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Attorney for:
Defendants

**IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
KONA DIVISION, STATE OF HAWAII**

JASON HESTER, an individual
Plaintiff,

v.

LEONARD G. HOROWITZ, an
individual; SHERRI KANE, an
individual; MEDICAL VERITAS
INTERNATIONAL, INC, a
California nonprofit corporation;
THE ROYAL BLOODLINE OF
DAVID, a Washington Corporation
Sole; JOHN DOES, 1-10, JANE
DOES 1-10, DOE ENTITIES 1-10,
DOE PARTNERSHIPS 1-10, DOE
GOVERNMENTAL UNITS 1-10.
Defendants

CIV. NO. 14-1-0304
(Quiet Title)

**DEFENDANTS' MOTION FOR
STAY OR FOR DISMISSAL
PRIOR TO ENTRY OF FINAL
JUDGMENT [HRCP 62(b)];
MEMORANDUM IN SUPPORT;
AFFIDAVIT OF LEONARD G.
HOROWITZ (w/Exhibits "A"-"M");
DECLARATION OF ATTORNEY
MARGARET WILLE; EXHIBITS
"A" - "J"; NOTICE OF HEARING;
CERTIFICATE OF SERVICE**

JUDGE: Honorable Ronald Ibarra

HEARING DATE: 10.30.15
HEARING TIME: 9 AM

**DEFENDANTS' MOTION FOR STAY OR FOR DISMISSAL
PRIOR TO ENTRY OF FINAL JUDGMENT [HRCP 62(b)]**

HENRIETTA CHONG, CLERK
THIRD CIRCUIT COURT
STATE OF HAWAII

2015 OCT -5 PM 3:59

FILED

COMES NOW Defendants LEONARD G. HOROWITZ, SHERRI KANE, and THE ROYAL BLOODLINE OF DAVID (RBOD)¹, hereafter collectively referred to as Defendants, by and through their attorney MARGARET WILLE, hereby moving this Court to dismiss or alternatively to stay the proceedings in this case pursuant to Hawaii Rules of Civil Procedure (HRCP) Rule 62(b) pending the outcome of the appeal of the related case Civ. No. 05-1-0196, now before the Intermediate Court of Appeals, CAAP-15-0000658.

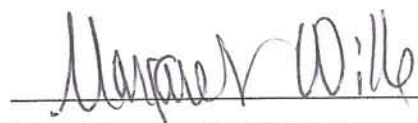
HRCP Rule 62(b) allows for a stay under certain circumstances including when "justice so requires". This motion is appropriate at this time pursuant to HRCP Rule 58, which provides in relevant part:

The filing of the judgment in the office of the clerk constitutes the entry of final judgment; and the judgment is not effective before such entry.

This motion is made pursuant to HRCP 7(b) "Motions and Other Papers", HRCP 62(b) "Stay on Motion for New Trial or for Judgment" as well as Rules 3, 7, 7.1, and 7.2 of the Rules of the Circuit Court of the State of Hawaii, and is based upon and supported by the Affidavit of Leonard G. Horowitz, the Declaration of Attorney Margaret Wille, the Memorandum in Support of this Motion, all exhibits attached hereto, and the record in this case.

DATED: Waimea, HI 96743

October 5, 2015


MARGARET WILLE, attorney for Defendants

Jason Hester, Overseer The Office Of Overseer, Overseer For The Popular Assembly Of Revitalize, A Gospel Of Believers, Plaintiff v. Leonard G. Horowitz et al, Defendants;
DEFENDANTS' MOTION FOR STAY OR FOR DISMISSAL PRIOR TO ENTRY OF FINAL JUDGMENT [HRCP 62(b)]

¹ MEDICAL VERITAS INTERNATIONAL, INC.(MVI) is a California based non-profit that was RBOD's lessee of the subject property. Given its limited interest in the subject property, MVI is not pursuing this Motion for a Stay or Alternatively Dismissal or a New Trial.

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Defendants

**IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
KONA DIVISION, STATE OF HAWAII**

JASON HESTER, an individual)
Plaintiff,)

v.)

LEONARD G. HOROWITZ, an)
individual; SHERRI KANE, an)
individual; MEDICAL VERITAS)
INTERNATIONAL, INC, a)
California nonprofit corporation;)
THE ROYAL BLOODLINE OF)
DAVID, a Washington Corporation)
Sole; JOHN DOES, 1-10, JANE)
DOES 1-10, DOE ENTITIES 1-10,)
DOE PARTNERSHIPS 1-10, DOE)
GOVERNMENTAL UNITS 1-10.)
Defendants)

CIV. NO. 14-1-0304
(Other Civil Action)

**MEMORANDUM IN
SUPPORT OF MOTION FOR
STAY OR FOR DISMISSAL
PRIOR TO ENTRY OF FINAL
JUDGMENT [HRCP 62(b)]**

JUDGE: Honorable Ronald Ibarra

Hearing date: _____

Hearing time: _____

**MEMORANDUM IN SUPPORT OF MOTON FOR STAY OR FOR
DISMISSAL PRIOR TO ENTRY OF FINAL JUDGMENT [HRCP 62 (b)]**

I. BACKGROUND:

In Civ. No. 05-1-0196 this same Court ruled in favor of Defendant Horowitz and the Royal Blood of David (RBOD) in denying Plaintiff Jason Hester's judicial foreclosure action with respect to the same subject property located in Pahoa, Hawaii (hereafter "the Property") at issue in this 2014 filed quiet title case that is based on a 2010 non-judicial foreclosure

action. The 2005 judicial foreclosure was initiated, not because of any failure in payments due, but based on: (1) disputed claims relating to obtaining property insurance for this property located in a “Lava 1 Zone,” (highest risk zone); and (2) disputed claims as to whether making improvements on the Property without prior approval of the Seller-Mortgagee was in violation of the terms of the mortgage. An appeal in Civ. No. 05-1-0196 is still pending before the Intermediate Court of Appeals, (ICA No. CAAP-15-0000658).

In Civ. No. 05-1-0196, the Court’s April 2, 2008 Findings of Fact and Conclusions of Law, in relevant part, concluded that:

6. Although Defendants violated the terms and conditions of the mortgage by failing to maintain property insurance, and making improvements/modifications to the property without prior consent of Plaintiff; there is enough equity on behalf of Defendants to find foreclosure in this instant unjust.

7. Considering the equities involved with the timely payment, property improvements, balloon payment near due, and misleading statements by Plaintiff, foreclosure in this instant case would be unjust.¹

On July 22, 2008, the Court in Civ. No. 05-1-0196 filed its Final Judgment in favor of Defendants denying foreclosure, and consistent with the jury verdict, awarded Defendants damages in the amount of \$200,000.² On July 29, 2008, Plaintiff Cecil Loran Lee filed a Rule 60(b) Notice of Re-Submission of Plaintiff’s Motion for Judgment as a Matter of Law effectively seeking to reverse the jury verdict, and the Findings of Fact and Conclusions of Law, and the Final Judgment, on Defendants’ counterclaim for fraud and misrepresentation. Based on the rationale that Defendants’ claim of fraud and misrepresentation had not been plead with sufficient particularity on October 15, 2008, the Court granted Plaintiff’s motion. On February 23, 2009 the Court filed an Amended Final Judgment, amending the judgment with respect to Defendants’ counterclaim of fraud and misrepresentation, but it still included the award of \$200,000 to Defendants. Following the death of Plaintiff Lee and substitution of Plaintiff Lee by Substitute Plaintiff Jason Hester, on December 11, 2009 the Court entered a

¹ A copy of the Findings of Fact and Conclusions of Law is attached here as **Exhibit A**.

