

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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U.S. COURT OF APPEALS

OCT 15 2012

C. Kauai Jochanan Amsterdam

9th Cir. Case No.

FILED _____
DOCKETED _____
DATE INITIAL

I 2-I5672

Appellant,

Originating Court Case No. CV. NO. IO-00525
DAE-BMK

vs.

Office of Hawaiian Affairs et al

Appellee(s).

APPELLANT'S INFORMAL BRIEF
(attach additional sheets as necessary)

1. Jurisdiction

a. Timeliness of Appeal:

- (i) Date of entry of judgment or order of originating court: 2/27/2012
- (ii) Date of service of any motion made after judgment (other than for fees and costs): 3/23/2012
- (iii) Date of entry of order deciding motion: 4/11/2012
- (iv) Date notice of appeal filed: 3/28/2012
- (v) For prisoners, date you gave notice of appeal to prison authorities: _____

2. What are the facts of your case?

1 The Appellant is a descendant of a full-blooded Native Hawaiian, Alii line (see Exhibit A) and Beneficiary of the Native Hawaiian Trust Fund established by the Hawaii Admission Act of 1959.

2 The Appellant requested a reasonable amount of Trust Funds for transportation and accommodations to Washington DC to meet with Senators and Congressional Representatives to obtain support and resources to advance Native Hawaiian self-determination and governance with a model of Queen Liliuokalani's administration of 1893. (see Exhibit B). The Appellant also requested Hawaiian Elec. Funds

3 The Appellant's requests went unanswered.

4 About February of 2006, the Appellant not having received a response called and spoke with a representative of OHA who said that OHA's policy is not to provide funds for political action of such entities or in other words sovereignty entities.

4 The Appellee(s) not only refused to provide Trust Funds, but also refused to reply.

5 Such lack of funds has not helped the Appellant's previously described aims, has stymied such efforts and aims, and has contributed to weaken and damage the Appellant's organizational structure and those of other Native Hawaiians with similar aims and efforts and who have also been treated similarly by OHA.

6 The Appellee(s) is a Hawaii State political agency which looks out

for the interests of the State.

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7 The Akaka Bill and its' passage through Congress would maintain the State of Hawaii's jurisdiction, authority, and control over Native Hawaiians and whatever governing or associated established entity.

8 OHA, the Appellee(s), supports the Akaka Bill.

9 OHA has been using the Trust Fund to support the Akaka Bill and and Native Hawaiians and associated entities supporting the Akaka Bill.

10 OHA doesn't support and fund Native Hawaiians and associated entities not supporting the Akaka Bill and are sovereignty entities.

11 The Appellant advances an alternative entity to the Akaka Bill and, along with numerous other Native Hawaiians, doesn't receive funding from the Trust Fund from OHA. They don't support State control.

12 The Appellant, also representing the efforts and aims of many other Native Hawaiians and serving as Prime Minister of the Interim Government of The Kingdom of Hawaii, which includes all major islands of Hawaii, which is comprised of 24 Representatives of the Representative Assembly and 24 Nobles of the House of Nobles with several Nobles being descendants of the original House of Nobles. of The Hawaiian Kingdom, which advances Native Hawaiian self-determination and governance in keeping with the stated purposes for which the Native Hawaiian Trust Fund is to be used as stated in the Admission Act of 1959, Pub. L. 86-3, 73 Stat. 4, represents more than himself and his cause, claims, and results are important and serious (See Exhibit C).

