

Electronically Filed
Supreme Court
SCRU-11-0000582
17-SEP-2019
11:22 AM

SCRU-11-0000582

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
HAWAI‘I FAMILY COURT RULES

ORDER AMENDING THE HAWAI‘I FAMILY COURT RULES
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Rule 11 of the Hawai‘i Family Court Rules is amended and new Rule 11.1 of the Hawai‘i Family Court Rules is adopted, effective upon the filing of this order, as follows:

[NEW MATERIAL IS UNDERLINED]

Rule 11. SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS; SANCTIONS.

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney’s individual name, whose address shall be stated. Any document prepared by an attorney for an unrepresented party shall comply with Rule 11.1(c) of these Rules. A party who is not represented by an attorney shall sign the party’s pleading, motion, or other paper and state the party’s address. The name of the person signing the document shall be typed or hand-printed in block letters directly below the signature. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit or declaration. The rule in equity that the averments of an answer under oath must

be overcome by the testimony of 2 witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

[NEW RULE]

Rule 11.1 LIMITED APPEARANCE AND WITHDRAWAL.

(a) Limited Appearance of Attorneys.

(1) An attorney providing limited representation to an unrepresented party as authorized by Rule 1.2 of the Hawai'i Rules of Professional Conduct may file with the court a "Notice of Limited Appearance," appended to these Rules, if the representation will include appearances in court. The attorney shall use the form appended to the Rules or a substantially similar document.

(2) An attorney may submit *in camera* an "Agreement and Consent to Limited Representation" by using the form appended to these Rules or a substantially similar document.

(3) An attorney who has filed a "Notice of Limited Appearance" and who later files a pleading or motion outside the scope of the limited representation shall be deemed to have amended the notice to extend to the filing of that pleading or motion.

(b) Termination of Limited Representation.

(1) An attorney who has made a limited representation appearance, has filed a "Notice of Limited Appearance" and has completed the agreed-upon services stated in an "Agreement and Consent to Limited Representation," may file a "Notice of Withdrawal of Limited Appearance" by using the form appended to these Rules or a substantially similar document.

(2) Any attorney who has filed a "Notice of Limited Appearance" and who seeks to withdraw prior to the completion of the agreed-upon services stated in the "Agreement and Consent to Limited Representation" shall file a motion for withdrawal of counsel pursuant to Rule 25.1 of the Hawai'i Rules of Civil Procedure.

(3) An attorney who provides limited representation that includes a court appearance but who has elected not to file a “Notice of Limited Appearance” shall file a motion for withdrawal of counsel pursuant to Rule 25.1 of the Hawai‘i Rules of Civil Procedure.

(4) A client who objects to the withdrawal of the client’s attorney under this Rule 11.1(b) may file an “Objection to Withdrawal of Limited Appearance” using the form appended to these Rules or a substantially similar document, and a hearing will be scheduled. The objection shall be filed within fourteen days of the date the attorney files the notice of withdrawal.

(5) In any hearing on a motion for withdrawal of counsel or an objection to withdrawal of limited appearance, the court shall consider the terms of any agreement for limited scope representation.

(c) Pleading Prepared for Unrepresented Party.

(1) When an attorney, regardless of whether a formal “Agreement and Consent to Limited Representation” has been entered into, provides limited representation to an unrepresented party by drafting a pleading, written motion, or other paper intended to be filed with the court, but the attorney has not agreed to appear in court or otherwise provide representation regarding that document, the attorney is not required to disclose the attorney’s name on that document. However, the first page of the document must conspicuously contain the following statement, “This document was prepared with the assistance of an attorney.” The unrepresented party must comply with this required disclosure.

If, however, a pleading, motion, or other paper is prepared by an attorney providing limited representation under the auspices of a program sponsored by a nonprofit organization, court, or government, the pleading, motion or other paper need not contain this statement.

(2) An attorney who provides limited representation as described in paragraph (c)(1), above, shall be deemed to have made the certifications set forth in Rule 11 of these Rules.