² A copy of the Final Judgment and the Jury’s Special Verdict are attached as **Exhibits B and C**.

Second Amended Final Judgment vacating the award of \$200,000 to Defendants based on the Court's reversal of Defendants' counterclaim for fraud and misrepresentation. On September 12, 2013 the Court filed a Third Amended Final Judgment and on June 19, 2015, the Court filed its Fourth Final Judgment. On August 6, 2015 the Court denied Defendants' motion for reconsideration or alternatively for a new trial. On September 4, 2015, Defendants Leonard Horowitz and the Royal Bloodline of David appealed the Circuit Court's Fourth Amended Final Judgment, not with regard to the denial of foreclosure, but with regard to the Court's vacation of the damage award to Defendants of \$200,000.³ The denial of foreclosure in Defendants' favor has not been appealed by Substitute Plaintiff Hester.

With regard to the \$200,000 in damages in dispute: (1) if, in the prior case (Civ. No. 05-1-0196), Defendants succeed in their appeal of the Circuit Court's vacation of the \$200,000 jury award, no additional money is due on the mortgage; and (2) contrariwise, if the Appellate Court upholds the vacation of Defendant's damage award and does not otherwise reverse the Circuit Court's Fourth Final Judgment, then, upon appropriate motion filed, the Circuit Court would proceed to determine whether there is a deficiency amount still due on the mortgage.

In the instant case, the Plaintiff is in effect seeking an end run around the prior filed judicial foreclosure action. The series of transactions involved in both cases involve the same mortgage agreement and purchase of the same Property, interrelated foreclosure issues, and now what monies, if any, remain due on the mortgage.

II. PURSUANT TO HRCP 62(b), A STAY IN THIS CASE IS APPROPRIATE PENDING FINALITY IN THE APPEAL OF CIV. 05-1-0196.

Hawaii Rules of Civil Procedure (HRCP) Rule 62(b) allows for a stay following entry of a Final Judgment but also allows for a stay otherwise "when justice so requires." HRCP Rule 62(b) in its entirety provides:

³ MEDICAL VERITAS INTERNATIONAL, INC.(MVI) is a California based non-profit that was RBOD's lessee of the subject Property. Given its limited interest in the Property, MVI is not pursuing this lawsuit further.

In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52(b), or when justice so requires in other cases until such time as the court may fix. (emphasis added)

Pursuant to HRCF Rule 62(b) a stay is therefore permitted, and is preferable to be made now for efficiency and economy, prior to entry of the Final Judgment. See e.g. *Blake v. County Of Kaua'i Planning Com'n*, 131 Haw. 123, 137, 315 P. 3d 749, 763 (Haw. 2013).⁴

This motion is proper pursuant to HRCF Rule 62(b), rather than being made in combination with a Motion under HRCF 59(a) and 59(e) “Motion to Alter or Amend Judgment” because Final Judgment has not yet been entered in the office of the clerk.⁵

⁴ As the Court in *Blake* explained: “[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.”^[13] (quoting *Air Line Pilots Ass'n v. Miller*, 523 U.S. 866, 880, 118 S.Ct. 764*764 1761, 140 L.Ed.2d 1070 (1998)). A stay may be appropriate where proceeding with the litigation will result in unnecessary duplication of effort, such as where the issues to be decided are inextricably intertwined with or affected by the resolution of other pending matters. See *Chronicle Pub. Co. v. Nat'l Broad. Co.*, 294 F.2d 744, 748-49 (9th Cir. 1961) (concluding it was not an abuse of discretion to grant a stay where, “[t]o a large extent the problems are intertwined with or may likely be affected by the matters which are now pending” in other proceedings, and noting that “the avoidance of unnecessary duplication of effort in such matters as these is a valid consideration”); *Eggleston v. Pierce County*, 99 F.Supp.2d 1280, 1282 (W.D. Wash. 2000) (staying proceedings in the interest of comity and judicial efficiency, where the plaintiff's federal claims were “inextricably intertwined” with state court appellate proceedings); cf. *D.L. v. Unified School Dist. No. 497*, 392 F.3d 1223 (10th Cir.2004) (holding that the district court should have stayed proceedings on one claim even though it lacked jurisdiction to resolve the remaining claims because of a pending state court proceeding); *Certain Underwriters at Lloyd's, London v. Boeing Co.*, 385 Ill.App.3d 23, 324 Ill. Dec. 225, 895 N.E.2d 940 (2008) (affirming the trial court's order staying a complaint until the completion of an underlying international arbitration); *Pardee v. Consumer Portfolio Servs., Inc.*, 344 F.Supp.2d 823 (D.R.I.2004) (noting that the action was not ripe for adjudication, but was stayed until the out-of-state cases were resolved). *Id.* 131 Haw. at 137-138, 315 P.3d at 763-764.

III. CIV. NO. 14-1-0304 SHOULD BE STAYED, IF NOT DISMISSED, IN LIGHT OF THE PRIOR PENDING ACTION CIV. NO. 05-1-0196.

Under the “filed first” or “prior pending action” doctrine, to determine whether a later-filed action should be stayed or dismissed, the Court looks to three factors: 1) the chronology of the actions; 2) the similarity of the parties; and 3) whether the subject matter is the same. See e.g. *Lovell v. United Airlines* 728 F. 2d 1096, 1100-1101 (Dist. Haw. 2010). The parties and issues need not be exactly identical. *Id.* at 1101.

As explained by the Court in *Curtis v. Citibank, N.A.* 226 F3d 133, 138-139 (2nd Cir 2000), this rule against duplicative litigation is related to the doctrine of res judicata and claim preclusion. Both doctrines promote the comprehensive disposition of litigation, judicial economy, preventing the possibility of conflicting outcomes, and preventing the vexation of concurrent or consecutive litigation over the same subject matter. -See also *E. Sav. Bank FBS v. Esteban*, 129 Haw 154, 159, 296 P.3d 1062, 1067 (2013).

The underlying principle of res judicata – as with the “filed first” doctrine, permits every litigant to have an opportunity to try his case on the merits; but it also requires that he be limited to one such opportunity. Unsatisfied litigants have a remedy: they can appeal through available channels. But they cannot, even if the first suit may appear to have been decided wrongly, file new suits to circumvent the outcome in the original case. Hence, where the issue of foreclosure has been decided in the prior case, and not appealed, that issue cannot be collaterally attacked. *E. Sav. Bank FBS v. Esteban*, 129 Haw. 154, 159, 296 P.3d 1062, 1067 (2013).

In the context of differentiating between res judicata, collateral estoppel, and collateral attack, the Court in *Smallwood v. City and County of Honolulu*, 118 Haw. 139, 185 P.3d 887, 900 (Haw. ICA 2008) likewise explained that none of these doctrines fit when the prior case is still pending:

Collateral attack is not to be used as a substitute for collateral estoppel or res judicata, where such doctrines are not yet "ripe" for application

⁵ HRCF Rule 58 provides in relevant part: “ The filing of the Judgment in the office of the clerk constitutes the entry of the judgment; and the judgment is not effective before such entry.”

because the prior action remains pending. In such instances, consolidation of the matters or a stay of the subsequent litigation would be among potential alternatives. (emphasis added)

Smallwood v. City and County of Honolulu, 118 Haw. 139, 185 P.3d 887, 900 (Haw. ICA 2008).

In the instant case since the Circuit Court no longer has jurisdiction in Civ. No. 05-1-0196 consolidation is not appropriate, and therefore a stay of this later filed case, is appropriate.

