

**EXHIBITS “A” THROUGH “I”**

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## ***CURRICULUM VITAE***

I am, Beth Chrisman, a court qualified Forensic Document Examiner. Beginning my career in 2006, I have examined over 500 document examination cases involving over 6500 documents. I trained with the International School of Forensic Document Examination and have apprenticed under a leading court-qualified Forensic Document Expert.

### ***Forensic Examination Provided For:***

Disputed documents or signatures including: wills, checks, contracts, deeds, account ledgers, medical records, and autograph authentication. Investigation and analysis including: questioned signatures, suspect documents, forgeries, identity theft, anonymous letters, alterations, obliterations, erasures, typewritten documents, altered medical records, graffiti, handwritten numbers, and computerized and handwritten documents.

### ***Education***

- Bachelor of Science Specializing in Prosthetics and Orthotics from the University of Texas Southwestern Medical Center at Dallas

- International School of Forensic Document Examination: Certified Forensic Document Examination, Graduation Date July 2008

#### ***Specific Areas of Training:***

Handwriting Identification and Discrimination, Signature Comparison, Techniques for Distinguishing Forged Signatures, Disguised Handwriting, Altered Numbers, Anonymous Writing, Laboratory Procedures, Forensic Microscopy and Forensic Photography, Identifying Printing Methods, Papers and Watermarks, Factors that Affect Writing, Demonstrative Evidence Training, Demonstrative Evidence in the High-Tech World, Forgery Detection Techniques, Detection of Forged Checks, Document Image Enhancement, Graphic Basis for Handwriting Comparison, Ethics in Business and the Legal System, Mock Courtroom Trails

- American Institute of Applied Science; 101Q Questioned Documents course completed
- 3 year on-the-job apprenticeship with Bart Baggett, a court qualified document examiner and the president of the International School of Forensic Document Examination, October 2006 – October 2009.

#### ***Apprenticeship Included:***

Gathering documents, setting up case files, scanning and photographing documents, assisting with on-site examinations, interacting as client liaison with attorneys and clients, accounting and billing, peer reviews, preparing court exhibits, directed and witnessed client hand written exemplars, as well as reviewed and edited official opinion letters and reports for Mr. Baggett's office. I managed 204 cases consisting of 2157 documents during this time period.

Furthermore, I began taking active individual cases that were mentored and/or peer reviewed by Bart Baggett.

- ACFEI Conference October 2009, Las Vegas, NV. (American College of Forensic Examiners International) Attended specific lectures on ink and paper counterfeiting by FBI personnel.

**Beth Chrisman**  
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***CURRICULUM VITAE Cont.***

***Further Qualifications:***

I am the Director of the International School of Forensic Document Examination; creating curriculum, choosing textbooks, creating schedules and overseeing student apprentice qualifications for students worldwide. I teach and mentor students worldwide, including students in the United States, New Zealand, Australia, India and Slovakia. I also peer review cases for other working document examiners.

***Laboratory Equipment:***

Numerous magnifying devices including 30x, 20x and 10x loupes, Light Tracer light box, protractor, calipers, metric measuring devices, slope protractor and letter frequency plate, handwriting letter slant and comparison plate, typewriter measurement plate, type angle plate, digital photography equipment, zPix 26x-130x zoom digital hand-held microscope, zOrb 35x digital microscope, an illuminated stereo microscope, Compaq Presario R3000, HP PC, 2 high resolution printers, 2 digital scanners, 1 high resolution facsimile machine, and a copy machine.

***Library***

Numerous forensic document examination titles and other handwriting reference materials.

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**LEVELS OF OPINION-BASED ON ASTM GUIDELINES FOR EXPRESSING CONCLUSIONS**

Since the observations made by the examiner relate to the product of the human behavior there are a large number of variables that could contribute to limiting the examiner's ability to express an opinion confidently. These factors include the amount, degree of variability, complexity and contemporaneity of the questioned and/or specimen writings. To allow for these limitations a scale is used which has four levels on either side of an inconclusive result. These levels are:

- **Identification / Elimination**

May be expressed as 'The writer of the known documents wrote / did not write the questioned writing.' This opinion is used when the examiner denotes no doubt in their opinion; this is the highest degree of confidence expressed by a document examiner.

- **Strong Probability**

May be expressed as 'There is a strong probability the writer of the known documents wrote / did not write the questioned writing.' This opinion is used when the evidence is very persuasive, yet some critical feature or quality is missing; however, the examiner is virtually certain in their opinion.

- **Probable**

May be expressed as 'It is probable the writer of the known documents wrote / did not write the questioned writing.' This opinion is used when the evidence points strongly toward / against the known writer; however, the evidence falls short of the virtually certain degree of confidence.

- **Evidence to Suggest**

May be expressed as 'there is evidence to suggest the writer of the known documents wrote / did not write the questioned writing.' This opinion is used when there is an identifiable limitation on the comparison process. The evidence may have few features which are of significance for handwriting comparisons purposes, but those features are in agreement with another body of writing.

- **Inconclusive**

May be expressed as 'no conclusion could be reached as to whether the writer of the known documents wrote / did not write the questioned writing.' This is the zero point of the confidence scale. It is used when there are significantly limiting factors, such as disguise in the questioned and/or known writing or a lack of comparable writing and the examiner does not have even a leaning one way or another.

## DECLARATION OF BETH CHRISMAN

I, BETH CHRISMAN, hereby declare as follows:

1. I am an Expert Document Examiner and court qualified expert witness in the field of questioned documents in the State of California. I am over the age of eighteen years, am of sound mind, having never been convicted of a felony or crime of moral turpitude; I am competent in all respects to make this Declaration. I have personal knowledge of the matters declared herein, and if called to testify, I could and would competently testify thereto.

2. I have studied, was trained and hold a certification in the examination, comparison, analysis and identification of handwriting, discrimination and identification of writing, altered numbers and altered documents, handwriting analysis, trait analysis, including the discipline of examining signatures. I have served as an expert within pending litigation matters and I have lectured and taught handwriting related classes. A true and correct copy of my current Curriculum Vitae ("C.V.") is attached as "Exhibit A".

3. **Request:** I was asked to analyze a certified copy of the ARTICLES OF INCORPORATION, CORPORATION SOLE FOR ECCLESIASTICAL PURPOSES for the Corporation Sole of THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS filed with the State of Hawaii Department of Commerce and Consumer Affairs. I have attached this document as EXHIBIT B, Pages 1 through 8.

4. **Basis of Opinion:** The basis for handwriting identification is that writing habits are not instinctive or hereditary but are complex processes that are developed gradually through habit and that handwriting is unique to each individual. Further, the basic axiom is that no one person writes exactly the same way twice and no two people write exactly the same. Thus writing habits or individual characteristics distinguish one person's handwriting from another.

1 Transferred or transposed signatures will lack any evidence of pressure of a writing  
2 instrument. Additionally, due to modern technology in the form of copiers, scanners, and computer  
3 software that can capture documents as well as edit documents and photos it has become quite easy  
4 to transfer a signature from one document to another. However, there will always be a source  
5 document and in many cases the signature will remain unchanged. The fact that there is more than  
6 one signature that is exactly the same is in direct opposition to one of the basic principles in  
7 handwriting identification.  
8

9 A process of analysis, comparison and evaluation is conducted between the document(s).  
10 Based on the conclusions of the expert, an opinion will be expressed. The opinions are derived  
11 from the ASTM Standard Terminology for Expressing Conclusions for Forensic Document  
12 Examiners.

13 **5. Observations and Opinions:**

14 PAGE NUMBERING:

15 a. This is an 8 page document with the first six pages having a fax footer dated May 26, 2009  
16 and the last 2 pages having a fax footer of May 28, 2009.

17 b. Further, the first four pages are numbered as such, the fifth page has no original number  
18 designation, the sixth page has the numeral 2, and the last two pages are labeled 1 and 2.

19 c. There is not one consistent page numbering system or text identification within the  
20 document pages that indicates all pages are part of one document.  
21

22 DOCUMENT PAGES:

23 d. Page 6 and Page 8 are both General Certification pages and contain the same text, exact  
24 same signature and exact same handwritten '8' for the day. Since no one person signs their name  
25 exactly the same way twice, one of these documents does not contain an authentic signature.  
26  
27  
28

1 Additionally, no one person writes exactly the same way twice thus the numeral '8' is also not  
2 authentic on one of the documents.

3 e. It is inconclusive if one of the documents is the source or if neither is the source document.

4 f. There is no way to know if the signature of Cecil Loran Lee was an original prior to faxing  
5 or if it was a copy of a copy or the generation of the copy if a copy was used to fax the form.

6 PAGES 5 AND 6

7 g. Page 6 is a General Certification appearing to be attached to the previous page, however,  
8 Page 5 of this set of documents references a Gwen Hillman and Gwen Hillman clearly is not the  
9 signature on the Certification. Additionally, there is no Page number on the Certificate of Evidence  
10 of Appointment that actually links it to the next page, the General Certification of a Cecil Loran  
11 Lee.  
12

13 h. Further, the fax footer shows that Page 5 is Page 13 of the fax, where page 4 is Faxed page  
14 5 and page 6 is fax page 7; so there is inconsistency in the overall document regarding the first six  
15 pages.  
16

17 i. There is no way to know based on the fax copy and limited handwriting if the same person  
18 wrote the '8' on pages 5 and 6. There's no real evidence these pages go together outside the order  
19 they were stapled together in the Certified Copy.

20 PAGE 8.

21 j. Page 8 does have an additional numeral '2' added to the original numeral 8 to make '28.'

22 a. The Please see EXHIBIT 3 for levels of expressing opinions.

23  
24 6. **Opinion:** EXHIBIT B, The ARTICLES OF INCORPORATION, CORPORATION SOLE  
25 FOR ECCLESIASTICAL PURPOSES for the Corporation Sole of THE OFFICE OF THE  
26 OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR  
27 ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS filed with the State of Hawaii  
28



1 Department of Commerce and Consumer Affairs contains page(s) that are not authentic in nature  
2 but have been duplicated, transferred and altered. Further, the lack of proper page numbering and  
3 consistency within the page number makes the document suspicious.

4 **7. Declaration:**

5 I declare under penalty of perjury under the laws of the State of California that the  
6 foregoing is true and correct and that this declaration was executed on the 12th day of June, 2015,  
7 in Sherman Oaks, California.  
8

9   
10 BETH CHRISMAN  
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STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
Business Registration Division  
1010 Richard Street  
PO Box 40, Honolulu, HI 96810

ARTICLES OF INCORPORATION  
CORPORATION SOLE FOR ECCLESIASTICAL PURPOSES  
(Section 419, Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned desires to form a Corporation Sole for Ecclesiastical purposes under the laws of the State of Hawaii and does certify as follows:

Article I

The name of the Corporation Sole is:

**THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**

Article II

Cecil Loran Lee of 13-811 Malama Street, Pahoa, HI 96778, duly authorized by the rules and regulations of the church **REVITALIZE, A GOSPEL OF BELIEVERS**, a Hawaiian non-profit corporation in the nature of Ecclesia, hereby forms **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS** and is the initial holder the office of Overseer hereunder.

Article III

The principal office of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITLIZE, A GOSPEL OF BELIEVERS** is 13-811 Malama Street Pahoa, HI 96778. The Island of Hawaii is the boundary of the district subject to the ecclesiastical jurisdiction of the Overseer.

Article IV

The period of duration of the corporate sole is perpetual.

05/29/200920052

## Article V

The manner in which any vacancy occurring in the incumbency of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**, is required by the discipline of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**, to be filled, through an appointment of Jason Hester of Pahoa, Hawaii as designated successor, and if said designated successor is unable or unwilling to serve, then through an appointment by the support and blessings by a formal "Popular Assembly" of clerical staff and the general membership of **REVITALIZE, A GOSPEL OF BELIEVERS**, as to the named designated successor. The corporate sole shall have continuity of existence, notwithstanding vacancies in the incumbency thereof, and during the period of any vacancy, have the same capacity to receive and take gifts, bequests, devise or conveyance of property as though there were no vacancy.

## Article VI

**THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS** shall have all the powers set forth in HRS c. 419-3 and 414D-52 including the power to contract in the same manner and to the same extent as any man, male or female, and may sue and be sued, and may defend in all courts and places, in all matters and proceedings whatsoever, and shall have the authority to appoint attorneys in fact. It has in any venue and jurisdiction authority to borrow money, give promissory notes therefore, to deal in every way in prime notes, noble metals, planchets, commercial liens, stamps, mortgages, all manner of banking, and to secure the payment of same by mortgage or other lien upon property, real and person, enter into insurance and assurance agreements, own life insurance policies, and purchase and sell contracts and other commercial instruments. It shall have the authority to buy, sell, lease, and mortgage and in every way deal in real, personal and mixed property in the same manner as a "natural person" or covenant child of God. It may appoint legal counsel, licenses and/or unlicensed, but any professional or nonprofessional account services, legal or other counsel employed shall be utilized in a capacity never greater than subordinate co-counsel in any and all litigious matters whether private, corporate, local, national or international, in order to protect the right of the corporation sole to address all courts, hearings, assemblies, etc., as superior co-counsel.

05/29/200920052

**Article VII**

The presiding Overseer of **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS** can be removed by a 2/3 vote at a meeting of the Popular Assembly of **REVITALIZE, A GOSPEL OF BELIEVERS**, a Hawaiian non-profit corporation in the nature of Ecclesia, duly called for that purpose, provided that a successor Overseer is selected at that meeting.

The presiding Overseer may not amend or alter this Article VII without the 2/3 vote at a meeting of the Popular Assembly of **REVITALIZE, A GOSPEL OF BELIEVERS** duly called for that purpose.

**Article VIII**

The presiding Overseer, after prayers and counsel from The Popular Assembly of **REVITALIZE, A GOSPEL OF BELIEVERS**, may at any time amend these Articles, change the name, the term of existence, the boundaries of the district subject to its jurisdiction, its place of office, the manner of filling vacancies, its powers, or any provision of the Articles for regulation and affairs of the corporation and may by Amendment to these Articles, make provision for any act authorized for a corporate sole under HRS c. 419. Such Amendment shall be effective upon recordation with the State of Hawaii.

**Article IX**

The purpose of this corporation sole is to do those things which serve to promote Celestial values, the principles of Love, Harmony, Truth and Justice, the love of our brothers and sisters as ourselves, the comfort, happiness and improvement of Man and Woman, with special emphasis upon home church studies, research and education of those rights secured by God for all mankind and of the laws and principles of God for the benefit of the Members of the Assembly and the Community at large. This corporate sole is not organized for profit.

**Article X**

All property held by the above named corporation sole as **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITLIZE, A GOSPEL OF BELIEVERS**, shall be held for the use, purpose, and benefit of **REVITLIZE, A GOSPEL OF BELIEVERS**, a Hawaiian non-profit corporation in the nature of Ecclesia.

I certify upon the penalties of perjury pursuant to Section 419 of the Hawaii Revised Statutes that I have read the above statements and that the same are true and correct.

Witness my hand this 8 day of May, 2009.

CECIL LORAN LEE

Cecil Loran Lee

# CERTIFICATE OF EVIDENCE OF APPOINTMENT

## Asseveration

State of Hawaii

County of Hawaii

)  
Signed and Sealed  
)

FILED 05/28/2009 05:41 PM  
Business Registration Division  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
State of Hawaii

Gwen Hillman, Scribe, on the 8<sup>th</sup> day of the fifth month in the Year of our Lord Jesus Christ, the Redeemer, Two Thousand Nine having first stated by prayer and conscience, avers, deposes and says:

Cecil Loran Lee is the duly appointed, qualified OVERSEER of THE OFFICE OF OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS, by virtue of Spiritually and Divinely inspired appointment and he is, and has been, sustained as such by the general membership of said "body of believers" of REVITALIZE, A GOSPEL OF BELIEVERS a Hawaiian incorporated Church assembly, in the nature of Ecclesia, and THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS, in a special Popular Assembly meeting on the 8 day of the fifth month in the year of our Lord Jesus Christ, the Redeemer, Two Thousand Nine as evidenced by an official recording of such appointment signed by Gwen Hillman, Scribe of THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS.

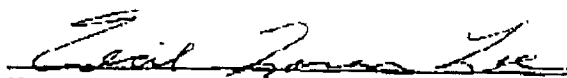
05/29/200920052

05/23/2009

# **General Certification**

I, Cecil Loran Lee, the named Overseer in The Office of the Overseer a corporation sole and his successors, over/for The Popular Assembly of REVITALIZE, a Gospel of Believers the Affiant herein, certify, attest and affirm that I have read the foregoing and know the content thereof and that it is true, correct, materially complete, certain, not misleading, all to the very best of my belief, and this I solemnly pledge declare and affirm before my Creator.

In witness whereof, said Cecil Loran Lee, The Overseer, of a corporation sole, has herewith set his hand and seal, on this, the 8 day of May in the Year of Jesus Christ our Lord, the Redeemer, two thousand nine.



Affix Seal

Here.

Cecil Loran Lee, the Overseer  
The Office of the Overseer  
a corporation sole and his successors,  
over/for The Popular Assembly of REVITALIZE, A GOSPEL OF  
BELIEVERS an incorporated Church assembly,  
in the nature of Ecclesia

## STATEMENT OF INCUMBENCY

**THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS  
SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A  
GOSPEL OF BELIEVERS.**

BE IT KNOWN BY THESE PRESENTS that Cecil Loran Lee of 13-811 Malama Street Pahoa, HI 96778 is the current incumbent OVERSEER for the corporation sole known as **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**. This Statement of Incumbency is provided pursuant to Hawaii Revised Statutes c.419-5.

Pursuant to Cecil Loran Lee's right to worship Almighty God, in accordance with the dictates of his own conscience, and having, humbly, taken possession of The Office of OVERSEER on the 28 day of May in the year two thousand nine, the OVERSEER does hereby certify, and adopt this "Statement of Incumbency".

In accordance with the disciplines of REVITALIZE, A GOSPEL OF BELIEVERS, a Hawaiian non-profit corporation, in the nature of Ecclesia located in Pahoa, County and State of Hawaii having established said corporation sole **THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS** and by this Statement of Incumbency hereby notifies the State of Hawaii that Cecil Loran Lee is the duly appointed incumbent OVERSEER.

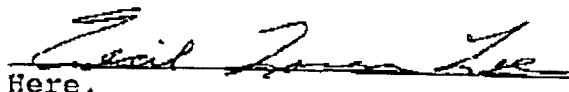
**THE OFFICE OF THE OVERSEER, A CORPORATION SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS**, does hereby establish that Cecil Loran Lee is the duly appointed incumbent OVERSEER of this corporate sole created for the purposes of administering and managing the affairs, property, and temporalities of REVITALIZE, A GOSPEL OF BELIEVERS, a Hawaiian non-profit corporation in the nature of Ecclesia.



# General Certification

I, Cecil Loran Lee, the named Overseer in The Office of the Overseer a corporation sole and his successors, over/for The Popular Assembly of REVITALIZE, a Gospel of Believers the Affiant herein, certify, attest and affirm that I have read the foregoing and know the content thereof and that it is true, correct, materially complete, certain, not misleading, all to the very best of my belief, and this I solemnly pledge declare and affirm before my Creator.

In witness whereof, said Cecil Loran Lee, The Overseer, of a corporation sole, has hereunto set his hand and seal, on this, the 28 day of May in the Year of Jesus Christ our Lord, the Redeemer, two thousand nine.



Affix Seal

Here.  
Cecil Loran Lee, the Overseer  
The Office of the Overseer  
a corporation sole and his successors,  
over/for The Popular Assembly of REVITALIZE, A GOSPEL OF  
BELIEVERS an incorporated Church assembly,  
in the nature of Ecclesia



**County of Hawai'i**

**DEPARTMENT OF FINANCE - REAL PROPERTY TAX**

Aupuni Center • 101 Pauahi Street • Suite No. 4 • Hilo, Hawai'i 96720 • Fax (808) 961-8415  
Appraisers (808) 961-8354 • Clerical (808) 961-8201 • Collections (808) 961-8282  
West Hawai'i Civic Center • 74-5044 Ane Keohokalole Hwy. • Bldg. D, 2nd Flr. • Kailua Kona, Hawai'i 96740  
Fax (808) 327-3538 • Appraisers (808) 323-4881 • Clerical (808) 323-4880

Nancy Crawford  
Deputy Finance Director

February 13, 2018

Mr. Paul J Sulla, Manager  
Halai Heights LLC  
PO Box 5258  
Hilo, HI 96720

Re: TMK: 1-3-001-049-0000

Mr. Sulla,

After review of the documents recorded on the parcel noted above, there was a discrepancy in ownership due to an exchange deed the County of Hawaii had completed with the prior owner of record. During the review, the Real Property Tax Office concluded 36,140 square feet was not included in the original legal description which was foreclosed on (which ultimately resulted in Halai Heights receiving ownership).

As a result of the research conducted, a separate tax map key number has been issued for this area. The new TMK # for this 36,140 square feet is 1-3-001-095-0000, owner of record is the Royal Bloodline of David (original owner per exchange deed). To further complicate matters, the taxes for tax years 2010 through 2017 were paid by the following individuals:

Halai Heights (paid in 2016 & 2017) totaling: \$24,878.71

Medical Veritas/Leonard Horowitz/Sherri Kane (paid in 2013 thru 2017) totaling: \$13,100.00

I apologize for any inconvenience and can only recommend that you make contact with the title company or company that assisted with the transaction/legal description of the warranty deed from Jason Hester to Halai Heights LLC as it appears Jason Hester did not have clear title to the legal description utilized in this document.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa Miura".

Lisa Miura  
Assistant Real Property Administrator

**Exhibit B**



R-884

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED  
JUN 14, 2011 11:00 AM

Doc No(s) 2011-093773

/s/ NICKI ANN THOMPSON  
REGISTRAR

20 21/2 21

Land Court System

Regular System

After Recordation, Return by Mail ( X ) Pickup ( ) To:

Jason Hester  
PO Box 758  
Pahoa, HI 96778

20975

TAX MAP KEY: Hawaii (3) 1-3-001:043 &amp; 043

MORTGAGE

WORDS USED OFTEN IN THIS DOCUMENT AND PARTIES AND THEIR ADDRESSES:

(A) "Mortgage." This document, which is dated June 9<sup>th</sup>, 2011, will be called the "Mortgage."

(B) "Borrower." Jason Hester, an individual, whose address is P. O. Box 758, Pahoa, Hawaii 96778, County of Hawaii will sometimes be called "Borrower" and sometimes simply "I" or "me."

(C) "Lender." PAUL J. SULLA JR. AAL, A LAW CORPORATION, a Hawaii corporation, whose address is PO BOX 5258, Hilo, Hawaii 96720, will sometimes be called "Lender" or sometimes simply "you" or "your."

(D) "Note." The Mortgage Loan Note, signed by Borrower and dated June 9, 2011 will be called the "Note." The

Note shows that I owe Lender **FIFTY THOUSAND DOLLARS (\$50,000.00)** plus interest, which I have promised to repay according to the terms set out in the Note.

(E) "Property." The property that is described below in the section titled "Description of the Property," will be called the "Property."

#### **BORROWER'S MORTGAGE AND TRANSFER TO LENDER OF RIGHTS IN THE PROPERTY**

I mortgage, grant a security interest in and convey the Property to you subject to the terms of this Mortgage. This means that, by signing this Mortgage, I am giving you those rights that are stated in this Mortgage and also those rights that the law gives to lenders who hold mortgages on real property and security interests in personal property. I am giving you these rights to protect you from possible losses that might result if I fail to:

(A) Pay all the amounts that I owe you as stated in the Note;

(B) Pay, with interest, any amounts that you spend under this Mortgage, to protect the value of the Property and your rights in the Property;

(C) Keep all of my other promises and agreements under the Note or this Mortgage.

