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IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

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STEPHEN DRAPKIN, Plaintiff-Appellant, v.
DEPARTMENT OF HEALTH, STATE OF HAWAII, Defendant-Appellee

NO. CAAP-23-0000450

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CCV-22-0000808)

OCTOBER 22, 2026

LEONARD, PRESIDING JUDGE, WADSWORTH AND McCULLEN, JJ.

OPINION OF THE COURT BY LEONARD, J.

The underlying dispute between the parties to this appeal concerns the placement of an ambulance base on the north shore of the island of Kaua'i. Self-represented Plaintiff-Appellant Steven Drapkin (**Drapkin**) alleges that Defendant-Appellee Department of Health, State of Hawaii (**DOH**), entered into a binding agreement with Drapkin to move the ambulance base from Kilauea to Princeville, and that DOH breached that

agreement. DOH denies that any such agreement was entered into or could have been entered into in the manner alleged by Drapkin. Relevant to this appeal, the Circuit Court of the First Circuit (**Circuit Court**)¹ denied Drapkin's motion for partial summary judgment on his breach of contract claim and granted DOH's summary judgment motion. In addition, the Circuit Court denied Drapkin's motion seeking recusal of the presiding judge and entered an order prohibiting Drapkin from contacting any current or former employees of DOH concerning this litigation. Drapkin challenges these rulings, as well as the Circuit Court's handling of certain evidentiary objections, and appeals from the Final Judgment entered by the Circuit Court on July 24, 2023 (**Judgment**) .

As more fully discussed herein, we hold that: (1) Drapkin's arguments concerning the Circuit Court's rulings on his evidentiary objections do not warrant appellate relief; (2) in accordance with the mandates of Hawaii Revised Statutes (**HRS**) chapter 321, as a matter of law, DOH lacked the capacity or legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville in exchange for Drapkin holding off on filing a Uniform Information Practices Act (**UIPA**) suit against DOH; (3) in light of the foregoing, we need not reach the issue of whether there is a genuine issue of

¹ The Honorable John M. Tonaki presided.

material fact as to whether the parties mutually assented to enter into a conditional contract to move an ambulance base to Princeville in exchange for Drapkin's forbearance on his UIPA claims; (4) notwithstanding the Department of the Attorney General's broad authority, a deputy attorney general did not have the capacity or legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville in exchange for Drapkin "agreeing to hold off" filing an UIPA suit against DOH; (5) the Circuit Court did not abuse its discretion in denying Drapkin's request for recusal or disqualification; and (6) the Circuit Court's order prohibiting Drapkin from communicating with DOH employees failed to meet the requirements of Hawai'i Rules of Civil Procedure (**HRCP**) Rule 11, was based on an erroneous application of Hawai'i Rules of Professional Conduct (**HRPC**) Rule 4.2, and violated Drapkin's federal and state constitutional rights to petition the government.

I. BACKGROUND

Drapkin is a long-time resident of Ha'ena on the north shore of Kaua'i. DOH is the executive agency that, in consultation with the State Emergency Medical Services Advisory Committee (**EMSAC**), determines which emergency medical services

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will be implemented in each service area.² In 2018/2019, DOH received funding from the legislature for an additional ambulance base on Kaua'i. Drapkin has been in contact with DOH through its legal representative, Deputy Attorney General Andrea Armitage (**Armitage** or **Deputy AG Armitage**), since 2019 to express his desire to relocate an ambulance base from Kilauea to Princeville in order to better serve communities on the north shore of Kaua'i. It is not entirely clear from the record when Drapkin began communicating with DOH, but as early as August 13, 2019, he met with DOH Branch Chief Dr. Alvin C. Bronstein (**Dr. Bronstein**) and various other DOH officials to discuss his desire to relocate the ambulance.

Drapkin's efforts proved unsuccessful. From August to November 2019, Drapkin filed multiple HRS chapter 92F (2012), UIPA, requests for various DOH records related to the ambulance's location. DOH objected to the majority of these requests. On December 12, 2019, Drapkin filed an appeal with the Office of Information Practices (**OIP**) contesting those objections. On February 14, 2020, DOH received a letter from Attorney Brian Black (**Black**), who represented Drapkin on some of his UIPA claims. The letter stated that if Black did not hear from DOH by

² On June 4, 2026, the Hawaii'i Legislature enacted Act 85, which amended HRS chapters 46 and 321. The amendments do not affect our analysis. EMSAC has been renamed the Hawaii Emergency Medical Systems of Care Advisory Council. See Act 85 (Jun. 4, 2026) (to be codified at HRS § 321-225). For purposes of this Opinion, we refer to the pre-Act 85 name.

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February 28, 2020, he would "assume that the [(DOH)] has no interest in resolving this matter without judicial intervention."

Deputy AG Armitage agreed to meet with Drapkin.

Armitage, Dr. Bronstein, Tiffany Lightfoot (**Lightfoot**), and Dan Galanis (**Galanis**) (the latter two being DOH employees) met with Drapkin and Black on March 10, 2020. Drapkin contends that at this meeting, he entered into an agreement with DOH, subject to several conditions, that DOH would move the ambulance to Princeville in exchange for his forbearance in bringing an UIPA suit. The conditions included the approval of DOH "higher ups," ensuring that the Makana Urgent Care site that Drapkin had selected would be appropriate, and that the decision would be brought up at the April 15, 2020 EMSAC meeting. DOH contends that the meeting attendees did not enter into an agreement to move the ambulance, but did discuss the possibility of the move and steps that would be necessary to determine if that move were feasible. The main evidence of what occurred at the March 10, 2020 meeting is the declarations attached to the parties' HRCF Rule 56 motions for summary judgment and oppositions thereto.

After the meeting, Drapkin continued to communicate with Armitage and Lightfoot.

On July 3, 2020, Drapkin sent an email to Armitage asking if she acknowledged "that on March 10, we reached an understanding that EMS would relocate the ambulance to Kilauea

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[sic] subject only to contingencies as to physical space and financial feasibility and for objectors to have an opportunity to present their views via a mechanism of an EMSAC hearing?" On July 6, 2020, Armitage replied:

[Y]our understanding of a March 10th agreement is misconstrued. To my knowledge, the only issue EMS agreed with you on is that, all things being equal, Princeville was a better location for that particular ambulance than Kilauea with respect to response times. But all things are not equal at all, to my knowledge. The space they are in now has 3 bedrooms, a full kitchen, and a carport for the ambulance. The Princeville site only has 2 bedrooms (which means there is no room for storage) and an uncovered parking space. And it's considerably more expensive than their current location with respect to rent. No one agreed to move the ambulance to the Princeville urgent care clinic as of this writing.