With regard to whether two cases address the same subject matter, the Court in *Kauhane v. Acutron Co.* 71 Haw 458, 463-464, 795 P. 2d 276, 278-279 (1990) (citing Restatement (Second) of Judgments § 24 (1982)) explained: “To determine whether a litigant is asserting the same claim in a second action, the court must look to whether the ‘claim’ asserted in the second action arises out of the same transaction, or series of connected transactions, as the ‘claim’ asserted in the first action.” *Id.* Moreover, claim preclusion “applies if the issues ‘could have been raised in the earlier state court actions.’”⁶ *Albano [v. Norwest Fin. Hawaii, Inc.]*, 244 F.3d [1061,] 1064 [(9th Cir. 2001)] (citations omitted)

The Property at issue in the instant case is the same as the property in the 2005 judicial foreclosure case. The debt and series of transactions at issue are the same in both cases. The parties, along with successors-in-interest, are the same or privies of the same in both cases. The underlying purpose and remedy sought in both cases is the same – re-acquisition of the property and any damages.

Foreclosure cases are ordinarily bifurcated into two parts, 1) the question of foreclosure, and 2) separate orders for a deficiency or any other orders. *Hoge v. Kane* 4 Haw. App.

⁶ *E. Sav. Bank FBS v. Esteban* 129 Haw. 154, 155, 296 P.3d 1062, 1063 (2013), quotes 55 Am. Jur.2d Mortgages § 573 as follows: “The term ‘foreclosure’ is defined as a legal proceeding to terminate a mortgagor’s interest in property, instituted by the mortgagee either to gain title or to force a sale [i.e., new contract] in order to satisfy the unpaid debt secured by the property.” Similarly, an action to quiet title - here following an action for (non-judicial) foreclosure - is also “[a] proceeding to establish a plaintiff’s title to land by compelling the adverse claimant to establish a claim or be forever estopped from asserting it”, *Black’s Law Dictionary* ACTION (“Quiet Title”) (10th ed. 2014) Haw. Rev. Stat. § 667-1 states: “ ‘Nonjudicial foreclosure’ means foreclosure under power of sale.”

246, 247, 663 P.2d 744, 746-747 (1983). In *Mortgage Electronic Registration Systems, Inc. v Wise* 130 Haw 11, 16-19, 304 P.3d 1192, 1197-1200 (2013) the Court went on to clarify that all matters relating to the question of foreclosure must be appealed at the time of the final judgment granting (or denying) the foreclosure, and all other matters thereafter addressed by the Court, including any amount of deficiency or other related matters are part of the second phase of the foreclosure action and only issues unique to those other orders are appealable following the second phase of the foreclosure action. Hence given that Plaintiff Lee and his successor Substitute Plaintiff Hester did not appeal the question of foreclosure, that matter is determined. Any subsequent action for a deficiency due based on the judgment in the judicial foreclosure must come after finality in Civ. No. 05-1-0196. It is up to the Court in filed first case to decide whether the original \$200,000 damage award can be deducted from the principal due, and/or whether the mortgage obligation is otherwise void. Hence until the 2005 case concludes with a final judgment that is no longer appealable – whether and what if any sum is remaining due on Defendants’ mortgage is uncertain.⁷

To avoid further duplicative litigation, the proceedings in this second filed 2014-lawsuit should be dismissed without prejudice, or stayed pending finality in the 2005 judicial foreclosure case, or dismissed with prejudice pursuant to Plaintiff Hester’s defective standing.

IV. SUCCESSOR PLAINTIFF HESTER’S STANDING

It is imperative that the Court address the standing of Substitute Plaintiff Jason Hester to substitute for the claimed rights of former Plaintiff Lee. As a jurisdictional matter, the question of standing can be raised at anytime. *See e.g. Mortgage Electronic Registration Systems, Inc. v Wise* 130 Haw 11, 17, 304 P.3d 1192, 1198 (2013) (“A lack of standing could have been raised at any time.”) *See also. Kaho’ohanohano v. State*, 114 Haw. 302, 324, 162 P.3d 696, 718 (2007) (“...standing is a jurisdictional issue that may be addressed at any stage of a case. . . .”) (citations omitted)

⁷ In the event a party is not able to pursue a deficiency in the original suit, following finality of the foreclosure issue, that party may be able to pursue an action on the judgment – in conformance with the final judgment. *See e.g. E. Sav. Bank FBS v. Esteban*, 129 Haw. 154, 159, 296 P.3d 1062, 1067 (2013).

“[Standing] is the doctrine that a plaintiff must assert its own legal rights and may not assert the legal rights of others.” *In re Veal*, 450 BR 897 – Bankr. Appellate Panel (9th Cir. 2011).⁸ Standing is a requirement of the plaintiff, and not of a defendant defending against the claims raised by the plaintiff. In a foreclosure case the plaintiff must have sufficient interest in the mortgage to have suffered an injury from the default, and must prove the right to assert another’s property interest. *Deutsche Bank v. Williams* 2112 WL1081174 (Civil No. 11-00632 (D. Haw. March 29, 2012) (not reported in F. Supp. 2d). Hence the burden of proof was on Plaintiff Hester to establish standing, which burden was not met.

Pursuant to HRCF Rule 17 “Parties Plaintiff Defendant; Capacity” “Every action shall be prosecuted in the name of the real party in interest.” In the event of death of a party, HRCF 25 “Substitution of Parties” subsection (a) (1) provides: “If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper party”. Ordinarily the “proper party” is the decedent’s court appointed personal representative. *Roxas v. Marcos*, 89 Haw. 91, 117-122, 969 P.2d 1209, 1135-1240 (1998) Even an heir who has not been appointed as the personal representative is generally not a “proper party” for purposes of substitution under HRCF 25(a)(1). *Id.* 89 Haw at 122, 969 P.2d at 1240 (“... we hold, as a general rule, that an heir of an undistributed estate, who has not been judicially appointed as the personal representative of a decedent's estate, is not a "proper party" for substitution pursuant to HRCF Rule 25(a)(1).”)

In the Motion for Substitution filed on July 15, 2009 in the prior filed case, Civ. 05-1-0196, Attorney Paul Sulla represented Jason Hester as Plaintiff Cecil Loran Lee’s “nephew”.⁹

⁸ Standing has both a constitutional and a prudential component. The Court in *Deutsche Bank v. Williams* 2112 WL1081174 (Civil No. 11-00632 U.S. Dist. Ct. March 29, 2012) (not reported in F. Supp. 2d) (citations omitted), explained: “Constitutional standing requires the plaintiff to show that the conduct of which he complains has caused him to suffer an ‘injury in fact’ that a favorable judgment will redress. In comparison prudential standing encompasses the general prohibition on a litigant’s raising another person’s legal rights.”

