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SCRU-11-0000068

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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In the Matter of the  
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI‘I

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ORDER AMENDING RULE 2.16 OF THE  
RULES OF THE SUPREME COURT OF THE STATE OF HAWAI‘I  
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Rule 2.16 of the Rules of the Supreme Court of the State of Hawai‘i is amended, effective July 1, 2019, as follows (new material is underscored, and deleted material is stricken):

**2.16. Disbarred or suspended attorneys.**

(a) A disbarred or suspended attorney shall promptly notify by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of [~~his or her~~] the attorney’s disbarment or suspension and [~~his or her~~] consequent inability to act as an attorney after the effective date of [~~his or her~~] the disbarment or suspension and shall advise said clients to seek legal advice elsewhere.

(b) A disbarred or suspended attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, each of [~~his or her~~] the attorney’s clients who is involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party and each self-represented adverse party in [~~such matter~~] the pending litigation or administrative proceeding of [~~his or her~~] the attorney’s disbarment or suspension and consequent inability to act as an attorney after the effective date of [~~his or her~~] the disbarment or suspension. The notice to be given to the client shall

advise the client of the desirability of the prompt substitution of another attorney or attorneys in ~~[his or her]~~ place of the withdrawing attorney.

In the event the client does not obtain substitute counsel before the effective date of the disbarment or suspension, it shall be the responsibility of the disbarred or suspended attorney to move in the court or agency in which the proceeding is pending for leave to withdraw.

The notice to be given to the attorney or attorneys for an adverse party and to any self-represented adverse party shall state the place of residence of the client of the disbarred or suspended attorney.

(c) Orders imposing suspension or disbarment shall be effective 30 days after entry. The disbarred or suspended attorney, after entry of the disbarment or suspension order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date ~~[he or she]~~ the attorney may wind up and complete, on behalf of any client, all matters that were pending on the entry date. By the effective date of the disbarment or suspension order, the disbarred or suspended attorney shall surrender to all clients all papers and property to which the clients are entitled and any advance payments of fees that have not been earned.

(d) Within ~~[ten]~~ 10 days after the effective date of the disbarment or suspension order, the disbarred or suspended attorney shall file with the supreme court an affidavit showing: (1) that ~~[he or she]~~ the attorney has fully complied with these rules and with the portions of the order requiring completion before the effective date of the order; (2) all other state, federal and administrative jurisdictions to which ~~[he or she]~~ the attorney is admitted to practice; and (3) that ~~[he or she]~~ the attorney has served a copy of such affidavit upon Counsel. Such affidavit shall also set forth the residence or other address of the disbarred or suspended attorney where communications may thereafter be directed to ~~[him or her]~~ the attorney.

(e) The Board shall cause a notice of the suspension or disbarment to be published in a newspaper of general circulation in the judicial circuit in which the disciplined attorney ~~[maintained his or her]~~ practiced or on the Board's or the Judiciary's public website.

(f) The Board or the court shall promptly transmit by electronic means a copy of the certified order of suspension or disbarment to all judges of the State of Hawai'i, and the administrative judge of each judicial circuit shall make such further order as ~~[he or she]~~ the administrative judge deems necessary to fully protect the rights of the clients of the suspended or disbarred attorney.

(g) A disbarred or suspended attorney shall keep and maintain records of the various steps taken by ~~[him or her]~~ the attorney under these [r] Rules so that, upon any subsequent proceeding instituted by or against ~~[him or her]~~ the attorney, proof of compliance with these [r] Rules and with the disbarment or suspension order will be available. Proof of compliance with these [r] Rules shall be a condition precedent to any petition for reinstatement.

(h) In the event the disbarred or suspended attorney should maintain a presence in an office where the practice of law is conducted, the disbarred or suspended attorney shall not have any contact with the clients of the office either

in person, by telephone, or in writing, or have any contact with persons who have legal dealings with the office either in person, by telephone, or in writing.

DATED: Honolulu, Hawai'i, June 6, 2019.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

