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IN THE INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAI'I

ICA No. CAAP-18-0000584

JASON HESTER, an individual Complainant-Appelleee vs. LEONARD G. HOROWITZ, an individual Defendant-Counterclaimant-Appellant	) Civ. No. 05-1-0196) THIRD CIRCUIT COURT) Appeal of Fifth Amended) Final Judgment) **) DEFENDANT/COUNTERCLAIMAINTS** **) –APPELLANTS STATEMENT OF** **) JURISDICTION [HRAP Rules 12.1]** **)** **) EXHIBITS "1" TO "10"** **) CERTIFICATE OF SERVICE.**

STATEMENT OF JURISDICTION

COMES NOW Defendant/Counterclaimant-Appellant LEONARD GEORGE HOROWITZ, hereafter "Horowitz" or "Defendant-Appellant" by pro se pleading pursuant to the Hawai'i Rules of Appellate Procedure (HRAP) Rule 12.1 "Statement of Jurisdiction" contesting the June 22, 2018, Third Circuit Court's Findings of Fact, Conclusions of Law and Order Granting Petition's Motion for Judgment on the Pleadings,[1] and Final Judgment[2], by filing this Statement of Jurisdiction.

This appeal relates to the June 15, 2005, filed judicial foreclosure action by the original seller-mortgagee Plaintiff, CECIL LORAN LEE (hereafter, "Lee"), DENIED against Defendant-Appellant for *inter alia* misrepresentation and fraud in the sale of the subject "Property."

[1]Attached as **Exhibit 1**. Record on Appeal (ROA) Part 1, Doc. 063, p. 1429.
[2]Attached is the Final Judgement of July 26, 2018, as **Exhibit 2**, ROA Doc. 073, p. 1522.

I. THE PARTIES AND PERSONA

Defendant-Appellant **LEONARD G. HOROWITZ** was co-signer on the Note and Mortgage granted his ministry—The Royal Bloodline of David ("RBOD"). He and his organization made all of the monthly payments on the mortgage as well as the final balloon payment Ordered by Judge Ibarra in Civ. No. 05-1-0196.

Former Plaintiff **CECIL LORAN LEE** an individual (deceased) was the Seller and original Mortgagee of the subject property.

Complainant-Appellee **JASON HESTER, OVERSEER**, **THE OFFICE OF OVERSEER, A CORPORATE SOLE AND ITS SUCCESSOR, OVER AND FOR THE POPULAR ASSEMBLY OF REVITALIZE, A GOSPEL OF BELIEVERS ("GOB"**) is presumably Lee's successor-in-interest. The transfer occurred under attorney Paul J. Sulla, Jr.'s (hereafter, "Sulla") administration with Lee as the original Overseer and Jason Hester as the Successor Overseer of GOB. On May 15, 2009, Sulla administered Assignments of RBOD/Horowitz's Mortgage and Promissory Note to this not-yet-legally-formed non-profit, GOB. Later, on June 14, 2011, following Sulla's second bite at the foreclosure apple by non-judicial means, Sulla caused Hester to quitclaim GOB's interest in the Property and mortgage to himself, Jason Hester, as an individual. At the same time, Sulla secured and concealed a conflicting interest in the Property by having Hester sign a $50,000 Mortgage and Note secured by the true and correct deed and property description issued to RBOD/Horowitz. ROA Doc. 9, p. 149.

ATTORNEY PAUL J. SULLA Jr. made his appearance as counsel for Plaintiff Lee shortly before Lee's death in July of 2009, although no Notice of Appearance of Attorney Sulla was filed by Lee (or Sulla). Attorney Sulla thereafter represented "Substitute Plaintiff" Hester. On September 9, 2016 Sulla directed Hester to assign his interests in the Property to Sulla's HHLLC shell company, claiming a sale for value. (**Exhibit 3**; ROA Doc. 9, p. 148 and ROA Doc. 30; p. 662) This Sulla/HHLLC entity is documented in **Exhibit 4**. Sulla's warranty deed includes a false land description to "Remnant A" dividing the lots discovered by County of Hawaii ("CoH") Tax Dept. officials. (See: **Exhibit 3**, "Parcel Second" land description. ROA Doc. 43; p. 635.) This access roadway was conveyed by the CoH to RBOD/Horowitz exclusively as shown in **Exhibit 5.** This Property was never foreclosed. The true and correct land description shown in Exhibit 5 was misappropriated by Sulla to falsify and expand his non-judicial foreclosure claimed acquisition. This