⁹ A copy of Attorney Paul Sulla’s “Declaration of Counsel in Support of Motion for Substitution of Plaintiff” is attached as **Exhibit D**. Sulla’s Declaration, in relevant part stated “Prior to Mr. Lee’s death, on or about May, 8, 2009 he created a corporate sole pursuant to Hawaii Revised Statutes (sic), Chapter 419, entitled “*The Office of Overseer, a Corporate Sole and its Successor Over and For the Popular Assembly of Revitalize, a Gospel of Believers*,

Logically, if this kinship relationship of “nephew” was misrepresented, then the substitution of Plaintiff Lee with “successor Overseer Hester” deserves further consideration by the Court. Had attorney Sulla instead represented Hester as a homeless drifter living in Paho, who Plaintiff Lee may or may not have been acquainted with, but who was not a close friend nor relative (or perhaps only a distant relative) who had no relationship with the Property, was not an heir to Plaintiff Lee, and whereas no probate estate had been opened and no Personal Representative yet designated, and there was no documentation that notice of the proposed substitution was accomplished to any of Lee’s siblings or to his son in Arizona where Lee died, and that his attorney Sulla had a security interest in the Property by way of a mortgage and loan for \$50,000, it is likely the Court would have questioned Substitute Plaintiff’s Hester’s standing.¹⁰

Upon investigation, Defendants’ provided evidence that Hester was not Lee’s nephew.⁹ In July of 2009, at the time attorney Sulla filed his Application for Substitution of Plaintiff, Hester was not a Court appointed personal representative, and not an heir. It was not until February of 2012, more than three years following Lee’s death, and almost two years after the April 2010 non-judicial foreclosure auction, that attorney Sulla filed with the Court—a probate application (3LP09-1-0166) for Jason Hester to be appointed the personal administrator for The Estate of Cecil Loran Lee.¹¹ At this time Hester was instead represented as Lee’s “Grandnephew,” according to attorney Sulla’s ascertainment of this kinship relationship, based on information obtained from “talk[ing] to [Hester’s] mother’s

naming himself as the incumbent Overseer and **his nephew** Jason Hester of Paho, Hawaii as successor Overseer by the Articles of Incorporation.” (Emphasis in bold added) See **Exhibit D**.

¹⁰ On July 9, 2011, title to the Property was transferred from GOB to Jason Hester as an individual by quitclaim deed, and was registered with the Bureau of Conveyances on July 14, 2011 by Doc. No. 2011-093772. See **Exhibit E**. At the very same time, attorney Sulla “loaned” Plaintiff Hester \$50,000.00, which loan was secured by Hester’s claimed interest in the subject Property. This Mortgage was filed on July 14, 2011, the same day as the conveyance of the Property to Hester, and was registered at the same time, as the next document filed, Doc. No. 2011-093773. See **Exhibit F**.

¹¹ A copy of the February 8, 2012 “Application for Informal Appointment of Personal Representative (Without Will)” is attached as **Exhibit G**.

grandmother.”¹² However, upon investigation, Defendants submitted evidence that there is no kinship relationship between Hester and Lee.¹³

Hester was known to Defendant Horowitz as a homeless drifter who dealt marijuana, and lived in a shack in Puna. Hester never came by the Property, but hung out at the “Hawaiian Sanctuary,” a spa operation, located up the road from Horowitz’s Property. The Hawaiian Sanctuary spa operation directly competed with what Horowitz had planned for the subject Property. Defendants later learned that attorney Sulla incorporated this Hawaiian Sanctuary, which was subsequently transferred to a Mr. Steve Lund.

Defendant Horowitz also provided evidence that Lee’s transfer of his claimed interest in the Property was questionable. The Articles of Incorporation for the corporate entity GOB, of which Hester was the successor Overseer, was filed by Attorney Sulla *after* the date Lee transferred his interest in the Property into GOB, effectively nullifying the transfer of any rights or liabilities. See e.g. *Evanston Ins. Co. v. Luo*, 7 Haw. App. 520, 522-523, 783 P.2d 293, 295-296 (1989) (“As a general rule, [it is] when a corporation has been legally formed, it has an existence as a separate and distinct entity.”) Defendants also provided evidence in GOB’s “certified” original Articles of Incorporation filed by attorney Sulla with the State on May 26 and May 28, 2009, showing the two “General Certification” pages (numbered six and eight) of those Articles of Incorporation were identical with exactly identical signatures on the two photocopied identical pages, differentiated exclusively by the penned alteration of the date.¹⁴

¹² This information comes from Mr. Sulla’s sworn testimony in Civ. No. 12-1-0417, wherein Sulla claimed Hester’s “grandmother was sister to Cecil Lee.” It is however difficult to imagine, and in fact, far-fetched, that attorney Sulla spoke with Hester’s “mother’s grandmother.” and verified this kinship relationship. A copy of the Partial Transcript of Proceedings Held on January 4, 2013, in Civ. No. 12-1-0417, page 12, lines 19-20, in which Mr. Sulla verified by “talk[ing] to [Hester’s] mother’s grandmother,” is attached as **Exhibit H**.

¹³ A copy of the Affidavit of Private Investigator Christopher Baker with a detailed genealogical and criminal background check showing *no blood kinship* between Lee and Hester, with only common convictions on marijuana charges, is attached as **Exhibit I**.

¹⁴ The sworn Declaration provided by forensic document and handwriting expert, Beth Chrisman, concluded Mr. Sulla’s filing of the Articles of Incorporation: “are not authentic in nature, but have been duplicated, transferred and altered. Further, the lack of proper page

So who really is Jason Hester? Substitute Plaintiff Hester has never filed an affidavit, not even a declaration, and has never testified or appeared in Court. Instead Hester appears to be a judgment proof shill in a convoluted scheme to defraud the court and Defendants out of their money and Property. As currently lined up, it is Attorney Paul Sulla who is positioned to own the Property if Plaintiff Hester prevails in this case, by way of Sulla in the future foreclosing on Plaintiff Hester for some incidental breach of the mortgage terms, such as failure to pay taxes. For these reasons the question of Substitute Plaintiff Hester's standing should be immediately addressed.

V. CONCLUSION:

For the above reasons this Court should immediately consider the standing of Plaintiff Hester, and in any event should dismiss or otherwise stay this proceeding of the Final Judgment pending finality in the 2005 judicial foreclosure action, Civ. 05-1-0196 that is now on appeal, ICA No. CAAP-15-0000658.

Waimea, Hawaii 96743 October 5, 2015

Signed: _____


MARGARET WILLE, Attorney for Defendants

Jason Hester, Overseer The Office Of Overseer, Overseer For The Popular Assembly Of Revitalize, A Gospel Of Believers, Plaintiff v. Leonard G. Horowitz et al, Defendants;
MEMORANDUM IN SUPPORT OF MOTION FOR STAY OR DISMISSAL PRIOR TO FINAL JUDGMENT [HRCF 62(B)]

numbering and consistency within the page number makes the document suspicious." at page 4, lines 1-3. The sworn Declaration of Beth Chrisman is attached as **Exhibit J**.

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Attorney for:
Defendants/Counterclaimants

**IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
KONA DIVISION, STATE OF HAWAII**

JASON HESTER, an individual)	CIV. NO. 14-1-0304
Plaintiff,)	(Other Civil Action)
v.)	
)	
LEONARD G. HOROWITZ, an)	AFFIDAVIT OF
individual; SHERRI KANE, an)	LEONARD G. HOROWITZ
individual; MEDICAL VERITAS)	
INTERNATIONAL, INC, a California)	JUDGE: Honorable Ronald Ibarra
nonprofit corporation; THE ROYAL)	
BLOODLINE OF DAVID, a)	
Washington Corporation Sole; JOHN)	
DOES, 1-10, JANE DOES 1-10, DOE)	
ENTITIES 1-10, DOE)	
PARTNERSHIPS 1-10, DOE)	
GOVERNMENTAL UNITS 1-10.)	
Defendants)	

AFFIDAVIT OF LEONARD G. HOROWITZ

STATE OF HAWAII)
COUNTY OF HAWAII) SS:
United States of America)

I LEONARD G. HOROWITZ (hereafter “Horowitz,” “me,” “I,” or “my”), being first duly sworn, on oath deposes and says:

1. That I am the affiant herein. This Affidavit is true and correct to the best of my knowledge and belief.
2. I am a citizen of the United States, previously domiciled in California prior to the events described herein and now a resident of Hawaii.
3. I was approached by a commercial real estate agent named John McAlvaney to purchase the “Subject Property” (hereafter “Property”) represented as an operating “Inn,” “health retreat,” and “spa” sought by its owner, Cecil Loran Lee, to be sold.
4. My ministry, The Royal Bloodline of David (hereafter “Royal”) was incorporated in the State of Washington as an ecclesiastical corporation sole by me as the sole “body corporate.” Through Royal I have worked and made significant contributions in the fields of music, recording artistry, natural medicine, public health, and consumer protection, especially based on my studies of the “528 frequency” of sound and biophysics fundamental to health science.
5. Given my chosen profession and ministry’s global health mission I was immediately interested in acquiring the Property, so in early June, 2003, I met and negotiated the terms of the purchase and sale with Cecil Loran Lee, and his “counsel” Herbert Ritke. (Much later, I learned that Herbert Ritke was not an attorney.)
6. The Property needed substantial investments to restore, improve, and expand the commercial operations, but was of great interest to me for my work in natural medicine as it was represented to me by Seller Lee as a “grandfathered” “health retreat,” “Inn” and “Bed & Breakfast”--a “one-of-a-kind” geothermal estate

featuring Hawaii's only lava-heated steam saunas adjacent volcanically-heated bathing pools that Lee had constructed and let go into disrepair.

