

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
300 AIA MOANA BLVD., C-415
HONOLULU, HAWAII 96850

CHAMBERS OF
ALAN C. KAY
SR. DISTRICT JUDGE

TELEPHONE:
(808) 541-1964
FAX (808) 541-3517

January 19, 2010

Fax No. 586-6461

Honorable Brian T. Taniguchi
Chair, Committee on Judiciary and
Government Operations

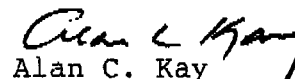
Dear Senator Taniguchi:

This is in response to your letter of January 14, 2010 whereunder the Committee on Judiciary and Government Operations has requested my input with respect to its consideration of the nomination of Mr. Edward H. Kubo, Jr. for Judge to the Circuit Court of the First Circuit, State of Hawaii.

I first met Mr. Kubo in 2001 when he was serving as an Ass't. U.S. Attorney. He appeared before me in my court on numerous occasions. I found Ed to possess all of the skills and qualities of an outstanding litigant. He was an articulate and strong advocate, yet courteous and humble. He was always well prepared. More recently Ed Kubo has served very ably as U.S. Attorney for the District of Hawaii. He has gained strong administrative skills. He previously worked as prosecuting attorney for the City and as an associate trial attorney with the law firm Carlsmith, Dwyer and Watanabe.

Ed Kubo is well respected in the legal community for his professionalism, integrity and legal expertise. I am confident that he would excel as a Judge of the First Circuit Court.

Very truly yours,


Alan C. Kay

ACK:ask

cc: Mr. Edward H. Kubo, Jr.



UNITED STATES DISTRICT COURT

CHAMBERS OF
J. MICHAEL SEABRIGHT
UNITED STATES DISTRICT JUDGE

DISTRICT OF HAWAII
300 ALA MOANA BOULEVARD, C-435
HONOLULU, HAWAII 96850-0435

TELEPHONE
(808) 541-1804
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(808) 541-1851

January 19, 2010

The Honorable Brian T. Taniguchi
Chair, Committee on Judiciary
and Government Operations
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Senator Taniguchi:

Thank you for your January 14, 2010 letter seeking my input on Edward H. Kubo Jr.'s nomination for Judge to the Circuit Court of the First Circuit, State of Hawaii. I have known Mr. Kubo since 1990, the year that we both became Assistant United States Attorneys for the District of Hawaii. Once Mr. Kubo became United States Attorney, I served as a supervisor handling white collar cases until my departure for the bench in May, 2005.

I am confident that you have received many letters attesting to Mr. Kubo's work as a deputy prosecuting attorney, Assistant United States Attorney, and United States Attorney. Rather than address these matters, I would like to discuss Mr. Kubo's work in the community while he served as the United States Attorney.

During his tenure as United States Attorney, Mr. Kubo worked tirelessly with community leaders in numerous outreach efforts. He was fully committed to the Weed and Seed program, and worked diligently to educate various communities regarding the dangers of drug use. Mr. Kubo consistently spoke with a clear voice as the chief federal law enforcement officer in our state.

Thank you for giving me the opportunity to comment on Mr. Kubo's nomination.

Very truly yours,


J. Michael Seabright
United States District



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

G.M. NO. 109, SUBMITTING FOR CONSIDERATION AND CONFIRMATION TO THE CIRCUIT COURT OF THE FIRST CIRCUIT, STATE OF HAWAII, GUBERNATORIAL NOMINEE, EDWARD H. KUBO, JR, FOR A TERM TO EXPIRE IN TEN YEARS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Thursday, January 21, 2010 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Mark J. Bennett, Attorney General, or

Chair Taniguchi and Members of the Committee:

I strongly support the nomination of Edward H. Kubo to serve as a judge of the Circuit Court of the First Circuit.

I have known Mr. Kubo for many years. During his tenure as the United States Attorney for the District of Hawaii, I had many opportunities to work closely with him, both in prosecuting cases where our offices collaborated, and on programs and task forces to improve public safety and the judicial system. I believe Mr. Kubo is well qualified to continue serving the people of Hawaii as a judge of the Circuit Court.

Mr. Kubo's extensive experience as the chief federal law enforcement officer in Hawaii, as a prosecuting attorney for the city, and as a trial attorney in private practice has given him a thorough understanding of court procedure and the judicial system. He has proven himself to be a strong leader, a capable administrator, and a dedicated public servant. In addition to his professional responsibilities, he has demonstrated a strong commitment to the well-being of the community through his service with numerous community organizations.

Mr. Kubo has an outstanding reputation for integrity and fairness. He has an excellent judicial temperament and consistently demonstrates sound judgment and common sense.

I respectfully ask the committee to recommend confirmation.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY
RELATING TO THE CONFIRMATION OF
EDWARD H. KUBO, JR.
TO THE CIRCUIT COURT OF FIRST CIRCUIT

PRESENTATION TO THE
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

BY

MAJOR GENERAL ROBERT G. F. LEE
ADJUTANT GENERAL

January 21, 2010

Good morning, Chair Taniguchi, Vice Chair Takamine and Committee Members:

I am Major General Robert G. F. Lee, State Adjutant General. I am testifying in strong support of Mr. Edward H. Kubo, Jr. the Gubernatorial nominee to the Circuit Court of the First Circuit.

I have known Mr. Kubo for many years and can personally attest to his character, outstanding work ethic, selfless service, his sense of fairness and respect, and his integrity.

Mr. Edward H. Kubo, Jr. has a wealth of experience in the private and public sectors. After graduating from the University of Hawaii at Manoa, he received his law degree from the University of San Diego's School of Law in 1979. After returning to Hawaii, Mr. Kubo went into private practice with Kobayashi, Watanabe, Sugita, & Kawashima Attorneys at Law and as a senior associate trial attorney with Carlsmith & Dwyer, Attorneys at Law, specializing in contract, personal injury, and insurance litigation.

In the public sector, he served as a deputy prosecuting attorney for the City and County of Honolulu under Prosecutor Toga Nakagawa and Prosecutor Charles Marsland. In addition to his caseload, he became an instructor for police recruit classes and police refresher courses for the Honolulu Police Department, teaching officers about the legalities of search and seizure laws, laws of arrest, and police testimony in court.

More recently, Mr. Kubo became an assistant United States Attorney in December 1990, working for U.S. Attorney Dan Bent. He became the U.S. Attorney in 2001. His tenure as the state's highest law enforcement officer is marked with many high profile cases that he prosecuted and won. He worked tirelessly to rid Hawaii of crime that affects our lives.

As an exceptional and respected leader in the community, coupled with his vast experience in jurisprudence, Mr. Kubo will be a tremendous asset, therefore, I respectfully request your favorable consideration and his confirmation to the State First Circuit Court.

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY
RELATING TO THE CONFIRMATION OF
EDWARD H. KUBO, JR.
TO THE CIRCUIT COURT OF FIRST CIRCUIT

PRESENTATION TO THE
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

BY

BRIGADIER GENERAL GARY M. ISHIKAWA
DEPUTY ADJUTANT GENERAL

January 21, 2010

Good morning, Chair Taniguchi, Vice Chair Takamine and Committee Members:

I am Brigadier General Gary M. Ishikawa, State Deputy Adjutant General. I am testifying in strong support of Mr. Edward H. Kubo, Jr. the Gubernatorial nominee to the Circuit Court of the First Circuit.

I have known Mr. Kubo for many years and can personally attest to his character, outstanding work ethic, selfless service, his sense of fairness and respect, and his integrity.

Mr. Edward H. Kubo, Jr. has a wealth of experience in the private and public sectors. After graduating from the University of Hawaii at Manoa, he received his law degree from the University of San Diego's School of Law in 1979. After returning to Hawaii, Mr. Kubo went into private practice with Kobayashi, Watanabe, Sugita, & Kawashima Attorneys at Law and as a senior associate trial attorney with Carlsmith & Dwyer, Attorneys at Law, specializing in contract, personal injury, and insurance litigation.

In the public sector, he served as a deputy prosecuting attorney for the City and County of Honolulu under Prosecutor Toga Nakagawa and Prosecutor Charles Marsland. In addition to his caseload, he became an instructor for police recruit classes and police refresher courses for the Honolulu Police Department, teaching officers about the legalities of search and seizure laws, laws of arrest, and police testimony in court.

More recently, Mr. Kubo became an assistant United States Attorney in December 1990, working for U.S. Attorney Dan Bent. He became the U.S. Attorney in 2001. His tenure as the state's highest law enforcement officer is marked with many high profile cases that he prosecuted and won. He worked tirelessly to rid Hawaii of crime that affects our lives.

Besides being a tremendous U.S. Attorney fighting crime, Ed Kubo has supported our deployed troops and their families in many ways. He is in support and a participant in our Wounded Warrior and Yellow Ribbon Programs. He helped organize the collection of local items for care packages sent to Hawaii's deployed soldiers. He remains an active member of the Employer Support for the Guard and Reserve (ESGR) committee.

As an exceptional and respected leader in the community, coupled with his vast experience in jurisprudence, Mr. Kubo will be a tremendous asset, therefore, I respectfully request your favorable consideration and his confirmation to the State First Circuit Court.

CALVIN K.Y. SAY
SPEAKER

HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813



January 13, 2010

The Honorable Brian T. Taniguchi, Chair
Senate Judiciary and Government Operations Committee
State of Hawaii
State Capitol, Room 219
Honolulu, Hawaii 96813

Dear Chair Taniguchi:

I support the confirmation of Edward H. Kubo, Jr., as a Judge of the First Circuit Court. Mr. Kubo has shown by his accomplishments that he has the depth and breadth of knowledge, skills, and temperament requisite to perform extremely well in his judicial capacity. As a former U.S. Attorney and Deputy Prosecuting Attorney, he has served the public with purpose and resolve.

I would like to provide some insight into my personal dealings with Mr. Kubo. On various occasions in the past, constituents raised complaints about suspected "drug houses" in the neighborhood. When I asked Mr. Kubo for assistance in investigating the situations, he responded quickly, unfailingly and professionally. I believe he has an exceptionally strong commitment to protect the safety and welfare of Hawaii's citizens, and that will continue to be one of his highest priorities.

I am confident that Mr. Kubo will bring the same kind of dedication and concern to preserve the integrity of our community to the First Circuit Court.

Your consideration of Edward H. Kubo, Jr., as a First Circuit Court judge is appreciated.

Sincerely,

Calvin K.Y. Say
Speaker



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

**TESTIMONY OF
REPRESENTATIVE MICHAEL Y. MAGAOAY – VICE SPEAKER
In Strong Support**

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Thursday, January 21, 2010, 9:30 a.m.

Room 225, State Capitol

In consideration of

GM 109

Gubernatorial Nominee Edward H. Kubo, Jr

Aloha and good morning Chair Taniguchi and Vice Chair Takamine. I am submitting this testimony in strong support of U.S. Attorney Edward H. Kubo's appointment to Circuit Court Judge of the First Circuit, State of Hawaii. Mr. Kubo comes to me as no stranger in the arena of law enforcement and carries with him an impressive and an impeccable record in his field and is a credit to the profession.

In 2001, Mr. Kubo's nomination as U.S. Attorney was supported by virtually every federal, state and county law enforcement agency in Hawaii leading an office of approximately 72 members including attorneys and staff working on federal civil and criminal cases. He also oversaw all military and civilian Special Assistant U.S. Attorneys assigned to work for the office. From 1990 to 2001, Mr. Kubo served as an assistant U.S. Attorney, where he was responsible for the prosecution of major violent crimes, narcotic offenses, white collar crimes, and crimes on government reservations and also supervised military prosecutors and trained them on federal jury trial practice.

From 1980 through 1983 and from 1985 through 1990, he prosecuted homicides, sexual assaults, narcotics offenses, and organized crime cases. He also trained other prosecutors on jury trial practice and authored an office manual on jury trial practice. Between 1983 to 1985, Mr. Kubo was in private practice and a senior trial associate with the law firm of Carlsmith and Dwyer where he did construction litigation, insurance defense, personal injury, contract issues, and family law cases, among other areas. He played a very visible and leading role in our state's War Against Drugs in bringing together local-state and federal agencies into a cooperative team approach to crime fighting working with all sides in accomplishing results.

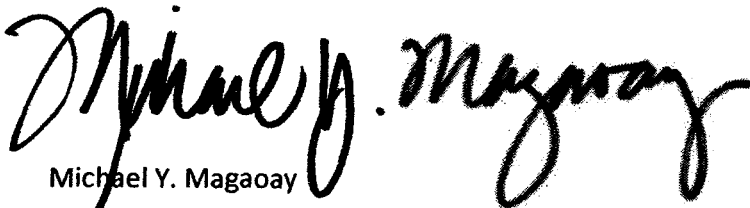
Mr. Kubo was also visible in numerous communities including the 46th District which I represent listening to their problems and concerns and reassuring them that law enforcement was addressing their concerns about crime. His leadership in law enforcement brought down some of the biggest drug organizations in Hawaii; seized more drugs than ever before; and obtained some of the highest sentences for drug dealers and repeat violent offenders in federal court. These achievements are said to have contributed to the significant decline in our state's crime rate over the last 6 years.

Mr. Kubo also possesses a lighter yet serious side by visiting countless elementary schools building positive self-esteem amongst our youths and giving numerous speeches to middle and high school students on the dangers of drugs. He also attended numerous town meetings across our state and spoke to many groups on a number of issues facing Hawaii.

On a personal level, Mr. Kubo brings forth a wealth of knowledge because of his experience and cares about the people of this state. He cares about our residents and cares about the work he does. He is committed to making Hawaii a safer place to live. I am in strong support of Mr. Edward H. Kubo, Jr's appointment as Circuit Court Judge of the First Circuit, State of Hawaii.

Should there be any questions, I can be reached at 586-6380 and thank you for your consideration.

Aloha ke Akua,

A handwritten signature in black ink that reads "Michael Y. Magaoay". The signature is written in a cursive, flowing style.

Michael Y. Magaoay
House of Representatives
Vice Speaker



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

January 21, 2010

RE: GM 109: Consideration and Confirmation of EDWARD H. KUBO, JR. to the Circuit Court of the First Circuit, State of Hawaii, Gubernatorial Nominee

Chair Taniguchi, Vice Chair Takamine and Members of the Senate Committee on Judiciary and Government Operations:

It is my pleasure to submit this written testimony in strong support of the nomination and confirmation of Ed Kubo, Jr. as a judge of the Circuit Court of the First Circuit, State of Hawaii.

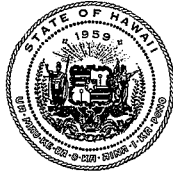
His judicial credentials are extensive and impressive. I have personally seen letters of support and accolades from numerous state, county and federal departments who have worked with him over the years. He has earned the respect and admiration of postal inspectors, FBI agents, Fish and Wildlife, police and prosecutors to name a few. In addition, Ed has been recognized with many awards for his leadership and outstanding service and is deserving of the respect and admiration he has worked so hard to earn.

Ed Kubo has also demonstrated his strong commitment to the community by serving on numerous boards and committees impacting the lives of many of our citizens. He has devoted countless hours to Weed and Seed programs and our War Against Drugs, both as Hawaii's U. S. Attorney and as a concerned parent speaking to middle and high school students on the dangers of drugs.

In recent years I have also had the privilege to know Ed Kubo as an attentive father and loving husband.

I respectfully urge the Committee to recommend confirmation of Ed Kubo, Jr.

Representative Barbara Marumoto



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

January 13, 2010

Chair Brian Taniguchi
Judiciary and Government Operations


RE: Testimony in strong support for Mr. Edward H. Kubo, Jr.

The accomplishments of Mr. Edward H. Kubo, Jr. make him the ideal nominee for the position he is seeking. As a former City and County Deputy Prosecuting Attorney, he has propelled himself to become a United States Attorney serving in our state. He has been well recognized by all levels of government and in the communities he still serves. Mr. Kubo is an exemplary member of our society.

During the time that I have had the opportunity to know and work with him, he has always carried himself with humility – giving praise to those around him and motivating others who looked up to him for direction. In addition, his community service exposed him to work with individuals from all walks of life. It is evident that he strives to make Hawaii a better place for us all.

Attached is his biography, a list of his accomplishments and awards and recognitions. With such an impressive account, he has made himself available, once again, to serve in another important role in which his experience will only enhance the position of our next Circuit Judge for the First Circuit Court of Oahu.

With warmest regards


Karen L. Awana
Representative District 44

Attachments (5)

Representative Karen L. Awana

44th District – Kalaeloa, Honokai Hale, Nanakai Gardens, Ko Olina, Nanakuli, Lualualei

HAWAII STATE CAPITOL, ROOM 403 – HONOLULU, HAWAII 96813

PHONE: (808) 586-8465 • FAX: (808) 586-8469 • E-MAIL: repawana@capitol.hawaii.gov

Edward H. Kubo, Jr.

Biography

Ed Kubo is a 1971 graduate of Waipahu High School. He graduated from the University of Hawaii with a Bachelors degree in Political Science, and then obtained his Juris Doctorate from the University of San Diego School of Law (California). He was admitted to the Hawaii Bar in 1979.

Mr. Kubo was Hawaii's U.S. Attorney from 2001 to 2009. His nomination was supported by virtually every federal, state and county law enforcement agency in Hawaii. As the U.S. Attorney, Kubo led an office of approximately 72 members, including attorneys and staff who worked on federal civil and criminal cases. Kubo also oversaw all military and civilian Special Assistant U.S. Attorneys assigned to work for the office.

From 1990 to 2001, Kubo served as an Assistant U.S. Attorney, where he was responsible for the prosecution of major violent crimes, narcotic offenses, white collar crimes, and crimes on government reservations. He also supervised military prosecutors and trained them on federal jury trial practice.

Kubo previously served as a Deputy Prosecuting Attorney with the Honolulu Prosecutor's Office from 1980-83 and 1985-90. During his tenure, he prosecuted homicides, sexual assaults, narcotics offenses, and organized crime cases. He also trained other prosecutors on jury trial practice and created an office manual on jury trial practice. Between 1983-1985, Kubo was in private practice and a senior trial associate with the law firm of Carlsmith and Dwyer, where he did construction litigation, insurance defense, personal injury, contract issues, and family law cases, among other areas.

After becoming Hawaii's U.S. Attorney, Kubo played a very visible and leading role in our state's War Against Drugs. In bringing together local-state and federal agencies into a cooperative team approach to crime fighting, Kubo worked with all sides to accomplish results. He was also visible in the communities, listening to their problems and reassuring them that law enforcement was addressing their concerns about crime.

Under Kubo's leadership, law enforcement brought down some of the biggest drug organizations in Hawaii; seized more drugs than ever before; and obtained some of the highest sentences for drug dealers and repeat violent offenders in federal court. These achievements are said to have contributed to the significant decline in our state's crime rate over the last 6 years.

However, Kubo's philosophy is not only about aggressive crime fighting because he was also very visible in our communities across the State of Hawaii (including Molokai and Lanai). He visited countless elementary schools to do read to me with positive self-esteem building messages, and he gave numerous speeches to middle and high school students on the dangers of drugs. He also attended numerous town hall meetings across our state and spoke to many groups on a number of issues facing Hawaii.

Kubo served as the Chairperson of the U.S. Federal Executive Board of the Pacific, and he was also on the Board of Directors for three Non-profit groups: the Drug-Free Coalition of Hawaii, Palama Settlement, and Kids Hurt Too. He was the Founder of the Hawaii Wounded Warrior Support Program and he has assisted Hawaii's 25th Infantry, and our National Guard and Reserves with deployment and employment issues. He also helps with the children's "Keiki Birthday Program" at our state's homeless shelters.

Kubo was an instructor at the Honolulu Police Academy, the State of Hawaii Sheriff's Academy, and the Pearl Harbor Department of Defense Police Academy, and he was also a

featured speaker at a Department of Justice National Human Trafficking Conference, as well as taught at other state and federal law enforcement agencies throughout Hawaii and on the mainland.

Finally, Kubo served on the U.S. Department of Justice Subcommittees on Violent Crime, Controlled Substances, Immigration and Border Issues, Military Affairs and Issues, and Child Exploitation, which advised the U.S. Attorney General on policy, procedures and legislation matters.

Edward H. Kubo, Jr.
Community Involvement

Community Involvement

- Executive Director, Hawaii Wounded Warrior Support Program
- Chairman, Honolulu Weed and Seed Steering Committee
- Member, Big Island Weed and Seed Group
- Chairman, Project Safe Neighborhoods Advisory Group
- Steering Committee, Army Family Strong Task Force
- Head, Presidential Volunteer Service Award Program
- Member, Mayor's Anti-Drug Task Force
- Member, Department of Education Parent Project (for at-risk students)
- Board of Trustees, Palama Settlement (Non-Profit)
- Board of Directors, Drug Free Coalition for Hawaii (Non-Profit)-Past
- Board of Directors, Kids Hurt Too (Non-Profit)-Past
- Member, Tripler Student Behavioral Health Advisory Board
- Member, Army Emergency Operations Plan Working Group
- Member, Family Readiness Group (442d Combat Team)
- Hawaiian Humane Society Working Group
- Boy Scouts Eagle Court of Honor Ceremonies
- Annual Family / Children Day at the State Capitol
- Drug Free Presentations to Middle and High School Students
- Read to Me in Elementary School Students
- Identification Theft Prevention Presentations to Elders
- Pro Bono Legal Advice to Hawaii National Guard and Reserves
- Member, Hawaii Chamber of Commerce-Past
- Annual Career in Government Night at UH Law School
- Keiki Birthday Night at State Homeless Shelters
- Advisor, Pearl City High School Mock Trial Club (1998 -2001)

Government Executive Involvement

- Chairman, Hawaii -Pacific Federal Executive Board
- Chairman, Hawaii Law Enforcement - Military Coalition
- Chairman, Hawaii Law Enforcement Information Exchange
- Chairman, Anti-Terrorism Advisory Council Hawaii
- Board of Directors, Hawaii High Intensity Drug Trafficking Area
- Member, Hawaii State Law Enforcement Officials Association
- Member, Hawaii Law Enforcement Coalition
- Member, Hawaii Prosecuting Attorneys Association
- Member, Joint Terrorism Task Force Hawaii (JTTF)
- Member, Hawaii Emergency Preparedness Executive Committee

Edward H. Kubo, Jr.
Awards and Recognitions (2001 – Present)

National and International Awards:

2009 Lifetime Achievement Award for Excellence in Terrorism and Asian Organized Crime Investigations from the International Organization of Asian Crime Investigators and Specialists

2008 U.S. Environmental Protection Agency Award in Appreciation for Outstanding Contributions in Protecting of Hawaii's Environment

2008 "Seven Seals Award" for Outstanding Achievement from the U.S. Department of Defense Employer Support of the Guard and Reserve (ESGR)

U.S. Drug Enforcement Agency Medallion in Appreciation for Significant Contributions in the Fight Against Drug Abuse (2008)

National Police Honor Award for Public Service (2006)

Hawaii Federal Detention Center Appreciation Award for Assistance to the U.S. Bureau of Prisons (2006)

ESGR "Patriot Award" from the U.S. Department of Defense Employer Support of the Guard and Reserve (2008)

NAPABA "Trailblazer Award" for Substantial Contributions to the Asian Pacific American Community from the National Asian Pacific American Bar Association (2003)

Drug Enforcement Administration Certificate for Outstanding Contribution in the Field of Drug Law Enforcement (2002)

State and Local Awards:

"Certificate of Commendation" by the Honolulu City Council for Achievements as U.S. Attorney (2009)

"Law Enforcement Lifetime Achievement Award" by the Western States Information Network (2009)

"Key to the Big Island County" presented by Mayor Billy Kenoi (2009)

"Proclamation of Ed Kubo Day on the Big Island" by Mayor Billy Kenoi (May 4, 2009)

"Law Enforcement Commendation Medal" by the Sons of the American Revolution, Hawaii Chapter (2009)

"Outstanding Citizen of the Year" by the Honolulu 200 Club (2008)

2008 "United for Justice Award" for Outstanding Leadership from the Hawaii State Law Enforcement Officials Association (HSLEOA)

"2008 Law and Order Award" for Outstanding Public Service from the Honolulu Elks Lodge

Named one of the "Heroes of Hawaii" for 2008, 2007 by Hawaii Reporter

Visitor Aloha Society of Hawaii "Outstanding Community Service Award" (2007)

Elwood J. McGuire Award for Outstanding Contributions to Hawaii's Law Enforcement (2006)

Mayor's Big Island "Helping Our Communities Award" for Outstanding Contributions in the Fight Against Drug Abuse (2004)

Hawaii State Bar Association "Justice Award" for Outstanding Work in the Community (2004)

Inductee into the Hawaii Joint Police Association Hall of Fame, for Outstanding Lifetime Contributions to Hawaii's Law Enforcement (2003)

Hawaii Inter-County Detectives Appreciation Award for Contributions to Law Enforcement (2003)

Pride of Waipahu Award for Outstanding Achievement in Hawaii and in the Waipahu Community (2002)

Honolulu Sunset Rotary Club Outstanding Vocational Achievement Award (2002)

U.S. Health and Human Services Office of Inspector General Appreciation Award (2002)

U.S. Postal Inspection Service Certificate for Outstanding Contribution (2001)



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

January 20, 2010

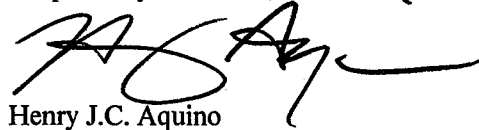
Honorable Senator Brian T. Taniguchi
Chairman
Committee on Judiciary and Government Operations
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, HI 96813

Dear Senator Taniguchi:

I write this letter in support for Governor Lingle's nomination of Edward H. Kubo, Jr. to serve on Oahu's First Circuit Court. His qualifications and professional experience makes him an ideal selection. The contributions he has made through the Weed and Seed initiative has significantly benefitted the Waipahu community. His list of achievements in our community as well as those throughout the state exemplifies what a public servant should be.

Numerous individuals can attest to his remarkable work ethic and commitment to the rule of law. Mr. Kubo's career has equipped him with a wide range of experience in various aspects of law therefore qualifying him for the position in which he is nominated. I support his nomination and urge you to confirm him as the next Circuit Judge of the First Circuit Court.

Respectfully submitted,



Henry J.C. Aquino

cc: Senator Dwight Y. Takamine
Senator Robert Bunda
Senator Mike Gabbard
Senator Clarence K. Nishihara
Senator Sam Slom

Representative Henry J.C. Aquino
District 35: Pearl City, Waipahu
Vice Chair: Committee on Public Safety
State Capitol, Room 310 / Honolulu, Hawaii 96813
Phone: 586-6520 / Fax: 586-6521
E-mail: repaquino@capitol.hawaii.gov



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

January 19, 2010

To: Senator Brian T. Taniguchi, Chair
And Members of the Senate Committee on Judiciary & Government Operations

From: Representative Maile S. L. Shimabukuro

Re: Confirmation of Edward H. Kubo, Jr. to the
Circuit Court of the First Circuit, State of Hawaii

Aloha Senator Taniguchi and Committee Members:

It is an honor for me to testify in strong support of Edward H. Kubo's nomination as a Circuit Court Judge.

I am aware of Ed Kubo's accomplishments as a prosecutor over the past three decades—both at the County and State levels—and most recently as Hawaii's U.S. Attorney. I have also come to appreciate his contributions outside of his responsibilities as a government official. His influence has extended beyond the courtroom and legal circles to communities around the state.

I was particularly impressed when, on several occasions, he took the time to come to my Wai'anae Coast district in his capacity as Chair of our island's Weed and Seed Steering Committee. His efforts were greatly appreciated by those of us who were committed to finding new ways to counter drug-related crime in our community.

The same qualities that have made Ed Kubo a successful prosecutor and community leader will stand him in good stead on the bench. I ask you to look favorably on his nomination.

Aloha,

Maile S. L. Shimabukuro

Representative Maile S.L. Shimabukuro, District 45

(Wai'anae~Mākaha~Mākua)

Vice Chair, Committee on Hawaiian Affairs

Member, Committees on Education, Higher Education, Health & Human Services

Hawaii State Capitol, Room 406, Honolulu, Hawaii 96813

Phone: (808) 586-8460/Fax: (808) 586-8464/E-mail: repshimabukuro@capitol.hawaii.gov



HOUSE OF REPRESENTATIVES

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813

Senate Committee on Judiciary and Government Operations
Chairperson, Brian Taniguchi
Vice Chairperson, Dwight Takamine

January 21, 2010

**Re: GM109- Testimony in Support of Edward H. Kubo, Jr.
Confirmation to the Circuit Court of the First Circuit of the State of Hawai'i**


Aloha Chair Taniguchi and Committee members:

I am pleased to offer my strongest support for Gubernatorial Nominee, Edward H. Kubo Jr., for consideration and confirmation to the Circuit Court of the First Circuit by the State Senate for a term to expire in ten years.

Although a modest man, Mr. Kubo is a man of the highest integrity and dedicated worth ethic. His excellent record and accomplishments were recognized on a national scale when he received a presidential appointment to serve the state of Hawai'i as the United States District Attorney. As the District Attorney he was committed to reducing and deterring crime in our communities and was a strong advocate of the very successful Weed and Seed program. This was especially beneficial to my district, Ewa Beach, and I am extremely grateful to him for his support.

Mr. Kubo has an impeccable record of service, integrity and judicial prudence and I am confident he will be an excellent judge for the First Circuit Court. I urge you to recognize his remarkable achievements and promise for success by confirming his nomination. Thank you for your consideration and support of Edward H. Kubo to the First Circuit Court.

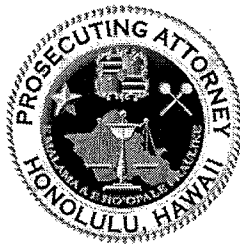
Mahalo nui loa,



KyMBERLY Pine

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 547-7400 • FAX: (808) 547-7515



PETER B. CARLISLE
PROSECUTING ATTORNEY

DOUGLAS S. CHIN
FIRST DEPUTY PROSECUTING ATTORNEY

THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE JUDICIARY AND GOVERNMENT OPERATIONS COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2010
State of Hawaii

January 21, 2010

RE: GM 109; CONFIRMATION OF EDWARD H. KUBO.

Chair Taniguchi and members of the Senate Committee on Judiciary and Government Operations, the Department of the Prosecuting Attorney submits the following testimony in support of the nomination of Ed Kubo to the Circuit Court of the First Circuit.

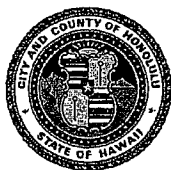
Ed Kubo has been an integral part of Hawaii's law enforcement community as a deputy prosecuting attorney, assistant U.S. Attorney and as U.S. Attorney. During his tenure with the county and the federal government, Ed demonstrated his strong commitment to improving Hawaii's communities by not only prosecuting major cases, but also by actively going out into community and listening to citizen concerns. He has served on numerous boards and involved in multiple community organizations such as the Drug-Free Coalition of Hawaii, Palama Settlement and Kids Hurt Too. He has often participated in Read to Me school programs and helps with the "Keiki Birthday Program" at the state's homeless shelters. He founded the Hawaii Wounded Warrior Support Program and has assisted military and reserve members with deployment and employment issues. We believe that if confirmed, Ed's deep commitment to the community will continue through his judicial service and that he will be dedicated in providing fair and just resolutions to all matters brought before him.

We would also like to mention that Ed is also well versed in civil litigation in areas such as construction litigation, insurance defense, personal injury, contract issues and family law, having served as a senior trial associate with Carlsmith and Dwyer. As Hawaii's U.S. Attorney, Ed was also responsible for the direction and supervision of federal civil matters handled by the U. S. Attorneys. We believe that with the benefit of his experience in both civil and criminal matters and his extensive experience in trial practice Ed will be an effective judge in short order.

In closing, we strongly support the nomination of Ed Kubo and respectfully request your favorable consideration of his appointment. Thank you for this opportunity to testify.

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 300 • HONOLULU, HAWAII 96813
PHONE: (808) 768-4141 • FAX: (808) 768-4242 • E-MAIL: mayor@honolulu.gov

MUFI HANNEMANN
MAYOR



January 16, 2010

The Honorable Brian T. Taniguchi, Chairman
Committee on Judiciary and
Government Operations
Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairman Taniguchi and Members:

I am pleased to offer my support for the appointment of Edward H. Kubo, Jr., to the First Circuit Court bench.

