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Supreme Court
SCRU-13-0000071
23-MAY-2017
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SCRU-13-0000071

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the Amendment
of the
HAWAI‘I PROBATE RULES

ORDER AMENDING PART B, SECTION IX OF THE HAWAI‘I PROBATE RULES
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Part B, Section IX
of the Hawai‘i Probate Rules is amended, effective July 1, 2017,
as follows (deleted material is bracketed and stricken; new
material is underscored):

IX. ANCILLARY PROCEEDINGS

PREFATORY NOTE: This subpart IX, Ancillary Proceedings, does not
apply to applications under Rule 95 of these Rules for issuance of
documents that acknowledge authority acquired under HRS § 560:4-205.

Rule 76. FILING OF DOMICILIARY DOCUMENTS.

When a proceeding is brought that is ancillary to a probate proceeding
in another jurisdiction, the petitioner, in addition to the pleadings normally
required for the proceeding, shall file with the court prior to the issuance
of Ancillary Letters Testamentary or Letters of Administration a certified
copy of the domiciliary proceeding's (a) order of probate or administration;

(b) letters testamentary or letters of administration; (c) will and any codicils admitted to probate in the domiciliary jurisdiction; and (d) any documents closing the domiciliary proceeding. Documents from a foreign jurisdiction shall be exemplified or have attached thereto an apostille.

COMMENTARY:

It should be noted that[-] a domiciliary foreign personal representative, under HRS §§ 560:4-204[-] and 4-205, [a domiciliary personal representative will have] may acquire all the powers of a local personal representative simply by filing certified copies of its appointment and any bond with the court, and, under Rule 95 of these Rules, may request a document acknowledging the authority thereby acquired. Neither an informal nor a formal ancillary proceeding seeking appointment as a local personal representative is necessary. However, if an ancillary proceeding is initiated, then the documents in this Rule 76 must be filed.

DATED: Honolulu, Hawai‘i, May 23, 2017.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