hoax is evidenced in Petitioner's Petition. ROA, Doc. 2, p. 49. The CoH's discovery of this discrepancy—Sulla's alleged forgery—resulted in ongoing Criminal Case #C18009739 (filed 4-5-18). This criminal action was made known to the lower court at hearing of June 1, 2018.[3] The CoH's discovery and Notice caused Sulla's warranty deed to the subject Property to be *voided* in mid February 2018 by government officials. This action left RBOD/Horowitz's Warranty Deed(s) the only valid securities proving ownership of the subject Property material to this Appeal and CAAP 16-0000163. (**Exhibit 6**)

That "0163" appeal was joined with the res case appeal CAAP 16-0000162 on July 26, 2018.[4] The earlier Order Denying the January 7, 2017 "Motion to Join Paul J. Sulla, Jr. and Halai Heights LLC as Parties" must be reconsidered in lieu of these facts and Rule 19(a). (**Exhibits 7 and 8**)

Material to reconsidering Sulla's and HHLLC's joinder in these intertwined appeals are **Exhibits 3 and 4.** Sulla registered HHLLC on February 1, 2016, just one week after Appellant's attorney, Margaret Wille, filed her Proposed Fifth Amended Final Judgment denying Lee's judicial foreclosure in Civ. No. 05-1-0196. Wille's filing was granted on March 4, 2016. (**Exhibit 5**)

That Fifth Amended Final Judgment not only denied foreclosure, and deprived Sulla and Hester/GOB of the Property, it made Hester a *judgment debtor* to RBOD/Horowitz. Sulla then quickly formed HHLLC one week later to transform Hester's lost interest into Sulla's unjust enrichment by administering the falsified warranty deed voided by the County. Sulla secured his interest in his voided conveyance by having Hester sign the aforementioned $50,000.00 mortgage recorded on June 14, 2011. These facts make Sulla, Hester, and HHLLC indispensable parties in the three intertwined appeals. (ROA Doc. 9, p. 151)

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[3] Hearing transcript of June 1, 2018, (**Exhibit 9**) shows Appellant Horowitz informed Judge Nakamoto:

> "[Sulla's] contention that Mr. Hester owns anything, is false because of the warranty deed that was determined recently by the County of Hawaii to have been a forgery. And so as of 24 hours ago, I was alerted by the police as a victim of crime and I am covered thereby under the Hawaii Victim's Protection Act. And that I understand that both the County as wqell as I am considered by the police as victims.
>
> "I understand that Mr. Sulla was contacted by the police, he refused to give a statement which may amount to an obstruction of justice on top of first degree felony, forgery, and second degree theft which is being brought under the Complaint. So in essence Mr. Sulla wants to engage this court in similar proceedings."

[4] Attached as **Exhibits 7 and 8**.

II. SUMMARY BACKGROUND

On July 26, 2016, Sulla filed this Complaint in the First Circuit Court in Civ. No. 16-1-1442-07 VLC, but never properly served Appellant Horowitz in accordance with Rule 4; and by Sulla's filing for Hester, Sulla defied Sulla's Disqualification Order of January 5, 2015, in *Hester v. Horowitz, et. al*., Civ. No. 14-1-0304 (hereafter, "DO"). (ROA Doc. 9, p. 166)

Meanwhile, the intertwined federal case CV 15 00186JMS-BMK was administratively stayed by Judge Seabright pending final determinations by this Appellate Court.

On January 11, 2017, Horowitz removed the original complaint to the United States District Court commencing CV17-00014LEK/KSC; filing his "Answer & Affirmative Defense" therein, including his objection to Sulla's improper service and insufficient process. (**Exhibit 10**).

A year later, on July 18, 2017, following remand, Judge Crandall denied "Hester'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." (ROA Doc. 55, p. 1324)

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 serve* Respondent in accordance with HRCP Rule 4. (ROA Doc. 55, p. 1324)

On December 13, 2017, Sulla filed the "Amended Petition" (Doc. 3), but again failed to comply with Rule 4 and the Crandall court's express instruction given July 18, 2017 and September 27, 2017. Rule 4(d) "Personal service" requirement was neglected. In addition, the Amended Petition was not served in compliance with Rule 4(a) either. No Summons by the Nakamoto 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." Sulla's improper service was never corrected.

