

Frequently Asked Questions (FAQs)*

This information is intended to provide a brief overview of frequently asked questions (FAQs) about appeals to the Hawai'i Intermediate Court of Appeals (ICA). We hope that you find these FAQs to be helpful and informative.

Please note that these FAQs do not constitute legal advice and must not be cited as legal authority. They do not replace or modify the Hawaii Revised Statutes (HRS), the Hawai'i Rules of Appellate Procedure (HRAP), or the Rules of the Intermediate Court of Appeals (RICA), which are all subject to revision and amendment. Failure to comply with statutes, rules, and Hawai'i case law that govern the appeal process may result in dismissal of an appeal. Therefore, the current version of the statutes and rules and all relevant case law should be consulted when filing an appeal.

**NOTE: These FAQs do not cover the appellate process before the Hawai'i Supreme Court. For further information about appeals before the supreme court, please see the Hawaii Revised Statutes and the Hawai'i Rules of Appellate Procedure.*

Glossary

Affidavit. A written statement of facts signed by a person in the presence of an officer authorized to administer oaths, such as a notary public, after the person has first declared under oath that the facts contained in the statement are true. (Compare with definition of "declaration.")

Agency. A board, commission, department, council, committee, entity, or officer of the State of Hawai'i, or its political subdivisions, that is authorized by law to adjudicate contested cases or issue declaratory rulings that may be appealed directly to an appellate court. See [HRAP Rule 2.1\(b\)](#).

Agency Hearing. A hearing held by an agency immediately prior to judicial review of a contested case pursuant to [HRS § 91-14](#). See [HRS § 91-1\(6\)](#).

Appellant. A party who files an appeal from the decision of a district, family, or circuit court, or an agency of the State of Hawai'i, or its political subdivisions, usually seeking to have the decision reversed or vacated.

Appellate Clerk. Any clerk, deputy, or assistant clerk of the Hawai'i appellate courts. See [HRAP Rule 2.1\(b\)](#) and [HRS § 606-1\(a\) and \(2\)](#).

Appellate Court(s) or Hawai'i Appellate Court(s). The Hawai'i Supreme Court and the Hawai'i Intermediate Court of Appeals, collectively and individually. The term does not include the land or tax appeal courts. See [HRAP Rule 2.1\(b\)](#).

Appellee. All parties to an appeal other than the appellant are referred to as appellees. See [HRAP Rule 3\(d\)](#).

Brief. A document addressed to an appellate court, setting out a party's legal and factual arguments and the authorities supporting those arguments.

Certiorari. A writ issued at the discretion of the Hawai'i Supreme Court, directing that the Intermediate Court of Appeals deliver the record in a case to the supreme court for its review.

Chief Clerk. The clerk of the Hawai'i Supreme Court.

Claimant. A party asserting a right or making a demand.

Civil Case. A non-criminal lawsuit in which one party sues another. Examples of civil cases include lawsuits to (1) recover money, real property, or personal property; (2) enforce a contract or obligation; (3) collect damages for injuries due to someone else's fault; (4) protect or enforce a private or civil right; (5) probate a will; or (6) seek a divorce.

Contested Case. An agency proceeding to determine the legal rights, duties, or privileges of specific parties. See [HRS § 91-1\(5\)](#).

Criminal Case. An action brought by the government, seeking to punish a defendant accused of committing a crime or offense in violation of a statute, ordinance, or administrative rule.

Declarant. A person who has made a statement or signed a declaration.

Declaration. A written statement of facts signed by a person, affirming in writing under penalty of perjury, that the facts contained in the statement are true. Unlike an affidavit, a declaration is not made under oath in the presence of an officer authorized to administer oaths, such as a notary public. See [HRAP Rule 52](#).

Defendant. A party sued in a civil proceeding or accused of committing an offense in a criminal proceeding.

District Court Rules of Civil Procedure (DCRCP). The rules adopted by the Hawai'i Supreme Court, governing the procedure in the district courts of the State in all suits of a civil nature, except those proceedings specified in [DCRCP Rule 81](#).

Ex Officio. By virtue or because of an office or official position.

Ex Parte. A Latin term meaning "on one side only; by or for one party." The term is used in connection with action taken by a party, such as filing a document with the court, without notice to the other party(ies). The term is also used to describe communications in which a party to a case, or someone involved with a party, talks or writes to or otherwise communicates directly with a judge about the issues in a case without the other party's(ies') knowledge. Under the Judicial Code of Conduct, judges may not permit or consider ex parte communications in deciding a case, unless expressly allowed by law.

Hawai'i Family Court Rules (HFCR). The rules adopted by the Hawai'i Supreme Court, governing the procedure in the family courts of the State in all cases of a civil nature over which the family courts have exclusive, original jurisdiction. See [HFCR Rules 1, 2, and 81](#).

Hawaii Revised Statutes (HRS). The official compilation of Hawai'i statutes published by the Hawai'i Revisor of Statutes. See <http://www.capitol.hawaii.gov>.

Hawai'i Rules of Appellate Procedure (HRAP). The rules adopted by the Hawai'i Supreme Court, governing all proceedings in the Hawai'i appellate courts, except as otherwise provided by statute, Rules of the Supreme Court, or Rules of the Intermediate Court of Appeals. See [HRAP Rule 1\(a\)](#).

Hawai'i Rules of Civil Procedure (HRCP). The rules adopted by the Hawai'i Supreme Court, governing the procedure in the circuit courts of the State in all cases of a civil nature, except those proceedings specified in [HRCP Rule 81](#).

Hawaii Rules of Evidence (HRE). The rules enacted by the Hawai'i Legislature and codified in HRS chapter 626 that govern the admissibility of what is offered as proof into the record of proceedings in the courts of the State.

Hawai'i Rules of Penal Procedure (HRPP). The rules adopted by the Hawai'i Supreme Court, governing the procedure in the courts of the State in all cases of a penal (criminal) nature, except those proceedings specified in [HRPP Rule 54](#). The HRPP also applies to criminal cases against adults who are tried in the family courts of the State. See [HFCR Rule 81\(c\)](#).

Interlocutory Appeal. An appeal from an interlocutory order filed prior to a trial court or agency entering its final order or judgment on the entire case.

Interlocutory Order. An order issued by a trial court or agency, addressing some intermediate matter in a case prior to the trial court or agency fully resolving all issues

in the case. While most interlocutory orders are not appealable until the case is finally and totally resolved, certain interlocutory orders may be appealable, pursuant to rule, statute, or case law.

