

4-14-03

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Attorneys for OFFICE OF  
HAWAIIAN AFFAIRS Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

EARL F. ARAKAKI, et al,	)	<b>CIVIL NO. 02-00139 SOM-KSC</b>
	)	(Declaratory Judgment)
Plaintiffs,	)	
	)	NOTICE OF MOTION;
	)	OFFICE OF HAWAIIAN AFFAIRS
vs.	)	DEFENDANTS' MOTION FOR
	)	PARTIAL SUMMARY JUDGMENT
	)	TO FIND (A) THAT NATIVE HAWAIIANS
	)	ARE A NATIVE PEOPLE AND/OR
LINDA LINGLE, et al.,	)	INDIGENOUS OR ABORIGINAL GROUP

) UNDER UNITED STATES AND  
) INTERNATIONAL LAW, (B) THAT THE  
) UNITED STATES HAS RECOGNIZED  
) AND ACCEPTED A TRUST  
) RESPONSIBILITY TOWARD THE  
) NATIVE HAWAIIAN PEOPLE AND HAS  
) DELEGATED THAT TRUST  
) RESPONSIBILITY IN PART TO THE  
) STATE OF HAWAII, AND (C) THAT THE  
) 1959 ADMISSIONS ACT CONSTITUTES A  
) SETTLEMENT OF PART OF THE CLAIM  
) THAT NATIVE HAWAIIANS HAVE IN  
) THE CEDED LANDS AND A  
) DELEGATION OF RESPONSIBILITY TO  
) THE STATE OF HAWAII TO CONTINUE  
) THE SETTLEMENT PROCESS, OR, IN  
) THE ALTERNATIVE, (2) TO DISMISS THE  
) CLAIM AS A NONJUSTICIABLE  
) POLITICAL QUESTION;  
) CERTIFICATE OF COMPLIANCE;  
) MEMORANDUM IN SUPPORT;  
) DECLARATION OF DAVIANNA P.  
) MCGREGOR, DECLARATION OF  
) S. JAMES ANAYA, DECLARATION  
) OF DAVID H. GETCHES, DECLARATION  
) OF JON K. MATSUOKA AND  
) DECLARATION OF BRIAN J. MURTON;  
) EXHIBITS A-K; CERTIFICATE OF  
) SERVICE  
)  
) **DATE: June 16, 2003**  
) **TIME: 9:00 a.m.**  
) **JUDGE: Susan Oki Mollway**

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**NOTICE OF MOTION**

**TO: H. WILLIAM BURGESS**  
2299-C Round Top Drive  
Honolulu, Hawaii 96822

**PATRICK W. HANIFIN**  
1001 Bishop Street  
Pacific Tower, Suite 275  
Honolulu, Hawaii 96813

**MARK J. BENNETT, Attorney General**  
**GIRARD LAU, Deputy Attorney General**  
**CHARLEEN M. AINA, Deputy Attorney General**  
Department of Attorney General  
425 Queen Street  
Honolulu, Hawaii 96813

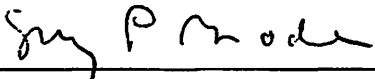
**ROBERT KLEIN**  
Five Waterfront Plaza, Suite 400  
500 Ala Moana Boulevard  
Honolulu, Hawaii 96813

**YUKLIN ALULI**  
415-C Uluniu Street  
Kailua, Hawaii 96734

PLEASE TAKE NOTICE that the Motion of OFFICE OF HAWAIIAN AFFAIRS Defendants ROWENA AKANA, HAUNANI APOLIONA, DANTE CARPENTER, DONALD CATALUNA, LINDA DELA CRUZ, COLETTE Y. MACHADO, BOYD P. MOSSMAN, OSWALD K. STENDER, and JOHN D. WAIHE'E, IV, in their official capacity as Trustees of the Office of Hawaiian Affairs,

(1) for Partial Summary Judgment, pursuant to Rule 56(b) of the Federal Rules of Civil Procedure, to Find (A) that Native Hawaiians Are a Native People and/or Indigenous or Aboriginal Group under United States and International Law, (B) that the United States Has Recognized and Accepted a Trust Responsibility Toward the Native Hawaiian People and Has Delegated that Trust Responsibility in Part to the State of Hawai`I, (C) that the 1959 Admissions Act Constitutes a Settlement of Part of the Claim that Native Hawaiians Have in the Ceded Lands and a Delegation of Responsibility to the State of Hawai`I to Continue the Settlement Process, or, in the alternative, (2) to Dismiss the Claim as a Nonjusticiable Political Question shall come on for hearing before the Honorable SUSAN OKI MOLLWAY, Judge of the above-entitled Court, in her courtroom in the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii, at 9:00 a.m. o'clock a.m. on June 16, 2003, or as soon thereafter as counsel may be heard.

DATED: Honolulu, Hawaii, April 14, 2003.