In addition, the Amended Petition was not served in compliance with HRCP Rule 15(a)(1) either; because the time for amending "as a matter of course" had long expired. In addition, the Amended Petition was not served in compliance with HRCP Rule 15(a)(2), because no required leave was requested or granted. In addition, the Amended Petition was not served in Ramseyer format as required by Rule 15(a)(2).

On-or-about December 21, 2017, Horowitz received "Priority Mail" containing an *unstamped copy* of Sulla's "Amended Petition" sent to Horowitz's previous California address at 1458 ½ W. 220th Street, Torrance, CA 90501. This document was mailed by Attorney Sulla's subordinate, Demetri Lametti, on **November 27, 2017** from Hilo. That date is more than two weeks *before* Sulla refiled this case (on December 13, 2017). This partly explains why the document was not stamped. It appeared to Defendant that the document was labeled "Amended Petition" to confuse the Court and avoid recognition by the Court that the original Petition had yet to be properly served.

Following a series of questionable proceedings, at hearing scheduled by Sulla for 8:00 a.m. on April 6, 2018, Sulla neglected to appear. The Court addressed Horowitz at 8:00-02 a.m. by stating that the Court's administrators had already called Sulla to gain his missing appearance to no avail. The ROA hearing Minutes (**Exhibit 9**, ROA p. 1528), makes clear this impression of impropriety. How, after all, did the Court already know Sulla was absent or would not appear at 8:00-8:02 a.m.? The Court delayed Horowitz's case and further instruction for approximately 15 minutes; then addressed the Appellant at 8:19. Meanwhile, two other licensed attorneys known to the Respondent—Margaret Wille and Ivan van Leer—both made known to the Respondent that Sulla was, in fact, seen in the courthouse around that time. Later that afternoon, Sulla was seen again in the courthouse, and filmed.

At the April 6, 2018 hearing, the lower court ruled (quoting the Minutes in Exhibit 1), "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 served nothing in that time.

On April 20, 2018, Appellant Horowitz filed a Motion for Sanctions in accordance with HRCP Rule 5(b)(3), giving Sulla 21 days notice from that date of service for Sulla to withdraw or correct his false filings, as per HRCP Rule 11(c)(1)(A). Sulla neglected this too. (ROA in entirety.)

On April 26, 2018, Sulla defied the Court's April 6, 2018 oral ruling and Minute Order, by filing an untimely "Amended Summons to Answer Civil Complaint". (Doc. 24)

On May 14, 2018, not having been served any pleading, the out of state Respondent learned about the April 26th filing from the Hoohiki Record and a call to the Clerk of the Court.

The next day, on May 15, 2018, Sulla filed "Plaintiff's Ex Parte Motion for Order Authorizing Service by Certified Mail" with "Declaration of Counsel Nunc Pro Tunc" and "Order Authorizing Service by Certified Mail."

Also on May 15, 2018, Sulla filed "Plaintiff's Ex Parte Motion for First Extension of Time to Serve Complaint; Declaration of Counsel;" and "[Proposed] Order Granting Plaintiff's Motion for First Extension of Time to Serve Complaint."

On May 17, 2018 the Clerk of the Court received the Respondent's dispositive "Stipulation for Involuntary Dismissal" filed in accordance with HRCP Rule 41(B)(1) and (D). This filing was stamped by a clerk, delivered to the Court's chamber, but not recorded in the Hoohiki Record until May 21, 2018. The next day, however (i.e., May 18th), the Court signed and filed Sulla's "Order Granting Plaintiff's Motion for First Extension of Time to Serve Complaint" and "Order Authorizing Service by Certified Mail."

On May 22, 2018, the Respondent recorded one Court clerk stating that Judge Nakamoto was "on vacation" during that week of May 14 thru 18, and not available to sign anything, which was not true. Nakamoto expedited Sulla's "ex parte" motions and neglected Horowitz's.

