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**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 (Petition to Expunge Lis Pendens)
v.)	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)]
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.

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,¹ 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

¹ 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.²

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**

...

² 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),³ 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

³ **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 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 HRCP 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 foreclosure 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

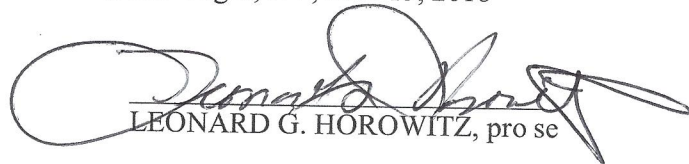
2017, granting dismissal of the Complaint without prejudice to secure jurisdiction by proper service in accordance with Rule 4. The time for compliance with these rules and laws have passed.

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 HRCPC 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.**

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**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 (Petition to Expunge Lis Pendens)
v.)	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
LEONARD G. HOROWITZ, an Individual; Respondent)	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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1

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

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

-----PAGE

2

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.	A5398
Conf. Code	N	Division	3C02	Court	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 [HRCF 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.	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 . 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

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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Create Label

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®](#)

[Ship Again](#)

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

1 of 1

6/14/18, 2:53 PM

Date: June 14, 2018

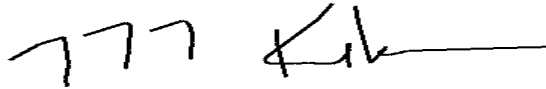
Sherri Kane:

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

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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 & 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 3rd 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

 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
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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 ..."**