Drapkin maintains that this email was a repudiation of their verbal agreement.

On May 19, 2022, Drapkin withdrew his OIP administrative appeal.

On May 24, 2022, (former) DOH Deputy Director Danette Tomiyasu (**Tomiyasu**) sent a letter to Representative Nadine Nakamura (**Rep. Nakamura**). The letter states in relevant part:

KFD is considering building a new fire station in the Kilauea area. The project is in the discussion phase. When resources are available, then the Kilauea ambulance station could be moved to Princeville. First response would then be available from the new KFD Kilauea station. The group agreed with the findings of the two Optima reports and the recommendations listed in the second report to not relocate the ambulance until a viable first response provider is available to serve the Kilauea area.

On July 12, 2022, Drapkin filed a complaint seeking injunctive and declaratory relief for breach of contract. He amended his complaint on July 21, 2022, to add three UIPA claims.

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The First Amended Complaint states five counts: breach of oral contract (Count I); breach of written contract as a third party beneficiary (Count II); and violations of UIPA stemming from three of Drapkin's UIPA requests (Counts III - V).

On August 2, 2022, Drapkin filed an HRCP Rule 56 motion for partial summary judgment (**UIPA MPSJ**) on counts III & IV of the First Amended Complaint. DOH filed a motion to continue the hearing on the motion. A hearing was held on August 18, 2022, and the Circuit Court continued the hearing to December 15, 2022. Drapkin withdrew the UIPA MPSJ, and instead sought production of the documents through discovery.

On August 30, 2022, Drapkin filed discovery notices seeking to depose DOH officials. On September 11, 2022, he moved to compel the depositions of five DOH employees. On September 7, 2022, DOH filed a Motion for Protective Order Re: Plaintiff's Notice of Taking Deposition Upon Oral Examination (Dr. Elizabeth Char) (**Motion for Protective Order**). On September 19, 2022, DOH filed an HRCP Rule 12(b)(6) Motion for Partial Dismissal. On September 26, 2022, Drapkin filed a motion to compel production of documents. On September 30, 2022, DOH filed a motion to stay discovery (**Motion for Stay**).

The Circuit Court held a hearing on some of the discovery motions on October 25, 2022. The Circuit Court denied DOH's deposition-related motion for a protective order, but

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limited Drapkin's time to take Dr. Char's deposition to one hour. The court granted DOH's Motion for Stay and denied Drapkin's Motion to Compel.

On December 13, 2022, the Circuit Court held a hearing on the substantive motions and dismissed Counts II, IV, and V of the First Amended Complaint. Subsequently, Drapkin voluntarily dismissed Count III. The Circuit Court also denied Drapkin's motion to compel production of documents. The Circuit Court reasoned that:

Plaintiff is, uh, attempting to use the discovery process to obtain documents which are the subject of the UIPA claims in the instant case. Uh, as [DOH's attorney] has said, some of these documents have already been turned over but some of them are being contested as to whether they can legitimately be withheld under the UIPA provision. So those issues will therefore have to be litigated.

Trial was set for October 2023.

On December 27, 2022, Drapkin filed a motion for partial summary judgment on Count I, breach of oral contract (**Drapkin's MSJ**). Drapkin argued that DOH repudiated the oral agreement that was purportedly entered into on March 10, 2020. In support of this argument, Drapkin attached his declaration, which states in relevant part:

a. The meeting proceeded, as scheduled, on March 10, 2020. Armitage acted as chief spokesperson for DOH/EMS Branch; she was accompanied by Bronstein, Lightfoot and Galanis. Black attended the meeting with me. Bronstein did not even attempt to abide with the agreed agenda. Instead, after much talk with little benefit, Armitage stated that they could cut through everything and offer a solution that she said she thought would resolve things to my satisfaction. She stated that subject to several conditions, DOH would agree to move the ambulance from Kilauea to Princeville.

b The *stated* conditions were that DOH would need to negotiate a lease for space in Princeville -- either in the optimal Princeville location, Makana Urgent Care, adjacent to the main highway and the County's fire and police stations, or another location. The other conditions were that: (a) higher up approval would be required if there was a need to pay higher rent; (b) the Makana premises had to be deemed satisfactory to be used as an ambulance base; (c) there not be any significant financial obstacle to terminating the rental or lease obligation for the rental house in Kilauea; and (d) the decision to relocate the ambulance would be placed on the agenda of a then-upcoming April 15, 2020 EMSAC meeting (later changed to July 15, 2020 due to the COVID-caused cancellation of the April 15 meeting).

. . . .

e I understood that DOH's expectation was that in exchange for the conditional agreement to relocate the ambulance, I would agree to hold off filing the UIPA suit that Black was prepared, and had threatened, to bring. I understood Black confirmed to Armitage I would hold off bringing the suit as well to communicate about the ambulance issue/dispute with legislators, the press and my community at large and, over the following months, I did so forbear.

(Footnote omitted).

In January 2023, Drapkin filed multiple "non-hearing" motions to compel discovery (**Non-Hearing Motions**). On February 3, 2023, DOH filed a cross-motion for summary judgment (**DOH's MSJ**). DOH attached the declarations of Deputy AG Armitage, Lightfoot, Galanis, and Dr. Bronstein. Armitage's declaration states in relevant part:

9. On March 5, 2020, I received an e-mail, with an attached document titled "Notes and Questions for 3-10-20 Meeting" from [Drapkin]. In his document titled "Notes and Questions for 3-10-20 Meeting" [Drapkin] explained his understanding of the purpose of the March 10, 2020 meeting. He wrote, "[i]t is my understanding that the purpose of the meeting is to discuss ambulance placement criteria and data relating to that, not to debate the proper conclusion(s) that should be drawn or the declination of DOH to provide responses to the UIPA requests. I will adhere to that understanding in my discussion." Attached as Exhibit C is a true and correct copy of [Drapkin's] e-mail dated March 5, 2020.