On May 25, 2018, Horowitz mailed to the court, "Respondent's Motion to Set Aside Extension of Time to Serve the Petition . . . And Dismissing Case Without Prejudice Pending Final Determinations in Related Cases [before this Appellate Court]." That filing was denied. The Appellant also requested and was denied the "[c]osts of previously-dismissed action" pursuant to HRCP Rule 41(d). Two "action[s] based upon or including the same claim against the same defendant," that the Honorable Judge Virginia Crandall dismissed for improper service in CIV. NO. 16-1-1442-07 VLC, went uncompensated.

II. JURISDICTIONAL STATEMENT REQUIREMENTS

HRAP Rule 12.1(a) "Statement of Jurisdiction" provides: "Within 10 days after the record on appeal is filed each appellant and cross-appellant shall file a statement of jurisdiction. Any appellee contesting jurisdiction may file a statement contesting jurisdiction within the same period." To date, the Record on Appeal ("ROA") transfer has not been completed. The September 18, 2017 transfer omits Appellant's Answer, Affirmative Defense and Counterclaims neglecing HRCP Rule 7(a) "There shall be a complaint and an answer." Nonetheless, this Jurisdictional Statement is filed on October 6, 2016 in protest.

III. APPELLATE JURISDICTION

HRS § 602-57 "Jurisdiction" provides in relevant part: "Notwithstanding any other law to the

contrary, the intermediate appellate court shall have jurisdiction . . . (1) To hear and determine appeals from any court or agency when appeals are allowed by law[.]". Pursuant to HRS § 641-1 and HRAP Rule 4(a)(1) this Appeal was timely filed. Final Judgment was entered on July 26, 2018 and the Notice of Appeal and Civil Docketing Statement was filed July 24, 2018.

IV. HOW EACH CLAIM AND COUNTERCLAIM WAS DETERMINED

The Claims were concluded as follows as recorded in Exhibit 2, ROA, Doc. No. 73, p. 1522:

1. As to Plaintiff-Appellee's claim for expungement: Judgment was ordered in favor of "Hester."
2. The court granted Plaintiff-Appellee's claim that "AFFIDAVIT OF FIRST LIEN OF $7,500,000.00" on the subject Property recorded "on or about October 6, 2013 be expunged, stricken as an encumbrance on the Prperty, *nunc pro tunc*."
3. The Court granted Plaintiff-Appellee's claim "Affidavit of Leonard G. Horowitz" (Lis Pendens) recorded June 6, 2016, as Document No. A-60010681 be expunged, striken as an encumbrance, *nunc pro tunc*.
4. The Court ruled that the "AFFIDAVIT OF FIRST LIEN OF $7,500,000.00" on the subject Property recorded "on or about October 6, 2013 was "frivolous."
5. The Court also ruled that the "Affidavit of Leonard G. Horowitz" (Lis Pendens) recorded June 6, 2016, was also "frivolous."
6. The Court granted expungement, *nunc pro tunc*, of "any and all documents which are recorded in the Bureau of Conveyances by Respondent subsequent to the filing of the subject Petition.
7. Appellee's claim that the Appellant's aforementioned filings were "frivolous" entitling the Appellee to an award of $10,000 ($5,000 for each alleged violation), was granted pursuant to HRS 507D-7.
8. Appellee's claim that the "frivolous" finding entitled the Appellee to fees and costs of $24,999.74, was granted. Total award granted was $34,999.74.
9. Appellee's prayer that the Appellant be enjoined from filing anything for a period of five years pursuant to HRS 507D-7(b) was granted.
10. Appellee's prayer for Summary Judgment in favor of all the above was granted.

Appellant's Counterclaims were entirely neglected. They have not yet appeared in the Record on Appeal. The Appellant's Answer and Affirmative Defense filed January 11, 2017 is missing from the Record. So the aforementioned summary judgment effectively consummating Sulla's Property theft scheme reflects outrageous bias upon the lower court, its prejudice and

violated due process. "[W]e must ask whether the state trial judge's behavior rendered the trial so fundamentally unfair as to violate federal due process under the United States Constitution." ***Duckett v. Godinez,* 67 F. 3d 734 – Court of Appeals, 9th Circuit 1995 citing** *Gayle v. Scully,* 779 F.2d 802, 806 (2d Cir.1985), *cert. denied,* 479 U.S. 838, 107 S.Ct. 139, 93 L.Ed.2d 82 (1986); *McBee v. Grant,* 763 F.2d 811, 818 (6th Cir.1985)." This level of documented unfairness evidences a railroading. Summary judgment in the absence of Appellant's Answer, Affirmative Defense, and multiple Counterclaims evidences prejudice and neglect of HRCP Rule 7(a). As stated, "There shall be a complaint and an answer." The lower court proceeded without reading Horowitz's Answer vicariously implying Horowitz's Property interests and this Appellate Court's ongoing proceedings are "frivolous"—meaningless and moot.

