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IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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In the Matter of the  
HAWAI‘I PROBATE RULES

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ORDER AMENDING HAWAI‘I PROBATE RULES

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

IT IS HEREBY ORDERED that Rules 5, 9(a) commentary, 81, 102, and 103 of the Hawai‘i Probate Rules are amended, effective July 1, 2013, as follows (deleted material is bracketed and stricken; new material is underscored):

**RULE 5. SIGNING OF [PLEADINGS] DOCUMENTS.**

**(a) Verification of [Pleadings; Affidavits] Documents.** All [pleadings] petitions and applications (other than those signed by a party's attorney) shall include a statement at the end and before the signature of the person presenting the [pleading] document to the effect that the person understands that the document is deemed to include an oath, affirmation, or statement to the effect that (1) its representations are true as far as the person executing or filing it knows or is informed, (2) it is not being presented for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, and [that] (3) penalties for perjury may follow deliberate falsification. Such a statement shall be accepted in lieu of an affidavit as to the facts stated in the [pleading] document. If a submittal is not signed or is signed with the intent to defeat the purpose of this rule, it may be stricken as sham and false and the proceeding may proceed as though the submittal had not been served. For willful violation of this rule, a party may be subjected to an appropriate sanction. The signature of an applicant in informal proceedings shall be notarized.

If a ~~[pleading]~~ document requires consideration of facts not appearing of record or verified as provided above (which may include a document signed by the party's attorney), it shall be supported by affidavit signed by the person having knowledge of the facts and competent to testify. ~~[An attorney may submit a declaration in lieu of an affidavit to support facts outside of the record.]~~ In lieu of an affidavit, an unsworn declaration may be made by a person, in writing, subscribed as true under penalty of law, and dated, in substantially the following form:

I, (name of person) , do declare under penalty of law that the foregoing is true and correct.

Dated:

\_\_\_\_\_  
(Signature)

**COMMENTARY:**

*This rule ~~[continues to require]~~ requires verification of [pleadings] documents in both informal and formal proceedings. However, applicants in informal proceedings to probate a will, determine intestacy, or appoint a personal representative must also have their signatures notarized. Because [it is anticipated that the registrar will be processing] the Registrar processes a large number of informal applications filed by pro se applicants, it is important to provide an easy mechanism for the Registrar to determine that the applicant is who he or she claims to be. A notarized signature ~~[will give]~~ gives the Registrar this proof without adding any significant cost to the probate process.*

*An application for informal probate or appointment must be signed by the applicant, not by and through counsel.*

**(b) Signing by Attorneys.** Except as required by statute or by rule, any ~~[pleading],~~ petition, application, response, objection, memorandum~~[-stipulation,]~~ or other ~~[paper]~~ substantive document of a party represented by an attorney (including documents signed by an attorney) shall be signed by the attorney of record in the attorney's individual name. The signature of an attorney constitutes a certificate by the attorney that the attorney has read the submittal; that to the best of the attorney's knowledge, information, and belief, there is good ground to support it; and that it is not ~~[interposed for delay]~~ being presented for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a submittal is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the proceeding may proceed as though the submittal had not been served. For willful violation of this rule, an attorney may be subjected to an appropriate sanction. Similar action may be taken if scandalous or indecent matter is inserted. The attorney's name shall be typed or legibly printed directly below the attorney's signature.

**COMMENTARY:**

*This clarifies the role of the attorney in the preparation and presentation of documents. ~~[It is the Probate Rules version of Civil Procedural Rule 11.]~~ Whether or not the attorney signs any substantive document as counsel for a party, the attorney must also verify that the attorney understands and has complied with this Rule 5(b). A suggested form of verification follows:*

HAWAII PROBATE RULE 5(b) CERTIFICATION

\_\_\_\_\_  
NAME OF ATTORNEY

Attorney for [Party]

**Rule 9. PUBLICATION OF NOTICE.**

**(a) Permissible Publications.** Whenever publication of notice is required, it shall be made in a newspaper of general circulation within the judicial circuit or district where the proceeding is being brought.