- I3 The Appellant is a Representative of a governing entity and Beneficiary of the Native Hawaiian Trust Fund with "special interest", beyond that of an ordinary Beneficiary or citizen and has a right to be treated as such and may sue to enforce a public charitable trust or, in other words, the Native Hawaiian Trust Fund (See Keaukaha II, 739 F. 2d at I492, Akaka I, 928F. 2d at 829, and Price v. Akaka I3 F. 3d I220, I222 (9th Cir. 1993), 42 U.S.C Sec. 1983. The Appellee(s) overlook and dismiss such a right and treat the Appellant and what he is doing without such rightful regard as demonstrated in Amsterdam v. Apoliona, et al., CV no. IO-00525 DAE BMK; Order: Granting Defendants' Motion for Judgement on the Pleadings, 2/27/2012, Pages 15, 17, 18.
- I4 The Appellee(s) and as seen in the Court's order has treated and characterized the Appellant as an inconsequential individual, whose actions, cause, and claims are frivolous and with a ridiculous impact or result as seen in Amsterdam v. Apoliana et al., CV no. IO-00525 DAE BMK; Order: Granting Defendants' Motion for Judgement on the Pleadings, 2/27/2012, pages 15, 17, 18.
- I5 The Appellant has endeavored to contact and speak with the Appellee(s) and their Counsel during this case many times as seen in the enclosed communication (See Exhibit D) of 8/07/2012. This was done with the Spirit of Aloha in order to resolve this matter and case out of Court. The Appellee(s) and such refused to communicate with the Appellant and he was unsuccessful in his endeavors. Such dismissive actions by the Appellee(s) has been characteristic of their behavior and demonstrated before and during this case.
- I6 The Appellant and Native Hawaiians not supporting the Akaka Bill and State control of a Native Hawaiian governing entity and have an alternative model of a governing entity to the Akaka Bill represent or are of such a particular classification, category, or group. They don't get funds from The Native Hawaiian Trust Fund to advance their model or particularly the Appellant's model.
- I7 The Appellant has been the object of such treatment, rejection, and dismissal and consequently filed a complaint against the Appellee(s) with claims of having been subjected to violations of First Amendment Rights of Free Speech, Fourteenth Amendment Rights

of Equal Protection, and Breach of Trust of the Fiduciary Responsibility of the Office of Hawaiian Affairs, the Appellee(s). Such action was originated IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII. With God's help and determining that the Judge in the District Court overlooked and did not sufficiently assess and rule on the case, the Appellant appealed the case to the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT for Justice in this very important matter.

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3. What did you ask the originating court to do (for example, award damages, give injunctive relief, etc.)?

As a Beneficiary with special interest the Appellant asked the originating court to award the Plaintiff (Appellant) with the original request made to the Defendants or, in other words, to order the Defendants to do so. The award was reasonable funds for transportation and accommodations to Washington DC in order to advance Native Hawaiian self-determination and governance by meeting, visiting, and speaking with Senators and Representatives of Congress and illicit their understanding, support, and resources to fulfill this important aim. Likewise, funds were requested to advance elections within our Hawaiian community to elect Hawaiian leaders to also achieve the aim.

4. State the claim or claims you raised at the originating court.

The Appellant's claims basically are presented in Section. The Appellee(s) arbitrarily chose a model of governance to impose on Native Hawaiians without their having chosen it. This model is presented in the Akaka Bill and maintains State control over the governing entity and Native Hawaiians. Hawaiians supporting the Akaka Bill/ OHA model received funds, but non-supporting sovereignty activists/ entities were categorized, dismissed, and not given funds. Meanwhile, OHA also kept its control over Native Hawaiians. Accordingly, the Appellant claimed such treatment to be discriminatory in violation of the First and Fourteenth Amendments of the US Constitution.

5. What issues are you raising on appeal? What do you think the originating court did wrong?

The Appellant is raising the issue of discrimination as claimed in Section 4 of the Appeal. The originating court overlooked and wrongfully dismissed the seriousness of the case's claim as exemplified in the Judge telling the Plaintiff as presented on the transcript if he didn't like what OHA did, he should run for OHA office. It would be like a Judge telling Rosa Parks if she didn't like sitting in the back of the bus, she should buy the bus company. The Judge's action condoned the discriminatory action of a Hawaii State Agency against the Appellant and other categorized Native Hawaiians.

the Appellee(s) went beyond good reasoning and discernment in their treatment and dismissal of the Appellant who requests the Court's help for Justice to award his initial request by reversing

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the original court's decision.

6. Did you present all issues listed in #5 to the originating court?

Yes _____ If not, why not?

Yes/No

Although the issue(s) was presented to the originating court, the Judge had already determined his outlook and was not interested in what the Plaintiff had to say. He used what the field of Education calls "a self-fulfilling prophecy". Accordingly, while a necessary issue was presented, all issues were not sufficiently presented.

7. What law supports these issues on appeal?

(You may, but need not, refer to cases and statutes.)

