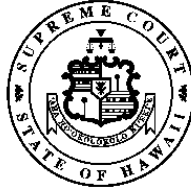


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FOR IMMEDIATE RELEASE
Date: Monday, August 14, 2023

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PRESS RELEASE

HONOLULU, HAWAI'I - The Hawai'i Supreme Court's Disciplinary Board and Office of Disciplinary Counsel are deeply concerned and saddened over the loss of life and extensive destruction of property occasioned by the wildfires in Maui and Hawai'i counties. In a desire to help the situation, please find below various Public Service Announcements ("PSA") for distribution in the appropriate media:

1. **Social Media PSA** (abbreviated post for use with social media platforms.)
2. **Print Media PSA** (suggested material for use in print or televised media.)
3. **Detailed Press Release** (deeper dive into the issue, with citations to relevant law.)

1. Social Media PSA

Maui & Hawai'i County Wildfire Fraud Alert - In this time of tragedy, many victims and family are going to need legal help with the loss of life and property destruction suffered in the recent wildfires. Watch out for and report potential legal fraud. Fast-moving disasters tempt opportunistic actors to prey on people when they are most vulnerable. You may be contacted by attorneys who want to represent you; but please make sure that any lawyer you hire is a qualified Hawai'i licensed attorney. You can verify this by contacting the Hawai'i State Bar Association ("HSBA") to confirm any lawyer's license status, or by doing a lawyer search on the HSBA website (www.hsba.org). Only "active" Hawai'i lawyers may practice law in Hawai'i. Also, no lawyer should be contacting you directly to solicit business from you. You can get additional information on what is required of lawyers

when you hire them from the Office of Disciplinary Counsel at www.dbHawaii'i.org. Presented by the Office of Disciplinary Counsel and the Disciplinary Board of the Hawai'i Supreme Court.

2. Print Media PSA

Warning to the Public: unlicensed attorneys seeking to exploit victims of the wildfire disasters - The Office of Disciplinary Counsel of the Hawai'i Supreme Court warns the public that Hawai'i prohibits the practice of law in Hawai'i unless the Court authorizes a person to practice here. In addition, attorneys are not allowed to solicit employment by direct in-person or social media, live telephone, e-mail, or text messages with few exceptions. Victims and/or their families are also protected from attorney communications involving personal injury or wrongful death unless the injury or death occurred more than 30 days prior to the communication or where the victim or family makes known that they want to be left alone. There are many rules which restrict the conduct of attorneys seeking employment and fee agreements.

If you are contacted by an attorney seeking legal employment, check to see whether the attorney is authorized to practice law in Hawai'i by searching the Hawai'i State Bar Association's website at www.hsba.org. Make sure that the attorney has an active license. Any attorney not licensed in Hawai'i must be associated with an active Hawai'i attorney who meaningfully participates in your case. Carefully review any solicitation from lawyers and be wary of contacts from non-Hawai'i attorneys or law firms. Fee agreements must in writing so carefully review such agreements before agreeing to representation.

If you feel that you have been contacted by an unauthorized attorney and/or in a manner that that would violate Hawai'i's rules, you may submit a complaint directly to the Office of Disciplinary Counsel. See: "How to File a Complaint" at www.dbHawaii'i.org [<https://dbHawaii'i.org/how-to-file-a-complaint-with-the-odc/>.]

3. Detailed Press Release

Public Warning re: Unlicensed attorneys seeking to capitalize on the Maui and Hawai'i County Wildfire Disasters.

Given the tragic and disastrous loss of life and property damage wrought by the recent wildfires, victims, their families, and associates may have a need for legal representation. Unfortunately, fast-moving disasters tempt opportunistic actors to prey on people when they are most vulnerable, so watch out for and report potential legal fraud.

The Office of Disciplinary Counsel ("ODC"), under the Disciplinary Board of the Hawai'i Supreme Court, in the furtherance of its duty to protect the public, issues this caution to the consumer public.

- The State of Hawai'i prohibits the unauthorized practice of law by statute.¹
- Only the Hawai'i Supreme Court can authorize a person to practice law in Hawai'i.²
- Limiting the practice of law to members of the Hawai'i bar, and those non-Hawai'i lawyers specially admitted, protects the public against rendition of legal services by unqualified persons.³
- The Hawai'i Supreme Court and its Disciplinary Board, through its ODC, holds legal practitioners to account for any misconduct in violation of the Hawai'i Rules of Professional Conduct ("HRPC").⁴
- The purpose of attorney discipline is protect the public from those attorneys who do not conform to the HRPC.⁵

Further, the jurisdiction of the Hawai'i Supreme Court, its Disciplinary Board, and the ODC extends not only to attorneys licensed or otherwise admitted in Hawai'i, but also to those

¹ Haw. Rev. Stat. ("HRS") § 605-14.

² Haw. Const. Art. 6, Sec. 7; and HRS § 605-1.

