

MAR 24 2010

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

at 3 o'clock and 35 min. P.M.  
SUE BEITIA, CLERK *SB*

IN THE MATTER OF ) ORDER REGARDING AMENDMENT OF THE  
THE LOCAL RULES OF PRACTICE ) LOCAL RULES OF PRACTICE FOR THE  
FOR THE UNITED STATES DISTRICT ) UNITED STATES DISTRICT COURT FOR  
COURT FOR THE DISTRICT OF ) THE DISTRICT OF HAWAII  
HAWAII )  
\_\_\_\_\_ )

ORDER REGARDING AMENDMENT OF THE LOCAL RULES OF PRACTICE FOR THE  
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

Having published proposed amendments for public comment and having reviewed any comment received, this court hereby orders that the Local Rules of Practice for the United States District Court for the District of Hawaii are amended in two respects, effective April 1, 2010, as set forth below. Additions to the two rules are set forth in boldface, underlined type. Deletions to the two rules are set forth in boldface, strike-out type. Replacement pages for the amended rules are attached to this order.

**Local Rule 6.1.** In relevant part, Local Rule 6.1 is amended to read:

Whenever these rules require papers or documents to be filed "not more than" or "not less than" a designated period after or before a specified event, then the "last day of the period," for purposes of Rule 6(a) of the Federal Rules of Civil Procedure, shall be a business day that is "not more than" or "not less than" a specified period. A "business day" is a day that is not a Saturday, Sunday, legal holiday, or other day on which the clerk's office is closed to the public for in-person business. Because the "last day of the period" is always a business

day, the provision in Rule 6 of the Federal Rules of Civil Procedure governing the calculation of periods that end on Saturday, Sunday, or a legal holiday is inapplicable to time periods set forth in these rules as "not more than" or "not less than" a designated period after or before a specified event.  
~~and whenever the outside limit of the designated period is not a business day, such papers or documents shall be filed no later than the previous business day to ensure filing "not more than" or "not less than" the designated period.~~ This local rule is applicable to papers and documents filed electronically and in hard-copy form. For example, if a filing is required not less than 14 days before a hearing and the ~~due~~ date fourteenth day before the hearing is a Saturday, the filing is due on Friday, 15 days before the hearing, assuming that the Friday is a business day.

**Local Rule 74.1.** In relevant part, Local Rule 6.1 is amended to read:

The appealing party shall file with the clerk, and serve on the magistrate judge and all parties, a written statement of appeal that shall specifically designate the portions of the order, or part thereof, appealed from after having been served with a copy thereof and the basis for such appeal.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, March 24, 2010.



/s/ Susan Oki Mollway  
SUSAN OKI MOLLWAY  
CHIEF UNITED STATES DISTRICT JUDGE



/s/ David Alan Ezra  
DAVID ALAN EZRA  
UNITED STATES DISTRICT JUDGE



/s/ J. Michael Seabright  
J. MICHAEL SEABRIGHT  
UNITED STATES DISTRICT JUDGE

IN THE MATTER OF THE LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF HAWAII

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 Fed. R. Civ. P. 5 (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.

**LR5.6. Proof of Service.**

Proof of service of all papers required or permitted to be served, other than those for which a particular method of proof is prescribed in the Federal Rules of Civil Procedure, shall be filed or mailed for filing with the court within one day of such service. The proof shall show the day and manner of service and may be (a) by written acknowledgment of service, (b) by certificate of the person who mailed or otherwise effected service, (c) by CM-ECF electronic service, or (d) by any other proof satisfactory to the court.

**LR6.1. Computation of Time.**

Unless otherwise specified in these rules, time periods prescribed or allowed shall be computed in accordance with Fed. R. Civ. P. 6 and other applicable court rules. The term "days" shall be defined as set forth in LR1.4 and, unless otherwise defined in these rules, shall mean calendar days.

Whenever these rules require papers or documents to be filed "not more than" or "not less than" a designated period after or before a specified event, then the "last day of the period," for purposes of Rule 6(a) of the Federal Rules of Civil Procedure, shall be a business day that is "not more than" or "not less than" a specified period. A "business day" is a day that is not a Saturday, Sunday, legal holiday, or other day on which the clerk's office is closed to the public for in-person business. Because the "last day of the period" is always a business day, the provision in Rule 6 of the Federal Rules of Civil Procedure governing the calculation of periods that end on Saturday, Sunday, or a legal holiday is inapplicable to time periods set forth in these rules as "not more than" or "not less than" a designated period after or before a specified event. This local rule is applicable to papers and documents filed electronically and in hard-copy form. For example, if a filing is required not less than 14 days before a hearing and the fourteenth day before the hearing is a Saturday, the filing is due on Friday, 15 days before the hearing, assuming that the Friday is a business day.

when served. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

**(b) Execution of Consent.** Unless otherwise ordered, the clerk shall not accept a consent form unless it has been signed by all the parties or their respective counsel in a case. The parties shall be responsible for securing the execution of a consent form by all parties or their respective counsel and for filing such form with the clerk. No judicial officer or other court official may compel any party to consent to the reference of any civil matter to a magistrate judge.

**LR73.3. Magistrate Judges; Appeal from Judgments in Civil Cases  
Disposed of on Consent of the Parties -  
28 U.S.C. § 636(c).**

Subject to provisions of 28 U.S.C. § 636(c), upon the entry of judgment in any civil case disposed of by a magistrate judge on consent of the parties under authority of 28 U.S.C. § 636(c) and LR73.1, an aggrieved party may appeal directly to the United States Court of Appeals for the Ninth Circuit in the same manner as an appeal from any other judgment of this court.

**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) days after being served with a copy of the order. The appealing party shall file with the clerk, and serve on the magistrate judge and all parties, a written statement of appeal that shall specifically designate the portions of the order appealed from after having been served with a copy thereof and the basis for such appeal. Any party in interest may file and serve a response within fourteen (14) days after service thereof. Each of the above periods of fourteen (14) 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