Ed Kubo's stellar performance and achievements provide ample evidence of his qualifications for a judgeship. He was a deputy prosecuting attorney for many years and was in private practice before becoming an assistant U.S. Attorney. He was appointed to the U.S. Attorney's post in 2001, during one of the most challenging times in our history. National security threats, drug trafficking, Internet-based white-collar crimes, and a host of complex law enforcement concerns placed a tremendous responsibility on Mr. Kubo's shoulders, but he acquitted himself with characteristic integrity, candor, legal acumen, and dedication throughout his tenure. This University of Hawaii alumnus has demonstrated his unwavering commitment to the betterment of our state and nation, and I have every confidence that he will bring his expertise, compassion, and desire to serve to our Judiciary.

Ed Kubo will be an excellent judge and I offer my enthusiastic support for his nomination to this important post. I ask that you give him your favorable consideration in your deliberations.

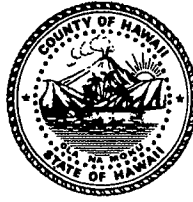
With warm regards and aloha,

Yours truly,

A handwritten signature in black ink that reads "Mufi Hannemann". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mufi Hannemann
Mayor

William P. Kenoi
Mayor



William T. Takaba
Managing Director

Walter K.M. Lau
Deputy Managing Director

County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553
KONA: 75-5722 Hanama Place, Suite 102 • Kailua-Kona, Hawai'i 96740
(808) 327-3602 • Fax (808) 326-5663

January 21, 2010

Honorable Brian Taniguchi, Chair
And Members of the Senate Committee on
Judiciary and Government Operations
Hawai'i State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawai'i 96813

Aloha, Senator Taniguchi and Committee Members:

I am writing to express my full support for the nomination of Edward H. Kubo Jr. to serve as Judge of the First Circuit Court.

Mr. Kubo earned the respect and admiration of law enforcement and political leaders within the County of Hawai'i through his critical support for our efforts to combat the scourge of methamphetamine abuse. His commitment of federal resources to hold methamphetamine smugglers and traffickers accountable for their actions had a profound impact on the drug trade on our island.

Mr. Kubo answered our every request for assistance with aloha, generosity and respect, helping to provide badly needed law enforcement personnel as well as resources for anti-drug outreach and education. His support as United States Attorney was essential to establishing the highly successful federal "Weed & Seed" program in Pahoa, the first and only example of a Weed & Seed program on a Neighbor Island.

Mr. Kubo also demonstrated a truly caring attitude toward our youth, devoting many days over the years to speaking to our youngsters about the perils of drug abuse, and encouraging our youth to strive to better themselves. Mr. Kubo has the skills, talent, experience and disposition to be a great jurist, and I urge the Committee to support his nomination.

Aloha,

William P. Kenoi
MAYOR



Testimony of the
HAWAII STATE BAR ASSOCIATION
relating to the nomination of

EDWARD H. KUBO, JR.
Circuit Court Judge, First Circuit Court

To: Senate Committee on Judiciary and Government Operations
The Honorable Brian T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice-Chair

Hearing: Thursday, January 21, 2010 at 9:30 a.m.
Conference Room 016
State Capitol

The Board of Directors of the Hawaii State Bar Association appreciates the opportunity to comment on the qualifications of Edward H. Kubo, Jr. for the position of Circuit Court Judge of the First Circuit.

In evaluating judicial nominees, the HSBA Board utilizes a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for State Judicial Office. These Guidelines include the following criteria: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, and public service, collegiality and writing ability. The HSBA Board's rating system includes the categories of "qualified" and "not qualified."

As part of its procedures for evaluating and taking positions on judicial and executive appointments, the HSBA Board utilizes a subcommittee of HSBA Board to review materials presented by the nominee and input from members. The subcommittee is also tasked with checking references and contacting others who have knowledge of the nominee's experience and qualifications. The full Board reviews the materials prepared by this subcommittee, the complete materials submitted by the nominee and members and conducts an interview of the nominee.

Taking into consideration all of the information presented by and about the nominee and an interview with the nominee, the vote of the Board of Directors of the Hawaii State Bar Association found Edward H. Kubo, Jr. to be qualified for the position of Circuit Court Judge of the First Circuit.

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EXECUTIVE DIRECTOR

Lyn Flanigan

SHOPO



January 20, 2010

The Honorable Brian Taniguchi, Chairperson, and
The Committee on Judiciary and Government Operations
Hawaii State Senate
State Capitol
Honolulu, Hawaii 96813

Re: Support for Edward H. Kubo, Jr. (GM109) as a Circuit Court
Judge

Dear Senator Taniguchi and Members of the Committee:

It is my honor to submit my testimony in support of Edward H. Kubo, Jr. for confirmation as a Circuit Court judge.

As a police sergeant and as the President of the State of Hawaii Organization of Police Officers (SHOPO), I have had the pleasure of working with Mr. Kubo. Throughout his legal career, he has held prominent positions, responsible for enforcing our state and federal laws. He has served with distinction as the U.S. Attorney, an Assistant U.S. Attorney, and as a Deputy Prosecuting Attorney.

Mr. Kubo is an accomplished attorney and litigator, whose legal skills, experience, and character will definitely be an asset as he serves our community as a Circuit Court judge. Without a doubt, his integrity is unquestionable.

His dedication to the rule of law, his independence, his sincerity, and his fairness will make him an exemplary judge.

On behalf of SHOPO, I respectfully urge your confirmation of Mr. Kubo as a Circuit Court judge.

Thank you for your consideration.

Sincerely,

TENARI R. MA'AFALA

PRESIDENT
Tenari R. Ma'afala

VICE PRESIDENT
Malcolm Lutu

TREASURER
James "Kimo" Smith

SECRETARY
Andrew Lum

DIRECTORS AT LARGE
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KAUA'I CHAPTER CHAIR
Jesse Guirao

MAUI CHAPTER CHAIR
Michael Bates

Main Office & Honolulu Chapter
1717 Hoe Street
Honolulu, Hawaii 96819-3125
Ph: (808) 847-4676 "84 SHOPO"
Fax: (808) 841-4818
Toll Free: (800) 590-4676

Hawai'i Chapter Office
688 Kino'ole Street, Room 220B
Hilo, Hawaii 96720
Ph: (808) 934-8405
Fax: (808) 934-8210

Maul Chapter Office
1887 Wili Pa Loop, Suite #2
Waikuku, Hawaii 96793
Ph: (808) 242-6129
Fax: (808) 242-9519

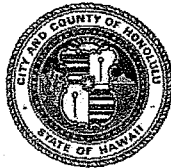
Kaua'i Chapter Office
3146 Akahi Street, Unit 2
Lihue, Hawaii 96765
P.O. Box 1708
Lihue, Hawaii 96765
Ph: (808) 246-8911

Visit us @ shopohawaii.org

HONOLULU FIRE DEPARTMENT
CITY AND COUNTY OF HONOLULU

636 South Street
Honolulu, Hawaii 96813-5007
Phone: 808-723-7139 Fax: 808-723-7111 Internet: www.honolulu.gov/hfd

MUFI HANNEMANN
MAYOR



KENNETH G. SILVA
FIRE CHIEF

ROLLAND J. HARVEST
DEPUTY FIRE CHIEF

January 8, 2010

The Honorable Senator Brian Taniguchi, Chairperson
Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Senator Taniguchi:

I am writing this letter in support of Ed Kubo for the appointment to Circuit Court Judge. I have known Ed for many years and have worked with him in his professional capacity as the former United States Attorney. He is a man of integrity and strong values and possesses a tremendous work ethic.

He will serve our community well and provide quality leadership to the State Judiciary.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kenneth G. Silva".

KENNETH G. SILVA
Fire Chief

KGS:lt

the *Action* Drug Policy Group

A sister organization of the Drug Policy Forum of Hawai'i
PO Box 61233, Honolulu, HI 96839

January 21, 2010

To: Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair and
Members of the Senate Committee on Judiciary and Government Operations

From: Pamela Lichty, President, Drug Policy Action Group

RE: GM 109 Consideration and Confirmation to the Circuit Court of the First Circuit,
Edward Kubo, Jr., January 21, 2010, 9:30 a.m., Room 016

The Drug Policy Action Group submits concerns on the appointment of former United States Attorney for Hawai'i Edward Kubo as judge to the circuit court of Hawaii.

Our focus as an organization is on encouraging rational, pragmatic approaches to drug policy in Hawai'i. As such, we strive to provide credible, accurate data and information to help policy makers and the general public in making decisions and developing effective strategies and policies.

Our comments on Mr. Kubo will therefore be limited to a couple of instances where his actions and public comments impacted our efforts and we believe did a disservice to the people of Hawai'i. We believe that while Mr. Kubo served as Hawai'i's U.S. Attorney, he exhibited poor judgment, a disregard of the facts, and acted irresponsibly for a person in a position of public trust on at least two occasions.

Threatens Patients & Doctors after *Gonzales v. Raich*

In 2005, after the U.S. Supreme Court issued an opinion on *Gonzales v. Raich*, regarding medical marijuana, he was featured on local television networks and in local newspapers saying that Hawai'i's medical marijuana program was "essentially dead" and that he would prosecute doctors who continued to recommend medical marijuana to patients in compliance with state laws. He also threatened to shut down Hawai'i's needle exchange program.

Mr. Kubo was obviously incorrect. He didn't do his homework prior to making these threatening statements and he didn't get his facts straight. Prior to the *Raich* ruling, the Ninth Circuit Court of Appeals had affirmed doctors' first amendment rights to discuss medical marijuana with their patients. The Supreme Court let stand that ruling in 2004 (*Walters v. Conant*). Contrary to Mr. Kubo's statements, the ruling on *Raich* did not affect states' medical marijuana programs and doctors had and continue to have the right to discuss medical marijuana with their patients. Shortly thereafter on June 15, 2005, Attorney General Mark Bennett issued a statement confirming that in fact the ruling did not impact the Hawai'i program.

After the American Civil Liberties Union of Hawai'i (ACLU) demanded a retraction of his statements, Mr. Kubo "clarified" them by saying that the federal government would not seek from the state a list of doctors who participate in the program. Unfortunately, his "clarification" could not undo the damage that he had already caused. Patients became alarmed. We heard from patients who immediately destroyed their medical marijuana plants when they saw the U.S. Attorney on television. He also caused seriously ill people unnecessary anxiety; and increased fear among doctors who participate in the program.

Misrepresented Crystal Methamphetamine Facts

In 2003, at the height of media and legislative attention to the crystal meth problem in Hawai'i, Mr. Kubo was quoted as saying that there were "30,000 hard-core ice users and 90,000 recreational ice users" in Hawai'i. Even after those data were shown to be extremely inflated and erroneous, Kubo refused to correct his statements. He continued to use the exaggerated numbers to forward his agenda to advocate at the legislature for wiretapping, "walk and talk," and "knock and talk."

The *Honolulu Star Bulletin*, in an editorial (August 6, 2003) said, "Crystal methamphetamine is enough of a problem in Hawai'i without law enforcement officials exaggerating it," and "Scrutiny of such estimates would have shown them to be farcical."

Misstating facts is irresponsible for a public official and refusing to correct statements when they are proven wrong shows a lack of judgment; and that furthering an agenda is more important than the truth.

We ask that you consider these events in your deliberations. Thank you for this opportunity to provide comments.

The Pacific Resource
PARTNERSHIP



January 15, 2010

Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice Chair
Committee on Judiciary and Government Operations
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

RE: GM 109 for consideration and confirmation to the Circuit Court of the First Circuit, State of Hawaii, Gubernatorial Nominee, Edward H. Kubo, Jr.

Aloha Chair Taniguchi, Vice Chair Takamine and Members of the Senate Committee on Judiciary and Government Operations:

My name is Kyle Chock, Executive Director at the Pacific Resource Partnership (PRP), a joint labor management program between the Hawaii Carpenters Union and its more than 240 signatory contractors. I am writing you to express PRP's strong support of Edward H. Kubo Jr., nomination for judgeship to the State of Hawaii's First Circuit Court.

It goes without saying that Mr. Kubo's long history as a prosecutor in our State has provided him with a sound understanding of the laws and legal systems that govern our State and Country. This experience has also given great insight into the present day legal issues that threaten our local society. However, what sets Mr. Kubo apart are his personal values, reflected in his most recent tenure as the United States District Attorney for the District of Hawaii.

During his tenure at the District Attorney's office, Mr. Kubo made it his mission to "crack down" on drug trafficking in our State, namely methamphetamine or the "ice" trade. A scourge that not only ruins the lives of the individual users, but also of their families, with wide ranging negative effects on our communities leading to crimes ranging from petty theft, assault, and even murder.

Finally, Mr. Kubo's personal values are most notably reflected in his most recent spearheading of Malama Na Koa. This organization works with the USO "Wounded Warriors" program to raise funds and supplies, and expedite the process of getting resources to Hawaii's wounded warriors that come from all branches of military service. His involvement with this program shows that he not only cares about our wounded warriors, but deeply appreciates their service and sacrifice to our Country and State.

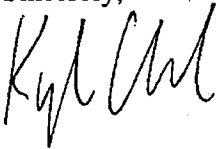
January 15, 2010
Senator Brian Taniguchi, Chair
Senator Dwight Takamine, Vice chair
Committee on Judiciary and Government Operations
Page 2

Mr. Kubo's track record speak not only of his qualifications and understanding of the legal issues that presently face Hawaii, but more importantly to his personal values which will guide him to finding a clear path to justice as a member of Hawaii's First Circuit Court.

In closing, Mr. Kubo is more than qualified to serve on the First Circuit Court of Hawaii.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Kyle Chock". The signature is written in a cursive, somewhat stylized font.

Kyle Chock
Executive Director

The Senate
Committee On Judiciary and
Government Operations
Thursday, January 21, 2010
9:30 a.m.
Room 016

Statement of the Hawaii Carpenters Union in Support
Of the confirmation of Edward Kubo to the Circuit Court

The Hawaii Carpenters Union strongly supports the confirmation of Edward H. Kubo Jr. to the Circuit Court. We believe he carries out the laws of his jurisdiction with roots in, and sensitivity to our community.

We note his initiatives in Hawaii's crystal methamphetamine crisis. While not completely solved, great strides have been taken in this battle.

Our organization relied on Mr. Kubo's expert support during the legislative session that resulted in regulated oral swab drug testing in the workplace, protecting individual workers, reducing drug use, and reducing costs to employers.

We witnessed his leadership and cooperative work style when taking action against employers exploiting undocumented workers in Hawaii.

These particular examples, along with his honest, humanitarian and even handed character, all indicate a strong addition to Hawaii's judiciary.



**International Union of Painters and Allied Trades
District Council 50**

2240 Young Street
Honolulu, HI 96826

Phone

808.941.0991

Fax

808.955.0091

Email

info@dc50.org

Website

www.dc50.org

PAINTERS

808.941.0991

GLAZIERS

ARCHITECTURAL

AND GLASS METAL

WORKERS

808.946.3329

CARPET, LINOLEUM

AND SOFT TILE

808.942.3988

DRYWALL TAPERS

FINISHERS

808.848.7766

January 19, 2010

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Committee on Judiciary and Government Operations
The Senate
The Twenty-Fifth Legislature
Regular Session of 2010

RE: GM 109 - Submitting for consideration and confirmation to the Circuit Court of the First Circuit, State of Hawaii, gubernatorial nominee, EDWARD H. KUBO, JR, for a term to expire in ten years.

Honorable Chair Taniguchi, Vice Chair Takamine and the Members of the Senate Committee on Judiciary and Government Operations:

In behalf of the over 2000 working men and women of District Council 50, International Union of Painters and Allied Trades, AFL-CIO, we should like to thank you for giving us this opportunity to speak in behalf of the above referenced nominee for the Circuit Court of the First Circuit, State of Hawaii.

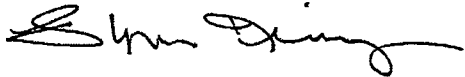
I have known Mr. Kubo for well over ten years and have served with him in a variety of capacities, including service on nonprofit organizations. Throughout all of my experiences with Mr. Kubo, I have found him to be extremely thoughtful, hard working and mindful of his humble beginnings.

Consistent throughout his life and career, has been an unwavering commitment towards the people of Hawaii. Whether it was his work as a legal advocate protecting the health and safety of our state and counties or through his service on countless volunteer boards and organizations, Mr. Kubo has never wavered in his dedication towards improving the lives of our hard working citizens.

It is without hesitation that I wholeheartedly endorse Mr. Kubo's appointment to the Circuit Court bench. I sincerely believe that Mr. Kubo will bring qualities such as fairness, integrity and humility to his position and the people of our State will be well served with Mr. Kubo's appointment to the Circuit Court.

Once again, thank you very much for giving us this opportunity and we humbly ask for your favorable consideration of Mr. Kubo's appointment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lynn Kinney", written in a cursive style.

Lynn Kinney
Business Manager/Secretary-Treasurer
International Union of Painters and Allied Trades
District Council 50



Latin Business Hawaii

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Hawaii Hispanic News

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Hawaii Hispanic News
Villa Roma Communications

January 5, 2010

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Aloha Senator Taniguchi:

I respectfully request your Committee's support of the nomination of former U.S. Attorney Edward H. Kubo, Jr. to serve as a Circuit Court judge of the First Circuit (O'ahu). Mr. Kubo would be the first judge in the state of Hawaii of Hispanic descent. This would be another major accomplishment for Hawaii's increasingly active diverse community.

Mr. Kubo has dedicated his career to upholding the law and defending the public against crime. He has a well-rounded legal background that includes extensive experience as: the U.S. chief federal law enforcement officer and principal litigator in Hawaii; a prosecuting attorney for the city; and a private practice trial attorney.

During his tenure with the U.S. Attorney's Office, Mr. Kubo focused on major federal criminal investigations, such as: white collar crimes; mortgage fraud; civil rights violations; tax evasion; corruption; crimes on government installations; and violent crimes. He also covered federal civil areas including: fraud against government; employment discrimination; medical malpractice defense; and defense of military initiatives.

Other key areas Mr. Kubo focused on involved federal criminal narcotics enforcement and organized crime, including: international drug trafficking; court-approved wiretaps; complex conspiracies; financial investigations and forfeiture of property; and racketeering prosecutions.

Mr. Kubo has been an exemplary public servant, and an outstanding citizen, who is committed to improving our statewide community. I am confident he will continue to serve the public well as a Circuit Court judge.

Marie Villa
President

Senate Confirmation Hearing
JGO Testimony@Capital.Hawaii.gov
Honolulu, Hawaii 96813

Election Committee,

The H.E.L.P. Organization of Hawaii would like to recommend attorney Ed Kubo as the State of Hawaii's new Circuit Court Judge. We have reviewed the commendable record of Mr. Kubo and find his efforts are outstanding in the protection of the people of Hawaii, and enforcement of state and local laws. We would like to cite his past record in the case of Boy Carvalho in which he found discriminatory efforts by the defendant's attorney to place an all male jury for the case. The Hawaii Supreme court became the first in the nation to rule that women could not be excluded as a class. Mr. Kubo has also suffered racial discrimination in his childhood while stationed in Germany with his parents. We believe these past experiences and others have prepared Mr. Kubo to be ready for the challenging job as Hawaii's next Circuit Court Judge. We give our stamp of approval to Mr. Edward Kubo. Thank You!

Sincerely,
Juan Williams
Acting Chair

H.E.L.P. Org
(Hope, Education, Leadership, Progress)
91-2170 FT. Weaver Rd.
Ewa Beach, Hawaii 96706
(808) 218-0672

From: Michael.A.Town@courts.state.hi.us
Sent: Saturday, January 16, 2010 9:08 AM
To: JGO Testimony
Subject: Ed Kubo's nomination as Judge of the Circuit Court

Dear Senator Taniguchi.

Thank you for the invitation of January 14, 2010 to comment on Ed Kubo's nomination for the circuit court. I have known Ed for well over 35 to 40 years ranging back to our days at the Legal Aid Society to his tenure at the prosecutor's office and then his time as U.S. Attorney for the District of Hawai`i. I know his wife, Tammy, and have met his children. I have been a trial judge for over 30 years and Ed stands out in my view as an outstanding attorney, leader, family man and community servant. He possesses all those attributes needed to be an outstanding trial judge. He works hard, in independent and impartial, has a very even temperament and knows the law. Accordingly, I recommend his confirmation without qualification or exception.

The daily managing of a busy trial calendar requires a strong sense of our community beyond knowing and interpreting the law. Ed's commitment to our community has been exemplary. His work with the Wounded Warriors from our armed forces showed this and highlighted his heart for compassion and service. Ed initiated and spearheaded a day for veterans wounded in Iraq and Afghanistan (both physically and emotionally). These young men and women spent an entire day at Pearl Harbor paddling canoes, enjoying music, food, and being honored by state and federal dignitaries. It was a sight to behold and Ed led that effort courageously. I was there as a coach and canoe steersman and this initiative galvanized the community.

Should you have any questions, please feel free to contact me. 539.4074.

Sincerely,

Michael A. Town, Judge
Circuit Court, State of Hawaii

From: Stanley Garcia [garcias006@hawaii.rr.com]
Sent: Saturday, January 16, 2010 10:09 PM
To: JGO Testimony
Subject: confirmation of Ed Kubo

Joint Task Force-Homeland Defense (JTF-HD)
16
January 2010

MEMORANDUM FOR: SENATOR BRIAN TANIGUCHI, CHAIRPERSON, COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

SUBJECT: Confirmation of Ed Kubo (GM 109)

Please afford me the opportunity to express my testimony of recommendation for Ed Kubo's confirmation for Judgeship.

I have known Ed Kubo for approximately 25 years now and had the pleasure of working with Ed during his capacity as a Prosecuting Attorney for the State of Hawaii while working with the Honolulu Police Department. I also had the opportunity to work with Ed Kubo during his capacity as the United States Attorney while serving as the Operations Officer in Charge of the Hawaii Army National Guard's Counterdrug Support Program.

Ed Kubo's dedication, integrity, knowledge, experience and unwavering commitment to upholding the laws and statutes of our great State has been exemplarily and steadfast. He performed his duties in an exceptional manner while serving as the United States Attorney. He devoted much of his time and effort in ensuring that our State remained the safest state during his watch as the United States Attorney.

Ed Kubo has always been goal oriented in his undertakings and has always focused his efforts for the good of our State.

I firmly believe that once confirmed as a Judge, he will continue to provide that same level of leadership which he has demonstrated for the last 25 years that I have had the pleasure of knowing and working with Ed Kubo. It is my strong belief that the State of Hawaii will benefit greatly with a confirmation of Judgeship for Ed Kubo.

Finally I can strongly state that Ed Kubo is the very best in what he does and I highly recommend him to be confirmed as the next Judge.

Sincerely,

MAJ Stanley T. Garcia
JTF-HD J315
Assistant Chief of Operations
(808) 438-5873 (office)
(808) 285-6226 (mobile)

G.M. 109
Consideration and Confirmation of Edward H. Kubo, Jr.
to the Circuit Court of the First Circuit, State of Hawaii

January 21, 2010
9:30 am

Senator Brian T. Taniguchi, Chair
Committee On Judiciary And
Government Operations
State Capitol, Conference Room 016
Honolulu, Hawaii 96813

Dear Chairman Taniguchi and Committee Members:

It is with great pleasure that I support the nomination of **Edward H. Kubo, Jr.** to serve as a Circuit Court judge of the First Circuit.

I have known Edward "Ed" Kubo for nearly a lifetime. Throughout my 40+ years of friendship, I can share my personal observations and experiences about Ed. He is a local-boy at heart, consistently demonstrates great character, displays a good balance between wisdom and common sense, and is "grounded" never losing touch with reality. I recall a conversation we had in high school where he was adamant about not taking a popular stance, but rather asking everyone to evaluate the options and to do what is right. Ed back then, as he is now, continues to be true to his attributes.

Ed has dedicated much of his legal career to public service serving as Prosecuting Attorney for the City and County of Honolulu, Assistant U.S. Attorney, and most recently served 8 years as United States Attorney – District of Hawaii. While Ed has spent many years prosecuting criminals, I am confident that Ed possesses the ability to review each case on its merits, apply the law, and fairly render a decision.

Thank you for your favorable consideration in confirming Edward Kubo as Circuit Court judge of the First Circuit.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Tamamoto", enclosed within a large, hand-drawn oval.

Brian Tamamoto

Law Offices of
BROOK HART
A LAW CORPORATION
Melim Building
333 Queen Street, Suite 610
Honolulu, Hawaii 96813

TEL: (808) 526-0811

e-mail: hartlaw@hawaii.rr.com

FAX: (808) 531-2677

January 12, 2010

Senator Brian Taniguchi - via facsimile 586-⁶⁴⁶¹7339
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

FAXED
1/12/10

Re: Edward H. Kubo, Jr., Application for a Circuit Court Judgeship

Dear Senator Taniguchi:

I have known Ed Kubo since at least 1980, when he was a major felony crimes trial attorney serving as a deputy city prosecuting attorney in the Honolulu Prosecutor's Office. In that office he prosecuted homicides and other high profile cases, and he regularly had contact with me in my capacity as a defense lawyer for accused persons. I came to know Mr. Kubo well while he was working in the Prosecutor's Office between 1980 and 1983, and then when he returned to the Prosecutor's Office after his service in the Carlsmith firm between 1983 and 1985. I continued to have regular contact with Mr. Kubo when he joined the United States Attorney's Office, where he served with distinction as an Assistant United States Attorney between 1990 and 2001. We were involved as opposing counsel in cases including white collar and organized crime, narcotics, and child pornography. I continued to have regular contact with Mr. Kubo in his role as the United States Attorney for the District of Hawaii, between 2001 and September, 2009, when he completed his service in that capacity.

I warmly recommend Mr. Kubo for appointment to the position of Circuit Court Judge in the First Circuit. Mr. Kubo has demonstrated over the many years that I have worked with and against him that he is an effective and committed prosecutor. In the numerous cases in which I have represented the accused and he has prosecuted the accused, we have always resolved the particular case in a mutually acceptable and just manner. Most recently, Mr. Kubo exercised his discretion in a complex white collar case involving a large local business, to conclude that justice did not require prosecution of the business or its executives. It took courage for him to reach this decision, where his decision was contrary to the recommendations of certain prosecutorial staff and federal agency personnel.

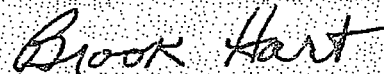
January 12, 2010
Page Two

Mr. Kubo also has a long and distinguished history of serving our community in many different volunteer capacities, including as a member of the Board of Trustees of Palama Settlement, as Chairman of the Project Safe Neighborhoods Advisory Group, and as a member of the Tripler Army Medical Center Advisory Board. He is a highly experienced lawyer who is fair and compassionate. I anticipate that he would effectively and positively serve with distinction as a Circuit Court Judge on Oahu. I unequivocally recommend him for the position.

If you have any further questions or wish to discuss this matter with me directly, please do not hesitate to contact me.

Sincerely,

LAW OFFICES OF BROOK HART
A Law Corporation

A handwritten signature in cursive script that reads "Brook Hart".

BROOK HART

BH:ls

TESTIMONY OF
MAHEALANI PEREZ-WENDT
January 12, 2010

IN SUPPORT OF GM 109 - SUBMITTING FOR CONSIDERATION AND
CONFIRMATION TO THE CIRCUIT COURT OF THE FIRST CIRCUIT, STATE
OF HAWAII, GUBERNATORIAL NOMINEE, **EDWARD H. KUBO, JR.**, FOR A
TERM TO EXPIRE IN TEN YEARS

BEFORE THE

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

DATE: Thursday, January 21, 2010
TIME: 9:30 a.m.
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

Thank you for this opportunity to testify in support of the nomination of Edward H. Kubo, Jr., for confirmation to a judgeship with the First Circuit Court of the State of Hawai'i.

I have been acquainted with Mr. Kubo for approximately 36 years, since we were undergraduates at the University of Hawai'i - Manoa and both served as volunteers with the "domestic peace corps" program, VISTA (Volunteers in Service to America). It was there that we became interested in justice issues and determined to pursue legal careers. I recently retired as Executive Director of the Native Hawaiian Legal Corporation after 32 years, and Mr. Kubo concluded several terms, with distinction, as Hawai'i's U.S. Attorney.

Over the past several decades, I have followed Mr. Kubo's career very closely. He has earned the respect of myself and my colleagues for his principled work ethic, compassion, and unceasing efforts to ensure fairness and justice for all in Hawai'i. In our discussions, Mr. Kubo has demonstrated a good understanding of issues of concern to native Hawaiians.

Mr. Kubo has my strong support for appointment to the First Circuit Court of the State of Hawai'i. Thank you for this opportunity to submit testimony in support of this nomination.

BERVAR & JONES

Attorneys at Law • A Law Partnership

ALAKEA CORPORATE TOWER
1100 ALAKEA STREET, 20TH FLOOR
HONOLULU, HAWAII 96813

BIRNEY B. BERVAR

WARD D. JONES
A Law Corporation

PHONE: (808) 550-4990

FAX: (808) 550-4991

Thuan D. Costa
Blue Kaanehe
Janiffer Loder
Andrea Low
Amberlee Sutton
Anna K.B. Tsang
Michael Wong
Robert S. N. Young

January 13, 2010

Senator Brian T. Taniguchi
Chairperson
Senate Judiciary and Government Operation Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Hand Delivered

Re: Edward H. Kubo, Nominee for First Circuit Court Judge

Dear Senator Taniguchi:

I strongly support the confirmation of Edward H. Kubo, Jr. as a Circuit Court Judge of the First Circuit Court. Mr. Kubo's experience, integrity and diligence would make him an excellent trial court judge.

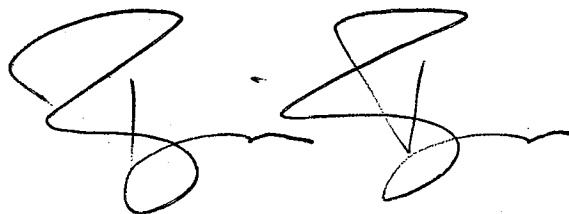
I have known Ed Kubo for over twenty (20) years as a colleague and friend. I first met Ed in 1989 when he was a new Assistant United States Attorney and I was an Assistant Federal Public Defender. Over the next decade, we had a number of cases together in which we were opposing counsel. Several of these cases went to jury trial and a couple of them on appeal to the Ninth Circuit Court of Appeals. As an opposing advocate, I found Ed to be hardworking and a man of his word. Ed was always pleasant to deal with, and remained calm and in control even under the intense pressure and stress of federal trial proceedings.

Ed would be a superb circuit court judge. He has extensive experience in criminal law and civil law experience as well. Most important for a trial court judge, Ed has over twenty (20) years experience in personally trying cases, and another seven (7) years of experience as the head of a large office of civil and criminal trial attorneys. It would be a great asset to our judiciary to get a Circuit Court judge with such extensive trial experience. As a judge, Ed would be diligent, compassionate and fair.

Senator Brian T. Taniguchi
Chairperson
January 13, 2010
Page Two

I highly recommend Ed Kubo for the position of Circuit Court Judge of the First Circuit. If I can be of further assistance, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "B. Bervar". The signature is stylized with large loops and a horizontal line extending to the right.

BIRNEY B. BERVAR

BBB:mab

**Elizabeth McLemore Lum
3638 Kumu Street
Honolulu, Hawaii 96822**

January 10, 2010

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Senator Taniguchi:

I am writing in strong support of the confirmation of Ed Kubo as a Circuit Court judge of the First Circuit.

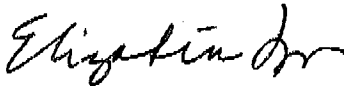
I believe that Ed has all of the qualities necessary to serve as a Circuit Court judge including experience, expertise, integrity and a solid reputation in our community for treating everyone he meets with dignity and respect.

Much like Judge Frances Wong, whose seat he would fill, Ed finds the time to give back to our community by serving as a volunteer for numerous not for profit organizations like Kids Hurt Too and the Hawaii Wounded Warrior Community Support Program.

If confirmed, I have no doubt that all those who come before Ed in the courtroom will be listened to and treated with fairness.

I truly believe that Ed is the best person to fill this important vacant seat and I urge the members of the Senate Judiciary committee and the full Senate to vote in favor of his confirmation.

Sincerely,



Elizabeth Lum

FONSECA & CHING

Attorneys At Law, A Law Corporation

Jerel D. Fonseca
Rodney K. F. Ching

Of Counsel:
Lorrin A. Kau

January 12, 2010

Senator Brian Taniguchi
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Recommendation for Ed Kubo

Dear Senator Taniguchi:

My name is Rodney Ching. I am an attorney in private practice and a former Per Diem Family Court Judge (6 years). You may remember me from the Ethnic Studies program.