Intermediate Court of Appeals (ICA). The Hawai'i Intermediate Court of Appeals. See [HRS chapter 602, part II](#).

Intervenor. A party who voluntarily enters a pending lawsuit.

Jurisdiction. The legal authority of a court to hear and decide a case. The two major aspects of a court's jurisdiction are: (1) subject-matter jurisdiction, which authorizes a court to hear a particular type of case; and (2) personal jurisdiction, which authorizes a court to subject a party in a proceeding to the court's decisions, rulings, and judgment.

Motion. An oral or written application, requesting a court or agency to make a specific ruling or order.

Order. An oral or written command of a court or agency.

Party. The named plaintiff, defendant, petitioner, respondent, claimant, or intervenor in a court or agency proceeding, and anyone who has standing to seek review of a court or agency order or judgment. See [HRAP Rule 2.1\(b\)](#).

Petition. An application filed with a court, asking that the court correct or remedy a wrong or grant a request.

Petitioner. A party who presents a petition to a court or agency.

Plaintiff. A party who brings a court action.

Proof of Service. A document filed with a court or agency, providing evidence that a document was served on a party by personal delivery or U.S. mail. Service on a party represented by counsel must be made on counsel. Service may be proved by acknowledgment of service by the person served or by a statement by the person making service, certifying the date, manner of service (personal delivery or U.S. mail), and the name of the person served. All documents filed with the ICA must be accompanied by proof of service. Additionally, if the time to respond to a served document begins with the filing date of the document, a file-marked copy of the document must be served on all other parties promptly after filing, and proof of service of the file-marked document must be filed with the ICA. See [HRAP Rule 25](#).

Pro Se. A person who appears on his or her own behalf in a court or agency proceeding; a person who is not represented by an attorney.

Remand. To send a case back to the court or agency whose judgment or order was appealed, for further action.

Respondent. A party who answers or opposes a petition.

Reverse. To overturn a court or agency's judgment or order on appeal. A reversal ends a litigation on the merits. See [HRAP Rule 35\(e\)](#).

Rules of the Circuit Courts of the State of Hawai'i (RCCH). The rules adopted by the Hawai'i Supreme Court, governing the practice and procedure in all circuit courts of the State.

Rules of the District Courts of the State of Hawai‘i (RDCH). The rules adopted by the Hawai‘i Supreme Court, governing the practice and procedure in all district courts of the State.

Rules of the Intermediate Court of Appeals (RICA). The rules adopted by the Hawai‘i Supreme Court, governing the procedure in the ICA.

State. The State of Hawai‘i.

Statute. A law passed by a legislative body, such as the Hawai‘i Legislature.

Supersedeas Bond. "A supersedeas bond is [a] bond required on one who petitions to set aside a judgment or execution and from which the other party may be made whole if the action is unsuccessful." Enos v. Pacific Transfer & Warehouse, Inc., 79 Hawai‘i 452 n.2, 454, 903 P.2d 1273, 1275 n.2 (citing Black's Law Dictionary at 1437 (6th ed. 1990)).

Supreme Court. The Hawai‘i Supreme Court. See [HRS chapter 602, part I](#).

Transcript. A typed or printed copy, usually prepared by a court reporter, of the word-for-word testimony given orally at a trial or hearing.

Vacate. To nullify, cancel, or invalidate a court or agency's judgment or order. When the ICA vacates and remands a case on appeal, the litigation continues in the court or agency whose judgment or order was appealed, pursuant to the instruction of the ICA. See [HRAP Rule 35\(e\)](#).

About the Intermediate Court of Appeals (ICA)

1. What is the ICA?

The ICA is an appellate court that is "intermediate" between the Hawai'i trial courts and the Hawai'i Supreme Court. Most cases appealed from a Hawai'i trial court (i.e., district, family, or circuit court) go directly to the ICA to be decided. However, a party to an appeal who wishes to bypass the ICA may apply to transfer the appeal to the supreme court. See [HRS § 602-58](#) and [HRAP Rule 40.2](#).

The ICA consists of a chief judge and five associate [judges](#). See [HRS § 602-51](#).

2. What is the ICA's jurisdiction?

Except when a case appealable to the ICA is transferred to the supreme court, the ICA has jurisdiction to: (1) hear and determine appeals from any trial court or agency when appeals are allowed by law; (2) entertain, at its discretion, any case submitted without suit when there is a question of law that could be the subject of a civil action or proceeding in the circuit or tax appeal court and the parties agree upon the facts in controversy; and (3) make or issue any order or writ necessary or appropriate in the aid of its jurisdiction. See [HRS § 602-57](#).

3. Who and when can I call to ask a question?

The staff of the Chief Clerk's Office is available to answer administrative questions during normal business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, excluding holidays). The staff is not allowed to give legal advice or make specific recommendations on how to pursue or defend against an appeal. Click [here](#) for contact information for the Chief Clerk's Office.

Do not contact the ICA judges or their staff directly. This may constitute an [ex parte communication](#), which is not allowed.

4. When and where does the ICA accept filings for appeals?

The Chief Clerk's Office accepts filings for both the supreme court and the ICA from 7:45 a.m. to 4:15 p.m., Monday through Friday, excluding holidays. The Chief Clerk's Office is located on the first floor of Ali'iolani Hale, 417 South King Street, Honolulu, Hawai'i 96813-2902. Ali'iolani Hale is the building located behind the King Kamehameha statue. The mailing address is the same as the street address.

5. What holidays does the ICA observe?

The ICA observes and is closed on all state holidays. See [HRS § 8-1](#) for a list of established state holidays. If the deadline for filing a document falls on a Saturday, Sunday, or state holiday, the document must be filed no later than the close of business on the next day that is not a Saturday, Sunday, or holiday. See [HRAP Rule 26\(a\)](#).

About the ICA Judges

1. How are the ICA judges selected?

The Governor, with the consent of the Senate, fills judge vacancies on the ICA by appointing a person from a list of between four and six nominees presented to the Governor by the Judicial Selection Commission (JSC). See [Hawai'i Constitution, article VI, § 3](#).

2. Which ICA judges will consider the merits of my appeal?

A panel of three ICA judges, randomly selected by the appellate clerk, is assigned to each case to decide the case on the merits (merit panel). See [HRS § 602-55](#) and [HRAP Rule 45\(f\)\(1\)](#). Once a three-judge merit panel is selected, the chief judge designates a lead judge from among the panel members. See [RICA Rule 4](#). The lead judge typically writes a draft of the opinion or order resolving the case. To decide a case, at least two of the judges on the panel must agree on the final opinion or order.