#### **DESCRIPTION OF THE PROPERTY**

Lender's rights apply to the following Property:

(A) The property is located at **13-3775 Pahoa-Kalapana Road, Kalapana, Hawaii TMK (3) 1-3-001-049 & (3) 1-3-001-043**. The full legal description of this property is contained in Exhibit "A" which is attached at the end of this Mortgage;

(B) All buildings and other improvements that are located on the property described in Paragraph (A) of this section;

(C) All rights in other property that I have as owner of the property described in Paragraph (A) of this section. These

rights are known as "easements, rights and appurtenances attached to the property;"

(D) All rents or royalties from the property described in Paragraph (A) of this section;

(J) All of the amounts that I pay to Lender under Paragraph 2 below; and

(K) Any voting rights I have as owner of the Property.

**BORROWER'S RIGHT TO MORTGAGE THE PROPERTY AND BORROWER'S OBLIGATION TO DEFEND OWNERSHIP OF THE PROPERTY**

I promise that:

- (A) I lawfully own the Property;
- (B) I have the right to mortgage, grant and convey the Property to Lender;
- (C) there are no outstanding claims or charges against the Property except for the claims and charges against the Property listed in Exhibit "A" attached to the end of this Mortgage.

I give a general warranty of title to Lender. This means that I will be fully responsible for any losses which you suffer because someone other than myself has some of the rights in the Property which I promise that I have. I promise that I will defend my ownership of the Property against any claims of those rights.

**BORROWER'S PROMISES AND AGREEMENT**

I promise and I agree with you as follows:

**1. BORROWER'S PROMISE TO PAY PRINCIPAL AND INTEREST UNDER THE NOTE AND TO FULFILL OTHER PAYMENT OBLIGATION.**

I will promptly pay you or anyone you name principal, interest and any late charges as stated in the Note.

## **2. LENDER'S APPLICATION OF BORROWER'S PAYMENTS**

Unless the law requires otherwise, Lender will apply each of my payments under the Note in the following order and for the following purposes:

- (A) First, to pay interest then due under the Note;
- (B) Next, to pay principal then due under the Note; and
- (C) Next, to pay interest and amounts paid by Lender under paragraph 6 below.

## **3. BORROWER'S OBLIGATION TO PAY CHARGES AND ASSESSMENTS AND TO SATISFY CLAIMS AGAINST THE PROPERTY.**

I will pay when they are due all taxes, assessments, and any other charges and fines that may be imposed on the Property. I will also make payments due under my lease if I am a tenant on the Property and I will pay lease rents (if any) due on the Property. I will do this either by making the payments to Lender that are described in Paragraph 2 above or, if I am not required to make payments under Paragraph 2, by making payments, when they are due, directly to the persons entitled to them. (In this Mortgage, the word "person" means any person, organization, governmental authority, or other party.) If I make direct payments, then promptly after making any of those payments I will give Lender a receipt which shows that I have done so.

Any claim, demand or charge that is made against property because an obligation has not been fulfilled is known as a "lien." I will promptly pay or satisfy all liens against the Property.

### ***Condominium and PUD Assessments.***

If the Property includes an apartment unit in a Condominium Project or in a PUD, I will promptly pay, when they are due, all assessments imposed by the owners' association or other organization that governs the Condominium Project or PUD. The association or organization will be called the "Owners' Association."

4. BORROWER'S OBLIGATION TO OBTAIN AND TO KEEP HAZARD INSURANCE ON THE PROPERTY.

(A) Generally.

I will obtain hazard insurance, if possible, to cover all buildings and other improvements that now are or in the future will be located on the Property. If possible, the insurance must cover loss or damage caused by fire, hazards normally covered by "extended coverage" hazard insurance policies, and other hazards for which Lender requires coverage. The insurance must be in the amounts and for the periods of time required by Lender. It is possible that the insurance policy will have provisions that may limit the insurance company's obligation to pay claims if the amount of coverage is too low. Those provisions are known as "co-insurance requirements." Lender may not require me to obtain an amount of coverage, if possible that is more than the larger of the following two amounts: either (i) the amount that I owe to Lender under the Note and under this Mortgage; or (ii) the amount necessary to satisfy the co-insurance requirements.

If I can get a policy, I will pay the premiums on the insurance policies by paying the insurance company directly when the premium payments are due.

If I get a policy, I will pay the premiums on the insurance policies either by making payments to Lender, as described in Paragraph 2 above, or by paying the insurance company directly when the premium payments are due. If Lender requires, I will promptly give Lender all receipts of paid premiums and all renewal notices that I receive.

If there is a loss or damage to the Property, I will promptly notify the insurance company and Lender. If I do not promptly prove to the insurance company that the loss or damage occurred, then Lender may do so.

The amount paid by the insurance company is called "proceeds." If the Property is used as a "residence" (for example, it is my home), then I have the right to decide whether the proceeds will be used to repair, restore or rebuild a residence on the Property or whether the proceeds will be used to reduce the amount that I owe you under the Note. In all other cases, Lender

will have the right to determine whether the proceeds are to be used to repair, restore or rebuild the Property or to reduce the amount I owe under the Note.

If any of the proceeds remain after the amount that I owe to Lender has been paid in full, the remaining proceeds will be paid to me.

If I abandon the Property, or if I do not answer, within 30 days, a notice from Lender stating that the insurance company has offered to settle a claim for insurance benefits, then Lender has the authority to collect the proceeds. Lender may then use the proceeds to repair or restore the Property or to reduce the amount that I owe to Lender under the Note and under this Mortgage. The 30-day period will begin on the date the notice is mailed or, if it is not mailed, on the date the notice is delivered.

If any proceeds are used to reduce the amount which I owe to Lender under the Note, that use will not delay the due date but shall change the amount of any of my monthly payments under the Note and under Paragraphs 1 and 2 above.

If Lender acquires the Property under Paragraph 17 below, all of my rights in the insurance policies will belong to Lender. Also, all of my rights in any proceeds which are paid because of damage that occurred before the Property is acquired by Lender or sold will belong to Lender. However, Lender's rights in those proceeds will not be greater than the amount that I owe to Lender under the Note and under this Mortgage immediately before the Property is acquired by Lender or sold.

(B) Agreements that Apply to Condominiums and PUD's.

(i) If the Property includes an apartment unit in a Condominium Project, the Owners' Association may maintain a hazard insurance policy which covers the entire Condominium Project. That policy will be called the "master policy." If the master policy insures my apartment unit as well as the common elements of the Condominium Project, so long as the master policy remains in effect and meets the requirements stated in this Paragraph 4: (a) my obligation to obtain and to keep hazard insurance on the Property is satisfied; (b) I will not be required to include an amount for hazard insurance premiums in my monthly payment of Funds to Lender



under Paragraph 2 above; and (c) if there is a conflict, concerning the use of proceeds, between (1) the terms of this Paragraph 4, and (2) the law or the terms of the declaration, bylaws, regulations or other documents creating or governing the Condominium Project, then that law or the terms of those documents will govern the use of proceeds. I will promptly give Lender notice if the master policy is interrupted or terminated. During any time that the master policy is not in effect the terms of (a), (b) and (c) of this subparagraph 4(B)(i) will not apply.

(ii) If the Property includes a unit in a Condominium Project, it is possible that proceeds will be paid to me instead of being used to repair or to restore the Property. I give Lender my rights to those proceeds. If the Property includes a unit in a PUD, it is possible that proceeds will be paid to me instead of being used to repair or to restore the common areas or facilities of the PUD. I give Lender my rights to those proceeds. All of the proceeds described in this subparagraph 4(B)(ii) will be paid to Lender and will be used to reduce the amount that I owe to Lender under the Note and under this Mortgage. If any of those proceeds remain after the amount that I owe to Lender has been paid in full, the remaining proceeds will be paid to me.

**5. BORROWER'S OBLIGATION TO MAINTAIN THE PROPERTY AND TO FULFILL OBLIGATIONS IN LEASES AND MORTGAGES AND AGREEMENTS ABOUT LEASES, CONDOMINIUMS AND PUD'S.**

**(A) Agreements about Maintaining the Property.**

I will keep the Property in good repair. I will not destroy damage or change the Property, and I will not allow the Property to deteriorate.

**(B) Agreements About Keeping Promises in Leases and Mortgages.**

I will fulfill my obligations under any lease which is part of the Property. I will not change or agree to any change in any Lease which is a part of the Property. I will fulfill my obligations in any Mortgage on the Property listed on Exhibit "A" at the end of this Mortgage. I will not change or agree to any change in any such Mortgage.

(C) Agreements that Apply to Leases and Preventing Rejection or Termination of Leases in Bankruptcy Cases.

If (i) the Property includes, or is under, covered, or affected by and leases (the "Property Leases"), (ii) I, or anyone else with rights to and/or obligations under any Property Leases, including, but not limited to, lessors, lessees, sublessors, and sublessees, become a debtor in a voluntary or involuntary bankruptcy case, and (iii) an order for relief is issued pursuant to the bankruptcy laws, then I will take the actions necessary to prevent the Property Leases (a) from being rejected by me, any bankruptcy trustee or any other person pursuant to the bankruptcy laws, or (b) from being terminated in any manner. I will take such actions within five (5) days from the date of filing of the order for relief. The bankruptcy laws include, but are not limited to, Section 365 of Title 11 of the provisions of the United States Code, which is often referred to as Bankruptcy Code Section 365, as it may be amended from time to time.

I now appoint you as my attorney-in-fact to do whatever you, as Lender, believe is necessary to protect your interests in the Property and to prevent the rejection or termination of the Property Leases under the bankruptcy laws. This means that I now give you the right, in my place and name, or in your own name, to do whatever you believe is necessary to protect your interests in the Property. You have no obligation or responsibility to look out for or take care of my interests. You may, but you do not have to, take any actions to prevent the Property Leases from being rejected or terminated pursuant to the bankruptcy laws. Those actions include, but are not limited to, the following:

(I) The filing of any instruments, documents and pleadings with the court to assume and/or assign the Property Leases; and

(II) The filing of a notice of election to remain in possession of leased real property if my lessor becomes a debtor in a bankruptcy case and rejects my lease.

Your having the right to take such actions will not prevent me, on my own, from taking any actions to protect my interests and the Property Leases.

(D) Agreements that Apply to Condominiums and PUD's.

If the Property is a unit in a Condominium Project or in a PUD, I will fulfill all of my obligations under the declaration, bylaws, regulations and other documents that create or govern the Condominium Project or PUD. Also, I will not divide the Property into smaller parts that may be owned separately (known as "partition or subdivision"). I will not consent to certain actions unless I have first given Lender notice and obtained Lender's consent in writing. Those actions are:

(1) The abandonment or termination of the Condominium Project or PUD, unless, in the case of a condominium, the abandonment or termination is required by law;

(2) Any change to the declaration, bylaws or regulations of the Owners' Association, trust agreement, articles of incorporation, or other documents that create or govern the Condominium Project or PUD, including, for example, a change in the percentage of ownership rights, held by unit owners, in the Condominium Project or in the common areas or facilities of the PUD;

(3) A decision by the Owners' Association to terminate professional management and to begin self-management of the Condominium Project or PUD; and

(4) The transfer, release, creation of liens, partition or subdivision of all or part of the common areas and facilities of the PUD. (However, this provision does not apply to the transfer by the Owners' Association of rights to use those common areas and facilities for utilities and other similar or related purposes.)

**6. LENDER'S RIGHT TO TAKE ACTION TO PROTECT THE PROPERTY.**

If: (A) I do not keep my promises and agreements made in this Mortgage, or (B) someone, including me, begins a legal proceeding that may affect Lender's rights in the Property (such as, for example, a legal proceeding in bankruptcy, in probate, for condemnation, or to enforce laws or regulations), then Lender may do and pay for whatever Lender believes is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions under this Paragraph 6 may include, for example,

appearing in court, paying reasonable attorneys' fees, and entering on the Property to make repairs. Lender need not give me notice before taking any of these actions.

I will pay to Lender any amounts which Lender spends under this Paragraph 6. This Mortgage will protect Lender in case I do not keep this promise to pay those amounts with interest.

I will pay those amounts to Lender when Lender sends me a notice requesting that I do so. I will also pay interest on those amounts at the same rate stated in the Note. However, if payment of interest at that rate would violate the law, I will pay interest on the amounts spent by Lender under this Paragraph 6 at the highest rate that the law allows. Interest on each amount will begin on the date that the amount is spent by Lender. However, Lender and I may agree in writing to terms of payment that are different from those in this paragraph.

Although Lender may take action under this Paragraph 6, Lender does not have to do so.

**7. LENDER'S RIGHT TO INSPECT THE PROPERTY.**

Lender, and others authorized by Lender may, upon reasonable notice, enter on and inspect the Property. They must do so in a reasonable manner and at reasonable times.

**8. AGREEMENTS ABOUT CONDEMNATION OF THE PROPERTY.**

A taking of property by any governmental authority by eminent domain is known as "condemnation." I give to Lender my right: (a) to proceeds of all awards or claims for damages resulting from condemnation or other governmental taking of the Property; and (b) to proceeds from a sale of the Property that is made to avoid condemnation. All of those proceeds will be paid to Lender and will be used to reduce the amount that I owe to Lender under the Note and under this Mortgage. If any of the proceeds remain after the amount that I owe to Lender has been paid in full, the remaining proceeds will be paid to me.

If I abandon the Property, or if I do not answer, within 30 days, a notice from Lender stating that a governmental authority has offered to make a payment or to settle a claim for damages,

then Lender has the authority to collect the proceeds. Lender may then use the proceeds to repair or restore the Property or to reduce the amount that I owe to Lender under the Note and under this Mortgage. The 30-day period will begin on the date the notice is mailed or, if it is not mailed, on the date the notice is delivered.

If any proceeds are used to reduce the amount of principal which I owe to Lender under the Note, that use will not delay the due date or change the amount of any of my monthly payments under the Note and under Paragraphs 1 and 2 above. However, Lender and I may agree in writing to those delays or changes.

***Condemnation of Common Areas of PUD.***

If the Property includes a unit in a PUD, the promises and agreements in this Paragraph 8 will apply to a condemnation, or sale to avoid condemnation, of the PUD's common areas and facilities as well as of the Property.

**9. CONTINUATION OF BORROWER'S OBLIGATIONS**

Lender may allow a person who takes over my rights and obligations to delay or to change the amount of the payments of principal and interest due under this Note or under this Mortgage.

Even if Lender does this, however, that person and I will both still be fully obligated under the Note and under this Mortgage unless the conditions stated in paragraph 16 below have been met.

Lender may allow those delays or changes for a person who takes over my rights and obligations, even if Lender is requested not to do so. Lender will not be required to bring a lawsuit against such a person for not fulfilling obligation under the Note or under this Mortgage, even if Lender is requested to do so.

**10. CONTINUATION OF LENDER'S RIGHTS.**

Even if Lender does not exercise or enforce any right of Lender under this Mortgage or under the law, Lender will still have all of those rights and may exercise and enforce them in the future.

**11. LENDER'S ABILITY TO ENFORCE MORE THAN ONE OF LENDER'S RIGHTS.**

Each of Lender's rights under this Mortgage is separate. Lender may exercise and enforce one or more of those rights, as well as any of Lender's other rights under the law, one at a time or all at once.

**12. OBLIGATIONS OF BORROWERS AND OF PERSONS TAKING OVER BORROWER'S RIGHTS OR OBLIGATIONS.**

Subject to the terms of paragraph 16 below, any person who takes over my rights or obligations under this Mortgage will have all of my rights and will be obligated to keep all of my promises and agreements made in this Mortgage. Similarly, any person who takes over Lender's rights or obligations under this Mortgage will have all of Lender's rights and will be obligated to keep all of Lender's agreements in this Mortgage.

If more than one person signs this Mortgage as Borrower, each of us is fully obligated to keep all of Borrower's promises and obligations contained in this Mortgage. Lender may enforce Lender's rights under this Mortgage against each of us individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under the Note and under this Mortgage. However, if one of us does not sign the Note, then:

(a) that person is signing this Mortgage only to give that person's rights in the Property to Lender under the terms of this Mortgage; and (b) that person is not personally obligated to make payments or to act under the Note.

**13. CAPTIONS.**

The captions and titles of this Mortgage are for convenience only. They may not be used to interpret or to define the terms of this Mortgage.

**14. AGREEMENTS ABOUT GIVING NOTICES REQUIRED UNDER THIS MORTGAGE.**

Unless the law requires otherwise, any notice that must be given to me under this Mortgage will be given by delivering it or by mailing it addressed to me at the address stated in Paragraph

(B) of the section above titled "Words Used Often In This Document and Parties and their Addresses." A notice will be delivered or mailed to me at a different address if I give Lender a notice of my different address. Any notice that must be given to Lender under this Mortgage will be given by mailing it to Lender's address stated in Paragraph (C) of the section above titled "words Used Often In This Document and Parties and Their Addresses." A notice will be mailed to Lender at a different address if Lender gives me a notice of the different address. A notice required by this Mortgage is given when it is mailed or when it is delivered according to the requirements of this Paragraph 14.

**15. LAW THAT GOVERNS THIS MORTGAGE.**

The law of the State of Hawaii will govern this Mortgage. If any term of this Mortgage or of the Note conflicts with that law, all other terms of this Mortgage and of the Note will still remain in effect if they can be given effect without the conflicting term.

This means that any terms of this Mortgage and of the Note which conflict with the law can be separated from the remaining terms, and the remaining terms will still be enforced.

**16. AGREEMENTS ABOUT ASSUMPTION OF THIS MORTGAGE AND ABOUT LENDER'S RIGHTS IF BORROWER TRANSFERS THE PROPERTY WITHOUT MEETING CERTAIN CONDITIONS.**

If I sell or transfer all or part of the Property or any rights in the Property, any person to whom I sell or transfer the Property may take over all of my rights and obligations under this mortgage (known as an "assumption of the Mortgage") if:

- (A) I give Lender notice of the sale or transfer;
- (B) Lender agrees that the person's credit is satisfactory and consents to the assumption, which consent shall not unreasonably be withheld;
- (C) the person agrees to pay interest on the amount owed to Lender under the Note and under this Mortgage at the rate set forth in the Note; and
- (D) the person signs an assumption agreement that is acceptable to Lender and that obligates the person to

keep all of the promises and agreements made in the Note and in this Mortgage.

I understand that even if I sell or transfer the Property and each of the conditions in (A), (B), (C) and (D) of this paragraph 16 are satisfied, Lender will still hold me to all of my obligations under the Note and under this Mortgage if the person assuming does not perform.

However, if I sell or transfer the Property and the conditions in (A), (B), (C) and (D) of this paragraph 16 are not satisfied, I will still be fully obligated under the Note and under this Mortgage and Lender may require Immediate Payment In Full, as that phrase is defined in paragraph 17 below. However, Lender will not have the right to require Immediate Payment In Full as a result of any of the following:

- (i) the creation of liens or other claims against the Property that are inferior to this Mortgage and the Lender consents in writing to their creation (Lender will not withhold its consent unreasonably);
- (ii) a transfer of rights in household appliances, to a person who provides me with the money to buy those appliances, in order to protect that person against possible losses;
- (iii) a transfer of the Property to surviving co-owners, following the death of a co-owner, when the transfer is automatic according to law; or
- (iv) leasing the Property for a term of one year or less, as long as the lease does not include an option to buy.

If Lender requires Immediate Payment In Full under this paragraph 16, Lender will send me a notice, in the manner described in paragraph 14 above, which states this requirement. The notice will give me at least 30 days to make the required payment. The 30-day period will begin on the date the notice is mailed or, if it is not mailed, on the date the notice is delivered. If I do not make the required payment during that period, Lender may bring a lawsuit for "foreclosure and sale" under paragraph 17 below without giving me any further notice or demand for payment. (See paragraph 17 for a definition of "foreclosure and sale.")



17. LENDER'S RIGHTS IF BORROWER FAILS TO KEEP PROMISES  
AND AGREEMENTS.

If the conditions in subparagraph (D) or all of the conditions stated in subparagraphs (A), (B), and (C) of this paragraph 17 are satisfied, Lender may require that I pay immediately the entire amount then remaining unpaid under the Note and under this Mortgage. Lender may do this without making any further demand for payment. This requirement will be called "Immediate Payment In Full."

If Lender requires Immediate Payment In Full, Lender may, at your sole option, either: (a) exercise a Power of Sale pursuant to HRS §667-5 or Part II HRS §667-21 et. seq. and/or (b) bring a lawsuit to take away all of my remaining rights in the Property and to have the Property sold. This is known as "foreclosure and sale." The Lender may be a buyer of the property at any foreclosure sale. The monies received from the foreclosure sale will be applied, first to pay the costs and expenses of the sale and the court costs and attorney's fees paid by the Lender because of my default; second, to the reimbursement of the Lender for all payments made by the Lender because of the property or because of my failure to keep any promise or agreement contained in this Mortgage; and lastly, to the payment of the balance of the principal and required interest then remaining unpaid. Any monies left over after these payments will be paid to me. If the money received from the foreclosure sale is not enough to make all of these payments, then the Lender will be entitled to recover the deficiency directly from me out of my own money.

Lender may require Immediate Payment In Full under this paragraph 17 only if all of the following conditions are satisfied:

(A) I fail to keep any promise or agreement made in this Mortgage, including the promise to pay when due the amounts that I owe to Lender under the Note and under this Mortgage; and

(B) Subject to subparagraph (D) below, Lender sends to me, in the manner described in paragraph 14 above, a notice that states:

- (i) The promise or agreement that I failed to keep;
- (ii) The action that I must take to correct that failure;

(iii) A date by which I must correct the failure. That date must be at least 30 days from the date on which the notice is mailed to me, or, if it is not mailed, from the date on which it is delivered to me;

(iv) That if I do not correct the failure by the date stated in the notice, I will be in default and Lender may require Immediate Payment In Full, and Lender or another person may acquire the Property by means of foreclosure and sale;

(C) Subject to subparagraph (D) below, if I do not correct the failure stated in the notice from Lender by the date stated in that notice.

(D) The conditions in subparagraphs (B) and (C) above are subject to the condition that if I have been more than fifteen (15) days late in my installment payments and have received notices as set forth in B above more than three (3) times, then upon the fourth (4th) time I am late, the Lender may foreclose without further notice.

#### **18. TRANSFER OF LENDER'S INTEREST**

Lender retains the right to assign Lender's interest in this Mortgage at anytime subject only to preservation of the rights of the Borrower in the Mortgage.

#### **19. LENDER'S RIGHTS TO RENTAL PAYMENTS FROM THE PROPERTY AND TO TAKE POSSESSION OF THE PROPERTY.**

As additional protection for Lender, I give to Lender all of my rights to any rental payments from the Property. However, until I am in default, I have the right to collect and keep those rental payments as they become due. I have not given any of my rights to rental payments from the Property to anyone else, and I will not do so without Lender's consent in writing.

If I am in default, then Lender, persons authorized by Lender, or a receiver appointed by a court at Lender's request may:

(A) collect the rental payments, including over due rental payments, directly from the tenants; (B) enter on and take possession of the Property; (C) manage the Property; and (D) sign, cancel and change leases. I agree that if Lender notifies the

tenants that Lender has the right to collect rental payments directly from them under this Paragraph 18, the tenants may make those rental payments to Lender without having to ask whether I have failed to keep my promises and agreements under this Mortgage.

If there is a judgment for Lender in a lawsuit for foreclosure and sale, I will pay to Lender reasonable rent from the date the judgment is entered for as long as I occupy the Property. However, this does not give me the right to occupy the Property.

All rental payments collected by Lender or by a receiver, other than the rent paid by me under this Paragraph 18, will be used first to pay the costs of collecting rental payments and managing the Property. If any part of the rental payments remains after those costs have been paid in full, the remaining part will be used to reduce the amount that I owe to Lender under the Note and under this Mortgage. The costs of managing the Property may include the receiver's fees and reasonable attorneys' fees. Lender and the receiver will be obligated to account only for those rental payments that they actually receive.