³ Hawai'i Rules of Professional Conduct ("HRPC") Rule 5.5 official comment [1].

⁴ Rules of the Supreme Court of Hawai'i ("RSCH") Rules 2.1 and 2.2.

⁵ *Akinaka v. Disciplinary Bd.*, 91 Hawai'i 51, 55 (1999).

licensed to practice law in any other state or territory of the United States or the District of Columbia, who practice law or render or offer to render any legal services in Hawai'i.⁶

As a result, any lawyer, law firm, or other operation advertising, soliciting, or otherwise communicating the availability of its services in the wake of the recent wildfire disaster is subject to the Hawai'i rules, and under the jurisdiction of the Hawai'i Supreme Court, its Disciplinary Board and the ODC.

Hawai'i law places many restrictions on lawyers seeking employment, some of those are listed below. Prospective clients should carefully scrutinize lawyer solicitations and be wary of contacts, particularly from non-Hawai'i lawyers or law firms.

- Lawyers are prohibited from soliciting employment by direct in-person, live telephone, email, or text messages at any time.⁷
- Lawyers are prohibited from soliciting employment by way of communication addressed to the victim, or the victim's relatives by any other method (including conventional mail, robocall, flyer, or other device,) unless the personal injury or wrongful death occurred more than 30 days prior to the sending of the communication.⁸
- Lawyers are prohibited from soliciting or continuing to solicit employment from a victim, or a victim's family, when the victim or family makes known their desire to be left alone.⁹

⁶ RSCH Rule 2.1 (effective July 1, 2022). Non-lawyers practicing law in Hawai'i may also be in violation of HRS § 605-14 and subject to the jurisdiction of the Attorney General's office.

⁷ HRPC Rule 7.3(a), see also Haw. FEO 41 (Attorney web sites and other electronic advertising).

⁸ HRPC Rule 7.2(e) (1).

⁹ HRPC Rule 7.2(b) (1), and (e) (2).

- All advertisements for legal services shall include the name of at least one Hawai'i licensed lawyer responsible for its content.¹⁰
- Advertisement by mail shall include the word "Advertisement Material" on the outside of the envelope, and electronic advertising shall include the words "Advertising Material" at the beginning and the end.¹¹
- Any agreement to retain a lawyer, and any subsequent changes to the agreement, must be in writing and provided to the client.¹²
- Fee agreements contingent on success ("no fee if we don't win") must be signed by the client, and shall explain the division of fees, charges included or excluded, and other issues that impact the client's recovery.¹³
- No fees shall be shared between lawyers not in the same law firm unless 1) the client agrees in writing, 2) all the lawyers assume joint liability for the representation, and 3) the total fee is reasonable.¹⁴
- Any retainers, undisbursed settlements, or unearned funds entrusted to a lawyer, must be deposited by the lawyer into a trust account held in a Hawai'i financial institution approved by the Hawai'i Supreme Court.¹⁵

The public should also be aware that the Hawai'i Supreme Court's Lawyers' Fund for Client protection exists to provide restitutionary benefits to clients who are victimized by dishonest lawyers, but only if the lawyer was a licensed

¹⁰ HRPC Rule 7.2(c).

¹¹ HRPC Rule 7.3(c).

¹² HRPC Rule 1.5(b)

¹³ HRPC Rule 1.5(d).

¹⁴ HRPC Rule 1.5(e).

¹⁵ RSCH Rule 11. See: <https://www.hawaiijustice.org/welcome-to-the-hawaii-justice-foundation/info-for-lawyers/iolta-approved-banks>

member of the Hawai'i bar or specially admitted to practice in Hawai'i.¹⁶

The public can check to see if a lawyer is authorized to practice law in Hawai'i by searching the Hawai'i State Bar Association's website at www.hsba.org. Only lawyers holding an "active" license are entitled to practice law.

Non-Hawai'i law firms seeking to represent victims of the recent wildfires may do so in Hawai'i only if they employ one or more actively licensed Hawai'i lawyers in the firm or if they have associated with a Hawai'i licensed attorney in a manner consistent with the HRPC and rules of court.

- Complaints against wrongful lawyer conduct can be submitted directly to the ODC. See: www.dbhawaii.org.¹⁷
- Persons who have lost money due to a lawyer's dishonesty may file claims with the Lawyers Fund for Client Protection. See: www.hawaiilawyersfund.com.¹⁸
- Hawai'i lawyers impacted by the disaster may seek assistance from the Attorneys' and Judges' Assistance Program. See: www.hawaiiap.com.

For further information, contact Bradley R. Tamm, Chief Disciplinary Counsel, direct telephone 808-469-4026, or info@dbhawaii.org.

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¹⁶ RSCH Rule 10.3(a)(1).

¹⁷ <https://dbhawaii.org/how-to-file-a-complaint-with-the-odc/>

¹⁸ <https://www.hawaiilawyersfund.com/filing-a-claim/>