I have known Ed since the mid-1980's. He was my team leader at the Office of the Prosecuting Attorney. I learned much from Ed about preparing for and trying jury cases. He is knowledgeable about the law and trial tactics and is a good leader. Ed has a way of motivating people in a positive manner, rather than criticizing them. I've never seen him lose his temper or display inappropriate emotions. He's one of the "good guys" that I respect and admire. His position as U.S. Attorney makes him particularly well qualified to handle both civil and criminal matters. **We need judges like Ed who have trial experience.**

It is without hesitation or reservation that I strongly urge you to confirm Ed Kubo for the office of Judge, Circuit Court of the First Circuit.

If you have any questions regarding this letter or require any further information, please feel free to call me at 521-1141.

Sincerely,



Rodney K.F. Ching

RKFC/

Davies Pacific Center, 841 Bishop Street, Suite 2201
Honolulu, Hawaii 96813

Oahu: Telephone (808) 521-1141 • Neighbor Islands & Mainland: 1 (877) 421-1141
Fax (808) 538-0100

ANTHONY H. YUSI

ATTORNEY AT LAW
A Law Corporation

DILLINGHAM TRANSPORTATION BUILDING
735 BISHOP STREET, SUITE 322
HONOLULU, HAWAII 96813
TELEPHONE: (808) 531-8121
FAX: (808) 531-8121

Hand-Delivered

January 13, 2010

✓ Senator Brian T. Taniguchi (Chair)
Senator Dwight Y. Takamine (Vice-Chair)
Senator Robert Bunda
Senator Mike Gabbard
Senator Clarence K. Nishihara
Senator Sam Slom
Judiciary Committee, Senate
Hawai'i State Legislature
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Re: Nomination of Edward H. Kubo to Circuit Court Judge, First Circuit

Dear Chair and Vice-Chair Messrs. Taniguchi and Takamine and Members of the Judiciary Committee:

I am writing in support of the nomination of Edward H. Kubo to Circuit Court Judge, First Circuit.

I first wish to introduce myself to you. I was born and raised and educated in Hawai'i, graduating from Saint Louis High School and the University of Hawai'i. After receiving my law degree I was licensed to practice law in Hawai'i in 1977. From approximately 1980 – 1984 I was a State Deputy Public Defender. Thereafter I have been in private practice. While with the Public Defender's Office I handled misdemeanor and major felony criminal cases, including trials and appeals. While in private practice I have continued to handle major felony cases, both court-appointed and privately retained. I have also handled all types of other litigation including Plaintiff/Claimant tort cases and business litigation, including appeals before the Intermediate Court of Appeals and the Hawai'i Supreme Court. I provide this background to demonstrate my interest in the quality of the Judiciary, first as a life long resident of the State and second as an active member of the State Bar.

Senator Brian T. Taniguchi (Chair)
Senator Dwight Y. Takamine (Vice-Chair)
Senator Robert Bunda
Senator Mike Gabbard
Senator Clarence K. Nishihara
Senator Sam Slom
Judiciary Committee, Senate
Hawai'i State Legislature
Re: Confirmation of Edward H. Kubo
January 13, 2010
Page Two

As a lawyer focusing on litigation I am keenly interested in the quality of our circuit court judges since they provide face to face contact between the members of the public as litigants and their attorneys, as well as apply the laws you pass thereby affecting our State community in the most fundamental manner.

I first met Mr. Kubo when I was as a State Deputy Public Defender in 1980 and defending misdemeanor clients in the State District Court and Mr. Kubo was a State Deputy Prosecutor representing the State of Hawai'i in many of those same district court cases. Our acquaintanceship continued when we both advanced to the State Circuit Court and began trying felony cases. Most recently I have represented clients in Federal District Court during the period that Mr. Kubo was the United States Attorney for the District of Hawai'i. Therefore, over this long period of practice I have come to know Mr. Kubo personally, as well as an attorney and as the local administrator of an important federal office.

I know him by experience from both perspectives. With this background I believe I can state without exaggeration that I am as aware of his personal and professional character as well as any other member of the State Bar. Mr. Kubo's character in all regard is outstanding.

In all of my experience over these years in cases that I have been in involved with Mr. Kubo, he has demonstrated outstanding competence in his handling of his cases and he has been fair and open minded in his analysis of issues relevant to the cases. Most importantly, he has always exercised the highest of professional integrity and maintained a wonderful sense of balance and humor in his professional dealings with me.

In an adversarial system one or more parties will always be disappointed to some extent by the decision of any judge or court; and that is inherent in the system. More important for the long term good than the decision however is the process. Is it fair? Does it appear fair? Has every party been heard?

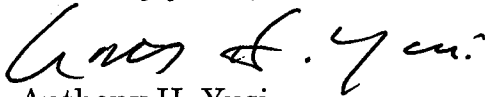
Senator Brian T. Taniguchi (Chair)
Senator Dwight Y. Takamine (Vice-Chair)
Senator Robert Bunda
Senator Mike Gabbard
Senator Clarence K. Nishihara
Senator Sam Slom
Judiciary Committee, Senate
Hawai'i State Legislature
Re: Confirmation of Edward H. Kubo
January 13, 2010
Page Three

Does the judge decide the issue? I believe that Mr. Kubo will accomplish these goals well as a circuit court judge.

Sometimes parties, attorneys, and other interests groups within the community you hear from have agendas - Mr. Kubo does not. I have always felt good in any professional contact I have had with Mr. Kubo. That feeling was of one professional practicing with another professional. A feeling that all lawyers should enjoy. With the profession of law turning more into the business of law, that attitude is not that always easy to effect. We need Mr. Kubo to be confirmed as a Circuit Court Judge because he exemplifies the attitude that law is a profession and should not be treated just as a business. When that kind of attitude and perspective prevails in our Judiciary and State Bar, the community benefits.

Thank you for letting me express to you these thoughts on a very worthy candidate for Circuit Court Judge of the First Circuit.

Sincerely yours,


Anthony H. Yusi

RECEIVED

JAN 19 2010

LAW OFFICES OF
PAUL J. CUNNEY

Paul J. Cunney
Attorney at Law

Victor J. Bakke
Attorney at Law

Marcus B. Sierra
Attorney at Law

Dean C.M. Hoe
Attorney at Law

January 13, 2010

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, HI 96813

***Re: Confirmation Hearing for Edward H. Kubo, Nominated for Judge,
Circuit Court of the First Circuit***

Dear Senator Taniguchi,

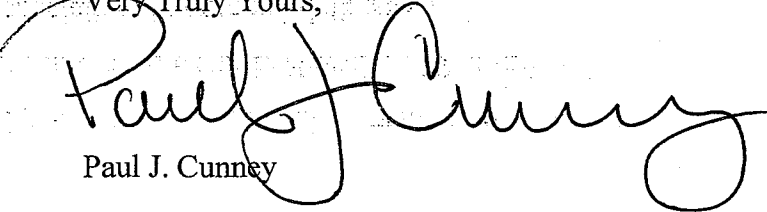
I am pleased to write you and your committee on behalf of Edward H. Kubo, who has been nominated for a Judicial appointment to the Circuit Court of the First Circuit.

First, as to my background, I have been practicing law since 1973, when I was admitted in both Massachusetts and Florida. I took the bar exam in Hawaii in 1982 and moved here in November 1984. My law firm specializes in criminal defense and I employ 3 former prosecutors, Victor Bakke, Dean Hoe, and Marcus Sierra.

Interestingly, my first high publicity trial occurred in December, 1985. It was the State of Hawaii's first jury trial for DUI and I went up against two veteran prosecutors, Tom Koenig and, the nominee, Ed Kubo.

Based upon a working knowledge of Ed Kubo from both the State and Federal Courts and having the opportunity to observe his character and integrity both in and out of court, I strongly recommend Ed Kubo for confirmation as a Circuit Court Judge. He is eminently qualified and I believe that he will serve the State of Hawaii and the Judiciary with distinction.

Very Truly Yours,



Paul J. Cunney

From: Bunye, Salustiano [sbunye@honolulu.gov]
Sent: Thursday, January 14, 2010 9:30 AM
To: JGO Testimony
Subject: Ed Kubo's confirmation

In his years with the Honolulu Department of the Prosecuting Attorney, I found Mr. Ed Kubo as honest, intelligent, even-tempered and knowledgeable.

Salustiano R. Bunye
Investigator
Department of the Prosecuting Attorney
City & County of Honolulu
1060 Richards Street, 9th Floor
Honolulu, HI 96813

TESTIMONY ON GOVERNOR'S MESSAGE 109
SUBMITTING FOR CONSIDERATION AND
CONFIRMATION TO THE CIRCUIT COURT OF THE
FIRST CIRCUIT, STATE OF HAWAII,
GUBERNATORIAL NOMINEE,
EDWARD H. KUBO, JR,
FOR A TERM TO EXPIRE IN TEN YEARS.

By
Mr. Keith Kamita

Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Thursday, January 21, 2010, 09:30 AM
State Capitol, Room 016

Senators Taniguchi and Members of the Committees:

I have personally known and worked with Mr. Kubo for over twenty years of my law enforcement career. As the Chief of the State's Narcotics Enforcement Division I have had the pleasure of seeing Mr. Kubo consistently demonstrate his ability to communicate and work effectively with federal, state and county law enforcement agencies. Mr. Kubo has over twenty years of substantive prosecution experience and is an individual of high moral character and conviction. Mr. Kubo's ability to listen and fairly address the needs of his peers and the law enforcement community of Hawaii demonstrates his ability to be a team player. Mr. Kubo's legal, administrative and interpersonal skills, combined with his dedication to duty have yielded outstanding results and gained him the respect of the law enforcement community here in Hawaii. I would like to give my highest recommendation for Mr. Kubo's nomination as a Judge on the First Circuit Court.

Thank you for allowing me to testify on this matter.

Breene Harimoto
1983 Hoomalolo Street
Pearl City, Hawaii 96782

Sen. Brian Taniguchi, Chair
Senate Judiciary Committee

January 12, 2010

TESTIMONY IN STRONG SUPPORT OF ED KUBO

Dear Chair Taniguchi,

Chair Taniguchi and members of the Senate Judiciary Committee, my name is Breene Harimoto. Many of you know me as a member of the Board of Education but I am submitting this testimony as an individual.

I submit this testimony in strong support of the appointment of Ed Kubo as Circuit Court Judge.

I have known Mr. Kubo for over 30 years. I can say without hesitation that he is a man of honor and integrity. In addition, he is fair, impartial, and even-tempered, which I know are essential characteristics of a good judge.

In addition to his professional career, Mr. Kubo also serves the community. For the past several years he has volunteered to serve on the steering committee of the Department of Education's Parent Project. I also serve as a volunteer on this committee and my wife is a social worker who conducts these classes in Pearl City. The Parent Project is a national program that is recognized as a model program to help parents whose children who are having difficulty in school due to issues with alienation, destructive behaviors, substance abuse, or just being rebellious. This program equips parents with the knowledge and skills that adapt their own behaviors to effectively deal with their children. The purpose is to get the situation under control within the family before children get to the point of failing in school, hurting themselves, and entering the criminal justice system. Mr. Kubo has been an exemplary leader in this cause and his input and leadership on the steering committee have been very much appreciated.

In addition, Mr. Kubo has been very supportive and helpful in giving me advice and support for our youth programs at the Pearl City Foundation. He gave me good advice about potential grant opportunities and just much moral support. His concern for youth is genuine and sincere.

I urge you to confirm Ed Kubo as Circuit Court Judge. Thank you.

EDMUNDS VERGA & OMONAKA

ATTORNEYS AT LAW, A LAW CORPORATION
SUITE 2104 DAVIES PACIFIC CENTER
841 BISHOP STREET
HONOLULU, HAWAII 96813-3945

JOHN S. EDMUNOS
RONALD J. VERGA
JOY S. OMONAKA

TELEPHONE
(808) 524-2000
FAX
(808) 528-3585
SENDER'S E-MAIL ADDRESS
JEdmunds@ev-law.com
www.ev-law.com

January 14, 2010

Via Fax: 586-6461

Senator Brian T. Taniguchi, Chair
Committee on Judiciary and Government Operations
415 S. Beretania Street, Room 219
Honolulu, HI 96813

Re: Edward Kubo, Esq.

Dear Senator Taniguchi:

I am writing to support the nomination of Edward Kubo as a Judge of the First Circuit Court, State of Hawai'i.

I have practiced law in Honolulu for the last 42 years. During that time, I had the honor of serving as a member of the Hawaii Judicial Selection Commission, having been appointed by then-Senate President Norman Mizuguchi. I served first as a Commissioner and then as Vice-Chair of the Commission. I have also served as a judge myself, having been appointed in 1980 as the Acting Chief Justice of the Supreme Court of the Republic of the Marshall Islands.

I have known Ed Kubo for at least twenty years. Interestingly, although I consider him a very close professional colleague and friend, the cases in which we have been involved have always been adversarial where he was prosecuting and I was in the role of defense counsel. Despite the fact we have always been adversaries, we have remained good friends. In this day and age (sadly), that is a rare thing, as I am sure you realize. (I should add that our friendship is a professional one. We have not socialized other than at the annual Federal Judicial Conference.)

While Ed was serving as Chief United States Attorney for Hawai'i, I had occasion to see his work firsthand, particularly his handling of a white-collar criminal investigation of a local Hilo businessman. The case had been in Ed's office for several years and, to put it mildly, was a highly complicated matter. It involved not only myself as defense counsel, but additional Hawai'i counsel and defense counsel from New York who

specialized in customs and regulatory work. I was greatly impressed by Ed's "hands-on" approach to the case. In this regard, he brought in others in his office, including Assistant United States Attorney Michael Seabright, who was later appointed as a Federal District Judge in Honolulu. Ed asked the tough questions of both sides, took the matter under investigation and after a thorough analysis, made a decision which I know satisfied the defense and which I think satisfied not only the deputies in his office but also the numerous agencies which were involved in the case. (I know you will understand that the attorney-client privilege prevents me from being any more specific.)

I have also discussed Ed's work with him over the years and believe I understand not only his view of the law but his intellect, temperament and demeanor.

When I sat on the Judicial Selection Commission, we of course looked for those who had keen intellects, a fine knowledge of the law, the energy for the job and, above all, what we called "a judicial temperament".

A candidate might have all the other necessary qualities, but we always felt that in addition, he or she should have such a temperament. It is a rare quality but in my strong opinion, Ed has a judicial temperament. I have seen him in numerous controversial situations where he has always maintained an even, measured demeanor, never bowing to pressure or invective.

The scope of Ed's legal knowledge is vast. As you know, the United States Attorneys Office handles an enormous variety of cases, both civil and criminal, and although the criminal prosecutions they handle are the cases most often in the news, the civil cases where they both sue and defend on behalf of the United States involve numerous highly complex matters. As Chief United States Attorney for Hawai'i, Ed was required to have both a wide and deep knowledge of vast amount of civil law. (I should add that the case I described above involved high complex civil issues, quite apart from the criminal law questions involved. He had complete mastery of the issues before him there.)

If confirmed and appointed as a judge, Ed would take the bench able to handle virtually any kind of case assigned to him. I realize there is currently a controversy over "too many former prosecutors being appointed without civil experience". That controversy should not affect Ed since he has vast civil and criminal law experience.

Finally, although politics should not enter into the equation, for what it's worth, I will state that I have been a life-long Democrat and have served as special counsel to three former Hawai'i Governors (Governor George Ariyoshi, Governor John Waihee,

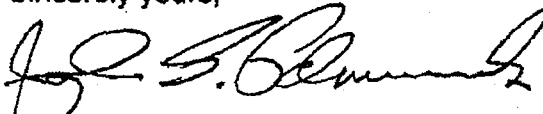
Senator Brian T. Taniguchi, Chair
January 14, 2010
Page 3

when he was Lieutenant Governor) and Governor Ben Cayetano (when he was a State Senator). I also served as special counsel to former State Senator Neil Abercrombie and to State Senator Norman Mizuguchi (when he was Senate President). I did much of that legal work on a pro bono basis because I strongly believed in what these men represented and in the Democratic party they served. I know that Ed Kubo is a Republican and he has obviously been nominated by a Republican Governor. At the same time, I know that if confirmed, Ed will be as blind to political considerations in his role as a Circuit Court Judge as is humanly possible.

I support his nomination strongly and without reservation. He will be a great credit to Hawaii's judiciary.

Please feel free to contact me should you have any further questions.

Sincerely yours,



John S. Edmunds

JSE:mkn

LAW OFFICES OF
DAN A. COLON A LAW CORPORATION

PACIFIC GUARDIAN CENTER – MAKAI TOWER
733 BISHOP STREET, SUITE 2550
HONOLULU, HAWAII 96813-4071

TELEPHONE: (808) 526-1800
FACSIMILE: (808) 526-1818
E-MAIL: DANCOLON@HAWAIIANTEL.NET

January 14, 2010

Via Email and U.S. Mail

The Honorable Senator Brian T. Taniguchi,
Chairperson, Senate Judiciary and
Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

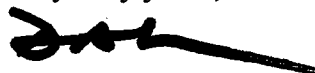
Dear Senator Taniguchi and Senators on the State Senate Judiciary Committee,

It is with great pleasure and honor that I write to you in support of confirmation of Edward H. Kubo, Esq., as judge in the Hawaii State Circuit Court. I have known Mr. Kubo since I first began practicing law over 20 years ago. I had recently graduated from the William S. Richardson School of Law, and I was fortunate enough to secure a position as a law clerk in the 1st Circuit Court, clerking for the Honorable Thomas J. Kaulukukui, Jr., who was both a criminal trial judge, and the criminal motions judge. Even as a law clerk, it did not take long to differentiate which attorneys appearing before the court, stood above their peers on either side of the courtroom. Ed Kubo, in my opinion, was unequivocally one such attorney. My sense of Mr. Kubo's superior trial skills, analytical abilities, and quiet temperament proved accurate, as I followed his career over the next 20 years. His appointment to the U.S. Attorney's office seemed inevitable, and a logical choice for a person so committed to justice as Mr. Kubo has demonstrated throughout his lifetime of public service.

I strongly believe that Mr. Kubo will continue to provide our community with exceptional public service as a State Circuit Court judge, a position that truly suits his judicial temperament, his inherent sense of fairness, his exceptional trial skills and his intimate knowledge of the rules of evidence. These are all of the essential tools of a great trial judge.

For these above-stated reasons, and countless others, I respectfully urge that you and your fellow Honorable Senators, please confirm the nomination of Ed Kubo to be a Hawaii State Circuit Court Judge.

Very truly yours,



DAN A. COLON

From: Takata, Kevin [ktakata@honolulu.gov]
Sent: Friday, January 15, 2010 7:49 AM
To: JGO Testimony
Subject: GM 109; CONFIRMATION OF EDWARD KUBO, JR., TO THE CIRCUIT COURT

To the Honorable Brian T. Taniguchi and Senators of the Committee on Judiciary and Government Operations:

I support the nomination of Edward H. Kubo, Jr., to the Circuit Court without equivocation, reservation or hesitation. I have known Mr. Kubo for over 20 years as a fellow deputy prosecutor, as an Assistant United States Attorney, and United States Attorney for Hawaii. During that time, Mr. Kubo has demonstrated that he has the intelligence, demeanor, and sense of justice required to be a judge. In addition to his professional qualifications, Mr. Kubo is a devoted family man with a deep and abiding commitment to serve our country, community and citizens. The simple fact that he was nominated by a President and confirmed by United States Senate to serve as United States Attorney for Hawaii speaks volumes about him.

Kevin K. Takata

Department of the Prosecuting Attorney
Deputy Prosecuting Attorney
1060 Richards Street
Honolulu, Hawaii 96813
Telephone: (808)768-6458
Fax: (808)768-7513
email: ktakata@honolulu.gov

Cronin, Fried, Sekiya, Kekina & Fairbanks

Attorneys at Law, A Law Corporation

Paul F. Cronin
Gerald Y. Sekiya
David L. Fairbanks
Stuart A. Kaneko
Keith K. H. Young
Patrick F. McTernan
Sylvia J. Luke
Denise K. H. Kawatachi
Brian T. Toma

L. Richard Fried, Jr.
Wayne K. Kekina
John D. Thomas, Jr.
Bert S. Sakuda
Gregory L. Lui-Kwan
Geoffrey K. S. Komeya
Howard G. McPherson
Laura E. Ozak

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E-mail cfskf@croninfried.com
www.croninfried.com

January 15, 2010

HAND DELIVER

Senator Brian Taniguchi
Chairperson
Judicial Committee
Hawaii State Senate
415 S. Beretania, Room 219
Honolulu, Hawaii 96813

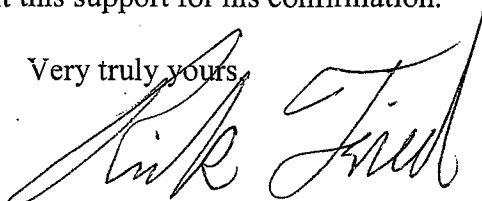
RE: Testimony in Support of the Appointment of Edward H. Kubo
to the First Circuit Court

Dear Senator Taniguchi:

I am writing in support of the Senate confirmation of Edward H. Kubo to the Circuit Court of the First Circuit, State of Hawaii.

I have known Edward H. Kubo for approximately 20 years. His past public service at the Prosecutor's Office and as United States Attorney have shown his competence and his abilities are exemplary. He has all the qualities required to be a member of Hawaii's judiciary. I appreciate the opportunity to submit this support for his confirmation.

Very truly yours,



L. Richard Fried, Jr.

LRF:dct

January 15, 2010



BOYS & GIRLS CLUB
OF HAWAII

Hale Pono Ewa Beach
91-884 Ft. Weaver Road, Suite A
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Fax: 808-689-0625
www.bgch.com

Friends for Boys & Girls Club
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Kiran Polk
Vice President

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- Sharene Tam
- Eric Wong
- Stacey Yonamine

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 - Tosh Hosoda
 - Lianna Multietner

Clubhouse Director
Frances Rivero

Executive Director
David Nakada



Aloha United Way

Senator Brian Taniguchi
Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
Honolulu Hawaii 96813

Dear Honorable Taniguchi:

RE: Ed Kubo Jr. for Circuit Court

In support of Mr. Ed Kubo Jr. who has been the U.S. Attorney since 2001 is highly qualified as judge for the First Circuit. His record shows he has integrity, his highly respected not only by local law enforcement, the military but as an individual who cares for the people of Hawai'i

As an outstanding citizen recognized by the Honolulu 200 club, Ed has been involved with focusing on the federal oversight of all Anti-Terrorism, initiatives, establishing Safe Neighborhoods in Hawaii, Drug Interdiction and safeguarding Hawaii's Tourism Industry. He is deeply concerned about the quality of life for our military and local families and has been responsible for the prosecution of major violent crimes, narcotic offenses, white collar crime and crimes on government reservations. During his tenure as Deputy Prosecuting Attorney from 1980 - 1990, he prosecuted homicides, sexual assaults, narcotics offenses and organized crime cases. When in private practice between 1983-1985 he specialized in construction litigation and insurance defense as well.

Please consider Mr. Ed Kubo Jr. as your next First Circuit Court Judge for the State of Hawai'i nei.

Warmest Aloha,

Frances Rivero
Club Director
Hale Pono Clubhouse

cc: fpr

"The Positive Place for Kids"

From: TANA KEKINA [watsuptana@yahoo.com]
Sent: Friday, January 15, 2010 2:54 PM
To: JGO Testimony
Subject: Recommendation for Edward Kubo, Jr., Circuit Court Judge

Via E-mail

Honorable Brian T. Taniguchi
Chairperson
Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
Honolulu, HI 96813

January 15, 2010

Re: Circuit Court Judicial Nominee Edward H. Kubo

Dear Senator Taniguchi and Committee Members:

Thank you for giving me the opportunity to recommend Edward H. Kubo for the vacant circuit court judge position.

I had the privilege to work with and get to know Mr. Kubo when he became the United States Attorney for Hawaii. I am a community prosecutor with the Honolulu Prosecutor's Office, and worked with him on operation Weed and Seed. We were both new to our positions when we first met. In his capacity, he appointed me and others in my office as Special Assistant United States Attorneys to foster inter-agency cooperation and to give us exposure to the Federal justice system. During his eight year term, he was an excellent mentor and role model, and always supportive of our crime strategies with the community and police.

As an attorney, he has a stellar reputation in the legal community. In my 14 years of practice, I have only heard positive comments about Mr. Kubo's courtroom and lawyering skills. When you meet him, you will see that he is down to earth, genuine and humble. His local roots and commitment to the community are strong. He has the heart and soul of the local people and has proven his dedication to making Hawaii a better and safer place. With all these qualities, Mr. Kubo would make an excellent judge.

Very truly yours,

Tana Kekina-Cabaniero

January 15, 2010

VIA EMAIL JGOTestimony@Capitol.hawaii.gov
Senator Brian Taniguchi
Chairperson
Committee on Judiciary and Government Operations

Re: Confirmation of Ed Kubo (GM 109)

Dear Chair Taniguchi and Members of the Committee on Judiciary and Government Operations:

I am writing in support of nominee Ed Kubo to the Circuit Court of the First Circuit, State of Hawaii. As a State of Hawaii Deputy Attorney General and as former City & County of Honolulu Deputy Prosecuting Attorney, I have had the pleasure and privilege of working with Ed. Ed is a hard working, intelligent, committed, and dedicated attorney as well as administrator. His record speaks for itself when it comes to improving our community.

Given Ed's wealth of experience and background in our judicial system, he would be an asset to our courts. I have found Ed to be extremely thoughtful, compassionate, caring, and approachable. His involvement in our community is not only impressive but commendable. I was always impressed with his ability to see the big picture and the larger impact to the victims, our community, and the defendant(s). In sum, Ed Kubo would make a wonderful judge and I am honored to submit this letter in support of his nomination.

Thank you for your consideration and attention in this matter.

Very truly yours,

Kristin E. Izumi-Nitao
Deputy Attorney General

From: Sabrina McKenna [ssmckenna@hotmail.com]
Sent: Friday, January 15, 2010 5:53 PM
To: JGO Testimony
Subject: Nomination of Edward H. Kubo, Jr., for Judge of the Circuit Court of the First Circuit

Dear Senator Taniguchi, Chair, & Members of the Committee on Judiciary and Government Operations:

Thank you for your letter dated January 14, 2010, inviting me to submit any comments I may have regarding Ed Kubo's nomination to the position of Judge of the Circuit Court of the First Circuit.

Please be informed that I strongly support Ed's confirmation. Not only his personal and professional background, professionalism, and administrative experience, but his ability to have different people work together for public good has deservedly earned him the respect of the legal and law enforcement community. I believe he would be a welcome addition to the First Circuit Court bench.

Thank you very much for the opportunity to comment.

Sincerely,

Sabrina S. McKenna

From: Sheila Nitta [belapalangi@yahoo.com]
Sent: Friday, January 15, 2010 8:41 PM
To: JGO Testimony
Subject: re: confirmation hearing for Ed Kubo Jan 21, 2009

Dear Senator Taniguchi and Members of the Senate Judiciary Committee:

I am writing this testimony in support of Ed Kubo, Esq., nominee for 1st Circuit Court judgeship. I have known Mr. Kubo for over twenty-five years. He was one of my first supervisors when I began in circuit court as a deputy prosecutor. Mr. Kubo is a good attorney who has an extensive knowledge of law and procedure. He is a person of integrity who can be counted on to do the right thing and make honest decisions.

Mr. Kubo has extensive experience in both federal and state court and in both civil and criminal courts. He is a consensus-builder, as demonstrated by the way he helped federal, state, and local law enforcement agencies work together in the successful prosecution of many cases, thus making Hawaii the safest city of its size in the United States.

I hope that you will confirm Mr. Kubo for the judgeship and allow him to continue his exemplary service to the people of the State of Hawaii. Thank you for the consideration of my testimony and comments.

Sheila B. Nitta, Esq..

From: Larry Butrick [l.butrick@yahoo.com]
Sent: Saturday, January 16, 2010 1:17 PM
To: JGO Testimony
Cc: ed.kubo@yahoo.com
Subject: GM109 Nomination of Ed Kubo for Circuit Court; date: 1-21-10; time: 9:30 a.m.

I have known Ed Kubo for 20 years, to include approx. six years as a co-worker and eight years as a member of his management team at the United States Attorney's Office.

Ed's skills as a collaborator, mediator and leader are well known throughout the law enforcement community where complex and competing goals and objectives must be prioritized, and in some instances, compromised by one or more parties. Ed has repeatedly been sought out to function as a leader in the mediation process and is trusted to reach a fair decision for all parties.

In respect to his integrity and moral courage, Ed is highly respected as a person whose word is his bond. On occasions he has had to take a course of action which was not popular. He has never faltered in taking the right and just course of action.

In respect to Ed's legal ability and experience it must be noted that he is a seasoned trial attorney who has successfully prosecuted numerous complex and serious cases. Ed has also researched, written and argued numerous appeals in support of his cases. As United States Attorney, and final authority, Ed has needed to keep current on vast and varied areas of criminal and civil law...the buck has clearly stopped at his desk for the last eight years and he has been up to the challenge.

In respect to his intelligence and wisdom, Ed is a quick study who has the ability to research the law or situation he is confronting in a timely manner, apply the facts and then reach a fair, well thought out decision which is generally viewed by all parties as appropriate. His wisdom stems from an abundance of common sense.

In respect to his compassion and fairness, doing the right thing has always been central to Ed's decision making. When discussing investigations and possible outcomes Ed gives a great deal of attention to the impact on the parties and the community. Most important, Ed listens and gives weight to everyone's input.

In respect to Ed's judicial temperament, I have observed him in numerous stressful and confrontational situations where his decisions/actions would have immediate impact, he has respectfully listened to others and then in a professional manner made his decision. Most have agreed with his final decision, some have not...but all have felt that they were heard and dealt with fairly.

In respect to Ed's reputation in the community, I have observed Ed in numerous law enforcement and community outreach environments. The respect Ed shows towards others is, in turn, bestowed upon him ten-fold. In public and private forums Ed has received high praise, from high ranking public figures to the average guy/gal on the street, for his honesty, trustworthiness, character, integrity and citizenship.

Edward Kubo will be an outstanding Judge for the State of Hawaii. Thank you for the opportunity to speak on his behalf. LARRY BUTRICK

YOSHIDA & ASSOCIATES
ATTORNEYS AT LAW

A LAW CORPORATION

PACIFIC GUARDIAN CENTER, MAUKA TOWER
737 BISHOP STREET, SUITE 2730
HONOLULU, HAWAII 96813
PHONE: 808-536-6614 FAX: 808-536-9899

January 16, 2010

Senator Brian Taniguchi, Chairperson, and
The Committee on Judiciary and Government Operations
Hawaii State Senate
State Capitol
Honolulu, Hawaii 96813

Re: Support for Confirmation of Edward H. Kubo, Jr. (GM109)
as a Circuit Court Judge

Dear Senator Taniguchi and Members of the Committee:

It is my pleasure to support Edward H. Kubo, Jr. for confirmation as a Circuit Court judge. I have known Ed, both professionally and personally, for over 35 years.

Ed possesses all the qualities and characteristics to be an outstanding judge. He is independent, understanding, sincere, compassionate and fair. Ed's character and integrity are unquestionable.

I have personally observed Ed under the most stressful situations, e.g., when he was litigating a complex legal case in court and when he had to make those decisions that would have a substantial impact on another person's life. He is always respectful, willing to listen to advice, considerate, and professional. I have never seen Ed lose his temper or let his emotions get the better of him.

Patient, respectful and even-tempered, Ed has the keen ability and has demonstrated that he is able to listen to truly divergent points of view and resolve the issues in a fair and compassionate way. Undeniably hardworking, Ed is a person who will spend as many hours as necessary to fully and completely understand an issue or address a problem. Once he has the necessary information, he is decisive and diligent. His decision making process is clear and well reasoned.

Ed's legal skills are outstanding. He has accomplished the highest levels in the legal profession, serving as the U.S. Attorney, an Assistant U.S. Attorney, a city Deputy Prosecutor, and a private practitioner. He has worked on very complex cases. It is because

Senator Brian Taniguchi
January 16, 2010
Page 2 of 2

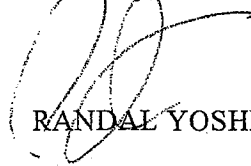
of his extensive experience and his proficient litigation and writing skills, Ed has been very successful as an attorney and will be an exemplary judge.

On a personal level, Ed is a loving and caring husband and father.

I respectfully urge your confirmation of Ed as a Circuit Court judge.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Randal Yoshida', written over a circular stamp or seal.

