

HSBA Rule 1.10 Guidance Handout

Note: Nothing in this handout supersedes the plain language of RSCH Rule 1.10. If any ambiguity is perceived in the language of this handout, Rule 1.10 will control. This handout is prepared as a courtesy by the Hawaii State Bar Association (HSBA) to assist attorneys with the process of resignation.

The procedure to permanently resign from the Hawaii Bar is controlled by RSCH Rule 1.10.

This procedure, if successfully completed, will result in an attorney's name and bar number being permanently removed from the Supreme Court of Hawaii's attorney list.

The Supreme Court oversees the process and the requirements for resignation. An attorney who wishes to resign must obtain affidavits from the following entities:

- a. the HSBA
- b. the Office of the Disciplinary Counsel
- c. the Lawyers' Fund for Client Protection

The above referenced affidavits must be submitted along with the attorney's own affidavit in support of his/her petition to resign and surrender license. All affidavits must be executed and notarized. Filing fees apply and the attorney should contact the Supreme Court Clerk's office at (808) 539-4919 regarding the fees and the how to file the petition. However, the following provides guidance to the attorney and what to prepare.

Affidavit from the HSBA: To obtain an affidavit from the HSBA, the attorney should direct requests to Liberty Castillo at (808) 792-7339 or lcastillo@hsba.org. The HSBA will review the attorney's file and provide the attorney with an executed and notarized affidavit so long as the attorney is in good standing with the HSBA. To be in good standing with the HSBA means that the attorney is current with their registration, dues and fees.

Affidavit from Disciplinary Counsel and Lawyers' Fund for Client Protection (LFCP): To obtain affidavits from the Disciplinary Counsel and LFCP, contact the Office of the Disciplinary Counsel (ODC). The ODC also assist in the management of the LFCP and will provide the required affidavit. Requests should be directed to Faye Hee at (808) 469-4025 or faye.f.hee@dbhawaii.org.

Attorney Petition and Affidavit: The attorney must also prepare a petition and the attorney's affidavit in support. The HSBA has prepared a sample petition; affidavit of petitioner; and certificate of service which are available on the HSBA website for reference.

Service Requirement: After the attorney has gathered all required documents: the petition and the four executed and notarized affidavits (from the attorney; the HSBA; the Disciplinary

Counsel; and the LFCP), all five documents must be served upon the HSBA; the ODC; and the LFCP either in person or by certified or registered mail. The attorney will then complete the Certificate of Service form, certifying that service has been made upon the HSBA; the Disciplinary Counsel; and the LFCP.

Filing petition with the Supreme Court: After serving the documents, the attorney should take the petition, the four affidavits, and the certificate of service, and submit the documents to the Clerk of the Supreme Court, along with a check for the appropriate amount payable to the Judiciary of the State of Hawaii. The attorney should contact the Supreme Court Clerk's Office at (808) 539-4919 to obtain the current fee for the filing of the Rule 1.10 petition.

Timing: Pursuant to Rule 1.10(e) the ODC has 10 days following the filing of the petition to make any objections to the petition, the attorney should file his/her petition with sufficient time to allow for this objection period, as well as time for the court to review the petition and render a decision.

Accordingly, if an attorney would like to resign in order to avoid paying registration fees for the upcoming year, they should allow sufficient time for the entire process to be completed before December 31 of the current year.

Obligation to file affidavit pursuant to Rule 1.10(g): Finally, attorneys are reminded that, pursuant to Rule 1.10(g), they are obligated to file within 10 days of the entry of the order granting resignation, an affidavit that they have properly withdrawn from practice, similar to the duties of withdrawal set forth in RSCH Rules 2.16(a), (b), (d), and (g)