10. A meeting was held on March 10, 2020. The attendees were [Drapkin], [Black], three DOH officials, and me. The DOH employees were [Dr. Bronstein, Galanis, and Lightfoot]. [Drapkin] shared his concerns and insisted that the ambulance station should be relocated from Kilauea to Princeville. It was explained to [Drapkin] some of the different factors the State would need to consider when determining the possibility of an ambulance station relocation.

11. The factors discussed with [Drapkin] included: (a) evaluating any legal and financial issues with executing a new lease and terminating an existing lease; (b) locating and determining a feasible location (cost and appropriateness of facility); (c) collaborating and cooperating with stakeholders; (d) obtaining a recommendation from the State's emergency provider, [American Medical Response (AMR)]; and (e) obtaining advice from the [EMSAC]. The factors discussed were not meant to be an exhaustive list and were not intended as terms to a contract.

Dr. Bronstein's declaration states in relevant part:

8. I attended [a] meeting on March 10, 2020 with [Drapkin, Black, Lightfoot, Galanis and Armitage].

9. It was my understanding that the purpose of the March 10, 2020 meeting was to discuss the State's denial of [Drapkin's] record requests. At the meeting, [Drapkin] shared his concerns and opinions of relocating the Kilauea ambulance station to Princeville. [Drapkin] suggested that the ambulance station should be relocated to Makana Urgent Care Clinic in Princeville.

10. It was explained to [Drapkin] at the March 10, 2020 meeting that before any decision was made to relocate the ambulance station, the State needed to consider and evaluate several factors to ensure any relocation of an ambulance station will best serve the emergency health needs of all residents of the County of Kauai, including all people of the State.

11. Several examples of the different factors were shared with [Drapkin]. These included, but were not limited to: cost, appropriateness of facilities, existing lease obligations, consultation with [EMSAC], consultation with AMR, and stakeholders. These factors were not intended to be exhaustive or conditions to a contract, rather were shared to explain such decision involved much thought and evaluation.

12. After the March 10, 2020 meeting, EMSPIB evaluated the possibility of relocating the ambulance station to Princeville, including Makana Urgent Care Clinic. The State evaluated costs and budget restraints, evaluated the feasibility of Makana Urgent Care Clinic, conferred with AMR, consulted with County and other stakeholders, and

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conducted a modeling study. It was determined that the Kilauea ambulance would not be relocated until a viable first response provider is available to serve the Kilauea area.

13. I did not have authority to enter into any contract or agreement with [Drapkin] on behalf of the State and/or DOH.

14. There was no agreement entered with [Drapkin] during, before or after the meeting on March 10, 2020 to relocate the ambulance station from Kilauea to Princeville.

15. There was no promise that DOH would relocate the Kilauea ambulance station in exchange for [Drapkin's] forbearance of a [UIPA] action.

Galanis's declaration states in relevant part:

6. I attended a meeting on March 10, 2020 with [Drapkin, Black, Dr. Bronstein, Lightfoot, and Armitage].

7. It was my understanding that the purpose of the meeting was to discuss [Drapkin's] record requests. At the meeting, Drapkin shared his concerns of the Kilauea ambulance station and his desire that the ambulance station be relocated to Princeville.

8. It was explained to [Drapkin] that before any decision was made to relocate the ambulance station, the State needed [to] consider certain factors.

9. Examples of the different factors were shared with [Drapkin]. These included, but were not limited to cost, appropriateness of facilities, existing lease obligations, consultation with [EMSAC], consultation with [AMR] and stakeholders. These factors were not intended to be conditions to a contract.

10. I am not authorized to enter into any contracts on behalf of the DOH.

11. There was no agreement entered with [Drapkin] during, before or after the meeting on March 10, 2020 to relocate the ambulance station from Kilauea to Princeville.

12. At no time, was there a promise to relocate the Kilauea ambulance station in exchange for [Drapkin's] forbearance of a UIPA action.

Lightfoot's declaration states in relevant part:

7. I attended a meeting on March 10, 2020 with [Drapkin, Black, Dr. Bronstein, Galanis, and Armitage].

8. It was my understanding that the purpose of the meeting was to discuss [Drapkin's] record requests. At the meeting, [Drapkin] shared his concerns of the Kilauea

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ambulance station and his desire that the ambulance station be relocated to Princeville. I do not recall whether any UIPA issues were discussed at the meeting.

9. During the meeting, [Drapkin] suggested the Makana Urgent Care Clinic in Princeville as a possible location for an ambulance base for the Kauai North Shore.

10. It was explained to [Drapkin] that certain factors need to be considered before any decision were made to relocate the ambulance station. Some of the different factors shared with [Drapkin] were appropriateness of facilities, existing lease obligations in Kilauea, consultation with [EMSAC], [AMR], community members, and other stakeholders. These factors were not intended to be exhaustive or conditions to a contract.

11. After the meeting, I personally followed up on the evaluation of Makana Urgent Care Facility as an ambulance base. Upon consideration, the Makana Urgent Care facility was determined unsuitable for a variety of reasons.

12. I am not authorized to enter into any contracts on behalf of the DOH, and did not have authority to enter into any agreements with [Drapkin].

13. There was no agreement entered with [Drapkin] during, before or after the meeting on March 10, 2020 to relocate the ambulance station from Kilauea to Princeville.

14. There was no promise that DOH would relocate the Kilauea ambulance station in exchange for [Drapkin's] forbearance of a [UIPA] lawsuit.

On February 23, 2023, Drapkin filed an opposition to DOH's MSJ. He attached Black's declaration which states in relevant part:

20. [Armitage] then mentioned the possibility of moving the ambulance. After some discussion, Dr. Bronstein stated that moving the ambulance to Princeville was possible based on the data and that DOH was open to making that move if it were feasible. In response, [Drapkin] stated that he would be willing to stand down from his current anticipated actions if DOH made a commitment to moving the ambulance.

21. Dr. Bronstein and [Armitage] outlined the conditions that would need to be met before a move of the ambulance.

22. [Drapkin] requested confirmation that DOH was committed to moving the ambulance to Princeville if the conditions are met.

23. [Armitage] stated that Princeville is the preferable location and that DOH would immediately start

working on cost estimates for a possible move. And Dr. Bronstein reiterated that the issue would need to be presented to an advisory council to consider neighborhood concerns.

24. At the conclusion of the meeting, [Drapkin] stated to the group that he was happy that there was an agreement in principle on the issue.