RANDAL YOSHIDA

From: Sam King [sam@kingandking.com]
Sent: Sunday, January 17, 2010 4:35 PM
To: JGO Testimony
Cc: ed.kubo@yahoo.com
Subject: Nomination of Ed Kubo for Circuit Judge (GM109)

To the Judiciary Committee: I support the nomination of Ed Kubo to be a Circuit Judge. I have known Ed for probably 20 years - maybe more. I have always been on the defense side of the criminal law as a criminal defense attorney, and Ed has always been on the prosecution side in the City Prosecutor's Office and at the US Attorney's Office. In spite of the fact that we have been on different sides of almost every argument professionally, I have always known Ed to be fair, open to discussion, considerate, and intelligent - all qualities that make for an excellent judge. I am sure that Ed will make a fine Circuit Judge, and I support his nomination wholeheartedly. Samuel P. King, Jr.

From: Mitch Werth [mitch.werth@gmail.com]
Sent: Monday, January 18, 2010 9:55 PM
To: JGO Testimony
Subject: On the Confirmation of Ed Kubo (GM109)

TO: Senator Brian Taniguchi, Chairperson, and the COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS on the Confirmation of Ed Kubo

Re: On the Confirmation of Ed Kubo

Measure: GM109

Hearing Date: January 21, 2010 (9:30), Conference Room 16

I support Ed Kubo's appointment as a Judge for the First Circuit having known him professionally for over 30 years. From his early years as a City and County deputy prosecutor (where I faced him in many cases as a deputy public defender) to his ascent as an Assistant U.S. Attorney where we worked closely on a child's rights case that had far reaching legal and social impact for the protection of children and the successful prosecution of numerous child abusers, Mr. Kubo has steadfastly maintained his integrity even when tested, adhered to the letter of the law, always made sure to understand the facts of the case, worked hard, made tough decisions when he had to, and has demonstrated his compassion by weighing the equity of the situation when the law was unclear. Mr. Kubo has the demeanor and temperament to make an excellent Judge. I could give no one a higher recommendation and support Mr. Kubo without any reservation. If you have any questions, please feel free to call me at (808) 387-8685.

Very Truly,

Mitchell J. Werth

From: Anson Rego [regoa@hawaii.rr.com]
Sent: Monday, January 18, 2010 3:23 PM
To: JGO Testimony
Subject: GM109 tESTIMONY IN SUPPORT OF CONFIRMATION OF ED KUBO

Senator Brian Taniguchi, Chairperson, and the COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS on the Confirmation of Ed Kubo (GM109)

I am submitting testimony in support of confirmation of Ed Kubo to the First Circuit Court, State of Hawaii.

I am sure you are familiar with Mr. Kubo's excellent track record as a Prosecuting Attorney and Unites States Attorney for Hawaii. I hope you are also fully aware of his fairness and cordiality towards members of the defense bar, of which I am one. In all my dealings with Mr. Kubo, he was forthright and fair and a man of his word.

I am also supporting Mr. Kubo's confirmation because of the work he did with our Waianae community, especially with our neighborhood community representatives during the crystal meth epidemic. As a grassroots member of the Waianae Coast Pa'i organization (Peoplce Against Ice), I saw firsthand Ed's hands on care for this community and its drug problem, and his willingness to listen to many of us. It was reassuring to see him here in person during the evenings, more than once, assisting and coordinating the efforts to fight this horrible, evil drug in our community. He made an impact by personally being here and brought many different organizations together. We are indebted to his efforts.

For the foregoing reasons, please vote in favor of Ed Kubo's confirmation.

Aloha,

Anson O Rego
Attorney at Law
A Law Corporation

regoa@hawaii.rr.com
tel: (808) 696-7061
fax: (808) 696-7765



A Limited Liability Law Company

January 19, 2010

VIA ELECTRONIC MAIL

JGOTestimony@Capitol.hawaii.gov

Mitchell A. Imanaka

Benjamin A. Kudo

Wesley M. Fujimoto

Jon M.H. Pang

Richard T. Asato, Jr.

Naomi U. Kuwaye

Honorable Brian T. Taniguchi
Chairman, Judiciary and Government Operations
Hawaii State Capitol
415 South Beretania Street
Room 219
Honolulu, HI 96813

Re: **First Circuit Court Nominee Edward H. Kubo**

Nikki T. Senter

Ryan E. Sanada

Nina L. Takamori

Owen T. Iida

Yuko Funaki

Dear Senator Taniguchi and Members of the Committee:

Please permit me to submit this letter in **SUPPORT** of the nomination of Edward Kubo to sit on Hawaii's First Circuit Court bench. I have known Ed Kubo for over 30 years. We first met when we were students at the University of Hawaii and served in the University's Year in Action program as paralegals at the Legal Aid Society. After that, we served as senators in the ASUH Senate.

Ed also worked as an associate attorney at our law firm in 1993 – 1995, after which he returned to the public sector at the prosecutor's office.

Ed Kubo has served *with distinction* as a prosecutor, and it was no surprise when he was appointed U.S. Attorney for the State of Hawaii about 10 years ago. During his tenure as U.S. Attorney, he has worked hard to implement many new policies within that office, while also doing a substantial amount of community outreach.

I believe that he is well-suited to the position of Judge within the First Circuit, and hope that you agree and confirm his appointment as expeditiously as possible. Should you require any further information with regard to Ed Kubo, please feel free to contact me.

Of Counsel

R. Brian Tsujimura

Perfecto R. Yasay, Jr. *

* admitted to practice only in
New York and Philippines,
Former Chairman
Securities and Exchange
Commission, Republic of the
Philippines

Hon. Mario R. Ramil

Former Associate Justice
Hawaii Supreme Court

With Aloha,

IMANAKA KUDO & FUJIMOTO


Mitchell A. Imanaka

MAI:anlb

cc: Edward H. Kubo, Esq.

TOPA Financial Center
Fort Street Tower
745 Fort Street Mall, 17th Floor
Honolulu, Hawaii 96813
Phone: (808) 521-9500
Facsimile: (808) 541-9050
info@imanakakudo.com
548676.1

Jay T. Kimura
c/o 655 Kilauea Avenue
Hilo, HI 96720

January 19, 2010

Senator Brian T. Taniguchi, Chairperson
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Testimony in Support of Edward H. Kubo
as a Judge in the Circuit Court of the 1st Judicial Circuit, State of Hawaii

I am in support of Governor Lingle's nomination of Edward H. Kubo as a judge in the Circuit Court of the 1st Judicial Circuit.

I have known Mr. Kubo since the beginning of his legal career in 1979.

His service to the community as a deputy prosecutor, assistant United States Attorney & United States Attorney for the District of Hawaii makes him highly qualified to be a circuit court judge.

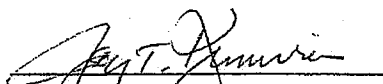
Mr. Kubo tried many cases as a deputy prosecutor and assistant U.S. Attorney, and he is familiar with the motions, trials and the proceedings within a court. I believe the transition to a circuit court judge will not be difficult.

Mr. Kubo was a strong supporter of the Weed and Seed program and worked tirelessly with both government and community agencies and individuals to improve many communities around the state. His efforts at continuing the Weed and Seed program has made many communities safer places to live.

Mr. Kubo has also engaged in community service by feeding the homeless in Kakaako. This is an example of Mr. Kubo's humbleness in helping those less fortunate in our community.

I believe that Mr. Kubo is more than qualified for the position of a circuit judge in the 1st Judicial Circuit.

Respectfully submitted,


Jay T. Kimura

Franklin D. Pacarro Jr.
Trials Division Chief
Department of the Prosecuting Attorney
1060 Richards Street, 10th Floor
Honolulu, Hawai'i 96813

January 19, 2010

Via E-mail

Honorable Brian T. Taniguchi
Chairperson
Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
Honolulu, HI 96813

Re: Circuit Court Judicial Nominee Edward H. Kubo

Dear Senator Taniguchi and Committee Members:

I support the nomination of Edward H. Kubo, Jr., to the position of First Circuit Court Judge. I have known Ed for twenty-one years and have had the privilege of working with and under his supervision at the Honolulu Prosecutor's Office. Ed was always prepared and well versed in the law making sure that the deputies under his supervision were equipped with that knowledge.

Ed left the Prosecutor's Office for the U.S. Attorney's office and was an Assistant U.S. Attorney for many years before becoming the U. S. Attorney. As the former U.S. Attorney he was in charge of both criminal and civil matters; and thus, he definitely has the legal as well as the administrative skills that a judge needs to manage the court's calendar and case load. Ed is intelligent, articulate, and humble. Growing up as a Waipahu boy, Ed has never forgotten his roots and I know those are things that he will bring to the bench when he is required to be objective and compassionate.

When Ed left our office he was one of the top litigators at that time handling difficult cases including but not limited to homicide cases. Ed has the respect of his colleagues because he has tried the difficult cases and he has been very successful. Ed is an evened keeled person who does not get flustered under pressure and he will be able to make the difficult decisions. When it comes to making a decision, Ed will do what is right and just.

I believe that Ed will be a welcomed and a strong asset to the judiciary. In addition to the aforementioned attributes, Ed will make an excellent judge because he is fair and honest. Thank you for allowing me the opportunity to comment on his nomination. Please feel free to contact me at 768-7474 if you have any questions.

Sincerely,

Franklin D. Pacarro Jr.
Trials Division Chief

99-1059 Laule St
Aiea, HI 96701-3034
11 January 2010

Senator Brian T. Taniguchi
Chair, Senate Judiciary &
Government Opns Committee

Dear Senator Taniguchi,

The following friends of mine and I recommend
your utmost consideration to install Mr. Ed Kubo as
a Circuit Court Judge as you and we know he is
highly qualified in all areas of the law.

Ms. Lillie W. Bessette
Ms. Edith T. Young
Ms. Genevieve Baptist
Ms. Ramona Kay Daht
Ms. Carrie Lau

I have known Ed's father and mother-in-law,
Dr. + Mrs. Brian Yano, for about 20 years and I
can attest they are marvelous, upstanding citizens.

P.S. I'm sorry I'm
not able to type
this letter.

Sincerely,
Bernice W. Lee
(Mrs. Surn Ho Lee)
(808) 488-2788

TESTIMONY ON GOVERNOR'S MESSAGE 109
Consideration and Confirmation of Edward H. Kubo, Jr.
as Circuit Court Judge of the First Circuit

By Tommy Johnson

Senate Committee on Judiciary and Government Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Thursday, January 21, 2010, 9:30am
State Capitol, Conference Room 016

Senator Taniguchi, Senator Takamine, and Members of the Committee:

I am providing testimony in strong support of the nomination and confirmation of Mr. Edward H. Kubo, Jr. as Circuit Court Judge of the First Circuit.

As the current Deputy Director for Corrections for the Department of Public Safety and as former Administrator of the Hawaii Paroling Authority, I have worked with Mr. Kubo and the staff of the U.S. Attorney's Office on a number of sensitive public safety issues of concern over the past 8 years.

During that time, Mr. Kubo has consistently displayed unwavering integrity, diligence, and an uncanny commitment to public service. He possesses the legal knowledge, abilities, professional experience, and I believe, the judicial temperament to make an excellent Circuit Court Judge of the First Circuit. His vast experience as the County Prosecutor, Private Practice Attorney, and U.S. Attorney for Hawaii make him uniquely qualified for appointment to the bench.

In addition, Mr. Kubo has always put public safety first and foremost whether at the County or Federal level. He has been involved in and successfully prosecuted many high profile violent and white-collar criminal cases. His courtroom experience has been honed over many years of trial experience, commitment to justice for the people of Hawaii, and dedicated public service. He provides skillful direction through tactful leadership and possesses the ability to motivate others to reach new heights of success.

Over the years, he has also demonstrated his managerial abilities by effectively and efficiently managing the financial and personnel resources of the U.S. Attorney's Office. As a direct result of leadership, mature judgment, and expert application of judicial discretion, the U.S. Attorney's Office now operates much more efficiently and cooperatively with State and County law enforcement and regulatory agencies.

It is, therefore, without reservation that I strongly recommend the nomination of this fine, highly qualified, and singularly dedicated public servant as Circuit Court Judge of the First Circuit.

EDWARD R. BENDET
JAY M. FIDELL
YURIKO J. SUGIMURA
THOMAS R. SYLVESTER*
KEITH S. AGENA
LORI L. Y. HIJII
KAPONO F. H. KIAKONA
DOMINIQUE M. TANSLEY

BENDET FIDELL

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January 19, 2010

VIA FAX AND EMAIL

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Re: CONFIRMATION OF EDWARD H. KUBO, JR.

Dear Senator Taniguchi:

I write in support of the confirmation of Ed Kubo to the First Circuit Court. I have known Ed professionally for some years and consider him eminently qualified for this appointment.

Ed has had a prestigious record in law enforcement in Hawaii. After private practice, he served as Deputy Prosecutor for the City and then served as an Assistant U.S. Attorney from 1990 to 2001. In 2001, he was nominated and confirmed as U.S. Attorney for the District of Hawaii and served until 2009.

As U.S. Attorney, Ed has led 68 attorneys and staff, including 28 Assistant U.S. Attorneys. He has also supervised military and civilian Special Assistant U.S. Attorneys, and has focused on Anti-Terrorism initiatives, establishing Safe Neighborhoods, Drug Interdiction and Safeguarding our Tourism Industry.

He had broad support among the law enforcement agencies in Hawaii for his confirmation as U.S. Attorney. Given his impressive record of major federal criminal investigations, he would undoubtedly have the same support today.

As U.S. Attorney, Ed has been active and visible in community affairs across the state. He has regularly visited schools and talked with students about the dangers of drugs, and has attended community meetings and spoken to groups

Senator Brian T. Taniguchi
January 19, 2010
Page 2

on various issues facing Hawaii. I have attended some of these presentations and have been impressed with his caring and concern about our community.

In short, Ed Kubo has been an outstanding U.S. Attorney and has made notable contributions to our criminal justice system and our safety, security and quality of life in Hawaii. Given his professional achievements and public service, I believe he will make similar contributions serving on the bench.

I therefore support his nomination unconditionally and without reservation, and I urge your committee to confirm him at the earliest possible date.

Thank you for your consideration of my views in the matter.

Very truly yours,

A handwritten signature in black ink that reads "Jay M. Fidell". The signature is written in a cursive style with a large, stylized "J" and "F".

Jay M. Fidell
Of BENDET FIDELL

JMF:dt

From: Richard Hoke [rhokeesq@yahoo.com]
Sent: Tuesday, January 19, 2010 12:38 PM
To: JGO Testimony
Subject: GM109 Confirmation of Ed Kubo

Dear Senator Brian Taniguchi, Chairperson, and the COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS on the Confirmation of Ed Kubo (GM109):

My name is Richard Hoke, I am an attorney licensed to practice law for the past 30 years in the State of Hawaii, and I have always been in good standing with all of the courts in the State of Hawaii, the federal court, and the Hawaii State Bar Association. I write in support of the Confirmation of Ed Kubo.

I have known Mr. Kubo for more than 3 decades, beginning at the Legal Aid Society when Mr. Kubo was an intern and I was a para legal, both working in the field of poverty law in the areas of social security benefits, food stamps, public housing, divorces, and native Hawaiian rights. From this experience, I would attest that Mr. Kubo has compassion for the poor and disadvantaged of the State of Hawaii.

Both of us went on to law school and after graduation and passing the bar exam, we worked together for a few years at the Prosecutors Office in Honolulu. As a deputy prosecutor, Mr. Kubo always attached a copy of the controlling case law to his memorandum. This was something that the judges liked. From this experience, I know that Mr. Kubo will be a judge who follows the doctrine of stare decisis. Mr. Kubo will be a judge who will know and follow the law.

Mr. Kubo went on to the Federal Prosecutors, where he rose through the ranks and was appointed the United States Attorney for the District of Hawaii. It was during these years that I found myself on the opposing side of Mr. Kubo's subordinates. From this experience, I would attest that the attorneys in his office were very professional, hard nosed but fair, and that they took very seriously their oath to protect the citizens of the United States.

From this experience I would attest that Ed Kubo will undertake his judgeship with dedication and integrity.

For the foregoing reasons, I strongly urge the confirmation of Ed Kubo to the bench of the First Circuit Court of the State of Hawaii

I can be reached at 531-5927.

Sincerely, Richard Hoke

CLAY CHAPMAN
IWAMURA &
PULICE
NERVELL
Attorneys at law

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700 Bishop Street, Suite 2100
Honolulu, Hawaii 96813
Tele. 808-535-8400
Fax 808-535-8444
www.paclawteam.com
www.pacific-lawyers.com

Gordon M. Arakaki: Direct (808) 535-8407
E-mail: garakaki@paclawteam.com

January 19, 2010

The Honorable Brian T. Taniguchi
Chair, Senate Committee on Judiciary and Government Operations
State Capitol, Room 219
Honolulu, Hawaii 96813

Subject: **GM 109** – Submitting for consideration and confirmation to the Circuit Court of the First Circuit, State of Hawaii, Gubernatorial Nominee, EDWARD H. KUBO, JR, for a term to expire in ten years.

Dear Chair Taniguchi and members of the Committee:

I **strongly and whole-heartedly** support the confirmation of Ed Kubo, Jr., as a judge for Hawaii's First Circuit Court.

Many others will speak to Ed's outstanding work as an attorney – particularly his 20 years of service with the U.S. Attorney's Office in Hawaii (the last eight as Hawaii's top federal prosecutor), and his 8 years as a Honolulu Deputy Prosecuting Attorney. I am sure that your review of Ed's education and work experience will leave no doubt as to his professional qualifications to serve as a Circuit Court judge.

It is Ed's personal qualities that I will speak to. As good as Ed is as a lawyer, I believe that he is an even better person. And that will make him an excellent judge.

I first met Ed a little over 10 years ago. I was the volunteer attorney-coach for the Pearl City High School Mock Trial Team (1985 – 2005), and Ed's daughter Dawn was one of the team members. Even though Ed was extremely busy as the U.S. Attorney for Hawaii, he made the time to come to most team practices and helped teach the team members to think critically, communicate clearly and persuasively, and conduct themselves with integrity and respect for others. Later that school year, Ed (Waipahu High School '71) and I (Pearl City High School '76) also helped coach and advise the Pearl City High School Moot Court Team participate in the Loyola Law School and Dr. Edison H. Miyawaki Moot Court Competition.



Working with high school students can certainly be a challenge, especially when Ed needed to transition from his “day job.” His fundamental decency, modesty, and heart, along with his hard work and persistence, made him a success in his professional life by day and his “community life” at all other times. It will serve him well as a Circuit Court judge as well.

After Ed’s daughter graduated from Pearl City, Ed *continued* to help me coach the Pearl City High School Mock Trial and Moot Court teams. Over the years, I saw Ed consistently teach our young people the skills and values they needed to become contributing members of our community. Ed has a deep understanding of and appreciation for what makes Hawaii a very special place, and he conveys that understanding and appreciation to all.

I have practiced as an attorney in both the private and public sectors, served as Chief-of-Staff of the Senate Committee on Ways and Means, and helped craft Hawaii’s new condominium law (as the Real Estate Commission’s Condominium Law Recodification Attorney), among other things, and there is no doubt in my mind that Ed Kubo, Jr., will be an excellent judge for the State of Hawaii. I respectfully urge the Senate to confirm his nomination to the bench.

If you have questions about anything written above, please don’t hesitate to call me at (808) 542-1542 (cell) or e-mail me at garakaki@paclawteam.com.

Very truly yours,

**CLAY CHAPMAN IWAMURA PULICE &
NERVELL**



GORDON M. ARAKAKI

From: pnfsec@lava.net
Sent: Tuesday, January 19, 2010 3:10 PM
To: JGO Testimony
Subject: GM109 Thursday, January 21, 2010 at 9:30 a.m.

ATTN: Senator Brian Taniguchi, Chairperson and
The Committee on Judiciary Government Operations

RE: GM109, January 21, 2010, at 9:30 a.m.

Dear Senator Taniguchi,

I am writing to offer my support for the nomination of Edward Kubo to be a circuit judge in the first circuit. I have known Mr. Kubo for many years and have found him to have the highest integrity as well as a great deal of common sense, the two essentials needed in a good judge. With his background as a prosecutor in both state and federal courts, he has the kind of experience that creates the foundation for a good judge. I cannot recommend him more highly and I ask that the committee approve his nomination as quickly as possible.

Earle A. Partington

From: shige3380@aol.com
Sent: Tuesday, January 19, 2010 4:38 PM
To: JGO Testimony
Subject: Confirmation of Edward Kubo (GM109) Hearing: 1/21/10, 9:30 am

Senator Brian Taniguchi
Chairperson, Committee on Judiciary and Governmental Operations

I wholeheartedly support the confirmation of Edward Kubo as a Circuit Court Judge. As a criminal defense attorney, I have handled cases against Mr. Kubo personally or his office for over twenty years. This began when Mr. Kubo was a deputy prosecuting attorney, then Assistant United States Attorney and ultimately United States Attorney. One word comes to mind as it pertains to Mr. Kubo and that word is "integrity".

Mr. Kubo is a hard worker and a straight shooter, whose word is his bond. He is a hard nosed advocate but still maintains an unique sense of fairness. In particular, I remember one case where I represented a client who was facing what I believed to be an unduly harsh sentence under the then mandatory federal sentencing guidelines. I expected an uphill battle to convince a federal judge to depart from the mandatory sentencing guidelines. Mr. Kubo and his office also recognized the unfairness and supported the departure which the judge eventually granted. To the average citizen that may seem insignificant, but it speaks volumes about Mr. Kubo's character. He definitely fulfilled his ethical responsibility as a prosecutor to seek justice and not just convictions and maximum sentences. That is but one example of Mr. Kubo's integrity.

As a Circuit Court Judge, Mr. Kubo will continue to seek justice and will serve the State of Hawaii and its citizens well. He will work hard and be fair; just what you expect in a judge. I support the confirmation of Edward Kubo as a Circuit Court Judge. Should you seek further information, feel free to contact me at 596-0880. Thank you for your kind attention.

Yours truly

Keith S. Shigetomi
Attorney at Law

FAX TRANSMITTAL: Thirty-Nine, (39), pages total.

19 January 2010

TO: Brian T. Taniguchi, Phone: 808-586-6460, FAX: 808-586-6461
Hawaii State Senator
Chair Judiciary and Government Operations Committee
Attn: Terrence

FROM: Dan A. Cole, Phone: 808-966-9229
P.O. Box 630
Keanu, Hawaii 96749

RE: TESTIMONY IN OPPOSITION to the appointment of
Gubernatorial Nominee EDWARD H. KUBO, JR, to the Circuit
Court of the First Circuit, RE: GM109. ; Title 18 United States
Code, 18 U.S.C. §4 Misprision of Felony.

Dear Senator Taniguchi:

I request the attached thirty-six, (36), pages of documentation, in addition to the thirty-nine, (39), pages received by your office on 14 January 2010, and the twenty, (20), pages of documentation received by your office on 2 June, 2009 be entered into the official proceedings and as part of testimony in opposition to the judicial appointment of Edward H. Kubo.

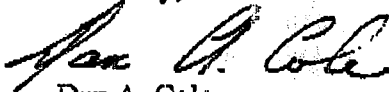
It is understood that the documentation that I have, and will provide your office resulting from recorded telephone conversations with your staff constitute a Misprision of Felony in accordance with State and Federal statutes, and identifies the existence of an Enterprise of corrupt County, State, and Federal officials in Hawaii engaged in a pattern and history of racketeering activity, to include extortion, for the benefit of the Enterprise.

It must be construed from the attached and referenced documentation that the nomination of Edward Kubo, to the State Judiciary, the nomination and appointment of Michael Seabright to the U.S. District Court, and the nomination and appointment of Florence Nakakuni to the position of U.S. Attorney for the District of Hawaii, are in fact repayments of political bribes by Hawaii Governor Linda Lingle for not investigating or prosecuting her personal involvement, and that of her administration, and the personal involvement of U.S. Senator Daniel Inouye in a long and documented history of Fraud against the United States, and conspiracy to commit fraud, as identified by the attached July 3, 2003 correspondence from U.S. Congressman to FBI Special Agent in Charge, Dan Dzwilowski, Honolulu Division.

This documentation is but a small fraction of the supporting evidence of government corruption in Hawaii that requires nine, (9), Bankers Boxes to contain.

Thank you for your attention in this matter, and please contact me for additional and supporting documentation, recorded telephone conversations, video tapes and CD's that document the formation and thirty, (30), year history of the aforementioned Enterprise.

Sincerely,



Dan A. Cole

Attached:

July 3, 2003 letter from U.S. Rep. Ed Case to FBI SAC Dzwilewski. (3 pages)

15 Dec. 2005 letter from Dan A. Cole to U.S. Attorney Gonsales. (1 page)

12/15/2005 USDOJ EXECUTIVE SECRETARIAT, Control Sheet, Workflow ID: 926395. (1 page)

USDOJ FOIA Request Number 07-37, Executive Office for United States Attorneys. (1 page)

June 27, 2005 letter from Gov. Linda Lingle to Dan A. Cole. (1 page)

Sep 7, 04 received letter by Mike Vincent Deputy State Attorney General from HIANG Commander David H. Molinaro, LTC. (1 page)

31 May 2005 letter from Dan A. Cole to Gov. Linda Lingle. (1 page)

SOLICITATION, OFFER, AND AWARD, Solicitation NO. DAHA50-02-R-0003-0008. Contract No. DAHA50-03-D-0003. (5 pages)

21 July 03 letter from Dan A. Cole to Gov. Linda Lingle, with attached page 5,6 Bean Sections from as built blue prints, (4 pages)

ICON Construction Division, Project # MABI: 982024, Solicitation # DAHA50-03-R-004. (3 pages)

Nov 10, 2003 letter from the office of David L. Pierson, S.E. to Icon Consulting Blake Ballif. RE: Hilo, Hawaii Structural Analysis of Proposed Re-Roof. (2 pages)

Continued next page:

2003 Sep. 15, ORDER FOR SUPPLIES OR SERVICES, Delivery Order/ Call No. 5001,
(1 page)

3 Aug. 04 letter to Michael S. Vincent from Dan A. Cole. (1 page)

March 3, 2004 letter from Gov. Linda Lingle to U.S. Rep. Ed Case. (1 page)

April 1, 2004 letter from Dr. Chiyome Fukino, Director of Health, State of Hawaii, to
Major General Robert G.F. Lee Adjutant General, State of Hawaii. (1 page)

HOTLINE COMPLETION REPORT on HOTLINE INQUIRY Control No. 85-T02074,
Prepared by: M&E Pacific, Inc. Engineers and Architects. May 27, 1986. (3 pages)

23 Aug. 04 letter from Dan A. Cole to Ms. Ellen-Jo Valade. (1 page)

27 August 2004 letter from Ellen-Jo Valade, Director, Contracting Division, MI ANG to
Dan A. Cole. (1 page)

7 Sept. 04 letter from Dan A. Cole to U.S. Judge Leslie E. Kobayashi. (1 page)

December 8, 2004 letter from Michael S. Vincent, Deputy Attorney General to Dan A.
Cole. RE: Cole v Hawaii Air National Guard, Civil No. CV04-00365 SPK/LEK, (1 page)

U.S. District Court filing dated DEC 08 2004. (2 pages)

WASHINGTON OFFICE:
128 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4906
FAX: (202) 225-4967

HAWAII OFFICE:
5104 PRINCE KUHIO FEDERAL BUILDING
HONOLULU, HI 96830-6874
(808) 541-1989
FAX: (808) 538-0233

ISLAND TOLL FREE NUMBERS:

BIG ISLAND 935-3758
KALIA/NIHAU 245-1951
MAUI 242-1878
LANAI 865-2198
MOLOKAI 852-0160

edcase@mail.house.gov
www.house.gov/case



CONGRESSMAN ED CASE
2ND DISTRICT, HAWAII

ISLANDS OF HAWAII, MAUI, KAUAI, OAHU, MOLOKAI, OAHU (WINDWARD, NORTH SHORE, CENTRAL, LEeward), KAUAI AND NIHAU, AND NORTHWESTERN HAWAIIAN ISLANDS

July 3, 2003

COMMITTEES:
EDUCATION AND THE WORKFORCE
EDUCATION REFORM
EMPLOYER-EMPLOYEE RELATIONS
AGRICULTURE
CONSERVATION, CREDIT,
RURAL DEVELOPMENT AND RESEARCH
GENERAL FARM COMMODITIES
AND RISK MANAGEMENT
SMALL BUSINESS
RURAL ENTERPRISES, AGRICULTURE
AND TECHNOLOGY
WORKFORCE EMPOWERMENT
AND GOVERNMENT PROGRAMS

Dan Dzwilewski
Special Agent in Charge
FBI Honolulu Field Division
Prince Kuhio Federal Building
300 Ala Moana Blvd.
Honolulu, Hawaii 96813

Dear Mr. Dzwilewski:

Re: Dan A. Cole
P.O. Box 630
Keaau, HI 92674

I am enclosing a copy of Mr. Cole's letter dated June 23, 2003 detailing his concerns and a copy of a letter to the Editor of the Hawaii Tribune Herald.

Mr. Cole is requesting a response from the Federal Bureau of Investigation (FBI) in connection with his concerns.

Your assistance in responding to Mr. Cole's request will be greatly appreciated.

With aloha,

Ed Case

ED CASE
United States Congressman
Hawaii, Second District

Enclosure

TO: Editor, Hawaii Tribune Herald

27 May 2003

FROM: Dan Cole, phone 966-9229

SUBJECT: Letters to the Editor

In the Sunday, May 18, edition of the Tribune Herald, Senator Daniel Inouye in quoted as saying, "the ability to criticize and question our leaders is the essence of American democracy". I would like to exercise this "Essence of American Democracy", by questioning and criticizing Sen. Inouye himself. It is a matter of record that Sen. Inouye voted against the resolution giving President Bush the authority to use military force against Iraq with or without the United Nations Support. It is clear that Sen. Inouye did not want to send our brave men and women into harm's way in this case. However Sen. Inouye has no problem with sending these same brave men and women into harm's way every time they perform duty or training in the Hawaii Air National Guard facility in Hilo. Fraud during construction and design of the facility make it a death trap and a hazardous and unhealthy working environment for our brave men and women. Some of you may remember Linda Lingle's appearance at the Hawaiian Paradise Park Community Center, where to a standing ovation, she was presented and personally excepted documented evidence of construction fraud linked to Sen. Inouye's office related to the Air Guard facility, and another set of documentation showing anti-white racism and discrimination against women in the Hawaii Dept. of Defense. You will note that one of the first things Linda Lingle did as Governor was to replace the Adjutant General and his Deputy, but no action was taken to remove Airmen under her command from harm's way. After her election I contacted Gov. Lingle's Hilo office to ask what was being done to correct the conditions at the Air Guard facility. When I received no answer I contacted Helene Hale, my State Representative, and asked her to look into the matter.

Rep. Hale contacted Rep. Jerry Chang, who called me and said he wanted to bring Sen. Inouye's office into this serious matter since it was a federal facility. After Rep. Chang called Sen. Inouye's office he called me and told me that Sen. Inouye's office would not look into the matter and that he, Rep. Chang, would get back to me. I have not heard from any of the above mentioned elected officials since. I request all elected officials who have asked for my vote to meet with me in the presence of a reporter from this paper, followed with an on-site inspection of the Air National Guard facility, where you will be presented documented and verifiable evidence that shows the Air National Guard Facility in Hilo is a ~~Death~~ Trap and a hazardous working and training environment. My request is made in response to the USA Patriot Act of 2001, Public Law 107-56-Oct. 26, 2001, section 1016, Critical Infrastructure Protection Act of 2001, 42 USC 5195c.

Sincerely,

Dan A. Cole

Nantawan Paradise Park

Received @ Hawaii Tribune-Herald

*Forwarded by
Honorable's Liaison's Office
5/28/03
[Signature]*

*MAY 29 2003
[Signature]
Richard Palmer
associate editor*

RECEIVED
MAY 29 2003
Office of
Daniel K. Inouye
U.S. Senate

TO: Mr. Alberto Gonzales
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

15 December 2005

FROM: Dan A. Cole, telephone (808)-966-9229
P.O. Box 630
Keam, Hawaii 96749

SUBJECT: Referral of U.S. District Court case CV05-00325, for investigation of criminal and civil violations of United States Code.