If a judge assigned to a merit panel is disqualified, recused, or unavailable to decide a case due to a conflict of interest or any other reason, the appellate clerk randomly selects a substitute judge. See [HRAP Rule 45\(f\)\(6\)](#).

3. Which ICA judges will consider motions filed in a case on appeal?

A motions panel of three ICA judges is designated by the chief judge to consider and determine motions that are filed before a case is assigned to a merit panel. The chief judge also designates one or more of the motions panel judges to consider and determine motions that may be acted on by one judge. If a judge assigned to a motions panel is disqualified, recused, or unavailable to decide a motion due to a conflict of interest or any other reason, the chief judge may designate any other judge to serve as a substitute on the motions panel. See [RICA Rule 4\(a\)\(ii\)](#).

Beginning an Appeal

1. What is an appeal?

An appeal is a request to an appellate court to review and change the judgment or order of a court or agency appealed from due to alleged error committed by the court or agency. An appeal asks an appellate court to review whether the court or agency appealed from made the right decision or followed the correct procedure in making its decision. "The right of appeal is purely statutory and exists only when given by some constitutional or statutory provision." *Chambers v. Leavey*, 60 Haw. 52, 57, 587 P.2d 807, 810 (1978).

Generally, a ruling by a court or agency on the facts, evidence, or procedural matters must have been opposed or objected to in the court or agency before any challenge to such ruling will be considered on appeal. An exception to this rule exists for "plain errors or defects" that affect substantial rights. See [HRAP Rule 28\(b\)\(4\)](#); [HRPP Rule 52](#); and [HRE Rule 103](#).

2. Who can appeal?

Generally, only parties to a court or agency proceeding may appeal. A person who is not a licensed attorney may not appeal or file documents with the ICA for another party. This would constitute unauthorized practice of law and may subject the unlicensed individual to criminal penalties. See [HRS § 605-14](#) and [Hawai'i Rules of Professional Conduct Rule 5.5](#).

A corporation filing an appeal must be represented by a licensed attorney and may not be represented by an employee or officer of the corporation.

3. Which court decisions in a civil case can be appealed?

Appeals in civil cases may generally be taken only from "*final* judgments, orders, or decrees," see [HRS §§ 641-1\(a\)](#) and [571-54](#); certified interlocutory orders, see [HRCF Rule 54\(b\)](#) and [DCRCP Rule 54\(b\)](#); and special classes of decisions, such as collateral orders, that are immediately appealable when entered. Appeals from interlocutory orders generally are not allowed.

Warning: What constitutes a final judgment, order or decree, or other appealable order is a very complex legal issue. Therefore, the applicable statutes, rules, and case law should be consulted carefully and the advice of an attorney sought to determine whether and when a final judgment, order, or decree is appealable.

4. Which court decisions in a criminal case can be appealed by a defendant?

In circuit and circuit family court criminal cases, a defendant "aggrieved by the judgment" may appeal to the ICA. "The sentence of the court in a criminal case shall be the judgment." See [HRS §§ 641-11](#) and [571-54](#).

Additionally, a defendant may, under certain circumstances, appeal certain interlocutory orders, decisions, or judgments entered by a circuit court in a criminal case. See [HRS § 641-17](#).

In district and district family court criminal cases, a defendant may appeal from "all final decisions and final judgments[.]" See [HRS § 641-12](#). The sentence of the district court is the judgment. *State v. Masaniai*, 7 Haw. App. 586, 588, 788 P.2d 176, 177 (1990), *overruled on other grounds by State v. Hicks*, 71 Haw. 564, 567, 798 P.2d 906, 907 (1990).

5. Which agency decisions are appealable directly to the ICA?

Typically, appeals of agency decisions must be filed with the circuit courts.

You may appeal directly to the ICA only when a statute authorizes a direct appeal from: (1) preliminary rulings, final decisions, and final orders of an agency that are entered after an agency hearing on a contested case, see [HRS § 91-14\(b\)](#); or (2) declaratory rulings or orders of an agency as to the applicability of statutory provisions, rules, or orders, see [HRS § 91-8](#).

6. Are there rules for filing an appeal?

Yes. All appeals to the ICA must comply with the [Hawai'i Rules of Appellate Procedure \(HRAP\)](#) and the [Rules of the Intermediate Court of Appeals \(RICA\)](#).

7. How do I file an appeal?

A party begins an appeal by filing a Notice of Appeal and paying the required fees. Filing a Notice of Appeal informs the trial court or agency that its decision is being appealed.

8. What is a cross-appeal?

If a party files a timely appeal from a decision of a court or agency, any other party may also challenge the decision by filing a cross-appeal. See [HRAP Rule 4.1](#). The appeal and cross-appeal are combined for processing, hearing, and decision by the ICA. A party who files a cross-appeal is called a "cross-appellant," and a party who responds to the cross-appeal is called a "cross-appellee."

9. Where do I file a Notice of Appeal?

For both civil and criminal cases, the Notice of Appeal must be filed with the clerk of the court whose decision is being appealed. For example, a Notice of Appeal from a district court's decision should be filed with the clerk of that district court. The clerk of the district court then transmits a copy of the Notice of Appeal to the appellate clerk. See [HRAP Rules 3](#) and [4](#). A Notice of Appeal may also be filed ex officio with any clerk of the supreme court, ICA, circuit court, or district court upon payment of an ex officio filing fee. See [HRS § 606-1\(b\)](#); [HRAP Rule 45\(e\)\(7\)](#); [RCCH Rules 2.1](#) and [2.2\(9\)](#); [HRPP Rule 42.1](#); and [RDCH Rule 2.2\(6\)](#).

For agency decisions appealed directly to the ICA, the Notice of Appeal must be filed with the appropriate agency official, who then transmits a copy to the appellate clerk. See [HRAP Rules 2.1\(b\)](#) ("clerk of the court"), [3\(a\)](#), [4\(a\)\(1\)](#), and [4\(b\)\(1\)](#).

10. What should a Notice of Appeal contain?

Pursuant to [HRAP Rule 3\(c\)](#), a Notice of Appeal must generally identify: (1) the party or parties appealing, either in the caption or the body of the Notice of Appeal; (2) the judgment, order, or part(s) thereof that the party is appealing; and (3) the court or

agency appealed from. The Notice of Appeal must also attach as an exhibit, a copy of the judgment or order being appealed. Sample forms of Notices of Appeal can be found in the appendices to the HRAP (see [Forms 1, 2, and 3](#)).