**COMMENTARY:**

*There have been and continues to be abuses in publication of notice. A clear statement of the permissible publications would eliminate possible constitutional challenges and uncertainty. The committee decided against endorsing any specific newspapers because of concern that they may not have sufficient circulation to be considered of general circulation in the judicial circuit. Publication in the ~~[Honolulu Advertiser or the Honolulu Star-Bulletin]~~ Honolulu Star-Advertiser would be presumed to provide adequate notice in all judicial circuits of this state. Use of any other publication shall provide adequate notice only if approved in advance by the court in the order for notice.*

\* \* \*

**Rule 81. FLAG SHEETS REQUIRED.**

An original and ~~[two]~~2 copies of flag sheets in substantially the same form ~~[approved by the court]~~ as set forth in Appendix A herein, containing the information sought therein, shall be presented to the clerk of the court for all hearings to admit a will to probate, to adjudicate intestacy, to appoint a personal representative, to confirm the sale of real property, to determine an elective share, and to approve the final accounts of the personal representative. These flag sheets shall conform to the requirements of Rule 4 and shall be presented to the court no later than ~~[ten]~~10 days prior to the scheduled hearing. Flag sheets

shall not be file-marked as a pleading, but shall be date-stamped by the clerk and placed in the court file for reference. Failure to present a required flag sheet in time shall cause the hearing to be continued to the next available date. Where the facts of the case as set forth in the flag sheet change after submission of the flag sheet to the court, an amended flag sheet shall be presented.

**COMMENTARY:**

*This rule makes flag sheets mandatory in all probate proceedings in all circuits. The flag sheets are not filed as pleadings but are date-stamped as having been received by the clerk to eliminate the chance for lost documents and to provide a clear record. The flag sheet is normally placed in the court's file for ready reference by the judge and court staff. [~~Sample flag sheets are available at the court and may be available on-line~~].*

**Rule 102. PHYSICIAN'S LETTERS.**

**(a) Conservatorship.** The petitioner in a proceeding for a conservatorship may submit a physician's letter or report which states: (1) the [~~respondent's~~] respondent suffers from an impairment in the ability to receive and evaluate information or to make or communicate decisions (even with the use of appropriate and reasonably available technological assistance) [~~is impaired~~], or another physical, mental or health impairment; (2) the medical cause (diagnosis) of said impairment; (3) the prognosis for the impairment; (4) the impact of the impairment upon the [~~individual's~~] respondent's ability to manage the [~~individual's~~] respondent's property and business affairs effectively; (5) how long the physician has been treating the respondent; and (6) any other matter the physician deems relevant.

**(b) Guardianship.** The petitioner in a proceeding for a guardianship may submit a physician's letter or report which states: (1) the respondent is unable to receive and evaluate information or make or communicate decisions to such extent that the [~~individual~~] respondent lacks the ability to meet essential requirements for physical health, safety, or self-care (even with the use of appropriate and reasonably available technological assistance); (2) a description of the nature, type, and extent of the respondent's impairment; (3) the prognosis for the impairment; and (4) any other matter the physician deems relevant.

**COMMENTARY:**

*Doctors are generally reluctant to declare a person "incompetent," but incompetency is not the test for protective proceedings. This rule clarifies that the letter or report of the doctor upon which a petition for conservatorship and guardianship relies must (1) address the [~~person's~~] respondent's ability to manage the [~~person's~~] respondent's property and affairs in an effective manner as a result of the respondent's impairment [~~if the person's ability to receive and evaluate information or to make or communicate decisions is impaired,~~*

*even with the use of appropriate and reasonably available technological assistance, IRS § 560:5-401;] and (2) provide other information to enable the court to evaluate the weight to be given to the letter or report.*

**Rule 103. FLAG SHEETS.**

An original and ~~[two]~~2 copies of flag sheets in substantially the same form ~~[approved by the court]~~ as set forth in Appendix A herein, containing the information sought therein, shall be presented to the clerk of the court for all hearings to appoint a conservator, to appoint a conservator and a guardian for an incapacitated adult, to compromise a tort claim on behalf of a minor or incapacitated person, and to confirm the sale of real property. These flag sheets shall be presented to the court no later than ~~[ten]~~10 days prior to the scheduled hearing. Flag sheets shall not be file-marked as a pleading but shall be date-stamped by the clerk and placed in the court file for reference. Failure to present a required flag sheet in time shall cause the hearing to be continued to the next available date. Where the facts of the case as set forth in the flag sheet change after submission of the flag sheet to the court, an amended flag sheet shall be presented.

**COMMENTARY:**

*This rule makes flag sheets mandatory in all conservatorship and guardianship proceedings in all circuits. The flag sheets are not filed as pleadings but are date-stamped as having been received by the clerk, to eliminate the chance for lost documents and to provide a clear record. The flag sheet is normally placed in the court's file for ready reference by the judge and court staff. ~~[Sample flag sheets are available at the court and may be available on-line.]~~*

IT IS FURTHER ORDERED that Comments and Commentary are provided by the rules committees for interpretive assistance. The comments and commentary express the views of the committees and are not binding on the courts.

IT IS FURTHER ORDERED that Appendix A and Flag Sheet Nos. 1-A to 1-F are adopted, as attached hereto, and shall be appended to the Hawai'i Probate Rules, effective July 1, 2013.