25. My description of the March 10, 2020 meeting is what I remember at this time. Many things were said in that meeting, and, without further opportunity to refresh my recollection, I don't recall everything after three years. But I do have a clear recollection of the foregoing.

26. After the meeting on March 10, I notified Mr. Jayaram that [Drapkin] would not be filing a lawsuit imminently based on the productive conversation in the meeting with DOH.

Drapkin also attached 28 evidentiary objections to his opposition to DOH's MSJ, primarily arguing that the averments made in the declarations submitted by DOH were legal conclusions, irrelevant statements of subjective intent, or conclusory assertions, and that the exhibits thereto were also irrelevant, conclusory, or hearsay.

On March 3, 2023, the Circuit Court held a hearing on the summary judgment motions. Drapkin inquired about the objections attached to his opposition:

MR. DRAPKIN: Um, Your Honor, um, are you – have you ruled on the evidentiary objections?

THE COURT: Which evidentiary objections?

MR. DRAPKIN: Uh, well, I presented, um, 29 separate evidentiary objections, um, relating to several exhibits and portions of each of the, um, declarations submitted by DOH.

. . . .

THE COURT: Well, the court will not, uh – if there are statements that are legal conclusions, of course the court – those are for the court to make. So the court will not consider those, but any factual assertions that are made in, uh, the affidavits, just as you have made factual

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assertions in your affidavit, Mr. Drapkin, the court will consider those.

The Circuit Court denied Drapkin's MSJ and granted DOH's MSJ. The Circuit Court reasoned that Deputy AG Armitage did not have authority to contract on behalf of DOH under HRS §§ 321-224 & 321-228. The court further concluded that even if Armitage had such authority, the preconditions to relocation of the ambulance base, as attested to by both sides, demonstrated a lack of mutual assent. The court noted that to agree to move the ambulance, DOH would need "higher up" approval, DOH would have to negotiate a lease, DOH would have to determine that the Makana Urgent Care was a suitable alternative to the Kīlauea site, and any relocation of the ambulance would have to be placed on the agenda of an upcoming EMSAC meeting. The Circuit Court noted the July 6, 2020 email from Armitage to Drapkin stating that no agreement had been reached and no promises had been made at the March 10, 2020 meeting and reporting that there were problems with his proposed Princeville site. The court further noted the May 24, 2022 letter from Tomiyasu to Rep. Nakamura that memorialized a January 21, 2022 meeting between the State and County of Kaua'i stakeholders where the attendees agreed not to move the ambulance to Princeville. On April 12, 2023, the Circuit Court entered its written order, *i.e.*, the Order Denying [Drapkin's] Motion for Partial Summary Judgment on Count I of the

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First Amended Complaint and Granting [DOH's] Cross-motion for Summary Judgment on Count I (**Summary Judgment Order**).

On March 22, 2023, Drapkin filed an affidavit requesting the recusal by or disqualification of the presiding judge (**Recusal Affidavit**), which the court treated as a nonhearing motion. On April 28, 2023, DOH filed a motion for HRCP Rule 11 sanctions against Drapkin, contending that the Recusal Affidavit was filed for an improper purpose, that Drapkin's factual contentions misrepresent the record, and that Drapkin's behavior throughout the case was unprofessional. On May 24, 2023, the Circuit Court entered an order denying Drapkin's request for recusal or disqualification. On July 19, 2023, the Circuit Court granted in part and denied in part DOH's Rule 11 motion (**Rule 11 Order**). The Circuit Court ordered that:

1. Pursuant to HRCP Rule 11(c)(2) the Court orders a directive of a nonmonetary nature and orders [Drapkin] to comply with the Hawaii Rules of Professional Conduct Rule 4.2. [Drapkin] is prohibited from contacting any current or former employees of the [DOH] concerning this litigation. Communication must be through Counsel for DOH.

2. The Motion requesting monetary sanctions is DENIED.

The Circuit Court entered the Judgment on July 24, 2023. The Judgment states, *inter alia*:

1. Final Judgment is hereby entered in favor of [DOH] and against [Drapkin] on Counts I through V of the First Amended Complaint.
2. [DOH] is awarded the amount of \$1,332.50 in costs against [Drapkin].
3. [Drapkin] is ordered to comply with the Hawaii Rules of Professional Conduct Rule 4.2. [Drapkin] is

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prohibited from contacting any current or former employees of the [DOH] concerning this litigation. Communication must be through Counsel for DOH.

This Final Judgment is entered as to all claims raised by all parties, and it resolves all claims by and against all parties in the above-entitled case. There are no remaining parties, claims or issues. All other claims are hereby dismissed.

Drapkin timely appealed.

II. POINTS OF ERROR

Drapkin raises five points of error on appeal, contending that the Circuit Court erred in: (1) failing to rule upon and sustain Drapkin's evidentiary objections; (2) denying Drapkin's MSJ; (3) granting DOH's MSJ; (4) denying Drapkin's request for recusal or disqualification of the presiding judge; and (5) prohibiting Drapkin from communicating with DOH.

III. APPLICABLE STANDARDS OF REVIEW

"As a general rule, the appellate court reviews evidentiary rulings for abuse of discretion." State v. Acacio, 140 Hawai'i 92, 98, 398 P.3d 681, 687 (2017) (cleaned up).

"However, when there can only be one correct answer to the admissibility question, or when reviewing questions of relevance under Hawai'i Rules of Evidence (**HRE**) Rules 401 and 402, the appellate court applies the right/wrong standard of review." Id. The appellate court applies the right/wrong standard of review to questions of hearsay. State v. Ortiz, 91 Hawai'i 181, 189-90, 981 P.2d 1127, 1135-36 (1999).

The grant or denial of summary judgment is reviewed *de novo*. See, e.g., Villaver v. Sylva, 145 Hawai'i 29, 34, 445 P.3d 701, 706 (2019). "[S]ummary judgment is appropriate if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Id. (citation omitted).

The grant or denial of a motion to disqualify a judge is reviewed for abuse of discretion. State v. Walter, 156 Hawai'i 65, 73-74, 569 P.3d 1249, 1257-58 (2025) (citation omitted). "'Decisions on recusal or disqualification present perhaps the ultimate test of judicial discretion and should thus lie undisturbed absent a showing of abuse of that discretion.'" Id. at 74, 569 P.3d at 1258 (citing State v. Ross, 89 Hawai'i 371, 375, 974 P.2d 11, 15 (1998)).