7. The Property is designated TMK(s): TMK (3) 1-3-001: 049 and 043; Address: 13-3775 Pahoa-Kalapana Road, Pahoa, HI 96778.
8. I had no knowledge about Hawaii's zoning laws and permit requirements relating to Inns, Bed and Breakfasts, and Spas; but Lee assured me that he did, and that he personally knew County officials, attorneys, insurance agents, and escrow companies, and that he would take care of the paper work required to transfer the Property to me and my ministry. Lee told me that in East Hawaii he could make things happen, that he had good relationships with local building officials who would make successful our continuing collaboration after the sale, and plans to renovate his pools, bathhouse, and complete the large front yard pond he had under construction. I believed him.
9. In light of all of Lee's good will representations to take care of the paperwork for the sale and help me with the improvements he had started at the Inn, when he asked me to allow him to take \$85,000 of my down-payment out of escrow to pay off "a high interest loan," I agreed to his receiving the \$85,000 prior to the closing. At that time I had no knowledge the \$85,000 was needed to pay off his federal lien or bond on the Property related to a conviction for marijuana being grown on the Property.
10. As soon as Lee had the \$85,000 advance on the closing down-payment, he turned adversarial and withdrew all promises of support and assistance.
11. I had not seen the actual Mortgage that Lee had one of his attorneys draft prior to me giving Lee the \$85,000 advance, and I did not know at that time how one-sided it was in Lee's favor.
12. Lee did not, at anytime during our several meetings and negotiations, ever tell me that he had been convicted of trafficking marijuana from the Property, that federal agents had seized the Property and had threatened to put a lien on the property, and

that Lee had been embroiled in litigations with previous buyers following his representations that the Property was being sold “free and clear of encumbrances and liens.”

13. I was very disturbed when days before the closing, on January 5, 2004, Lee with his purported “counsel” Ritke, demanded additional funds for a County road remnant that Lee clearly had previously represented was part of the Property.
14. That old country road parcel divided the “Inn” property from the steam vents, bathhouse, and bathing pools. On January 5, 2004, Lee threatened to “squat” in a dilapidated trailer parked illegally on the County road if I did not pay his demand.
15. The next day I received a certified letter from Lee offering me a “fire sale” price of \$25,000 for that additional parcel. That is how we ended up with our second Promissory Note for \$25,000 (unsecured) payable upon Lee releasing the Mortgage.
16. Out of fear at this point, and a referral from Island Title Company’s Brenda Iaone, I hired Attorney Glenn S. Hara (now Judge Hara) to help me draft something so that Lee would not be able to foreclose on the property other than for failure to make timely payments.
17. Attorney Hara helped me prepare an “Agreement For Closing Escrow” to ensure that Lee could not foreclose for incidental reasons, such as for failure to get insurance and failure to get permission from the mortgagee for making improvements on the property. I sat with Attorney Hara in his office in Hilo on the evening of January 13, 2004, as he dictated to me, and I wrote down word for word, the title “Agreement For Closing Escrow” including the entire first paragraph citing the specific agreements that indemnified me against foreclosure for anything less than failure to pay timely. After I discussed with Attorney Hara my need to have this draft ready for the next day, January 14, 2004, since closing was scheduled for the 15th, I immediately typed it up and presented it the next day to Seller Lee.

18. As planned, Lee and I met early afternoon on January 14, 2004 and we both signed the Agreement For Closing Escrow.
19. The sale was completed as required by the Contract on January 15, 2004. Brenda Iaone, the escrow officer at Island Title Co. refused to begin the closing without the Agreement for Closing Escrow that she knew I had, and that was required for closing, since she had referred me to Attorney Hara to produce that Agreement. Accordingly, the first paper processed and placed into the closing file was the Certified True Original Agreement for Closing Escrow that I immediately handed over to Ms. Iaone to begin the closing. We then signed the Mortgage and the Warranty Deed that stated there were “no encumbrances or liens” on the property. (See Exhibit “A,” Warranty Deed.)
20. Obviously Lee knew the representation that there were “no encumbrances or liens” was false, but I did not realize at that time that he was trying to defraud me.
21. The deed and Mortgage (Exhibit “B”) were in the name of RBOD, my ecclesiastical sole corporation, and the promissory Note was signed by me as an individual and as RBOD’s Overseer.
22. In addition to the \$200,000 down-payment, I agreed pay Lee back \$350,000 with a 5 year purchase money Mortgage secured by a first lien executed by me as RBOD’s Overseer.
- ~~23.~~ The nature of my and RBOD’s interest in the Property is by virtue of the Warranty Deed and Mortgage, for a fee simple absolute interest in 16.55 acres of land (described as Item I) and an additional 1.32 acres of land (described as Item II) located in Puna, Island and County of Hawaii, as is set forth in my Warranty Deed. The Mortgage was recorded in the Bureau of Conveyances on January 23, 2004, Document No. 2004-01441. A copy of the Warranty Deed (other than the survey description), Mortgage, the Agreement for Closing Escrow, and my two Promissory Notes are attached as **Exhibits A through E**.

24. I later learned that the Property was not free of encumbrances and that there was an outstanding judgment against Lee based on a successful suit for fraud by persons who previously agreed to purchase the same Property – Philip Maise and his partner Didier Flament.
25. Soon after the closing I learned that Lee was being sued for fraud by Maise, who had previously agreed to purchase the Property, and much later I learned that on May 23, 2003 Maise had filed to block the sale of the Property to recover his damages in *Phillip B Maise vs Cecil Loran Lee et al* (3CC01-1-0444; Docket 67). I realized Lee had quickly arranged to sell me the same Property within one month of Maise's filed encumbrance on May 23, 2003.
26. After my purchase of the Property I also learned that Lee did not have the proper permits in place for a legally operating "Inn" or "B&B" at the time he made these representations to me, and that there were, in fact, no existing permits to be "grandfathered in."
27. After my purchase of the Property I also learned that Lee not only used the Property to grow and traffic drugs, but also as a destination resort for homosexual sex commerce when a steady stream of "cruising" men arrived for accommodations or to use the steam bathhouse. Some of the men had paid Lee money in advance for rooms, but Lee never disclosed this part of his business, kept the money, and left me to accommodate his guests.
28. I signed Lee's handwritten DROA on June 18, 2003, that he mailed me on June 10, 2003.
29. Despite his earlier promises, instead of helping me with permits, Lee contacted the Planning Department and told them that I was illegally operating a Bed and Breakfast on the Property. A copy of the letter, cc'd to Lee, from the County required us to shut down our commercial Bed and Breakfast operation is attached as Exhibit F.