DATED: Honolulu, Hawai'i, February 5, 2013.

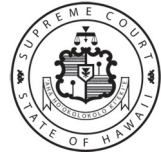
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack



## **APPENDIX A**

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Flag Sheet 1-A	Petition to Admit a Will to Probate and Appointment of Personal Representative
Flag Sheet 1-B	Petition for Adjudication of Intestacy
Flag Sheet 1-C-C	Petition to Appoint a Conservator, and/or for Authority to Compromise a Tort Claim
Flag Sheet 1-C-CG	Petition to Appoint a Conservator and Guardian, and/or for Authority to Compromise a Tort Claim
Flag Sheet 1-D	Petition for Confirmation of Sale of Real Property
Flag Sheet 1-E	Petition for Approval of Final Accounts of a Personal Representative
Flag Sheet 1-F	Petition for Determination of Elective Share

Hearing Date: \_\_\_\_\_

**FLAG SHEET NO. 1-A**  
(Petition for Probate of Will and Appointment of Personal Representative)

\_\_\_\_\_  
(Attorney for Petitioner or Pro Se Petitioner)

Probate No. \_\_\_\_\_

Tel. No. \_\_\_\_\_

Estate of \_\_\_\_\_

**I. Death Certificate**

The death certificate actually shows the following information:

- 1. Name of decedent in full: \_\_\_\_\_
- 2. Date of death: \_\_\_\_\_
- 3. Marital status: \_\_\_\_\_

**II. Publication Notice**

- 1. Name of decedent as actually published \_\_\_\_\_  
\_\_\_\_\_
- 2. Dates of actual publication (in 3 consecutive weeks):  
\_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_ .

**III. Affidavit of Attesting Witness for Wills and Codicils**

HRS §560:2-502(b) provides that a will may be valid as a holographic will “whether or not witnessed, if the signature and material portions of the document are in the testator’s handwriting.”

Is this will presented as a holographic will? Yes \_\_\_ No \_\_\_  
If “No,” continue. If “Yes,” you may skip to section IV.

(Note: No affidavit is required for a self-proved will or codicil. If the will or codicil is not self-proved, one (1) properly executed affidavit of attesting witness is required for



each will and codicil. The affidavit should include the mandatory language that the “decedent appeared to be of *sound mind and under no constraint or undue influence at the time of the execution* of the said document.” In the absence of the affidavit of attesting witness, oral testimony is required.)

1. Is the will or codicil self-proved? Yes \_\_ No \_\_
2. If “No,” state the name of the attesting witness: \_\_\_\_\_ .
3. Proof of will or codicil is by  
Affidavit: Yes \_\_ No \_\_  
Oral testimony: Yes \_\_ No \_\_

**IV. Proof of Service**

1. List or attach a list of all interested persons who are entitled to notice of hearing, and their relationship to the decedent.

<u>Name</u>	<u>Relationship</u>
_____	_____
_____	_____

2. Was notice served on all interested persons?  
(HRS §560:1-401) Yes \_\_ No \_\_
3. If “No,” were waivers of notice obtained and filed for all interested persons other than those served under 2 above? Yes \_\_ No \_\_
4. If “No,” list the names of all interested persons who have not been served and have not waived notice.

_____	_____
_____	_____

**V. Appointment of Personal Representative (PR) and Bond**

1. Does the petition name the person with the highest priority? Yes \_\_ No \_\_

2. If "No," list or attach a list of the name of those persons who have higher or equal priority with the proposed PR, and whether their renunciation and consent to the appointment of the proposed PR have been obtained and filed.

<u>Name</u>	<u>Consent to Appointment Filed?</u>	
	<u>Yes</u>	<u>No</u>
_____	_____	_____
_____	_____	_____

3. Does the petition request the appointment of the proposed PR without bond? Yes \_\_ No \_\_

If "Yes," is bond waived by will? Yes \_\_ No \_\_

If bond is not waived by will, state the reason for this request and include the relationship of the proposed PR to the decedent or beneficiaries.

4. If the appointment of the PR is with bond, state the amount of the bond requested. \$ \_\_\_\_\_.

**VI. Prayer for Special Matters**

(Note: Anything beyond the normal and ordinary probate matters shall be specified in this classification as special or unusual matters.)

1. Special matters requested? Yes \_\_ No \_\_  
 2. If "Yes," enumerate such special matters.

**VII. Objection or Opposition**

1. Are you aware of any opposition or objection to this petition? Yes \_\_ No \_\_  
 2. If "Yes," state by whom (include the relationship of the objector to the decedent or beneficiaries) and the grounds for the objection, if known.