For most civil cases, a party who files an appeal or cross-appeal must file a Civil Appeal Docketing Statement (CADS) with the Notice of Appeal or Notice of Cross-Appeal. See [HRAP Rule 3.1](#) for the requirements for filing a CADS. A sample CADS form can be found in the appendices to the HRAP (see [Form 6](#)).

Finally, a Notice of Appeal must have affixed to it proof that service of the notice was made on all parties to the appeal by either mailing or delivering the notice to the counsel of record for each party or, if a party is not represented by counsel, to the party's last-known address. The clerk of the court from which an appeal is taken will permit a Notice of Appeal to be filed without the required proof of service; however, the appellant must file such proof of service within 7 days after the filing of the Notice of Appeal. See [HRAP Rule 3\(c\)\(3\)](#) and [3\(e\)](#).

11. When should I file the Notice of Appeal?

Generally, a Notice of Appeal must be filed within 30 calendar days after the court or agency appealed from enters its written judgment or appealable order. If the 30th day falls on a Saturday, Sunday, or holiday, the Notice of Appeal may be filed by the close of business of the next day that is not a Saturday, Sunday, or holiday. It is very important that the Notice of Appeal be filed within the required time period to avoid losing the right to appeal. See [HRAP Rules 4\(a\)\(1\)](#) and [4\(b\)\(1\)](#). For trial-court appeals, a judgment or order is entered when it is filed with the clerk of the trial court. For agency appeals, a judgment or order is entered when it is filed with the agency official designated to prepare the record for appeals. See [HRAP Rules 2.1\(b\)](#) ("clerk of the court"), [4\(a\)\(5\)](#), and [4\(b\)\(3\)](#). The appeal period starts when the judgment or appealable order is entered, not when a party learns of its entry.

The time for filing the Notice of Appeal in a civil case is automatically extended if, after entry of a written judgment or appealable order, a party files a *timely* motion (1) for judgment as a matter of law; (2) to amend findings or make additional findings; (3) for a new trial; (4) to reconsider, alter, or amend the judgment or order; or (5) for attorney's fees and/or costs. The extension is until 30 days after entry of the order disposing of the motion. However, if the motion is not disposed of within 90 days after the date it was filed, the motion is deemed denied as of the 90th day and the Notice of Appeal must be filed within 30 days thereafter. See [HRAP Rule 4\(a\)\(3\)](#).

In a criminal case, the time for filing a Notice of Appeal is extended if a timely motion in arrest of judgment under [HRPP Rule 34](#) or for new trial under [HRPP Rule 33](#) is made. The extension is until 30 days after entry of an order denying the motion. [HRAP Rule 4\(b\)\(2\)](#).

12. Is it possible to obtain an extension of time to file a Notice of Appeal?

Yes. In civil cases, the time for filing a Notice of Appeal may be extended by the court or agency appealed from if the appellant files a motion for an extension of time. The motion may be filed before or after expiration of the 30-day period within which to file an appeal. A motion filed before the expiration of the appeal period may be *ex parte*, unless the court or agency appealed from requires notice. See [HRAP Rule 4\(a\)\(4\)\(A\)](#); [RCCH Rule 7](#); [HFCR Rule 7](#); and [RDCH Rule 7](#). The motion must show "good cause" why the Notice of Appeal cannot be filed within the original 30-day appeal period.

A motion filed *after* expiration of the original 30-day appeal period must be filed within 30 days after the original 30-day appeal period expires (i.e., no later than 60 days after the written judgment or order appealed from was entered). Notice of the motion and notice of the hearing (or setting of the motion for hearing, if any) must be served on all parties to the appeal. The motion must show "excusable neglect" why the Notice of Appeal was not filed within the original 30-day appeal period. See [HRAP Rule 4\(a\)\(4\)\(B\)](#).

In criminal cases, the time for filing a Notice of Appeal may also be extended under the same rules for civil cases, except that the moving party must show "good cause" for motions filed either before or after expiration of the original 30-day appeal period. See [HRAP Rule 4\(b\)\(5\)](#). An ex parte motion for extension of time must be served promptly after filing upon each party, unless otherwise ordered by the court. See [HRPP Rule 49\(a\)](#).

For all cases, the time for filing the Notice of Appeal cannot be extended more than 30 days after expiration of the original 30-day appeal period. See [HRAP Rule 4\(a\)\(4\)](#) and [\(b\)\(5\)](#).

What constitutes "good cause" or "excusable neglect" is complicated, and this issue has been the subject of a number of appeals. It is always best to file a timely Notice of Appeal. Extensions are not guaranteed and failure to timely file will lead to dismissal of your appeal.

13. Who notifies the other parties that an appeal has been filed?

The appellant is required to twice notify the other parties that an appeal has been filed. First, before filing the Notice of Appeal, the appellant must mail or deliver an unfiled copy of the Notice of Appeal to the counsel of record for each party, or if a party is not represented by counsel, to the party's last-known address. Proof of this service must be affixed to the Notice of Appeal that is filed with the court or agency appealed from. [HRAP Rule 3\(c\)\(3\)](#). If the Notice of Appeal is filed without service of the unfiled Notice of Appeal on the other parties, the proof of service must be filed within 7 days after the Notice of Appeal was filed. See [HRAP Rule 3\(e\)\(1\)](#). Second, once the Notice of Appeal is filed, the appellant must serve a file-marked copy of the Notice of Appeal on all parties to the appeal, in the same manner that the unfiled copy was served on the parties. Proof of service that the file-marked copy of the Notice of Appeal was served on all parties to the appeal must be filed promptly after the filing of the Notice of Appeal.

14. What fees and costs do I need to pay to file my appeal?

A party filing an appeal must pay a \$100 fee for appellate court costs, another \$100 fee for filing a Notice of Appeal in the district or circuit court, and a \$25 surcharge for some civil actions. See [HRS §§ 607-4\(b\)\(4\)](#), [607-5\(c\)\(23\)](#), [607-5.7](#), and [607-6\(a\)](#).

15. Are court forms for filing an appeal available online?

Yes. Court forms for filing an appeal can be found on the Judiciary website under "[Court Forms](#)."

16. Must I have an attorney to file an appeal?

It depends. If you are an individual party, you do not need an attorney to file an appeal. Parties who represent themselves are called "pro se" parties. If you choose to represent

yourself, you will still be required to follow the HRAP and RICA. Before deciding to represent yourself on your appeal, you may want to consult with a licensed attorney.