Dear Mr. Gonzales,

As referenced in the attached U.S. Court Order, signed December 13, 2005, by United States District Judge J. Michael Seabright, and the attached Motion filed Dec 05 2005, I am requesting the U.S. Attorney General's office conduct an investigation into criminal and civil violations of United States Code by Public Officials in the State and County of Hawaii. The evidence on record in this case as Exhibits A-MM in the Motion for Summary Judgment filed Aug 15 2005, (page one attached), and Exhibit's A-P, of the Memorandum in Opposition..., filed Nov 07 2005, (page one attached), combined with additional evidence to include video and audio tape recordings of meetings of public officials, provide extensive evidence of a conspiracy of white collar crime and organized political corruption designed to defraud the United States, and to deny the rights of citizens as guaranteed by the Constitution. The evidence of record in this case identifies a pattern of government corruption apparently organized around Asian racial and cultural bonds.

Thank you for your attention in this matter.

Sincerely,

Dan A. Cole
Dan A. Cole

Cc without attachments. US Attorney, Edward H. Kubo, D

7004 1350 0001 6618 9254

WASHINGTON DC 20530-0001

Postage	\$9.83	EAAS/11	12/15/2005
Cardinal Fee	\$2.00	DE	15
Product Feature Fee (Telephone Mail Request)	\$1.75	Postnet	12/15/2005
Postnet Delivery Fee (Excess of 1000)	\$0.00	Wire	
Total Postage & Fees	\$13.58		

Mr. Gonzales, US Attorney Gen.
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Department of Justice
EXECUTIVE SECRETARIAT
CONTROL SHEET

DATE OF DOCUMENT: 12/15/2005

WORKFLOW ID: 926395

DATE RECEIVED: 12/22/2005

DUE DATE:

FROM: Dan A. Cole
P. O. Box 630
Keaau, HI 96749

TO:

MAIL TYPE:

SUBJECT:

DATE ASSIGNED

ACTION COMPONENT & ACTION REQUESTED
Executive Office of United States Attorneys

INFO COMPONENT:

COMMENTS: cv05-0032570041350000166189254

FILE CODE:

EXECSEC POC:



U.S. Department of Justice

Executive Office for United States Attorneys
Freedom of Information/Privacy Act Staff
600 E Street, N.W., Room 7300
Washington, D.C. 20530
202-616-6757 Fax 202-616-6478

Requester: Dan A. Cole

Request Number: 07-37

Subject of Request: Military Construction, Hilo, HI

MAR 3 2006

Dear Requester:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a reply from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Offices.

To provide you the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

The records you seek are located in a Privacy Act system of records that, in accordance with regulations promulgated by the Attorney General, is exempt from the access provisions of the Privacy Act, 28 CFR § 16.81. We have also processed your request under the Freedom of Information Act and are making all records required to be released, or considered appropriate for release as a matter of discretion, available to you. This letter is a partial full denial.

Enclosed please find:

23 page(s) are being released in full (RIF);
_____ page(s) are being released in part (RIP);
_____ page(s) are withheld in full (WIF). The redacted/withheld documents were reviewed to determine if any information could be segregated for release.

The exemption(s) cited for withholding records or portions of records are marked below. An enclosure to this letter explains the exemptions in more detail.

Section 552

Section 552a

<input type="checkbox"/> (b)(1)	<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(7)(B)	<input checked="" type="checkbox"/> (j)(2)
<input type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(5)	<input checked="" type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(2)
<input type="checkbox"/> (b)(3)	<input type="checkbox"/> (b)(6)	<input type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(5)
_____	<input type="checkbox"/> (b)(7)(A)	<input type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> _____
_____		<input type="checkbox"/> (b)(7)(F)	

In addition, this office is withholding grand jury material which is retained in the District.

GR. 5:060226



June 27, 2005

Mr. Dan A. Cole
P.O. Box 630
Keanan, HI 96749

Dear Mr. Cole:

Thank you for your letter dated May 31, 2005. With respect to your request for the "As-Built" drawings for the roof repair contract, I have been informed that because the State Department of Defense is still working with the Prime Contractor to resolve roof repair issues under the contract, the "As-Built" are on hold until the Department resolves the pending disputes with the Prime Contractor. Therefore, the "As-Built" will not be available to you until they are completed. Unfortunately, we are not able to identify a time frame for completion because of the uncertainties involved with the resolution of the ongoing dispute with the Prime Contractor. However, by copy of this letter, I am notifying the State Department of Defense that absent some legal prohibition to providing you with a copy of the "As-Built," the "As-Built" should be provided to you when they are completed.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

bc: Attorney General
cc: Major General Robert G.F. Lee, Adjutant General
291 CBCS



**HAWAII AIR NATIONAL GUARD
154TH Logistics Readiness Squadron**

**Mr. Mike Vincent
State of Hawaii
Dept of the Attorney General
425 Queen St
Honolulu, HI 96813**

**LTC David H Molinaro
154 LRS/CC
360 Harbor Dr
Hickam AFB HI
96853-5517**

Mr Vincent,

Enclosed is the SF Form 1442, Solicitation, Offer and Award for the work done to the 291st CBCS facility in Hilo HI. This document, as well as all other information provided to Mr Cole under his FOIA request is all that is applicable to this matter.

In fact, I am very concerned we have provided proprietary information to Mr Cole from the primary contractor, which I hope does not result in any legal action by the company against the ANG, State, or Federal Government.

Please contact me if you have any further questions. I can be reached at 448-7326


**DAVID H. MOLINARO, LTC, HIANG
Commander**

NO. 149 FT. PI. 1 475
11 19 1100
SIS
0114

31 May 2005

TO: Linda Lingle
Governor of the State of Hawaii
Commander & Chief Hawaii National Guard
State Capitol Executive Chambers
415 S. Beretania Street
Honolulu, HI 96813

FROM: Dan A. Cole
P.O. Box 630
Keauau, HI 96749

SUBJECT: NOTICE OF INTENT TO BRING FEDERAL CIVIL ACTION FOR FALSE CLAIMS

Aloha Governor Lingle,

As of this date I have not been provided the "Revised As Built" drawings as identified in the attached December 8, 2004 letter from Michael S. Vincent, Deputy Attorney General for the State of Hawaii. These drawings are identified as the, Revised As Built Structural Plans with the Structural Engineer's Stamp certification that the buildings meet the contract requirements for a Seismic Zone 4 Earthquake design.

The Attorney General's office has been provided extensive and verifiable information and documentation showing that the structure in question, the Hawaii Air National Guard facility in Hilo, HI, is a health and safety hazard and is technically incapable of being certified for a Seismic Zone 4, Earthquake Design.

Therefore unless the state of Hawaii can produce verifiable documentation within thirty (30) days, that the Federally Funded, Work for Replacement of Roofing Systems 291 CBCS Hilo, Hawaii, Contract No. DAHA 50-03-D-003, does in fact meet the contract requirements for a Seismic Zone 4 Structure, it is my intention to bring a Federal Civil Action against the State of Hawaii as per Federal Statute, 3730. Civil actions for false claims.

Sincerely,

Dan A. Cole
Dan A. Cole

Attached: Dec. 8, 2004, Letter signed by Michael S. Vincent
3729. False claims - 3731. False claims procedure
3730. Civil actions for false claims

AK

COORDINATE with _____

Final reply for Gov. sig. Follow up

Direct reply (cc: Gov.) Submit copy of response

Appropriate action Keep enclosure(s)

FYI/Be Return enclosure(s)

Comment/Recommendation

Other _____

Due
Please refer to:

REC'D 15 2005

05-060226

05-11200

SOLICITATION, OFFER, AND AWARD <i>(Construction, Alteration, or Repair)</i>	1. SOLICITATION NO. DAHA50-02-R-0003-0008	2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	3. DATE ISSUED 20 May 2003	PAGE OF PAGES 1 OF 75
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IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.

4. CONTRACT NO. DAHA50-03-D-0003	5. REQUISITION/PURCHASE REQUEST NO.	6. PROJECT NO.
-------------------------------------	-------------------------------------	----------------

7. ISSUED BY HAWAII AIR NATIONAL GUARD ATTN CLESSON PAET BASE CONTRACTING HAWAII ANG 390 HARBOUR DRIVE, BLDG 3415 HICKAM AFB HI 96353-5517 TEL: 808-448-7331 FAX: 808-448-7332	CODE FA6530	8. ADDRESS OFFER TO (If Other Than Item 7) CODE See Item 7
--	----------------	---

9. FOR INFORMATION CALL:	A. NAME ELLEN VAJADE	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)
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SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):

BEST VALUE CONSTRUCTION INDEFINITE DELIVERY- INDEFINITE QUANTITY (IDIQ) MULTIPLE AWARD TASK ORDER CONTRACT (MATOC) for maintenance, repair, construction and design-build services primarily in support of the Hawaii National Guard. However, all DoD activities in the State of Hawaii may place task orders against resulting contracts. These will be multi-disciplined contracts consisting of a Base Award of two (2) calendar years, and 3 one-year option periods. The total of individual task orders placed against this contract shall not exceed \$20,000,000.00 to any one contractor. FSC Code Z199, SIC Code 1542, NAICS CODE 233 and 234. \$27,500.00 is the small business size standard. The government intends to award a minimum of seven (7) individual MATOC contracts. A minimum of two (2) awards will be set-aside for Emerging Small Business (See FAR 19.1002 for definition and at least three (3) awards will be made to 8(a) and/or HUBZONE qualified contractors, providing sufficient qualified contractors present offers. All other awards will be unrestricted and are being made pursuant to the Small Business Competitiveness Demonstration Program (ref. FAR 19.1007(a)(2)) Prospective offerors must submit a proposal for the prototypical project to be considered for award.

11. The Contractor shall begin performance within 1 calendar days and complete it within 731 calendar days after receiving award, notice to proceed. This performance period is mandatory, negotiable. (See 52-211-10)

12 A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? (If "YES," indicate within how many calendar days after award in Item 12B.) <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	12B. CALENDAR DAYS 5
--	-------------------------

13. ADDITIONAL SOLICITATION REQUIREMENTS:

A. Sealed offers in original and 3 copies to perform the work required are due at the place specified in Item 8 by 04:00 PM (hour) local time 30 Jul 2002 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee is, is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less than 150 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

SOLICITATION, OFFER, AND AWARD (Continued)

(Construction, Alteration, or Repair)

OFFER (Must be fully completed by offeror)

14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)
 ICON CONSULTING GROUP
 STEVEN NGUYE
 317 EAST 900 SOUTH
 SALT LAKE CITY UT 84111-4315

15. TELEPHONE NO. (Include area code)
 801-467-9012

16. REMITTANCE ADDRESS (include only if different than Item 14)

See Item 14

CODE
1NMC3

FACILITY CODE
1NMC3

17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation. If this offer is accepted by the Government in writing, within _____ calendar days after the date offers are due. (Indicate a number equal to or greater than the minimum requirements stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)

AMOUNTS: SEE SCHEDULE OF PRICES

18. The offeror agrees to furnish any required performance and payment bonds.

19. ACKNOWLEDGMENT OF AMENDMENTS

(The offeror acknowledges receipt of amendments to the solicitation - give number and date of each)

AMENDMENT NO.	DATE								

20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)

20B. SIGNATURE

20C. OFFER DATE

AWARD (To be completed by Government)

21. ITEMS ACCEPTED:

SEE SCHEDULE

22. AMOUNT
\$0.00

23. ACCOUNTING AND APPROPRIATION DATA

24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)

ITEM Block 7

25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO

10 U.S.C. 2304(c)

41 U.S.C. 253(c)

26. ADMINISTERED BY CODE

See Item 7

27. PAYMENT WILL BE MADE BY: CODE 668300

HAWAII AIR NATIONAL GUARD
 154TH WING/FWE
 289 HARBOR DRIVE BLDG 3417
 HICKAM AFB HI 96853-5517

CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE

28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return _____ copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications or incorporated by reference in or attached to this contract.

29. AWARD (Contractor is not required to sign this document.)

Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.

REF:

30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)

31A. NAME OF CONTRACTING OFFICER (Type or print)
 ELLEN-JO VALADE / CONTRACTING OFFICER

30B. SIGNATURE

30C. DATE

TEL: (596) 307-4225 EMAIL:

31B. UNITED STATES OF AMERICA

31C. AWARD DATE

BY *Ellen-Jo Valade*

03-Jul-2003

Section 00010 - Solicitation Contract Form

ITEM NO	SUPPLIES/SERVICES	MAX QUANTITY	UNIT	UNIT PRICE	MAX AMOUNT
0001		UNDEFINED	Lump Sum	UNDEFINED	UNDEFINED

Basic Contract MATOC IDIQ - General Construction FFP

Contractor shall provide all plant, labor, equipment, appliances, materials, expertise and supervision necessary for various maintenance, repair and construction Task Orders for DOD Hawaii on Oahu, Hilo, Maui, and Kauai Hawaii. Design Build Option IS applicable. Orders form \$2,000 to \$2,000,000 Basic Period of award through 19 Sep 04.

NSN: Z199-00-XXX-0001
SIGNAL CODE: A

MAX NET AMT

UNDEFINED

Funded Amount

\$0.00

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	MAX QUANTITY	UNIT	UNIT PRICE	MAX AMOUNT
0002		UNDEFINED	Lump Sum	UNDEFINED	UNDEFINED
OPTION	Option Year 1 MATOC IDIQ - General Construction FFP Contractor shall provide all plant, labor, equipment, appliances, materials, expertise and supervision necessary for various maintenance, repair and construction Task Orders for DOD Hawaii on Oahu, Hilo, Maui, and Kauai, Hawaii. Design Build Option IS applicable. Orders from \$2,000 to \$2,000,000. Option period 20 Sep 04- 19 Sep 05 NSN: Z199-00-XXX-0001 SIGNAL CODE: A				

MAX NET AMT UNDEFINED

Funded Amount \$0.00

FOB: Destination

ITEM NO	SUPPLIES/SERVICES	MAX QUANTITY	UNIT	UNIT PRICE	MAX AMOUNT
0003		UNDEFINED	Lump Sum	UNDEFINED	UNDEFINED
OPTION	Option Year 2 MATOC IDIQ - General Construction FFP Contractor shall provide all plant, labor, equipment, appliances, materials, expertise and supervision necessary for various maintenance, repair and construction Task Orders for DOD Hawaii on Oahu, Hilo, Maui, and Kauai, Hawaii. Design Build Option IS applicable. Orders from \$2,000 to \$2,000,000. Option period 20 Sep 05-19 Sep 06. NSN: Z199-00-XXX-0001 SIGNAL CODE: A				

MAX NET AMT UNDEFINED

Funded Amount \$0.00

FOB: Destination

ITEM NO	SUPPLIERS/SERVICES	MAX QUANTITY	UNIT	UNIT PRICE	MAX AMOUNT
0004		UNDEFINED	Lump Sum	UNDEFINED	UNDEFINED
OPTION	Option Year 3 MATOC IDIQ - General Construction FFP Contractor shall provide all plant, labor, equipment, appliances, materials, expertise and supervision necessary for various maintenance, repair and construction Task Orders for DOD Hawaii on Oahu, Hilo, Maui, and Kauai Hawaii. Design Build Option IS applicable. Orders form \$2,000 to \$2,000,000. Option period: 20 Sep 06-19 Sep 07. NSN: Z199-00-XXX-0001 SIGNAL CODE: A				

MAX NET AMT UNDEFINED

Funded Amount

\$0.00

FOB: Destination

CONTRACT MINIMUM/MAXIMUM QUANTITY AND CONTRACT VALUE

The minimum quantity and contract value for all orders issued against this contract shall not be less than the minimum quantity and contract value stated in the following table. The maximum quantity and contract value for all orders issued against this contract shall not exceed the maximum quantity and contract value stated in the following table.

MINIMUM QUANTITY	MINIMUM AMOUNT	MAXIMUM QUANTITY	MAXIMUM AMOUNT
0001	\$2,000.00	None	\$20,000,000.00

TO: Governor Linda Lingle

21 July 03

FROM: Dan A. Cole, 808-966-9229
P.O.Box 610
Keauhou, HI 96749

SUBJECT: Clear and Present Danger to Hawaiian Natural Quarantine and a
Critical Infrastructure Asset of the United States

Moiloa Governor,

It is clear to me that you do not understand the severity of the damage you have witnessed. Guardsmen under your command that was pointed out to you during your campaign stop in Hawaiian Paradise Park and witnessed by a few hundred people. To assist in your understanding I have prepared the attached (6) six pages of information for your review. If there is a structural failure of the facility as described and personnel are hurt or killed, there will probably be a Blue Ribbon Committee formed to find out who knew what a when they knew it. I understand that there is a plan to paint the facility and replace the metal roof and gutters. I request that the structural damage I describe in the attached pages be documented and made public prior to the planned cover-up.

I am providing you the following information about the design flaws of the facility so that you may instruct your representative to ask any specific questions. The facility in question was to be designed for an Earthquake Zone 3, which includes severe ground shaking potential. The roof of the Communications Building is made of precast concrete slabs approximately eight feet wide and twenty feet long, with concrete poured on top. These roofing slabs were installed with no physical connections to the building and were secured to each ledge around and without a bearing strip or roof for limited horizontal movement. In addition to Daily Inspections. Records for the month of January 1982, signed by Capt. Richard H. Neumann, and approved by the Air Force Project Engineer, Lt. Alvin Salogaja, show that the contractor did not weld the precast slab ties as required in the blueprint. Concrete was poured on the common building roof on 20 Jan 82. If you check the weather conditions and the earthquake history for 20-22 Jan 82, you will find that the Big Island was hit two 5.5 earthquakes with the earthquakes centered South of the facility, high winds, and about five inches of rain. The concrete was sitting in the trucks most of the morning; far exceeding the design requirement that no more than (60) sixty minutes elapse between the introduction of the mixing water and the placement of the concrete in its final position, and that concrete shall be placed on clean, damp surfaces, free from any water. The quality and workability of the concrete combined with the flooded conditions of the pour would prevent the concrete from bonding to the prestressed concrete roof planks, and make a weaker structure.

There is no mention in the inspection records of any inspection that determine the damage to the structure, including the cracks in the supporting beams caused by these natural disasters.

COPY

The Air Guard Facility was built facing in a Northeast direction with a major earthquake field directly to the South, this means that the direction of the seismic load for a worst-case force is directly across the diagonal of the building which would cause the unattached, non-bonded, non-welded roofing slabs to rotate out of position and fall off their two-inch support ledge. The lack of a bearing strip between the roof slab and the supporting ledge would cause the supporting ledge to fracture and fall away during any movement thereby increasing the load on the remaining portions of the supporting ledge. According to the As Built Reports, no room was designed for limited horizontal movement, therefore when the roof slabs rotate under earth quake loading the force is transferred directly to the ridge support beams causing them to crack in the geometric pattern observed today. A simple demonstration of this action can be performed on your desk top. Place a row of books across the front edge of your desk with the narrow portion of the books touching the edge and the sides of the books touching each other. Now push the end book in a diagonal direction against the other books. You will notice that all the books will rotate together. This is the very same thing that an earthquake does to the communication facility roof slabs, the cracks in the beams correspond to the saw tooth pattern of the book edges. You will note that there have been two major earth quakes South of the facility since it was completed, one was a 6.6 on Nov. 16, 1983, and a 6.1 on June 25, 1989. I have photographic evidence that details the damage from these earth quakes and the progression of structural damage that make the facility a death trap.

Your assistance in this matter will be greatly appreciated.

With aloha,

Dan A. Cole

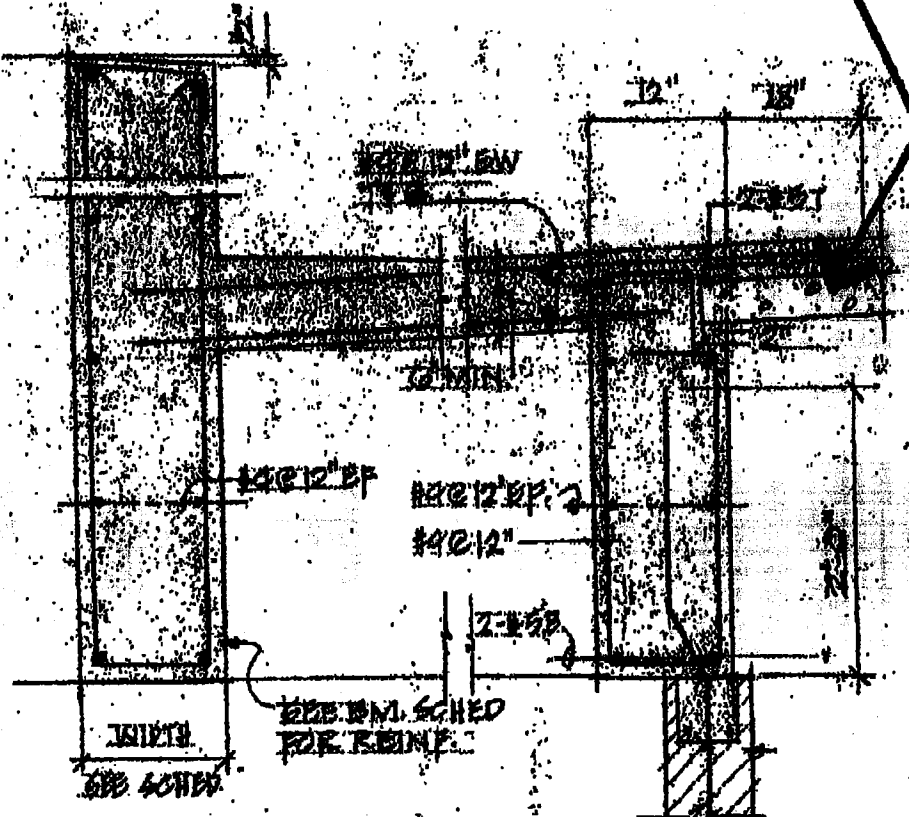
- Attached: Page 1., Strong Quake May Be Due
- Page 2., Historical Hawaiian Earthquakes M>6.0
- Page 3., Precast Concrete Roof Systems/Structural Forces
- Page 4., Cracks In Communications Building Before 2000
- Page 5., Beam Sections From As Built Blueprints
- Page 6., Beam Sections, Prestressed Conc. Plank Sections From As Built Blueprints.

Received by Andy Smith
East Hawaii Liaison

COPY

13 BEAM SECTION
SCALE 1/2"=1'-0"

14 BEAM SECTION
SCALE 1/2"=1'-0"



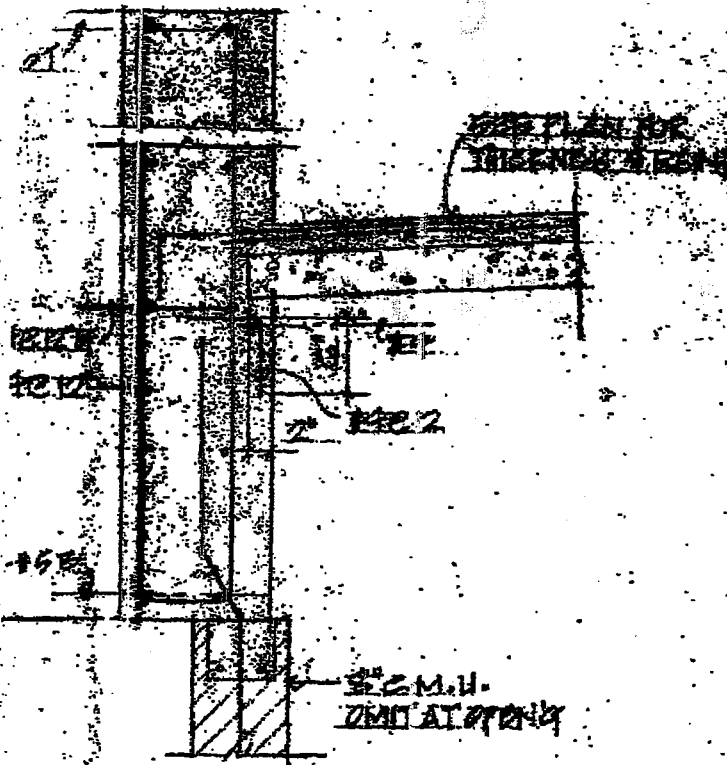
Note: The Prestressed Conc. Planks are NOT attached to the supporting beams for Structural Continuity. No Bearing Strip has been installed. There is no room for limited horizontal movement.

NOTE: These "AS BUILT" Blueprints have been approved for a building in an Earthquake Zone 3

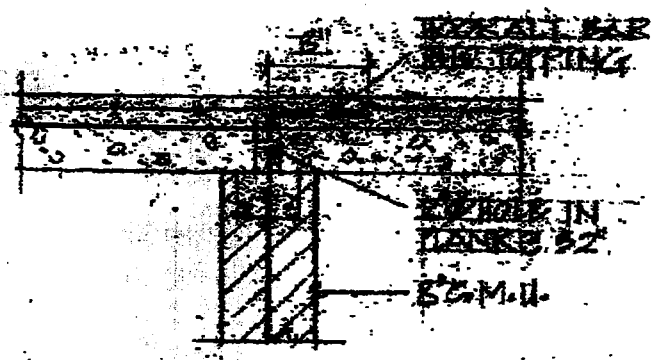
R. L. ...

PROJECT NO.	DEPARTMENT	DATE	BY
DEPARTMENT OF THE ARMY AND AIR FORCE NATIONAL GUARD OF HAWAII OFFICE OF THE ENGINEER, FT. HICKAM, HAWAII			
DESIGNED BY	HAWAII AIR NATIONAL GUARD		
DRAWN BY	HAWAII AIR NATIONAL GUARD		
CHECKED BY	HAWAII AIR NATIONAL GUARD		
PROJECT	HAWAII AIR NATIONAL GUARD		
APPROVED	HAWAII AIR NATIONAL GUARD		
REVISED	HAWAII AIR NATIONAL GUARD		
RECORD DRAWING	DRAWING NO.		

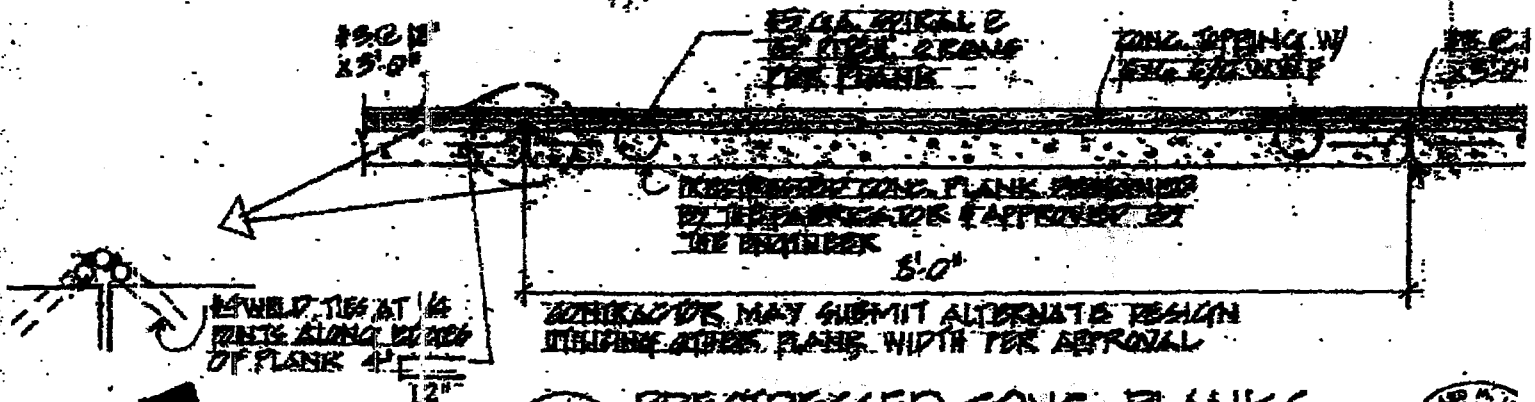
15 FACIA BEAM SECTION
SCALE 1/2"=1'-0"



19
EDGE BEAM SECTION
SCALE 1/2"



18
C.M.U. WALL SECTION
SCALE 1/2"



20
PRESTRESSED CONC. PLANKS
& TOPPING SECTION

NOTE: Ties were not welded according to the Daily Inspection Records of the construction signed by Capt. Richard H. Nishimura, dated 11 Jan '82 through 20 Jan '82.

REVISION NO.	DESCRIPTION	DATE	BY	CHKD BY
DEPARTMENTS OF THE ARMY AND AIR FORCE NATIONAL GUARD OF HAWAII OFFICE OF THE ENGINEER, FT. SUGGS, HAWAII				
NO. 01	REVISIONS			
NO. 02	REVISIONS			
NO. 03	REVISIONS			
NO. 04	REVISIONS			
NO. 05	REVISIONS			
NO. 06	REVISIONS			
NO. 07	REVISIONS			
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NO. 09	REVISIONS			
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Construction Division

ICON Consulting Group, Inc.

Replace Roof and Gutters, 291st CBCS
Project # MABE 982024

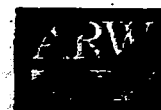
HAWAII AIR NATIONAL GUARD, HILO

Solicitation # DAHA50-03-R-0004

Replace Roof and Gutters, 291st CBCS

Project # MABE 982024

Structural Engineering Letter



MEMORANDUM

Project: CBCS Buildings 701-704 and 771 Re-roof	Project No. : 03162
Location: Hilo Hawaii	Date: August 15, 2003
<input type="checkbox"/> Telephone <input type="checkbox"/> Conference <input type="checkbox"/> Field <input checked="" type="checkbox"/> Memo	
Memo by: Jeral Newman, Project Engineer / David Pierson, SE	
Re: Structural comments regarding proposed re-roof.	

Comments/Items Discussed:

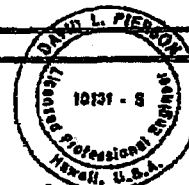
ARW Engineers was asked by Icon Consultants to provide preliminary structural recommendations regarding the proposed re-roof of CBCS Buildings 701-704 and 771 in Hilo, Hawaii. It is our understanding that a new standing seam metal roof system is to be incorporated as part of the project. An in house review of photographs of the buildings, which were provided to us by Icon, indicates that the existing roof consists of metal roof deck attached to wide flange roof beams and to concrete exterior walls. The existing roof deck currently functions as a structural diaphragm to resist lateral wind and seismic loads. The photographs indicate that the roof deck is severely corroded in several areas. This being the case, it is recommended that the existing roof deck be removed and replaced with new 1 1/2" metal B deck with a standing seam metal roof above. The weight of such a system is comparable to the weight of the existing system currently in place.

Please note that the use of a standing seam metal roof alone is not recommended due to the fact that a standing seam roof, even if properly sized for gravity loads and wind uplift, will provide only minimal horizontal diaphragm capacity (if any) for resistance of lateral loads. A system using a standing seam roof only will require installation of a horizontal bracing system at the roof to transfer lateral loads and to support the exterior walls. Such a system will be more costly and may not be feasible due to the increased lateral loads imposed on the existing roof members by the braces, especially in the larger buildings.

These recommendations should be considered preliminary. A thorough structural investigation of each building should be accomplished to identify exact structural conditions prior to submittal of a final design.

Copy to: Blake Ballif, Icon Consulting

Filing: project file other
03162_memo_081503



This work was prepared by me or under my supervision.

Signature

**SPECIFIC STATEMENT
OF
WORK FOR REPLACEMENT OF ROOFING SYSTEMS 291 CBCS HILO.**

1. GENERAL

a. **PROJECT NUMBER AND TITLE: MABE928024 REPLACE ROOF AND GUTTERS HILO**

b. **Scope of Work.** The work involves investigating, designing, and completely installing a standing seam metal roofing system on Buildings 701, 702, 703, and 704 at the 291 CCBS Hilo Hawaii. Additionally investigate and repair existing roof leaks in Building 705 and replace gutters and downspouts as necessary. The roofing system shall include but is not limited to structural roofing supports, decking, slip sheets, insulation, skylights, membrane, expansion joint covers, flashing, counterflashing, penetrations, curbs, pitch pans, edges, gravel stops, fascia boards and drainage devices.

Provide a price to be considered as an option, to replace the roof at Building 771. Illumination from skylight will not be reduced due to the roof replacement. The new lean-to covered storage outside Building 771 is NIC. No replacement insulation is necessary. Provide method of dissipating heat within warehouse without degrading inclement weather protection.

