

KESSNER DUCA UMEBAYASHI BAIN & MATSUNAGA
Attorneys at Law - A Law Corporation

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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JUL 15 2004
at 3 o'clock and 15 min. P.M.
WALTER A.Y.H. CHINN, CLERK

Attorneys for Defendants
NA LEO`O HAWAII, JUERGEN DENECKE,
CLAY CALLAWAY, AND NA LEO`O HAWAII
BOARD OF DIRECTORS, PAST & PRESENT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JUAN MORALES,) CIVIL NO. 04-00107 HG-LEK
)
)
)
Plaintiff,) **CONCISE STATEMENT OF**
) **FACTS IN SUPPORT OF**
) **DEFENDANTS NA LEO`O HAWAII,**
) **JUERGEN DENECKE, CLAY**
vs.) **CALLAWAY, AND NA LEO`O**
) **HAWAII BOARD OF DIRECTORS,**
) **PAST & PRESENT'S**
) **MEMORANDUM IN OPPOSITION**
) **TO PLAINTIFF'S MOTION FOR**
Na Leo`O Hawaii Inc., Juergen) **PRELIMINARY INJUNCTION;**
Denecke, Clay Callaway,) **CERTIFICATE OF SERVICE**
)
Department of Commerce and)
Consumer Affairs (aka-DCCA),)
Mark Recktenwald, Glenn Chock,)

Clyde Senobe, Na Leo`O Hawaii)	
Board of Directors, past & present,)	Date: August 2, 2004
and John & Jane Does 1 - 15,)	Time: 9:00 a.m.
)	Judge: Hon. Helen Gillmor
)	
Defendants.)	Trial Date: April 26, 2005
)	

**DEFENDANTS NA LEO`O HAWAII, JUERGEN DENECKE, CLAY
 CALLAWAY, AND NA LEO`O HAWAII BOARD OF DIRECTORS,
 PAST & PRESENT'S CONCISE STATEMENT OF FACTS
 IN SUPPORT OF ITS MEMORANDUM IN OPPOSITION
TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Rule LR56.1 of the Local Rules of Practice for the United States
 District Court for the District of Hawaii, DEFENDANTS NA LEO`O HAWAII
 (hereinafter "Na Leo"), JUERGEN DENECKE, CLAY CALLAWAY, AND
 NA LEO`O HAWAII BOARD OF DIRECTORS, PAST & PRESENT hereby
 submit their separate and concise statement of material facts in support of its
 Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction, filed
 contemporaneously herewith.

Clyde Senobe, Na Leo`O Hawaii)
Board of Directors, past & present,)
and John & Jane Does 1 - 15,)
)
)
Defendants.)
)

**DEFENDANTS NA LEO`O HAWAII, JUERGEN DENECKE, CLAY
CALLAWAY, AND NA LEO`O HAWAII BOARD OF DIRECTORS,
PAST & PRESENT'S CONCISE STATEMENT OF FACTS
IN SUPPORT OF ITS MEMORANDUM IN OPPOSITION
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Pursuant to Rule LR56.1 of the Local Rules of Practice for the United States
District Court for the District of Hawaii, DEFENDANTS NA LEO`O HAWAII
(hereinafter "Na Leo"), JUERGEN DENECKE, CLAY CALLAWAY, AND
NA LEO`O HAWAII BOARD OF DIRECTORS, PAST & PRESENT hereby
submit their separate and concise statement of material facts in support of its
Memorandum in Opposition to Plaintiff's Motion for Preliminary Injunction, filed
contemporaneously herewith.

FACTS

1. Plaintiff Juan Morales is currently not on suspension with Defendant Na Leo.
2. Juan Morales has been issued a trespassing warning and is not allowed on Defendant Na Leo's premises.
3. Plaintiff Juan Morales may submit programming to Defendant Na Leo.
4. Plaintiff has not attempted to submit programming to Defendant Na Leo within the past seven months.
5. Plaintiff has not been precluded from submitting programming during the past seven months.
6. In May of 2002, Juan Morales was verbally abusive to Defendant Clay Callaway.
7. In November of 2003 Juan Morales swore at Defendant Clay Callaway.
8. On January 29, 2004 Clay Callaway filed a petition for temporary restraining order

EVIDENTIARY SUPPORT

1. Declaration of Juergen Denecke at ¶2, attached hereto.
2. Declaration of Juergen Denecke at ¶2, attached hereto.
3. Declaration of Juergen Denecke at ¶2, attached hereto.
4. Declaration of Juergen Denecke at ¶6, attached hereto.
5. Declaration of Juergen Denecke at ¶5, attached hereto.
6. Declaration of Clay Callaway at ¶6, attached hereto. Exhibit #2 attached hereto.
7. Declaration of Clay Callaway at ¶6, attached hereto.
8. Declaration of Clay Callaway at ¶¶2 and 7, attached hereto. Exhibit #1 attached hereto.

against Plaintiff which was subsequently dismissed by Mr. Callaway in the best interests of his health.

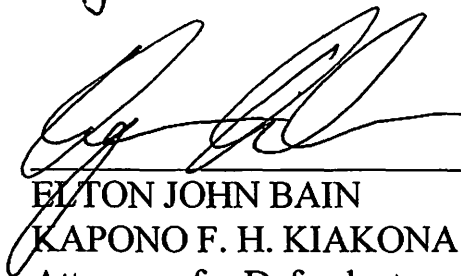
9. Plaintiff was continuously antagonistic towards Defendant Callaway and Defendant Callaway did not feel safe at work because of the antagonistic activity.

9. Declaration of Clay Callaway at ¶¶6 and 8, attached hereto.

10. Plaintiff's harassment of Mr. Callaway did not cease until the warning of trespassing was issued to Mr. Morales

10. Declaration of Clay Callaway at ¶9, attached hereto.

DATED, Honolulu, Hawaii, July 15, 2004.



ELTON JOHN BAIN
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Attorneys for Defendants
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JUAN MORALES,) CIVIL NO. 04 00107 HG (LEK)
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Plaintiff,) CERTIFICATE OF SERVICE
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vs.)
)
NA LEO'O HAWAII, INC., JUERGEN)
DENECKE, CLAY CALLOWAY,)
DEPARTMENT OF COMMERCE AND)
CONSUMER AFFAIRS (AKA-DCCA),)
MARK RECKTENWALD, GLENN)
CHOCK, CLYDE SENOBÉ, NA LEO'O)
HAWAII BOARD OF DIRECTORS,)
PAST & PRESENT, JOHN & JANE)
DOES 1-15,)
Defendants.)
)
)
_____)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date, a copy of the foregoing was duly served on the following parties as indicated below:

JUAN MORALES
P.O. Box 1385
Kea'au, Hawaii 96749

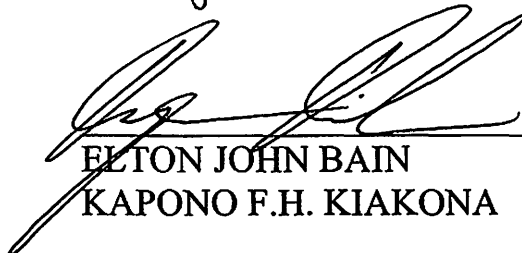
U.S. MAIL

MARK J. BENNETT, ESQ.
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Attorneys for
DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS,
MARK RECKTENWALD,
GLENN CHOCK and CLYDE SONOBE

DATED: Honolulu, Hawaii, July 15, 2004.



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