THE UNDERSIGNED HEREBY CERTIFIES THAT TO THE BEST OF SAID INDIVIDUAL'S KNOWLEDGE AND BELIEF ALL OF THE FOREGOING FACTS AND FIGURES ARE TRUE AND CORRECT.

\_\_\_\_\_  
 Attorney for Petitioner or Pro Se Petitioner

Hearing Date: \_\_\_\_\_

**FLAG SHEET NO. 1-B**  
(Petition for Adjudication of Intestacy)

\_\_\_\_\_  
(Attorney for Petitioner or Pro Se Petitioner)

Probate No. \_\_\_\_\_

Tel. No. \_\_\_\_\_

Estate of \_\_\_\_\_

**I. Death Certificate**

The death certificate actually shows the following information:

- 1. Name of decedent in full: \_\_\_\_\_
- 2. Date of death: \_\_\_\_\_
- 3. Marital status: \_\_\_\_\_

**II. Publication Notice**

- 1. Name of decedent as actually published \_\_\_\_\_  
\_\_\_\_\_
- 2. Dates of actual publication (in 3 consecutive weeks):  
\_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_ .

**III. Proof of Service**

- 1. List or attach a list of all interested persons who are entitled to notice of hearing, and their relationship to the decedent.

<u>Name</u>	<u>Relationship</u>
_____	_____
_____	_____

2. Was notice served on all interested persons?  
(HRS §560:1-401) Yes \_\_ No \_\_
3. If “No,” were waivers of notice obtained and filed for all interested persons other than those served under 2 above? Yes \_\_ No \_\_
4. If “No,” list the names of all interested persons who have not been served and have not waived notice.


**IV. Consent, Renunciation & Waiver (CRW)**

1. Does the petition name the person with the highest priority to be appointed? Yes \_\_ No \_\_
2. If “No,” list or attach a list of the names of those persons who have higher or equal priority with the proposed PR, and whether their consent, renunciation and waiver (CRW) have been obtained and filed.

<u>Name</u>	CRW Filed?	
	<u>Yes</u>	<u>No</u>

**V. Bond (Personal Representative (PR))**

1. Does the petition request the appointment of the proposed PR without bond? Yes \_\_ No \_\_

State the reason for this request and include the relationship of the proposed PR to the decedent or heirs.

**VI. Prayer for Special Matters**

*(Note: Anything beyond the normal and ordinary probate matters shall be specified in this classification as special or unusual matters.)*

1. Special matters requested? Yes \_\_ No \_\_
2. If “Yes,” enumerate such special matters.

**VII. Existence of a Will That is Not Being Probated**

1. Are you aware of any will that for any reason is not being offered for probate? Yes \_\_ No \_\_
2. If “Yes,” state briefly the reason why the will is not being offered for probate, and list any persons entitled to notice under said will who are not entitled to notice under this Petition for Adjudication of Intestacy.

**VIII. Objection or Opposition**

1. Are you aware of any opposition or objection to this petition? Yes \_\_ No \_\_
2. If “Yes,” state by whom (include the relationship of the objector to the decedent or beneficiaries) and the grounds for the objection, if known.

THE UNDERSIGNED HEREBY CERTIFIES THAT TO THE BEST OF SAID INDIVIDUAL’S KNOWLEDGE AND BELIEF ALL OF THE FOREGOING FACTS AND FIGURES ARE TRUE AND CORRECT.

\_\_\_\_\_  
Attorney for Petitioner or Pro Se Petitioner

Hearing Date: \_\_\_\_\_

**FLAG SHEET NO. 1-C-C**  
(Petition for Appointment of Conservator and Authority to Compromise Claim)

\_\_\_\_\_  
(Attorney for Petitioner or Pro Se Petitioner)

C. No. \_\_\_\_\_

Tel. No. \_\_\_\_\_

Name of Respondent \_\_\_\_\_

**I. Respondent**

- 1. The Respondent is a(n):
  - a. Minor: Yes \_\_\_ Age \_\_\_\_\_  
If Yes, will the minor have attained the age of fourteen by the date of the hearing? Yes \_\_\_ No \_\_\_
  - b. Adult (incapacitated) : Yes \_\_\_ Age \_\_\_\_\_
- 2. Has the Respondent's attendance been excused? Yes \_\_\_ No \_\_\_  
(HRS §560:5-408(a))

**II. Appointment of Conservator**

- 1. State the relationship of the proposed Conservator to the Respondent.
- 2. Is there any person who has higher priority to be appointed Conservator? Yes \_\_\_ No \_\_\_
- 3. If "Yes," list the name(s) of the person(s) who have higher priority, and whether waiver(s) of their right to be appointed Conservator have been filed.
 