The Appellant presents that the Equal Protection Clause of the Fourteenth Amendment supports these issues on appeal. The Appellee(s) intentionally and arbitrarily discriminated against the Appellant by intentionally and arbitrarily choosing a governing model as presented by the Akaka Bill and imposing it on Hawaiians without they're having chosen it. While OHA is suppose to encourage Hawaiian self-determination, the Appellee(s) instead prevent such action and impose their OHA-determination. Applicable cases on point include Vill. of Willowbrook v. Olech, 528 U.S. 562, 564 (2000)(per curiam) quoting Sioux City Bridge Co. v. Dakota County, 260 U.S. 441, 445 (1923)); Martin v. Shawano-Gresham Sch. Dist., 295 F. 3d 701, 713-14 (7th Cir. 2002). The categorization of the Appellant and similar Hawaiians intentionally treating them differently without a rational relationship to their legitimate state purpose of self-determination and governance is discriminatory and violates the Equal Protection Clause as supported by cases on point and laws including the Civil Rights Act of 1964 (42 U.S.C.A. Section 2000d et seq.), or the provisions of any other Federal Statutes prohibiting discrimination by recipients of federal financial assistance, the law supporting civil unions in Hawaii, the Age Discrimination Act of 1975, High Tech Gays v. Def Indus. Sec. Clearance Office, 895 F. 2d 563, 570 (9th Cir. 1990) (citing City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 439(1985)

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8. Do you have any other cases pending in this court?
If so, give the name and docket number of each case.

No

9. Have you filed any previous cases which have been decided by this court?
If so, give the name and docket number of each case.

No

10. For prisoners, did you exhaust all administrative remedies for each claim
prior to filing your complaint in the district court?

C. Kaui Jochanan Amsterdam

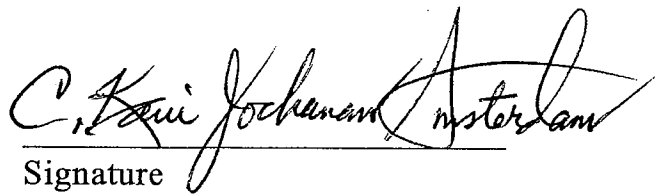
Name

I415 Pensacola St., # I2
Honolulu, Hawaii 96822

Address

10/09/2012

Date



Signature

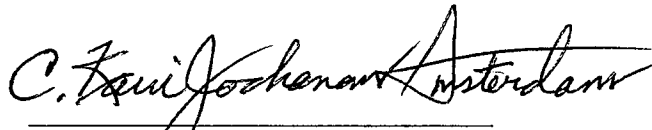
Pro Se Appellant

CERTIFICATE OF SERVICE

Case Name: C. Kauai Jochanan v. Office of Hawaiian Affairs et al
Amsterdam
9th Cir. Case No.: I2-I5672

IMPORTANT: You must send a copy of ALL documents filed with the Court and any attachments to counsel for ALL parties in this case. You must attach a copy of the certificate of service to each of the copies and the original you file with the Court. Please fill in the title of the document you are filing. Please list the names and addresses of the parties who were sent a copy of your document and the dates on which they were served. Be sure to sign the statement below.

I certify that a copy of the C. Kauai Jochanan Amsterdam v. The Office of Hawaiian
(title of document you are filing) Affairs et al;I2-I5672
and any attachments was served, either in person or by mail, on the persons listed below.



Signature

Notary NOT required

<u>Name</u>	<u>Address</u>	<u>Date Served</u>
Robert G. Klein Attorney for OHA	Five Waterfront Plaza, 4th Floor 500 Ala Moana Blvd. Honolulu, Hawaii 96813	10/09/2012

APPENDIX

- I Exhibit A: Full-Blooded Alii Native Hawaiian/ Kanaka Maoli Mother and Mom of the Appellant. Birth Certificates available.
- 2 Exhibit B Request from OHA for Travel and Elections for Self-Determination and Governance
- 3 Exhibit C Officers of The Interim Government of The Kingdom of Hawaii
- 4 Exhibit D Demonstration of Dismissal Attitude and Actions

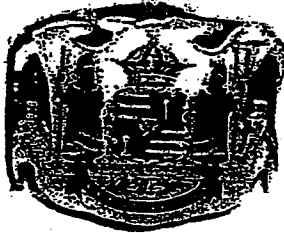
Exhibit A





MOTHER HILARIA LUUKIA (MOTHER)

Exhibit B



THE KINGDOM of HAWAII

Office of Hawaiian Affairs
Colette Y. Machado
Chairperson
711 Kapiolani Blvd., # I250
Honolulu, Hawaii 96813

C. Kauai Jochanan Amsterdam
1415 Pensacola St., # I2
Honolulu, Hawaii 96822
2/14/11

Dear Chairperson Colette Y. Machado:

Aloha. I am communicating with the Office of Hawaiian Affairs to request funding in order to travel to Washington D.C. in order to speak with Congressional Representatives of the Congress of the United States to inform them about our efforts to advance self-determination and The Kingdom of Hawaii. I go as an official of The Interim Government of the Kingdom of Hawaii and particularly being a Native Hawaii or Kanaka Maoli and a beneficiary, who the Office of Hawaiian Affairs is reported to serve. Funds are requested for transportation and accommodations for one week.