All aspects of an HRCF Rule 11 determination should be reviewed for abuse of discretion. Gap v. Puna Geothermal Venture, 106 Hawai'i 325, 331, 104 P.3d 912, 918 (2004). "The trial court abuses its discretion if it bases its ruling on an erroneous view of the law[.]" Id.

IV. DISCUSSION

A. Drapkin's Evidentiary Objections

Drapkin first argues that the Circuit Court improperly failed to rule on his evidentiary objections. This argument is without merit. As stated above, when Drapkin inquired as to the Circuit Court's ruling on the evidentiary objections, the court orally ruled that the court would not consider statements that were legal conclusions, as those were for the court to make, but that the court would consider factual assertions made in DOH's affidavits or declarations, as well as Drapkin's.

On appeal, Drapkin further argues that the Circuit Court's ruling was, in essence, incomplete because the Circuit Court failed to rule expressly on each of his specific evidentiary objections. However, on appeal, Drapkin makes no specific arguments of error, instead referring this court to his 28 objections made below, the majority of which have two or three subparts, without discernment between the ones arguably falling within or without the Circuit Court's ruling, and without any argument or citation to legal authority. Attempts to incorporate by reference arguments made before a trial court in violation of the 35-page limit set forth in Hawai'i Rules of Appellate Procedure Rule 28(a) will be disregarded.³ Kapiolani Comm. Ctr. v. A&S P'ship, 68 Haw. 580, 584, 723 P.2d 181, 185 (1986); see

³ Drapkin's Opening Brief is already 35 pages long.

also Exotics Haw.-Kona, Inc. v. E.I. DuPont De Nemours & Co., 116 Hawai'i 277, 288, 172 P.3d 1021, 1032 (2007) (appellate courts are "not oblig[ated] to address matters for which the appellants have failed to present discernible arguments") (citations omitted).

B. The Summary Judgment Motions

The Circuit Court cited multiple grounds for denying Drapkin's MSJ and granting DOH's MSJ including, *inter alia*, that Deputy AG Armitage did not have authority to enter into the purported agreement and that there was a lack of mutual assent to enter into an agreement.

To prove the existence of a contract, a party must show that there was capacity to enter the contract, an offer, an acceptance that evinced a meeting of the minds, and consideration. Calipjo v. Purdy, 144 Hawai'i 266, 280, 439 P.3d 218, 232 (2019). The first element is central to Drapkin's challenge to the Circuit Court's conclusion that neither DOH nor Deputy AG Armitage had the legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville, and close the base at Kīlauea. The latter three elements are implicated in the Circuit Court's conclusion that Drapkin failed to present any evidence demonstrating that the parties mutually assented to enter into a conditional agreement

to move an ambulance base to Princeville in exchange for Drapkin's forbearance on his UIPA claims.

1. Authority to Enter the Purported Agreement

Drapkin challenges the Circuit Court's conclusion that neither DOH nor Deputy AG Armitage had the legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville, and close the base at Kīlauea. We hold that, as a matter of law, neither DOH nor Deputy AG Armitage had the legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville in exchange for Drapkin holding off on filing an UIPA suit against DOH. Accordingly, for the reasons explicated below, we conclude that the Circuit Court did not err in concluding that neither DOH nor Deputy AG Armitage had authority to enter into the purported agreement with Drapkin.

HRS chapter 321 is composed of 47 parts that govern the wide-ranging powers and duties of DOH. Part I of HRS chapter 321 sets forth its general and administrative provisions, beginning with HRS § 321-1 (2022), which states in part:

§ 321-1 General powers and duties of the department.

(a) The department of health shall have general charge, oversight, and care of the health and lives of the people of the State, and shall pursue as a goal, the achievement of health equity. The department shall consider social determinants of health in the assessment of state needs for health.

.

(j) As used in this section:

"Health equity" means assuring equal opportunity for all people in the State to attain their full health potential.

"Social determinants of health" means the complex, integrated, and overlapping social structures and economic systems that contribute to health inequities. These social structures and economic systems include the social environment, physical environment, health services, and structural and societal factors.

Therefore, under HRS chapter 321, the overarching duty of DOH is to care for the health needs of all the people of the State, with the goal of health equity and in consideration of the complex social structures and economic systems that affect health needs.

Part XVIII of HRS chapter 321 provides for a State Emergency Medical Services System. The purpose of this system is to serve matters of compelling state interest that are necessary to protect and preserve public health, as stated in HRS § 321-221 (2022):

§ 321-221 Findings and purpose. The legislature finds that the establishment of a state emergency medical services system, including emergency medical services for children, is a matter of compelling state interest and necessary to protect and preserve public health. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve public health needs. Accordingly, the purpose of this part is to establish and maintain a state emergency medical services system in communities that can be most effectively served by the State, and to fix the responsibility for the administration of this state system, which shall provide for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of health care services under emergency conditions, whether occurring as the result of a patient's condition, from natural disasters, or from other causes. The system shall provide for personnel, personnel training, communications, emergency transportation, facilities, coordination with emergency medical and critical care services, coordination and use of

available public safety agencies, promotion of consumer participation, accessibility to care, mandatory standard medical recordkeeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part.

DOH's authority and duty under this part of HRS chapter 321 is to "establish, administer, and maintain the state emergency medical services system to serve the emergency health needs of the people in the service area," which includes all of the people of Kaua'i. HRS § 321-223 (2022);⁴ see also HRS § 321-222 (2022) (defining department and service area). In addition to establishing DOH's authority and duties, HRS § 321-223 expressly requires that all ambulance services contracted by or under the authority of DOH must be consistent with Part XVIII of HRS chapter 321.

This brings us to the sections of HRS chapter 321 that were referenced by the Circuit Court, HRS §§ 321-224 (2022) & 321-228 (2022). HRS § 321-224(a) establishes interrelated mandates for DOH with respect to the State Emergency Medical Services System, including the regulation of ambulances and ambulance services, as well as the establishment of emergency

⁴ HRS § 321-223 states:

§ 321-223 State emergency medical services system, establishment. The department shall establish, administer, and maintain the state emergency medical services system to serve the emergency health needs of the people in the service area. All emergency medical services or ambulance services contracted by or under the authority of the department or any county within the service area shall be consistent with this part.

medical service through the service area, which must meet the requirements of Part XVIII of HRS chapter 321:

§ 321-224 Department of health, functions, duties.