**20. LENDER'S OBLIGATION TO DISCHARGE THIS MORTGAGE WHEN THE NOTE AND THIS MORTGAGE ARE PAID IN FULL.**

When Borrower has paid all amounts due under the Note and this Mortgage, Lender will discharge this Mortgage by delivering a certificate stating that this Mortgage has been satisfied. I will pay all costs of recording the discharge in the proper official records.

**21. CHANGING THIS MORTGAGE.** This Mortgage can be changed only if Lender and I sign a writing agreeing to the change.

**22. BORROWER'S FREEDOM TO CHOOSE INSURANCE COMPANY.**

I understand that I can get any insurance required by this Mortgage from any insurance company licensed to sell that insurance in Hawaii, subject to Lender's right to refuse an insurer for cause or reasonable excuse.

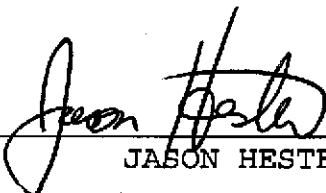
**23. FINANCING STATEMENT.**

This Mortgage also serves as a financing statement to perfect the Lender's security interest in the Property.

24. BORROWER'S COPY OF THE NOTE AND OF THIS MORTGAGE.

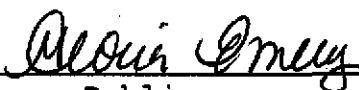
I will be given a copy of the Note and of this Mortgage. Those copies must show that the original Note and Mortgage have been signed. I will be given those copies either when I sign the Note and this Mortgage or after this Mortgage has been recorded in the proper official records.

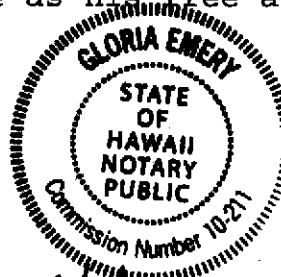
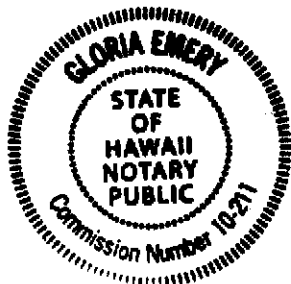
By signing this Mortgage I agree to all of the above.

  
JASON HESTER

STATE OF HAWAII       )  
                                  ) SS.  
COUNTY OF Hawaii    )

On this the 9<sup>th</sup> day of June, 2011, before me personally appeared JASON HESTER to me known to be the person described in and who executed the foregoing instrument and acknowledged to me that he executed the same as his free act and deed.

  
Notary Public  
My Commission Expires: July 18, 2014  
**GLORIA EMERY**



Doc. Date: 6/9/11 3rd Circuit  
# Pages: 20  
Doc. Description: MORTGAGE  
EXHIBIT "A"  
x GLORIA EMERY 6/9/11  
GLORIA EMERY, Notary Public Date

EXHIBIT A

ITEM I:

LOT 15-D  
A Portion of Lot 15  
Grant 5005 to J. E. Elderts  
Kamali Homesteads, Puna, Island and County of Hawaii, State of Hawaii

BEGINNING at a pipe at the West corner of this parcel of land at the North boundary of Lot 2, Grant 4330 to C. L. Wight and on the East side of Pahoa - Kalapana Road (Emergency Relief Project No. ER 4(1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HEHEKIAHULU" being 6,281.64 feet North and 16,203.34 feet East and running by azimuths measured clockwise from True South:

1. 197° 55' 15" 958.02 feet along Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1)) to a pipe;
2. 239° 28' 30" 326.15 feet along Lot 19, Grant 5651 to Chas. Elderts to a pipe;
3. 304° 03' 30" 337.89 feet along Lot 19, Grant 5651 to Chas. Elderts, and Grant 5151 to J. E. Elderts to a pipe;

Thence along a 1016.74 feet radius curve to the right the direct chord azimuth and distance being:

4. 14° 14' 56" 915.04 feet along West side of the old Pahoa-Kalapana Road;
5. 40° 59' 30" 275.69 feet along same to a pipe;
6. 114° 43' 30" 494.98 feet along Lot 2, Grant 4330 to C. L. Wight to the point of beginning and containing an area of 16.55 acres, more or less.

Being the land conveyed to The Royal Bloodline of David, a Washington nonprofit corporation, by Warranty Deed dated 2004-01-11, recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 2004-01-11.

ITEM II:

That certain parcel of land (being portion of the land(s) described in and covered by Land Patent Grant Number 5005 to J. E. Elderts) situate, lying and being at Puna, Island and County of Hawaii, State of Hawaii, being LOT 15-A, portion of Lot 15, of the Kamali Homesteads, being more particularly described as follows:

EXHIBIT "A"

Beginning at the north corner of this parcel of land at the northwest corner of Lot 15-B and on the eastern side of old (abandoned) Pahoa-Kalapana Road the coordinates of said point of beginning referred to Government Survey Triangulation Station "HEIHEIAHULU" being 6,270.75 feet north and 16,889.17 feet east and running by azimuths measured clockwise from true South:

1. 307° 30' 212.10 feet along Lot 15-B;
2. 37° 30' 235.90 feet along same;
3. 114° 43' 30" 235.14 feet along Grant 4330 to C. L. Wright;
4. 220° 59' 30" 261.10 feet along eastern side of old (abandoned) Pahoa-Kalapana Road;

Thence along a 1066.74 feet radius curve to the left, the chord azimuth and distance being:

5. 220° 15' 30" 27.31 feet along same to the point of beginning and containing an area of 1.32 acres, more or less.

Being the land conveyed to The Royal Bloodline of David, a Washington nonprofit corporation, by Warranty Deed dated 2004-01-14, recorded in the Bureau of Conveyances, State of Hawaii, as Document No. 2004-01444

SUBJECT, HOWEVER, TO:

1. Title to all minerals and metallic mines reserved to the State of Hawaii.
2. AS TO ITEM I:-

As to the road remnant within the land herein described:

- a. Reservation in favor of the State of Hawaii of all minerals and metallic mines of every description, including all geothermal rights.
- b. Reservation of the rights of native tenants.
- c. The State of Hawaii's and the public's right of access through government roads, namely the "Pahoa-Kalapana Road", a government road under the jurisdiction of the County of Hawaii, shall be protected and not restricted.
- d. Reservation in favor of the State of Hawaii of all right, title, interest or claim to water having its source upon or flowing over or under the subject property.
- e. Reservation in favor of the State of Hawaii of all easements or rights in the nature of easements for the free flowage of surface water through and across any stream and/or established water course upon the subject property.

3. AS TO ITEM II:-

The property does not appear to have access of record to any public street, road or highway.

END OF EXHIBIT A



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

April 26, 2017 10:45 AM

Doc No(s) A-63250845



/s/ LESLIE T. KOBATA  
REGISTRAR

1 1/1 TAW  
B-32982572

:  
:  
:  
:

---

AFTER RECORDATION, RETURN BY MAIL TO:

Paul J. Sulla, Jr.  
PO Box 5258  
Hilo, HI 96720

---

TITLE OF DOCUMENT:

**MORTGAGE**

pages

PARTIES TO DOCUMENT:

**Lender:** PAUL J SULLA JR. AAL A LAW CORPORATION, a Hawaii professional business corporation, whose address is PO Box 5258 Hilo, HI 96720

**Borrowers:** HALAI HEIGHTS LLC, a Hawaii limited liability company, whose address is PO Box 5258, Hilo, HI 96720

---

**Affects:** TAX MAP KEY: (3) 1-3-001-043 & 049

---

## MORTGAGE

**THIS MORTGAGE** is made the 11<sup>th</sup> day of April, 2017 between **HALAI HEIGHTS LLC, a Hawaii limited liability company, whose address is PO Box 5258, Hilo, HI 96720** (hereinafter called the "Borrower"), and **PAUL J SULLA JR. AAL A LAW CORPORATION, a Hawaii professional business corporation, whose address is PO Box 5258 Hilo, HI 96720** (hereinafter "Lender").

**WHEREAS**, Borrower is indebted to Lender in the principal sum of **ONE HUNDRED FIFTY THOUSAND and 00/100 Dollars (\$150,000.00)**, which indebtedness is evidenced by Borrower's note of even date herewith (hereinafter referred to as the "Note");

**TO SECURE** to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon and the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of the Mortgage, and the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant, convey and assign to Lender, with power of sale, all of the following property:

ALL of the property described in Exhibit "A" attached hereto and hereby incorporated herein by this reference.

**TOGETHER WITH** all the improvements now or hereafter erected on the property and all easements, rents, rights, appurtenances, royalties, minerals, water, water rights and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Mortgage; and all of the foregoing, together with said property (or the leasehold estate if this Mortgage is on a leasehold) are herein referred to as the "Property".

**AND TOGETHER ALSO WITH** (1) if the mortgaged property consists of a leasehold, all options and rights of the Lessee under the lease agreement, and (2) if the mortgaged property consists of an apartment or unit in a condominium, or a unit in a planned unit development, all rights and options and voting rights accruing to the Borrower under the terms of the Declaration and by-laws of the Horizontal Property Regime or Condominium Property Regime or the Declaration of Covenants, Conditions and Restrictions of the planned unit development and other documents applicable to the premises and any amendment thereof, including the apartment or unit lease herein mentioned, if any. In either case, it being agreed and understood that at the option of the Lender, where the Borrower has the right to exercise any options or rights as between the lessee and the lessor if a leasehold, and any options or rights as among the apartment or unit owners, the decision as to the exercise of such rights and options shall be made solely by the Lender. The Borrower, in addition to the foregoing, hereby nominates and appoints the Lender (irrevocable so long as this Mortgage remains in effect) the Borrower's proxy to vote, and the Borrower's agent to act, pursuant to the Declaration, by-laws or the Declaration of Covenants, Conditions and Restrictions and other documents applicable to the premises and any amendment



thereof. Failure of the Lender to exercise said rights and options and voting rights shall not be construed as a waiver of the rights to exercise such rights, options or voting rights. The Borrower shall exercise such rights, options and votes, except for (1) rights, options and votes involved in the determination to rebuild upon destruction or condemnation of the mortgaged premises and the distribution of the insurance or condemnation proceeds arising upon such destruction or condemnation, (2) with respect to construction plans, partition of the condominium property regime or planned unit development, (3) amendments of the Declaration or by-laws or the Declaration of Covenants, Conditions and Restrictions and any amendment thereof, (4) appointment of a managing agent, if any, and (5) all rights, options and votes which, in the sole discretion of the Lender, would impair the security of this Mortgage, so long as this Mortgage is not in default, or in the alternative, unless the Lender shall give notice in writing to the Borrower at Borrower's last known address of its intention to exercise such rights, options and voting rights under the above provision.

**TO HAVE AND TO HOLD** the same with all improvements now or hereafter erected thereon, and all rights, privileges and appurtenances thereto belonging, and the rents, issues and profits thereof and all of the estate, rights, easements, title and interest of the Borrower both at law and in equity, therein and thereto, or appertaining or held and enjoyed therewith, unto the Lender, and its successors and assigns forever, or for the unexpired term of the lease, if leasehold.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property, that if the Property consists of a leasehold estate, then such lease is in all respects in good standing, genuine, valid and in full force and effect, that Borrower is the lawful owner of all personal property which may be mortgaged hereby, that the Property is unencumbered except as described in Exhibit "A", that all rents, covenants and conditions in any lease or grant or other interest herein mentioned to be paid, observed or performed by Borrower have been paid, observed or performed up to the date hereof, and that Borrower will **WARRANT AND DEFEND** the same to Lender against all claims and demands, subject to any declarations, easements or restrictions or encumbrances mentioned in Exhibit "A" attached hereto. Borrower covenants and agrees as follows:

**1. Payment of Principal and Interest.** Borrower shall promptly pay when due the principal and interest on the indebtedness evidenced by the Note, and any prepayment and late charges as provided in the Note.

**2. Application of Payments.** Unless applicable law provides otherwise, all payments received by Lender under the Note and paragraph 1 hereof shall be applied by Lender first to property expenses, then to any prepayment and late charges, then to any advance by or other costs of Lender, then to interest payable on the Note, and last to the principal due under the Note.

**3. Charges; Liens.** Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may attain a priority over this Mortgage, directly to the payee thereof, unless otherwise directed by Lender. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph and Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Mortgage; provided, that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof.

**4. Preservation and Maintenance of Property; Leaseholds; Condominiums; Planned Unit Developments.** Borrower shall keep the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Mortgage is on a leasehold. If this Mortgage is on a unit in a condominium or a planned unit development, Borrower shall perform all of Borrower's obligations under the declaration or covenants creating or governing the condominium or planned unit development, the by-laws and regulations or the condominium or planned unit development, and constituent documents.

**5. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender.

In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Borrower. In the event of a partial taking of the Property, unless Borrower and Lender otherwise agree in writing, there shall be applied to the sums secured by this Mortgage such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Mortgage immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to Borrower.

If the Property is abandoned by Borrower, or if after notice by Lender to Borrower that the condemner offers to make an award or settle a claim for damages, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Mortgage.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not incur any prepayment charge nor extend or postpone the due date of any installment called for under the Notes or change the amount of any such installments.

**6. Continuing Liability of Borrower.** Unless Lender agrees in writing to release the original Borrower or any of Borrower's successors in interest, any extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Mortgage by reason of any demand made by the original Borrower and Borrower's successors in interest.

**7. Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Mortgage.

**8. Successors and Assigns Bound; Joint and Several Liability; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 11 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

**9. Notice.** Except for any notice required under applicable law to be given in another manner, (a) any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified mail, return receipt requested addressed to Borrower at the address on the first page of this Mortgage or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Mortgage shall be deemed to have been given to Borrower or Lender when given in the manner designated herein.

**10. Transfer of the Property; Assumption.** If all or any part of the Property or any interest therein is sold or transferred by Borrower without Lender's prior written consent including without limitation by way of a conveyance, mortgage, agreement of sale, or otherwise, Lender may, at Lender's option, declare all the sums secured by this Mortgage to be immediately due and payable. Lender shall not exercise such option if Lender is prohibited by federal law from doing so.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 9 hereof. Such notice shall provide a period of not less than thirty (30) days from the date the notice is mailed within which Borrower must pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand, invoke any remedies permitted by law.



**11. Acceleration; Remedies.** Upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage, including the covenants to pay when due any sums secured by this Mortgage, Lender prior to acceleration shall mail notice to Borrower as provided in paragraph 10 hereof specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is mailed to Borrower, by which such breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage and sale of the Property. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may bring a lawsuit to foreclose and sell the Property and may also invoke any other remedies permitted by law. The other remedies that Lender may invoke include remedies known variously as a power of sale, power of sale foreclosure, power of sale remedy, or a non-judicial foreclosure. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorneys' fees

If Lender invokes the power of sale, Lender shall mail Borrower a notice of sale in the manner provided in paragraph 9 hereof. Lender shall publish a notice of sale and shall sell the Property at the time and place specified in the notice of sale. Lender or Lender's designee may purchase the Property at any sale under power of sale or judicial sale.

The proceeds of any sale shall be applied in the following order: (a) to all reasonable costs and expenses of sale, including, but not limited to, reasonable attorney's fees and costs of title evidence; (b) to all sums secured by this Mortgage; and (c) the excess, if any, to the person or persons legally entitled thereto. **IF THE PROCEEDS SHALL BE INSUFFICIENT TO DISCHARGE THE ENTIRE INDEBTEDNESS OF BORROWER TO LENDER, THE LENDER MAY HAVE OTHER LEGAL RECOURSE AGAINST BORROWER FOR THE DEFICIENCY.**

**12. Governing Law; Severability.** This Mortgage shall be governed by the law of the State of Hawaii. In the event that any provision or clause of this Mortgage or the Note conflicts with applicable law, such provision shall not be given effect and such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provision, and to this end the provisions of the Mortgage and the Note are declared to be severable.

**13. Assignment of Rents; Appointment of Receiver.** As additional security hereunder, Borrower hereby assigns to Lender the rents of the Property, provided that Borrower shall, prior to acceleration under paragraph 12 hereof or abandonment of the Property, have the right to collect and retain such rents as they become due and payable.

Upon acceleration under paragraph 12 hereof or abandonment of the Property, Lender shall be entitled to have a receiver appointed by a court to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents

collected by the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, then to the sums secured by this Mortgage. The receiver shall be liable to account only for those rents actually received.

**14. Release.** Upon payment of all sums secured by this Mortgage and payment by Borrower for the cost of a release, Lender shall release this Mortgage. Borrower shall pay all costs of recordation, if any.

**15. Prepayment.** There is a no prepayment penalty.


**IN WITNESS, WHEREOF,** Borrower has executed these presents the day and year first above written.

"Borrower": **HALAI HEIGHTS LLC,**

By:   
**PAUL J SULLA JR., manager**

STATE OF HAWAII           )  
  ) SS.  
COUNTY OF HAWAII       )

On this 11<sup>th</sup> day of April 2017, before me personally appeared **Paul J Sulla Jr.** as the duly authorized manager of **HALAI HEIGHTS, LLC**, a Hawaii limited liability Company, to me proved on the basis of satisfactory evidence to be or known to be the person described in and who executed the foregoing instrument under her duly authorized capacity, entitled Mortgage, dated April 11, 2017, consisting of 7 pages in the Third Circuit and acknowledged that **HE** executed the same as **HIS** free act and deed.

  
Name: Gloria Emery  
Notary Public, State of Hawaii  
My commission expires: July 18, 2018



**EXHIBIT "A"****-PARCEL FIRST:-**

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 5005 to J. E. Elderts) situate, lying and being at Kamaili, District of Puna, Island and County of Hawaii, State of Hawaii, being LOT 15-D-1, being a portion of Lot 15, of the "Kamaili Homesteads" and thus bounded and described as per survey dated January 29, 2004:

Beginning at the west corner of this parcel of land, on the north boundary of Lot 2, Grant 4330 to C. L. Wight, and on the east side of Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HEIHEIAHULU" being 6,281.64 feet north and 16,203.34 feet east and running by azimuths measured clockwise from true South:

1. 197° 55' 15" 958.02 feet along Pahoa-Kalapana Road  
(Emergency Relief Project No. ER 4(1));
2. 239° 28' 30" 326.15 feet along Pahoa-Kalapana Road  
(Emergency Relief Project No. ER 4(1)) and Lot 19, Grant 5661 to Chas. Elderts;
3. 304° 03' 30" 220.00 feet along Lot 19, Grant 5651 to Chas. Elderts;
4. 347° 21' 30" 54.00 feet along Lot 15-D-2 (Government Road);
5. 334° 00' 250.69 feet along Lot 15-D-2 (Government Road);
6. Thence along Old Pahoa-Kalapana Road and Remnant "A" (Portion of Old Pahoa-Kalapana Road) on a curve to the right with a radius of 1016.74 feet, the chord azimuth and distance being:  
  
20° 16' 17" 719.46 feet;



7. 40° 59' 30" 275.69 feet along Remnant "A" (Portion of Old Pahoa-Kalapana Road);
8. 114° 43' 30" 494.98 feet along Lot 2, Grant 4330 to C. L. Wight to the point of beginning and containing an area of 16.276 acres, more or less.

-PARCEL SECOND:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 5005 to J. E. Elderts) situate, lying and being at District of Puna, Island and County of Hawaii, State of Hawaii, being REMNANT "A", being a portion of Old Pahoa-Kalapana Road at Kamaili and thus bounded and described:

Beginning at the southwest corner of this parcel of land, being also the south corner of Lot 15-D, portion of Grant 5005 to J. E. Elderts, and the northwest corner of Grant S-23,403 to AMFAC, on the north boundary of Lot 2, Grant 4330 to C. L. Wight, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Heiheiahulu" being 6,074.61 feet north and 16,652.94 feet east, and running by azimuths measured clockwise from true South:

1. 220° 59' 0" 275.69 feet along Lot 15-D, portion of Grant 5005 to J. E. Elderts;
2. Thence along Lot 15-D, portion of Grant 5005 to J. E. Elderts, on a curve to the left with a radius of 1016.74 feet, the chord azimuth and distance being:  
208° 29' 45" 439.98 feet;
3. 286° 00' 50.00 feet along the remainder of Old Pahoa-Kalapana Road;
4. Thence along Lot 15-B and Lot-A, portions of Grant 5005 to J. E. Elderts, on a curve to the right with a radius of 1066.74 feet, the chord azimuth and distance being:  
28° 29' 45" 461.62 feet;

5. 40° 50' 30" 261.10 feet along Lot 15-A, portion of Grant 5005 to J.E. Elderts;
6. 114° 43' 30" 52.08 feet along Grant S-23,403 to AMFAC to the point of beginning and containing an area of 36,140 square feet or 0.830 acre, as shown on Final Plat approved by Hawaii County Planning Director on January 27, 2004 as subdivision Number 7763

BEING THE PREMISES ACQUIRED BY QUITCLAIM DEED

GRANTOR: THE OFFICE OF OVERSEER, A CORPORATE SOLE AND HIS SUCCESSOR OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS, a Hawaii corporation sole

GRANTEE: JASON HESTER, an individual

DATED: June 9, 2011

RECORDED: Document No. 2011-093772

SUBJECT TO THE FOLLOWING:

1. FINAL JUDGMENT

AGAINST: Leonard G. Horowitz, Sherri Kane, individually, Medical Veritas International, Inc. and Royal Bloodline of David, a Washington non-profit corporation

IN FAVOR OF: Jason Hester, individually

DATED: December 29, 2015

FILED: Circuit Court of the Third Circuit, State of Hawaii, #14-1-304

RECORDED: Document No. \_\_\_\_\_



2. AFFIDAVIT OF LEONARD G. HOROWITZ

DATED: June 6, 2016  
RECORDED: Document No. A-60010681 on  
June 6, 2016

3. NOTICE OF INVALID LIEN

AGAINST: Leonard G. Horowitz  
IN FAVOR OF: Jason Hester, individually  
REGARDING: Affidavit of Leonard G. Horowitz  
RECORDED: Document No. A-60190688 on  
June 24, 2016

**END OF EXHIBIT "A"**

STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS



THE DIRECTOR'S OFFICIAL CERTIFICATION  
APPEARS ON THE BACK OF THE FIRST PAGE OF THE  
ATTACHED DOCUMENT.

(The name must contain the words *Limited Liability Company* or the abbreviation *L.L.C.* or *LLC*)

II

The mailing address of the initial principal office is:  
PO BOX 5258, HILO, HI 96720 USA

III

The company shall have and continuously maintain in the State of Hawaii a registered agent who shall have a business address in this State. The agent may be an individual who resides in this State, a domestic entity or a foreign entity authorized to transact business in this State.

- a. The name (and state or country of incorporation, formation or organization, if applicable) of the company's registered agent in the State of Hawaii is:

PAUL J SULLA

(Name of Registered Agent)

(State or Country)

- b. The street address of the place of business of the person in State of Hawaii to which service of process and other notice and documents being served on or sent to the entity represented by it may be delivered to is:

106 KAMEHAMEHA AVE, HILO, HI 96720 USA

IV

The name and address of each organizer is:

PAUL J SULLA

~~PO BOX 5258~~, PO BOX 5258, HILO, HI 96720 USA

**Exhibit E**

Exhibits for Motion to Join Paul Sulla, pg. 48

02/01/201648616

FILED 02/01/2016 04:04 PM  
Business Registration Division  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
State of Hawaii



STATE OF HAWAII  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
Business Registration Division  
335 Merchant Street  
Mailing Address: P.O. Box 40, Honolulu, Hawaii 96810  
Phone No. (808) 586-2727

Internet FORM LLC-1  
0201201648616 7/2010



**ARTICLES OF ORGANIZATION FOR LIMITED LIABILITY COMPANY**  
(Section 428-203 Hawaii Revised Statutes)

PLEASE TYPE OR PRINT LEGIBLY IN BLACK INK

The undersigned, for the purpose of forming a limited liability company under the laws of the State of Hawaii, do hereby make and execute these Articles of Organization:

I

The name of the company shall be:

**HALAI HEIGHTS LLC**

(The name must contain the words *Limited Liability Company* or the abbreviation *L.L.C.* or *LLC*)

II

The mailing address of the initial principal office is:

**PO BOX 5258, HILO, HI 96720 USA**

III

The company shall have and continuously maintain in the State of Hawaii a registered agent who shall have a business address in this State. The agent may be an individual who resides in this State, a domestic entity or a foreign entity authorized to transact business in this State.