	Waiver Filed?	
Name	Yes	No
_____	_____	_____
_____	_____	_____

4. If the Respondent is a minor, 14 years or older, has the minor filed a nomination? Yes  No
5. If "Yes," state the name of the person nominated and the relationship of that person to the Respondent.
6. Has the proposed Conservator's attendance been excused? Yes  No   
(HRS §560:5-408(a))

**III. Property (The Respondent's Assets)**

1. Estimated dollar value of property
- |                      |    |    |
|----------------------|----|----|
| a. Real Property     | \$ |    |
| b. Personal Property | \$ |    |
| Total Value          |    | \$ |
2. If the Respondent has a claim for damages, describe the nature of the claim, the amount of the settlement offer, and whether the offer is fair and reasonable in light of all the circumstances of the claim.

**IV. Deposit**

1. Deposit of the property shall be in accordance with Rule 107(c) of the Hawaii Probate Rules. Yes  No
2. If "No," state the method of deposit.

**V. Withdrawals**

1. State the amount requested, if any, for the support and maintenance of the Respondent: \$ \_\_\_\_\_ per month
2. In the case of a minor, if there is a requested allowance, what is the gross family income per month of the person(s) responsible for the support of the minor? \$ \_\_\_\_\_ per month
3. State the amount requested, if any, for extraordinary withdrawals, and the reason therefor: \$ \_\_\_\_\_

**VI. Accounting Period Requested**

Check one of the following:  
 (1) Annual  ; (2) Biennial  ; (3) Triennial  ; (4) Other  .  
 State the accounting period: \_\_\_\_\_

**VII. Proof of Service**

1. List or attach a list of all interested persons who are entitled to notice of hearing, and their relationship to the Respondent.

<u>Name</u>	<u>Relationship</u>
_____	_____
_____	_____

2. Was the petition and notice personally served on the Respondent?  
(HRS §560:5-309; 5-404; 5-406(c)) Yes  No

3. Was notice served on all interested persons?  
(HRS §560:5-309; 5-404; 1-401) Yes  No

4. If “No,” were waivers of notice obtained and filed for all interested persons other than those served under 3 above? Yes  No

5. If “No,” list the names of all interested persons who have not been served and have not waived notice.

_____	_____
_____	_____

**VIII. Limitations on Conservatorship**

1. Is Limited or Unlimited Conservatorship requested? Limited  Unlimited   
(HRS § 560:5-403(c)(3), 5-409(b))

2. Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IX. Recommendation of Kokua Kanawai**

(Applicable  ; Not applicable  .)

The Kokua Kanawai's specific recommendations are:

- (a) Need for a Conservator exists? Yes  No   
(b) Should a Guardian ad Litem be appointed? Yes  No   
(c) Appointment of Petitioner? Yes  No   
(d) Accounting period (specify) \_\_\_\_\_  
(e) Limited or Unlimited Conservatorship? Limited  Unlimited



(f) Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**X. Estimated Fees**

- 1. Kokua Kanawai \$ \_\_\_\_\_
- 2. Attorney for Petitioner \$ \_\_\_\_\_
- 3. Attorney or Guardian ad Litem for Respondent \$ \_\_\_\_\_

**XI. Bond**

- 1. Is the appointment of the Conservator with bond? Yes \_\_ No \_\_
- 2. If "Yes," state the amount of the bond requested. \$ \_\_\_\_\_

**XII. Objection or Opposition**

- 1. Are you aware of any opposition or objection to this petition? Yes \_\_ No \_\_
- 2. If "Yes," state by whom (include the relationship of the objector to the Respondent or proposed Conservator) and the grounds for the objection, if known.

THE UNDERSIGNED HEREBY CERTIFIES THAT TO THE BEST OF SAID INDIVIDUAL'S KNOWLEDGE AND BELIEF ALL OF THE FOREGOING FACTS AND FIGURES ARE TRUE AND CORRECT.

\_\_\_\_\_  
Attorney for Petitioner or Pro Se Petitioner

Hearing Date: \_\_\_\_\_

**FLAG SHEET NO. 1-C-CG**

(Petition for Appointment of Conservator and Guardian and Authority to Compromise Claim)

\_\_\_\_\_  
(Attorney for Petitioner or Pro Se Petitioner)

CG. No. \_\_\_\_\_

Tel. No. \_\_\_\_\_

Name of Respondent \_\_\_\_\_

**I. Respondent**

- 1. The Respondent is an adult: Yes \_\_\_ Age \_\_\_\_\_
- 2. Has the Respondent's attendance/participation been excused? Yes \_\_\_ No \_\_\_  
(HRS §560:5-308(a), -408(a))

**II. Appointment of Conservator and Guardian**

**A. Proposed Conservator**

- 1. State the relationship of the proposed Conservator to the Respondent.
- 2. Is there any person who has higher priority to be appointed Conservator?  
Yes \_\_\_ No \_\_\_
- 3. If "Yes," list the name(s) of the person(s) who have higher priority, and whether waiver(s) of their right to be appointed Conservator have been filed.