VI. LACK OF JURISDICTION OVER APPELLANT HOROWITZ

The lower court proceeded to summary judgment without having valid jurisdiction over Horowitz, violating the Appellant's Rule 4 due process rights affecting his real Property rights.

V. THE COURT OFFICERS' EX PARTE *NUNC PRO TUNC* SCHEME VIOLATED RULES OF CIVIL PROCEDURE AND APPELLANT'S RIGHTS

The court's "*nunc pro tunc*" Amended Order Authorizing Service by Mail (stamped and filed by the court on June 8, 2018 purportedly retroactive to 2016 (ROA Doc. 59, p. 1496) mocks due process. Contrary to this Order, the Plaintiff did not file the Active (Amended) Complaint on the retroactive date of July 26, 2016—that is, the "Amended Complaint and Amended Summons" has been imposed injudiciously. (That is, Sulla filed the *initial Complaint* on that date, not the active 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). Thus, not having properly served a court-authorized amended complaint; and not abiding by several rules of civil procedure, the court's exercise of jurisdiction over the Defendant and summary judgment favoring Sulla was clearly erroneous.

Nakamoto was authorized by RCCH Rule 28 to dismiss this case *sua sponte* as Horowitz had repeatedly requested. Sulla could have and should have administered "diligent effort to effect service" in accordance with Rule 4 following Judge Crandall's admonishment and transfer of this case to the Third Circuit Court. Sulla had more than a

year to cure his failure to properly serve the Complaint. This Appeal raises the question whether Sulla showed "diligence" in administering service.

"[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.). Nakamoto thrice subverted this doctrine and: (1) Sulla's Disqualification from representing Hester ordered by Judge Puglisi in the 0304 action; (2) Sulla's Rule 4 personal service requirement ordered by Judge Crandall; and (3) Nakamoto's own ruling and Order of April 6, 2018 giving Sulla 7-days to personally serve Horowitz who could have been served in court that day had Sulla appeared and acted "diligently." ROA Doc. 55, p. 1338.

The aforementioned violations of rules and court orders materially prejudiced the Appellant. The Findings of Fact (Exhibit 1; Doc. 63; p. 1429) and summary judgment (Exhibit 2; Doc 73, p. 1522) conceals indispensable party Sulla. It also conceals the aforementioned procedural violations, including the lacking jurisdiction over Horowitz. The proceedings were not in compliance with HRCP Rule 4, the "diligence" requirement of RCCH Rule 28, and the attorney-surety candor requirement of RCCH Rule 26(b). Nakamoto disposed of Horowitz's deprived counterclaims in a manner inconsistent with due process of law. "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.

The Court's discriminatory animus is evidenced by the *ex parte* and *nunc pro tunc* permits in which jurisdiction was allegedly acquired by the court. The Order of June 8, 2018 imposed jurisdiction where there was none. The Order did not even identify the active Complaint. The retroactive *nunc pro tunc* Amended Order neither referenced the Complaint or Amended Complaint. The active Complaint required validation by leave of the court in accordance with HRCP Rule 15(a)(2). Nakamoto's June 8th Order neglected this and Canon Rule 1.2 precluding partiality and impropriety. The set of final disposition filings granted by the lower court gives the "impression" of hoodwinking and railroading Horowitz into a $35,000 judgment debt and million-dollar Property heist.

"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 [active] complaint pursuant to HRCP Rule 4(d)." *LEDCOR-US PACIFIC CONSTRUCTION LLC v. Joslin*, Haw: Intermediate Court of Appeals 2014. 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.