- a. The name (and state or country of incorporation, formation or organization, if applicable) of the company's registered agent in the State of Hawaii is:

**PAUL J SULLA**

(Name of Registered Agent)

(State or Country)

- b. The street address of the place of business of the person in State of Hawaii to which service of process and other notice and documents being served on or sent to the entity represented by it may be delivered to is:

**106 KAMEHAMEHA AVE, HILO, HI 96720 USA**

IV

The name and address of each organizer is:

**PAUL J SULLA**

~~PO BOX 5258~~, **PO BOX 5258, HILO, HI 96720 USA**

I HEREBY CERTIFY that this is a true and correct copy of the official record(s) of the Business Registration Division.



*Catherine P. Awah-Colon*

DIRECTOR OF COMMERCE AND  
CONSUMER AFFAIRS

Date: December 23, 2016

The period of duration is (check one):

V

☒ At-will☐ For a specified term to expire on: \_\_\_\_\_

(Month Day Year)

The company is (check one):

VI

a. ☒ Manager-managed, and the names and addresses of the initial managers are listed in paragraph "c", and the number of initial members are: 2b. ☐ Member-managed, and the names and addresses of the initial members are listed in paragraph "c".c. List the names and addresses of the initial managers if the company is Manager-managed, or  
List the names and addresses of the initial members if the company is Member-managed.

PAUL J SULLA

PO BOX 5258, HILO, HI 96720 USA

The members of the company (check one):

VII

☒ Shall not be liable for the debts, obligations and liabilities of the company.☐ Shall be liable for all debts, obligations and liabilities of the company.☐ Shall be liable for all or specified debts, obligations and liabilities of the company *as stated below*, and have consented in writing to the adoption of this provision or to be bound by this provision.

We certify, under the penalties set forth in the Hawaii Uniform Limited Liability Company Act, that we have read the above statements, I am authorized to sign this Articles of Organization, and that the above statements are true and correct to the best of our knowledge and belief.

01

Signed this \_\_\_\_\_ day of \_\_\_\_\_

FEBRUARY 2016

PAUL J SULLA

(Type/Print Name of Organizer)

PAUL J SULLA

(Signature of Organizer)

(Type/Print Name of Organizer)

I hereby certify that this is  
a true copy from the records  
of the Bureau of Conveyances,

*Kobata*  
Registrar of Conveyances  
Assistant Registrar, Land Court  
State of Hawaii



STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

September 09, 2016 3:29 PM  
Doc No(s) A-60960740



1 1/1 OFC  
B-32865326

/s/ LESLIE T. KOBATA  
ACTING REGISTRAR

Conveyance Tax: \$675.00

*orig.*

Regular System

After Recordation, Return by Mail ( X ) Pickup ( ) To:

Paul J. Sulla, Jr.  
PO Box 5258  
Hilo, HI 96720

TOTAL NO. OF PAGES:

TITLE OF DOCUMENT:

**WARRANTY DEED**

PARTIES TO DOCUMENT:

GRANTOR: **JASON HESTER**, an individual, whose address is PO Box 748, Pahoa,  
HI 996778

GRANTEE: **HALAI HEIGHTS, LLC**, a Hawaii limited liability company, whose  
mailing address is P.O. Box 5258, Hilo, HI 96720

PROPERTY DESCRIPTION:

TAX MAP KEY: (3) 1-3-001-043/049

**Exhibit F**

Exhibits for Motion to Join Paul Sulla, pg. 52



### **WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS:

**JASON HESTER**, an individual, whose mailing address is PO Box 748, Pahoa, Hawaii 96778, hereinafter referred to as the "**Grantor**", for and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration paid by **HALAI HEIGHTS, LLC**, a Hawaii Limited Liability Company, whose mailing address is PO Box 5258, Hilo, Hawaii 96720, hereinafter referred to as "**Grantee**", receipt whereof is hereby acknowledged, does hereby grant, sell and convey unto the Grantee, all of said interest in that certain real property as particularly designated on the tax maps of the Third Taxation District, State of Hawaii, as **Tax Map Key (3) 1-3-001-043/049**, more particularly described in **Exhibit "A"** attached hereto and made a part hereof, subject to the encumbrances noted therein.

TOGETHER WITH ALL and singular the buildings, improvements, rights, tenements, easements, privileges, and appurtenances thereunto belonging, appertaining or held and enjoyed in connection therewith.

TO HAVE AND TO HOLD the same unto the Grantee, **as Tenant in Severalty**, and the Grantee's successors and assigns in fee simple forever.

AND THE SAID GRANTOR does hereby covenant with the Grantee that the Grantor is lawfully seised in fee simple of said granted premises and that the said premises are free and clear of all encumbrances made or suffered by said Grantor, except as aforesaid, and except for assessments for real property taxes. And the said Grantor further covenants and agrees that the Grantor has good right to sell

and convey the said premises in the manner aforesaid; that Grantor will **WARRANT AND DEFEND** the same unto the Grantee against the lawful claims and demands of all persons claiming by or through said Grantor, except as mentioned herein.

IT IS MUTUALLY AGREED that the terms "Grantor" and "Grantee," as and when used hereinabove or herein below shall mean and include the masculine or feminine, the singular or plural number, individuals, associations, trustees, corporations or partnerships, and their and each of their respective successors in interest, heirs, executors, personal representatives, administrators and permitted assigns, according to the context thereof, and that if these presents shall be signed by two or more grantors, or by two or more grantees, all covenants of such parties shall be and for all purposes deemed to be their joint and several covenants.

IN WITNESS WHEREOF, the Grantor has executed these presents on the 6 day of September, 2016.

GRANTOR

  
\_\_\_\_\_  
**JASON HESTER**



STATE OF HAWAII    )  
                                  ) SS.  
COUNTY OF HAWAII )

On this 6<sup>th</sup> day of September 2016, before me personally appeared **JASON HESTER**, GRANTOR, to me known to be the person described in and who executed the foregoing instrument, entitled Warranty Deed, dated September 6, 2016 consisting of 8 pages in the Third Circuit, and acknowledged that **HE** executed the same as **HIS** free act and deed.

Gloria Emery

Print Name: Gloria Emery  
Notary Public, State of Hawaii  
My commission expires: July 18, 2018



## EXHIBIT "A"

### -PARCEL FIRST:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 5005 to J. E. Elderts) situate, lying and being at Kamaili, District of Puna, Island and County of Hawaii, State of Hawaii, being LOT 15-D-1, being a portion of Lot 15, of the "Kamaili Homesteads" and thus bounded and described as per survey dated January 29, 2004:

Beginning at the west corner of this parcel of land, on the north boundary of Lot 2, Grant 4330 to C. L. Wight, and on the east side of Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1)), the coordinates of said point of beginning referred to Government Survey Triangulation Station "HEIHEIAHULU" being 6,281.64 feet north and 16,203.34 feet east and running by azimuths measured clockwise from true South:

1. 197° 55' 15" 958.02 feet along Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1));
2. 239° 28' 30" 326.15 feet along Pahoa-Kalapana Road (Emergency Relief Project No. ER 4(1)) and Lot 19, Grant 5661 to Chas. Elderts;
3. 304° 03' 30" 220.00 feet along Lot 19, Grant 5651 to Chas. Elderts;
4. 347° 21' 30" 54.00 feet along Lot 15-D-2 (Government Road);
5. 334° 00' 250.69 feet along Lot 15-D-2 (Government Road);
6. Thence along Old Pahoa-Kalapana Road and Remnant "A" (Portion of Old Pahoa-Kalapana Road) on a curve to the right with a radius of 1016.74 feet, the chord azimuth and distance being:  
  
20° 16' 17" 719.46 feet;

7.     40°   59'   30"     275.69     feet along Remnant "A" (Portion of Old Pahoa-Kalapana Road);
8.     114°   43'   30"     494.98     feet along Lot 2, Grant 4330 to C. L. Wight to the point of beginning and containing an area of 16.276 acres, more or less.

-PARCEL SECOND:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Land Patent Grant Number 5005 to J. E. Elderts) situate, lying and being at District of Puna, Island and County of Hawaii, State of Hawaii, being REMNANT "A", being a portion of Old Pahoa-Kalapana Road at Kamaili and thus bounded and described:

Beginning at the southwest corner of this parcel of land, being also the south corner of Lot 15-D, portion of Grant 5005 to J. E. Elderts, and the northwest corner of Grant S-23,403 to AMFAC, on the north boundary of Lot 2, Grant 4330 to C. L. Wight, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Heiheiahulu" being 6,074.61 feet north and 16,652.94 feet east, and running by azimuths measured clockwise from true South:

1.     220°   59'   0"     275.69     feet along Lot 15-D, portion of Grant 5005 to J. E. Elderts;
2.     Thence along Lot 15-D, portion of Grant 5005 to J. E. Elderts, on a curve to the left with a radius of 1016.74 feet, the chord azimuth and distance being:  
208°   29'   45"     439.98 feet;
3.     286°   00'           50.00     feet along the remainder of Old Pahoa-Kalapana Road;
4.     Thence along Lot 15-B and Lot-A, portions of Grant 5005 to J. E. Elderts, on a curve to the right with a radius of 1066.74 feet, the chord azimuth and distance being:  
28°    29'    45"     461.62 feet;

5. 40° 50' 30" 261.10 feet along Lot 15-A, portion of Grant 5005 to J.E. Elderts;
6. 114° 43' 30" 52.08 feet along Grant S-23,403 to AMFAC to the point of beginning and containing an area of 36,140 square feet or 0.830 acre, as shown on Final Plat approved by Hawaii County Planning Director on January 27, 2004 as subdivision Number 7763

BEING THE PREMISES ACQUIRED BY QUITCLAIM DEED

GRANTOR: THE OFFICE OF OVERSEER, A CORPORATE SOLE AND HIS SUCCESSOR OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS, a Hawaii corporation sole

GRANTEE: JASON HESTER, an individual

DATED: June 9, 2011

RECORDED: Document No. 2011-093772

SUBJECT TO THE FOLLOWING:

1. FINAL JUDGMENT

AGAINST: Leonard G. Horowitz, Sherri Kane, individually, Medical Veritas International, Inc. and Royal Bloodline of David, a Washington non-profit corporation

IN FAVOR OF: Jason Hester, individually

DATED: December 29, 2015

FILED: Circuit Court of the Third Circuit, State of Hawaii, #14-1-304

RECORDED: Document No. \_\_\_\_\_

2. AFFIDAVIT OF LEONARD G. HOROWITZ

DATED: June 6, 2016  
RECORDED: Document No. A-60010681 on  
June 6, 2016

3. NOTICE OF INVALID LIEN

AGAINST: Leonard G. Horowitz  
IN FAVOR OF: Jason Hester, individually  
REGARDING: Affidavit of Leonard G. Horowitz  
RECORDED: Document No. A-60190688 on  
June 24, 2016

**END OF EXHIBIT "A"**

**RECORDER'S MEMO**  
**Document Text NOT Legible For Digital Imaging**



R-941

STATE OF HAWAII  
BUREAU OF CONVEYANCES  
RECORDED

JAN 14, 2005 08:02 AM

Doc No(s) 2005-009226



20 1/1 Z6

/s/ CARL T. WATANABE  
REGISTRAR OF CONVEYANCES

CONVEYANCE TAX: \$2.60

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (XX) Pickup ( ) To:

Office of the Corporation Counsel (GT)  
County of Hawai'i  
101 Aupuni Street, Suite 325  
Hilo, Hawai'i 96720

Total Pages: 5

Tax Map Key (3)1-3-001 (Road)

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That, the COUNTY OF HAWAII, a municipal corporation of the State of Hawaii, whose principal place of business and mailing address is 25 Aupuni Street, Hilo, Hawai'i 96720, hereinafter called the "Grantor," in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable consideration to it paid by THE ROYAL BLOODLINE OF DAVID, a Washington nonprofit corporation, whose mailing address is P. O. Box 1739, Newport, Washington 99156, hereinafter called the "Grantee," the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the Grantee, its successors and assigns, in fee simple forever, the following real property:

**Exhibit G**

Exhibits for Motion to Join Paul Sulla, pg. 60



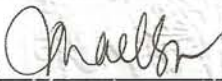
All of that certain piece or parcel of land situate at Kamā'ili, District of Puna, Island and County of Hawaii, State of Hawai'i, being Remnant "A," more particularly described in Exhibit "A" and delineated on Exhibit "B," all of which are attached hereto and made a part hereof by reference.

TO HAVE AND TO HOLD the same, together with all rights, improvements, easements, privileges and appurtenances thereunto belonging or in anywise appertaining, or held and enjoyed therewith, unto the Grantee, its successors and assigns, forever.

AND the Grantor, for itself, its successors and assigns, does hereby covenant with the Grantee, its successors and assigns, that it is seised in fee simple of the above-described premises; that the same is free and clear of and from all encumbrances, except as aforesaid; that it has good right to sell and convey the same as aforesaid; and that it will, and its successors and assigns will, WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, the said Grantor has caused these presents to be executed this 3rd day of December, 2004.

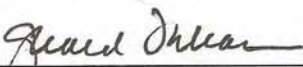
COUNTY OF HAWAI'I

By 

HARRY KIM DIXIE KAETSU  
Its Mayor Managing Director

*vmt*  
*vmt*

APPROVED AS TO FORM  
AND LEGALITY:

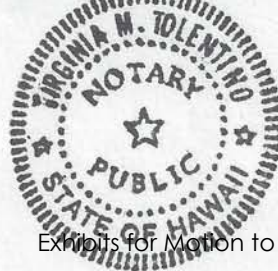
  
GERALD TAKASE  
Assistant Corporation Counsel  
County of Hawai'i

STATE OF HAWAII )  
 ) SS.  
COUNTY OF HAWAII )

On this 3<sup>rd</sup> day of December, 2004, before me personally appeared DIXIE KAETSU, to me personally known, who, being by me duly sworn, did say that she is the Managing Director of the County of Hawai'i, a municipal corporation of the State of Hawai'i; that the seal affixed to the foregoing instrument is the corporate seal of said County of Hawai'i; that the foregoing instrument was signed and sealed in behalf of the County of Hawai'i by authority given to said Mayor of the County of Hawai'i by Section 5-1.3(g) of the County Charter, County of Hawai'i (2000), as amended, and assigned by the Mayor to the Managing Director pursuant to Section 6-1.3(h) of the County Charter; and said DIXIE KAETSU acknowledged said instrument to be the free act and deed of said County of Hawai'i.

*Virginia M. Tolentino*  
VIRGINIA M. TOLENTINO  
Notary Public, State of Hawai'i

My commission expires: 4/22/2005





Old Pahoa-Kalapana Road

REMNER "A"

Being a Portion of Old Pahoa-Kalapana Road  
at Kamaili, Puna, Island of Hawaii, Hawaii

Beginning at the southwest corner of this parcel of land, being also the south corner of Lot 15-D, Portion of Grant 5005 to J. E. Elderts, and the northwest corner of Grant S-23,403 to AMFAC, on the north boundary of Lot 2, Grant 4330 to C. L. Wight, the coordinates of said point of beginning referred to Government Survey Triangulation Station "Heiheiahulu" being 6,074.61 feet North and 16,652.94 feet East, and running by azimuths measured clockwise from True South:

1. 220° 59' 30" 275.69 feet along Lot 15-D, Portion of Grant 5005 to J. E. Elderts;
2. Thence along Lot 15-D, Portion of Grant 5005 to J. E. Elderts, on a curve to the left with a radius of 1016.74 feet, the chord azimuth and distance being:  
208° 29' 45" 439.98 feet;
3. 286° 00' 50.00 feet along the remainder of Old Pahoa-Kalapana Road;
4. Thence along Lot 15-B and Lot 15-A, Portions of Grant 5005 to J. E. Elderts, on a curve to the right with a radius of 1066.74 feet, the chord azimuth and distance being:  
28° 29' 45" 461.62 feet;
5. 40° 59' 30" 261.10 feet along Lot 15-A, Portion of Grant 5005 to J. E. Elderts;
6. 114° 43' 30" 52.08 feet along Grant S-23,403 to AMFAC to the point of beginning and containing an area of 36,140 square feet or 0.830 acre, as shown on Final Plat approved by Hawaii County Planning Director on January 27, 2004 as Subdivision Number 7763.



Engineering Division  
Department of Public Works  
County of Hawaii

*Ronald M. Matsumura*

4/30/04

Expiration Date of the License

Aupuni Center  
101 Pauahi Street, Suite 7  
Hilo, Hawaii 96720-4224  
January 29, 2004

Tax Map Key: (3rd Div.) 1-3-01 (Road)

NON-HEARING MOTIONS  
FIRST CIRCUIT  
NINTH DIVISION

DATE: SUNDAY, JULY 1, 2018  
JUDGE: HONORABLE VIRGINIA L. CRANDALL, JUDGE PRESIDING  
CLERK: ANGELIQUE SANADA  
REPORTER:  
BAILIFF/LAW CLERK:

-----PAGE

1

12:00 A.M.

1CC 16-1-001442 JASON HESTER  
VS.  
LEONARD G HOROWITZ

PAUL JOSEPH SULLA JR  
FOR JASON HESTER

MOTION TO EXTEND RULING REQUIRING PROPER  
SERVICE AND QUASH SERVICE OF PROCESS ETC  
(L HOROWITZ, PRO SE)(FLD 06/18/18)

MINUTE ORDER: JULY 12, 2018

CLERK: A. SANADA

MOTION DENIED. CIV. NO. 16-1-1442 IS NO LONGER  
PENDING BEFORE THIS COURT; THE ACTION HAS BEEN  
TRANSFERRED TO THE THIRD CIRCUIT, CIVIL NO.  
17-1-407.

NOTICE TO:

\*PAUL J. SULLA, JR., ESQ.

LEONARD G. HOROWITZ, DEFENDANT/PRO SE


\*MR. SULLA, JR. IS TO PREPARE THE ORDER AND  
CIRCULATE FOR SIGNATURES TO ALL PARTIES NOTICED  
WITH THE MOTION. PLEASE INCLUDE THE FILE-MARKED  
DATE OF THE MOTION ON THE ORDER.  
ANY DISPUTE /CLARIFICATION AS TO THE FORM OF THE  
ORDER SHALL BE BROUGHT BEFORE THE COURT PURSUANT  
TO RULE 23, CIRCUIT COURT RULES. PLEASE DO NOT  
CALL.

A. SANADA

DATE: 07-12-2018 BY ORDER OF THE COURT: \_\_\_\_\_CLERK

**Exhibit H**

Exhibits for Motion to Join Paul Sulla, pg. 64



➤ 28	NOT	NOTICE OF SIMULTANEOUS SERVICE IN THE FIRST & THIRD CIRCUIT COURTS	06/18/2018 13:49	PRO SE
➤ 29	M	MOTION TO EXTEND RULING REQUIRING PROPER SERVICE & QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS RULES & LAWS; DEC/LG HOROWITZ; PROPOSED ORDER; EXHS 1-6; C/SETC	06/18/2018 13:49	PRO SE
➤ 30	LTR	LETTER TO CIRCUIT COURT OAHU FIRST CIRCUIT DATED JULY 26, 2018 FROM LOCKEY WHITEFIELD	07/30/2018 15:27	OTHER
➤ 31	NSUB	NOTICE OF SUBMISSION OF ORDER DENYING RESPS MOTION TO EXTEND RULING REQUIRING PROPER SERVICE & QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS RULES FILED 6/18/18; EXH A; CS	07/30/2018 15:27	SULLA JR, PAUL JOSEPH
➤ 32	ODE	ORDER DENYING RESPS MOTION TO EXTEND RULING REQUIRING PROPER SERVICE & QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS RULES FILED 6/18/18	08/13/2018 09:51	SULLA JR, PAUL JOSEPH

LEONARD G. HOROWITZ, pro se  
5348 Vegas Drive, Ste. 353  
Las Vegas, NV 89108  
E-mail: [editor@medicalveritas.org](mailto:editor@medicalveritas.org);  
Telephone: 310-877-3002

**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
FOR THE STATE OF HAWAII**

JASON HESTER, an individual Petitioner,	)	CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); HRS § 507D-4 <b>(Petition to Expunge Lis Pendens)</b>
v.	)	<b>MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS; DECLARATION OF LEONARD G. HOROWITZ; PROPOSED ORDER; EXHIBITS 1-6; CERTIFICATE OF SERVICE [HRCP RULE 12(a)(3) and b(4)(5) and (7); RCCH Rule 28; HRS § 657-5; FRCP RULE 12(b)]</b>
LEONARD G. HOROWITZ, an Individual; Respondent	)	

JUDGE: Honorable Virginia L. Crandall  
Non-Hearing Motion

**MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE  
OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS**

NOW COMES Respondent LEONARD G. HOROWITZ, pro se (hereafter, “Horowitz” or “Respondent”) filing to extend the Honorable Judge Crandall’s ruling of July 26, 2016 and Order of September 27, 2017 requiring proper service of Summons and Complaint, to quash conflicting prejudicial authorization of service by certified mail in direct defiance of this Circuit Court’s rules, orders, and statutes caused by Petitioner’s May 15, 2018, “Ex Parte Motion for Order Authorizing Service by Certified Mail; Declaration of Counsel Nunc Pro Tunc” (Doc. 25), erroneously granted by the Nakamoto court on June 8, 2018. This “Motion to Extend and Quash” is filed pursuant to Hawaii Rules of Civil Procedure (HRCP), Rules 12(a)(3) and b(4)(5) and (7); similar Federal Rules of Civil Procedure; the Rules of the Circuit Court of Hawaii (RCCH) Rule 28; and Hawaii Revised Statute § 657-5 for non-hearing motion.

**Exhibit I**

Exhibits for Motion to Join Paul Sulla, pg. 66

## I. FACTUAL BACKGROUND

On July 26, 2016, the Petitioner, by and through attorney Paul J. Sulla, Jr., (hereafter, “Sulla”) filed this Complaint in the First Circuit Court in Civ. No. 16-1-1442-07 VLC to expunge public notices of ongoing litigations encumbering title to the subject properties (TMK (3) 1-3-001:049 and 043; hereafter, the “Property”).

Thereafter, the Respondent removed the case to the United States District Court for the District of Hawaii on January 11, 2017 in CV17-00014LEK/KSC, filing his “Answer & Affirmative Defense” therein, including objections to Sulla’s improper service and insufficient process.

Following remand, at hearing on July 18, 2017, Judge Crandall DENIED Plaintiff’s “Motion for Judgment on the Pleadings,” stating: “With respect to Pltf’s Motion for Judgment on the Pleadings the Motion is Denied without prejudice as the Deft. has not been personally served with the Original Petition in this case.” (See **Exhibit 1**.) Then, on September 27, 2017, Judge Crandall issued an ORDER GRANTING IN PART DEFENDANT’S MOTION TO DISMISS AND DENYING WITHOUT PREJUDICE PLAINTIFF’S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT, allowing Plaintiff to pursue the litigation in the Third Circuit providing the Petitioner *properly serves* Respondent in accordance with HRCF Rule 4.

On December 13, 2017, without leave to amend,<sup>1</sup> Sulla filed an “Amended Petition” (Doc. 3), and again failed to comply with Rule 4(d) “Personal service” requirement. In addition, the Amended Petition was not served in compliance with Rule 4(a). No Summons by the Third Circuit Court accompanied the Amended Petition; and Sulla failed to comply with Rule 4(b) since the Summons attached was *not* “signed by the clerk, under the seal of the court.” This improper service was never corrected.