  
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SHERRY P. BRODER  
JON M. VAN DYKE  
MELODY K. MacKENZIE  
Attorneys for OFFICE OF  
HAWAIIAN AFFAIRS Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

EARL F. ARAKAKI, et al,	) CIVIL NO. 02-00139 SOM-KSC
	) (Declaratory Judgment)
Plaintiffs,	)
	) OFFICE OF HAWAIIAN AFFAIRS
vs.	) DEFENDANTS' MOTION FOR
	) PARTIAL SUMMARY JUDGMENT
	) TO FIND (A) THAT NATIVE HAWAIIANS
	) ARE A NATIVE PEOPLE AND/OR
LINDA LINGLE, et al.,	) INDIGENOUS OR ABORIGINAL GROUP
	) UNDER UNITED STATES AND
	) INTERNATIONAL LAW, (B) THAT THE
	) UNITED STATES HAS RECOGNIZED
	) AND ACCEPTED A TRUST
	) RESPONSIBILITY TOWARD THE
	) NATIVE HAWAIIAN PEOPLE AND HAS
	) DELEGATED THAT TRUST
	) RESPONSIBILITY IN PART TO THE
	) STATE OF HAWAII, AND (C) THAT THE
	) 1959 ADMISSIONS ACT CONSTITUTES A
	) SETTLEMENT OF PART OF THE CLAIM
	) THAT NATIVE HAWAIIANS HAVE IN
	) THE CEDED LANDS AND A
	) DELEGATION OF RESPONSIBILITY TO
	) THE STATE OF HAWAII TO CONTINUE
	) THE SETTLEMENT PROCESS, OR, IN
	) THE ALTERNATIVE, (2) TO DISMISS THE
	) CLAIM AS A NONJUSTICIABLE
	) POLITICAL QUESTION

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**OFFICE OF HAWAIIAN AFFAIRS DEFENDANTS' MOTION (1) FOR  
PARTIAL SUMMARY JUDGMENT TO FIND (A) THAT NATIVE  
HAWAIIANS ARE A NATIVE PEOPLE AND/OR INDIGENOUS OR  
ABORIGINAL GROUP UNDER UNITED STATES AND  
INTERNATIONAL LAW, (B) THAT THE UNITED STATES HAS  
RECOGNIZED AND ACCEPTED A TRUST RESPONSIBILITY TOWARD**

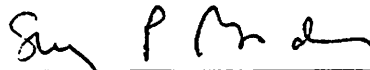
**THE NATIVE HAWAIIAN PEOPLE AND HAS DELEGATED THAT TRUST RESPONSIBILITY IN PART TO THE STATE OF HAWAII, AND (C) THAT THE 1959 ADMISSIONS ACT CONSTITUTES A SETTLEMENT OF PART OF THE CLAIM THAT NATIVE HAWAIIANS HAVE IN THE CEDED LANDS AND A DELEGATION OF RESPONSIBILITY TO THE STATE OF HAWAII TO CONTINUE THE SETTLEMENT PROCESS, OR, IN THE ALTERNATIVE, (2) TO DISMISS THE CLAIM AS A NONJUSTICIABLE POLITICAL QUESTION**

OFFICE OF HAWAIIAN AFFAIRS Defendants ROWENA AKANA, HAUNANI APOLIONA, DANTE CARPENTER, DONALD CATALUNA, LINDA DELA CRUZ, COLETTE Y. MACHADO, BOYD P. MOSSMAN, OSWALD K. STENDER, and JOHN D. WAIHE'E, IV, in their official capacity as Trustees of the Office of Hawaiian Affairs, by and through their attorney, SHERRY P. BRODER, hereby respectfully bring this Motion (1) for Partial Summary Judgment to Find (A) that Native Hawaiians Are a Native People and/or Indigenous or Aboriginal Group under United States and International Law, (B) that the United States Has Recognized and Accepted a Trust Responsibility Toward the Native Hawaiian People and Has Delegated that Trust Responsibility in Part to the State of Hawai'i, and (C) that the 1959 Admissions Act Constitutes a Settlement of Part of the Claim that Native Hawaiians Have in the Ceded Lands and the Revenues Generated by These Lands and a Delegation of Responsibility to the State of Hawai'i to Continue the Settlement Process, or, in the alternative, (2) to Dismiss the Claim as a Nonjusticiable Political

Question.

This motion is brought pursuant to Rules 7 and 56(b) and (d) of the Federal Rules of Civil Procedure, this Honorable Court's Order Regarding Motions to Bifurcate Filed on February 19, 2003, the memorandum, declarations, and exhibits attached hereto, and the records and pleadings filed herein.

DATED: Honolulu, Hawaii, April 14, 2003.



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SHERRY P. BRODER  
JON M. VAN DYKE  
MELODY K. MacKENZIE

Attorneys for OFFICE OF  
HAWAIIAN AFFAIRS Defendants