<u>Name</u>	<u>Waiver Filed?</u>	
	<u>Yes</u>	<u>No</u>
_____	_____	_____
_____	_____	_____

- 4. Has the proposed Conservator's attendance been excused? Yes \_\_\_ No \_\_\_  
(HRS §560:5-408(a))

B. Proposed Guardian

1. State the relationship of the proposed Guardian to the Respondent.
2. Is there any person who has higher priority to be appointed Guardian?  
Yes \_\_ No \_\_
3. If "Yes," list the name(s) of the person(s) who have higher priority, and whether waiver(s) of their right to be appointed Guardian have been filed.

<u>Name</u>	<u>Waiver Filed?</u>	
	<u>Yes</u>	<u>No</u>
_____	_____	_____
_____	_____	_____

4. Has the proposed Guardian's attendance been excused?  
(HRS §560:5-308(a)) Yes \_\_ No \_\_

III. The Respondent's Assets

1. Estimated dollar value of property
  - a. Real Property \$ \_\_\_\_\_
  - b. Personal Property \$ \_\_\_\_\_

Total Value \$ \_\_\_\_\_
2. If the Respondent has a claim for damages, describe the nature of the claim, the amount of the settlement offer, and whether the offer is fair and reasonable in light of all the circumstances of the claim.

IV. Deposit

1. Deposit of the property shall be in accordance with Rule 107(c) of the Hawaii Probate Rules. Yes \_\_ No \_\_
2. If "No," state the method of deposit.

V. Withdrawals

1. State the amount requested, if any, for the support and maintenance of the Respondent: \$ \_\_\_\_\_ per month
2. State the amount requested, if any, for extraordinary withdrawals, and the reason therefor: \$ \_\_\_\_\_

**VI. Accounting Period Requested**

Check one of the following:

(1) Annual \_\_\_ ; (2) Biennial \_\_\_ ; (3) Triennial \_\_\_ ; (4) Other \_\_\_ .

State the accounting period: \_\_\_\_\_

**VII. Proof of Service**

1. List or attach a list of all interested persons who are entitled to notice of hearing, and their relationship to the Respondent.

<u>Name</u>	<u>Relationship</u>
_____	_____
_____	_____

2. Was the petition and notice personally served on the Respondent?  
(HRS §560:5-309; 5-404; 5-406(b)) Yes \_\_ No \_\_

3. Was notice served on all interested persons?  
(HRS §560:5-309; 5-404; 1-401) Yes \_\_ No \_\_

4. If "No," were waivers of notice obtained and filed for all interested persons other than those served under 3 above? Yes \_\_ No \_\_

5. If "No," list the names of all interested persons who have not been served and have not waived notice.

\_\_\_\_\_  
\_\_\_\_\_

**VIII. Limitations on Conservatorship and/or Guardianship**

**A. Conservatorship**

1. Is Limited or Unlimited Conservatorship requested?  
(HRS § 560:5-403(c)(3), 5-409(b)) Limited \_\_ Unlimited \_\_

2. Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**B. Guardianship**

1. Is Limited or Unlimited Guardianship requested?  
(HRS § 560:5-304(b)(9), 5-311(b)) Limited \_\_ Unlimited \_\_

2. Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IX. Recommendation of Kokua Kanawai**  
(Applicable \_\_\_ ; Not applicable \_\_\_ .)

The Kokua Kanawai's specific recommendations are:

- (a) Need for a Guardian and Conservator exists? Yes \_\_\_ No \_\_\_
- (b) Should a Guardian ad Litem be appointed? Yes \_\_\_ No \_\_\_
- (c) Appointment of Petitioner?
  - 1. As Conservator? Yes \_\_\_ No \_\_\_
  - 2. As Guardian? Yes \_\_\_ No \_\_\_
- (d) Accounting period (specify) \_\_\_\_\_
- (e) Limited or Unlimited?
  - 1. Conservatorship? Limited \_\_\_ Unlimited \_\_\_
  - 2. Guardianship? Limited \_\_\_ Unlimited \_\_\_
- (f) Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**X. Estimated Fees**

- 1. Kokua Kanawai \$ \_\_\_\_\_
- 2. Attorney for Petitioner \$ \_\_\_\_\_
- 3. Attorney or Guardian ad Litem for Respondent \$ \_\_\_\_\_

**XI. Bond**

- 1. Is the appointment of the Guardian with bond? Yes \_\_\_ No \_\_\_
- 2. If "Yes," state the amount of the bond requested. \$ \_\_\_\_\_
- 3. Is the appointment of the Conservator with bond? Yes \_\_\_ No \_\_\_
- 4. If "Yes," state the amount of the bond requested. \$ \_\_\_\_\_

**XII. Objection or Opposition**

- 1. Are you aware of any opposition or objection to this petition? Yes \_\_\_ No \_\_\_
- 2. If "Yes," state by whom (include the relationship of the objector to the Respondent or proposed Conservator and/or Guardian) and the grounds for the objection, if known.