Not having cured the aforementioned Rule 4 defects, on March 6, 2018, Sulla filed “Petitioner’s Motion for Judgment on the Pleadings, or in the Alternative, for Summary Judgment on Amended Petition to Expunge . . .” (Doc. 11) to which the Respondent objected in timely filings. (See Docs. 15, 18 and 21; and Hoohiki Record, **Exhibit 2**.) Sulla requested a hearing for said summary disposition to be held on April 6, 2018. (**Exhibit 3**) Therein the Respondent appeared but Sulla did not.

<sup>1</sup> With no leave to amend, the Amended Petition was not served in compliance with HRCF Rule 15(a)(1) and (2); because the time for amending “as a matter of course” had long expired; plus the Amended Petition was not served in Ramseyer format as required by Rule 15(a)(2).

At that hearing of April 6, 2018, Judge Nakamoto once again ordered Sulla to administer personal service of the Petition. **(Exhibit 3)** This time, service was ordered “within 7 days,” or otherwise the case would be dismissed, Judge Nakamoto ruled as written in the minutes: “COURT ORDERED PLAINTIFF OR PLAINTIFF’S COUNSEL, TO SERVE A CERTIFIED COPY OF THE AMENDED PETITION WITHIN 7 DAYS, DEFENDANT HAS 20 DAYS TO RESPOND AFTER RECEIPT.” Sulla failed to comply with this court Order. **(Exhibit 2, in entirety)**

The Court’s Hearing Minutes for April 6, 2018 additionally states: “COURT HAS ISSUE REGARDING AMENDED PETITION WHICH WAS MAILED TO DEFENDANT ON 11-27-2018 (BASED ON RECORDS IN FILE), BUT FILED ON 12-13-17; COURT ASSUMED UNFILED MOTION/PETITION WAS SENT TO DEFENDANT WHICH IS NOT IN COMPLIANCE WITH THE RULES; . . .” **(Exhibit 3)**

Defying the two court’s aforementioned rulings, including the Nakamoto court’s unfiled minute order of April 6, 2018 (hereafter, “Minute Order”), Sulla filed an untimely “Amended Summons to Answer Civil Complaint (Issued)” on April 26, 2018. (Doc. 24)

On May 15, 2018, twenty-two (22) months after Sulla filed the original Complaint, Sulla filed “Plaintiff’s Ex Parte Motion for Order Authorizing Service by Certified Mail” (Doc. 25) with “Declaration of Counsel Nunc Pro Tunc” and “Order Authorizing Service by Certified Mail.” These filings were not served upon the Respondent timely, and were ordered without the Respondent having been given any opportunity to oppose. **(Exhibit 2)**

Similarly, on May 15, 2018, Sulla filed “Plaintiff’s Ex Parte Motion for First Extension of Time to Serve Complaint; Declaration of Counsel;” (Doc. 26) with “[Proposed] Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint.”

The Respondent opposed the aforementioned two “Ex Parte Motions” by filing on May 17, 2018, a “Stipulation for Involuntary Dismissal.” (Doc. 30) But the posting of this opposition pleading was delayed to May 21, 2018, three days after Sulla’s Ex Parte Motions were granted.

On May 18, 2018, disregarding the Respondent’s right to due process opposition pleading, and the aforementioned procedural violations, the Court signed and filed Sulla’s “Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint” (Doc. 29) and “Order Authorizing Service by Certified Mail.” (Doc. 28)

The Respondent, on May 29, 2018, having been deprived of his right to respond to Sulla’s ex parte correspondence and filings with the Nakamoto court, Horowitz overnighted “Respondent’s Motion to Set Aside Extension of Time to Serve the Petition Personally, or by Publication, and

Dismissing Case Without Prejudice Pending Final Determinations in Related Cases,” received by the court on May 31, 2017. (**Exhibit 4**; Doc. 35) Horowitz’s filing objected to: (1) “Order Authorizing Service by Certified Mail,” (Doc. 28) and (2) “Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint.” (Doc. 29) Both of these orders: (a) estopped Judge Nakamoto’s conflicting Minute Order of April 6, 2018; and (b) defied Judge Crandall’s ruling of July 18, 2017 (Order of September 27, 2017) requiring Sulla to serve the Complaint in accordance with the rules of the HRCP.<sup>2</sup>

On June 1, 2018, during hearing on: (1) Respondent’s Motion to Dismiss Without Prejudice; (2) Respondent’s “Motion to Sanction [Attorney] Paul Sulla” for repeatedly violating multiple orders to serve properly the threshold filings in accordance with the Crandall Court’s and the Nakamoto court’s aforementioned rulings at hearings on July 18, 2017 and April 6, 2018, respectively; and (3) “Hearing on Petitioner’s Motion for Judgment or for Summary Judgment,” Judge Nakamoto denied both Horowitz motions and granted the Petitioner summary judgment, statutory damages, and fees and costs. (**Exhibit 5**, p. 2)

## **II. STANDARDS OF REVIEW**

The following rules and statutes are material to this Motion, especially HRCP Rule 4(h) that gives the Court wide discretion to permit service of process by certified mail, “unless it clearly appears that” such an order would materially prejudice the Respondent; and that such prejudice would deprive the Respondent’s substantial rights, and clearly damage the Respondent. In this case, the Respondent provides clear and convincing evidence of material prejudice to the rights of due process, and resulting damage to the Respondent financially, from the Nakamoto court’s judgments of June 1, 2018, that conflict with the Crandall Court’s judgment of July 18, 2017, ordered September 27, 2017:

- (1) **HRCP Rule 1. SCOPE OF RULES;**
- (2) **HRCP Rule 12. DEFENSES AND OBJECTIONS -- WHEN AND HOW PRESENTED -- BY PLEADING OR MOTION -- MOTION FOR JUDGMENT ON THE PLEADINGS;**
- (3) **Rule 15. AMENDED AND SUPPLEMENTAL PLEADINGS**
- (4) **RCCH Rule 7.2. CIVIL MOTIONS PRACTICE**
- (5) **RCCH Rule 28. DISMISSAL FOR WANT OF SERVICE**
- (6) **HRS §634-23 Joinder of unknown persons; and**
- (7) **§634-24 Service outside the State or by registered mail**

<sup>2</sup> The Nakamoto Court received Horowitz’s opposition filing (Doc. 35) on May 31, 2018 as shown on recorded delivery notice, **Exhibit 5**, the day before the summary judgment hearing of June 1, 2018; but the document was not stamped until June 4, 2018.

...

### III. ARGUMENT

A motion to quash is “an appropriate remedy . . . [w]here a defendant's substantial constitutional right to a fair and impartial . . . proceeding is prejudiced.” [State v. Good, supra](#); quoted in *State v. Joao*, 491 P. 2d 1089 - Haw: Supreme Court 1971. This “Motion to Quash” evidences deprivation of the Respondent’s substantial constitutional right to a fair and impartial proceeding by the Plaintiff and Nakamoto court’s ex parte communications of May 15, 2018 (Docs 25 and 26), resulting orders of May 18, 2018 (Docs 28 and 29), and summary judgment favoring Sulla/Petitioner ruled at hearing on June 1, 2018, granting the Plaintiff \$5,000 in statutory damages plus Sulla’s fees and costs. (**Exhibit 5**)

The facts on record defy fair play and proper service of process in accordance with HRCF Rule 4 and the Honorable Crandall Court’s 2017 ruling and dismissal Order directing Sulla to serve the Complaint and Summons properly in the Third Circuit in accordance with this rule. Instead of complying with this Order Sulla filed an Amended Complaint and Amended Summons on December 13, 2017 without leave to do so violating HRCF Rule 15(a),<sup>3</sup> and again neglected to serve these pleadings in accordance with HRCF Rule 4.

Similarly defying laws, Sulla failed to obtain court authorization on May 15, 2018 when he filed two ex parte motions under HRS § 634-23 and 24 to extend time for service by certified mail. Those statutes permit service of summons and complaint by certified mail only when “**ordered by the court.**”

Nonetheless, the Nakamoto court issued “Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint” on May 18, 2018, clearly prejudicing the Respondent by administering these *ex parte* filings in three (3) days without giving the Respondent any notice to defend as required by RCCH 7.2(c). (“A non-hearing motion shall be accompanied by a notice of motion that provides notice of the deadline by which a response must be filed and served.”) No such notice and response deadline was provided by Sulla or the court’s Legal Documents Branch/Section clerk

<sup>3</sup> **Rule 15(a). AMENDED AND SUPPLEMENTAL PLEADINGS**, states in relevant part. “a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.”



to accord with RCCH 7.2(c)(3) for Ex Parte Motions. (“An *ex parte* motion accompanied by a proposed order shall be dated and stamped “lodged” or “received” by the Legal Documents Branch/Section clerk, . . .”) Disregarding this rule in this foreclosure related action to undermine due process and prejudice the Respondent Sulla also neglected RCCH 7.2(f)(2)—that is, “the [simplest civil and common sense] efforts made to obtain a stipulation or response from the [Respondent]” whose e-mail address and cell phone number Sulla repeatedly used to correspond with Horowitz. In fact, contrary to this rule, Sulla gave no “reason(s) why no attempt was made” to contact Horowitz as Sulla had comfortably and successfully done in the past to stipulate agreements for time extensions.

These actions by Sulla in ex parte correspondence with the Nakamoto court “clearly appears” to have “material[ly] prejudice[d] . . . the substantial rights of the” Respondent to oppose Sulla’s motions and this kind of abuse. Sulla’s conduct invaded the province of the fact finder “to induce action other than that which the [court] in [his] uninfluenced judgment [would] deem warranted on the evidence fairly presented.” Quoting *State v. Joao*, 491 P. 2d 1089, 1091 - Haw: Supreme Court 1971. From this, “a tendency to prejudice may be presumed.” (*Id.*) In Sulla’s case, when he neglected to, inter alia, telephone, e-mail, or notice Horowitz pursuant to Sulla’s ex parte motions for time extension, or alternatively Google-search Horowitz’s published lecture schedule to administer personal service at public events, Sulla neglected the rules of civil procedure and “due diligence.” Instead, Sulla falsely declaring that Horowitz was not personally servable, prejudicing the court to grant Sulla’s motions and summary disposition.

Violating HRCF Rule 4(h) in this way, due process clearly appears to have materially prejudiced along with the substantial rights of the Respondent to respond timely to the *ex parte* non-hearing motions and unjust void decisions of the Nakamoto court made without personal jurisdiction over Horowitz.

Further evidencing prejudice, and defying fair play and the Respondent’s rights to due process, the Crandall Court’s ruling of July 18, 2017 (shown in **Exhibit 1**) admonishing Sulla for improperly serving the initial Complaint by certified mail in violation of HRCF Rule 4, was overruled by the Nakamoto court’s May 18, 2018 Order (Doc. 29) that erroneously states:

“IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Ex Parte Motion is granted and the time with which the Amended Complaint and Amended Summons filed on July 26, 2016 must be served upon Defendant LEONARD G. HOROWITZ, is extended to and including August 15, 2018.” [**Exhibit 6**]

This Order (stamped and filed by the court on June 8, as Doc. 40) is clearly erroneous since the Plaintiff did not file “the Amended Complaint and Amended Summons” on July 26, 2016. Sulla filed the initial Complaint on that date, not the Amended pleadings. This material defect conceals the fact that no leave to file an Amended Complaint and Amended Summons was ever granted by either Judge Crandall or Judge Nakamoto, as required by HRCF Rule 15(a)(2).

Had he not been prejudiced to materially deprive the Respondent of his rights to due process, Judge Nakamoto was authorized by RCCH Rule 28 to dismiss this case *sua sponte* as Horowitz had repeatedly requested. RCCH Rule 28 states in relevant part, “A diligent effort to effect service shall be made in all actions. An action or claim may be dismissed sua sponte with written notice to the parties if no service is made within 6 months after the action or claim has been filed. . . .” Sulla filed the original Petition to Expunge on July 26, 2016. Judge Crandall ruled to transfer the improperly served case to the Third Circuit on September 27, 2017. That Order clearly states:

“[T]he Court hereby grants Defendant’s Motion to Dismiss in part relative to venue of this matter only and orders this matter to be transferred to the Third Circuit Court for the State of Hawaii. This Court directs the clerk’s office to effectuate transfer of this case and the record contained therein to the Third Circuit Court for the State of Hawaii immediately.”

To effect “immediately” a “diligent effort to effect service” following this transfer, and cure Sulla’s admonishment for failing to properly serve the Complaint, Sulla could have, and should have, filed his motions to amend the pleadings, serve Horowitz by certified mail, and extend time to do so “immediately.” But Sulla neglected this “due diligence” and delayed eight (8) months till May 15, 2018 to file his prejudicial motions (Docs. 25 and 26) granted by the prejudiced judge Nakamoto three days later.

“[A] court is generally precluded from reconsidering an issue that has already been decided by the same court, or a higher court in the identical case.” *Thomas v. Bible*, 983 F.2d 152, 154 (9th Cir.). The Nakamoto court’s Order granting “nunc pro tunc” service by certified mail retroactive to July 26, 2016, applicable to the original Petition to Expunge, filed in the First Circuit, evidences *extreme prejudice* as it breached the Respondent’s rights and Judge Crandall’s dispositive Order of September 27, 2017. That Order compelled Sulla to properly serve the original Petition following the “immediate” transfer of the case to the Third Circuit; not an *Amended Petition* without leave months later. Apparently, Judge Nakamoto was so prejudiced by Sulla’s ex parte correspondence that he overlooked Sulla’s multiple rule violations along with

Judge Crandall's Order of September 27, 2017 tolling the 6 month period in which Sulla was to have properly served the original Complaint and Summons.

Judge Nakamoto's prejudice was so strong that he even violated his own ruling at hearing on April 6, 2018, requiring Sulla's personal service upon the Respondent "within 7 days" to secure the jurisdiction of the court. This clear material prejudice defies HRCF Rule 1 justice, and has delayed and multiplied these proceedings also defying the efficiency and economy objective of Rule 1.

For all of the aforementioned violations of rules, statutes, and court orders materially prejudicing the Respondent and biasing the Nakamoto court to the point of granting summary judgement favoring Sulla without jurisdiction over Horowitz, and granting the Petitioner's motions and improperly served Petition and Summons, the Honorable Crandall Court is justified to extend her ruling of July 18, 2017 (**Exhibit 1**) and Order of September 27, 2017, requiring proper service, and quash service of process not in compliance with HRCF Rule 4 and the diligence requirement of RCCH 28.

Likewise, the unauthorized Amended Petition and Amended Summons must be quashed, and the Nakamoto court's orders ruled void since they clearly substantially conflict with the rules, laws, and Crandall Court's ruling of July 18, 2017 (**Exhibit 1**) and the September 27, 2017, Order. "A judgment is void only if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law." *LEDCOR-US PACIFIC CONSTRUCTION LLC v. Joslin*, Haw: Intermediate Court of Appeals 2014. In the case at bar, the Nakamoto court's Orders of May 18, 2018 are void because "the court that rendered it lacked jurisdiction" over Horowitz, and "acted in a manner inconsistent with due process of law." *Id.* The Respondent has never been personally served, nor was he properly served by certified mail a copy of the Summons and Complaint. The same is true for the Plaintiff's Amended Summons and Amended Complaint.

"[T]he federal and Hawaii Rules applicable to the disposition of this matter are substantively identical." *Sommers v. Okamoto* Civil No. 16-558 JMS-KJM (D. Haw. Jan. 4, 2017) "In order for a trial court to exercise personal jurisdiction over a defendant, the defendant must be served with a copy of the summons and the complaint pursuant to HRCF Rule 4(d)." *Op. cit. LEDCOR*. Service of process "is the means by which a court asserts its jurisdiction over the person." *SEC v. Ross*, 504 F.3d 1130, 1138 (9th Cir. 2007). "Plaintiff must serve the summons and complaint in accordance with the requirements of Federal Rule of Civil Procedure

Rule 4.” *Id.* Quoted in *Brigham Young University v. HAMBERGER FLOORING GmbH & CO. KG*, Dist. Court, D. Hawaii 2012. See also *Bludworth Bond Shipyard, Inc. v. M/V Caribbean Wind*, 841 F.2d 646, 649 (5th Cir.1988) (when trial court lacks jurisdiction over defendant due to lack of service of process, “the judgment is void and, under [FRCP] Rule 60(b)(4), the [trial] court *must* set it aside, regardless of whether the movant has a meritorious defense.”) Quoted also in *Wagner v. World Botanical Gardens, Inc.*, 268 P. 3d 443 - Haw: Intermediate Court of Appeals 2011 @450.

Consequently, quashing the Complaint and Summons, and Amended Complaint and Summons too, is authorized and appropriate given the prejudice and damage to the Respondent caused by the many defects in service aforementioned. Given the Nakamoto court’s resulting jurisdictional preclusion, it is procedurally proper to set aside the Nakamoto court’s void Orders of May 18, 2018, and summary disposition ruling of June 1, 2018; because these were issued in violation of HRCF Rules 4 and 15(a)(2), and RCCH Rule 7.2. Quashing the improperly served commencement pleadings is proper under these circumstances, and dismissing this case *sua sponte* is also proper. This is made clear in *Sommers* wherein Magistrate Judge Mansfield noted that when “the Court finds that Plaintiff has not properly served Defendants with the Summons and Complaint . . . [and] the deadline for service of the Complaint has . . . expired,” then the Plaintiff no longer “has time to properly effect service.” Thus, quashing the service and dismissing the case is authorized and proper.

Otherwise, proceeding with this case is an abomination. This is especially clear given the glaring material defect that ***no court granted Sulla leave to amend the original Complaint, and no court has personal jurisdiction over Horowitz lacking proper service.*** Thus, it was an abomination to granted the Petitioner’s summary judgment Motion and *Ex Parte* Motions to extend time to serve the Respondent procedurally defective Amended Summons and Amended Complaint by certified mail nearly two years after Sulla’s original service by certified mail was *barred* by the Honorable Crandall Court.

Quashing the Amended Summons and Amended Complaint filed without leave of either Crandall or Nakamoto courts, and dismissing this case for failure to serve timely and properly, also complies with Rule 1 precluding injustice. Otherwise, condoning violations of rules and laws evidences impropriety.

The Nakamoto court has defied its own Minute Order and granted summary judgment in favor of Sulla and the Petitioner without jurisdiction. The Nakamoto court’s rulings on June 1,

2018 are therefore *void*, since they neglect HRCF Rule 15(a), required jurisdiction, the Respondent's due process rights; and substantial justice. "We have concluded that defendant's contention that the judgment was void disposes of the case. Clause (4) of Rule 60(b) specifically provides for relief thereunder if "the judgment is void." *Stafford v. Dickison*, 374 P. 2d 665 - Haw: Supreme Court 1962. The Hawaii Supreme Court went on to rule in this similarly situated case:

"We have concluded that the turning point of this case is the service of the minute order. If that order had been served as intended defendant would not have been denied due process and the judgment would not have been void. But we must conclude that defendant was not served as directed by the minute order. We must conclude that as a result, due to the circumstances, he was not given an opportunity to defend."

The Hawaii Supreme Court further quoted [\*Roller v. Holly\*, 176 U.S. 398, 409](#), in which the court said: "The right of a citizen to due process of law must rest upon a basis more substantial than favor or discretion." In contrast, the Nakamoto court, having favored Sulla and abused its discretion, has administered a void abomination imposing a "statutory fine" of \$5,000 upon Horowitz along with fees and costs favoring Sulla. (See: **Exhibit 5**.)

This Motion requests and justifies dismissal of this case. "Both FRCP and HRCF allow a defendant to move for dismissal of an action if proper service of the summons and complaint have not been made. *See* Fed. R. Civ. P. 12(b)(5). Where a defendant alleges that the plaintiff has not complied with the requirements to effect service of process, the plaintiff has the burden of proving that service was made in accordance with the applicable rules of civil procedure. *See Taniguchi v. Native Hawaiian Office of Atty. Gen.*, 2009 WL 1404731, at \*2 (D. Haw. May 15, 2009)." The Plaintiff cannot meet this burden as evidenced by the Nakamoto court's void Orders of May 18, 2018 granting more time to administer service by certified mail after 22-months of neglect. "Hawaii Revised Statutes sections 634-23 and 634-24 only allow service by certified mail if a plaintiff, ***after due diligence***, cannot serve the defendant and obtains a court order allowing service by such means. Haw. Rev. Stat. § 634-24 (2016).

RCCH Rule 28, likewise, calls for a "diligent effort to effect service . . . within 6 months after the action or claim has been filed. Sulla pled that his failure to serve the Respondent personally during the past 22 months is due to the Respondent's movements out-of-state and change of residential addresses. Sulla neglects the fact that he had multiple opportunities during these many months to serve Horowitz personally at several court hearings attended by Horowitz during those months. Serving Horowitz in courtrooms has been Sulla's successful pattern and

practice. He served Horowitz at the courthouse on two previous occasions to commence Civ. Nos. 3RC 14-1-466 and Civ. No. 12-1-0417. (In both those cases the Respondent prevailed.)

On April 6, 2018, at the hearing Sulla requested but *failed to appear*, Sulla could have served Horowitz personally as he did previously since Sulla knew Horowitz would attend personally at that hearing since Horowitz did not request leave to attend telephonically. Sulla knew his proper service had been ordered at that time, so his actions defy “diligent effort to effect service.”

Sulla’s negligence and malice includes the fact the Respondent’s Hawaii residence was dispossessed by Sulla in the currently contested ejectment and quiet title cases under appeal (i.e., Civ. No. 14-1-0304; ICA NO. CAAP-16-0000163; and ICA No. CAAP-16-0000162 in Civ. No. 05-1-0196). In the latter case the Respondent defeated judicial foreclose following adjudication on the merits. In the conflicting final judgment in the 0304 case that Sulla abuses to feign current ownership of the Respondent’s Property, the Respondent was defaulted and deprived of his rights to due process much like Sulla and the biased Third Circuit Court has contrived here. These facts evidencing injustice and Sulla’s pattern and practice of contriving defaults and materially prejudicing the Respondent to deprive Horowitz’s due process rights along with the subject Property are shameful. Such malicious prosecution and abuse of process should not be tolerated by any court.

#### IV. CONCLUSION

The facts in evidence in this case provide good cause for the Honorable Court to extend her ruling of July 18, 2017 (**Exhibit 1**) and Order of September 27, 2017 requiring proper service; and quash service of process not in compliance with HRCF Rule 4 and the diligence requirement of RCCH 28. The Court is, therefore, asked to grant the Proposed Order attached hereto, in effect dismissing this case.

This Motion is made in lieu of the aforementioned gross violations of procedural due process and the resulting prejudice and damage to the Respondent caused: (1) having commenced before Judge Crandall’s First Circuit Court; (2) action having been dismissed by this Honorable Court for Sulla’s improper service of the Complaint and Summons; (3) improper service having resulted in the Nakamoto court’s set of void orders violating laws and rules governing jurisdiction; and (4) the conflict created by the Nakamoto court’s orders conflicting with the First Circuit Court’s ruling of July 18, 2017 (**Exhibit 1**) and Order of September 27,

2017, granting dismissal of the Complaint without prejudice to secure jurisdiction by proper service in accordance with Rule 4. The time for compliance with these rules and laws have passed.

Sulla neglected his “due diligence” required under the aforementioned rules and laws that would permit service by certified mail to continue these invalid proceedings and blatant abuse of process. As ruled in *Sommers (Id.)*, “Because the deadline for service of the Complaint has . . . expired . . . and Plaintiff [no longer] has time to properly effect service [pursuant to RCCH 28, or by certified mail], the Court recommends that the [First Circuit] Court exercise its discretion to retain the case and quash service.” Quashing service is required to accommodate HRCP Rule 1 and the Third Circuit Court’s “nunc pro tunc” administration of the May 18, 2018 Orders retroactively extending time for proper service of the Complaint from July 26, 2016 to August 15, 2018. These improper proceedings have severely prejudiced and damaged the Respondent, and made a mockery of jurisprudence and due process in the Third Circuit. Accordingly, service of the original and amended pleadings must be quashed by the Honorable First Circuit Court to prevent the Respondent’s further financial and real property damage, and uphold the integrity of the justice system.