It is important to note that while individuals may proceed pro se by representing themselves, they may not be represented by another person who is not a licensed attorney. Moreover, corporations and other business entities must be represented by a licensed attorney.

17. Am I entitled to be represented by a public defender or a court-appointed attorney for my appeal?

It depends. You may be entitled to be represented by a public defender or a court-appointed attorney for your appeal if you are an indigent (very low-income) person who was eligible to be represented by a public defender or a court-appointed attorney at the trial court or agency level. See, e.g., [HRS chapter 802](#) and [HRS §§ 346-234, 571-87, and 587-34](#).

18. Will filing an appeal stay (stop the enforcement of or postpone) the judgment or appealable order that I'm appealing?

No. An appeal does not stay a judgment or order.

If you wish to stay a civil judgment or order, you may file a motion with the court or agency appealed from, seeking either: a stay of the judgment or approval of a supersedeas bond; or an order suspending, modifying, restoring, or granting an injunction while your appeal is pending. The court or agency appealed from is not required to grant your motion and may require you to post a supersedeas bond or security before granting a stay or injunction. You may also file a motion for a stay with the ICA, but you must show that you filed such a motion in the court or agency appealed from and your motion was denied, or that it is not practicable to file such a motion in the court or agency appealed from. See [HRAP Rule 8](#) and [HRS § 641-3](#).

In a criminal case, the filing of a Notice of Appeal or the giving of oral notice in open court at the time of sentence by the defendant or the defendant's counsel of an intention to take an appeal may, in the discretion of the trial court, operate as a stay of execution of the sentence and thereby suspend the operation of any sentence or order of probation. The trial court may impose conditions upon which a stay is granted. See [HRS § 641-14](#) and [HRAP Rule 8](#).

The Appellate Process in the Intermediate Court of Appeals (ICA)

1. What is the Record on Appeal?

An appeal is not a new trial, and unless specifically authorized by statute, the ICA will not accept new evidence, exhibits, or other material not presented to the court or agency appealed from. An appeal determines whether the trial court or agency made a mistake in reaching its decision(s) and is decided based on the record developed in the trial court or agency. The record includes: (1) the documents filed in the court or agency appealed from; (2) written jury instructions given, or requested and refused, or modified, over objection; (3) exhibits admitted into evidence or refused; (4) transcripts prepared for the Record on Appeal; (5) for a criminal case where a sentence is being appealed, a sealed copy of the presentence investigation report; and (6) an index to the record prepared by the clerk of the court or agency appealed from. See [HRAP Rule 10\(a\)](#). It is the appellant's responsibility to make sure that the Record on Appeal is complete and sufficient for review of the points raised on appeal. See [HRAP Rule 11\(a\)](#).

Unless otherwise provided and except when the documents in the Record on Appeal are available in electronic format and accessible, the clerk of the court or agency appealed from automatically assembles, certifies, and transmits to the appellate clerk a single Record on Appeal for an appealed case, within 60 days after the Notice of Appeal is filed. See [HRAP Rule 11](#). Any document filed thereafter with the trial court or agency will not be transmitted to the ICA, unless the ICA so orders. However, timely ordered transcripts (i.e., those ordered within ten days after the Notice of Appeal was filed) and timely requested findings of fact and conclusions of law (i.e., those ordered within ten days after the Notice of Appeal was filed) that are entered after the Record on Appeal is transmitted will be transmitted to the appellate clerk as a supplemental record without further order of the ICA. See [HRAP Rules 10\(b\)](#), [10\(f\)](#), and [11\(b\)\(1\)](#).

In lieu of a Record on Appeal, the parties to an appeal may sign an agreed statement of the case, approved by the court or agency appealed from, that sets forth how the issues presented on appeal arose and were decided and the relevant facts that were alleged and proved or sought to be proved that are essential to the decision of the issues presented. See [HRAP Rule 10\(d\)](#).

2. Why is the Record on Appeal important?

The Record on Appeal is what the ICA looks at in considering the arguments on appeal. If the Record on Appeal does not include parts of the record of the proceedings that are necessary to support the arguments, the ICA may ignore such arguments.

Additionally, the filing of the Record on Appeal with the appellate clerk triggers the appellant's duties to file a statement of jurisdiction and opening brief. See [HRAP Rules 12.1](#) and [28\(b\)](#). Since each appellant is responsible for ensuring that the Record on Appeal is sufficient to review the points of error asserted, [HRAP Rule 11\(a\)](#), the appellant should monitor the preparation of the Record on Appeal and make sure that it will be complete when transmitted to the appellate clerk 60 days after the Notice of Appeal is filed. If all ordered transcripts, all written orders that resolve timely post-judgment motions, and any written findings of fact and conclusions of law that have been requested or are required to be filed for the appeal will not be complete before the Record on Appeal is transmitted to the appellate clerk, the appellant may wish to file a motion requesting the ICA to extend the time for filing the Record on Appeal. The statement of jurisdiction and opening brief will be due within 10 and 40 days,

respectively, after the Record on Appeal is filed even if the Record on Appeal is incomplete.

3. What is a Statement of Jurisdiction?

A Statement of Jurisdiction is a document that every appellant and cross-appellant must file within ten days after the Record on Appeal is filed. Its purpose is to help the ICA determine at the commencement of an appeal whether it has appellate jurisdiction to consider the appeal. The Statement of Jurisdiction must not exceed ten pages in length, not counting title page(s), indices, and the certificate of service. It must show the specific statutory or other grounds that give the ICA jurisdiction over the matter, and state the relevant procedural facts that establish jurisdiction and the relevant filing dates that establish timeliness of the appeal. The Statement of Jurisdiction must also reference the Record on Appeal for all relevant facts and dates. A copy of the judgment or order being appealed must be attached to the Statement of Jurisdiction. See [HRAP Rule 12.1](#).

For civil cases involving multiple claims or parties, the Statement of Jurisdiction shall also show, with record references and dates, how each claim was resolved with regard to each party and whether the appealed order or judgment was certified for appeal. See [HRAP Rule 12.1\(c\)\(1\)](#).

For criminal cases, the Statement of Jurisdiction must also identify the offenses involved in the appeal by statutory section and name, any sentence imposed, and the defendant's custody status. See [HRAP Rule 12.1\(c\)\(2\)](#).

4. What if I believe the ICA lacks appellate jurisdiction?

An appellee who contests the ICA's jurisdiction to consider an appeal may file a Statement Contesting Jurisdiction within ten days after the Record on Appeal is filed. See [HRAP Rule 12.1\(a\)](#).