Betterments will be considered. Betterments may include but is not limited to, extended warranty, enhanced performance material/system substitution, replacement of existing louvers in roof areas with sealed fill-ins that match architectural look on exterior of building.

c. **MAXIMUM CONSTRUCTION COST: \$390,000**

d. **Existing Drawings :** Existing Drawings (as- built) are available. Will be provided under a separate cover.

e. **References.** The work done under this specific statement of work shall conform to the following documents, as applicable:

- | | |
|-----------------|---|
| (1) AFI 32-1051 | Roof Systems Management
http://www.e-publishing.af.mil/pubfiles/af/32/afi32-1051/afi32-1051.pdf |
| (2) SMACNA | Sheet Metal and Air Conditioning Contractors National Association, Inc.
Architectural Sheet Metal Manual |
| (3) ANGETL 93-4 | Roof Design Guidance https://airguard.ang.af.mil/ce/Publications/ETLS/93-4.doc |
| (4) ANGETL 01-1 | Air National Guard Design Policy (Sections 5, Design Criteria on U-Values, and 6, Roofing)
https://airguard.ang.af.mil/ce/Publications/ETLS/01-1.pdf |
| (5) ANGETL 02-1 | Air National Guard Design Objectives and Procedures (Applicable portions thereof) https://airguard.ang.af.mil/ce/Publications/ETLS/02-1.pdf |
| (6) Codes | National Fire Protection Association, national building code adopted by local jurisdiction, Underwriters Laboratories and Factory Mutual |

11 03 11:11a

ARW Engineers

8017824656

P. 2



November 10, 2003

Icon Consulting
 Blake Ballif
 1410 N. Hillfield Rd Suite 1
 Layton, UT 84041

Re: Hilo, Hawaii Structural Analysis of Proposed Re-Roof
 03162

Dear Blake;

As requested by Icon Inc, ARW Engineers has completed an analysis of CBCS Buildings 701-704 for the purpose of sizing a new metal roof deck to replace the existing corroded roof of each building. The scope of this project involves a limited lateral analysis and design of a new metal roof deck, diaphragm and diaphragm attachments for each building. Per our clients instructions, a retrofit and/or upgrade of the gravity and lateral systems of each existing building was not included in the scope of work. The new metal decking and deck attachments for each existing building were designed in accordance with the UBC1997 seismic and wind provisions.

The following criteria were used as the basis for the roof deck analysis:

Seismic	—	Zone 4
Wind	—	Basic Wind Speed 110 mph Exposure C classification (Includes uplift)

The roof framing at each building is made up of W10x30 beams supporting W10x15 purlins spaced at 3'-0". The existing metal deck spans between purlins and is attached to the supports with self tapping screws.

Based on our analysis the existing deck is to be replaced with the following metal decking.

Buildings 701, 703, and 704:

Deck type	Vulcraft 1.5 B 18 gauge deck (or equivalent) (See attached sheet for more information)
Side seam attachment	#12 tek screws at 18" on center
Attachment to each supporting member in field of Deck Panel	#12 tek screws with a 26/5 pattern (5 fasteners per 36" wide sheet)



11 03 11:11a

ARW Engineers

8017824556

P. 0

Building 702:

Deck type	Vulcraft 1.5 B 18-gauge deck (or equivalent) (See attached sheet for more information)
Side seam attachment	#12 tek screws at 6" on center
Attachment to each supporting member in field of Deck Panel	#12 tek screws with a 36/5 pattern (5 fasteners per 36" wide sheet)

To minimize corrosion all new roof deck should be galvanized.

If you have any further questions, please call.

Sincerely,



Troy Dye

Reviewed by David L. Pierson, S.E.
103162_P_111009.rvt

Enclosure



This work was prepared by me or under my supervision.



Signature

ORDER FOR SUPPLIES OR SERVICES

PAGE 1 OF 10

1. CONTRACT/PURCH. ORDER/ AGREEMENT NO. IAHA50-03-D-0003	2. DELIVERY ORDER/ CALL NO. 5001	3. DATE OF ORDER/CALL 2003 Sep 15	4. REQ./ PURCH. REQUEST NO. See Schedule	5. PRIORITY 5
---	-------------------------------------	--------------------------------------	---	------------------

ISSUED BY HAWAII AIR NATIONAL GUARD TTN CLESSON PAET ASE CONTRACTING HAWAII ANG 60 HARBOR DRIVE, BLDG 3415 HICKAM AFB HI 96853-5517	CODE FAS390	7. ADMINISTERED BY SEE ITEM 6	CODE	8. DELIVERY FOB <input checked="" type="checkbox"/> DEST <input type="checkbox"/> OTHER (See Schedule if other)
--	----------------	---	------	--

CONTRACTOR XON CONSULTING GROUP TEVEN NOYCE 17 EAST 900 SOUTH ALT LAKE CITY UT 84111-4315	CODE 1NMC3	FACILITY 1NMC3	10. DELIVER TO FOB POINT BY (Date) SEE SCHEDULE	11. MARK IF BUSINESS IS <input type="checkbox"/> SMALL <input checked="" type="checkbox"/> SMALL DISADVANTAGED <input type="checkbox"/> WOMEN-OWNED
			12. DISCOUNT TERMS NET 14 DAYS	
13. MAIL INVOICES TO THE ADDRESS IN BLOCK See Item 6				

1. SHIP TO 54 CES/BCE MAJOR GARY TEED ASE CIVIL ENGINEER LDG 3392 HICKAM AFB HI 96853-5517	CODE F4883	15. PAYMENT WILL BE MADE BY HAWAII AIR NATIONAL GUARD 154TH WING/FMF 380 HARBOR DRIVE BLDG 3417 HICKAM AFB HI 96853-5517	CODE 688300	MARK ALL PACKAGES AND PAPERS WITH IDENTIFICATION NUMBERS IN BLOCKS 1 AND 2.
---	---------------	--	----------------	---

16. TYPE OF ORDER	DELIVERY/ CALL <input checked="" type="checkbox"/>	PURCHASE <input type="checkbox"/>	This delivery order/call is issued on another Govt. agency or in accordance with and subject to terms and conditions of above numbered contract. Reference your quote dated _____ Furnish the following on terms specified herein. REF: _____
-------------------	--	-----------------------------------	---

ACCEPTANCE. THE CONTRACTOR HEREBY ACCEPTS THE OFFER REPRESENTED BY THE NUMBERED PURCHASE ORDER AS IT MAY PREVIOUSLY HAVE BEEN OR IS NOW MODIFIED, SUBJECT TO ALL OF THE TERMS AND CONDITIONS SET FORTH, AND AGREES TO PERFORM THE SAME.

NAME OF CONTRACTOR	SIGNATURE	TYPED NAME AND TITLE	DATE SIGNED (YYYYMMDD)
<input type="checkbox"/> If this box is marked, supplier must sign Acceptance and return the following number of copies:			

7. ACCOUNTING AND APPROPRIATION DATA/ LOCAL USE
See Schedule

18. ITEM NO.	19. SCHEDULE OF SUPPLIES/ SERVICES	20. QUANTITY ORDERED/ ACCEPTED*	21. UNIT	22. UNIT PRICE	23. AMOUNT
	SEE SCHEDULE				

24. UNITED STATES OF AMERICA TEL: (586) 307-4225 EMAIL: BY: ELLEN-JO VALADE	<i>Ellen Jo Valade</i> CONTRACTING / ORDERING OFFICER	25. TOTAL \$388,337.19
--	--	---------------------------

26. QUANTITY IN COLUMN 20 HAS BEEN <input type="checkbox"/> INSPECTED <input type="checkbox"/> RECEIVED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT EXCEPT AS NOTED	27. SHIP NO. <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	28. DO VOUCHER NO. 32. PAID BY	29. DIFFERENCES	30. INITIALS
--	--	-----------------------------------	-----------------	--------------

DATE	SIGNATURE OF AUTHORIZED GOVT. REP.	31. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL	33. AMOUNT VERIFIED CORRECT FOR
I certify this account is correct and proper for payment.			
DATE	SIGNATURE AND TITLE OF CERTIFYING OFFICER	34. CHECK NUMBER	35. BILL OF LADING NO.

36. RECEIVED AT	38. RECEIVED BY	39. DATE RECEIVED (YYYYMMDD)	40. TOTAL CONTAINERS	41. S/R ACCOUNT NO.	42. S/R VOUCHER NO.
-----------------	-----------------	------------------------------	----------------------	---------------------	---------------------

TO: Michael S. Vincent, phone 808-586-1317, fax 808-586-1237

3 Aug. 04

FROM: Dan A. Cole, phone 808-966-9229

Re: 30 July 04 phone conversation about CV04-00365 SPK/LEK

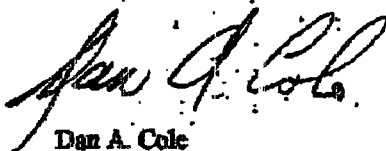
Aloha Mr. Vincent,

From our phone conversation I understand you are having some difficulty locating the documents requested in the complaint. In order to assist you in your efforts I am sending you a copy of a March 3, 2004 letter written to US Rep. Ed Case and signed by Governor Linda Lingle. It appears that the current administration has had structural engineers from several private and military organizations survey the facility in question. Perhaps you could contact the Governor for a copy of the structural engineers reports.

I am also sending you a copy of an April 1, 2004 letter from the State Director of Health, Dr. Fakiao, to the Adjutant General, Major General Robert G. F. Lee, along with a portion of a May 27, 1986 engineering report addressing the problems with the facilities ventilation system. Please note that when reading the engineering report the prevailing winds in Hawaii are the Trade Winds and they blow from a north-east direction. Also note that in the Scope of Work for the roof replacement it identifies the possibility of replacement of existing louvers with sealed fill-in. This would dramatically effect the operation of the natural flow-through ventilation as stated in original design requirements of the facility.

I hope this information will assist you in locating the documents requested in the complaint and that this matter can be resolved quickly with limited legal actions.

Aloha,



Dan A. Cole

RECEIVED
HONOLULU OFFICE

04 MAR -4 AM 11:38

EXECUTIVE CHAMBERS
HONOLULULINDA LINGLE
GOVERNOR

March 3, 2004

The Honorable Ed Case
United States Representative
Rm. 5-104. Prince Kuhio Federal Bldg.
Honolulu, HI 96850

Dear Representative Case:

Mr. Dan Cole is a former member of the Hawaii Air National Guard, specifically the 291st Combat Communications Squadron, Hilo, Hawaii. When Mr. Cole first raised these issues (over 15 years ago), we had structural engineers from several private and military organizations survey the facility and the results revealed that the cracks were not significant and did not indicate any serious structural problem. Subsequent to these inspections, his concerns were thoroughly investigated by the U.S. Air Force Inspector General's Office which came to the same conclusion.

The single story structure had endured earthquakes and severe weather for almost two decades. We have been advised to direct all inquiries generated by Mr. Cole to the Secretary of the Air Force Inspector General for reply.

We sincerely appreciate your concern for the safety of our members. Please be assured that we hold a safe workplace as a high priority for our members as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".
LINDA LINGLE

LEDA LINGLE
GOVERNOR OF HAWAII



COPY
CHIYOME L. FUKINO, M.D.
DIRECTOR OF HEALTH
COPY

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96804-3378

In reply, please refer to
File

April 1, 2004

Major General Robert G. F. Lee
Adjutant General
State of Hawaii -- Department of Defense
Office of the Adjutant General
3949 Diamond Head Road, Building 306
Honolulu, Hawaii 96816

Dear General Lee:

This correspondence is in regards to an indoor air quality complaint received by our Noise, Radiation and Indoor Air Quality Branch pertaining to inadequate ventilation and mold growth in the National Guard Armory Building, Hilo, Hawaii.

Recognizing that various indoor air pollutants such as airborne particles and biological contaminants can result in serious impacts on the indoor environment, and on the occupants' health and welfare, Act 234/1994 (HRS 321 Part XXXIII) was adopted to establish an Indoor Air Quality program within the Department of Health. The current activities implemented by the indoor air quality program are limited to public education, and responding to complaints to identify, assess and provide information on mitigating indoor air pollution problems in public buildings. At the present time no indoor air quality standards have been established, nor do we perform any air quality tests.

Normal response by our office to indoor air quality complaints in buildings occupied and controlled by the federal government consists of contacting the facility manager in an effort to identify the source of the problem and make recommendations for corrective actions. We have also included literature to help mitigate the problem.

Should you have any questions or if you would like to schedule an assessment of the facility, please contact Russell Takata, Program Manager of the Noise, Radiation and Indoor Air Quality Branch at (308) 586-5800.

Sincerely,

Chiyome Leinaala Fukino, M.D.
Director of Health

Encl.

HOTLINE COMPLETION REPORT
ON
HOTLINE INQUIRY CONTROL NO. 85-102074
201ST COMBAT INFORMATION SYSTEM SQUADRON
COMMUNICATIONS/ELECTRONICS TRAINING FACILITY
AT
KEAUKAHA MILITARY RESERVATION
HILO, HAWAII

PREPARED FOR:

STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE ADJUTANT GENERAL

PREPARED BY:

M&E Pacific, Inc.
Engineers & Architects
Suite 500, Pauahi Tower
Honolulu, Hawaii 96813

May 27, 1986

d. Ventilation System

The ventilation for all of the buildings is based on the concept of natural flow-through ventilation. The flow-through concept was to be achieved by full height operable glass jalousie windows located in the exterior walls and operable metal louvers in the clerestory. For the Automotive Repair Bays and Automotive Maintenance Bays the exterior openings are roll-up doors.

To augment the natural ventilation, six ceiling fans were installed in the Administration Building. The reproduction/computer room in the Administration Building is air conditioned with a window vent. Several desk type oscillating fans are being used in the office areas of throughout the facility.

With the wind from the Easterly direction the wind blowing through the Clerestory louvers direct the warm air at the underside of the roof to occupied areas. The inside skin temperature of the roof was 104°F at 1:30 pm. This temperature could possibly rise to about 110°F at 4:00 pm. Although the ceiling fans create a draft which makes one feel cooler, the fans are also distributing warm air to the occupied areas.

The Clerestory louvers relieve the warm air when the wind is blowing from the opposite direction from the clerestory lower face. In this case the wind enters into the room through the full height jalousies on the windowed side and lower the building through the full height jalousies in the opposite wall as well as through the clerestory louvers.

The occupants of the room are being affected by the radiated and convection heat due to the bare metal roof. The effect can be noted when one stands in the men's toilet which has a ceiling and an area without a ceiling. Although the dry bulb temperature is

only slightly degrees less in the toilet, one feels much cooler in the toilet without the effect of the radiant and convection heat. This can also be noted in Automotive Building No. 11 which is almost completely covered with the fixture mounting panels which act like a ceiling. The adverse effect of the bare roof was especially noticed in the Testing Room of the Classroom Building because of the low room height.

In order to improve comfort of the room occupants, the radiant and convection heat source need to be decreased. To accomplish this, the bare roof area must be eliminated.

it is recommended that spray-on type insulation be applied to the bare roof areas or these areas be provided with a ceiling for all buildings of the facility. The spray-on insulation will not have a finished look of a ceiling but it will provide a better acoustic treatment of the room.

4. Cite Criminal or Regulatory Violation or Violations substantiated.
There is no criminal or regulatory violation substantiated.
5. Security Classification of Information. This report is unclassified.
6. Location of Field Working Papers and Files. Field working papers and files are located at the National Guard Bureau and Headquarters, Hawaii Air National Guard.

TO: Ms. Ellen Jo Valade, phone 586-307-4225, fax 586-307-4300

21 Aug 04

FROM: Dan A. Cole, 808-966-9229

P.O. Box 630

Keaan, HI 96749

* Plaintiff, pro se, Civil No. CV04-00365 SPK/LEK

U.S. District Court, District of Hawaii

SUBJECT: Improper release of documents under FOIA

FAX: 9 pages total

Aloha Ms. Valade,

In our 6 Aug. telephone conversation you indicated that the Solicitors from ICON Consulting Group, was not released under the FOIA, and I should not have been given the document. If this is the case I would also assume that a November 10, 2003 letter from ARW Engineering to ICON Consulting should also not have been given to me.

I am faxing you the cover page of the ICON solicitation, and the Nov. 10. letter from ARW Engineers. Can you confirm for me that this information should or should not have been released under FOIA?

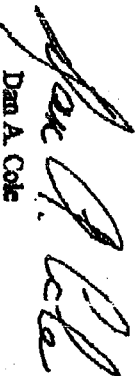
I am also faxing you page 8, of the Order for Supplies or Services which your signature appears on. Please note section 5) Calculations, and compare this requirement with the statements of ARW Engineering in their Nov. 10 letter to ICON Consulting. It would appear that the government paid for goods and services that it did not receive. I am faxing the original 2 April 04, FOIA request, and documents presented to the US District court that indicate the ARW Engineering letter fulfills the structural engineer's written certification as per section 5), of the Order for Supplies and Services.

At the present time I am preparing a Motion for Judgment, the documents the Hawaii Air National Guard sent me will be entered as an Admission for the court to make a judgment upon. I would assume that the court will not like to find out after passing judgment that the documents presented were not legally released, and I would also assume that ICON Consulting, and ARW Engineering, may want to take some legal action since the documents place their reputations in question.

Please contact me on this matter so that government may avoid embarrassment.

Thank you for your assistance in this matter.

Aloha,


Dan A Cole



**MICHIGAN AIR NATIONAL GUARD
HEADQUARTERS 12TH WING (ACC)
SELFREDGE ANG BASE MICHIGAN**


25 August 2004

**Dan A. Cole
P.O. Box 630
Keaau, HI 96749
(808) 966-9229**

Dear Mr. Cole,

Your request has been sent, LAW agency procedures, to the appropriate attorneys representing the Hawaii Air National Guard. The attorneys will respond to your request.

Please direct any future correspondence to the Government attorneys.


**Ellen-Jo Valade
Director, Contracting Division
MI ANG**

TO: The Honorable Leslie E. Kobayashi
United States District Court
District of Hawaii
300 Ala Moana Blvd., C-338
Honolulu, HI 96850-0338

7 Sept. 04

Refer to : CV04-00365-SPK/LEK

FROM: Dan A. Cole
P.O. Box 630
Keam, HI 96749
Telephone 808-966-9229
Plaintiff, Pro Se

RECEIVED
CLERK U.S. DISTRICT COURT

SEP 09 2004

SUBJECT: Information received after filing of Scheduling Conference Statement

DISTRICT OF HAWAII

Dear Judge Kobayashi,

I am sending you a copy of a letter, I received after filing the Scheduling Conference Statement from Ellen-Jo Valade, Director, Contracting Division MI ANG. It appears that a legal opinion has been requested as to the status of the documents given to me as a result of my FOIA request, and if the government receive the supplies and services identified in the attached Order for Supplies or Services.

I have not been contacted by the attorney's representing the Hawaii Air National Guard in reference the Ellen JO Valade's 27 August 2004 letter.

Sincerely,


Dan A. Cole

- Attachments: 27 August 2004 letter signed by Ellen-Jo Valade, Director Contracting Division MI ANG
- 23 Aug. 04 fax, from Dan A. Cole to Ms. Ellen-Jo Valade
- 18 Aug. 04 letter from Dan Cole to Michael Vincent
- 3 Aug. 04 fax, from Dan A. Cole to Michael S. Vincent
- Page 1, of Order for Supplies or Services, signed by Ellen-Jo Valade
- Page 8, of Order for Supplies or Services
- November 10, 2003, letter to Icon Consulting from ARW Engineers, 2 pages.

LINDA LINGLE
GOVERNOR



MARK J. BENNETT
ATTORNEY GENERAL

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
CIVIL RECOVERIES DIVISION
425 Queen Street
Honolulu, Hawaii 96813
(808) 586-1317; Fax: (808) 586-1257

December 8, 2004

Dan A. Cole
P.O. Box 630
Keeau, Hawaii 96749

Re: Cole v. Hawaii Air National Guard, Civil No. CV04-00365 SPK/LEK

Dear Mr. Cole;

Enclosed is our Statement of No Opposition to your Motion. This will allow the Court to take action on your motion.

I notified the National Guard of your request for Production of Documents as soon as I received it. Last week I was given an update on the documents relating to your request.

With respect to the final "As Built" drawings, I was informed that the Department has not received them from the construction contractor doing the roof repairs due to an outstanding dispute with the contractor. I was also told that the Department is withholding the retainage from the contractor until such time that the disputed outstanding work is completed. After final inspection, the Contractor will be required to submit "Revised As Built" drawings. Until this occurs, the final "As Built" drawings will not be completed. As of December 3, 2004, there was no date set for the final inspection.

With respect to the Specific Statement of Work for Replacement of Roofing Systems 291 CBCS Hilo, which states in paragraph d that "[e]xisting Drawings (as-builts) are available" and "[w]ill be provided under a separate cover," I have been informed that drawings available to the contractor relating to the scope of work under the contract have been located and are available.

Very truly yours,

Michael S. Vincent
Deputy Attorney General

COPY

MARK J. BENNETT, 2672
Attorney General
State of Hawaii

MICHAEL S. VINCENT, 5871
Deputy Attorney General
425 Queen Street
Honolulu, Hawaii 96813
Telephone: (808) 586-1317
Facsimile: (808) 586-1237
E-Mail: michael.s.vincent@hawaii.gov

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

DEC 08 2004

WALTER A. Y. CHIN, CLERK

Attorneys for
STATE OF HAWAII
HAWAII AIR NATIONAL GUARD

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

COLE, DAN A.,

Plaintiff,

vs.

HAWAII AIR NATIONAL GUARD,

Defendant.

Civil No. CV04-00365 SPK/LEK

DEFENDANT STATE OF HAWAII,
HAWAII AIR NATIONAL GUARD'S
STATEMENT OF NO OPPOSITION TO
PLAINTIFF'S MOTION TO
WITHDRAW COMPLAINT;
CERTIFICATE OF SERVICE

DEFENDANT STATE OF HAWAII, HAWAII AIR NATIONAL GUARD'S STATEMENT
OF NO OPPOSITION TO PLAINTIFF'S MOTION TO WITHDRAW COMPLAINT

Defendant State of Hawaii, HAWAII AIR NATIONAL GUARD, by and through its
attorneys, Mark J. Bennett, Attorney General of Hawaii, and Michael S. Vincent, Deputy

Attorney General, hereby states that it has no opposition to Plaintiff Dan A. Cole's Motion to Withdraw Complaint filed December 2, 2004.

DATED: Honolulu, Hawaii, December 2, 2004


MICHAEL S. VINCENT
Deputy Attorney General

Attorney for DEFENDANT
STATE OF HAWAII, HAWAII
AIR NATIONAL GUARD

Dan A. Cole v. Hawaii Air National Guard, Civil No. CV04-00365 SPK/LEK; Defendant State of Hawaii, Hawaii Air National Guard's Statement of No Opposition to Plaintiff's Motion to Withdraw Complaint

FAX TRANSMITTAL: Thirty-Nine, (39), pages total

14 January 2009

TO: Ms. Brenda Ford, Phone: 808-326-5421, FAX: 808-329-4786
Council Member
County of Hawaii

TO: Ms. Jennifer Z. Brooks Phone: 808-586-1400, FAX: 808-586-1412
Staff Attorney
Office of Information Practices
State of Hawaii

TO: Mr. Brian M. Taniguchi, Phone: 808-586-6460, FAX: 808-586-6461
State Senator
State of Hawaii
ATTN: Terence

RE: Wilful Violations of Hawaii's Sunshine Law by the Hawaii County Council (Body Politic), Objection to Judicial appointment of Edward Kubo.

Dear Ms. Ford, Ms. Brooks, and Mr. Taniguchi:

As per my telephone conversations with your offices I am preparing to file a lawsuit in the 3rd Circuit Court of the State of Hawaii in accordance with HRS § 92-12 (1993), as per the attached December 18, 2009 MEMORANDUM OPINION, it is anticipated that the evidence brought fourth in filings and pleadings before the Court will expose the existence of an Enterprise engaged in a pattern of history of violations of State and Federal RICO statutes, to include extortion, and the influence of aforesaid Enterprise over County, State, and Federal offices and officials in Hawaii to include the employees and Officers of the Courts of the State of Hawaii and the United States District Court, District of Hawaii.

Please note that the violations of the Hawaii Sunshine Law as described in the attached Memorandum, as signed by Staff Attorney Jennifer Brooks, and Acting Director Kathy L. Takase were not only an admitted violation of the Sunshine Law, but were in fact acts and actions of Wilful Violations of the Sunshine Law by the body politic Hawaii County Council. These Wilful actions were for the purpose to cover up criminal violations of State and Federal statutes pertaining to conspiracy to commit fraud against the governments of the County of Hawaii and the United States, and to cover up past knowing and knowingly acts and actions of a conspiracy to commit fraud by public officials, where such actions were aided by the Offices of the U.S. Attorney for Hawaii, Edward Kubo, Hawaii Corporation Counsel Lincoln S.T. Ashida, State Attorney General Mark Bennett, Hawaii County Prosecuting Attorney Jay Kimura, and the Hawaii County Police Department.

As always I am providing the attached information and documentation so there will be no question as to what public officials knew and when they knew it, and may be requested under the Hawaii State Information Practices Act for inclusion as exhibits in future State and Federal Court filings.

For your convenience I have highlighted some important portions of the attached documentation with a dark triangle in the left margin that identify the history of an agenzized item of the body politic Hawaii County Council requesting me to bring fourth information and evidence of violations of State and Federal statutes by officials of the Hawaii County Public Works Department, where such violations have, and currently, place the welfare of the people of Hawaii in jeopardy, and have deprived the people of Hawaii of property without due process, and due procedural process, of law.

Thank you for your attention in this matter, and feel free to contact me for additional information or clarification.

Sincerely,



Dan A. Cole

Attached:

Dec 18, 2009, CIP MEMORANDUM OPINION (S INVES-G 09-2, S INVES-P 09-9 and S INVES-P 09-10) . (2 pages)

18 Nov. 02 letter from Dan Cole to Councilman Arakaki. (1 page)

Dec. 17, 2002 minutes of COMMITTEE ON PUBLIC WORKS & INTERGOVERNMENTAL RELATIONS, pages 1,2,3,4,5, 35, 39. (7 pages)

7 April 2003 letter from Dan Cole to Councilman Tyler. (1 page)

March 18, 2004 LETTER OF TRANSMITTAL, Flood Removal from Hilo Streams. (4 pages)

FLOOD DEBRIS REMOVAL FROM HILO STREAMS, PLANS, JOB NO. P-3535. (6 pages)

HRS §174C-91, 93, 94, 95, STREAM DIVERSION WORKS, (4 pages)

April 1, 2008 letter from Bruce McClure to Dan Cole. (1 page)

June 13, 2008 letter from Bruce McClure to Dan Cole. (1 page)

Continued next page:

25 March 2004 letter from Dan Cole to Councilman Sasarik. (1 page)

June 4, 2004 letter from Hawaii County Corporation Counsel Lincoln S.T. Ashida to State Attorney General Mark Bennett, (1 page)

6 April 2006 letter from Dan Cole to Councilman Safarik and ALL County of Hawaii Council Members. (1 page)

29 March 2006 letter from Dan Cole to Councilman Safarik and ALL County of Hawaii Council Members. (1 page)

24 March 2008 letter from Dan Cole to Hawaii County Council Chairperson J Stanley Yoshimoto, ESQ, JD/5883. (2 pages)

April 15, 2008 letter from Hawaii County Council Chairperson , J Yoshimoto to U.S. Attorney Edward H. Kubo. (1 page)

May 29, 2008 letter from Hawaii County Police Chief Lawrence K. Mahuna to FBI Special Agent in Charge Janet L. Kamerman. (1 page)

May 29, 2009 Letter from U.S. Senator Daniel Inouye to Dan Cole. (1 page)



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LIEUTENANT GOVERNOR

STATE OF HAWAII
OFFICE OF THE LIEUTENANT GOVERNOR
OFFICE OF INFORMATION PRACTICES

CATHY L. TAKASE
ACTING DIRECTOR

NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
Telephone: (808) 586-1400 FAX: (808) 586-1412
E-MAIL: oin@hawaii.gov
www.hawaii.gov/oin

The Office of Information Practices ("OIP") is authorized to resolve complaints concerning compliance with part I of chapter 92, Hawaii Revised Statutes ("HRS") (the "Sunshine Law") pursuant to section 92F-42(18), HRS.

MEMORANDUM OPINION

Requester: Brenda Ford, James Weatherford and West Hawaii Today
Board: Hawaii County Council
Date: December 18, 2009
Subject: Serial Discussion of Board Leadership
(S INVES-G 09-2, S INVES-P 09-9 and S INVES-P 09-10)

Request for Investigation

Requesters asked for an investigation into whether a series of discussions about leadership among Hawaii County Council members, prior to the meeting held June 16, 2009, violated the Sunshine Law.

Unless otherwise indicated, this opinion is based solely upon the facts presented in the Requesters' e-mail and postal correspondence, attached materials including a video recording of the June 16 meeting, and the County of Hawaii's e-mail correspondence dated June 23, 2009.

Opinion

A majority of Hawaii County Council members discussed leadership through a series of interconnected conversations. This serial discussion was not permitted by, and thus violated, the Sunshine Law.

Statement of Reasons for Opinion

At their meeting held June 16, 2009, Hawaii County Council members made statements as to which other Council members, if any, each one had spoken to about a proposed reorganization prior to the meeting. Based on the Council members' June 16th statements, OIP finds that no individual Council member directly spoke with more than three other Council members about the issue. However, the indirect communications among Council

members were more widespread because there was a series of conversations on the proposed reorganization among various members at different times, which allowed information from earlier conversations to be passed on to additional members. In all, OIP finds that seven members of the Council were involved through serial communications in the extended discussion of the proposed reorganization.¹

The Sunshine Law limits the number of board members who may privately discuss board leadership to a number less than a quorum. HRS § 92-2.5(c). A board cannot by serial communications avoid this limitation. Right to Know Committee v. City Council, City and County of Honolulu, 117 Haw. 1, 12-13 (Haw. App. 2007); HRS § 92-2.5(c); OIP Op. Ltr. No. 05-15. Because a majority of the Council's members were involved in the serial discussion of board leadership, the discussion was not permitted under the Sunshine Law. See id.

OIP believes that the involvement of a majority of Council members in the serial discussion occurred because the members were not mindful to the possibility of serial communications, rather than because of a deliberate strategy to circumvent the Sunshine Law's requirements. OIP also notes that the Council members made an effort to mitigate the public impact of this violation by publicly announcing the extent of each one's communications with other members about board leadership. Nonetheless, to avoid a similar situation in the future, OIP cautions the Council members that, when communicating with other members under color of a permitted interaction, they must always be alert to the potential for violation of the Sunshine Law through serial use of the permitted interactions.

Right to Bring Suit to Enforce Sunshine Law and to Void Board Action

Any person may file a lawsuit to require compliance with or to prevent a violation of the Sunshine Law or to determine the applicability of the Sunshine Law to discussions or decisions of a government board. Haw. Rev. Stat. § 92-12 (1993). The court may order payment of reasonable attorney fees and costs to the prevailing party in such a lawsuit. Id.

OFFICE OF INFORMATION PRACTICES


 Jennifer Brooks
 Staff Attorney

APPROVED:


 Cathy L. Takase
 Acting Director

¹ It is clear from both the County's own representations and the Council members' June 16th statements that a majority of Council members participated in the extended discussion. Because it is clear that the number exceeded the statutory limitation, and in the absence of clear evidence of a specific intent to circumvent the Sunshine Law, OIP finds it unnecessary to describe each conversation in this summary opinion.

TO: Councilman James Arakaki

18 Nov. 02

FROM: Dan Cole, phone 966-9229

02 NOV 18 PM 12:12
COUNTY OF HAWAII

SUBJECT: Flood Control in your District

Aloha Councilman Arakaki,

I am writing to you in response to a article in the Tribune Herald, Sunday 17 Nov. 02, "On council to-do list: halt floods, finish plan", and the Chris Loos 7 Nov., article about the County being sued over flood damage.

Through this letter I am "Officially", bringing to your attention a flooding disaster waiting to happen in your district. I am pointing out to you that as a result of a Flood Debris Removal Project P-3535, the Palia Stream bed between Kilauea and Kimole St. was filled in and the stream path altered. This has been confirmed by information obtained from the Hilo office of the Natural Resources Conservation Service.

There is evidence that the County of Hawaii and the Federal Government were defunded into payment for work that was never done, and in fact the work performed may have created a greater potential for loss of life and property when the next great flooding storm happens.

In so far as this work was completed less than two years ago the County may be able to bring legal action against the Contractor to correct this hazard and to restore the stream to its natural path, before the next flood.

I am attaching a 20 Feb. 02, letter from the County of Hawaii, Department of Public Works, that identifies the area of concern. It appears from photographs that the bulk of the 688 cubic yards, over eighty (80) dump truck loads, of debris material that was removed from the identified property was dumped back into the stream bed. The Contractor nor the County can verify that the debris material was removed from the site and where it was disposed of.

Please contact me for additional information. Let us hope this hazard can be corrected before the County becomes a Defendant in yet another law suit as a result of flood damage.

