

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII
300 ALA MOANA BOULEVARD, C-435
HONOLULU, HAWAII 96850

JILL A. OTAKE
UNITED STATES DISTRICT JUDGE

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GENERAL CIVIL CASE PROCEDURES

BEFORE JUDGE OTAKE

Effective January 5, 2026

I. Application

These General Civil Case Procedures are rules that apply to all civil matters before Judge Otake, regardless of whether any party is self-represented. Failure to follow these rules may result in sanctions.

II. Communications with Chambers

A. Requests

Attorneys and parties requesting any action from the Court shall do so only by filing the appropriate letter or motion and shall not contact Judge Otake's chambers via email or telephone. If the request is urgent, the requesting party should send an email to otake_orders@hid.uscourts.gov, informing the Court that they have filed an urgent request.

B. Inquiries

Attorneys and self-represented parties inquiring about Judge Otake's preferred practices are to carefully read these General Civil Case Procedures and the Local Rules. If, after doing so, a question remains, counsel may email otake_orders@hid.uscourts.gov with all counsel or self-represented parties copied. Inquiries by telephone are disfavored and should be used sparingly.

III. Courtroom Activity

A. Requests for Telephonic Appearances

Counsel and pro se parties who wish to appear for hearings via telephone or video teleconference must file a letter request as soon as practicable but no later than 36 hours prior to the hearing. Judge Otake disfavors telephonic appearances for hearings on dispositive motions.

B. Continuances

Any party or parties seeking a continuance of a motion hearing must file a motion to continue the hearing, even if it is a joint request. Each continuance request should indicate which number continuance is being requested (e.g., “First Motion to Continue Summary Judgment Motion Hearing” or “Re: Third Joint Request to Continue Summary Judgment Motion Hearing”). Parties should seek continuances well in advance of the hearing date.

Parties jointly seeking a continuance of a trial more than 5 months prior to the trial date may do so via stipulation submitted to the assigned Magistrate Judge outlining the good cause for the continuance. Any party or parties seeking a continuance of a trial less than five months prior to the trial date must file a motion. Parties are advised that Judge Otake disfavors trial continuances in excess of six months. The stipulation or motion should indicate how many prior continuances of the trial have been granted, and whether the parties seek to reopen any closed deadlines or extend any current deadlines. Motions should be accompanied by a proposed order. Proposed orders should be submitted to otake_orders@hid.uscourts.gov, in Microsoft Word, with all counsel or self-represented parties copied.

C. Use of Electronic Devices

Pursuant to the Order Adopting Electronic Device Policy, effective March 18, 2014, any person may bring into the courthouse an electronic device, such as a cellular phone, smartphone, laptop, tablet, or similar device having wireless communications capability. Any such device is subject to security inspection.

No person may use an electronic device for any purpose inside Judge Otake's courtroom, except attorneys of record and members of their litigating team, who are authorized to use electronic devices only in connection with a then ongoing, case-related proceeding. If counsel are in doubt as to whether the use of an electronic device is permissible, they should ask Judge Otake for permission.

Under no circumstances shall an electronic device disrupt any court proceedings. Under no circumstances shall any camera or audio/video recording equipment be used in Judge Otake's courtroom or chambers. Anyone attending a hearing remotely shall not record any part of the hearing in any fashion.

Judge Otake may modify these general provisions at her discretion in specific cases or for specific proceedings.

IV. Complaints and Motions

A. Use of Artificial Intelligence (AI)

Attorneys, their staff, and self-represented parties are directed to review General Order 23-1 ("In re Use of Unverified Sources"), which was issued on November 13, 2023, and is available on the U.S. District Court for the District of Hawaii's website, under the "Rules & Orders" tab. Failure to follow General Order 23-1 may result in sanctions.

B. Stipulations to Dismiss

Stipulations to Dismiss should be submitted to otake_orders@hid.uscourts.gov, in Microsoft Word, with all counsel and self-represented parties copied. Attorneys and self-represented parties should be aware that Fed. R. Civ. P. 41(a) does not allow for stipulation for dismissal of fewer than all the claims against a defendant. *See Hells Canyon Preservation Council v. U.S. Forest Service*, 403 F.3d 683, 687 (9th Cir. 2005) ("Federal Rule of Civil Procedure 15(a) is the appropriate mechanism where a plaintiff desires to eliminate an issue, or one or more but less than all of several claims, but without dismissing as to any of the defendants." (internal quotation marks, brackets, and citation omitted)).