5. Do I need to order transcripts for them to be included in the Record on Appeal?

It depends. A transcript shows in writing what evidence and arguments were orally placed before the court or agency appealed from and may be required for a proper review of a case on appeal. It is the appellant's responsibility to request and pay for any transcript of a trial or hearing if the appellant claims error in what was orally said. Failure to do so can result in the appeal of that issue being denied. See *Bettencourt v. Bettencourt*, 80 Hawai'i 225, 230, 909 P.2d 553, 558 (1995). Transcripts are also required for any appeal that argues that a finding or conclusion made by the court or agency appealed from is unsupported by the evidence or is contrary to the evidence. See [HRAP Rule 10\(b\)\(1\)](#) and [\(3\)](#).

6. What if I don't want to request any transcripts or only want transcripts of certain proceedings?

An appellant who determines that transcripts are not necessary for his or her appeal must, within ten days after filing the Notice of Appeal: (1) file with the appellate clerk a certificate stating that no transcripts will be prepared, and (2) serve a copy of the certificate on each appellee. See [HRAP Rule 10\(b\)\(2\)](#).

If an appellant does not order transcripts of *all* proceedings in the trial court or agency appealed from, the appellant must, within ten days after filing the Notice of Appeal:

(1) file with the appellate clerk a statement of points of error that the appellant intends to raise on appeal, and (2) serve a copy of the statement on each appellee. If an appellee believes that other transcripts are necessary for resolution of the appeal, the appellee must, within ten days after service of the statement of points of error: (1) file with the appellate clerk a list of additional transcripts to be prepared and included in the record, and (2) serve a copy of the list on the appellant. Unless the appellant orders the additional transcripts and so notifies the appellee within ten days after service of the appellee's list, the appellee may, within the following ten days, either (1) order the additional transcripts, or (2) file a motion with the trial court or agency appealed from, seeking an order requiring the appellant to do so. See [HRAP Rule 10\(b\)\(2\)](#) and [\(4\)](#).

7. When and how do I order transcripts?

Within ten days after filing the Notice of Appeal, the appellant must file with the clerk of the court or agency appealed from a request to prepare all transcript(s) that the appellant deems necessary for appeal that are not already on file in the record of the trial court or agency's proceedings. Each request must include: (1) the name of the judge or agency that heard the proceedings; (2) the name of the court reporter who is responsible for preparing the transcript of the proceedings, or, if the proceedings were recorded, the name of the supervising court reporter, or, if there is no supervising court reporter, the name of the administrator of the court or agency appealed from; (3) the date(s) of the trial or hearing(s) to be transcribed; and (4) the portions of the transcript requested. See [HRAP Rule 10\(b\)\(1\)](#).

When filing a request, the appellant must, unless exempt from prepayment requirements, either: (1) deposit the approximate cost of the transcript fees, as computed by the court reporter or as based on a rate of \$150 for each hour of proceedings to be transcribed; or (2) submit a certificate signed by the court reporter that the fees have been paid or waived. See [HRAP Rule 10\(b\)\(1\)\(B\)\(iv\)](#).

Within five days of filing a request for transcripts, the appellant must deliver or mail a file-stamped copy of the request and accompanying documents to: (1) the court reporter/supervising court reporter/court administrator who is being requested to prepare the transcript(s); and (2) either the counsel for all other parties or the parties themselves, if not represented by counsel. See [HRAP Rule 10\(b\)\(1\)\(D\)](#).

8. What happens if a requested transcript of a proceeding is not prepared?

If a court reporter refuses, becomes unable, or fails to prepare the transcripts as requested, the party requesting the transcripts may either request that another court reporter be assigned to prepare the transcripts, or prepare a statement of the evidence or proceedings from the best available means and serve the statement on the opposing party(ies), who may file objections or proposed amendments within ten days after service of the statement. The statement and any objections or proposed amendments to the statement must be submitted to the court or agency appealed from for settlement and approval, and as settled and approved, shall be included in the Record on Appeal by the clerk of the court or agency appealed from. See [HRAP Rule 10\(c\)](#).

9. How do I request that findings of fact and conclusions of law be entered?

For some types of cases, the court appealed from is required to enter findings of fact and conclusions of law only after a Notice of Appeal is filed. See, e.g., [HFCR Rule 52\(a\)](#) and [DCRCP Rule 52\(c\)](#). In such cases, the appellant shall, no later than ten days after filing

the Notice of Appeal, file in the court appealed from a request for entry of findings of fact and conclusions of law, naming the judge who tried the case and entered the order, judgment, or decree appealed from. The named judge then has 28 days to enter the requested findings of fact and conclusions of law. See [HRAP Rule 10\(f\)](#).

Agencies typically file findings of fact and conclusions of law automatically upon entry of their decision. See [HRS § 91-12](#).

10. What is a brief?

Each party to an appeal prepares a brief, which is a document that sets out each party's legal and factual arguments, and the legal authorities supporting those arguments. Briefs are very important because they may be the only opportunity for parties to present their arguments to the ICA. If oral argument is scheduled, a party who has not filed a brief will not have the opportunity to be heard, unless the ICA directs otherwise. See [HRAP Rule 34\(h\)](#).

Generally, there are three types of briefs on appeal: opening brief, answering brief, and reply brief. Each brief must be filed with the appellate clerk and copies must be provided to all parties.

If you are the appellant or cross-appellant, you must submit an opening brief within 40 days after the Record on Appeal is filed with the appellate clerk. If you are the appellee or cross-appellee, you must submit an answering brief within 40 days after the appellant's or cross-appellant's opening brief is served or received, as evidenced by an acknowledgment of service, whichever is later. An appellant or cross-appellant may file a reply brief that responds to the issues presented in the appellee's answering brief. The reply brief, or a statement that no reply brief will be filed, is due within 14 days after service or receipt of the appellee's answering brief, whichever is later. See [HRAP Rule 28](#).

11. What should my brief contain and look like?

Generally, all briefs must be double spaced or one-and-one-half spaced and printed in 12-point font on 8 1/2- inch by 11- inch white paper. Excluding indexes, appendices, and statements of related cases, opening and answering briefs must not exceed 35 pages, and reply briefs must not exceed ten pages. An opening brief must generally contain: (1) a subject index; (2) a table of authorities; (3) a concise statement of the case, with record references; (4) a concise statement of the points of error, with record references of the alleged errors and objections thereto, if any; (5) applicable standards of review; (6) the argument, with record references and citations to legal authorities; (7) relevant parts of constitutional provisions, statutes, ordinances, treaties, regulations, or rules pertaining to the points on appeal; (8) a conclusion, specifying with particularity the relief sought; (9) an appendix; and (10) a statement of related cases. The format for answering briefs is similar to that for opening briefs, except that a points-of-error section is not required for answering briefs. See [HRAP Rules 28](#) and [32](#) for more information on briefs.

