

RE: **Proposal to Amend Rules 11.1(b) and 87(b) of the Hawai‘i Family Court Rules**

**REGARDING WITHDRAWAL BY ATTORNEYS APPEARING PURSUANT
TO THE UNBUNDLED REPRESENTATION PROGRAM**

The Supreme Court of Hawai‘i seeks public comment regarding a proposal to amend Rules 11.1(b) and 87 of the Hawai‘i Family Court Rules (HFCR). The proposed amendment changes a cross-reference in HFCR Rule 11.1(b), to HFCR Rule 87, and then creates limitations in HFCR Rule 87 regarding the application of that Rule to withdrawal from unbundled representations. The proposal is attached hereto.

Comments about the proposed amendment should be submitted, in writing, **no later than Friday, April 3, 2020**, to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the [Judiciary’s website](#).

Attachment

**PROPOSED AMENDMENT OF THE
HAWAI‘I FAMILY COURT RULES**

(Deleted material is bracketed and stricken; new material is underlined)

Rule 11.1 LIMITED APPEARANCE AND WITHDRAWAL.

(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]~~ 87 of these Rules ~~[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]~~ 87 of these Rules ~~[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.

Rule 87. ATTORNEYS.

(b) Court approval of withdrawal necessary. Whenever a party is represented by an attorney at any stage of a proceeding, such attorney may not withdraw as counsel of record without the approval of the court.

(1) ~~WITHDRAWAL AND SUBSTITUTION OF COUNSEL.~~ Such approval may be obtained, without hearing, where there is a withdrawal and substitution of counsel in writing, approved by the party. After a withdrawal and substitution of counsel is approved by the court, the withdrawing attorney shall immediately deliver a copy to the attorney of record for the adverse party, or if the adverse party is not represented by an attorney, shall mail a copy to the adverse party at the adverse party’s last known address.

(2) ~~MOTION TO WITHDRAW AS COUNSEL.~~

(A) Such approval may be obtained after a hearing on a motion to withdraw as counsel, which motion and notice of the date and time of hearing

have been served on the client and the adverse party or the adverse party's attorney, if any, and the attorney seeking to withdraw shall submit proof of service at the hearing. A hearing and notification of opposing counsel or party, however, shall not be required for withdrawal from representations provided under Rule 11.1 of these Rules.

(B) Where service of the motion to withdraw as counsel cannot be effected, the motion and notice of the date and time of hearing shall be mailed to the last known address of the client and shall also be served on the adverse party or the adverse party's attorney, if any, and the attorney seeking to withdraw shall submit proof of service at the hearing.

(C) After a withdrawal of counsel is granted and entered, the withdrawing attorney shall immediately mail or deliver a copy of the order permitting withdrawal of counsel to the attorney of record for the adverse party, if any, or shall mail a copy to the adverse party at the adverse party's last known address if the adverse party is not represented by an attorney and shall also mail a copy to the client at the client's last known address. This notice requirement, however, shall not apply to withdrawals from representations provided under Rule 11.1 of these Rules.