

Proposed **Further 2009** Amended Local Rules:
Additions appear in boldface and underline.
~~Deletions appear in boldface and strikethrough.~~
Latest revisions appear in Magenta.

LR5.5 Service of **Hard Copies of Papers and Documents** ~~filed in Hard Copy.~~

~~Any party filing a paper or document in hard copy that must be served on other parties must comply with the service requirements set forth in Rule 5 of the Federal Rules of Civil Procedure. Acceptable means of service include: 1) mailing a copy of the paper or document to all parties with a postmark of the filing day; 2) hand-delivering a copy of the paper or document to all parties on the filing day; or 3) making arrangements acceptable to the other parties for same-day service of the paper or document (email, fax, etc.). This rule applies even if the filing occurs after normal business hours.~~

Unless otherwise ordered by the court or agreed to by the parties, any party serving

(a) a hard copy of a motion (regardless of when a response is due or when a hearing will be held); or

(b) a hard copy of any other paper or document that must be served on other parties pursuant to Rule 5 of the Federal Rules of Civil Procedure and/or these local rules, and for which (1) a response is due in twenty-one (21) days or less, or (2) a hearing or conference will be held in twenty-one (21) days or less,

must serve the motion, paper, or document on the other parties on the day of filing and comply with Rule 5 of the Federal Rules of Civil Procedure (e.g., (1) by mailing a copy of the paper or document to all parties with a postmark of the filing day; (2) by hand-delivering a copy of the paper or document to all parties on the filing day; or (3) by making arrangements acceptable to the other parties for same-day service of the paper or document (email, fax, etc.)). This rule applies even if the filing occurs after normal business hours and is not satisfied by placing a document in a mailbox on the filing day after mail pick-up from

that mailbox for that day has been completed, unless the parties have agreed to such service.

LR6.1. Computation of Time.

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Rule 6(a)(4) of the Federal Rules of Civil Procedure defines "last day." This local rule alters Rule 6(a)(4), as allowed by that rule. In addition to the local rule regarding "not more than" or "not less than," " ", Rule 6(a)(4)(B) is modified as follows: with respect to papers and documents filed in hard copy with this court, the "last day" ends at 11:59 p.m. Hawaii time so long as service of the paper or document complies with LR5.5.

[Changed to 11:59 from midnight to avoid confusion]

LR10.2. Form of Papers; Copy; TRO Motions; Class Actions; Fax Rules.

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(e) Fax Signatures on Declarations and Affidavits. When it is impracticable to submit an original signature on a declaration or an affidavit along with a filing, a party and/or attorney may submit the declaration or affidavit with a fax signature. The party and/or attorney must maintain the declaration or affidavit with the original signature. ~~and file the original signature within eleven (11) days.~~ A registered user of the court's CM/ECF system may alternatively submit his or her own declaration or affidavit using "/s/ John or Jane Lawyer." Use of "/s/ John or Jane Lawyer" by a registered user of the court's CM/ECF system or use of a fax signature by anyone shall constitute the person's signature for all purposes, including Rule 11 of the Federal Rules of Civil Procedure and 28 U.S.C. § 1746.

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(g) Application for Temporary Restraining Order or Preliminary Injunction. An application for a temporary restraining order or preliminary injunction shall be made in a document separate from the complaint. To assist the court in assigning a matter to a judge who is available to handle a motion for temporary restraining order promptly, a party must file a complaint and a motion for temporary restraining order contemporaneously if the party knows at the time of preparing a

complaint that a motion for temporary restraining order will be filed within twenty-eight (28) days of when the complaint is ready to be filed. Any motion for temporary restraining order filed by a plaintiff within twenty-eight (28) days after the date the complaint is filed shall include a statement as to why the motion could not be was not filed contemporaneously with the complaint. Courtesy copies of all motions for temporary restraining orders shall be delivered to court as soon as possible.

LR54.3 Motion For Attorneys' Fees And Related Non-taxable Expenses

(a) **Time For Filing.** Unless otherwise provided by statute or ordered by the court, a motion for an award of attorneys' fees and related non-taxable expenses must be filed **and served** within fourteen (14) days of entry of judgment. Filing an appeal from the judgment does not extend the time for filing a motion.

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(f) **Responsive and Reply Memoranda.** Unless otherwise ordered by the court, any opposing party may file **and serve** a responsive memorandum within **fourteen (14) eleven (11)** days after service of the statement of consultation. The responsive memorandum in opposition to a motion for attorneys' fees and related non-taxable expenses shall identify with specificity all disputed issues of law and fact, each disputed time entry, and each disputed expense item. The moving party, unless otherwise ordered by the court, may file **and serve** a reply memorandum within **fourteen (14) seven (7) eleven (11)** days after service of the responsive memorandum. Thereafter, unless otherwise ordered by the court, the motion and supporting and opposing memoranda will be taken under advisement and a ruling will be issued without a hearing.