**I, LEONARD G. HOROWITZ, do declare under penalty of law that the foregoing pleading is true and correct to the best of my knowledge and belief; and that I am competent to testify regarding these matters; but will be overseas between June 15 and September 15, 2018, thus unavailable for further hearings and filings during that time.**

Respectfully submitted.

Dated: Las Vegas, NV, June 15, 2018

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LEONARD G. HOROWITZ, pro se

*Hester v. Horowitz*, CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); **MOTION TO QUASH SERVICE OF PROCESS AND DISMISS FOR FAILURE TO COMPLY WITH COURT ORDERS, RULES AND LAWS.**

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16th day of June, 2018, I served a true and correct copy of the foregoing “**MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS**” pursuant to CIV. NO. 16-1-1442-07 VLC and NO. 3CC17-1000407, by the method described below to:

PAUL J. SULLA, JR  
Attorney at Law  
106 Kamehameha Avenue, Ste. 2A  
Hilo, HI 96720  
[808-933-3600](tel:808-933-3600)  
[psulla@aloha.net](mailto:psulla@aloha.net)

\_\_\_X\_\_\_ U.S. Mail

Attorney for JASON HESTER; PAUL J. SULLA, JR., ATTORNEY AT LAW A LAW CORPORATION; and OVERSEER THE OFFICE OF OVERSEER, A CORPORATE SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS.

CIRCUIT COURT OF THE FIRST CIRCUIT,  
HONOLULU DIVISION, STATE OF HAWAII  
Attn: Clerk of the Court for the  
Honorable Virginia L. Crandall  
Ka`ahumanu Hale - 1st Circuit Court  
777 Punchbowl St, Honolulu, HI 96813

\_\_\_X\_\_\_ U.S. Mail

CIRCUIT COURT OF THE THIRD CIRCUIT,  
STATE OF HAWAII  
The Honorable Judge Henry T. Nakamoto  
Hale Kaulike  
777 Kilauea Avenue  
Hilo, Hawai`i 96720-4212

\_\_\_X\_\_\_ U.S. Mail

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LEONARD G. HOROWITZ  
Defendant, pro se

*Hester v. Horowitz*, CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); **MOTION TO QUASH SERVICE OF PROCESS AND DISMISS FOR FAILURE TO COMPLY WITH COURT ORDERS, RULES AND LAWS.**



## **NOTICE OF SIMULTANEOUS SERVICE IN THE FIRST AND THIRD CIRCUIT COURTS**

I HEREBY CERTIFY that on this 16th day of June, 2018, I served a true and correct copy of the foregoing **“MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS;”** pursuant to CIV. NO. 16-1-1442-07 VLC and NO. 3CC17-1000407, by the method described below to:

PAUL J. SULLA, JR  
Attorney at Law  
106 Kamehameha Avenue, Ste. 2A  
Hilo, HI 96720  
[808-933-3600](tel:808-933-3600)  
[psulla@aloha.net](mailto:psulla@aloha.net)

    X     U.S. Mail

Attorney for JASON HESTER; PAUL J. SULLA, JR., ATTORNEY AT LAW A LAW CORPORATION; and OVERSEER THE OFFICE OF OVERSEER, A CORPORATE SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS.

CIRCUIT COURT OF THE FIRST CIRCUIT,  
HONOLULU DIVISION, STATE OF HAWAII  
Attn: Clerk of the Court for the  
Honorable Virginia L. Crandall  
Ka`ahumanu Hale - 1st Circuit Court  
777 Punchbowl St, Honolulu, HI 96813

    X     U.S. Mail

CIRCUIT COURT OF THE THIRD CIRCUIT,  
STATE OF HAWAII  
The Honorable Judge Henry T. Nakamoto  
Hale Kaulike  
777 Kilauea Avenue  
Hilo, Hawai`i 96720-4212

    X     U.S. Mail

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LEONARD G. HOROWITZ  
Defendant, pro se

*Hester v. Horowitz*, CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); **MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS . . .”**

## **Exhibits 1-6**

LEONARD G. HOROWITZ, pro se  
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Telephone: 310-877-3002

**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
FOR THE STATE OF HAWAII**

JASON HESTER, an individual Petitioner,	)	CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); HRS § 507D-4 <b>(Petition to Expunge Lis Pendens)</b>
v.	)	<b>MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS; DECLARATION OF LEONARD G. HOROWITZ; PROPOSED ORDER; EXHIBITS 1-6; CERTIFICATE OF SERVICE [HRCF RULE 12(a)(3) and b(4)(5) and (7); RCCH Rule 28; HRS § 657-5; FRCF RULE 12(b)]</b>
LEONARD G. HOROWITZ, an Individual; Respondent	)	

JUDGE: Honorable Virginia L. Crandall  
Non-Hearing Motion

**MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE  
OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS**

NOW COMES Respondent LEONARD G. HOROWITZ, pro se (hereafter, “Horowitz” or “Respondent”) filing to extend the Honorable Judge Crandall’s ruling of July 26, 2016 and Order of September 27, 2017 requiring proper service of Summons and Complaint, to quash conflicting prejudicial authorization of service by certified mail in direct defiance of this Circuit Court’s rules, orders, and statutes caused by Petitioner’s May 15, 2018, “Ex Parte Motion for Order Authorizing Service by Certified Mail; Declaration of Counsel Nunc Pro Tunc” (Doc. 25), erroneously granted by the Nakamoto court on June 8, 2018. This “Motion to Extend and Quash” is filed pursuant to Hawaii Rules of Civil Procedure (HRCF), Rules 12(a)(3) and b(4)(5) and (7); similar Federal Rules of Civil Procedure; the Rules of the Circuit Court of Hawaii (RCCH) Rule 28; and Hawaii Revised Statute § 657-5 for non-hearing motion.

## I. FACTUAL BACKGROUND

On July 26, 2016, the Petitioner, by and through attorney Paul J. Sulla, Jr., (hereafter, “Sulla”) filed this Complaint in the First Circuit Court in Civ. No. 16-1-1442-07 VLC to expunge public notices of ongoing litigations encumbering title to the subject properties (TMK (3) 1-3-001:049 and 043; hereafter, the “Property”).

Thereafter, the Respondent removed the case to the United States District Court for the District of Hawaii on January 11, 2017 in CV17-00014LEK/KSC, filing his “Answer & Affirmative Defense” therein, including objections to Sulla’s improper service and insufficient process.

Following remand, at hearing on July 18, 2017, Judge Crandall DENIED Plaintiff’s “Motion for Judgment on the Pleadings,” stating: “With respect to Pltf’s Motion for Judgment on the Pleadings the Motion is Denied without prejudice as the Deft. has not been personally served with the Original Petition in this case.” (See **Exhibit 1**.) Then, on September 27, 2017, Judge Crandall issued an ORDER GRANTING IN PART DEFENDANT’S MOTION TO DISMISS AND DENYING WITHOUT PREJUDICE PLAINTIFF’S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT, allowing Plaintiff to pursue the litigation in the Third Circuit providing the Petitioner *properly serves* Respondent in accordance with HRCF Rule 4.

On December 13, 2017, without leave to amend,<sup>1</sup> Sulla filed an “Amended Petition” (Doc. 3), and again failed to comply with Rule 4(d) “Personal service” requirement. In addition, the Amended Petition was not served in compliance with Rule 4(a). No Summons by the Third Circuit Court accompanied the Amended Petition; and Sulla failed to comply with Rule 4(b) since the Summons attached was *not* “signed by the clerk, under the seal of the court.” This improper service was never corrected.

Not having cured the aforementioned Rule 4 defects, on March 6, 2018, Sulla filed “Petitioner’s Motion for Judgment on the Pleadings, or in the Alternative, for Summary Judgment on Amended Petition to Expunge . . .” (Doc. 11) to which the Respondent objected in timely filings. (See Docs. 15, 18 and 21; and Hoohiki Record, **Exhibit 2**.) Sulla requested a hearing for said summary disposition to be held on April 6, 2018. (**Exhibit 3**) Therein the Respondent appeared but Sulla did not.

At that hearing of April 6, 2018, Judge Nakamoto once again ordered Sulla to administer personal service of the Petition. (**Exhibit 3**) This time, service was ordered “within 7 days,” or

<sup>1</sup> With no leave to amend, the Amended Petition was not served in compliance with HRCF Rule 15(a)(1) and (2); because the time for amending “as a matter of course” had long expired; plus the Amended Petition was not served in Ramseyer format as required by Rule 15(a)(2).

otherwise the case would be dismissed, Judge Nakamoto ruled as written in the minutes: “COURT ORDERED PLAINTIFF OR PLAINTIFF’S COUNSEL, TO SERVE A CERTIFIED COPY OF THE AMENDED PETITION WITHIN 7 DAYS, DEFENDANT HAS 20 DAYS TO RESPOND AFTER RECEIPT.” Sulla failed to comply with this court Order. (**Exhibit 2**, in entirety)

The Court’s Hearing Minutes for April 6, 2018 additionally states: “COURT HAS ISSUE REGARDING AMENDED PETITION WHICH WAS MAILED TO DEFENDANT ON 11-27-2018 (BASED ON RECORDS IN FILE), BUT FILED ON 12-13-17; COURT ASSUMED UNFILED MOTION/PETITION WAS SENT TO DEFENDANT WHICH IS NOT IN COMPLIANCE WITH THE RULES; . . .” (**Exhibit 3**)

Defying the two court’s aforementioned rulings, including the Nakamoto court’s unfiled minute order of April 6, 2018 (hereafter, “Minute Order”), Sulla filed an untimely “Amended Summons to Answer Civil Complaint (Issued)” on April 26, 2018. (Doc. 24)

On May 15, 2018, twenty-two (22) months after Sulla filed the original Complaint, Sulla filed “Plaintiff’s Ex Parte Motion for Order Authorizing Service by Certified Mail” (Doc. 25) with “Declaration of Counsel Nunc Pro Tunc” and “Order Authorizing Service by Certified Mail.” These filings were not served upon the Respondent timely, and were ordered without the Respondent having been given any opportunity to oppose. (**Exhibit 2**)

Similarly, on May 15, 2018, Sulla filed “Plaintiff’s Ex Parte Motion for First Extension of Time to Serve Complaint; Declaration of Counsel;” (Doc. 26) with “[Proposed] Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint.”

The Respondent opposed the aforementioned two “Ex Parte Motions” by filing on May 17, 2018, a “Stipulation for Involuntary Dismissal.” (Doc. 30) But the posting of this opposition pleading was delayed to May 21, 2018, three days after Sulla’s Ex Parte Motions were granted.

On May 18, 2018, disregarding the Respondent’s right to due process opposition pleading, and the aforementioned procedural violations, the Court signed and filed Sulla’s “Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint” (Doc. 29) and “Order Authorizing Service by Certified Mail.” (Doc. 28)

The Respondent, on May 29, 2018, having been deprived of his right to respond to Sulla’s ex parte correspondence and filings with the Nakamoto court, Horowitz overnighted “Respondent’s Motion to Set Aside Extension of Time to Serve the Petition Personally, or by Publication, and Dismissing Case Without Prejudice Pending Final Determinations in Related Cases,” received by the court on May 31, 2017. (**Exhibit 4**; Doc. 35) Horowitz’s filing objected to: (1) “Order Authorizing

Service by Certified Mail,” (Doc. 28) and (2) “Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint.” (Doc. 29) Both of these orders: (a) estopped Judge Nakamoto’s conflicting Minute Order of April 6, 2018; and (b) defied Judge Crandall’s ruling of July 18, 2017 (Order of September 27, 2017) requiring Sulla to serve the Complaint in accordance with the rules of the HRCP.<sup>2</sup>

On June 1, 2018, during hearing on: (1) Respondent’s Motion to Dismiss Without Prejudice; (2) Respondent’s “Motion to Sanction [Attorney] Paul Sulla” for repeatedly violating multiple orders to serve properly the threshold filings in accordance with the Crandall Court’s and the Nakamoto court’s aforementioned rulings at hearings on July 18, 2017 and April 6, 2018, respectively; and (3) “Hearing on Petitioner’s Motion for Judgment or for Summary Judgment,” Judge Nakamoto denied both Horowitz motions and granted the Petitioner summary judgment, statutory damages, and fees and costs. (**Exhibit 5**, p. 2)

## **II. STANDARDS OF REVIEW**

The following rules and statutes are material to this Motion, especially HRCP Rule 4(h) that gives the Court wide discretion to permit service of process by certified mail, “unless it clearly appears that” such an order would materially prejudice the Respondent; and that such prejudice would deprive the Respondent’s substantial rights, and clearly damage the Respondent. In this case, the Respondent provides clear and convincing evidence of material prejudice to the rights of due process, and resulting damage to the Respondent financially, from the Nakamoto court’s judgments of June 1, 2018, that conflict with the Crandall Court’s judgment of July 18, 2017, ordered September 27, 2017:

- (1) **HRCP Rule 1. SCOPE OF RULES;**
- (2) **HRCP Rule 12. DEFENSES AND OBJECTIONS -- WHEN AND HOW PRESENTED -- BY PLEADING OR MOTION -- MOTION FOR JUDGMENT ON THE PLEADINGS;**
- (3) **Rule 15. AMENDED AND SUPPLEMENTAL PLEADINGS**
- (4) **RCCH Rule 7.2. CIVIL MOTIONS PRACTICE**
- (5) **RCCH Rule 28. DISMISSAL FOR WANT OF SERVICE**
- (6) **HRS §634-23 Joinder of unknown persons; and**
- (7) **§634-24 Service outside the State or by registered mail**

...

<sup>2</sup> The Nakamoto Court received Horowitz’s opposition filing (Doc. 35) on May 31, 2018 as shown on recorded delivery notice, **Exhibit 5**, the day before the summary judgment hearing of June 1, 2018; but the document was not stamped until June 4, 2018.

### III. ARGUMENT

A motion to quash is “an appropriate remedy . . . [w]here a defendant's substantial constitutional right to a fair and impartial . . . proceeding is prejudiced.” [State v. Good, supra](#); quoted in *State v. Joao*, 491 P. 2d 1089 - Haw: Supreme Court 1971. This “Motion to Quash” evidences deprivation of the Respondent’s substantial constitutional right to a fair and impartial proceeding by the Plaintiff and Nakamoto court’s *ex parte* communications of May 15, 2018 (Docs 25 and 26), resulting orders of May 18, 2018 (Docs 28 and 29), and summary judgment favoring Sulla/Petitioner ruled at hearing on June 1, 2018, granting the Plaintiff \$5,000 in statutory damages plus Sulla’s fees and costs. (**Exhibit 5**)

The facts on record defy fair play and proper service of process in accordance with HRCF Rule 4 and the Honorable Crandall Court’s 2017 ruling and dismissal Order directing Sulla to serve the Complaint and Summons properly in the Third Circuit in accordance with this rule. Instead of complying with this Order Sulla filed an Amended Complaint and Amended Summons on December 13, 2017 without leave to do so violating HRCF Rule 15(a),<sup>3</sup> and again neglected to serve these pleadings in accordance with HRCF Rule 4.

Similarly defying laws, Sulla failed to obtain court authorization on May 15, 2018 when he filed two *ex parte* motions under HRS § 634-23 and 24 to extend time for service by certified mail. Those statutes permit service of summons and complaint by certified mail only when “**ordered by the court.**”

Nonetheless, the Nakamoto court issued “Order Granting Plaintiff’s Motion for First Extension of Time to Serve Complaint” on May 18, 2018, clearly prejudicing the Respondent by administering these *ex parte* filings in three (3) days without giving the Respondent any notice to defend as required by RCCH 7.2(c). (“A non-hearing motion shall be accompanied by a notice of motion that provides notice of the deadline by which a response must be filed and served.”) No such notice and response deadline was provided by Sulla or the court’s Legal Documents Branch/Section clerk to accord with RCCH 7.2(c)(3) for *Ex Parte* Motions. (“An *ex parte* motion accompanied by a

<sup>3</sup> **Rule 15(a). AMENDED AND SUPPLEMENTAL PLEADINGS**, states in relevant part. “a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.”

proposed order shall be dated and stamped “lodged” or “received” by the Legal Documents Branch/Section clerk, . . .”) Disregarding this rule in this foreclosure related action to undermine due process and prejudice the Respondent Sulla also neglected RCCH 7.2(f)(2)—that is, “the [simplest civil and common sense] efforts made to obtain a stipulation or response from the [Respondent]” whose e-mail address and cell phone number Sulla repeatedly used to correspond with Horowitz. In fact, contrary to this rule, Sulla gave no “reason(s) why no attempt was made” to contact Horowitz as Sulla had comfortably and successfully done in the past to stipulate agreements for time extensions.

These actions by Sulla in ex parte correspondence with the Nakamoto court “clearly appears” to have “material[ly] prejudice[d] . . . the substantial rights of the” Respondent to oppose Sulla’s motions and this kind of abuse. Sulla’s conduct invaded the province of the fact finder “to induce action other than that which the [court] in [his] uninfluenced judgment [would] deem warranted on the evidence fairly presented.” Quoting *State v. Joao*, 491 P. 2d 1089, 1091 - Haw: Supreme Court 1971. From this, “a tendency to prejudice may be presumed.” (*Id.*) In Sulla’s case, when he neglected to, inter alia, telephone, e-mail, or notice Horowitz pursuant to Sulla’s ex parte motions for time extension, or alternatively Google-search Horowitz’s published lecture schedule to administer personal service at public events, Sulla neglected the rules of civil procedure and “due diligence.” Instead, Sulla falsely declaring that Horowitz was not personally servable, prejudicing the court to grant Sulla’s motions and summary disposition.

Violating HRCF Rule 4(h) in this way, due process clearly appears to have materially prejudiced along with the substantial rights of the Respondent to respond timely to the *ex parte* non-hearing motions and unjust void decisions of the Nakamoto court made without personal jurisdiction over Horowitz.

Further evidencing prejudice, and defying fair play and the Respondent’s rights to due process, the Crandall Court’s ruling of July 18, 2017 (shown in **Exhibit 1**) admonishing Sulla for improperly serving the initial Complaint by certified mail in violation of HRCF Rule 4, was overruled by the Nakamoto court’s May 18, 2018 Order (Doc. 29) that erroneously states:

“IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Ex Parte Motion is granted and the time with which the Amended Complaint and Amended Summons filed on July 26, 2016 must be served upon Defendant LEONARD G. HOROWITZ, is extended to and including August 15, 2018.” [**Exhibit 6**]

This Order (stamped and filed by the court on June 8, as Doc. 40) is clearly erroneous since the Plaintiff did not file “the Amended Complaint and Amended Summons” on July 26, 2016.



Sulla filed the initial Complaint on that date, not the Amended pleadings. This material defect conceals the fact that no leave to file an Amended Complaint and Amended Summons was ever granted by either Judge Crandall or Judge Nakamoto, as required by HRCP Rule 15(a)(2).

Had he not been prejudiced to materially deprive the Respondent of his rights to due process, Judge Nakamoto was authorized by RCCH Rule 28 to dismiss this case *sua sponte* as Horowitz had repeatedly requested. RCCH Rule 28 states in relevant part, “A diligent effort to effect service shall be made in all actions. An action or claim may be dismissed sua sponte with written notice to the parties if no service is made within 6 months after the action or claim has been filed. . . .” Sulla filed the original Petition to Expunge on July 26, 2016. Judge Crandall ruled to transfer the improperly served case to the Third Circuit on September 27, 2017. That Order clearly states:

“[T]he Court hereby grants Defendant’s Motion to Dismiss in part relative to venue of this matter only and orders this matter to be transferred to the Third Circuit Court for the State of Hawaii. This Court directs the clerk’s office to effectuate transfer of this case and the record contained therein to the Third Circuit Court for the State of Hawaii immediately.”

To effect “immediately” a “diligent effort to effect service” following this transfer, and cure Sulla’s admonishment for failing to properly serve the Complaint, Sulla could have, and should have, filed his motions to amend the pleadings, serve Horowitz by certified mail, and extend time to do so “immediately.” But Sulla neglected this “due diligence” and delayed eight (8) months till May 15, 2018 to file his prejudicial motions (Docs. 25 and 26) granted by the prejudiced judge Nakamoto three days later.

“[A] court is generally precluded from reconsidering an issue that has already been decided by the same court, or a higher court in the identical case.” *Thomas v. Bible*, 983 F.2d 152, 154 (9th Cir.). The Nakamoto court’s Order granting “nunc pro tunc” service by certified mail retroactive to July 26, 2016, applicable to the original Petition to Expunge, filed in the First Circuit, evidences *extreme prejudice* as it breached the Respondent’s rights and Judge Crandall’s dispositive Order of September 27, 2017. That Order compelled Sulla to properly serve the original Petition following the “immediate” transfer of the case to the Third Circuit; not an *Amended Petition* without leave months later. Apparently, Judge Nakamoto was so prejudiced by Sulla’s ex parte correspondence that he overlooked Sulla’s multiple rule violations along with Judge Crandall’s Order of September 27, 2017 tolling the 6 month period in which Sulla was to have properly served the original Complaint and Summons.

Judge Nakamoto's prejudice was so strong that he even violated his own ruling at hearing on April 6, 2018, requiring Sulla's personal service upon the Respondent "within 7 days" to secure the jurisdiction of the court. This clear material prejudice defies HRCF Rule 1 justice, and has delayed and multiplied these proceedings also defying the efficiency and economy objective of Rule 1.

For all of the aforementioned violations of rules, statutes, and court orders materially prejudicing the Respondent and biasing the Nakamoto court to the point of granting summary judgement favoring Sulla without jurisdiction over Horowitz, and granting the Petitioner's motions and improperly served Petition and Summons, the Honorable Crandall Court is justified to extend her ruling of July 18, 2017 (**Exhibit 1**) and Order of September 27, 2017, requiring proper service, and quash service of process not in compliance with HRCF Rule 4 and the diligence requirement of RCCH 28.

Likewise, the unauthorized Amended Petition and Amended Summons must be quashed, and the Nakamoto court's orders ruled void since they clearly substantially conflict with the rules, laws, and Crandall Court's ruling of July 18, 2017 (**Exhibit 1**) and the September 27, 2017, Order. "A judgment is void only if the court that rendered it lacked jurisdiction of the subject matter, or of the parties, or if it acted in a manner inconsistent with due process of law." *LEDCOR-US PACIFIC CONSTRUCTION LLC v. Joslin*, Haw: Intermediate Court of Appeals 2014. In the case at bar, the Nakamoto court's Orders of May 18, 2018 are void because "the court that rendered it lacked jurisdiction" over Horowitz, and "acted in a manner inconsistent with due process of law." *Id.* The Respondent has never been personally served, nor was he properly served by certified mail a copy of the Summons and Complaint. The same is true for the Plaintiff's Amended Summons and Amended Complaint.

"[T]he federal and Hawaii Rules applicable to the disposition of this matter are substantively identical." *Sommers v. Okamoto* Civil No. 16-558 JMS-KJM (D. Haw. Jan. 4, 2017) "In order for a trial court to exercise personal jurisdiction over a defendant, the defendant must be served with a copy of the summons and the complaint pursuant to HRCF Rule 4(d)." *Op. cit. LEDCOR*. Service of process "is the means by which a court asserts its jurisdiction over the person." *SEC v. Ross*, 504 F.3d 1130, 1138 (9th Cir. 2007). "Plaintiff must serve the summons and complaint in accordance with the requirements of Federal Rule of Civil Procedure Rule 4." *Id.* Quoted in *Brigham Young University v. HAMBERGER FLOORING GmbH & CO. KG*, Dist. Court, D. Hawaii 2012. See also *Bludworth Bond Shipyard, Inc. v. M/V Caribbean*

*Wind*, 841 F.2d 646, 649 (5th Cir.1988) (when trial court lacks jurisdiction over defendant due to lack of service of process, "the judgment is void and, under [FRCP] Rule 60(b)(4), the [trial] court *must* set it aside, regardless of whether the movant has a meritorious defense.") Quoted also in *Wagner v. World Botanical Gardens, Inc.*, 268 P. 3d 443 - Haw: Intermediate Court of Appeals 2011 @450.