30. I did however continue to make all of my monthly mortgage payments of \$2333.33 on time, fearing Lee would otherwise claim a violation of our Mortgage.
31. After the closing, with my \$200,000 down-payment in his possession, Lee's harassments, threats, and breaches of contract increased, and after Lee caused Country officials to shut us down, he threatened to foreclose on me based on failure to keep insurance and for making improvements on the Property that he had initially authorized.
32. I thought his foreclosure threats were crazy because of the "Agreement for Closing Escrow" (hereafter "Closing Agreement") drafted by Attorney Hara prohibited Lee from foreclosing for anything other than my failing to make timely payments. (Exhibit "C")
33. To my shock and surprise Lee altered that Agreement, and used his altered version to bring his judicial foreclosure suit in Civ. No. 05-1-0196. (Exhibit "D")
34. I had thought Judge Hara would testify on my behalf, but shortly before he was expected to testify my attorney John Carroll advised me that Judge Hara was not willing to testify and over my objections, my attorney did not want to subpoena him to testify.
35. Lee's attorney argued I had altered the true version of the Closing Agreement claiming that I somehow altered the original version that the Escrow Agent had on file, even though it was my version that the escrow agent said was the true original version. Although the jury got confused about this point, it did not find that any alteration of the Closing Agreement had caused any harm to the Plaintiff.
36. At the trial I felt the reason the jury did not accept my authentic version of the Closing Agreement was because Judge Hara did not show up to testify to support me.

37. On April 2, 2008, the Court in the Civ. No. 05-1-0196 filed its Findings of Fact and Conclusions of Law, and on July 22, 2008, filed its Final Judgment denying foreclosure and granting me and RBOD a \$200,000 damage award.
38. On July 29, 2008 Plaintiff Lee filed a Rule 60(b) Notice of Re-Submission of Plaintiff's Motion for Judgment as a Matter of Law seeking to reverse the jury's finding of fraud by the Plaintiff on the grounds that Defendants had not plead fraud and misrepresentation with sufficient particularity. On October 15, 2008 the Court granted Plaintiff's Motion for Judgment as a Matter of Law.
- ~~39.~~ All during this period I continued paying timely \$2,333.33 monthly for 60 months totaling \$139,999.80.
40. Most all of these payments were made to Philip Maise based on a Court garnishment order against Plaintiff Lee. Judge Nakamura of the Circuit Court of the Third Circuit (Hilo Division) had ruled in favor of Maise against Defendant Lee (here Plaintiff Lee), for a total of \$205,214.21 for fraud in the sale of this same Property based on the drug related federal forfeiture action levied against this same Property.
41. On February 23, 2009 the Court filed its Amended Final Judgment, which still included the award of \$200,000.
42. On February 27, 2009, I then made a final balloon payment of \$154,204.13 to pay off the remaining \$150,000 in principal plus interest due. Pursuant to the garnishment order this payment was also made to Philip Maise.
43. By 2009 I had also spent more than \$500,000 on improvements to the Property.
44. I also had paid close to \$2500 in month maintenance fees.

45. I also lost out on the \$2500 or so a month in tourist income that Lee said I could expect (based on his books).
46. By 2009 I had already spent over \$100,000 in attorneys fees and court related costs.
47. In January of 2009, my attorney John Carroll explained to me that the case was over, that we prevailed, and we simply needed to get the Court to sign off on our free and clear title and fees and costs.
48. Between March 2009 and May 2009 I repeatedly sought by mailings to gain Lee's final accounting on the Mortgage debt, but Lee evaded these notices and thus evaded my request to issue a Mortgage Release. (Exhibit "G")
49. At that same time Attorney Carroll provided the Court with a final accounting and requested the Court administer a transfer of the deed. I provided all of the information and receipts of cashed checks and wire transfers to show the Mortgage had been paid in full, and those receipts are part of the Court's record.
- ~~50.~~ On December 11, 2009, the Court vacated my \$200,000 jury award that I had used as a credit as allowed for in the Mortgage.
51. Even before my jury award was vacated, in November, 2009, Mr. Lee's attorney, Paul J. Sulla, Jr., noticed me that I needed to pay the contested jury award, although my attorney Carroll disagreed. (Exhibit "H")
52. In an effort to end this saga I offered to settle and pay Plaintiff \$100,000, which was half of the principal amount of \$200,000 remaining in dispute. That settlement offer was refused by Attorney Sulla, and we came to no agreement.
53. In one of Attorney Sulla's replies he said I was lying, and accused me of conspiring with Mr. Maise to rob Lee of his Mortgage payments.
54. On June 27, 2009 Lee died in Arizona where he was staying with his sisters or son.

55. Then on July 16, 2009 Attorney Sulla filed a Suggestion of Death of Appellant Cecil Loran Lee, based on a Declaration of Paul J. Sulla, Jr. In his Declaration, Attorney Sulla's stated "Following Lee's death, Mr. Sulla declared that "Prior to Mr. Lee's death, on or about May, 8, 2009 he created a corporate sole pursuant to Hawaii Revised Statutes (sic), Chapter 419," . . . "naming himself as the incumbent Overseer, The Office Of Overseer, A Corporate Sole And Its Successor, Over And For The Popular Assembly Of Revitalize, A Gospel Of Believers [hereafter, "GOB"] and his **nephew** Jason Hester of Paho, Hawaii as successor Overseer by the Articles of Incorporation."
56. On August 31, 2009, the Court filed an Order for Substitution of Plaintiff, naming GOB as the new Plaintiff, of which Jason Hester was named the Overseer.
57. I never heard of Jason Hester, or of GOB, before that time, but after GOB became the Substitute Plaintiff, I met Hester several times and learned that he was living in a shack in the Puna woods. I learned that he was a homeless drifter and as a drug user and marijuana trafficker.
- ~~58.~~ I also witnessed that Jason Hester hung out at the Hawaiian Sanctuary spa just up the road from my Property. That spa operation directly competes with what we had planned for our Property. Mr. Sulla incorporated the Hawaiian Sanctuary, Inc. business as the corporation's registered agent. Mr. Sulla incorporated the Hawaiian Sanctuary, Inc. on December 10, 2008, at the precise time I was preparing to finalize the accounting in Civ. No. 05-1-0196 to make my final balloon payment to Lee to obtain the title to the Property and begin working with the County to gain commercial permits. (Exhibit "K")
59. I believe that Plaintiff's attorney Sulla was using "judgment proof" Jason Hester to cover attorney Sulla's own personal interests in acquiring the Property, or my money, or simply to eliminate competition to his competing business at Hawaiian Sanctuary.