LR60.1. Motions for Reconsideration.

Motions seeking reconsideration of case-dispositive orders shall be governed by Rule 59 or 60 of the Federal Rules of Civil Procedure, as applicable. Motions for reconsideration of interlocutory orders may be brought only upon the following grounds:

(a) Discovery of new material facts not previously available;

- (b) Intervening change in law;
- (c) Manifest error of law or fact.

Motions asserted under subsection (c) of this rule must be filed **and served** not more than ~~ten (10)~~ **fourteen (14) business** days after the court's written order is filed. Oppositions to and replies in support of a motion for reconsideration shall be filed **and served** in accordance with Local Rules 7.2(e) and 7.4.

[Note: The first sentence emphasizes that the local rule governs only motions to reconsider interlocutory orders. The new time periods are designed to be an easy-to-recall fraction of the 28-day period in new Federal Rule of Civil Procedure 59(d) and Federal Rule of Civil Procedure 59(e).]

LR74.1. Magistrate Judges; Appeal of Non-Dispositive Matters - 28 U.S.C. § 636(b)(1)(A).

A magistrate judge may hear and determine any pretrial matter pending before the court, except those motions delineated in LR72.4(a). Any party may move for reconsideration before the magistrate judge pursuant to LR60.1. A reconsideration motion shall toll the time in which any appeal must be taken from the magistrate judge's order. Any party may appeal from a magistrate judge's order determining a motion or matter under LR72.3, or, if a reconsideration order has issued, the magistrate judge's reconsideration order, within fourteen (14) calendar days after being served with a copy of the order ~~eleven (11) calendar days from the entry of the order~~. The clerk shall serve on the parties the magistrate judge's non-dispositive order and any reconsideration order, unless the order and/or reconsideration order has been prepared by counsel, in which event counsel responsible for such preparation shall be responsible for service of the order(s) so prepared. The appealing party shall file with the clerk, and serve on the magistrate judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from after having been served with a copy thereof. Any party in interest may file **and serve** a response within fourteen (14) calendar ~~eleven (11) calendar~~ days after service thereof. Each of the above periods of fourteen (14) calendar ~~eleven (11)~~ days may be altered by the magistrate judge or a district judge. Oral argument will not be scheduled unless requested by the court. A district judge shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The district judge may also reconsider sua

sponte any matter determined by a magistrate judge under this rule. Any cross-appeal shall be filed **and served** within **four (4) two (2) working** days of the filing of an appeal or within **fourteen (14) calendar days after being served with a copy of the order eleven (11) calendar days after the filing of the magistrate judge's order**, whichever is later. Any opposition to a cross-appeal shall be filed **and served** within **fourteen (14) calendar** days of service of the cross-appeal. No reply in support of an appeal or cross-appeal shall be filed without leave of court.

The party appealing a magistrate judge's non-dispositive order shall provide the district judge with two courtesy copies of all briefs, exhibits, and orders relevant to the appeal.

[Note: The amended Federal Rule of Civil Procedure 72 and the amended 28 U.S.C. § 636(b)(1) change the various time periods from ten (10) to fourteen (14) days. The four-day period mentioned should be counted as set forth in LR1.4.]

LR74.2 Magistrate Judges; Review of Recommendations for Disposition - 28 U.S.C. § 636(b)(1)(B)

Any party may object to a magistrate judge's case dispositive order, findings, or recommendations under LR72.4, 72.5, and 72.6 within **fourteen (14) days calendar after being served with a copy of the eleven (11) calendar days after the entry of the** magistrate judge's order, findings, or recommendations. Any party may move for reconsideration before the magistrate judge pursuant to LR60.1. A reconsideration motion shall toll the time in which objections must be filed to the magistrate judge's order, findings, or recommendations; objections must be filed **and served** within **fourteen (14) calendar eleven (11)** days from entry of the order disposing of the reconsideration motion. The clerk shall serve on the parties the magistrate judge's order, findings, and recommendations and any reconsideration order, unless the order, findings, and recommendations, and/or any reconsideration order has been prepared by counsel, in which event counsel responsible for such preparation shall be responsible for service of the order, findings, recommendations, and/or reconsideration order so prepared. The objecting party shall file with the clerk, and serve on the magistrate judge and all parties, written objections that specifically identify the portions of the order, findings, or recommendations to which objection is made and the basis for such objections. Any party in interest may file **and serve** a response within **fourteen (14) calendar eleven (11) calendar** days