V. LACK OF STANDING OF APPELLEE HESTER

The issue of standing of "Substitute Plaintiff" Appellee Jason Hester is also raised in this appeal as in the two pending appeals in which this appeal too should be joined. Should Hester have been *presumed* to hold valid interests in the Property? The falsity of that presumption is evidenced in the Record on Appeal. ROA Doc. 9, pp. 149-152. Expert document examiner Beth Chrisman's Declaration discredits "Hester's" Articles of Incorporation that contains altered signatures and page numbers wired to the State's registry by Sulla, supporting the Appellant's charge of racketeering. ROA Doc 9, p. 152. This fact compounds evidence of Sulla's alleged pattern and practice of forging documents to commit fraud and Property theft discovered by County of Hawaii officials who dutifully invalidated Hester's warranty deed (and purported sale of the Property) to Sulla's HHLLC, and triggered the ongoing Criminal Case. (ROA, Hearing transcript of June 1, 2018) If Hester really had valid standing and interests in the Property, there would be no need for Sulla to have concealed his conflicting interests in the Property violating his ethics rules. ROA Doc. 9, p. 151. If Hester had standing, and Sulla had nothing to hide, Sulla could have and should have simply joined himself as a party, or candidly as attorney surety requested leave to file the Complaint in accordance with RCCH Rule 26(b). ROA Doc. 9, p. 156; 157. At this point the Court must ask: Does Substitute Plaintiff Hester have standing?

Standing, as a matter of jurisdiction, may be raised at any time including on appeal. *See e.g. Mortgage Electronic Registration Systems, Inc. v Wise* 130 Haw 11, 17, 304 P.3d 1192, 1198 (2013)("A lack of standing could have been raised at any time.") *See also Kaho'ohanohano v. State*, 114 Haw. 302, 324, 162 P.3d 696, 718 (2007) ("…standing is a jurisdictional issue that may be addressed at any stage of a case. . . .") (citations omitted)

"[Standing] is the doctrine that a plaintiff must assert its own legal rights and may not assert the legal rights of others." *In re Veal*, 450 BR 897 – Bankr. Appellate Panel (9th Cir. 2011). Standing is a requirement of the plaintiff, and not of a defendant defending against the claims raised by the plaintiff. In a foreclosure case the plaintiff must have sufficient interest in the mortgage to have suffered an injury from the default, and must prove the right to assert another's property interest. *Deutsche Bank v. Williams* 2112 WL1081174 (Civil No. 11-00632 (D. Haw. March 29, 2012) (not reported in F. Supp. 2d). Pursuant to HRCP Rule 17 "Every action shall be prosecuted in the name of the real party in interest." Ordinarily, in the event of death, the "proper party" is the decedent's court appointed personal representative. *Roxas v. Marcos,* 89 Haw. 91, 117-122, 969 P.2d 1209, 1135-1240 (1998). Hester is not so situated. He is not a 'proper party' for substitution pursuant to HRCP Rule 25(a)(1).

VII. CONCLUSION

Based on the current, albeit deficient, Record on Appeal, the lower court had no jurisdiction to proceed. Nakamoto's orders rubber-stamped Findings of Fact filed by Sulla. The Final Judgment blatantly defies the court's duty, oath, Canons Rule 1.2, and the rules of civil procedure prejudicing the Appellant and giving the "impression of impropriety." The court's actions have aided-and-abetted by willful blindness Sulla's pattern and practice forgery and fraud for real Property theft. Simply raising the threshold issues of jurisdiction and Hester's standing, this case exemplifies "sham litigation." This reckless railroading of Horowitz favors widely known "DMT drug kingpin" Sulla. (ROA Doc. 9. p. 151) His indemnity by "qualified immunity" taints the reputability and legitimacy of Hawaii courts that favor him. The lower court has aided-and-abetted by willful blindness Sulla felonies and Horowitz's damages.

At minimum, this appeal should be joined with CAAP 16-0000162 and 163, and Sulla and HHLLC must be joined as real-party Plaintiffs. More challenging, the lower court's blatant disregard of these ongoing appeals compounded by ruling Horowitz's *lis pendens* is "frivolous" extends that ridiculous disparagement to this honorable Appellate Court's proceedings.

Dated: Honolulu, HI, October 5, 2018

Leonard George Horowitz,
Defendant-Appellant, pro se