Be sure to comply with HRAP Rule 28 when preparing your brief(s). Non-compliant briefs may incur sanctions, at the ICA's discretion. See [HRAP Rules 28\(b\)](#) and [30](#). Failure to discernibly argue a point on appeal or support such argument with citations to the record and relevant legal authorities may be deemed a waiver or abandonment of the point on appeal. *Berkness v. Hawaiian Elec. Co.*, 51 Haw. 437, 438, 462 P.2d 196, 197 (1969).

12. How many copies of my brief should I file and serve?

According to [HRAP Rule 32.1\(a\)](#), parties must file the original and five copies of each brief with the appellate clerk. Additionally, two copies of each brief must be served on each of the other parties to the appeal. See [HRAP Rule 28\(a\)](#). See [Appendix A](#) to the HRAP for the required number of copies to be filed of various documents.

13. What happens if my brief is due on a weekend or holiday?

When the deadline for filing a document falls on a weekend or holiday, the deadline moves to the next work day. See [HRAP Rule 26\(a\)](#).

14. When is my brief considered filed?

Briefs and their appendices are considered filed when received in person by the appellate clerk or mailed, postage prepaid, via first-class mail (or its equivalent in terms of delivery speed). When a brief is mailed, the appellate clerk cuts the cancellation date stamp (the post-mark) from the package and attaches it to the front page of the original brief. The time stamp on the brief is not backdated, but an entry on the docket sheet is made, stating that the brief was postmarked on a specific date pursuant to [HRAP Rule 25](#). *NOTE:* The rule that the date of mailing (post-mark) is deemed to be the filing date does *not* apply to other documents filed with the appellate clerk. See [HRAP Rule 25\(a\)](#).

15. Is it possible to obtain an extension of time for filing my brief?

Yes. According to [HRAP Rule 29](#), if you make a timely request, the appellate clerk shall grant one extension of no more than 30 days for filing an opening or answering brief and no more than ten days for filing a reply brief. The request may be made orally, by written motion, or by letter and must be received by the appellate clerk within the original time for filing the brief. The appellate clerk will note on the record that the extension was granted and the new date the brief is due. The requesting party must notify all other parties that the extension was granted and file with the appellate clerk a copy of the notice.

Any further extensions of time to file a brief must be requested by written motion. A judge will approve the motion only upon a showing of good cause.

16. How do I ask the ICA to do something?

All requests to the ICA must be made by written motion, with proof of service on all other parties. The motion should state the specific grounds for the motion and the relief or action sought from the court, and may be supported by a memorandum, affidavit, declaration, or other papers. All supporting documentation must be filed with the motion. A party may oppose the motion by filing a written response in opposition to the motion within five days after service of the motion. Motions generally have a three-page limit, and memoranda in support of or in opposition to motions may not exceed 20 pages. See [HRAP Rule 27](#).

About Oral Argument

1. What is oral argument?

Generally, the ICA decides cases based on the written briefs. Occasionally, the ICA will hear oral (spoken) argument. At these hearings, each side to an appeal is allowed 20-30 minutes to argue its case. The appellant is typically allowed to reserve a short amount of the appellant's allotted time for rebuttal.

At oral argument, the ICA judges question each party's attorney(s) (or the parties themselves, if not represented by counsel) about the evidence presented to the court or agency appealed from and the requirements of the law. Attorneys and pro se parties participating in oral argument should listen carefully to the judges' questions and answer them fully and directly, keeping in mind that the purpose of oral argument is to convince the ICA judges that their position is correct. They should, therefore, be well-prepared to discuss the points of error, the evidence in the record, and the legal authorities in support of and in opposition to their position. See [HRAP Rule 34](#) for more information on oral argument.

In cases where oral argument is heard, the ICA's opinion is based on both the written briefs and oral arguments presented.

2. How often does the ICA hear oral argument?

Oral argument is heard in only a small percentage of cases, generally when the ICA determines that oral argument would be helpful in deciding a case. Currently, the second Wednesday of each month has been set aside for oral argument.

3. Can I request oral argument for my case?

Yes. For those cases that the ICA considers appropriate for disposition without oral argument, an order stating that no oral argument will be held is entered by the court and mailed to the parties. Within ten days after the mailing of the order, any party may file a motion for retention of oral argument, supported by a statement of reasons. The ICA may grant or deny such motion, and the ICA's decision is not subject to review or reconsideration. See [HRAP Rule 34\(c\)](#).

4. Where and when does oral argument before the ICA take place?

Generally, oral argument before the ICA is heard in the courtroom of the Hawai'i Supreme Court, located on the second floor of Ali'iolani Hale, 417 South King Street, Honolulu, Hawai'i 96813-2902. Ali'iolani Hale is the building located behind the King Kamehameha statue. Occasionally, oral argument is heard in the moot-court courtroom at the William S. Richardson School of Law at the University of Hawai'i, or at other locations. See [HRAP Rule 34\(b\)](#).

The appellate clerk notifies the parties of the time and place of oral argument and the amount of time each side is allowed to argue. A motion to postpone argument or for extra time to argue must be filed within ten days of notification. [HRAP Rule 34\(b\)](#). The location and time of oral argument, as well as a brief description of the cases being argued, are posted on the Judiciary website.

5. Can I listen to oral argument online?

Digital-audio recordings of recent ICA oral arguments can be found on the Judiciary's website, under "[Audio Recordings Archive](#)" at the Oral Argument page.

About ICA Decisions

1. How will my case be decided?

Once all parties to a proceeding have filed their briefs, the case is sent to the ICA for a decision by a randomly selected three-judge merit panel, which carefully reviews the trial court or agency records, any transcripts submitted, and the briefs. The ICA typically does further legal research on the issues raised on appeal, and the judges decide the case by applying the relevant constitutional provisions, statutes, case law, and rules to the facts of the case.

2. How soon does the ICA issue its decision?

The length of time required to decide a case varies and depends on many factors. For example, by statute, certain types of cases are given precedence or priority on appeal. Where practicable, the ICA issues its decision or ruling within six months after oral argument or the filing of an order that no oral argument will be scheduled for the case. See [RICA Rule 3](#). Parties should be aware that the appeals process could take significantly longer, for various reasons.