after service thereof. Each of the above periods of **fourteen (14) calendar eleven (11)** days may be altered by a magistrate judge or a district judge. A district judge shall make a de novo determination of those portions of the report or specified findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district judge, however, will not conduct a new hearing unless required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The district judge may exercise discretion to receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions. Cross-objections shall be filed **and served** **within four (4) days two (2) working days** of the filing of an objection or within **fourteen (14) calendar days after being served with a copy of the order, findings, or recommendations, whichever is later eleven (11) calendar days after the filing of the magistrate judge's order.** Any opposition to a cross-objection shall be filed **and served** within **fourteen (14) calendar eleven (11) calendar** days of service of the original objection. No reply in support of objections or cross-objections to a magistrate judge's case dispositive proposed order, findings, or recommendations shall be filed without leave of court.

The party objecting to a magistrate judge's case-dispositive order, findings, or recommendation shall provide the district judge with two courtesy copies of all briefs, exhibits, and orders relevant to the objections.

[Note: The amended Federal Rule of Civil Procedure 72 and the amended 28 U.S.C. § 636(b)(1) change the various time periods from ten (10) to fourteen (14) days.]

LR77.2. Clerk's Office; Location and Hours.

The offices of the clerk of this court ~~shall be are~~ **currently located** at 300 Ala Moana Boulevard, Room C-338, Honolulu, Hawaii, 96850., ~~facsimile no: (808) 541-1303.~~ The regular hours ~~shall be are currently~~ from **8:30** a.m. to ~~4:30~~ **4:00** p.m. each day, except Saturdays, Sundays, legal holidays and other days or times so ordered by the court. **The most current information regarding location and hours of operation is located on the court's website.**

LR83.12. Sealing of Information Filed With the Court.

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(b) Unless the court orders otherwise, a party seeking leave to file something under seal shall lodge a copy of the proposed sealed filing along with an appropriate motion. This motion shall specify the applicable standard for sealing the information and shall discuss how that standard has been met. Concurrently with the filing of the motion and lodging of the sealed matter, the party seeking to seal a matter must submit a proposed form of order. Copies of the lodged filing, the motion to seal, and proposed order shall be appropriately served, and two courtesy copies of each shall be delivered to the judge.

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If a party wishes to file a pleading, declaration, affidavit, document, picture, exhibit, or other matter that has been designated as confidential by another party pursuant to a protective order, or if a party wishes to refer in a memorandum or other filing to information so designated by another party, the submitting party must file and serve a motion to file the matter publicly. At the same time, the party shall lodge a copy of the pleading, declaration, affidavit, document, picture, exhibit, or other matter and submit a proposed form of order. Two courtesy copies of each shall be delivered to the judge. No later than seven (7) days after the filing of a motion to file a matter publicly, any party may file and serve written objections seeking to have all or part of the matter sealed. If no written response is filed within that period, the clerk shall automatically file the matter publicly. If written objections are received, the court will rule upon those objections and issue an appropriate order before filing the matter publicly.

LR99.7.10 Complaints and Petitions Filed by Incarcerated Individuals.

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(b) Responses. Except as otherwise ordered by the court, within thirty-five (35) days of service of a petition filed under 28 U.S.C. § 2255, all respondents named in the petition shall file with the court a response addressing the matters asserted in the petition as grounds for relief. Respondents shall attach to the response relevant portions of pretrial, trial, posttrial, appellate, collateral attack, and administrative transcripts, briefs, opinions, orders, and other matters necessary for the

court to adjudicate the proceeding. In addition to addressing the merits, respondents shall specifically address, when appropriate, all relevant procedural issues, including exhaustion, procedural default, statute of limitation, and equitable tolling.

Respondents to petitions filed pursuant to 28 U.S.C. §§ 2241, 2244, 2254, or 2255, shall attach to the response relevant portions of pretrial, trial, posttrial, appellate, collateral attack, and administrative transcripts, briefs, opinions, orders, and other matters necessary for the court to adjudicate the proceeding. In addition to addressing the merits, respondents shall specifically address, when appropriate, all relevant procedural issues, including exhaustion, procedural default, statute of limitation, and equitable tolling.

Except as otherwise ordered by the court, within thirty-five (35) days of service of a petition filed under 28 U.S.C. § 2255, all respondents named in the petition shall file with the court a response addressing the matters asserted in the petition as grounds for relief.