60. When I heard that Attorney Sulla was claiming Hester to be the “nephew” of Lee in his July 2009 Application for Substitution of Plaintiff Lee with Plaintiff Hester, as the successor Overseer of GOB that Attorney Sulla had set up, I was very suspicious.
61. There was no Affidavit or Declaration signed by Jason Hester included with the July 2009 Motion for Substitution.
62. Lee had never mentioned having any nephew or relative on island during the time I maintained communication with him. Also, it did not make sense that Lee would leave any property interest he might have to someone other than his son or sisters – with whom he stayed during the last months of his life.
63. I am not surprised that Lee did not have a Will. Considering that he died from a prolonged case of cancer, and was working with Attorney Sulla on other legal matters, he certainly could have prepared a Will to leave his son and sisters any interest in the Property – if he really believed he had an interest remaining in the Property.
64. I hired Baker Surveillance and Investigation Services to investigate if there was any relationship between Lee and Hester. In response, Christopher Baker, the owner of the Company forwarded me an affidavit stating there is *no blood kinship* between Hester and Lee, and that the only “link” was that they both had criminal charges for marijuana. (See Exhibit “L”.)
65. It was clear to me that by assigning my Mortgage to GOB (with Hester as the “successor overseer”) attorney Sulla had set up a way for himself to acquire my Property.
66. I also found out that the Articles of Incorporation for GOB were also filed by Attorney Sulla according to the Hawaii Department of Commerce and Consumer Affairs. Pages six and eight of those Articles of Incorporation (purporting to be two separate signature pages) were identical, with the exception of a penned in date change on one. It was clear to me that the second certification was forged in that

there was no original signature and simply a copy of the prior certification with the date changed from 8 to 28, by adding the number 2. (Exhibit "M")

67. In March of 2010, Attorney Sulla initiated the non-judicial foreclosure against me and my ministry to acquire the Property. (Exhibit "I")

68. I first learned about this second effort to foreclose on the property when I received frantic telephone calls from my terrorized caretakers on the Property on-or-about March 19, 2010. Attorney Sulla noticed my Property caretakers by posting Notices on the Property. Sulla neglected to Notice me personally, but did send a notice to me as the Overseer of RBOD in care of my attorney, John S. Carroll. Sulla's March notice did not cite any amount of the alleged default. Prior to this, following a series of e-mails to me, Mr. Sulla stated that he found the accounting "confusing." (Exhibit "H")

69. There should not have been any confusion since I corresponded with Mr. Sulla diligently and repeatedly, as did Intervenor Maise, my attorney Carroll, and my co-counsel, Gary Zamber. Each of us communicated the facts about payments made on the assumed debt that Mr. Sulla could also have established by reviewing the records in Civ. No. 05-1-0196.

70. Therefore, Mr. Sulla's November 6, 2009 Notice (Exhibit "L") claiming the full amount of the Mortgage was due (i.e., \$350,000) was ridiculous. I denied his allegations of debt with evidence of payments provided; that Sulla repeatedly neglected and then threatened to libel me, prosecute me, and acquire my Property non-judicially. He claimed that the jury had determined that I forged the Agreement for Closing Escrow, and that he was going to use this against me in courts, and in the court of public opinion, if I did not pay money he said I owed. It took me, and Mr. Maise, several mailings to convince Sulla to set off my balloon payment from the Mortgage principal. Still, Mr. Sulla foreclosed claiming the original amount of the Mortgage was in default. He made no reference to my timely made payments, provided no amount needed to cure the alleged default, and made no reference to the

judicial foreclosure case, Civ. No. 05-1-0196 wherein foreclosure was denied.
(Exhibits “H” through “J”)

71. At the April 20, 2010, auction, conducted by attorney-auctioneer Paul Sulla, Plaintiff Hester was the only bidder, and Sulla directed Hester to make a credit bid of \$225,000.
72. Then, in the Mortgagee’s Affidavit signed only by attorney Sulla, and not by the Substitute Mortgagee Hester, the auction “credit bid” was represented as \$175,000.
(Exhibit “J”)
73. There was no statement in the Mortgagee’s Affidavit of having provided me or RBOD with the amount needed to cure the default.
74. I also discovered that attorney Sulla filed the “Mortgagee’s Affidavit of Foreclosure Under Power of Sale” without the proper Notary statement required by law. HRS 667-5(e) states that “The affidavit . . . shall be recorded and indexed by the registrar, in the manner provided in chapter 501 or 502, as the case may be.” Since GOB, the “Foreclosing Mortgagee,” is a corporation incorporated by Attorney Sulla as agent, trustee, and fiduciary for this constructive trust, the affidavit required for filing with the Bureau of Conveyances required 502-41 provisions to be followed with particularity, which were not followed.
75. Attorney Sulla transferred GOB’s interest in the property to Hester as an individual, by Quitclaim Deed, filed with the Bureau of Conveyances on July 14, 2011, as Doc. No. 2011-093772. (See Attached Motion Memorandum Exhibit “E”)
76. At that same date and time attorney Sulla recorded a mortgage between himself and Jason Hester with the Hawaii Bureau of Conveyances as Doc. No. 2011-093773, on July 14, 2011, based on a promissory note of \$50,000. That Mortgage contract permits Mr. Sulla to foreclose on Hester at any time for Hester’s failure to pay taxes. Hester, as a pauper, indebted to Sulla since May 2009 was assuredly known by Sulla

to be unable to afford to pay taxes. Thus, Sulla set up this mortgage arrangement with Hester in a way that would assure his personal acquisition of the Property.¹

77. Attached as Exhibit A is a true and correct copy of my Warranty Deed filed 1-23-04 with the State of Hawaii Bureau of Conveyances, Doc. No. 2004-014440
78. Attached as Exhibit B is a true and correct copy of my Mortgage filed 1-23-04 with the State of Hawaii Bureau of Conveyances, Doc. No. 2004-014441.
79. Attached as Exhibit C is a true and correct copy of the Certified True Original Agreement For Closing Escrow that is the same one I handed Escrow Officer Brenda Iaone on 1-15-04 after exercising it with Mr. Lee the day before.
80. Attached as Exhibit D is a true and correct copy of the forgery submitted to the Court to initiated Civ. No. 05-1-0196, Foreclosure Complaint, by Seller Cecil Loran Lee.
81. Attached as Exhibits E(1) and E(2) are true and correct copy of the two Promissory Notes I exercised with Seller Lee at closing of escrow on January 15, 2004.
82. Attached as Exhibit F is a true and correct copy of the letter I received from the County of Hawaii Planning Department on-or-about 2-16-06 prompted by Mr. Lee's complaint, and cc'd to Mr. Lee.
83. Attached as Exhibit G is a true and correct copy of the second Certified Mail I sent to Mr. Lee on 3-3-09, requesting a final accounting on the claimed debt and also a release of the Mortgage following my final balloon payment.
84. Attached as Exhibit H are true and correct copies of U.S. Mail and e-mail correspondence between me and Mr. Sulla beginning November 6, 2009, regarding a "Lee Payoff" amount, contesting the accountings in which Mr. Sulla stated on January 26, 2010, that he found the information he had acquired "confusing."
85. Attached as Exhibit I are true and correct copies of the Notice of Nonjudicial Foreclosure sent to RBOD on March 19, 2010 through my attorney, John S. Carroll.
86. Attached as Exhibit J is true and correct copies of Mortgagee's Affidavit of Foreclosure Under Power of Sale sworn by Mr. Sulla and notarized by Notary Carol L. Silva, filed with State of Hawaii Bureau of Conveyance Doc. No. 2010-064624, filed 5-11-10.
87. Attached as Exhibit K is true and correct copies of Mr. Sulla's filing of Articles of Incorporation with the State of Hawaii DCCA on 12-11-08 for the Hawaiian Sanctuary, Inc. competing property, and related DCCA business registrations for The Health Connection, Inc., trade named Health for Wealth, registered 3-12-99.

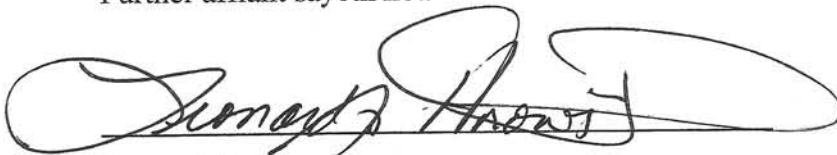
¹ A copy of the mortgage between Sulla and Hester is attached to the Motion Exhibit "F".

88. Attached as Exhibit L is true and correct copy of Affidavit of Private Investigator Christopher Baker issued 2-19-15, with detailed genealogical and criminal backgrounds on Plaintiff(s).

89. Attached as Exhibit M is true and correct copy of sworn Declaration of Beth Chrisman, dated 6-12-15, a forensic document and handwriting expert concluding Plaintiffs' Articles of Incorporation are not authentic.