THE UNDERSIGNED HEREBY CERTIFIES THAT TO THE BEST OF SAID INDIVIDUAL'S KNOWLEDGE AND BELIEF ALL OF THE FOREGOING FACTS AND FIGURES ARE TRUE AND CORRECT.

\_\_\_\_\_  
Attorney for Petitioner or Pro Se Petitioner

Hearing Date: \_\_\_\_\_

**FLAG SHEET NO. 1-D**  
(Petition for Confirmation of Sale)

\_\_\_\_\_  
(Attorney for Petitioner or Pro Se Petitioner)

Probate No. \_\_\_\_\_

Tel. No. \_\_\_\_\_

Estate of \_\_\_\_\_

**I. Property**

State the following information:

- 1. Address of the property: \_\_\_\_\_
- 2. Tax Map Key Number: \_\_\_\_\_

**II. Appraisal**

- 1. Has an appraisal been filed? Yes \_\_ No \_\_
- 2. If "Yes," state the appraised value. \$ \_\_\_\_\_
- 3. If "No," state the reasons why no appraisal has been filed.

**III. Offer**

- 1. State the amount of the offer. \$ \_\_\_\_\_
- 2. State the names(s) of the buyer(s), and their relationship, if any, to the estate, personal representative, or attorney.

**IV. Affidavit of Posting at Courthouse (Notice of Sale)**

Date the Notice was posted (at least 15 days prior to hearing): \_\_\_\_\_

**V. Proof of Service**

1. List or attach a list of all interested persons who are entitled to notice of hearing.

<u>Name</u>	<u>Basis Upon Which Person is Entitled to Notice</u>
_____	_____
_____	_____

2. Was notice served on all interested persons by first class mail, postage prepaid? Yes \_\_ No \_\_

3. If "No," were waivers of notice obtained and filed for all interested persons? Yes \_\_ No \_\_

4. If "No," list the names of all interested persons who have not been served.

_____	_____
_____	_____

VI. **Minimum Bid Price (HRS §531-29)** \$ \_\_\_\_\_

**VII. Fees**

1. Broker

a. Seller's Broker	% _____	\$ _____
b. Buyer's Broker	% _____	\$ _____
c. Total Amount of Commission	% _____	\$ _____

2. Personal Representative \$ \_\_\_\_\_

3. Attorney \$ \_\_\_\_\_

**VIII. Financing**

1. Cash Sale Yes \_\_ No \_\_

2. If "No," describe the terms of the sale.

**IX. Objection or Opposition**

1. Are you aware of any opposition or objection to this petition? Yes  No
2. If "Yes," state by whom (include the relationship of the objector to the decedent or beneficiaries) and the grounds for the objection, if known.

THE UNDERSIGNED HEREBY CERTIFIES THAT TO THE BEST OF SAID INDIVIDUAL'S KNOWLEDGE AND BELIEF ALL OF THE FOREGOING FACTS AND FIGURES ARE TRUE AND CORRECT.

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Attorney for Petitioner or Pro Se Petitioner



Hearing Date: \_\_\_\_\_

**FLAG SHEET NO. 1-E**  
(Petition for Approval of Final Accounts)

\_\_\_\_\_  
(Attorney for Petitioner or Pro Se Petitioner)

Probate No. \_\_\_\_\_

Tel. No. \_\_\_\_\_

Estate of \_\_\_\_\_

**I. Publication Notice**

- 1. Name of decedent as actually published \_\_\_\_\_  
\_\_\_\_\_
- 2. Dates of actual publication (in 3 consecutive weeks):  
\_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_ .

**II. Tax (Estate or Transfer Tax)**

- 1. Has a receipt, certificate, or release from the Taxation Department been filed? Yes \_\_ No \_\_
- 2. If "No," will it be filed by the date of the hearing? Yes \_\_ No \_\_

**III. Inventory**

- 1. State the date of decedent's death: \_\_\_\_\_
- 2. State the value of the estate at death: \$ \_\_\_\_\_

**IV. Approvals by Beneficiaries**

- 1. List the names of all residuary beneficiaries under the will, or by intestacy, and state whether their approvals have been filed.