IT IS FURTHER ORDERED that Forms 1, 1-A, 1-B, and 1-C are adopted, as attached hereto, and shall be appended to the Hawai‘i Family Court Rules, effective upon the filing of this order.

IT IS FURTHER ORDERED that the trial courts are authorized to insert circuit and court identifiers, appearance information, addresses, and contact information in the form and

to publish the form in print or electronic format for the
respective courts and circuits.

DATED: Honolulu, Hawai'i, September 17, 2019.

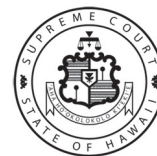
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson



Form 1. Agreement and Consent to Limited Representation.

Agreement and Consent to Limited Representation

In order to help you with your legal needs, you, _____, the client (“Client”), and _____, the attorney (“Attorney”), agree that Attorney will provide limited representation to help you with a specific legal matter for a short time or for a particular purpose.

Attorney must act in your best interest and give you competent help. It is important that you be aware, however, that even after Attorney and you agree that Attorney will provide limited help:

- Attorney DOES NOT HAVE TO GIVE MORE HELP in this limited representation than Attorney and you have agreed upon; and
- Attorney DOES NOT HAVE TO HELP WITH ANY OTHER PART of your legal matter.

In performing the limited legal services, Attorney:

- Is not promising any particular outcome; and
- Is relying entirely on your disclosure of facts and will not make any independent investigation unless such an investigation is expressly agreed to in writing in this document.

I, the Attorney, agree to help you by performing the limited services listed below and no other service, unless we revise this agreement in writing.

(Initial each applicable section)

_____ Preparation of Pleadings and Documents: Draft pleadings, motions and other documents. (If I am not appearing in court on your behalf, the pleadings, motions and other documents will conspicuously display the following statement: “This document was prepared with the assistance of an attorney.”)

(Optional) List of documents: _____

_____ Court Appearance: I will appear in court for the limited purpose of: _____

_____ Discovery: Perform discovery by interrogatories, depositions, production of documents and/or request for admissions.

_____ Settlement: I will appear on your behalf to negotiate a settlement (i.e. mediation, settlement conference, etc.)

_____ Other: _____

Attorney will charge to Client the following costs: _____

Attorney will charge to Client the following fee for the limited legal representation: _____

CLIENT’S CONSENT

I have read this Agreement and Consent to Limited Representation and I understand it. I agree that the legal services listed above are the ONLY legal services to be provided by Attorney. I understand and agree that Attorney who is helping me with these services is not my attorney for any other purpose and does not have to give me more legal help. I agree to provide my cooperation to Attorney, including providing Attorney with sufficient information to responsibly provide the limited assistance I am seeking, and agree that failure to provide such cooperation may serve as a basis for Attorney to withdraw from this limited representation. I also understand Attorney will stop helping me when the services listed above have been completed. I have been informed of, and Attorney has explained to me, the material risks of and reasonably available alternatives to this proposed limited representation.

I understand that when the legal services listed above have been completed, Attorney may file a "Notice of Withdrawal of Limited Appearance" and must give me notice. I further understand that if I object to Attorney's withdrawal, I will have fourteen (14) days from the filing of this notice to file an "Objection to Notice of Withdrawal of Limited Appearance" in compliance with Rule 11.1(b) of the Hawai'i Family Court Rules. Attorney may also file a motion to withdraw as counsel, in which case Attorney must provide me with notice to give me the opportunity to respond.

I understand that this Agreement and Consent to Limited Representation may be filed with the court “in camera,” which means that it can only be viewed by the court.

In exchange for Attorney’s limited representation, I agree to pay Attorney’s fees and costs described above.

Signature of Client: _____

Printed name of Client: _____

The address I give below is my permanent address where I can be reached:

Client address: _____

Phone number: _____ FAX: _____

Message phone: _____

Name of individual with whom messages may be left: _____

Email address: _____

Attorney has reviewed this Agreement and agrees to the terms.