Aloha,

Dan A. Cole

Copy to: Hawaii Trail and Herakl, who attachments

EXHIBIT "AA"



**COMMITTEE ON PUBLIC WORKS
& INTERGOVERNMENTAL RELATIONS**

1ST Session

Hilo, Hawai'i

Tuesday, December 17, 2002

2002
DEC 17 2 29 PM '02

The meeting of the Committee on Public Works & Intergovernmental Relations was called to order at 9:07 a.m. in the Councilroom, Hawai'i County Building, by Mr. Leningrad Elarionoff, Chair.

ATTENDANCE:

Present:

Mr. Leningrad Elarionoff, Chair
 Dr. Fred Holschuh, III, Vice Chair
 Mr. James Arakaki, Member
 Mr. Aaron S. Y. Chung, Member
 Mr. Bob Jacobson, Member
 Ms. Bobby Jean Leithhead-Todd (cil)
 Mr. J. Curtis Tyler, III, Member

Absent & Excused:

Mr. Joe Reynolds, Member
 Mr. Gary Safarik, Member

Also Present:

Mr. Andrew Levin, Executive Assistant II (came in later)
 Mr. Lincoln Ashida, Corporation Counsel (came in later)
 Mr. Ivan Torigoe, Deputy Corporation Counsel (came in later)
 Mr. Jay Kimura, Prosecutor (came in later)
 Mr. Paul Nash, Public Works Department Engineer
 Mr. Brian Kajikawa, Building Division Chief
 Ms. Diane Shiro, Public Works Department Business Manager
 Mr. Kelly Gomes, Public Works Department Civil Engineer
 Mr. Casey Yanagihara, Public Works Dept. Civil Engineer (came in later)
 Mrs. Evelyn Fujii, Council Services Supervisor (came in later)
 Ms. Charmaine Doran, Legislative Auditor Assistant II
 Ms. Erika K. Yamamoto, Legislative Auditor Assistant
 Ms. Earlane Shintani, Council Aide
 Ms. Michelle Akoni, Council Aide
 Ms. Karin K. Dahlgren, Council Services Assistant II

PW&IRC-1

2002 MAR 29 PM 3 58

December 17, 2002

CHR. ELARIONOFF: The first session of the Hawai'i County Council Committee on Public Works & Intergovernmental Relations—before we begin the meeting, I'd like to introduce some of the members that are present here today. Starting from my far left, we have Mr. Bob Jacobson; next to him sits Dr. Fred Holschuh; and next to him is Mr. James Arakaki, and then Mr. Curtis Tyler on my left; on my right is Mr. Aaron Chung; and I'm Leningrad Elarionoff, Chair of this Committee.

**STATEMENTS
FROM THE
PUBLIC ON
ITEMS ON
THE AGENDA:**

The Chair called for statements from the public on items on the agenda.

CHR. ELARIONOFF: We start off with statements from the public, and we have a statement from Drew Stout. Drew Stout.

ANDREW STOUT:

The Chair called on Mr. Andrew "Drew" Stout, representing NRC'S/USDA (Natural Resources Conservation Service, U.S. Department of Agriculture), who made the following statement opposing Communication No. 7, regarding the flooding concerns of Dan A. Cole:

MR. STOUT: It's regarding something in the agenda. Do you want to wait until we get to that point?

CHR. ELARIONOFF: No, it is on the agenda right now. In the meantime, I'd like to mention that we have excuses from three Committee Members—Mr. Gary Safarik, Mr. Joseph Reynolds, and Ms. Bobby Jean Leitchhead-Todd, who couldn't be here, for different reasons.

MR. STOUT: Okay, my name is Andrew Stout. I'm a civil engineer for the Natural Resources Conservation Service, which is a department of the U.S. Department of Agriculture. My office is here in Hilo, but I work throughout the island. I was involved with the County back in the flood of 2000 November—we had a 100-year storm event which I'm sure you're familiar with; and we had several contracts to repair damage from that flood: one of them was stream debris removal—and that's on the agenda today.

There's a letter from Dan Code (Comm. 7), it says, "Comm. 7." It basically addresses the potential for flood damage, due to that contract for debris removal. Are you familiar with the letter that Dan sent? Has everybody read that letter? Okay. Has everybody had a chance to read the rebuttal by the County? Okay. I agree with the County as far as—

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December 17, 2002

MR. TYLER: I'm sorry, excuse me—a rebuttal by the County?

MR. STOUT: No, you didn't see that?

MR. TYLER: You mean the February 20th letter?

MR. STOUT: Okay. I guess they haven't sent that yet. But as far as addressing the concerns in the letter that—let's see, it says, "Flood debris—", -actually just in that first paragraph, quoting from the letter, "Through this letter, I'm "officially," bringing to your attention a flooding disaster waiting to happen in your district. I am pointing out to you that as a result of Flood Debris Removal Project P-3535, the Palai Stream bed between Kilauea and Kinooie St. was filled in and the stream path altered. This has been confirmed by information obtained from the Hilo office of the Natural Resources Conservation Service."

As far as debris being filled in, and the stream path altered, I'd like to disagree with that. I thought the contractor did an excellent job. They removed all the debris that we asked them to remove. The stream is not altered as far as the path goes. The Emergency Watershed Protection Program, which is where the funding came from, the rules for that program are for stream bank protection, and also stream debris removal after a storm. We cannot increase the size or capacity of the stream. We cannot change the path of the stream.

So, just by the rules, we're not allowed to do that; and the contractor was instructed to take the debris out, get the stream back to the original capacity, and leave the stream as it is—which I thought that they did. And I'm sure it'll come up where that debris went to. On that particular job, one of the homeowners said he would like to fill; so it was placed on what the County thought was his property—which is adjacent to the stream. It turned out not to be his property, so the County asked the contractor to remove the debris off site, which they did, and I can confirm that, that the debris was removed; and it was not pushed back in the stream at all.

And I also have some photos. This first photo is what the stream looked like right after the storm, before the project started; and then the next photos, the following photos, this is what the stream looks like—this is last week, Friday. If you look behind, you'll see a foot bridge right there; and that foot bridge is kind of right here under all that debris, so you can see the two photos are taken from the same spot—and pass those around. And if you have any questions regarding this matter, I'd be happy to answer them for you.

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December 17, 2002

But it's my contention that the contractor fulfilled his obligations correctly, and the County did as well. This watershed protection is a partnership. The U.S. government pays 75 percent; and then a local sponsor—in this case, the County—pays 25 percent. And I thought it was done rather well.

CHR. ELARIONOFF: Okay. Mr. Holschuh has a question for you.

DR. HOLSCHUH: Thank you, Mr. Chairman. Drew, good morning.

MR. STOUT: Good morning.

DR. HOLSCHUH: There was a mention—I presume what you're talking about, the County's "rebuttal," is the February 20th letter to Mr. Cole from Ben Ishii from Engineering, is that correct?

MR. STOUT: No, there's another one. I thought, but I have that letter.

DR. HOLSCHUH: Okay, does it mention in here about oil leakage? "We believe, we do not believe there was any oil leakage." Who had made the allegation that there was oil leakage? Because I did not see that in Mr. Cole's letter. Do you know anything about that?

MR. STOUT: I believe that was a previous matter that Dan brought up; so I believe Dan brought that.

DR. HOLSCHUH: Not specifically this. Okay, thank you.

MR. STOUT: But it's related to the same project.

CHR. ELARIONOFF: Okay, are you finished? Okay, Mr. Tyler.

MR. TYLER: Yes, thank you, Mr. Chairman. Good morning, Mr. Stout, thank you for coming this morning. Did you contact—have you been in contact or spoken with Mr. Cole?

MR. STOUT: Yes, I met Dan yesterday. We sat down for about an hour yesterday at my office and discussed it.

MR. TYLER: And what did he—why did he come to these conclusions?

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December 17, 2002

FROM: [REDACTED]
COUNTY: [REDACTED]

MR. STOUT: Well, he went to our Hilo field office, which is across town, it's not the same office as me, and asked for, I guess, a map of the area; and he was given a map similar to this. This is the stream that's in question right here. And he thinks that this stream shows it being rather straight, which I agree on this photo it is rather straight. But this photo is actually made from—I don't know if you're familiar with these; these are the quad sheets, the USGS quad sheets; and they're made from aerial photos; so small alterations in the stream, you can't pick them up from the aerial photos.

So, even though it may look straight on paper, it may twist and turn in reality. And I discussed with Dan that I had been out there last Friday—I actually went out there again today—and the stream is relatively straight. It does make a few minor jogs, but I would consider it a natural stream with a rock bottom.



MR. TYLER: Okay, so he says in the second paragraph of his letter that "There is evidence that the County ...and the Federal Government were defrauded into payment for work that was never done, and in fact the work performed may have created a greater potential for loss of life and property." Were you able to talk with him about this and get somewhere?

MR. STOUT: Once again, he was saying that the stream, like on the map, shows it's straight. And he has some photos that he interprets that the stream is curved now.

MR. TYLER: Okay, so you're confident that the stream has returned to its natural path, and no debris was put back in the stream?

MR. STOUT: I'm confident that the stream was replaced back to the pre-flood condition by the contractor. I can't tell you if, before that contract, that stream had been moved and put in a different place; but I can tell you that they went in and took the debris out and restored it to the pre-flood condition.

MR. TYLER: Okay, thank you very much.

CHR. ELARIONOFF: Thank you, Mr. Stout, could you give us your credentials and who you represent, one more time, please.

MR. STOUT: Okay, I'm a civil engineer. I work for the Natural Resources Conservation Service, which is part of the U.S. Department of Agriculture.

CHR. ELARIONOFF: Okay, thank you very much.

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December 17, 2002

REC
COUNT

his job according to the contract; and extra conditions were placed on him by the County. Are we liable for it again if somebody says, "Hey! You dumped some material on my property, and I didn't want it." Or it was contaminated material. That's a question we ask.

It just appears that this stream has been altered. I mean, whoever did it, it has been done. Who authorized the building of the foot bridge? That's the questions we're asking. I mean, is the County held liable for this stuff now, since they've inspected it? I have extensive documentation.

MR. TYLER: Mr. Nash, can you respond to those questions?

MR. NASH: Yes, I can. In my opinion, and Drew Stout was speaking earlier today, and his opinion also, the work was properly performed by the contractor. The debris was taken out of the stream by the contractor in accordance with the contract. It was put on one of the neighbor's, who is adjacent to the stream. Said, "Hey! Will you please give me that material."

When we say "debris," we're talking about stones, basically.

MR. TYLER: Debris is stones?

MR. NASH: Debris is stones, yes. We're talking about that gets---

MR. TYLER: I thought debris would be, like, trees and logs.

MR. NASH: This is, mostly, rock; and that's the type of debris we're talking about.

MR. TYLER: Okay. So, is this true that there were only three dump trucks put there; and what happened to the other 80?

MR. NASH: I'm not sure how many dump trucks were put there; but we piled it onto somebody's property; and then a day or two later, a man came out and said, "Hey!" that's not his property; and so we said, "Okay, Mr. Contractor, please move that material."

MR. TYLER: Did he have to pay extra for the contractor?

MR. NASH: No, we didn't.

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EXHIBIT "R"

PW&IRC-1

2002 MAR 29 PM 3 59

December 17, 2002

CHR. ELARIONOFF: Thank you. Mr. Tyler.

MR. TYLER: Yeah just very quickly. Mr. Chairman. And so, what I would like to have happen is, Mr. Cole work with Mr. Nash, and if there's some legal work that needs to be done, Mr. Nash can ask the Corp Counsel; and then just come back and make a report to us, you know, as to what the findings are. And, Mr. Cole, if you still dispute this—and you know, we'll have copies of the pictures of the maps and everything.

I appreciate your bringing this to our attention, and thank you. And Mr. Nash, thank you for being here this morning, too. Thank you. Mr. Chairman.

CHR. ELARIONOFF: Thank you. On the floor, we have Communication 7, a motion to file. All those who approve, say "aye."

The motion to close file on Communication 7 was carried by the following vote:

In Favor: Committee Members Arakaki, Chung, Holschuh, Jacobson, Tyler, and Chr. Elarionoff
 Opposed: None
 Absent & Excused: Committee Members Leithead-Todd, Reynolds, and Safarik

CHR. ELARIONOFF: Let's go to Communication 10.

Comm. 10:
(Res. 11-03)

RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATING TECHNICAL PARTNERS AGREEMENT WITH THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) (for the South Kohala area)

From Dennis K. W. Lee, PE, Director of Public Works, dated November 14, 2002, transmitting the above resolution. The primary purpose of this agreement is to establish up-to-date flood hazard data and a Digital Flood Insurance Rate Map (DFIRM) for the South Kohala area.

CHR. ELARIONOFF: Can I have a motion to file Communication 10 and approve Res. 11-03.

TO: Councilman Tyler

7 April 03

FROM: Dan Cole, 966-9229

SUBJECT: Public Works Report you requested at the 17 Dec. 02, Public Works Council meeting.

Alma Councilman Tyler,

At the Dec. 17, meeting you requested the Public Works Dept., represented by Paul Nash, to make a report on numerous items that they could not answer in regards to the debris removed from Hilo Streams, and the altering of a stream bed. You asked me if I would meet with Public Works per contact with my contacts, which I agreed to, and you instructed Paul Nash to contact the Corporation Counsel about the legal issues. You instructed that a report be made and that I be given a copy for review, and if I disagreed with the report you offered me the opportunity to voice my disagreement.

To date I have not received the Public Works report. At the request of Paul Nash I waited until after the holidays to arrange a meeting, on Feb. 6, 03, in a tape recorded meeting at the Public Works Office, I met with the Paul Nash, and the Dept. Heads, including Bruce McCall. The Public Works Dept. had no evidence to support their statements, or to explain the documented evidence I presented.

In the tape recorded meeting, Paul Nash admitted that he misled Todd Nichols of the State Dept. of Health, Solid & Hazardous Waste Branch, who was investigating a complaint concerning the disposal on private property of sediment, that was generated from Job No. P3535, Flood Debris Removal from Hilo Streams. This complaint was referred to the State of Hawaii by the Environmental Protection Agency. Paul Nash admitted that he had not seen the sediment in question, did not know where it came from, but told the investigator on 8/1/01, that the material removed from the stream contained mostly rocks and that he didn't notice any rubbish or orders, and stated that the debris and Maieka Streams were involved in this job. The contractor states the sediment in question came from the Waieka Stream. Based on Paul Nash's misleading testimony the State concluded that the sediment placed on private property was inert fill material, and closed the case, File: 01-133.

I request that Paul Nash be formally charged with making official misleading statements, and that the State Dept. of Health be notified of the false testimony and a request to reopen the case.

Sincerely,

Dan A. Cole

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MAY 25 PM 1 09
COUNTY CLERK
HAWAII

EXHIBIT "BB"



COUNTY OF HAWAII

Department of Public Works & Engineering Div.
 25 Aupuni Street & Hilo, Hawaii & 96720
 Phone: 961-8327 & Fax: 961-8630

LETTER OF TRANSMITTAL

TO:

Dan Cole

ATTENTION:

DATE March 18, 2004	JOB NUMBER
RE: Flood Debris Removal from Hilo Streams	

WE ARE SENDING: Attached Transmitted separately via: _____

Shop Drawings Prints Plans Samples Specifications

Copy of Letter Change Order _____

COPIES	DATE	NO.	DESCRIPTION
1		1.	Report

TRANSMITTED AS CHECKED BELOW:

<input type="checkbox"/> For approval	<input type="checkbox"/> Approved as submitted	<input type="checkbox"/> Resubmit _____ copies for approval
<input type="checkbox"/> For your use	<input type="checkbox"/> Approved as noted	<input type="checkbox"/> Submit _____ copies for distribution
<input type="checkbox"/> As requested	<input type="checkbox"/> Returned for corrections	<input type="checkbox"/> Return _____ corrected prints
<input type="checkbox"/> For review and comment	<input type="checkbox"/> _____	
<input type="checkbox"/> For bids due _____	<input type="checkbox"/> _____	

REMARKS:

2004 MAR 25 PM 1 08
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 COUNTY CLERK
 COUNTY OF HAWAII

COPY TO: _____ **SIGNED** Paul Nash

BACKGROUND

Flood Debris Removal from Hilo Streams, County Job No. P-3535, removed debris from stream beds at several different sites in Hilo after the flood of November 2000. The project was funded in part by the Natural Resources Conservation Service. The County awarded the contract to Island 66 LLC on February 16, 2001, based on a competitive bid of \$127,624.00.

Mr. Paul Nash of the Department of Public Works was the project manager on the job. Mr. Drew Stout of the Natural Resources Conservation Service assisted in the inspection of the work.

ISSUES BROUGHT FORTH BY MR. DAN COLE

1. In May, 2001, Mr. Cole came into the office and asked us to delay closure of job. He explained that he had made a deal with Chris Folger, an employee of Island 66, regarding an exchange of services. According to Mr. Cole, Mr. Folger was to construct a parking lot on Mr. Cole's property. Mr. Folger had indicated that he would be using excess material from the Flood Debris Removal from Hilo Streams project to build the lot. Mr. Cole's complaint was that Mr. Folger dumped poor quality material onto his property.

We told Mr. Cole that his disagreement with Mr. Folger had nothing to do with the County, and we would not delay job closure for that reason. See May 23, 2001 letter for response.

2. Mr. Cole later correctly claimed that Island 66, the contractor for Flood Debris Removal from Hilo Streams, leaked oil from his construction equipment while working on the County project. According to Mr. Stout of NRCS who helped the County inspect the work, an oil leak at the Awapuhi Street site occurred when a dozer's hydraulic hose broke. The leak was outside the stream and less than 5 gallons. Mr. Stout asked the contractor to clean it up, and the contractor complied.

Our February 20, 2002 letter to Mr. Cole states that neither Mr. Nash nor Mr. Stout saw any evidence of oil leakage. This statement was inaccurate. Mr. Stout stated that he didn't see any oil leakage into any stream. Mr. Nash had misunderstood Mr. Stout when he wrote the February 20 letter.

The February 20 letter and a map showing the location of the leak are attached for reference.

3. Mr. Cole expressed verbally to Mr. Nash that Mr. Folger was not paying taxes. Mr. Nash responded verbally that the issue was beyond our jurisdiction. No written response was sent.
4. In early 2002, Mr. Cole complained that the County treated him differently from another property owner though both he and the other owner were in a similar situation. The details are spelled out below:

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 SOUL COUNTY
 HAWAII

According to Mr. Cole, the contractor placed a large amount of flood deposit from a stream and placed it on Mr. Cole's property without permission. Although there was a verbal agreement between Mr. Cole and the contractor's employee, Mr. Folger, the agreement called for ball-sized water-washed rock with fines. The material placed on his property didn't meet this specification. The County, however, did not make the Contractor remove the material from Mr. Cole's property.

A similar situation occurred during the same project. Mr. Yoza, a landowner adjacent to one of the project streams, asked for the flood deposit material removed from the stream. He instructed the contractor where to place the material, and the contractor complied. The next day the County learned that the land where Mr. Yoza had instructed the contractor the place the material was not owned by Mr. Yoza. We asked the contractor to remove the material.

Mr. Cole cites the above two situations as an example of inconsistency by the County. We told Mr. Cole in the attached April 16, 2003, letter that the situations were different. In the first case, Mr. Cole did give permission to dump material on his property. It was Mr. Cole's responsibility to enforce the specifics of the deal he had with the Mr. Folger. The issue was not brought to the County's attention until after the contractor had finished all the work on the project.

In the second case, the owner never agreed to anything.

5. Several times Mr. Cole asked, "Where did all the material go?" Except for one site called Kinooole/Kilauea Street, all material was disposed of on-site to provide flood protection. Of the 688 cy from Kinooole/Kilauea Street, 200 cy were disposed of on-site. Some of the remaining 488 cy went to Mr. Cole and some went to another site near Awapuhi Street. We aren't certain if this accounts for all of the material from Kinooole/Kilauea Street.

6. In November, 2002, Mr. Cole's stated in a letter (copy attached) to Councilman Arakaki that the Palai Stream had been filled in and its path altered. This matter was brought before the County Council, which asked Mr. Nash for a report addressing Mr. Cole's concerns.

Both Mr. Nash and Mr. Stout are experienced engineers who kept a close watch on the project, and they attest to the following:

- a. The work was properly performed by the contractor.
- b. The stream bed was cleared of debris after the November 2000 storm.
- c. The stream be was never filled in after it was cleared. This was verified in a December 13, 2002 survey.
- d. The stream path was not altered as a result of the project.
- e. Neither the County nor the Federal government was defrauded.

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 COUNTY OF HAWAII

COPY

7.

On February 6, 2003, Galen Kuba, Bruce McClure, Ron Takahashi, Mr. Stout, and Mr. Nash met with Mr. Cole and heard additional concerns including that the material placed on his property constituted an illegal waste dump. We recommended to Mr. Cole that he contact the Department of Health, who oversaw this kind of matter. Mr. Cole had already done so in mid-2001.

The Department of Health had investigated the matter and determined that the material deposited didn't constitute a health risk. At that point they decided not to pursue any additional investigation.

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COUNTY CLERK
HAWAII

FLOOD DEBRIS REMOVAL FROM HILO STREAMS

PLANS

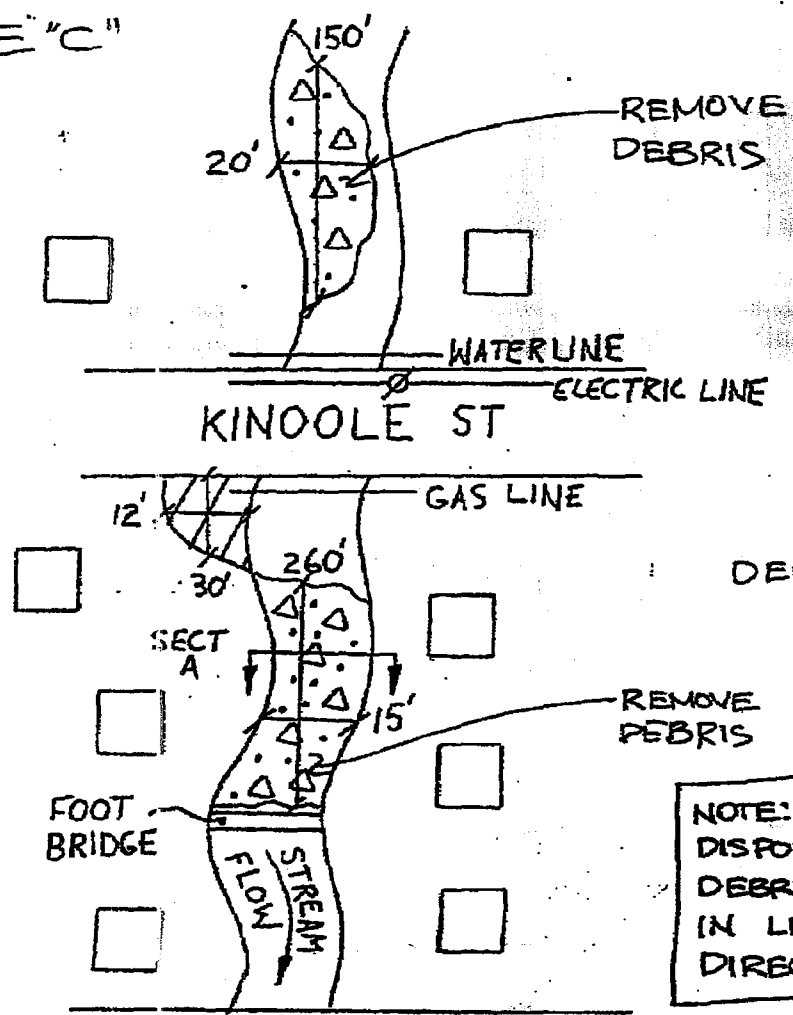
SOUTH HILO, HAWAII

COUNTY AND STATE OF HAWAII

JOB NO. P-3535

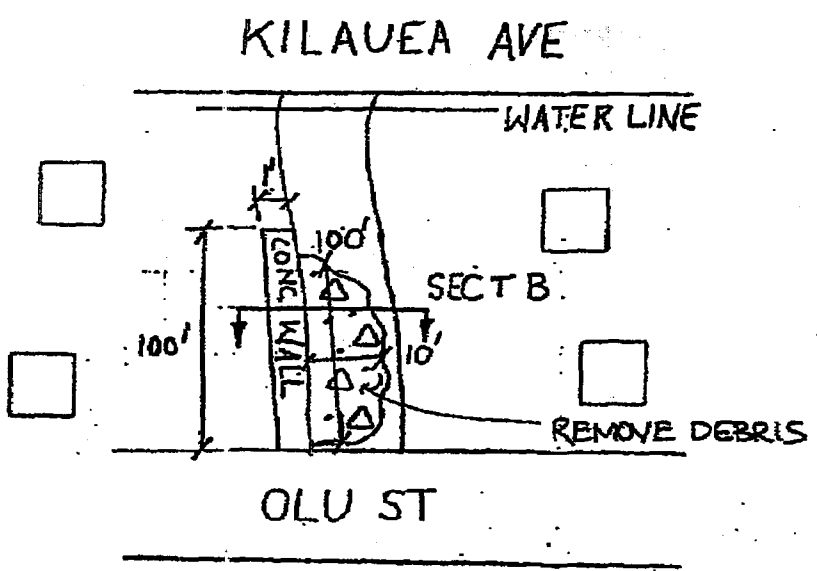
STATE HI	PROJECT PALAI STREAM, OLU ST HOMES PROTECTION		
BY DS	DATE 11/8/00	CHECKED BY	DATE
SUBJECT EWP			JOB NO. HILO-2001-05
			SHEET 1 OF 2

SITE "C"



DEBRIS REMOVAL = 850 CY

NOTE: SOME DEBRIS SHALL BE DISPOSED OF ON SITE. THE DEBRIS SHALL BE COMPACTED IN LIFTS OF 18" AT THE DIRECTION OF THE ENGINEER.



- HC
- DEBRIS
- EROSION

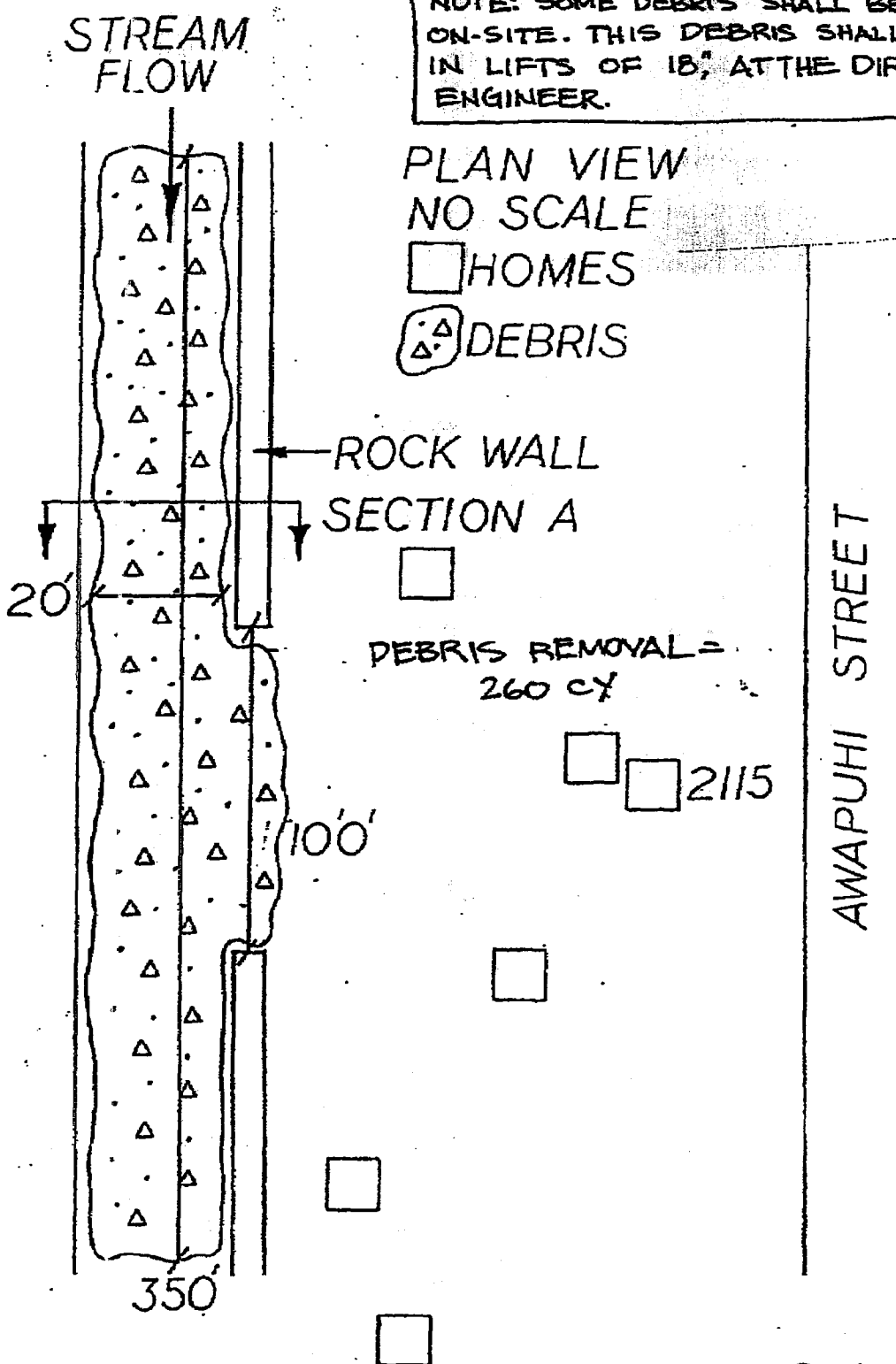
PLAN VIEW
NO SCALE

PLAN SIGN

SITE "E"

STATE HI	PROJECT PALAI STREAM, AWAPUHI ST. - HOMES PROTECTION			
BY DS	DATE 11/16/00	CHECKED BY	DATE	JOB NO. HILO-2001-10
SUBJECT EWP	SHEET 1 OF 2			

NOTE: SOME DEBRIS SHALL BE DISPOSED OF ON-SITE. THIS DEBRIS SHALL BE COMPACTED IN LIFTS OF 18" AT THE DIRECTION OF THE ENGINEER.