C. Pre-Filing Conferences (Local Rule 7.8)

Local Rule 7.8 requires counsel to engage in a pre-filing conference “to discuss thoroughly, preferably in person, the substance of the contemplated motion and any potential partial or complete resolution.” Counsel should discuss the expected motion’s issues sufficiently such that if a motion is still necessary, the briefing may address only those remaining issues.

Many motions to dismiss or to strike could be avoided if the parties confer in good faith, especially regarding perceived defects in a Complaint, Answer, or Counterclaim that could be corrected by amendment. *See, e.g., Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (where a motion to dismiss is granted, a district court should provide leave to amend unless it is clear that the Complaint could not be saved by any amendment). The Ninth Circuit requires courts to apply the policy favoring amendment with “extreme liberality.” *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990). These principles require counsel for the plaintiff to carefully evaluate the defendant’s contentions as to the deficiencies in the Complaint, and in most instances, the moving party should agree to any amendment that would cure a curable defect. Counsel should, at the very least, resolve minor procedural or other nonsubstantive matters during the conference.

All Local Rule 7.8 conferences shall be conducted by lead counsel and shall take place via a communication method that, at a minimum, allows all parties to communicate in real time. Judge Otake will not consider letters or e-mail to constitute a proper Local Rule 7.8 conference.

D. Preferred Citation to Legal Research Platforms

When necessary to cite to a legal research platform, attorneys shall cite to Westlaw rather than Lexis unless citation to Lexis is necessary due to the unavailability of the case or other material on Westlaw.

E. Excess Page or Word Requests (Local Rule 7.4)

Any party requesting permission to exceed the page/word count limit established by Local Rule 7.4 must file a motion seeking such leave. The motion shall specify the need for the additional pages/words. Leave should be requested sparingly, as relief will be granted only in limited circumstances. Any briefing that violates Local Rule 7.4 may be stricken.

F. Motions to Seal (Local Rule 5.2)

The Court will not consider any motions to seal until the requesting party fully complies with Local Rule 5.2(c). One courtesy copy, as well as the documents and/or exhibits that are the subject of the motion to seal, must be submitted immediately after the filing of the motion and an electronic copy of the documents and/or exhibits must be submitted to otake_orders@hid.uscourts.gov.

G. Mandatory Chambers Copies (Local Rule 10.3)

Judge Otake asks that the parties submit only one chambers copy of motions, oppositions, replies, and related attachments. Courtesy copies are unnecessary for: answers, notices of appearance, motions to exceed page limits, and motions to continue a hearing. Judge Otake imposes the following additional requirements for chambers copies:

- (1) Documents that are 50 pages or less may be stapled.
- (2) Documents exceeding 50 pages should be placed in binders. Documents requiring multiple binders should be labeled in such a manner to indicate that the documents are separated into multiple binders, i.e., binder 1 of 3, 2 of 3, 3 of 3.

H. Motions for Summary Judgment (Local Rule 56.1)

Parties are prohibited from filing multiple motions for summary judgment that address fewer than all claims for which summary judgment is sought. For example, if a party moves for summary judgment on five claims, a single motion should be filed, not five motions with each addressing a single claim.

Among other things, Local Rule 56.1(b) states that each factual assertion in a concise statement of facts “shall be a single sentence, followed by a citation to a particular affidavit, deposition, or other document that supports the assertion.” In addition to this requirement, any party submitting a concise statement must list each fact in a separately numbered paragraph.

