

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JUN 14 2002

at 8 o'clock and 45 AM  
WALTER A. Y. H. CHING, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

EARL F. ARAKAKI, et al.,	)	CIVIL NO. 02-00139 SOM/KSC
	)	
Plaintiffs,	)	ORDER REGARDING DEFENDANTS'
	)	REQUEST FOR STATUS CONFERENCE
vs.	)	TO DISCUSS POSSIBLE
	)	BIFURCATION OF PROCEEDINGS
	)	
BENJAMIN J. CAYETANO in his	)	
official capacity as GOVERNOR	)	
OF THE STATE OF HAWAII, et	)	
al.,	)	
	)	
Defendants.	)	
	)	

ORDER REGARDING DEFENDANTS' REQUEST FOR STATUS  
CONFERENCE TO DISCUSS POSSIBLE BIFURCATION OF PROCEEDINGS

This court has received a letter dated June 13, 2002 from counsel for State of Hawaii officials and entities that are named as Defendants in this action. The letter proposes that this court conduct a status conference to discuss possible bifurcation of this action. If the parties agree that this action should be bifurcated and are requesting help only on the mechanics of bifurcation, this court will be happy to conduct a status conference on the subject. However, if the parties are not all in agreement that this case should be bifurcated, or if alternate forms of bifurcation are proposed, the court will consider the matter by means of a formal motion. If disputed, the issue of bifurcation will involve issues numerous and complex enough that the court would be aided by the orderly motion process. A motion to bifurcate does not, of course, preclude a status conference before or after that motion is decided. Certainly, if the court

orders bifurcation, a conference to discuss the details of the bifurcation may well be appropriate.

The court orders counsel for parties other than those represented by the author of the above letter to notify the court by letter no later than June 17, 2002, whether they consent to the bifurcation proposed by the letter. If all parties do not so consent, the matter of bifurcation must be raised by means of a motion. Any motion to bifurcate must be filed no later than June 28, 2002, and will be set for hearing on August 19, 2002, at 11:15 a.m. The hearing on the motion for preliminary injunction remains set for July 24, 2002. That hearing will not be consolidated with any hearing on any motion for summary judgment. Indeed, if a motion for bifurcation is filed, the court recommends that the parties refrain from filing summary judgment motions until after the court has ruled on the bifurcation motion. Any summary judgment motion filed before the bifurcation motion is decided runs the risk of wasting substantial portions of the space to which any summary judgment motion is limited. Space might, for example, be used to address issues that may not be addressed by the court, given its bifurcation ruling. Any summary judgment motion filed before the bifurcation is decided will not be heard until after the bifurcation motion is decided.

While the court realizes that it could postpone the hearing on the motion for preliminary injunction until after it

decides the bifurcation issue, the court is concerned that such a postponement could prejudice Plaintiffs, who will have been waiting many months by the time the motion is heard. State Defendants could have raised the bifurcation issue many months ago, and the court will not allow them to prejudice Plaintiffs by raising the bifurcation issue only a month before the preliminary injunction hearing is set to occur.

The parties are reminded that the preliminary injunction hearing will be conducted in accordance with the court's Trial Procedures Memorandum, available on the court's web site. The parties are required to file proposed findings of fact and conclusions of law, as well as declarations in lieu of live testimony, as set forth in that memorandum.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, June 13, 2002.

  
SUSAN OKI MOLLWAY  
UNITED STATES DISTRICT JUDGE

Arakaki, et al. v. Cayetano, et al., Civil No. 02-00139 SOM/KSC;  
ORDER REGARDING DEFENDANTS' REQUEST FOR STATUS CONFERENCE TO  
DISCUSS POSSIBLE BIFURCATION OF PROCEEDINGS