

RE: **Proposed Amendments to the
Rule 58 of the Hawai'i Rules of Civil Procedure and
Rule 23 of the Rules of the Circuit Courts of the State of Hawai'i**

The Supreme Court of Hawai'i seeks public comment regarding proposals to amend to Rule 58 of the Hawai'i Rules of Civil Procedure and Rule 23 of the Rules of the Circuit Courts of the State of Hawai'i. The proposals clarify responsibility for timely preparation and submission of proposed civil judgments. The proposed amendments and the policy statement are attached hereto.

Comments about the proposed rule should be submitted, in writing, **no later than Friday, December 18, 2009**, to the Judiciary Public Affairs Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the Judiciary's website at www.courts.state.hi.us.

Attachment

**PROPOSED AMENDMENT TO
HAWAI‘I RULES OF CIVIL PROCEDURE**

(Deleted material is bracketed and stricken; new material is underlined)

[HRCP] Rule 58. ENTRY OF JUDGMENT.

Unless the court otherwise directs and subject to the provisions of Rule 54 of these rules and Rule 23 of the Rules of the Circuit Courts, the prevailing party shall prepare and submit a proposed judgment. ~~[(b), judgment upon the verdict of a jury shall be entered forthwith by the clerk; but the court shall direct the appropriate judgment to be entered upon a special verdict or upon a general verdict accompanied by answers to interrogatories returned by a jury pursuant to Rule 49. When the court directs that a party recover only money or costs or that all relief be denied, the clerk shall enter judgment forthwith upon receipt by him of the direction; but when the court directs entry of judgment for other relief, the judge shall promptly settle or approve the form of the judgment and direct that it be entered by the clerk.]~~ The filing of the judgment in the office of the clerk constitutes the entry of the judgment; and the judgment is not effective before such entry. The entry of the judgment shall not be delayed for the taxing of costs. Every judgment shall be set forth on a separate document.

**PROPOSED AMENDMENT TO
RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAII**
(Deleted material is bracketed and stricken; new material is underlined)

**[RCCH] 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 [~~that requires settlement and approval by a judge~~], 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 the approval as to form of opposing parties thereon, and following such approval deliver the original and one 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 opposing party shall promptly approve as to form. In the event a proposed judgment, decree or order is not approved as to form by an opposing party within 5 days of a written request for such approval, the prevailing party shall deliver the original and one 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 thereafter serve upon the prevailing party and deliver to the court a statement of that party's objections and the reasons therefor, and the form of the party's proposed judgment, decree or order, and 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 prevailing 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 of Judgment; Sanctions. If a proposed judgment is consistent with the verdict of the jury or the decision of the court, the court shall cause the judgment to be entered forthwith. If a proposed judgment is not consistent with the verdict of the jury or the decision of the court, the court shall require submission of a conforming judgment. The court may impose a monetary sanction against a party who submits a defective or untimely judgment.

(e) Request for Entry of Judgment. If the prevailing party or a party ordered to prepare the judgment fails to timely submit the proposed judgment to the court, any other party may present a proposed judgment to the court for approval and entry.