Much work and previous service has been rendered. Likewise, a request for funding previously was requested to Clyde Namu'o, Chief Executive Officer, but without success.

Mahalo for your assistance in this matter.

Mahalo and Aloha,
C. Kauai Jochanan Amsterdam
C. Kauai Jochanan Amsterdam
Kanaka Maoli
Prime Minister
The Interim Government of
The Kingdom of Hawaii

Exhibit B



THE KINGDOM of HAWAII

Clyde Namua
Office of Hawaiian Affairs
711 Kapiolani Blvd., Suite 1250
Honolulu, Hawaii 96813

Kaui Jochanan Amsterdam
The Interim Government of
The Kingdom of Hawaii
1415 Pensacola St., # 12
Honolulu, Hawaii 96822

Dear Clyde Namua:

Aloha Nui Loa. May we express Seasons Greetings at this Holiday period.

We, the Kanaka Maoli of the Hawaiian community and The Interim Government of the Kingdom of Hawaii, have great concern and are anxiously advancing the condition, the educational process, and self-determination and government of our People and Nation.

Accordingly, we humbly request approximately \$ 150,000.00 for January Elections for our Hawaiian government, education, self-determination, and advancement of our Hawaiian Government. Inasmuch as OHA has access to Ceded Lands Revenues for our Hawaiian Community and such entitlement, we necessarily request this important allocation of funds as soon as possible.

Awaiting your response, consideration, and coordination.

Respectfully Submitted and Happy Holidays,

Kaui Jochanan Amsterdam
Prime Minister
The Interim Government of
The Kingdom of Hawaii

Wyatt Waro
Deputy Minister
Ministry of the Interior
The Interim Government of
The Kingdom of Hawaii

Exhibit c

*The Declaration of Restoration, Activation, Advancement,
And Independence of the Kingdom or
Nation of Hawaii*

By virtue of the natural, historical, inalienable, human, and moral rights and of the Law of Nations pertaining to the Native Hawaiian or Kanaka Maoli People, of resolutions of the Kanaka Maoli People and associated entities, recognitions and acceptance of other entities such as apologies by officials of the United States and foreign nations as at the Hague, Netherland, and declaration by a Hawaiian Head of State, Queen Liliuokalani, to reinstate her as Queen with Nationhood a presumption, we hereby proclaim the restoration, activation, and advancement of the Hawaiian Kingdom.

We the undersigned do so before each other and our Lord God of miracles, Tuesday, April 10, 2001.

Delegates of the Seventh Restorationist Conference and advancing our Intertim Government of our Hawaiian Kingdom, which advances forthwith with our actions and the miraculous power and Grace of our Lord God.