I attest under pains and penalties of perjury that the statements in this Affidavit as well as the Statements in the Memorandum in Support of Motion to Stay or For Dismissal Prior to Entry of Final Judgment [HRCF 62(b)] contain true and correct statements to the best of my knowledge and belief.

Further affiant sayeth not.

A handwritten signature in black ink, appearing to read "Leonard G. Horowitz", written over a horizontal line.

Leonard G. Horowitz

Dated: October 5, 2015

(Notary signature on next page.)

On this 5th day of Oct., 2015, before me, the undersigned notary public, personally appeared LEONARD G. HOROWITZ, who proved to me on the basis of satisfactory evidence of identification to be the person whose name is signed on the preceding or attached document, who swore or affirmed to me that the contents of the document(s) is/are truthful and accurate to the best of his knowledge and belief.

Subscribed and sworn to before me this
5th day of October, 2015

B. Martinez

(SEAL)

Notary Public in and for Hawaii

My commission expires: 03/07/2018

B. Martinez

Notary Signature

Total number of pages: 16

NOTARY PUBLIC CERTIFICATION
B. Martinez, Third Judicial Circuit
Doc. Description: Affidavit of
Leonard G. Horowitz
No. of Pages: 16 Date of Doc. 10/05/15
Notary Signature [Signature] Date 10/05/15

AFFIX SEAL HERE

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Attorney for:
Defendants/Counterclaimants
Leonard G. Horowitz, Sherri Kane, and
the Royal Bloodline of David

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
STATE OF HAWAII

JASON HESTER, an individual
Plaintiff/Counterclaim Defendant
v.

LEONARD G. HOROWITZ, an
individual; SHERRI KANE, an
individual; MEDICAL VERITAS
INTERNATIONAL, INC, a California
nonprofit corporation; THE ROYAL
BLOODLINE OF DAVID, a
Washington Corporation Sole; JOHN
DOES, 1-10, JANE DOES 1-10, DOE
ENTITIES 1-10, DOE
PARTNERSHIPS 1-10, DOE
GOVERNMENTAL UNITS 1-10.

Defendants/Counterclaimants

) CIV. NO. 14-1-0304

) (Quiet Title)

)

)

) **NOTICE OF HEARING**

) on DEFENDANTS' MOTION

) TO STAY, OR FOR DISMISSAL,

) PRIOR TO ENTRY OF

) JUDGMENT [HRCP 62(b)]

)

)

)

)

) JUDGE: Honorable Ronald Ibarra

) Hearing date: 10-30-15

) Hearing time: 9 AM

)

)

)

)

)

NOTICE OF HEARING


TO:

STEPHEN D. WHITTAKER
Attorney at Law
73-1459 Kaloko Drive
Kailua Kona, HI 96740
808-960-4536

Attorney for Jason Hester/Gospel of Believers

YOU ARE HEREBY NOTIFIED that the undersigned has filed with the above-captioned court the **MOTION FOR STAY, OR FOR DISMISSAL, PRIOR TO ENTRY OF FINAL JUDGMENT [HRCP 62(b)]** with associated filings; and a hearing on this motion is scheduled on the captioned date and time. Pursuant to Hawaii Rules of Circuit Courts Rule 7(b) any response to this motion must be filed and served no later than 8 days before the date of the hearing.

DATED: Waimea, HI, 96743 October 5, 2015



MARGARET WILLE, Attorney for Defendants
LEONARD G. HOROWITZ; SHERRI KANE;
and THE ROYAL BLOODLINE OF DAVID, et. al.

Jason Hester, Overseer The Office Of Overseer, Overseer For The Popular Assembly Of Revitalize, A Gospel Of Believers, Plaintiff v. Leonard G. Horowitz et al, Defendants; Civ. No. 14-1-0304 *NOTICE OF HEARING*

Margaret (Dunham) Wille #8522

Attorney at Law

65-1316 Lihipali Road

Kamuela, Hawaii 96743

Tel: 808-854-6931

margaretwille@mac.com

Attorney for:

Defendants/Counterclaimants

Leonard G. Horowitz, Sherri Kane and

the Royal Bloodline of David, et. al.

**IN THE CIRCUIT COURT OF THE THIRD CIRCUIT
KONA DIVISION, STATE OF HAWAII**

JASON HESTER, an individual
Plaintiff/Counterclaim Defendant

v.

LEONARD G. HOROWITZ, an
individual; SHERRI KANE, an
individual; MEDICAL VERITAS
INTERNATIONAL, INC, a
California nonprofit corporation; THE
ROYAL BLOODLINE OF DAVID, a
Washington Corporation Sole; JOHN
DOES, 1-10, JANE DOES 1-10, DOE
ENTITIES 1-10, DOE
PARTNERSHIPS 1-10, DOE
GOVERNMENTAL UNITS 1-10.

Defendants/Counterclaimants

) CIV. NO. 14-1-0304

) (Quiet Title)

)

)

) **CERTIFICATE OF SERVICE**

) for DEFENDANTS' MOTION

) TO STAY, OR FOR DISMISSAL,

) PRIOR TO ENTRY OF

) JUDGMENT [HRCP 62(b)]

) MEMORANDUM IN SUPPORT OF

) MOTION TO STAY, OR FOR

) DISMISSAL PRIOR TO ENTRY OF

) JUDGMENT [HRCP 62(b)] and

) AFFIDAVIT OF LEONARD G.

) HOROWITZ; DECLARATION OF

) ATTORNEY MARGARET WILLE;

) and EXHIBITS A TO J, and

) NOTICE OF HEARING ON MOTION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of October, 2015, I served a true and correct copy of DEFENDANTS' MOTION FOR STAY OR DISMISSAL PRIOR TO FINAL JUDGMENT [HRCP 62(B)] AND MEMORANDUM IN SUPPORT OF MOTION FOR STAY OR DISMISSAL PRIOR TO FINAL JUDGMENT [HRCP 62(B)]; AFFIDAVIT OF LEONARD G. HOROWITZ; DECLARATION OF ATTORNEY MARGARET WILLE, and

EXHIBITS A- J, NOTICE OF HEARING ON MOTION, by the method described below to:

STEPHEN D. WHITTAKER

Attorney at Law

73-1459 Kaloko Drive

Kailua Kona, HI 96740

808-960-4536

Attorney for Jason Hester/Gospel of Believers

☒ By US Mail

HONORABLE JUDGE

RONALD IBARRA

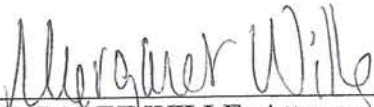
THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

79-1020 Haukapila Street

Kona, HI 96750

☒ Hand



MARGARET WILLE, Attorney for Defendants

LEONARD G. HOROWITZ; SHERRI KANE;

and THE ROYAL BLOODLINE OF DAVID, et. al.

Jason Hester, Overseer The Office Of Overseer, Overseer For The Popular Assembly Of Revitalize, A Gospel Of Believers, Plaintiff v. Leonard G. Horowitz et al, Defendants;
CERTIFICATE OF SERVICE FOR DEFENDANTS' MOTION FOR STAY OR DISMISSAL PRIOR TO FINAL JUDGMENT [HRCP 62(B)] AND MEMORANDUM IN SUPPORT OF MOTION FOR STAY OR DISMISSAL PRIOR TO FINAL JUDGMENT [HRCP 62(B)]; AFFIDAVIT OF LEONARD G. HOROWITZ; DECLARATION OF ATTORNEY MARGARET WILLE, and EXHIBITS A- J, NOTICE OF HEARING ON MOTION