[Attorney's signature]

Date: _____

[Attorney's printed name]

FORM 1-A. Notice of Limited Appearance.

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

Plaintiff/Petitioner Defendant/Respondent

IN THE FAMILY COURT OF THE _____ CIRCUIT

STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
Plaintiff/Petitioner,	)	NOTICE OF LIMITED APPEARANCE
)	
vs.)	
)	
_____)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) enters a Notice of Limited Appearance for _____ Plaintiff/Petitioner Defendant/Respondent, pursuant to Rule 11.1 of the Hawai‘i Family Court Rules (“HFCR”).

1. Attorney’s appearance in this matter shall be limited to the following matter(s):

2. A copy of the “Agreement and Consent to Limited Representation” or a substantially similar document between Attorney and Client may be submitted *in camera* to the court in compliance with Rule 9 of the Hawaii Court Records Rules.
3. Attorney is the attorney of record and available for service of process in accordance with HFCR Rules 4 and 5 for all matters related to paragraph #1 above.
4. Attorney hereby notifies this court that Client can be contacted as follows:

Name: _____

Address: _____

Telephone: _____ FAX: _____

Email: _____
5. The attorney for opposing party [] may [] may not contact Client regarding matters not listed in paragraph #1 above without first consulting Attorney.
6. To terminate a limited scope representation either a “Notice of Withdrawal of Limited Appearance” or a motion to withdraw as counsel may be filed pursuant to HFCR Rule 11.1(b). Client shall be provided with notice and an opportunity to object.
7. This accurately sets forth the scope of Attorney’s limited representation.

Date

Signature of Attorney

I have read and approve this notice:

Date

Signature of Client

The ORIGINAL of the foregoing is filed with the court.

COPIES of the foregoing were mailed/delivered this _____ day of _____, 20____, to:

The Honorable _____ *[can be presiding judge]*.

By: _____

Attorney for: _____

FORM 1-B. Notice of Withdrawal of Limited Appearance.

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

[] Plaintiff/Petitioner [] Defendant/Respondent

IN THE FAMILY COURT OF THE _____ CIRCUIT

STATE OF HAWAI'I

_____	)	CIVIL NO. _____
)	
Plaintiff/Petitioner,)	
	)	NOTICE OF WITHDRAWAL OF
vs.	)	LIMITED APPEARANCE;
	)	CERTIFICATE OF SERVICE
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF WITHDRAWAL OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) hereby files notice of Attorney’s withdrawal of limited appearance for Client _____ (“Client”) in the above-captioned matter. Client has 14 days from the filing of this notice to file an “Objection to the Withdrawal of Limited Appearance” pursuant to Rule 11.1(b)(4) of the Hawai’i Family Court Rules.

DATED: _____, Hawai’i, _____.

Attorney

OPTIONAL: Client consents to this withdrawal: _____
[Signature of Client]

[attach proof of service upon the client here]

FORM 1-C. Objection to Withdrawal of Limited Appearance.

(FILING PARTY)

Name
Mailing Address
Phone Number
Email Address

Representing _____
[] Plaintiff/Petitioner [] Defendant/Respondent

IN THE FAMILY COURT OF THE _____ CIRCUIT

STATE OF HAWAI'I

_____	)	CIVIL NO. _____
)	
Plaintiff/Petitioner,)	
	)	OBJECTION TO WITHDRAWAL OF
vs.	)	LIMITED APPEARANCE;
	)	CERTIFICATE OF SERVICE
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

OBJECTION TO WITHDRAWAL OF LIMITED APPEARANCE

Pursuant to Rule 11.1(b)(4) of the Hawai'i Family Court Rules, Client _____
_____ ("Client") hereby objects to the Notice of Withdrawal of
Limited Appearance of Attorney _____ ("Attorney") filed on
_____, because _____

DATED: _____, Hawai'i, _____.

Client

A hearing on this matter shall be held on _____, in Courtroom _____, at
_____ a.m./p.m.