(a) In addition to other functions and duties assigned under this part, the department shall:

- (1) Regulate ambulances and ambulance services statewide;
- (2) Establish emergency medical services throughout the service area, including emergency aeromedical services, which shall meet the requirements of this part, subject to section 321-228;
- (3) Review and approve the curricula and syllabi of training courses offered to emergency medical services personnel statewide who provide basic, intermediate, and advanced life support, consult and coordinate with the University of Hawaii, or any other accredited community college, college, or university, or any professional organization that provides emergency medical services training, regarding the training for basic, intermediate, and advanced life support personnel, as provided in section 321-229;
- (4) Collect and evaluate data for the continued evaluation of the statewide emergency medical services system, subject to section 321-230;
- (5) Coordinate, on a statewide basis, emergency medical resources and the allocation of emergency services and facilities in the event of mass casualties, natural disasters, national emergencies, and other emergencies, ensuring linkage to local, state, and national disaster plans, and participation in exercises to test these plans;
- (6) Establish, administer, and maintain a communication system for the service area;
- (7) Assist each county in the service area in the development of a "911" emergency telephone system;
- (8) Secure technical assistance and other assistance and consultation necessary for the implementation of this part, subject to section 321-230;
- (9) Implement public information and education programs to inform the public of the statewide system and its use, and disseminate other emergency medical information, including

appropriate methods of medical self-help and first-aid, and the availability of first-aid training programs statewide;

- (10) Establish standards and provide training for dispatchers in the state system, and maintain a program of quality assurance for dispatch equipment and operations; provided that individuals acting as dispatchers in the State as of July 1, 2022, shall obtain emergency medical dispatch certification by July 1, 2026, and shall maintain certification thereafter;
- (11) Establish a program that will enable emergency service personnel statewide to provide early defibrillation;
- (12) Establish within the department the emergency medical service system for children statewide;
- (13) Consult with the advisory committee on matters relating to the implementation of this part; and
- (14) Establish and maintain statewide standards for emergency medical services course instructor qualifications and statewide requirements for emergency medical services training facilities.

HRS § 321-228 requires DOH to determine, in consultation with EMSAC,⁵ the level of emergency services to be

⁵ HRS § 321-225(a) (2022) governs the establishment, functions, and duties of the EMSAC:

§ 321-225 The state emergency medical services advisory committee. (a) There is established within the department of health for administrative purposes only the state emergency medical services advisory committee, which shall sit in an advisory capacity to the department of health on all matters relating to the state system. The advisory committee may advise the department of health upon request of the department or upon its own initiative with regard to the state system. The advisory committee shall:

- (1) Monitor, review, and evaluate on an ongoing basis the operations, administration, and efficacy of the state system, or any components thereof, to determine conformity with and maximum implementation of this part.
- (2) Prepare and submit periodic assessments, reports, and other documents relating to the state system to ensure the implementation of this part, as deemed necessary or desirable in

(continued...)

provided in a service area, which includes ambulance service:

§ 321-228 Emergency medical services; counties. The department shall determine, in consultation with the advisory committee under section 321-225, the levels of emergency medical services that shall be implemented in each county within the service area. The department may contract to provide emergency medical services, including emergency aeromedical services, or any necessary component of the emergency services system of a county within the service area in conformance with the state system. If any county within the service area shall apply to the department to operate emergency medical ambulance services within the respective county, the department may contract with the county for the provision of those services. The department shall operate emergency medical ambulance services or contract with a private agency in those counties within the service area that do not apply to it under this section. Any county or private agency contracting to provide emergency medical ambulance services under this section shall be required by the department to implement those services in a manner and at a level consistent with the levels determined under this section.

Our holding that neither DOH nor Deputy AG Armitage had authority to enter into the purported agreement with Drapkin is supported by a harmonious reading of: (1) other provisions of

⁵(...continued)

the discretion of the advisory committee.

- (3) Seek the input of the public in relation to the state system to ensure adequate fulfillment of the emergency medical services needs of the State consistent with this part.
- (4) Participate in any planning or other policymaking with regard to the state system, and seek the participation of the public, including subarea health planning councils in its consideration of plans and policies relating to the state system.
- (5) Perform other functions, and have other duties necessary to ensuring the fullest implementation and maintenance of the state system.
- (6) Advise the department of health in formulating a master plan for emergency medical services, including medicom, the "911" system, and other components necessary to meet the emergency medical needs of the people of the State which shall be submitted to the legislature.

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Part XVIII of HRS chapter 321 - such as HRS § 321-224.4 (2022) (Community paramedicine program; established), HRS § 321-226 (2022) (Emergency medical services and systems; standards), HRS § 321-227 (2022) (Regulation of ambulances), HRS § 321-229 (2022) (Emergency medical services personnel, training programs), and HRS § 321-233 (2022) (Rules); (2) the Hawaii Administrative Rules Title 11, chapter 72 rules (State Comprehensive Emergency Medical Services System) and guidance documents (many of which are directed to ambulance services); and (3) the overarching duty of DOH to care for the health needs of all the people of the State, as well as the mandate that the State Emergency Medical Services System is to serve matters of compelling state interest that are necessary to protect and preserve overall public health, not to settle a single individual's records request dispute.

Our holding is further informed by the nature of the UIPA claim that Drapkin purportedly bargained away (or put on hold) in exchange for DOH purportedly agreeing to his desired ambulance base location. HRS § 92F-15 (2012) provides in part:

§ 92F-15 Judicial enforcement. (a) A person aggrieved by a denial of access to a government record may bring an action against the agency at any time within two years after the agency denial to compel disclosure.

. . . .

(c) The agency has the burden of proof to establish justification for nondisclosure.

(d) If the complainant prevails in an action brought under this section, the court shall assess against the agency reasonable attorney's fees and all other expenses reasonably incurred in the litigation.

(Emphasis added).

UIPA rights are recognized as important rights under Hawai'i law. See HRS § 92F-2 (2012) (stating the important purposes and policies of UIPA); HRS § 92F-15(f) (giving precedence in the circuit courts to UIPA proceedings). However, the HRS § 92F-15 judicial remedies are clear and discrete, a court can (1) compel disclosure, and (2) order the responding agency to pay reasonable attorney's fees and costs incurred, if the complainant prevails. That's it. Nothing in UIPA or HRS chapter 321 supports a conclusion that DOH has the authority or capacity to agree to relocate an ambulance base in order to avoid or settle a UIPA claim. On the contrary, as discussed above, DOH's duties and authority with respect to ambulance location must be exercised only in accordance with and pursuant to the overall public health mandates set forth in HRS chapter 321.