3. How will I know what decision the ICA has made?

A final ICA decision on the merits of an appeal may take one of three forms:

- (1) an unpublished summary disposition order, which briefly determines the issues presented on appeal;
- (2) an unpublished memorandum opinion, which typically contains a more detailed explanation of how the ICA arrived at its decision; or
- (3) a published opinion, which is printed in the following publications: Hawaii Appellate Reports (cases from 1980 to 1994); West's Hawai'i Reports (cases from 1994 to present); and Pacific Reporter (cases from 1980 to present).

Only published opinions may be cited as precedent in any other action or proceeding. See [HRAP Rule 35](#) and [RICA Rule 2](#). However, effective July 1, 2008, unpublished opinions may be cited for persuasive value.

In any of these forms, the ICA's decision may: (1) "affirm" (agree with) the decision of the court or agency appealed from; (2) "reverse" (disagree with) the decision of the court or agency appealed from, which ends the litigation on the merits; (3) "affirm in part and reverse in part;" or (4) "vacate and remand," which returns the litigation to the court or agency appealed from, in accordance with the panel's instruction(s). Once the ICA's decision is filed, the appellate clerk promptly mails or faxes a copy of the opinion or order to each party. See [HRAP Rule 35](#).

After the ICA's final decision is filed (other than an order dismissing the appeal, which removes the case from the appellate process without a decision on the merits), the ICA prepares and files with the appellate clerk a Judgment on Appeal, signed by a judge. However, *the ICA's Judgment on Appeal does not become effective until*: (1) the 91st day after its entry; or, (2) if an Application for Writ of Certiorari is filed with the supreme court, upon entry of the supreme court's order dismissing or rejecting the application; or (3) upon entry of the supreme court's order affirming the ICA's judgment

in whole. The appellate clerk then serves on each party and on the court or agency appealed from a file-stamped copy of the Judgment on Appeal. See [HRAP Rules 36](#) and [41](#).

4. What can I do if I disagree with the ICA's decision?

Within ten days after the filing date of the opinion or order, you may file a Motion for Reconsideration of the ICA's decision. The motion must (1) specifically state the points of law or fact that you claim the ICA overlooked or misapprehended, together with a brief argument on the points raised; and (2) include a declaration by your counsel (or by yourself, if you are not represented by counsel) that the motion is presented in good faith and not to delay a final ruling. See [HRAP Rule 40](#).

You may also file an Application for Writ of Certiorari, requesting that the supreme court review the ICA's decision. The application must be filed *no later than 90 days after the ICA's Judgment on Appeal or dismissal order is filed*. Your application must state, in 12 pages or less: (1) the questions presented for decision by the supreme court; (2) prior proceedings in the case; (3) all relevant facts; and (4) an argument on how the ICA allegedly erred. Additionally, your application must clearly and concisely show that the ICA's alleged legal or factual errors were either "grave" or due to obvious inconsistencies with prior decisions of the supreme court, the federal courts, or the ICA itself. Any party may oppose an Application for Writ of Certiorari by filing and serving within 15 days of the application's filing date, a written response, arguing why the application should be rejected. See [HRAP Rule 40.1](#) and [HRS § 602-59](#).

5. Where can I view ICA decisions?

Recent ICA decisions can be viewed on the Judiciary website under "[Appellate Dispositions](#)." The decisions are organized chronologically, by the date filed. Additionally, published opinions are printed in the Hawaii Appellate Reports (for opinions from May 1980 to September 1994) or West's Hawai'i Reports (for opinions from September 1994 to present) and the Pacific Reporter, which are available to the public in the Supreme Court Law Library, 417 South King Street, Honolulu, Hawai'i.

About Attorney's Fees and Costs

1. Who can get an award of attorney's fees and costs incurred on appeal?

Attorneys appointed by the district, family, and circuit courts to represent indigent parties in criminal cases, termination-of-parental-rights cases, and other proceedings are paid in accordance with the statute authorizing their appointment. Requests for fees and costs by court-appointed attorneys for indigent appellants may be filed after briefing is completed. Such requests may be held in abeyance by the ICA until the appeal is decided on the *merits*. If oral argument is heard or additional work is performed, a request for additional fees and costs may be filed. See [HRAP Rule 39](#).

In appeals of civil cases, prevailing parties may be awarded attorney's fees only if a statute, agreement, or stipulation allows an award of such fees. However, even absent such a statute, agreement, or stipulation, a party who prevails outright on appeal may request that costs incurred on appeal be taxed against the other party(ies). If the ICA's decision affirms in part and reverses or vacates in part the trial court or agency's decision, award of costs is at the ICA's discretion.

Generally, in appeals of civil cases: (1) if the appeal or petition is dismissed, costs shall be taxed against the appellant or petitioner; (2) if the judgment of the court or agency appealed from is affirmed or the petition is denied, costs shall be taxed against the appellee or respondent; and (3) if the judgment of the court or agency appealed from is affirmed in part and reversed or vacated in part, or if the petition is granted in part and denied in part, costs shall be allowed only if ordered by the ICA. See [HRAP Rule 39](#). "Costs" are defined in [HRAP Rule 39\(c\)](#).

2. How can I get an award of attorney's fees and costs for my appeal?

To request attorney's fees and costs, a party must submit an itemized and verified bill of fees and costs, together with a statement of authority for each category of items and, if appropriate, copies of invoices, bills, vouchers, and receipts. See [HRAP Rule 39\(d\)](#). Failure to cite the authority for the request or to provide proper documentation of the costs may result in denial of the requested fees and costs. See [HRAP Rule 39](#).

Requests for fees and costs submitted by court-appointed attorneys for indigent appellants must substantially comply with [Form 7](#), found in the appendices to the HRAP, and shall have attached a copy of the order appointing the attorney. Requests for fees and costs submitted by attorneys for non-indigent appellants shall be submitted on a form that substantially complies with [Form 8](#), found in the appendices to the HRAP.

In all cases, a request for fees and costs must be filed with the appellate clerk, with proof of service, no more than 14 days after the time for filing a Motion for Reconsideration, see [HRAP Rule 40](#), has expired or such a motion has been decided. Objections to such requests must be made within ten days after the objecting party received service of the request. A reply to the objection must be made within seven days of being served with the objecting motion. [HRAP Rule 39\(d\)](#).