<u>Name</u>	Approval Filed?	
	<u>Yes</u>	<u>No</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. Have all receipts for specific bequests been filed? Yes \_\_ No \_\_
3. If "No," list such specific devisees under item No. 1 above.

**V. Proof of Service**

1. List or attach a list of all interested persons who are entitled to notice of hearing.

<u>Name</u>	<u>Basis Upon Which Person Is Entitled to Notice</u>
_____	_____
_____	_____

2. Was notice served on all interested persons?  
(HRS §560:1-401) Yes \_\_ No \_\_
3. If "No," were waivers of notice obtained and filed for all interested persons other than those served under 2 above? Yes \_\_ No \_\_
4. If "No," list the names of all interested persons who have not been served.

_____	_____
_____	_____

**VI. Fees**

Has the court been requested to review the reasonableness of the compensation of any person employed by the personal representative or the reasonableness of the compensation determined by the personal representative as reasonable for the personal representative's own services pursuant to HRS §560:3-721? Yes \_\_ No \_\_

An affidavit detailing the hourly rate and time spent for the services provided must be filed.

**VII. Prayer for Special Matters**

*(Note: Anything beyond the normal and ordinary probate matters shall be specified in this classification as special or unusual matters.)*

1. Special matters requested? Yes  No
2. If "Yes," enumerate such special matters.

**VIII. Objection or Opposition**

1. Are you aware of any opposition or objection to this petition? Yes  No
2. If "Yes," state by whom (include the relationship of the objector to the decedent or beneficiaries) and the grounds for the objection, if known.

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Attorney for Petitioner or Pro Se Petitioner

Hearing Date \_\_\_\_\_

**FLAG SHEET NO. 1-F**  
(Petition for Determination of Elective Share)

\_\_\_\_\_  
(Attorney for Petitioner or Pro Se Petitioner)

Probate No. \_\_\_\_\_

Tel. No. \_\_\_\_\_

Estate of \_\_\_\_\_

For estates of decedents dying on or before January 1, 1997, skip to Item VI, Objection or Opposition.

**I. Timeliness of Election** (HRS §560:2-211(a), (b))

- 1. Date of Death: \_\_\_\_\_
- 2. Date of Probate of Will: \_\_\_\_\_
- 3. Date of Extension Granted by the Court, if any: \_\_\_\_\_

**II. Persons Entitled to Notice**

- 1. List the names of all interested persons (HRS §560:1-401) and state whether they have been notified of this proceeding.

<u>Name</u>	<u>Notified?</u>	
	<u>Yes</u>	<u>No</u>
_____	___	___
_____	___	___
_____	___	___
_____	___	___

- 2. List all persons interested in the decedent's nonprobate transfers to others (HRS §560:2-211(b)) and state whether they have been notified of this proceeding.

<u>Name</u>	<u>Notified?</u>	
	<u>Yes</u>	<u>No</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**III. Elective Share Percentage**

1. a. For how many years were the surviving spouse and the decedent married to each other? \_\_\_\_\_ years
- or
- b. For how many years were the surviving reciprocal beneficiary and the decedent in a reciprocal beneficiary relationship? \_\_\_\_\_ years
2. State the elective share percentage that corresponds to the years stated in item 1. (HRS §560:2-202(a)). \_\_\_\_\_ percent

**IV. Augmented Estate**

Summarize, by stating the value of the following:

1. Decedent's net probate estate (HRS §560:2-204) \$ \_\_\_\_\_
  2. Decedent's nonprobate transfers to others (HRS §560:2-205) \$ \_\_\_\_\_
  3. Decedent's nonprobate transfers to the surviving spouse (HRS §560:2-206) \$ \_\_\_\_\_
  4. The surviving spouse's property and nonprobate transfers to others (HRS §560:2-207) \$ \_\_\_\_\_
  5. The amount of any exclusions pursuant to HRS §560:2-208(a) \$ \_\_\_\_\_
  6. Any property excluded to avoid overlapping application pursuant to HRS §560:2-208 \$ \_\_\_\_\_
- State the value of the augmented estate \$ \_\_\_\_\_

V. **Determination of Elective Share Amount**

State the value of the elective share amount (the elective share percentage of the augmented estate, HRS §560:2-202).

\$ \_\_\_\_\_

VI. **Objection or Opposition**

1. Are you aware of any opposition or objection to this petition? Yes  No
2. If "Yes," state by whom (include the relationship of the objector to the decedent or beneficiaries) and the grounds for the objection, if known.

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\_\_\_\_\_  
Attorney for Petitioner or Pro Se Petitioner