Consequently, quashing the Complaint and Summons, and Amended Complaint and Summons too, is authorized and appropriate given the prejudice and damage to the Respondent caused by the many defects in service aforementioned. Given the Nakamoto court's resulting jurisdictional preclusion, it is procedurally proper to set aside the Nakamoto court's void Orders of May 18, 2018, and summary disposition ruling of June 1, 2018; because these were issued in violation of HRCF Rules 4 and 15(a)(2), and RCCH Rule 7.2. Quashing the improperly served commencement pleadings is proper under these circumstances, and dismissing this case *sua sponte* is also proper. This is made clear in *Sommers* wherein Magistrate Judge Mansfield noted that when "the Court finds that Plaintiff has not properly served Defendants with the Summons and Complaint . . . [and] the deadline for service of the Complaint has . . . expired," then the Plaintiff no longer "has time to properly effect service." Thus, quashing the service and dismissing the case is authorized and proper.

Otherwise, proceeding with this case is an abomination. This is especially clear given the glaring material defect that ***no court granted Sulla leave to amend the original Complaint, and no court has personal jurisdiction over Horowitz lacking proper service.*** Thus, it was an abomination to granted the Petitioner's summary judgment Motion and *Ex Parte* Motions to extend time to serve the Respondent procedurally defective Amended Summons and Amended Complaint by certified mail nearly two years after Sulla's original service by certified mail was *barred* by the Honorable Crandall Court.

Quashing the Amended Summons and Amended Complaint filed without leave of either Crandall or Nakamoto courts, and dismissing this case for failure to serve timely and properly, also complies with Rule 1 precluding injustice. Otherwise, condoning violations of rules and laws evidences impropriety.

The Nakamoto court has defied its own Minute Order and granted summary judgment in favor of Sulla and the Petitioner without jurisdiction. The Nakamoto court's rulings on June 1, 2018 are therefore *void*, since they neglect HRCF Rule 15(a), required jurisdiction, the Respondent's due process rights; and substantial justice. "We have concluded that defendant's

contention that the judgment was void disposes of the case. Clause (4) of Rule 60(b) specifically provides for relief thereunder if "the judgment is void." *Stafford v. Dickison*, 374 P. 2d 665 - Haw: Supreme Court 1962. The Hawaii Supreme Court went on to rule in this similarly situated case:

"We have concluded that the turning point of this case is the service of the minute order. If that order had been served as intended defendant would not have been denied due process and the judgment would not have been void. But we must conclude that defendant was not served as directed by the minute order. We must conclude that as a result, due to the circumstances, he was not given an opportunity to defend."

The Hawaii Supreme Court further quoted [\*Roller v. Holly\*, 176 U.S. 398, 409](#), in which the court said: "The right of a citizen to due process of law must rest upon a basis more substantial than favor or discretion." In contrast, the Nakamoto court, having favored Sulla and abused its discretion, has administered a void abomination imposing a "statutory fine" of \$5,000 upon Horowitz along with fees and costs favoring Sulla. (See: **Exhibit 5**.)

This Motion requests and justifies dismissal of this case. "Both FRCP and HRCF allow a defendant to move for dismissal of an action if proper service of the summons and complaint have not been made. *See* Fed. R. Civ. P. 12(b)(5). Where a defendant alleges that the plaintiff has not complied with the requirements to effect service of process, the plaintiff has the burden of proving that service was made in accordance with the applicable rules of civil procedure. *See Taniguchi v. Native Hawaiian Office of Atty. Gen.*, 2009 WL 1404731, at \*2 (D. Haw. May 15, 2009)." The Plaintiff cannot meet this burden as evidenced by the Nakamoto court's void Orders of May 18, 2018 granting more time to administer service by certified mail after 22-months of neglect. "Hawaii Revised Statutes sections 634-23 and 634-24 only allow service by certified mail if a plaintiff, *after due diligence*, cannot serve the defendant and obtains a court order allowing service by such means. Haw. Rev. Stat. § 634-24 (2016).

RCCH Rule 28, likewise, calls for a "diligent effort to effect service . . . within 6 months after the action or claim has been filed. Sulla pled that his failure to serve the Respondent personally during the past 22 months is due to the Respondent's movements out-of-state and change of residential addresses. Sulla neglects the fact that he had multiple opportunities during these many months to serve Horowitz personally at several court hearings attended by Horowitz during those months. Serving Horowitz in courtrooms has been Sulla's successful pattern and practice. He served Horowitz at the courthouse on two previous occasions to commence Civ. Nos. 3RC 14-1-466 and Civ. No. 12-1-0417. (In both those cases the Respondent prevailed.)

On April 6, 2018, at the hearing Sulla requested but *failed to appear*, Sulla could have served Horowitz personally as he did previously since Sulla knew Horowitz would attend personally at that hearing since Horowitz did not request leave to attend telephonically. Sulla knew his proper service had been ordered at that time, so his actions defy “diligent effort to effect service.”

Sulla’s negligence and malice includes the fact the Respondent’s Hawaii residence was dispossessed by Sulla in the currently contested ejectment and quiet title cases under appeal (i.e., Civ. No. 14-1-0304; ICA NO. CAAP-16-0000163; and ICA No. CAAP-16-0000162 in Civ. No. 05-1-0196). In the latter case the Respondent defeated judicial foreclose following adjudication on the merits. In the conflicting final judgment in the 0304 case that Sulla abuses to feign current ownership of the Respondent’s Property, the Respondent was defaulted and deprived of his rights to due process much like Sulla and the biased Third Circuit Court has contrived here. These facts evidencing injustice and Sulla’s pattern and practice of contriving defaults and materially prejudicing the Respondent to deprive Horowitz’s due process rights along with the subject Property are shameful. Such malicious prosecution and abuse of process should not be tolerated by any court.

#### **IV. CONCLUSION**

The facts in evidence in this case provide good cause for the Honorable Court to extend her ruling of July 18, 2017 (**Exhibit 1**) and Order of September 27, 2017 requiring proper service; and quash service of process not in compliance with HRCF Rule 4 and the diligence requirement of RCCH 28. The Court is, therefore, asked to grant the Proposed Order attached hereto, in effect dismissing this case.

This Motion is made in lieu of the aforementioned gross violations of procedural due process and the resulting prejudice and damage to the Respondent caused: (1) having commenced before Judge Crandall’s First Circuit Court; (2) action having been dismissed by this Honorable Court for Sulla’s improper service of the Complaint and Summons; (3) improper service having resulted in the Nakamoto court’s set of void orders violating laws and rules governing jurisdiction; and (4) the conflict created by the Nakamoto court’s orders conflicting with the First Circuit Court’s ruling of July 18, 2017 (**Exhibit 1**) and Order of September 27, 2017, granting dismissal of the Complaint without prejudice to secure jurisdiction by proper

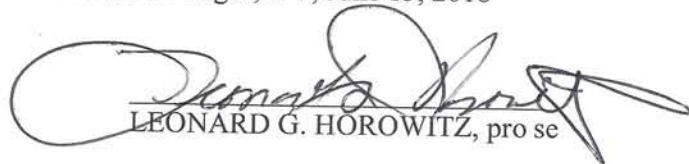
2017, granting dismissal of the Complaint without prejudice to secure jurisdiction by proper service in accordance with Rule 4. The time for compliance with these rules and laws have passed.

Sulla neglected his “due diligence” required under the aforementioned rules and laws that would permit service by certified mail to continue these invalid proceedings and blatant abuse of process. As ruled in *Sommers (Id.)*, “Because the deadline for service of the Complaint has . . . expired . . . and Plaintiff [no longer] has time to properly effect service [pursuant to RCCH 28, or by certified mail], the Court recommends that the [First Circuit] Court exercise its discretion to retain the case and quash service.” Quashing service is required to accommodate HRCF Rule 1 and the Third Circuit Court’s “nunc pro tunc” administration of the May 18, 2018 Orders retroactively extending time for proper service of the Complaint from July 26, 2016 to August 15, 2018. These improper proceedings have severely prejudiced and damaged the Respondent, and made a mockery of jurisprudence and due process in the Third Circuit. Accordingly, service of the original and amended pleadings must be quashed by the Honorable First Circuit Court to prevent the Respondent’s further financial and real property damage, and uphold the integrity of the justice system.

**I, LEONARD G. HOROWITZ, do declare under penalty of law that the foregoing pleading is true and correct to the best of my knowledge and belief; and that I am competent to testify regarding these matters; but will be overseas between June 15 and September 15, 2018, thus unavailable for further hearings and filings during that time.**

Respectfully submitted.

Dated: Las Vegas, NV, June 15, 2018

  
LEONARD G. HOROWITZ, pro se

*Hester v. Horowitz*, CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); **MOTION TO QUASH SERVICE OF PROCESS AND DISMISS FOR FAILURE TO COMPLY WITH COURT ORDERS, RULES AND LAWS.**

LEONARD G. HOROWITZ, pro se  
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Telephone: 310-877-3002

**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
FOR THE STATE OF HAWAII**

JASON HESTER, an individual  
Petitioner,

V.

LEONARD G. HOROWITZ, an Individual;  
Respondent

) CIV. NO. 16-1-1442-07 VLC  
) (Related case: CIV. NO.  
) 3CC171000407); HRS § 507D-4  
) **(Petition to Expunge Lis Pendens)**

**PROPOSED ORDER TO EXTEND RULING  
OF JULY 18, 2017 AND ORDER OF  
SEPTEMBER 27, 2017 REQUIRING PROPER  
SERVICE OF THE PETITION, AND QUASH  
PETITIONER'S SUMMONS AND  
COMPLAINT FILED JULY 26, 2016, AND  
AMENDED COMPLAINT FILED DECEMBER  
13, 2017 WITHOUT LEAVE**

JUDGE: Honorable Virginia L. Crandall  
Non-Hearing Motion

**PROPOSED ORDER TO EXTEND RULING OF JULY 18, 2017 AND ORDER OF  
SEPTEMBER 27, 2017 REQUIRING PROPER SERVICE OF THE PETITION, AND QUASH  
PETITIONER'S SUMMONS AND COMPLAINT FILED JULY 26, 2016, AND AMENDED  
COMPLAINT FILED DECEMBER 13, 2017 WITHOUT LEAVE**

Pursuant to Respondent's foregoing Motion, Declaration of LEONARD G. HOROWITZ, and for good cause appearing therefore.

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the Petitioner's Summons and Complaint filed July 26, 2016; Amended Complaint filed December 13, 2017 (without leave as required by the Hawaii Rules of Civil Procedure, Rule 15(a)(2)); and Amended Summons filed April 26, 2018, is GRANTED.

DATED: Honolulu, Hawaii,

JUDGE OF THE ABOVE-ENTITLED COURT

## **Exhibits 1-6**





CIVIL MOTIONS CALENDAR  
FIRST CIRCUIT  
NINTH DIVISION

DATE: TUESDAY, JULY 18, 2017  
JUDGE: HONORABLE VIRGINIA L. CRANDALL, JUDGE PRESIDING  
CLERK:  
REPORTER:  
BAILIFF/LAW CLERK: LISA YANG

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10:00 A.M.

1CC 16-1-001442 JASON HESTER  
VS.  
LEONARD G HOROWITZ

PAUL JOSEPH SULLA JR  
FOR JASON HESTER

#1 DEFT LEONARD G. HOROWITZ'S MOTION TO DISMISS  
"PETITION TO EXPUNGE DOCUMENTS RECORDED IN THE  
BUREAU OF CONVEYANCES OF THE STATE OF HAWAII"

[HRCP RULES 7(B), 9(B) AND 12; AND RCCH RULE  
27(B)] (L HOROWITZ, PRO SE)

#2 PLTF'S MOTION FOR JUDGMENT ON THE PLEADINGS,  
OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT ON  
PETITION TO EXPUNGE DOCUMENTS RECORDED IN THE

BUREAU OF CONVEYANCES OF THE STATE OF HI.  
(P. SULLA, JR.)

MINUTE ORDER: AT TERM: 7/13/17  
CLERK: T.AHUFISHER  
BY AGREEMENT OF PARTIES, HEARING TO BEGIN AT  
10:00 A.M.

-----  
COURT REPORTER: JAMIE MIYASATO  
CLERK: ROSENDA MENOR  
10:04 A.M. - 10:15 A.M.

CASE CALLED. APPEARANCE STATED BY PAUL SULLA  
FOR THE PLTF. DEFT LEONARD HOROWITZ APPEARED PRO  
SE BY TELEPHONE CONFERENCE CALL.

10:05 A.M. DEFT'S OBJECTIONS TO PLTF'S MOTION  
STATED ON THE RECORD AND ARGUMENT PRESENTED IN  
SUPPORT OF DEFT'S MOTION TO DISMISS.

10:10 A.M. COLLOQUEY BETWEEN COURT, DEFT. MR.  
HOROWITZ AND MR. SULLA.

10:14 A.M. THE COURT RULES AS FOLLOWS: WITH  
RESPECT TO DEFT'S MOTION TO DISMISS, GRANTED IN  
PART AS TO THE CHANGE OF VENUE AND ORDERS THAT THE  
MATTER BE TRANSFERRED TO THE THIRD CIRCUIT. WITH

**Exhibit 1**

CIVIL MOTIONS CALENDAR  
FIRST CIRCUIT  
NINTH DIVISION

DATE: TUESDAY, JULY 18, 2017  
JUDGE: HONORABLE VIRGINIA L. CRANDALL, JUDGE PRESIDING  
CLERK:  
REPORTER:  
BAILIFF/LAW CLERK: LISA YANG

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RESPECT TO PLTF'S MOTION FOR JUDGMENT ON THE  
PLEADINGS THE MOTION IS DENIED WITHOUT PREJUDICE  
AS THE DEFT. HAS NOT BEEN PERSONALLY SERVED WITH  
THE ORIGINAL PETITION IN THIS CASE.

10:14 A.M. MR. SULLA RESPONDED TO THE COURT'S  
RULINGS.

10:14 A.M. THE COURT INSTRUCTS THE DEFT. TO  
PREPARE AN ORDER GRANTING IN PART HIS MOTION TO  
DISMISS CHANGING VENUE TO THE THIRD CIRCUIT. ALSO,  
AN ORDER DENYING PLTF'S MOTION FOR JUDGMENT ON THE  
PLEADINGS WITHOUT PREJUDICE.

10:15 A.M. PROCEEDINGS CONCLUDED.

DATE: 07-18-2017 BY ORDER OF THE COURT: Rosendi Menor CLERK

## Non-Criminal Case Information

Case ID	3CC171000407	Case Title	JASON HESTER VS LEONARD G HOROWITZ	
Initiation Type	N	Initiation Date	12/13/2017	Initiator I.D.
Conf. Code	N	Division	3C02	Court
			A5398	C

Case Info

Party List

Document List

Court Minutes List

Seq	Doc Type	Document Title	Date/Time	Filing Party
➤ 1		**** FOR PREVIOUS ENTRIES, SEE NUMBERS 1 THRU 24, DOCUMENTS FILED IN FIRST CIRCUIT COURT, CIVIL NO. 1CC16-1-001442 ****	12/13/2017 11:17	
➤ 2		LETTER DATED DECEMBER 7, 2017 FROM PATSY K. NAKAMOTO, COURT ADMINISTRATOR, LEGAL DOCUMENTS BRANCH, FIRST CIRCUIT COURT, TO THIRD CIRCUIT COURT, HILO DIVISION, LEGAL DOCUMENTS SECTION ATTN ULU JOHNASEN, COURT DOCUMENTS SUPERVISOR	12/13/2017 11:17	FILED BY COURT, COURT
➤ 3		AMENDED PETITION TO EXPUNGE DOCUMENTS RECORDED IN THE BUREAU OF CONVEYANCES OF THE STATE OF AHWAI; AFFIDAVIT OF PAUL J. SULLA, JR.; EXHIBITS "A"-"F" CERTIFICATE OF SERVICE	12/13/2017 11:37	SULLA JR, PAUL JOSEPH
➤ 4		CERTIFICATE OF DISQUALIFICATION	12/22/2017 13:35	FILED BY COURT, COURT
➤ 5	UNDM	UNDELIVERABLE MAIL: CERTIFICATE OF DISQUALIFICATION (JUDGE GREG K. NAKAMURA) FILED 12/22/17, ADDRESSED TO MR. LEONARD G. HOROWITZ "RETURN TO SENDER/ATTEMPTED - NOT KNOWN/UNABLE TO FORWARD"	01/04/2018	
➤ 6		REQUEST FOR ENTRY OF DEFAULT AGAINST LEONARD G. HOROWITZ; DECLARATION OF COUNSEL; EXHIBIT "A"; [PROPOSED] AMENDED ORDER FOR ENTRY OF DEFAULT AGAINST DEFENDANT LEONARD G. HOROWITZ; CERTIFICATE OF SERVICE	01/10/2018 15:36	SULLA JR, PAUL JOSEPH

**Exhibit 2**

➤ 7		DEFENDANT LEONARD G. HOROWITZ'S MOTION TO DISMISS PETITION TO EXPUNGE DOCUMENTS RECORDED IN THE BUREAU OF CONVEYANCE OF THE STATE OF HAWAII" [HRCPRULES 7(B) AND RCCH RULE 27(B)]; MEMORANDUM IN SUPPORT OF MOTION; DECLARATION OF LEONARD G. HOROWITZ; EXHIBITS "A"-"G"; CERTIFICATE OF SERVICE	01/23/2018 10:08	PRO SE
➤ 8	O	ORDER FOR ENTRY OF DEFAULT AGAINST DEFENDANT LEONARD G. HOROWITZ	02/02/2018 15:48	SULLA JR, PAUL JOSEPH
➤ 9		DEFENDANT LEONARD G. HOROWITZ'S MOTION TO VACATE DEFAULT JUDGMENT ENTERED JANUARY 5, 2018 [HRCP RULES 55(C) AND 60(B)]; MEMORANDUM IN SUPPORT OF MOTION; AFFIDAVIT OF LEONARD G. HOROWITZ; EXHIBITS "A"-"I"; CERTIFICATE OF SERVICE (HEARING DATE: 04/06/18 AT 8:00 AM) (EX OFFICIO)	02/12/2018 11:33	PRO SE
➤ 10		CIRCUIT COURT OF THE FIRST CIRCUIT NOTICE FOR PAYMENT OF FEES (PAID) (EX OFFICIO) *****FOR FURTHER ENTRIES SEE FILE NO 3*****	02/12/2018 11:34	FILED BY COURT, COURT
➤ 11		PETITIONER'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT ON AMENDED PETITION TO EXPUNGE DOCUMENTS RECORDED IN THE BUREAU OF CONVEYANCES OF THE STATE OF HAWAII; MEMORANDUM IN SUPPORT OF MOTION; DECLARATION OF PAUL J. SULLA, JR.; EXHIBITS "A"-"G"; NOTICE OF HEARING; CERTIFICATE OF SERVICE (HEARING 3/16/18 AT 8:30AM)	03/06/2018 15:34	SULLA JR, PAUL JOSEPH
➤ 12		AMENDED NOTICE OF HEARING (HEARING 4/6/18 AT 8:30AM)	03/16/2018 15:54	SULLA JR, PAUL JOSEPH
➤ 13		DEFENDANT'S NOTICE OF CHANGE OF ADDRESS, NOTICE OF RELATED FEDERAL GRAND JURY APPLICATION PENDING IN THE NINTH CIRCUIT 18-80032, REQUEST TO CORRECT HOOHIKI RECORD ERRORS, AND REQUEST TO CONTINUE HEARING ON PETITIONER'S MOTION FOR JUDGMENT ON THE PLEADINGS; CERTIFICATE OF SERVICE (HEARING 4/6/18 AT 8:00AM)	03/22/2018 15:50	PRO SE
➤ 14	NPF	NOTICE OF PAYMENT OF FEES (PAID) (EX OFFICIO)	03/22/2018 15:51	OTHER

➤ 15		DEFENDANT'S OPPOSITION TO "PETITIONER'S MOTION FOR JUDGMENT ON THE PLEADINGS... ON AMENDED PETITION TO EXPUNGE DOCUMENTS..."; DECLARATION OF LEONARD G. HOROWITZ; CERTIFICATE OF SERVICE	03/23/2018 13:02	PRO SE
➤ 16	NPF	NOTICE OF PAYMENT OF FEES (PAID) (EX OFFICIO)	03/23/2018 13:03	OTHER
➤ 17		PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT LEONARD G. HOROWITZ'S MOTION TO VACATE DEFAULT JUDGMENT ENTERED JANUARY 5, 2018 FILED FEB. 12, 2018; CERTIFICATE OF SERVICE (HEARING 4/6/18 AT 8:00AM) *****FOR FURTHER ENTRIES SEE FILE NO 4*****	03/28/2018 12:46	SULLA JR, PAUL JOSEPH
➤ 18		DEFENDANT LEONARD G. HOROWITZ'S REPLY TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT'S MOTION TO VACATE DEFAULT JUDGMENT ENTERED JANUARY 5, 2018; DECLARATION OF LEONARD G. HOROWITZ; EXHIBITS "A"-"K"; CERTIFICATE OF SERVICE (EX OFFICIO)	04/02/2018 14:07	PRO SE
➤ 19	NPF	NOTICE OF PAYMENT OF FEES (PAID) (EX OFFICIO)	04/02/2018 14:08	OTHER
➤ 20	NOT	NOTICE OF CONTINUED HEARING (HEARING 6/1/2018 AT 8:00AM)	04/11/2018 14:26	SULLA JR, PAUL JOSEPH
➤ 21		RESPONDENT'S MOTION FOR SANCTIONS AGAINST ATTORNEY PAUL J. SULLA, JR. FOR CIVIL CONTEMPT IN VIOLATING HIS DISQUALIFICATION ORDER, REPEATEDLY FAILING TO COMPLY WITH COURTS' ORDERS TO SERVE THE RESPONDENT PROPERLY IN ACCORDANCE WITH RULE 4, INTER ALIA; AND FAILING TO APPEAR AT HEARING OF APRIL 6, 2018; MEMORANDUM IN SUPPORT OF MOTION.; AFFIDAVIT OF LEONARD G. HOROWITZ; CERTIFICATE OF	04/20/2018 14:53	PRO SE
➤ 22		SERVICE [HRCP RULE 11(C)(1)(A; HRS 571-81 AND/OR HRS 710-1077] (HEARING DATE: 06/1/18 AT 8:00 AM) (EX OFFICIO)	04/20/2018 14:53	PRO SE
➤ 23	NPF	NOTICE FOR PAYMENT OF FEES (PAID) (EX OFFICIO)	04/20/2018 14:53	FILED BY COURT, COURT
➤ 24		AMENDED SUMMONS TO ANSWER CIVIL COMPLAINT (ISSUED)	04/26/2018 15:58	FILED BY COURT, COURT

