

**RULES OF THE
SMALL CLAIMS DIVISION
OF THE DISTRICT COURTS**

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

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With Amendments as Noted**

**The Judiciary
State of Hawai'i**

RULES OF THE SMALL CLAIMS DIVISION OF THE DISTRICT COURTS

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**RULES OF THE SMALL CLAIMS
DIVISION OF THE DISTRICT COURTS**

Rule 1. SCOPE OF RULES.

These rules govern the practice and procedure in the Small Claims Division of the District Courts of the State. They shall be construed to secure the just, speedy and inexpensive determination of every action.

Rule 2. COMMENCEMENT OF ACTION.

An action is commenced by filing a statement of claim with the clerk of the court. The venue of an action is within the judicial circuit provided by statute. The complaint shall be filed in the appropriate division of the judicial circuit, as provided by Rule 3(c) of the District Court Rules of Civil Procedure.

Rule 3. NOTICE AND SERVICE.

(a) Notice. Upon filing of a statement of claim, the clerk shall forthwith sign and issue a notice, which shall contain a notification to the defendant that upon failure to attend at the time and place designated in the notice, judgment by default will be rendered.

(b) Hearing date. The date set for the hearing shall be not less than 5 nor more than 30 days from the date of filing of the action.

(c) Service. The notice and the statement of claim shall be served by a person authorized to serve process, or by registered or certified mail with return receipt requested, to be delivered to addressee only. In case of service by mail, the mailing of the papers must be shown under oath or by certification by the clerk on the docket, and a return receipt must be filed showing delivery to the addressee within the circuit. Personal service and return thereof may be made in the manner prescribed for cases in the district courts.

(d) Time of service. Every original notice issued out of a court not served 48 hours before the date of hearing specified in the notice shall be returned to the court for reissue.

(Amended December 10, 2003, effective January 1, 2004.)

Rule 4. DELETED.

Rule 5. PLACE OF SERVICE.

Service of process shall be made within the judicial circuit in which the court is situated; provided, however, subpoena may be served anywhere in the State when endorsed with proper words of authority by the circuit judge of the judicial circuit in which the court issuing the subpoena is situated.

Rule 6. GENERAL DENIAL; COUNTER-CLAIM.

(a) General denial. A denial by the defendant of the statement of claim shall be deemed to render available to the defendant any other matter constituting an avoidance, affirmative defense, or set-off.

(b) Counterclaim. If the defendant asserts a counterclaim, a formal and concise plea shall be filed. A counterclaim may be in the form of a statement of claim. Any counterclaim for the recovery of money may be asserted in the small claims division if it could be asserted in the regular division of the district court. Service of the counterclaim may be made by mail.

(c) Separate trial. Rule 42(b) of the District Court Rules of Civil Procedure applies to a counterclaim.

(Amended December 10, 2003, effective January 1, 2004.)

Rule 7. JURY TRIAL.

When a party entitled to a trial by jury files a demand therefor prior to trial and pays to the clerk of the district court such costs for jury trial as are payable to the circuit court, the case shall be transferred to the circuit court for trial by jury.

Rule 8. PRETRIAL CONFERENCE.

In any action the court may, in its discretion, direct the parties to appear before it for a conference to consider:

- (a) A simplification of the issues;
- (b) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; and
- (c) Such other matters as may aid in the disposition of the action.

Rule 9. RULES OF EVIDENCE.

The court shall not be bound by rules of evidence except provisions relating to privileged communications.

Rule 10. DEFAULT; WANT OF PROSECUTION.

(a) Default. Judgment by default may be rendered on a verified claim without further proof upon failure of defendant to appear, if the claim is for a liquidated amount. If the amount is unliquidated, plaintiff must present proof of the claim.

A default judgment also may be entered on an admitted claim, upon the lapse of such time as the court may allow for the payment of the claim.

(b) Want of prosecution. If the plaintiff fails to appear for the hearing and in any other case of want of prosecution, the court may dismiss the case without prejudice, or may order judgment for defendant on the merits.

(Amended December 10, 2003, effective January 1, 2004.)

Rule 11. NOTICE OF ENTRY OF JUDGMENT.

(a) When all parties have appeared. Notice of entry of judgment shall be given by the clerk to each party who is not in default.

(b) Default judgment. A notice of entry of a default judgment shall be served by the plaintiff on the defendant. It shall be sufficient if a copy of the judgment showing the date of entry is mailed to defendant's last known address.

(c) Entry of judgment. Rule 58 of the District Court Rules of Civil Procedure shall apply to the entry of the judgment.

Rule 12. RELIEF FROM JUDGMENT.

(a) Setting aside judgment. The court may alter or set aside any judgment upon application made within 10 days after entry of judgment. Appropriate relief may be granted in case of failure to receive prompt notice of entry of judgment.

(b) No right of appeal. A party may not appeal from a judgment of the small claims division.

Rule 13. ENFORCEMENT OF JUDGMENT.

Examination of the judgment debtor, garnishee process, execution, and all other remedies available under the ordinary practice and procedure in the regular division of the district courts are available in the small claims division when the time for obtaining relief from the judgment has expired. However, a judgment creditor who presents to the employer of the judgment debtor papers requiring the employer to either file a disclosure or withhold and pay over portions of the wages of the judgment debtor shall, in addition to meeting the statutory requirements, (1) file with the court copies of the papers if not already on file and deposit the statutory fee for a garnishee's disclosure; and (2) furnish to the employer directions as to the amount to be withheld from the judgment debtor's wages per week or month, in a form approved by the court.

(Amended December 10, 2003, effective January 1, 2004.)