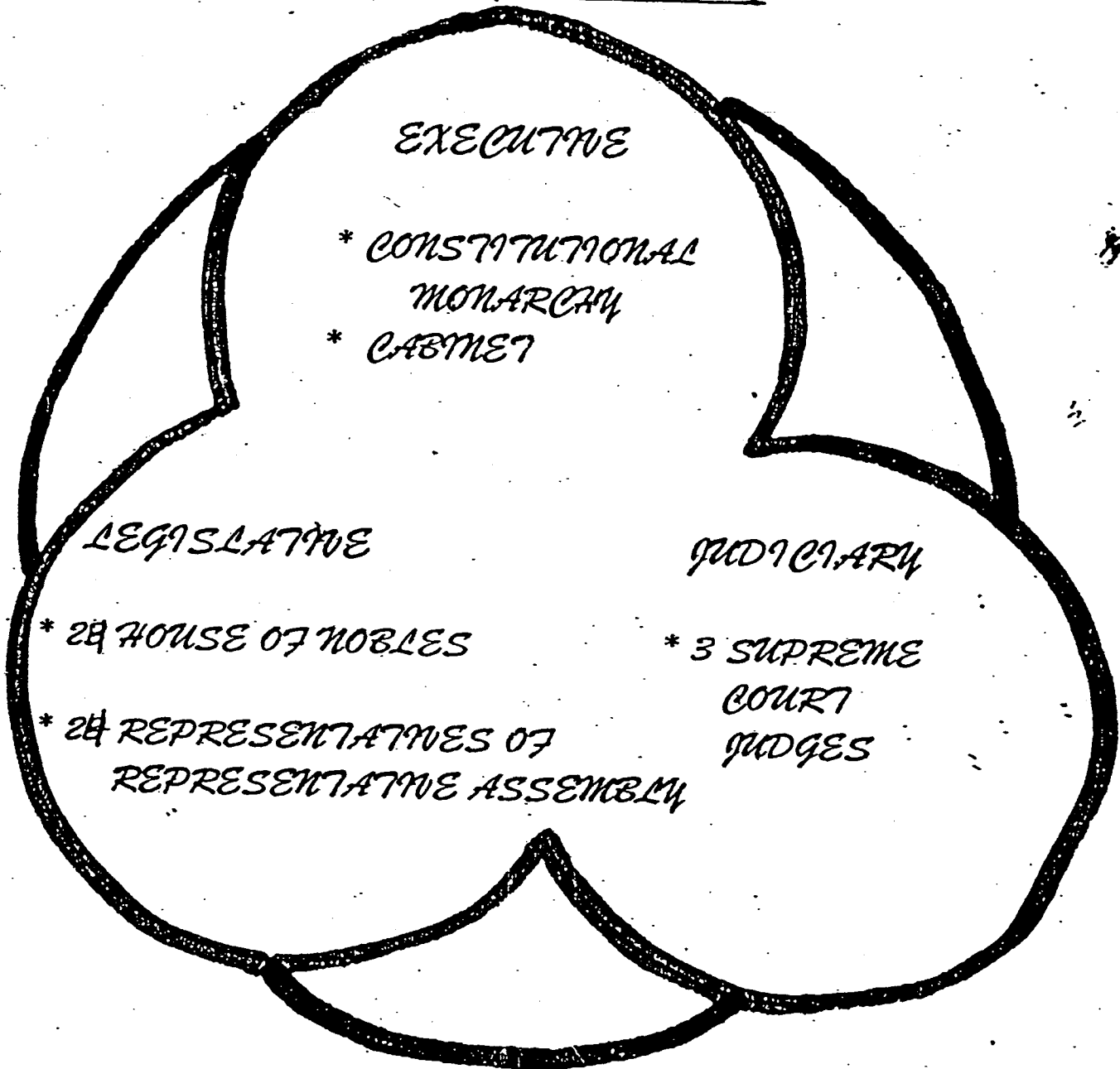
Thomas A. Kekaula	Josephine Liliuokalani
Keanu Boone	Mary O'Brien
Kaui Jochanan Amsterdam	Maria Victoria Kamamalu Moku
Roland Ahi	E.W.K. Wilson Ohana
Puhimaka	Princess Thea Owana Kachelalani
	Laanui Wilson Ohana
	<i>(Signature)</i>

Declaration Continued

Katherine Blaisdell
William J. ...
Louise K. ...
Annifred Asing
Matt P. ...
Joseph K. Walker
Dyara Mealego
Rose Atkinson
Fairy Lopez
Stephan Molina
Nancy ...
H. P. ...
Marie ...
Josephine K. Kelikipi
Mother: Joseph K. de ...
Kalena M. ...
Laura ...
Huan ...
Glenn Kakaola
Kya R. ...

M. Gya Wajpa
CHARLES E. WREN
Pijo ...
Juan ...
Philip ...
Jul ...
Janet ...
George ...
Kun ...
Muhelani ...
Benito ...
Jana H. ...
Clarence K. ...
Samantha J. Hoapili
MR + MRS. Tenmonen
Matth ...
Jilli ...
Carbari ...
Robert K. ...
Kawari & Kau ...

THE HAWAIIAN KINGDOM
INTERIM GOVERNMENT



Note: The legislative Branch is comprised of the Representative Assembly (Hawaiian Representatives having been elected to and serving on Neighborhood Boards, District Councils, OHA, and Ha Ha-Waii) and The House of Nobles (Hawaiian Nobles who are descendents of former Nobles of the House of Nobles, Royal Societies, and Alii/ Chiefs)

THE INTERIM GOVERNMENT

THE REPRESENTATIVE ASSEMBLY

Herein are the 24 Representatives of the Representative Assembly. They are presented in order of Districts.