➤ 25	PLAINTIFF'S EX PARTE MOTION FOR ORDER AUTHORIZING SERVICE BY CERTIFIED MAIL; DECLARATION OF COUNSEL NUNC PRO TUNC; EXHIBITS "A"-"J"; ORDER AUTHORIZING SERVICE BY CERTIFIED MAIL; CERTIFICATE OF SERVICE (ORDER UNSIGNED)	05/15/2018 15:39	SULLA JR, PAUL JOSEPH
➤ 26	PLAINTIFF'S EX PARTE MOTION FOR FIRST EXTENSION OF TIME TO SERVE COMPLAINT; DECLARATION OF COUNSEL; EXHIBIT "A"-"B"; [PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR FIRST EXTENSION OF TIME TO SERVE COMPLAINT; CERTIFICATE OF SERVICE	05/15/2018 15:41	SULLA JR, PAUL JOSEPH
➤ 27	AFFIDAVIT OF ATTEMPTS OF SERVICE (LEONARD HOROWITZ UNSERVED)	05/15/2018 15:43	SULLA JR, PAUL JOSEPH
➤ 28	ORDER AUTHORIZING SERVICE BY CERTIFIED MAIL	05/18/2018 10:42	SULLA JR, PAUL JOSEPH
➤ 29	ORDER GRANTING PLAINTIFF'S MOTION FOR FIRST EXTENSION OF TIME TO SERVE COMPLAINT	05/18/2018 10:42	SULLA JR, PAUL JOSEPH
➤ 30	RESPONDENT'S STIPULATION FOR INVOLUNTARY DISMISSAL; CERTIFICATE OF SERVICE [HRCP RULE 41(B)(1) AND (D)]	05/21/2018 10:25	PRO SE
➤ 31	PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT LEONARD G. HOROWITZ'S MOTION FOR SANCTIONS AGAINST ATTORNEY PAUL J. SULLA, JR. FOR CIVIL CONTEMPT IN VIOLATING HIS DISQUALIFICATION ORDER, REPEATEDLY FAILING TO COMPLY WITH COURTS' ORDERS TO SERVE THE RESPONDENT PROPERLY IN ACCORDANCE WITH RULE 4, INTER ALIA; AND FAILING TO APPEAR AT HEARING OF APRIL 6, 2018 FILED APRIL 20, 2018; CERTIFICATE	05/22/2018 15:48	SULLA JR, PAUL JOSEPH
➤ 32	OF SERVICE (HEARING 6/1/2018 AT 8:00AM)	05/22/2018 15:48	SULLA JR, PAUL JOSEPH
➤ 33	MEMORANDUM IN OPPOSITION TO DEFENDANT LEONARD G. HOROWITZ'S MOTION TO DISMISS FILED JANUARY 23, 2018; CERTIFICATE OF SERVICE	05/22/2018 15:49	SULLA JR, PAUL JOSEPH
➤ 34	DECLARATION OF SERVICE OF PROCESS BY CERTIFIED MAIL ON DEFENDANT LEONARD G. HOROWITZ ON DECEMBER 16, 2016; EXHIBITS "A"-"B"; CERTIFICATE OF SERVICE	05/31/2018 13:48	SULLA JR, PAUL JOSEPH

➤ 35		RESPONDENT'S MOTION TO SET ASIDE EXTENSION OF TIME TO SERVE THE PETITION PERSONALLY, OF BY PUBLICATION, AND DISMISSING CASE WITHOUT PREJUDICE PENDING FINAL DETERMINATIONS IN RELATED CASES; MEMORANDUM ON MOTION AND DECLARATION OF LEONARD G. HOROWITZ; APPENDIX W/ CONTESTED ORDERS; EXHIBITS 1-9; PROPOSED ORDER CERTIFICATE OF SERVICE [HRCP RULES 1 4(H); 41(B) AND RULE 50(B)(3)(4)(5) AND	06/04/2018 14:46	PRO SE
➤ 36		(6)] (UNSIGNED/DENIED)	06/04/2018 14:46	PRO SE
➤ 37	NOT	NOTICE OF SUBMISSION OF ORDER DENYING RESPONDENT'S MOTION FOR SANCTIONS AGAINST ATTORNEY PAUL J. SULLA, JR. FOR CIVIL CONTEMPT IN VIOLATING HIS DISQUALIFICATION ORDER, REPEATEDLY FAILING TO COMPLY WITH COURTS' ORDERS TO SERVE THE RESPONDENT PROPERLY IN ACCORDANCE WITH RULE 4, INTER ALIA; AND FAILING TO APPEAR AT HEARING OF APRIL 6, 2018; EXHIBIT "A"; CERTIFICATE OF SERVICE	06/07/2018 15:19	SULLA JR, PAUL JOSEPH
➤ 38	NOT	NOTICE OF SUBMISSION OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING PETITIONER'S MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT ON AMENDED PETITION TO EXPUNGE DOCUMENTS RECORDED IN THE BUREAU OF CONVEYANCES OF THE STATE OF HAWAII; EXHIBIT "A"; CERTIFICATE OF SERVICE	06/07/2018 15:20	SULLA JR, PAUL JOSEPH
➤ 39	NOT	NOTICE OF SUBMISSION OF ORDER DENYING ORDER DENYING DEFENDANT LEONARD G. HOROWITZ'S MOTION TO DISMISS PETITION TO EXPUNGE DOCUMENTS RECORDED IN THE BUREAU OF CONVEYANCE OF THE STATE OF HAWAII" [HRCPRULES 7(B) AND RCCH RULE 27(B)]; EXHIBIT "A"; CERTIFICATE OF SERVICE	06/07/2018 15:21	SULLA JR, PAUL JOSEPH
➤ 40	O	AMENDED ORDER AUTHORIZING SERVICE BY CERTIFIED MAIL	06/08/2018 08:57	SULLA JR, PAUL JOSEPH
➤ 41		MEMORANDUM IN OPPOSITION TO DEFENDANT LEONARD G. HOROWITZ'S MOTION TO SET ASIDE EXTENSION OF TIME TO SERVE THE PETITION PERSONALLY, OR BY PUBLICATION, AND DISMISSING CASE WITHOUT PREJUDICE PENDING FINAL DETERMINATIONS IN RELATED CASES; CERTIFICATE OF SERVICE	06/08/2018 15:44	SULLA JR, PAUL JOSEPH





Non-Criminal Case Information

Case ID	3CC171000407	Case Title	JASON HESTER VS LEONARD G HOROWITZ		
Initiation Type	N	Initiation Date	12/13/2017	Initiator I.D.	A5398
Conf. Code	N	Division	3C02	Court	C

Case Info      Party List      Document List      Court Minutes List

App Type	Loc	Type	Date/Time	Phase	App Desc	App Disp
▼ 1	MOT	3C02	CV	03/16/2018 08:30	PETITIONER'S MOTION FOR JUDGMENT OR SUMMARY JUDGMENT	CON
CTRM		Cal. Type	CV	Priority	0	
Judge I.D.	JHNAKAMOTO	Video No.		Audio No.		
Minutes	CONVENED AT 8:42 AM. *REPORTER: GERALDINE SAFFERY*APPEARANCE: PAUL SULLA, ATTORNEY FOR PLAINTIFF . 3 CALLS WERE MADE AT 8:30 A.M. BY BAILIFF WITH NO RESPONSE; COURT REVIEWED MOTION AND CONCERNED ABOUT THE TIMING AND SERVICE TO DEFENDANT; SULLA STATED THEY OBTAINED THE HEARING DATE EARLY, BUT HAD A DELAY IN FILING THE ORDER; SULLA ALSO STATED HERE IS HEARING BY DEFEDANT TO VACATE DEFAULT JUDGMENT ON APRIL 6 AND REQUEST THIS HEARING BE CONTINUED TO THE SAME DATE; GRANTED BY COURT; CASECONTINUED TO APRIL 6, 2018 AT 8:00 A.M.					
▼ 2	MOT	3C02	CV	04/06/2018 08:00	DEFENDANT'S MOTION TO SET ASIDE DEFAULT JUDGMENT CONTINUED MOTION FOR JUDGMENT ON PLEADINGS OR THE ALTERNATIVE SUMMARY JUDGMENT DEFENDANT'S MOTION FOR CLARIFICATION	GRT
CTRM		Cal. Type	CV	Priority	0	
Judge I.D.	JHNAKAMOTO	Video No.		Audio No.		
Minutes	CONVENED AT 8:15 AM. *REPORTER: GERALDINE SAFFERY*APPEARANCES: LEONARD HOROWITZ, DEFENDANT SHERRY KANE, CO-OWNER OF PROPERTY . COURT PASS TIL THE END OF THE 8:00 A.M. CALENDAR TO SEE IF ANYONE ELSE WILL APPEAR. . RECONVENED AT 8:19 AM. SAME APPEARANCES NOTED. . 3 CALLS					

Exhibit 3

Exhibits for Motion to Join Paul Sulla, pg. 104

MADE WITH NO RESPONSE; HEARING ON MOTION TO VACATE DEFAULT JUDGMENT HAD; COURT HAS ISSUE REGARDING AMENDED PETITION WHICH WAS MAILED TO DEFENDANT ON 11-27-17 (BASED ON RECORDS IN FILE), BUT FILED ON 12-13-17; COURT ASSUMED UNFILED MOTION/PETITION WAS MAILED WHICH IS NOT IN COMPLIANCE TO THE RULES; COURT GRANTS MOTION TO VACATE DEFAULT JUDGMENT. . COURT ORDERED DEFENDANT OR DEFENDANT COUNSEL TO SERVE A CERTIFIED COPY OF THE AMENDED PETITION WITHIN 7 DAYS; DEFENDANT HAS 20 DAYS TO RESPOND AFTER RECEIPT; . CASE CONTINUED TO JUNE 1, 2018 AT 8:00 AM FOR MOTION FOR JUDGMENT ON PLEADINGS OR THE ALTER- NATIVE FOR SUMMARY JUDGMENT AND DEFENDANT'S MOTIONFILED ON 03-22-18.

ALERT: AS OF APRIL 30, USPS.COM NO LONGER SUPPORTS OUTDATED BROWSERS. TO CONTINUE ACCESS, YOU MAY N...

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Preferences

Shipping History

Address Book

Account # 58348025

Label Details

Label Number:  
[9481703699300032147226](#)

Terms

Acceptance Cutoff: 05/29/2018 1:00 PM

Acceptance Time: 05/29/2018 12:10 PM

Guaranteed Date: 05/30/2018 3:00 PM

Delivery Status: Delivered, Front Desk/Reception  
2018-05-31 11:23:00.0

Label Actions

[USPS Tracking®](#)

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Need help

[File an insurance claim](#)

[Request A Service Refund](#)

Return Address:

LEONARD G HOROWITZ  
5348 VEGAS DR  
STE 353  
LAS VEGAS, NV 89108-2347  
contact@cureshoppe.com

Delivery Address:

ATTN: LEGAL DOCUMENTS DEPT.  
THE CIRCUIT COURT OF THE THIRD CIRCUIT  
777 KILAUEA AVE  
HALE KAULIKE  
HILO, HI 96720-4212

Package:

Ship Date: 05/29/18  
From: 89108  
Label Type: Batch

Service:

Priority Mail Express™ 1-Day  
Flat Rate Envelope  
Signature Required

Transaction Number: 435961632

Transaction Type: Label

Payment Method: PayPal

Payment Status: Account Charged

Postage Cost  
Signature Required

Label Total: \$24.70

Order Total: \$49.40

\$24.70  
Free

Timestamp	Message
05-29-2018 11:59:06	LABEL REPRINTED
05-29-2018 11:58:29	LABEL PRINTED
05-29-2018 11:58:12	Getting Payment
05-29-2018 11:57:31	Setting Payment

Back to Shipping History

Exhibit 4

Exhibits for Motion to Join Paul Sulla, pg. 106

1 of 1

6/14/18, 2:53 PM

Date: June 14, 2018

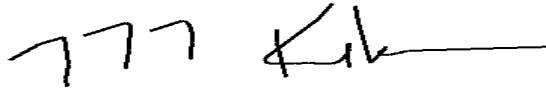
Sherri Kane:

The following is in response to your June 14, 2018 request for delivery information on your Priority Mail Express® item number 9481703699300032147226. The delivery record shows that this item was delivered on May 31, 2018 at 11:23 am in 777 KILAUEA AVE HILO, HI 96720 to L KOBAYASHI. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,  
United States Postal Service

Non-Criminal Case Information

Case ID	3CC171000407	Case Title	JASON HESTER VS LEONARD G HOROWITZ		
Initiation Type	N	Initiation Date	12/13/2017	Initiator I.D.	A5398
Conf. Code	N	Division	3C02	Court	C

Case Info

Party List

Document List

Court Minutes List

App Type	Loc	Type	Date/Time	Phase	App Desc	App Disp
▼ 1	MOT	3C02	CV	03/16/2018 08:30	PETITIONER'S MOTION FOR JUDGMENT OR SUMMARY JUDGMENT	CON
CTRM		Cal. Type	CV	Priority	0	
Judge I.D.	JHNAKAMOT O	Video No.		Audio No.		
Minutes	CONVENED AT 8:42 AM. *REPORTER: GERALDINE SAFFERY*APPEARANCE: PAUL SULLA, ATTORNEY FOR PLAINTIFF . 3 CALLS WERE MADE AT 8:30 A.M. BY BAILIFF WITH NO RESPONSE; COURT REVIEWED MOTION AND CONCERNED ABOUT THE TIMING AND SERVICE TO DEFENDANT; SULLA STATED THEY OBTAINED THE HEARING DATE EARLY, BUT HAD A DELAY IN FILING THE ORDER; SULLA ALSO STATED HERE IS HEARING BY DEFEDANT TO VACATE DEFAULT JUDGMENT ON APRIL 6 AND REQUEST THIS HEARING BE CONTINUED TO THE SAME DATE; GRANTED BY COURT; CASECONTINUED TO APRIL 6, 2018 AT 8:00 A.M.					
▼ 2	MOT	3C02	CV	04/06/2018 08:00	DEFENDANT'S MOTION TO SET ASIDE DEFAULT JUDGMENT CONTINUED MOTION FOR JUDGMENT ON PLEADINGS OR THE ALTERNATIVE SUMMARY JUDGMENT DEFENDANT'S MOTION FOR CLARIFICATION	GRT
CTRM		Cal. Type	CV	Priority	0	
Judge I.D.	JHNAKAMOT O	Video No.		Audio No.		
Minutes	CONVENED AT 8:15 AM. *REPORTER: GERALDINE SAFFERY*APPEARANCES: LEONARD HOROWITZ, DEFENDANT SHERRY KANE, CO-OWNER OF PROPERTY . 3 CALLS MADE AT 8:00 AM WITH NO RESPONSE; COURT INRECEIPT OF PLEADINGS FROM SULLA, BUT IS NOT PRESENT; COURT TO PASS CASE UNTIL END OF 8:00 AM					

Exhibit 1 - See p. 2 for 6-1-18 Hearing Minutes

CALANDER. RECONVENED AT 8:19 AM. SAME APPEARANCES NOTED HEARING ON MOTION TO VACATE DEFAULT JUDGMENT HAD; COURT HAS ISSUE REGARDING AMENDED PETITION WHICH WAS MAILED TO DEFENDANT ON 11-27-2018 (BASED ON RECORDS IN FILE), BUT FILED ON 12-13-17; COURT ASSUMED UNFILED MOTION/PETITION WAS SENT TO DEFENTANT WHICH IS NOT IN COMPLIANCE WITH THE RULES; COURT GRANTS MOTION TO VACATE DEFAULT JUDGMENT. . COURT ORDERED PLAINTIFF OR PLAINTIFF'S COUNSEL, TOSERVE A CERTIFIED COPY OF THE AMENDED PETITION WITHIN 7 DAYS; DEFENDANT HAS 20 DAYS TO RESPOND AFTER RECEIPT; . CASE CONTINUED TO JUNE 1, 2018 AT 8:00 AM FOR DEFENDAN'S MOTION FOR DISMISSAL; PLAINTIFF'S MOTION FOR JUDGMENT ON PLEADINGS OR THE ALTER- NATIVE FOR SUMMARY JUDGMENT AND DEFENDANT'S MOTIONFILED ON 03-22-18. (MR. HOROWITZ ALLOWED TO APPEAR BY PHONE AT NEXT HEARING)

▼ 3	MOT	3C02	CV	06/01/2018 08:00	DEFENDANTS MOTION TO DISMISS DEFENDANTS MOTION TO SANCTION PAUL SULLA PETITIONERS MOTION FOR JUDGMENT OR FOR SUMMARY JUDGEMENT	DND
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CTRM	<input type="text"/>	Cal. Type	<input type="text" value="CV"/>	Priority	<input type="text" value="0"/>
Judge I.D.	<input type="text" value="JHNAKAMOTO"/>	Video No.	<input type="text"/>	Audio No.	<input type="text"/>
Minutes	<div>CONVENED AT 8:12 A.M. *REPORTER: FTR* APPEARANCES: PAUL SULLA, ATTY FOR PLAINTIFF LEONARD HOROWITZ, DEFT VIA PHONE . 1) HEARING ON DEFENDANT'S MOTION TO DISMISS HAD; STATEMENTS MADE BY BOTH PARTIES; HOROWITZ REQUEST TO DISMISS WITHOUT PREJUIDCE; OBJECTION BY SULLA - COURT NOT FINDING GOOD CAUSE, DENIED DEFENDANT'S MOTION TO DISMISS; . 2) HEARING ON DEFENDANT'S MOTION TO SANCTION PAUL SULLA HAD; STATEMENTS MADE BY BOTH PARTIES; COURT NOT FINDING GOOD CAUSE &amp; DEFENDANT NOT IN COMPLIANCE WITH RULE 11, DENIED DEFENDANT'S MOTION TO SANCTION PAUL SULLA; . 3) HEARING ON PETITIONER'S MOTION FOR JUDGMENT OR FOR SUMMARY JUDGMENT HAD; STATEMENT MADE BY BOTH PARTIES; COURT NOTED NO MATERIAL ISSUES OF FACT REGARDING THE FILINGS OF THE 2 LIENS, PETITIONER'S MOTION FOR SUMMARY JUDGMENT IS GRANTED; COURT ORDERED SANCTION OF \$5,000.00 WHICH IS ALLOWED BY STATUTE FOR EACH FILING; COURT ALSO GRANT PLAINTIFF REASONABLE FEES AND COST; . SULLA TO DRAFT ORDER WITH DECLARATION WITH FEES AND COST WITHIN 2 WEEKS OF TODAY; HOROWITZ TO RESPOND 1 WEEK AFTER.</div>				

Paul J. Sulla, Jr. (SBN 5398)  
Attorney at Law  
P.O. Box 5258  
Hilo, HI 96720  
Telephone: 808/933-3600  
Email: psulla@aloha.net  
Attorney for Plaintiff JASON HESTER

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
FOR THE STATE OF HAWAII

JASON HESTER,

Plaintiff

v.

LEONARD G. HOROWITZ,

Defendant.

CIVIL NO.: 17-1-407  
(Other Civil Action)  
Fmrly Civ. No. 1-CC-16-1-1442  
(venue changed to 3<sup>rd</sup> Cir.) and  
USDC Haw. Civ. No. 1:1777-cv-14-LEK  
(remanded)

**ORDER AUTHORIZING SERVICE BY  
CERTIFIED MAIL**

**Judge: Hon. Henry T. Nakamoto**

**Trial Date: None set**

**ORDER AUTHORIZING SERVICE BY CERTIFIED MAIL**

Before the Court is Plaintiff JASON HESTER's Motion for Order Authorizing Service by Certified Mail on Defendant Horowitz pursuant to Hawaii Rules of Civil Procedure 4(e) and 4(f) H.R.S. § 634-23 and 634-24, as amended. The Court finds that Plaintiff has demonstrated due diligence efforts to obtain personal service, however, such efforts have been unsuccessful.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Order Authorizing Service by Certified Mail is GRANTED and the Court authorizes service on LEONARD G. HOROWITZ



by certified mail nunc pro tunc to the date of receipt of the herein Petition by Defendant Leonard Horowitz via certified mail on December 16, 2018.

DATED: Hilo, Hawaii, \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE ABOVE-ENTITLED COURT

*Hester v. Horowitz*, Civ. No. 17-1-407

**ORDER AUTHORIZING SERVICE BY CERTIFIED MAIL**

Paul J. Sulla, Jr. (SBN 5398)  
Attorney at Law  
P.O. Box 5258  
Hilo, HI 96720  
Telephone: 808/933-3600  
Attorney for Petitioner,  
JASON HESTER

**IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
FOR THE STATE OF HAWAII**

JASON HESTER,

Petitioner,

v.

LEONARD G. HOROWITZ,

Respondent.

CIVIL NO.: 17-1-407  
(H.R.S. § 507D-4 Petition)

**CERTIFICATE OF SERVICE**

**Trial Date: None**


**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document(s):

**PLAINTIFF'S *EX PARTE* MOTION FOR ORDER AUTHORIZING SERVICE BY  
CERTIFIED MAIL; DECLARATION OF COUNSEL NUNC PRO TUNC; EXHIBITS  
"A" – "J"; ORDER AUTHORIZING SERVICE BY CERTIFIED MAIL; CERTIFICATE  
OF SERVICE**

were duly served upon the following by mailing a copy of same via U.S. Postal Service, postage  
prepaid at the U.S. Post Office in Hilo, Hawaii on this 15 day of May, 2018, to:

Leonard G. Horowitz  
5348 Vegas Dr. #353  
Las Vegas, NV 89108

  
\_\_\_\_\_  
PAUL J. SULLA

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of June, 2018, I served a true and correct copy of the foregoing **"MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS"** pursuant to CIV. NO. 16-1-1442-07 VLC and NO. 3CC17-1000407, by the method described below to:

PAUL J. SULLA, JR  
Attorney at Law  
106 Kamehameha Avenue, Ste. 2A  
Hilo, HI 96720  
808-933-3600  
[psulla@aloha.net](mailto:psulla@aloha.net)

  X   U.S. Mail

Attorney for JASON HESTER; PAUL J. SULLA, JR., ATTORNEY AT LAW A LAW CORPORATION; and OVERSEER THE OFFICE OF OVERSEER, A CORPORATE SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS.

CIRCUIT COURT OF THE FIRST CIRCUIT,  
HONOLULU DIVISION, STATE OF HAWAII  
Attn: Clerk of the Court for the  
Honorable Virginia L. Crandall  
Ka'ahumanu Hale - 1st Circuit Court  
777 Punchbowl St, Honolulu, HI 96813

  X   U.S. Mail

CIRCUIT COURT OF THE THIRD CIRCUIT,  
STATE OF HAWAII  
The Honorable Judge Henry T. Nakamoto  
Hale Kaulike  
777 Kilauea Avenue  
Hilo, Hawai'i 96720-4212

  X   U.S. Mail

  
LEONARD G. HOROWITZ  
Defendant, pro se

*Hester v. Horowitz*, CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); **MOTION TO QUASH SERVICE OF PROCESS AND DISMISS FOR FAILURE TO COMPLY WITH COURT ORDERS, RULES AND LAWS.**

**NOTICE OF SIMULTANEOUS SERVICE IN THE  
FIRST AND THIRD CIRCUIT COURTS**

I HEREBY CERTIFY that on this 16th day of June, 2018, I served a true and correct copy of the foregoing **"MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS NOT IN COMPLIANCE WITH COURT ORDERS, RULES, AND LAWS;"** pursuant to CIV. NO. 16-1-1442-07 VLC and NO. 3CC17-1000407, by the method described below to:

PAUL J. SULLA, JR  
Attorney at Law  
106 Kamehameha Avenue, Ste. 2A  
Hilo, HI 96720  
808-933-3600  
[psulla@aloha.net](mailto:psulla@aloha.net)

\_\_\_X\_\_\_ U.S. Mail


Attorney for JASON HESTER; PAUL J. SULLA, JR., ATTORNEY AT LAW A LAW CORPORATION; and OVERSEER THE OFFICE OF OVERSEER, A CORPORATE SOLE AND HIS SUCCESSORS, OVER/FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS.

CIRCUIT COURT OF THE FIRST CIRCUIT,  
HONOLULU DIVISION, STATE OF HAWAII  
Attn: Clerk of the Court for the  
Honorable Virginia L. Crandall  
Ka'ahumanu Hale - 1st Circuit Court  
777 Punchbowl St, Honolulu, HI 96813

\_\_\_X\_\_\_ U.S. Mail

CIRCUIT COURT OF THE THIRD CIRCUIT,  
STATE OF HAWAII  
The Honorable Judge Henry T. Nakamoto  
Hale Kaulike  
777 Kilauea Avenue  
Hilo, Hawai'i 96720-4212

\_\_\_X\_\_\_ U.S. Mail

  
LEONARD G. HOROWITZ  
Defendant, pro se

*Hester v. Horowitz*, CIV. NO. 16-1-1442-07 VLC (Related case: CIV. NO. 3CC171000407); **MOTION TO EXTEND RULING REQUIRING PROPER SERVICE AND QUASH SERVICE OF PROCESS ..."**