It is for these reasons that we hold that, as a matter of law, DOH did not have the capacity or legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville in exchange for Drapkin holding off on filing an UIPA suit against DOH.

Further, we recognize that the Department of the Attorney General has broad authority to provide legal services to State departments, including DOH, which includes the authority to settle imminent litigation against the State. See HRS § 26-7

(2020); Island-Gentry Joint Venture v. Bd. of Land & Nat. Res., 57 Haw. 259, 264-65, 554 P.2d 761, 765-66 (1976). However, the Department of the Attorney General's broad authority did not grant it the capacity or legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville in exchange for Drapkin holding off on filing an UIPA suit against DOH, as the Department of the Attorney General (acting through its deputy) must exercise its powers to act in the interests of the public at large, which in this case are expressed in and limited by the mandates of HRS chapter 321. See Honolulu Civil Beat Inc. v. Dep't of the Att'y Gen., 146 Hawai'i 285, 294 n.15, 463 P.3d 942, 951 n.15 (2020) (noting the powers of the Department of the Attorney General). Accordingly, Deputy AG Armitage did not have the capacity or legal authority to enter into the purported agreement with Drapkin to establish an ambulance base at Princeville in exchange for Drapkin holding off on filing an UIPA suit against DOH.

Therefore, for these reasons, we conclude that the Circuit Court did not err in granting summary judgment in favor of DOH, and denying summary judgment to Drapkin, on Count I of the First Amended Complaint.

2. Mutual Assent

In light of our holding that neither DOH nor Deputy AG Armitage had authority to enter into the purported agreement with

Drapkin, we need not reach the issue of whether there is a genuine issue of material fact as to whether the parties mutually assented to enter into a conditional contract to move an ambulance base to Princeville in exchange for Drapkin's forbearance on his UIPA claims.⁶

C. Disqualification or Recusal

Drapkin argues that the Circuit Court erred when it denied his request for recusal or disqualification of the presiding judge.

Hawai'i courts apply a two-part test to determine whether disqualification or recusal is warranted. Chen v. Hoeflinger, 127 Hawai'i 346, 361, 279 P.3d 11, 26 (App. 2012). First, courts consider whether the alleged bias falls under HRS § 601-7 (2016).⁷ Id. If not, courts conduct a "broader inquiry

⁶ In light of our dispositive holdings, we decline to address the Circuit Court's further grounds and the parties' related arguments.

⁷ HRS § 601-7 provides (emphasis added):

§ 601-7 Disqualification of judge; relationship, pecuniary interest, previous judgment, bias or prejudice.

(a) No person shall sit as a judge in any case in which:

- (1) The judge's relative by affinity or consanguinity within the third degree is counsel, or interested either as a plaintiff or defendant, or in the issue of which the judge has, either directly or through such relative, a more than de minimis pecuniary interest; or
- (2) The judge has been of counsel or on an appeal from any decision or judgment rendered by the judge;

provided that no interests held by mutual or common funds, the investment or divestment of which are not subject
(continued...)

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of whether 'circumstances . . . fairly give rise to an appearance of impropriety[.]'" Id. (citation omitted). Judges are presumed to be unbiased, and the party moving for recusal or disqualification must rebut that presumption. Kondaur Cap. Corp. v. Matsuyoshi, 150 Hawai'i 1, 10, 496 P.3d 479, 488 (App. 2021). Adverse rulings alone do not provide a basis for disqualification. State v. Ross, 89 Hawai'i 371, 378, 974 P.2d 11, 18 (1998); see also Jou v. Dai-Tokyo Royal State Ins., 116 Hawai'i 159, 165, 172 P.3d 471, 477 (2007).

Drapkin points to Peters v. Jamieson, which holds that "other factors" may be "collectively considered together with

⁷(...continued)

to the direction of the judge, shall be considered pecuniary interests for purposes of this section; and after full disclosure on the record, parties may waive disqualification due to any pecuniary interest.

(b) Whenever a party to any suit, action, or proceeding, civil or criminal, makes and files an affidavit that the judge before whom the action or proceeding is to be tried or heard has a personal bias or prejudice either against the party or in favor of any opposite party to the suit, the judge shall be disqualified from proceeding therein. Every such affidavit shall state the facts and the reasons for the belief that bias or prejudice exists and shall be filed before the trial or hearing of the action or proceeding, or good cause shall be shown for the failure to file it within such time. No party shall be entitled in any case to file more than one affidavit; and no affidavit shall be filed unless accompanied by a certificate of counsel of record that the affidavit is made in good faith. Any judge may disqualify oneself by filing with the clerk of the court of which the judge is a judge a certificate that the judge deems oneself unable for any reason to preside with absolute impartiality in the pending suit or action.

Here, Drapkin's affidavit requesting recusal or disqualification was untimely as it was filed after the court ruled on the dispositive motions and Drapkin did not show good cause for failing to file it before the court ruled against him.

such rulings" to demonstrate prejudice. 48 Haw. 247, 264, 397 P.2d 575, 586 (1964). However, there is nothing more here. Drapkin points only to the Circuit Court's "egregiously wrongful processes and highly erroneous rulings." On appeal, Drapkin does not challenge any of the Circuit Court's processes and rulings preceding the filing of the request for recusal other than the ones addressed above, which cannot be construed as evidence of bias or prejudice.

Accordingly, we conclude that the Circuit Court did not abuse its discretion in denying Drapkin's request for recusal or disqualification.

D. The Rule 11 Order

Drapkin argues that the Circuit Court erred in the Rule 11 Order to the extent that it orders him to comply with HRPC Rule 4.2 and prohibits him from contacting DOH employees concerning this litigation. As stated above, the Rule 11 Order includes:

1. Pursuant to HRCF Rule 11(c)(2) the Court orders a directive of a nonmonetary nature and orders [Drapkin] to comply with [HRPC] Rule 4.2. [Drapkin] is prohibited from contacting any current or former employees of the [DOH] concerning this litigation. Communication must be through Counsel for DOH.