President: Samuel Lyons Kealoha Vice President: Lani Bowman

The Legislative Branch

Hawaii

____ Joseph Kamaii Ha'o,
Dist. #1

____ Frank DeLuz III
Dist. 5

____ Lani Bowman,
Dist. #2

____ Robert Makuakane
Dist. #6

____ Reynolds N. Kamakawiwoole Jr.,
Dist. #3

____ Beck Hawaiihae-Rodriquez
Dist. #7

____ Elroy TL Osorio
Dist. #4

Oahu

____ David Ing,
Dist. #1

____ Lisa Mitchell,
Dist. #5

____ Aldeous Paalani,
Dist. #2

____ Nani Akeo,
Dist. #6

____ Christine Ualani Brown,
Dist. #3

____ John H. Nahinu, Sr.
Dist. #7

____ Kyle JK Chock,
Dist. #4

____ Neddie G. Waimau-Nunuha
Dist. #8

THE INTERIM GOVERNMENT

Molokai, Maui, Lanai, and Kahoolawe

____ **Walter Ritte,**
Dist. #1

____ **Solomon Piili Kaho'ohalahala,**
Dist. #4

____ **Samuel Lyons Kealoha,**
Dist. #2

____ **Kehaulani Filimoe'atu,**
Dist. #5

____ **Clarence K. Kamai, Sr.,**
Dist. #3

____ **Daisy M. Lind,**
Dist. #6

Kauai and Niihau

____ **Cathy Kalehua Ham Young,**
Dist. #1

____ **Mary Thronas,**
Dist. #2

____ **Raymond Duvachelle,**
Dist. #3

THE INTERIM GOVERNMENT

THE HOUSE OF NOBLES

Herein are the 24 Nobles of the House of Nobles. They are presented in alphabetical order of their last names.

President: Warren Perry Vice President: Clifford Hashimoto

The Legislative Branch

Hawaii

___ Thomas Cummins	___ David Kahanu
___ Patrick Hoapili	___ Ernest Kanehailua
___ George Kaeo	___ George Kauhane

Oahu

___ Rolland Ahuna	___ Rod A. Maile
___ William Kaae	___ Cleghorn McKee
___ Elmer K. Kaai	___ Raymond Pua
___ John L. Low	___ Charles Rose
___ Kimo K. Low	

Maui, Molokai, and Lanai

___ William Garcia	___ Al(oysius) Spencer
___ Clifford Hashimoto	___ Michael Tancayo
___ Samuel K. Kaai	___ Kalani Tassil

THE INTERIM GOVERNMENT

Kauai and Niihau

____ **Ronald Iida** ____ **Roderick Kanoa** ____ **Warren Perry**

Delete Reply Forward Spam Print

RE: Aloha/Coordination Exhibit D Hide Details

FROM: Robert G. Klein Tuesday, August 7, 2012 12:18 PM
TO: Charles kj Amsterdam

Mr. Amsterdam,
Sorry to be so blunt, but your case is frivolous as determined by the federal courts, so there is nothing further for us to discuss. Please discontinue attempting to schedule a meeting and/or bothering my secretary. My client, the Office of Hawaiian Affairs, has the authority and legal responsibility to administer the trust funds as it sees fit within the bounds of the law. They have done so. The courts will not and cannot order OHA to pay you any funds; that is solely a decision for the Trustees to make. Truly yours, RGK

Robert G. Klein
McCoriston Miller Mukai MacKinnon LLP
P.O. Box 2800
Honolulu, Hawaii 96803-2800
Dir. Tel. No.: (808) 529-7323
Dir. Fax No.: (808) 535-8014
E-mail: Klein@m4law.com

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THANK YOU.

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From: Charles kj Amsterdam [mailto:shaloha1@yahoo.com]
Sent: Tuesday, August 07, 2012 6:26 AM
To: Robert G. Klein
Subject: Aloha/Coordination

Hello Attorney Klein:

Aloha. I wanted to discuss the case with you. I feel it may be possible to speak with you in person and address and resolve it in a reasonable way as soon as possible without going through the Ninth Circuit Court.