Any party who opposes a motion for summary judgment or partial summary judgment must file an Opposing Concise Statement of Facts pursuant to Local Rule 56.1(e). In addition to the requirements stated in Local Rule 56.1(e), an Opposing Concise Statement of Facts must be in the form of a chart with two columns. The left-hand column of the chart shall include every fact in the moving party’s Concise Statement of Facts (in the same order, using the same numbers,

and with all citations to the supporting evidence identified by the moving party). The right-hand column of the chart shall include whether the fact is undisputed, disputed (and why), or disputed in part (and why). For each disputed or partially disputed fact, the Opposing Concise Statement of Facts must provide citations (including page and line numbers, if available) to evidence in the record that supports the claim that the fact is disputed. The following is an example:

MOVING PARTY’S CONCISE STATEMENT OF FACT	OPPOSING PARTY’S RESPONSE
<p>1. Plaintiff X and Defendant Y met in Lihue on January 5, 2012 to discuss a joint real estate business venture.</p> <p>Evidence: Declaration of Mary Jones (“Jones Decl.”), Ex. A (7/13/18 Def. Dep.) at 5:5-10.</p>	<p>1. Undisputed.</p>
<p>2. At the January 5, 2012 meeting, Plaintiff X and Defendant Y verbally agreed to partner in a joint real estate business venture.</p> <p>Evidence: 7/13/18 Def. Dep. at 13:4-12.</p>	<p>2. Disputed.</p> <p>At the January 5, 2012 meeting, Plaintiff X and Defendant Y only discussed the possibility of a joint real estate business venture; they did not verbally agree to anything.</p> <p>Evidence: Declaration of Jennifer Sato (“Sato Decl.”), Ex. A (7/25/18 Pl. Dep.) at 23:1-15.</p>

In addition to the requirements set forth in Local Rule 56.1(e), any party responding to an opposition to a motion for summary judgment or partial summary judgment must file a Response to Opposing Concise Statement of Facts, in the form of a chart with three columns. For ease, the party may choose to utilize the landscape (rather than portrait) orientation for the chart. The left-hand column of the chart shall include every fact in the moving party’s Concise Statement of Facts (in the same order, using the same numbers, and with all citations to the supporting evidence identified by the moving party). The middle column of the chart shall include every fact included in the opposing party’s Opposing Concise Statement of Facts (in the same order, using the same numbers, identifying the opposing party’s position as to the fact, with all citations to the supporting evidence identified). The right-hand column shall include the moving party’s response to any facts the opposing party asserts are disputed in whole or in part and shall include citations

(including page and line numbers, if available) to evidence in the record that supports the claim that the fact is undisputed. The following is an example:

MOVING PARTY'S CONCISE STATEMENT OF FACT	OPPOSING PARTY'S RESPONSE	MOVING PARTY'S RESPONSE
<p>1. Plaintiff X and Defendant Y met in Lihue on January 5, 2012 to discuss a joint real estate business venture.</p> <p>Evidence: Declaration of Mary Jones ("Jones Decl."), Ex. A (7/13/18 Def. Dep.) at 5:5-10.</p>	<p>1. Undisputed.</p>	
<p>2. At the January 5, 2012 meeting, Plaintiff X and Defendant Y verbally agreed to partner in a joint real estate business venture.</p> <p>Evidence: 7/13/18 Def. Dep. at 13:4-12.</p>	<p>2. Disputed.</p> <p>At the January 5, 2012 meeting, Plaintiff X and Defendant Y only discussed the possibility of a joint real estate business venture; they did not verbally agree to anything.</p> <p>Evidence: Declaration of Jennifer Sato ("Sato Decl."), Ex. A (7/25/18 Pl. Dep.) at 23:1-15.</p>	<p>2. In the section of the deposition cited by Plaintiff, Plaintiff stated that she "wasn't sure" whether there was a verbal agreement made at the January 5, 2023 meeting. But she changed her testimony later in the deposition and said there was a verbal agreement made then.</p> <p>Evidence: 7/25/18 Pl. Dep. at 34:8-12.</p>

I. *Daubert* Motions

Judge Otake treats *Daubert* motions as non-dispositive motions and they must be filed in accordance with the deadlines set forth in the applicable Rule 16 Scheduling Order. *Daubert* issues may not be presented in motions in limine.

J. Motions in Limine

Parties should submit motions in limine as separate motions, rather than as a single motion. Memoranda in support of motions in limine and any opposition shall not exceed five (5) pages. Judge Otake cautions parties to avoid filing motions in limine that amount to nothing more than a request for a broad evidentiary ruling (e.g., “Motion in Limine to Preclude All Hearsay from Trial”). Judge Otake requires Local Rule 7.8 compliance for motions in limine.

