

STEPHEN G. GARCIA 3102
GARCIA & VALDRIZ
90 Central Avenue
Wailuku, Hawaii 96793
Telephone: 242-5700

'87 NOV 10 11:32

CLERK M. PETRO

Attorney for Plaintiffs

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

HARRY A. HUEU, et al.,)	CIVIL NO. 87-0030(1)
)	
Plaintiffs,)	PLAINTIFFS' SETTLEMENT
)	CONFERENCE STATEMENT;
vs.)	CERTIFICATE OF SERVICE
)	
ISAAC KANOA, SR., et al.,)	
)	
Defendants.)	
)	

PLAINTIFFS' SETTLEMENT CONFERENCE STATEMENT

I. PLAINTIFFS' INFORMATION

Harry A. Hueu and Sandra G. Hueu, married, are residents of Keanae, Maui, Hawaii.

II. RELIEF CLAIMED

Plaintiffs request Court to enjoin and forever bar Defendants from blocking, diverting and stopping the flow of water to TMK 1-01-001:41, and to all the patches farmed by the Plaintiffs. The water rights of Plaintiffs should be reduced to an agreement which will be appurtenant to the land.

Further, Defendants' intentional diversion of water has

resulted in Plaintiffs' crop damage and loss; the amount is increasing everyday and shall be proven at trial. Plaintiffs seek monetary damages for their loss and award of attorney's fees and costs in connection with suit.

III. FACTUAL SUMMARY OF CASE

Plaintiffs farm lands with taro below (makai of) property owned and farmed by Defendants. All taro patches received water from one (1) source, the Kawaika flume, situated mauka of Defendants' properties.

Ancient Hawaiian custom and use assigns a duty of care to the upper taro patch owners with regard to the lower patch owners. The practice and custom imposes a responsibility on the upper taro patch growers to:

1. Maintain and keep clear and unobstructed the awais passing through their land, and returning all water not used either to (a) the next lower taro patches or (b) back to the ^uawai system, Wailuku Sugar Co. v. Hale, 11 Haw. 475 (1898). ←

Defendants did neither and intentionally blocked the ^uawai system and further diverted the water into a hao forest, or waste land, contrary to ancient Hawaiian custom and practice. Id.

WITNESSES


*James Hueu, Keanae, Hawaii
*Harry Pahukoa, Jr.
*Clarence Hookano, Wailuku, Hawaii
*William Tau'a
*Richard Haake, Wailuku, Hawaii
*Joseph Young
*Plaintiffs

*Testimony as to ancient and modern practice and custom of taro growing on the Keanae peninsula circumstances surrounding Hueus and Kanoas.

IV. STATEMENT OF SPECIAL DAMAGES/GENERAL DAMAGES

Plaintiffs are in the process of finalizing amounts of special damages. Plaintiffs will file same with Court prior to trial.

DATED: Wailuku, Hawaii, 11-9-87.



STEPHEN G. GARCIA
Attorney for Plaintiffs

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a true and correct copy of the foregoing document will be duly served upon the following:

JOEL AUGUST, ESQ.
2261 Aupuni Street
Wailuku, Hawaii 96793

WILLIAM L. GOO, ESQ.
841 Bishop Street
1888 Davies Pacific Center
Honolulu, Hawaii 96813

Attorneys for Defendants

DATED: Wailuku, Hawaii, 11-9-87.



STEPHEN G. GARCIA
Attorney for Plaintiffs