In addition, the Judgment states, *inter alia*:

3. [Drapkin] is ordered to comply with [HRPC] Rule 4.2. [Drapkin] is prohibited from contacting any current or former employees of the [DOH] concerning this litigation. Communication must be through Counsel for DOH.

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Drapkin raises several arguments in support of this contention, including that: (1) the Rule 11 Order fails to comply with HRCF Rule 11(c)(3); (2) it is undisputed he is not and has never been a Hawai'i-licensed attorney and that he resigned his membership in the California bar when he retired in 2016 (and even if he were a Hawai'i lawyer, his conduct did not violate HRCF Rule 4.2); (3) the Rule 11 Order violates his First Amendment rights to free speech and to petition the government; and (4) he did not violate HRCF Rule 11.

Regarding Drapkin's first argument, HRCF Rule 11(c)(3) states: "(3) ORDER. When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this Rule and explain the basis for the sanction imposed." The Circuit Court did not describe the conduct that constituted a violation of Rule 11 or explain the basis for the sanction imposed. Thus, the Circuit Court did not comply with HRCF Rule 11(c)(3).

As to Drapkin's second argument, which challenges the Circuit Court's order that Drapkin comply with HRCF Rule 4.2, DOH appears to acknowledge that Drapkin is not a Hawai'i lawyer⁸ and has not been a licensed attorney in California at any point in this litigation, while pointing to the fact that he is a retired California lawyer. DOH offers no authority for the proposition

⁸ In the HRCF Rule 11 motion, DOH states: "[Drapkin] is not a member of the Hawaii Bar and not subject to sanctions by the Hawaii Bar."

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that a former lawyer, who has never been licensed in Hawai'i, can be sanctioned for violating the Hawai'i Rules of Professional Conduct.⁹

It appears from the references to HRPC Rule 4.2 in both the Rule 11 Order and the Judgment that the Circuit Court based its directive on HRPC Rule 4.2, which provides:

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

(Emphases added).

Comment [1] to HRPC Rule 4.2 provides:

[1] This Rule does not prohibit communication with a represented person, or an employee or agent of such a person, concerning matters outside the representation. For example, the existence of a controversy between a government agency and a private party, or between two organizations, does not prohibit a lawyer for either from communicating with nonlawyer representatives of the other regarding a separate matter. Also, parties to a matter may communicate directly with each other and a lawyer having independent justification or legal authority for communicating with a represented person is permitted to do so. Communications authorized by law include, for example, the right of a party to a controversy with a government agency to speak with government officials about the matter.

(Emphasis added).

Thus, even if Drapkin could be ordered to comply with the HRPC, the Rule 11 Order is in direct conflict with the last sentence of the Comment, which is offered as a specific example

⁹ DOH points to a 2003 Office of Disciplinary Counsel (ODC) opinion that an attorney who is a party proceeding pro se is subject to HRPC Rule 4.2. However, ODC's opinion presumably concerned an attorney who was subject to the HRPC and does not address the issue presented here.

of when a communication about the subject of a representation is authorized by law.

This leads us to Drapkin's argument that the Rule 11 Order violated his right to petition the government. The right of a party to a controversy with a government agency to speak with government officials about the matter in dispute is grounded in the right to "petition the government for a redress of grievances" under the First Amendment of the United States Constitution and article I, section 4 of the Hawai'i Constitution. U.S. Const. amend. I; Haw. Const. art. I § 4; see also Perry v. Perez-Wendt, 129 Hawai'i 95, 102, 294 P.3d 1081, 1088 (App. 2013). The right to petition is "implicit" to our republican form of government and allows citizens to "communicate their will" to government officials. McDonald v. Smith, 472 U.S. 479, 482 (1985) (citations omitted). "The right to petition allows citizens to express their ideas, hopes, and concerns to their government and their elected representatives[.]" Borough of Duryea, Pa. v. Guarnieri, 564 U.S. 379, 388 (2011).

While Hawai'i courts have not previously addressed this issue directly, courts and commentators have held where the opposing party is the government, an attorney is nevertheless "authorized by law" to communicate with the government by the First Amendment of the United States Constitution. "Government remains the servant of the people, even when citizens are

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litigating against it. Thus, when citizens deal with government agencies, several sorts of direct contact are 'authorized by law' and permissible." Am. Canoe Ass'n, Inc. v. City of St. Albans, 18 F. Supp. 2d 620, 621 (S.D. W. Va. 1998); see also Camden v. State of Maryland, 910 F. Supp. 1115, 1118 (D. Md. 1996); United States ex rel. Lockyer v. Haw. Pac. Health, 490 F. Supp. 2d 1062, 1089 (D. Haw. 2007); American Bar Association, Annotated Model Rules of Professional Conduct, p. 411 (4th ed. 1998) ("When a governmental agency is the represented party, the Comment to Rule 4.2 recognizes that a party may 'speak with governmental officials about the matter.' The First Amendment right of petition brings such communications within the 'authorized by law' exception to Rule 4.2."); see also Geoffrey C. Hazard & W. William Hodes, The Law of Lawyering § 4.2:109. (Prentice Hall 2nd ed. 1990).

We hold that the Circuit Court's Rule 11 Order and Judgment violated Drapkin's right to petition the government by prohibiting him from communicating with DOH employees on this matter, except through their attorneys. Accordingly, under the circumstances of this case, the Circuit Court abused its discretion in barring all communications with DOH employees concerning this litigation, except through counsel. We do not reach Drapkin's free speech argument or his final argument that his conduct did not violate HRCF Rule 11.

V. CONCLUSION

For the reasons set forth above, the Circuit Court's April 12, 2023 Summary Judgment Order is affirmed and the July 19, 2023 Rule 11 Order is reversed with respect to the nonmonetary sanction imposed on Drapkin. Paragraph 3 of the Circuit Court's July 24, 2023 Judgment is reversed; the Judgment is otherwise affirmed. All pending motions are mooted by this Opinion and therefore dismissed.

DATED: Honolulu, Hawai'i, October 22, 2026.

On the briefs:	/s/ Katherine G. Leonard Presiding Judge
Steven Drapkin, Plaintiff-Appellant, self-represented.	/s/ Clyde J. Wadsworth Associate Judge
Melissa J. Kolonie, Lyle T. Leonard, Deputy Attorneys General, for Defendant-Appellee.	/s/ Sonja M.P. McCullen Associate Judge