V. Trials

A. Trial Schedule

Trials start on Mondays, unless Monday is a holiday.

Jury trials will start at 8:30 a.m. and end at 2:30 p.m. or 3:00 p.m. except on days of jury selection, in which case the day will end at 4:30 p.m. There will be at least two breaks in the trial day, at the following approximate times:

10:30 a.m.- 15 minutes

12:00 p.m.- 20 minutes

Brief additional breaks will be taken when necessary. The Court will take “stretch breaks” in the middle of the trial, during which everyone can stand up, but no one may leave the courtroom.

Matters that need to be addressed outside the presence of the jury will be heard at 8:15 a.m. and at 2:30 p.m./3:00 p.m. The judge expects that attorneys will raise such issues at 2:30 p.m./3:00 p.m., and will determine a briefing deadline (with appropriate page limits) if needed.

Bench trials will start at 8:30 a.m. and end at 4:30 p.m. There will be a lunch break from 12:00 p.m. to 1:30 p.m. along with short breaks in the morning and afternoon.

B. Length of Trial

Judge Otake will limit the number of hours each party has to present its case. This decision may be made at the Final Pretrial Conference, or in advance if requested by the parties.

C. Jury Selection

Judge Otake will more fully explain her jury selection process at the Final Pretrial Conference, but offers this general description of the process here. The judge will use the computerized system of randomly determining the order of jurors for jury selection. The Court will provide attorneys with an alphabetized list of prospective jurors.

Judge Otake will first address general requests to be excused. She will then conduct voir dire and will allow counsel to conduct voir dire. Each side will typically be allowed 10 minutes for voir dire, but that timeframe may be expanded upon request. Challenges for cause must be made in the moment, and not at the end of jury selection. After the voir dire process has ended, Judge Otake will ask jurors to stand up and answer general questions not specific to the case (e.g., “What are your hobbies?”). Those questions are available upon request; if counsel wish to review them prior to trial, they are directed to contact the courtroom manager. Peremptory challenges will be made on a sheet of paper, without the jurors knowing whom the parties strike.

In cases involving pro se parties, Judge Otake will not allow the lawyers or the pro se party to conduct voir dire.

D. Jury Instructions

The parties’ jury trial submissions that are derived from either Judge Otake’s standard jury instructions or model instructions (from the Ninth Circuit or elsewhere) shall include redlined edits reflecting how the submissions differ from the standard or model instructions. During trial, the Court will schedule a hearing or two to resolve jury instruction disputes. Before the jury instructions are

presented to the jury, the Court will provide hard copies to the parties. Jurors will also receive hard copies of the instructions.

E. Exhibits and Depositions

All trial exhibits shall be marked with the exhibit number and placed in a 3-ring binder(s) with tabs. The spine of the 3-ring binder(s) shall be clearly marked and labeled with the case name, binder volume, and range of exhibits contained in the binder. The parties should coordinate with the Courtroom Manager to determine the exhibit numbers they will utilize. The parties shall not designate exhibits by party (e.g., they should label an exhibit as “Exhibit 1” and not “Plaintiff’s Exhibit 1”).

Attorneys must separately number the following:

- (1) Photographs. Do not number a series of photographs with the same exhibit number, even if the photographs are of the same thing (e.g., the same location).
- (2) Groups of documents, unless the witness will be testifying to the group as a whole. So, for example, if an expert witness’ testimony is based on their review of the annual bank statements of a corporation, it may make more sense to mark each year’s statements separately, rather than to mark each month’s statement separately. On the other hand, if the expert witness will be addressing the differences between one month’s statement and another month’s statement, then it makes more sense to mark each month’s statement separately. As another example, if the parties engaged in a series of contracts, and a witness will be addressing some or all of the contracts separately, do not mark the contracts all with the same exhibit number; rather, mark each contract separately. Also, if a series of documents bear the same page numbers (e.g., a series of Powerpoint presentations where the slides have the same page numbers 1-12), those documents should be marked separately.

The parties must provide original depositions to the Court in manila folders. The folders should be clearly labeled with the deponent’s name and should be placed in alphabetical order.

Physical exhibits do not need to be present in the courtroom until they will be shown to a witness.