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SCRU-11-0000051

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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In the Matter of the

HAWAI'I RULES OF CIVIL PROCEDURE

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ORDER AMENDING THE HAWAI'I RULES OF CIVIL PROCEDURE

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

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

[NEW MATERIAL IS UNDERLINED]

**Rule 11. SIGNING OF PLEADINGS, MOTIONS, AND OTHER PAPERS; REPRESENTATIONS TO THE COURT; SANCTIONS.**

**(a) Signature.** Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Any document prepared by an attorney for an unrepresented party shall comply with Rule 11.1(c) of these Rules. Each paper shall state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken by the clerk unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

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**(c) Sanctions.** If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(1) HOW INITIATED.

(A) *By Motion.* A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 5 of these Rules, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

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**(d) Inapplicability to discovery.** Subdivisions (a) through (c) of this [r]Rule do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of Rules 26 through 37 of these Rules.

[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 these Rules.

(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 these Rules.

(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 32, 32-A, 32-B, and 32-C are adopted, as attached hereto, and shall be appended to the Hawai‘i Rules of Civil Procedure, 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.

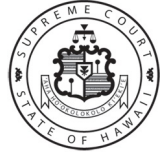
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson



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.

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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: \_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

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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 Rules of Civil Procedure. 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 32-A. Notice of Limited Appearance.**

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing \_\_\_\_\_

Plaintiff/Petitioner  Defendant/Respondent

IN THE CIRCUIT COURT OF THE \_\_\_\_\_ CIRCUIT

STATE OF HAWAI'I

_____	)	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 Rules of Civil Procedure (“HRCP”).

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 HRCF 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 HRCF 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 32-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 CIRCUIT 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 Rules of Civil Procedure.

DATED: \_\_\_\_\_, Hawai’i, \_\_\_\_\_.

\_\_\_\_\_  
Attorney

**OPTIONAL:** Client consents to this withdrawal: \_\_\_\_\_

[Signature of Client]

[attach proof of service upon the client here]

**Form 32-C. Objection to Withdrawal of Limited Appearance.**

(FILING PARTY)

Name  
Mailing Address  
Phone Number  
Email Address

Representing \_\_\_\_\_  
[ ] Plaintiff/Petitioner [ ] Defendant/Respondent

IN THE CIRCUIT 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 Rules of Civil Procedure, 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.