court reporter being asked to transcribe proceedings. You may list on one form multiple dates of proceedings to be transcribed by the same private court reporter.
3. Where you need to identify more proceedings than you are able to fit on a single form, you may attach a continuation sheet that lists the additional proceedings.
4. When you have completed the form, file the original form in the applicable case as a non-hearing motion along with the proposed order. The form shall be electronically filed or conventionally filed with the trial court clerk if the filing party is not a registered Judiciary Electronic Filing System user.
5. After the order granting the motion is entered, court staff will contact you within a reasonable period of time, which in general should not exceed 10 business days, to secure payment and confirm the expected delivery date of the recording(s) to the private court reporter. To check on the status of the delivery of your record, please contact the Legal Documents Branch of the court where the request was submitted and be prepared to provide the case number, the date of the order, and your preferred contact information (e.g., phone number, email, mailing address).
6. The completed transcript may be filed in the case by a party. Confidential information shall be filed under seal in accordance with the Hawai'i Court Records Rules. At the time of filing, the completed transcript should be designated as the "Transcript of proceedings held on <date>."
7. If the transcript is for the record on appeal, see Hawai'i Court Records Rules, Rule 15(g).
8. For further information, see Hawai'i Court Records Rules, Rule 15.

IN THE _____

STATE OF HAWAII

CASE NO.

vs.

PROPOSED ORDER GRANTING MOTION
TO UTILIZE PRIVATE COURT REPORTER
TO PREPARE TRANSCRIPT OF
RECORDED PROCEEDING; REQUEST
FOR RECORD

PROPOSED
ORDER GRANTING MOTION TO UTILIZE PRIVATE COURT REPORTER TO
PREPARE TRANSCRIPT OF RECORDED PROCEEDING; REQUEST FOR RECORD

IN THE _____

STATE OF HAWAI'I

CASE NO.

ORDER GRANTING MOTION TO UTILIZE
PRIVATE COURT REPORTER TO
PREPARE TRANSCRIPT OF RECORDED
PROCEEDING; REQUEST FOR RECORD

vs.

**ORDER GRANTING MOTION TO UTILIZE PRIVATE COURT REPORTER
TO PREPARE TRANSCRIPT OF RECORDED PROCEEDING**

Upon review of the Motion to Utilize Private Court Reporter to Prepare Transcript of Recorded Proceeding filed by _____ (“Moving Party”) on _____, and the record, the Moving Party’s request to have a transcript of the identified court proceeding(s) in this case prepared by private court reporter _____ is granted for good cause under Rule 15 of the Hawai i Court Records Rules, and a copy of the recorded court proceeding(s) identified-below shall be transmitted by the clerk or court staff to the private court reporter upon the payment by the Moving Party to the Judiciary of the necessary cost of production.

The delivery schedule for the transcript shall be a matter determined between the Moving Party and the private court reporter.

Any party may file the completed transcript in the case. If the transcript contains confidential information, it shall be filed under seal in accordance with the Hawai‘i Court Records Rules.

RECORDED COURT PROCEEDINGS TO TRANSFER TO PRIVATE COURT REPORTER:

Case No.	Date(s) of proceeding(s)	Type of proceeding	Portion of proceeding for which transcript is requested (e.g., all or partial)	Name of Judge/Hearing Officer/Agency

[] Additional Provisions, if applicable follow:

It is so ordered.

Dated: _____, Hawai‘i, _____.

 JUDGE OF THE ABOVE-ENTITLED COURT

 In the _____, _____; Case No. _____; ORDER GRANTING MOTION TO UTILIZE PRIVATE COURT REPORTER TO PREPARE TRANSCRIPT OF RECORDED PROCEEDING

REQUEST FOR RECORD

Pursuant to court rule (see Rule 2.2 of the Rules of Circuit Courts and Rule 2.2 of the Rules of the District Courts), the clerk shall collect costs and fees provided in Chapter 607 of the Hawai'i Revised Statutes.

Court staff should be given 10 business days from the date of the request to prepare the copy of the requested proceeding. You will be contacted by court staff for payment. Court staff may also request to confirm the delivery information for the private court reporter that you hired.

NOTE: Audio cannot be played on a CD Player. The audio file can only be played on a computer.

FOR INTERNAL USE ONLY

TO BE COMPLETED BY FILE CLERK:

[] Video [] Audio CD Received by: _____

PAID: _____ Date/Time: _____

TO BE COMPLETED BY COURTROOM CLERK:

Type of Proceeding:
Amount to be charged:
Rush Fee:

RETURN ORIGINAL REQUEST AND CD TO DOCUMENTS FILING CLERKS, EXCEPT FOR REQUESTS MADE BY THE PROSECUTOR'S AND PUBLIC DEFENDER'S OFFICE. GIVE THOSE TO FISCAL OFFICE.

ACKNOWLEDGMENT AND RECEIPT

Signature of Court Administrator/Date		(For Official Use Only)
If applicable (e.g., confidential/sealed hearing):		
Signature of Judge/Date		

IT IS FURTHER ORDERED that the 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, January 22, 2026.

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens

/s/ Karen T. Nakasone