PLAN VIEW
NO SCALE
□ HOMES
△ DEBRIS

ROCK WALL
SECTION A

DEBRIS REMOVAL = 260 CY

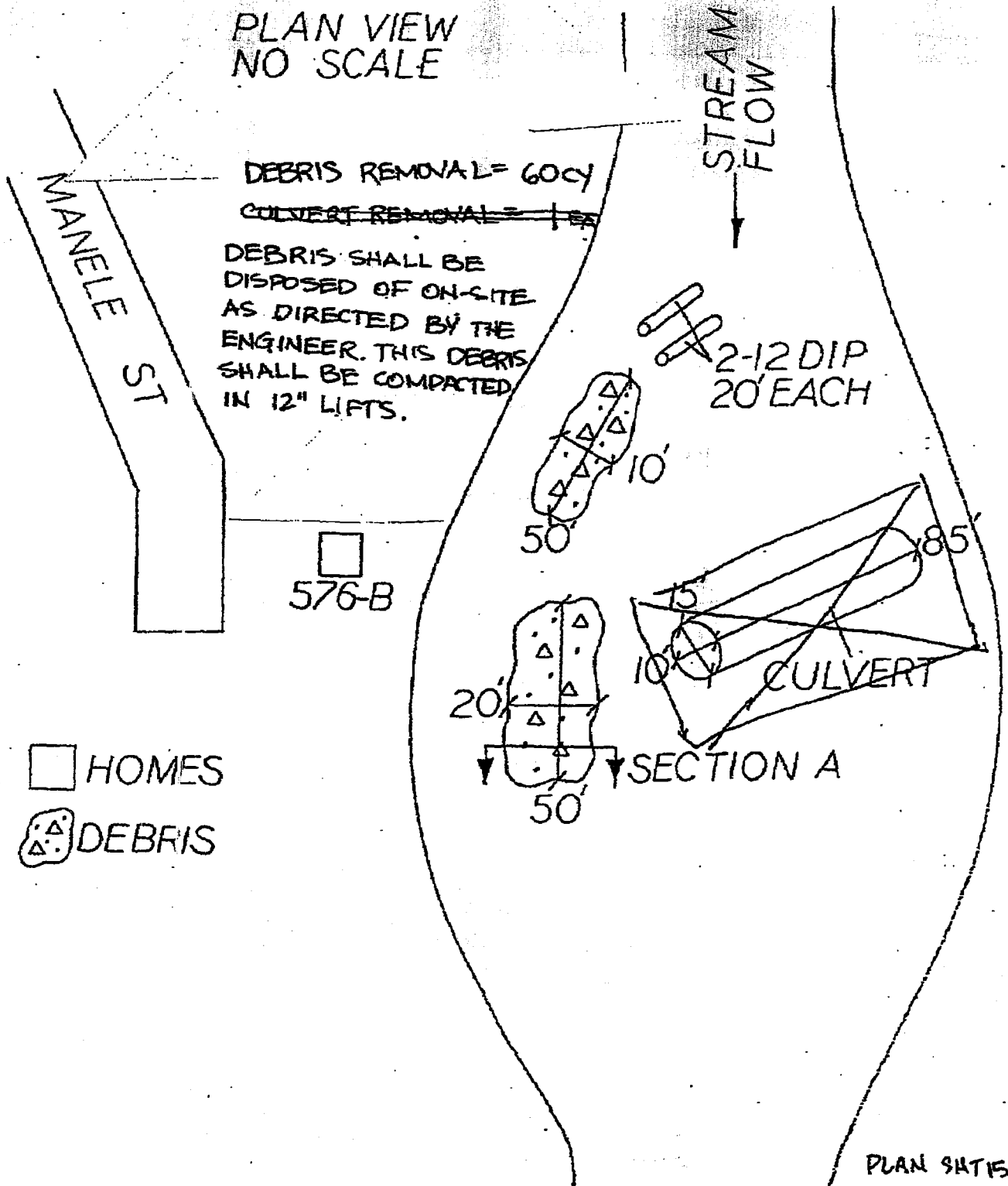
2115

AWAPUHI STREET

STATE HI	PROJECT ALENAIO STREAM, MANELE ST. HOMES PROTECTIVE		
BY DS	DATE 11/14	CHECKED BY	DATE
SUBJECT EWP			JOB NO. HILO-2001-08
			SHEET 1 OF 2

SITE "F"

PLAN VIEW
NO SCALE



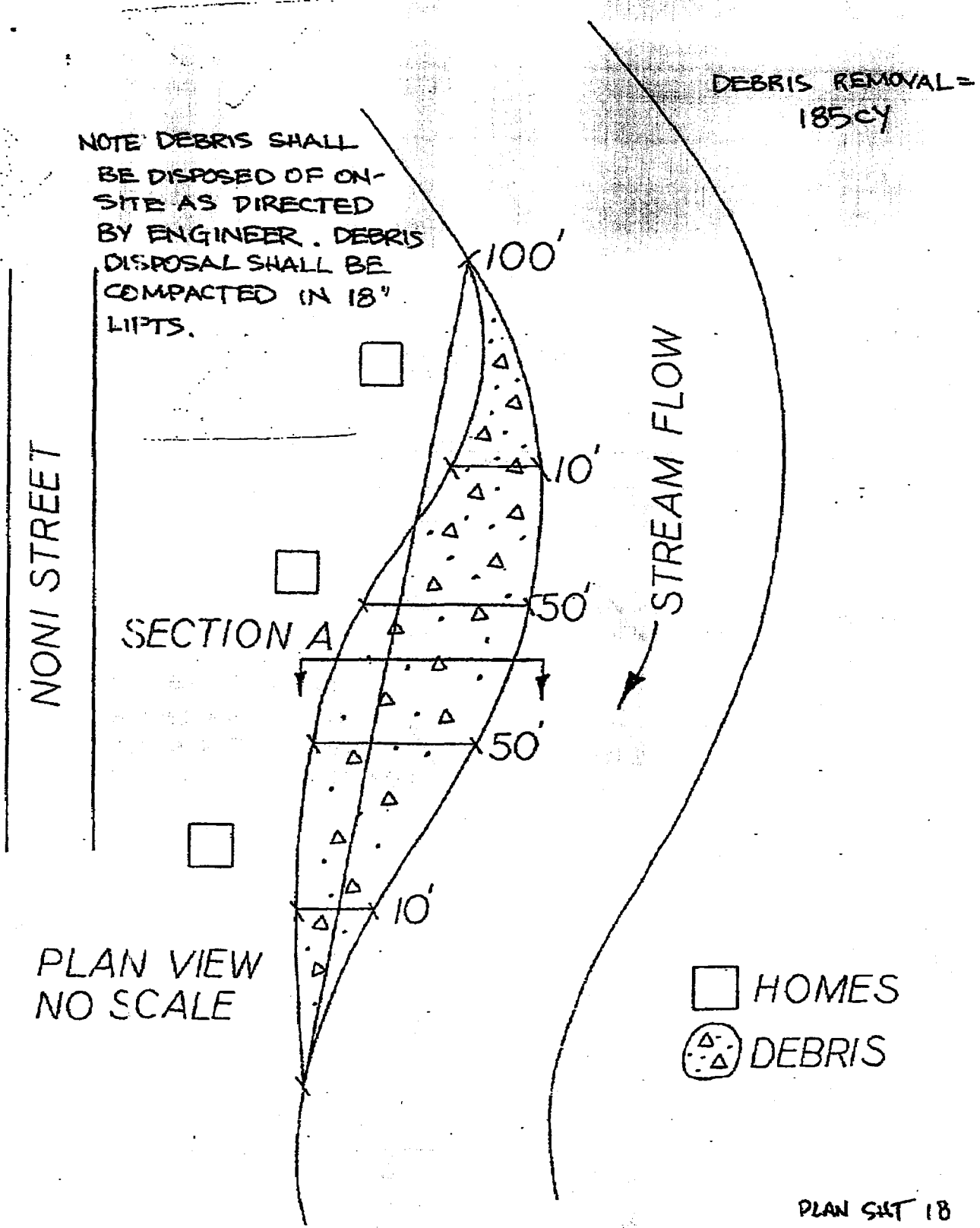
- HOMES
- △ DEBRIS

COMPUTATION SHEET
NRCS-ENG-523A Rev. 10-97

~~XXXXXXXXXX~~

U. S. D. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE

STATE HI	PROJECT ALENAIG STREAM, NONI ST HOMES PROJECT		
BY DS	DATE 11/14	CHECKED BY	DATE
SUBJECT EWP			JOB NO. H10-2001-07
			SHEET 1 OF 2



PART VIII. STREAM DIVERSION WORKS

[S174C-91] Definition. In this part:

"Stream diversion works" means any artificial or natural structure emplaced within the stream for the purpose of diverting stream water. [L 1987, c 45, pt of S2]

Previous

Previous

Next

Next

[§174C-93] Permits for construction or alteration. No person shall construct or alter a stream diversion works, other than in the course of normal maintenance, without first obtaining a permit from the commission. The commission may impose such reasonable conditions as are necessary to assure that the construction or alteration of such stream diversion works will not be inconsistent with the general plan and land use policies of the State and the affected county. Nothing in this section shall be construed to be inconsistent with part IV.

A person proposing to construct or alter a stream diversion work shall apply to the commission for a permit authorizing such construction or alteration. The application shall contain the following:

- (1) Name and address of the applicant;
- (2) Name and address of the owner or owners of the land upon which the works are to be constructed and a legal description of such land;
- (3) Location of the work;
- (4) Engineering drawings showing the detailed plans of construction;
- (5) Detailed specifications of construction;
- (6) Name and address of the person who prepared the plans and specifications for construction;
- (7) Name and address of the person who will construct the proposed work;
- (8) General purpose of the proposed work; and
- (9) Such other information as the commission may require. [L. 1987, c 45, pt of §2]

Previous

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Next

[S174C-94] Completion report. Within thirty days after the completion of construction or alteration of any stream diversion work, the permittee shall file a written statement of completion with the commission. The commission shall designate the form of such statement and such information as it shall require. [L 1987, c 45, pt of S2]

Previous

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Next

[§174C-95] Abandonment. Any owner of any stream diversion work wishing to abandon or remove such work shall first obtain a permit to do so from the commission. [L 1987, c 45, pt of §2]

Previous

Next

Previous

Next

Harry Kim
Mayor



Bruce C. McClure
Director

Jiro A. Sumada
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Punchi Street, Suite 7 - Hilo, Hawaii 96720-0224
(808) 961-8321 - Fax (808) 961-8630
www.co.hawaii.hi.us

April 1, 2008

DAN A. COLE
P.O. BOX 630
KEAAU, HI 96749

SUBJECT: REQUEST FOR INFORMATION - 3/26/08

This is in response to your March 26, 2008 letter. We do not have any permits, records or documents relative to your request so we are unable to furnish the following:

1. Copies of permits and all other documentation per HRS 174C-93.
2. Copies of completion report per HRS 174C-94.
3. Copy of approval from the Director of the State Health Department as required by HRS 342H-30(c).

Should you have any questions, please contact Galen Kuba, at 961-8422.

BRUCE C. McCLURE, P. E.
Director of Public Works

c: Corp Counsel - Ivan Torigoe

Harry Kim
Mayor



Bruce C. McClure
Director

Jiro A. Sumada
Deputy Director

County of Hawaii
DEPARTMENT OF PUBLIC WORKS

Aupuni Center
101 Pauahi Street, Suite 7 · Hilo, Hawaii 96720-4224
(808) 961-8321 · Fax (808) 961-8330

June 13, 2008

Mr. Dan A. Cole
P. O. Box 630
Keaau, HI 96749

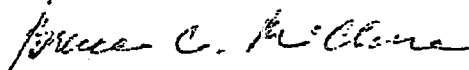
**SUBJECT: HAWAII STATE UNIFORM PRACTICES ACT,
HRS 92F, REQUEST FOR ACCESS TO GOVERNMENT RECORDS**
Project: Flood Debris Removal from Hilo Streams
Job. No. P-3535, County and State of Hawaii

In response to your letter (dated June 9, 2008) requesting written orders of the engineer, we provide the following.

A complete and thorough search of our records was conducted and we could find no written orders of the engineer within our files in reference to "directing the contractor to dispose of 4,029 cubic yards of flood debris on-site."

The project engineer the subject project was Paul Nash who is no longer working for the County.

Should you have any questions or concerns, please contact the Engineering Division at 961-8327.


BRUCE C. MCCLURE, P.E.
Director

TO: Councilman Sasarik

25 March 2004

FROM: Dan Cole, ph. 966-9229
P.O. Box 630
Keolu, HI 96749

SUBJECT: Public Works Report requested by Councilman Tyler on December 17, 2002

Aloha Councilman Sasarik,

Attached to this letter is a ten (10), page unedited, unsigned document from the Public Works Dept. that is supposed to be the report requested by Councilman Tyler at a 17 December 2002 public meeting. This report was to provide answers to questions the Public Works Dept. was unable to provide at the meeting. Councilman Tyler requested the Public Works representative at the meeting, Paul Nash, to make a report to answer the questions, and provide me a copy of the report for my comments. Councilman Tyler invited me to return before the Council if my concerns were not answered.

It has taken well over a year to obtain the attached documents, even after I sent Councilman Tyler a letter on 7 April 2003, (attached), describing my difficulty in obtaining the report I was promised. After numerous phone calls to Paul Nash over the year without results, and only after I called Bruce McClure's office to ask the status of the report did Mr. Nash produce the attached documentation.

As my representative I request you contact the Public Works Dept. and have the attached documentation made into a proper report with County Letterhead and signed so that I can respond to an Official Report for the public record. It is hoped that this extensive delay in producing the report has not allow for the legal loss of document evidence due to the statute of limitations on record keeping.

Thank you for your assistance in this matter.

Aloha,

Dan A. Cole

REC. MED
2004 MAR 25 PM 1 08
COUNTY CLERK
HAWAII

COPY

EXHIBIT "CC"

Harry Kim
Mayor



Lincoln S.T. Ashida
Corporation Counsel

Gerald Takase
Assistant Corporation
Counsel

COUNTY OF HAWAII
OFFICE OF THE CORPORATION COUNSEL

101 Aupuni Street, Suite 325 • Hilo, Hawaii 96720-4262 • (808) 961-8251 • Fax (808) 961-8622

June 4, 2004

Honorable Mark J. Bennett
Attorney General
Department of the Attorney General
425 Queen St.
Honolulu, HI 96813

Dear Mr. Bennett:

RE: Dan Cole

On May 28, 2004, our office met with Mr. Dan Cole, concerning a complaint of illegal dumping which occurred on the Big Island of Hawai'i. In sum, Mr. Cole alleges an individual has committed illegal acts of dumping, which in turn has caused Mr. Cole financial loss.

Mr. Cole presented what appeared to be considerable credible evidence to substantiate his claims.

Enclosed is a copy of a memorandum generated by the Hawai'i County Department of Public Works summarizing Mr. Cole's contact with the County.

Mr. Cole was advised to seek the services of the Attorney General's Environmental Crime's Unit to initiate a complaint and have this matter properly investigated.

We ask your assistance on behalf of Mr. Cole to look into this matter. Mr. Cole may be contacted at P.O. Box 630, Kea'au, Hawai'i 96749. His telephone number is (808) 966-9229.

We thank you in advance for your kind consideration of this matter.

Very truly yours,

LINCOLN S. T. ASHIDA
Corporation Counsel

Encl.

cc: ✓ Dan Cole (w/out encl.)
Gary Safarik, Councilman (w/out encl.)
Bruce McClure, Director of Public Works (w/out encl.)

S: Departments/Corp. Counsel/LSA Misc. Corresp./Letter to AG re Cole 6-4-04/LSAmr

Hawai'i County is an Equal Opportunity Employer and Provider

TO: Hawaii County Councilman Gary Safarik

6 April 2006

IN TURN

All County of Hawaii Council Members

FROM: Dan A. Cole
P.O. Box 630
Keaau, HI 96749

SUBJECT: Request Status of Federal Investigation into the Fraud and Corruption involved with a Federal Contract with the County of Hawaii that has resulted in the silt clogging of the Wailoa Harbor.

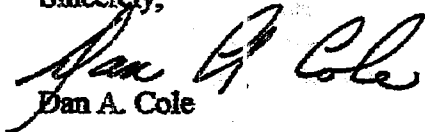
Dear Hawaii County Council Members,

As per my 29 March 2006, and my 31 March 2006, letters with attachments to this Council, I am providing you additional documentation to resolve the problem with silt clogging the Wailoa Harbor.

Is it possible for this Council to inquire of the US Attorney General's office the status of the requested investigation as described in the attached 15 December 2005, letter to US Attorney General Alberto Gonzales?

Thank you for your assistance with this request.

Sincerely,


Dan A. Cole

COPY

TO: Hawaii County Councilman Gary Safarik

29 March 2006

IN TURN

All County of Hawaii Council Members

FROM: Dan A. Cole
P.O. Box 630
Keam, HI 96749

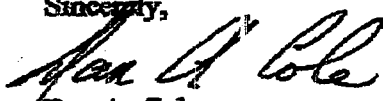
SUBJECT: "Smoking Gun Documentation", showing fraud and corruption of Federal, Hawaii State, and Hawaii County public officials, elected and appointed, endangering the welfare of the citizens of Hawaii in regards to Flood Protection.

Dear Council Members,

The attached eighteen, (18), pages of government records obtained under the Freedom of Information Act speak for themselves, and identify public officials engaged in a conspiracy of corruption and fraud from a February 2001, Federally funded project, Job No. P-3535 for the Flood Debris Removal From Hilo Streams. The Federal government contracted, and was billed and paid for the removal of 2,853 cubic yards, or over 350, eight cubic yard capacity dump trucks full debris, that was not removed from the Waiakea stream and was identified to be contaminated with oil, that has now caused the silt clogging of the Wailoa boat harbor identified in the Hawaii Tribune Herald article of March 25, 2006, by Jason Armstrong.

Councilman Safarik was at the tape recorded, May 28, 2004, meeting with Lincoln Ashida, Corporation Counsel, and Bruce McClure, Director of Public Works, identified as Exhibit "Z" of the attachments. In addition the February 6, 2003 meeting of public officials, as identified in item 7., of the attachment labeled, Exhibit "K", identify a meeting of public officials Galen Kuba, Bruce McClure, Ron Takahashi, Mr. Stout, and Mr. Nash, that was also tape recorded with the permission of the officials present. How can these tape recordings of the County Officials be transcribed into a printed record and placed on file for the public to read so they will know who is responsible for current hazards and any future damage and/or injury that may result from the fraudulent and corrupt actions of public officials in the county of Hawaii?

Sincerely,


Dan A. Cole

Cc: US Representative Ed Case, fax 202-225-4987, without attachments
US Representative Neil Abercrombie, fax 202-225-4580, without attachments
Hawaii Tribune Herald, fax 808-961-3680

TO: J Stanley Yoshimoto, ESQ, JD/5883
Councilmember, County of Hawaii

24 March 2008

FROM: Dan A. Cole, Phone 808-966-9229
P.O. Box 630
Keanu, HI 96749

RECEIVED
COUNCIL
MARCH 24 11 29 AM '08

SUBJECT: Flood damage in Waiakea Uka is an overt occurrence that interrupts the tolling statute to prosecute for criminal and civil violations of United States Code, and Hawaii Revised Statutes.

Dear Councilmember Yoshimoto,

As per our previous conversations I am providing you the attached seventeen, (17), pages of uncontested documentation as on record in the United States District Court, District of Hawaii. As a lawyer, and former Deputy State Attorney General, you will understand that the attached documentation is, "Smoking Gun" evidence that the flood damage to the property of your constituency from the February 2008 rains, was an overt occurrence that interrupts the tolling statute to allow prosecution, both civil, and criminal, as the flood damage to property was a direct result of a conspiracy of public officials and private persons to defraud the United States Government and the County of Hawaii for work that was not performed in accordance with the February 15, 2001 contract as signed by Mayor Harry Kim, for the "FLOOD DEBRIS REMOVAL FROM HILO STREAMS", Job No. P-3535.

The County of Hawaii authorized the construction of, "Stream diversion works" with approximately 4,000 cubic yards, (500, Syd dump trucks of material), for the flood protection of selected private property in Waiakea Uka and other locations in Hilo, knowing and knowingly, that such construction was in violation of the Federal and County contract, to remove flood debris from Hilo Streams, Job No. P3535, and was performed without the required permits, engineering drawings showing the detailed plans of construction, detailed specifications of construction, and the stated general purpose of the proposed work, for the construction or alteration for stream diversion works that resulted in flooding to areas not previously effected, or prone to flooding.

The Hawaii County Police Department, County Prosecutors office, County Corporation Counsel, the Mayor's office, Office of the State Attorney General, and other public officials have engaged in a pattern of activity in violation of the Racketeer Influence and Corrupt Organizations Act, (RICO), as enacted by sections 901(a) of the Organized Crime Control Act of 1970, Pub. L. No. 91-425, 84 Stat. 922 (15 October 1970). RICO is codified as Chapter 96 of Title 18 of the United States Code, 18 U.S.C. sub section 1961 through 18 U.S.C. sub section 1968.

COPY

In accordance with the fiduciary requirements of your County of Hawaii, OATH OF LOYALTY/OFFICE, as prescribed by 85-32, HRS, & 13-5, HC Charter, it is requested that you contact, and inform, the Special Agent in Charge of the Federal Bureau of Investigation, Hawaii Division, or make known the same to some judge or other person in civil authority under the United States, of a commission of a felony cognizable by a court of the United States as evidenced in the attached documentation, along with your personal observations and historical knowledge.

Thank you for your attention in this matter.

Sincerely,



Dan A. Cole
United States Citizen

Cc: Hawaii Tribune-Herald/ without attachments

J YOSHIMOTO
Council Member
District 3



Phone: (808) 961-8272
FAX: (808) 961-8912
Email: jyoshimoto@co.hawaii.hi.us

HAWAII COUNTY COUNCIL
COUNTY OF HAWAII

April 15, 2008

The Honorable Edward H. Kubo
United States Attorney
PIKK Federal Building
300 Ala Moana Blvd., #6-100
Honolulu, HI 96850

Dear U.S. Attorney Kubo:

Subject: Criminal Violations of State and Federal Laws that Resulted in the Flooding Damage in Hilo from the February 2008 Rains; and Illegal Dumping of Solid Waste in the Puna District

Pursuant to a request by Mr. Dan Cole, I am forwarding the enclosed communications from him regarding the above subject. If you have any questions or require more information, please contact Mr. Cole at:

Mr. Dan Cole
P.O. Box 630
Kea'an, HI 96749
(808) 966-9229

Sincerely,

J Yoshimoto, Council Member
Hawaii County Council
Council District 3

JY/dws
Attachments

cc: Mr. Dan Cole ✓

EXHIBIT "B"

Hawaii County Is An Equal Opportunity Provider And Employer

1st Office Address: (Former County Building) 25 August Street, Hilo, Hawaii 96720
Business Address: Ben Franklin Building, 2nd Floor, 333 Kihuna Avenue, Hilo, Hawaii 96720

EXHIBIT "B"

Harry Kim
Mayor



COPY

Lawrence K. Mahuna
Police Chief

Henry S. Kubofari
Deputy Police Chief

County of Hawaii
POLICE DEPARTMENT

349 Kapiolani Street - Hilo, Hawaii 96720-3998
(808) 935-3311 • Fax (808) 961-3868

May 29, 2008

Ms. Janet L. Kamerman
Special Agent in Charge
U.S. Department of Justice
Federal Bureau of Investigation
300 Ala Moana Blvd. Suite #4-230
Honolulu, Hawaii 96850

Dear Ms. Kamerman:


This is a follow-up to the phone conversation Major Marshall Kanehailua of the Hawaii Police Department had with Supervisory Special Agent Tom Glorioso on May 29, 2008.

During that conversation, Major Kanehailua had requested the FBI's assistance in investigating the allegations of government corruption outlined in Mr. Dan Cole's letter dated May 6, 2008. Major Kanehailua was informed by SSA Glorioso that the FBI had already received a copy of the letter and is currently deciding on the appropriate action to be taken.

Should your office decide to initiate an investigation of alleged corruption within our department, we are fully prepared to cooperate with such investigation.

Should you have any questions, feel free to contact Major Marshall Kanehailua of our Administrative Bureau at (808) 961-2247.

Sincerely,


LAWRENCE K. MAHUNA
POLICE CHIEF

cc: Mr. Dan Cole.

DANIEL K. INOUE
HAWAII

COMMITTEE ON APPROPRIATIONS,
CHAIRMAN
SUBCOMMITTEE ON DEFENSE,
CHAIRMAN

COMMITTEE ON INDIAN AFFAIRS

DEMOCRATIC STEERING AND COORDINATION
COMMITTEE

COMMITTEE ON RULES AND ADMINISTRATION

JOINT COMMITTEE ON PRINTING

United States Senate

SUITE 722, HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1102
(202) 224-3984
FAX (202) 224-5747

PRINCE KUMU FEDERAL BUILDING
ROOM 7-212, 300 ALA MOANA BOULEVARD
HONOLULU, HI 96850-4975
(808) 541-2542
FAX (808) 541-2549

101 ALPUNI STREET, NO. 205
HILO, HI 96720-4221
(808) 935-6544
FAX (808) 935-6100

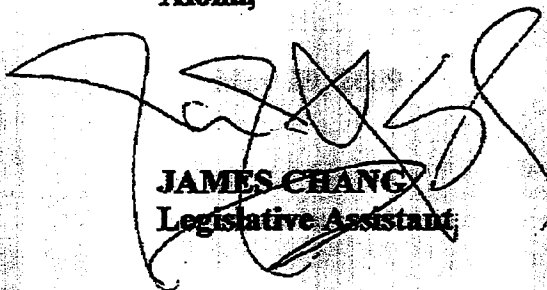
May 29, 2009

Mr. Dan A. Cole
P. O. Box 630
Kaanu, Hawaii 96749

Dear Mr. Cole:

On behalf of Senator Inouye, who is currently away from the office, I would like to thank you for your correspondence regarding your concerns about corruption in the Hawaii State government. I have forwarded a copy of your correspondence to the office of Attorney General Eric Holder, for his comment on your concerns. I will be sure to share with you any response that I may receive. Thank you again for writing.

Aloha,



JAMES CHANG
Legislative Assistant

JC:em

FAX TRANSMITTAL: Twenty, (20), pages total.

2 June 2009

RE: State Attorney General Mark J. Bennett's, *et al.*, Knowing and Knowingly acts and actions of EXTORTION, and apparent membership in an Enterprise engaged in a pattern of RACKETEERING activities, that EXTORT, and/or, BLACKMAIL County, State, and Federal elected officials and public servants, to include Officials and Employees of the U.S. Attorney's Office, the FBI in Hawaii, Judges and Officers of the U.S. District Court, District of Hawaii, and Judges and Officers of State Court of the Third Circuit.

TO: Colleen Hanabusa, Phone: 808-586-7793, FAX: 808-586-7797
President of the Senate
State of Hawaii.

COPY TO: FBI SAC Thornton, Phone: 808-566-4300, FAX: 808-566-4470

FROM: Dan A. Cole, Phone: 808-966-9229
P.O. Box 630
Keaau, Hawaii 96749

Dear Senator Hanabusa:

As per my recorded telephone conversation of 1 June 2009, with your staff member Linda, I am providing the attached seventeen pages of documentation to support my statements and identify and provide the location of Federal, State, and County records, in addition to hundreds of hours of recorded telephone conversations I had with public officials, and thousands of pages of documentation obtained from Federal and State Freedom of Information requests that span almost three decades, that are verifiable, uncontested, and document the existence, history, and operation of an Enterprise of corrupt public officials that threaten, extort, and apparently blackmail public officials and citizens of Hawaii for the benefit of the Enterprise.

Due to research in preparation for actions before the U.S. District Court, District of Hawaii in Case No. 05-00325 JMS-BMK, it was discovered that State Attorney General Mark Bennett, U.S. Attorney Edward Kubo, U.S. District Judge J. Michael Seabright, and former U.S. Representative Ed Case, comprise an Enterprise as defined by statutes of the Federal RICO Act, that was formed in the early 80's by and through their official State and Federal positions and associations and would have knowledge and evidence of, or access to such knowledge and evidence, of the criminal organizations in Hawaii. The actions, or lack of actions of Elected Officials to the documented government corruption of the current administration, to include Governor Lingle's personal involvement in a conspiracy to defraud the U.S. Government of millions of dollars through fraudulent military construction contracts as detailed in the U.S. District Court records of Senior U.S. District Court Judge Samuel King, would indicate that elected and appointed public officials are being blackmailed or extorted into silence in these matters.

Due to my personal history of the Navy Reserve scandal of the 70's, and my membership in the Carpenter Union in the early 80's, I have knowledge of the operations and history of the U.S. Attorney's Office in Hawaii, and the rumors that U.S. Senator Daniel Inouye, and former Hawaii State Governors Ariyoshi, and Waihee had prior knowledge of, and/or approved of, the execution of a Hawaii mobster understood to be Harold "Biggie" Chan. It could be construed that the aforementioned Enterprise, in association with Governor Lingle could have used, or are currently using, such information and evidence for their personal and/or political benefit.

The actions of State Attorney General Mark Bennett, in criminal violation of Hawaii Revised Statutes, HRS §707-764 Extortion, (1),(e),(i) conspired with County of Hawaii Corporation Counsel Lincoln S.T. Ashida, and Steven Y.K. Chang, to extort, or attempt to extort, my silence by encumbering the title of real property at 15-1490 26th Avenue Hawaii in Paradise Park, on the Island of Hawaii, by declaring it an Open Dump, and preventing the sale, or the ability to sell said property, for the purpose of preventing or hindering the prosecution of corrupt County, State, and Federal Officials associated with the illegal dumping of flood debris, and the illegal construction of flood diversion works from the material removed from Hilo Stream beds in 2001 to provide flood protection for the property of politically privileged people at the expense of property owners down stream under a Federal and County funded contract, that resulted in the silt blocking of the Hilo Harbor, and the multimillion dollars of flood damage from the February 2008 flooding in Hilo, in addition to the apparent altering of Federal documents and contracts after the fact to cover up their acts and actions of fraud, and would expose and document a pattern of acts and actions of extortion, and racketeering, knowing and knowingly committed by organized government corruption in County, State and Federal Offices in Hawaii.

I am providing you this information so that when future property damage, injury, or death result from the actions of corrupt officials identified through the attached documentation, there will be a trail of evidence as to what you knew and when you knew it. I request you use the power of your Office to protect the health and welfare of the people of Hawaii, and restore their Constitutional Rights and Freedoms.

Thank you for your attention in this matter.

Sincerely,

Dan A. Cole

Attached: HRS§707-764 Extortion, (1 page)

Continued next page:

Continuation of Attachments to 2 June 09, Fax Transmittal from Dan Cole:

June 4, 2004 letter to Mark Bennett from Lincoln Ashida, (1 page)
August 19, 2004 letter to Dan Cole from Steven Chang, (2 pages)
COMPLAINT CV05-00325 HG-BMK, (1 page)
STIPULATIONS, Civil No. 05-00325 JMS-BMK, (2 pages)
May 29, 2008 letter Chief Mahuna to FBI SAC Kamenman, (1 page)
OCT 22, 2008 Hawaii County Police Report Request C08026988, (1 page)
FEB 24, 2009 Hawaii County Police Report Request C08037351, (1 page)
01/26/2009 Police Report No: C08039254-001,002, HARASSMENT, (2 page)
14 May FAX TRANSMITTAL, to FBI SAC Honolulu Division, (1 page)
1 MAY 2009 MISPRISION OF FELONY to Hawaii County Police, (2 pages)
May 11, 2009 letter to Dan Cole from Police Chief Kubojiri, (1 page)

707-756

HAWAII PENAL CODE

(2) Electronic enticement of a child in the first degree is a class B felony. Notwithstanding any law to the contrary, if a person sentenced under this section is sentenced to probation rather than an indeterminate term of imprisonment, the terms and conditions of probation shall include, but not be limited to, a term of imprisonment of one year. [L 2002, c 200, pt of §1; am L 2006, c 80, §2]

§707-757 Electronic enticement of a child in the second degree. (1) Any person who, using a computer or any other electronic device:

- (a) Intentionally or knowingly communicates:
 - (i) With a minor known by the person to be under the age of eighteen years;
 - (ii) With another person, in reckless disregard of the risk that the other person is under the age of eighteen years, and the other person is under the age of eighteen years; or
 - (iii) With another person who represents that person to be under the age of eighteen years; and
- (b) With the intent to promote or facilitate the commission of a felony, agrees to meet with the minor, or with another person who represents that person to be a minor under the age of eighteen years; and
- (c) Intentionally or knowingly travels to the agreed upon meeting place at the agreed upon meeting time;

is guilty of electronic enticement of a child in the second degree.

(2) Electronic enticement of a child in the second degree is a class C felony. Notwithstanding any law to the contrary, if a person sentenced under this section is sentenced to probation rather than an indeterminate term of imprisonment, the terms and conditions of probation shall include, but not be limited to, a term of imprisonment of one year. [L 2002, c 200, pt of §1; am L 2006, c 80, §3]

COMMENTARY ON §§707-756 AND 757

Act 200, Session Laws 2001, added these sections to create criminal offenses relating to electronic enticement of a child. The legislature found that Act 200 addressed the problem of utilizing computer technology in committing crimes against children. Conference Committee Report No. 36-02.

Act 80, Session Laws 2006, amended §§707-756 and 707-757 to mandate at least one year of incarceration for defendants convicted of electronic enticement of a child. Act 80 provided a means to ensure the safety of Hawaii's children, enhance enforcement efforts, and impose significant penalties against those who prey on the most vulnerable members of the community. Conference Committee Report No. 10-06.

§707-758 REPEALED. L 2002, c 240, §11.

[PART VII.] EXTORTION

§707-764 Extortion. A person commits extortion if the person does any of the following:

- (1) Obtains, or exerts control over, the property or services of another with intent to deprive another of property or services by threatening by word or conduct to:
 - (a) Cause bodily injury in the future to the person threatened or to any other person;
 - (b) Cause damage to property or cause damage, as defined in section 708-890, to a computer, computer system, or computer network;
 - (c) Subject the person threatened or any other person to physical confinement or restraint;

OFFE

- (d) Commit a
- (e) Accuse son instituted a
- (f) Expose a se tending to s to impair th
- (g) Reveal any ened or any
- (h) Testify or p tion with re
- (i) Take or wit vant to take
- (j) Bring about action, to o benefit of th
- (k) Do any oth fendant but with respect ing, career,
- (2) Intentionally com which another has another has a leg do any of the act
- (3) Makes or financ extension of cred L 2001, c 33, §3.

In RICO action, plaintiff did not extortion regarding defendant's letter

§707-765 Extortion

Evidence sufficient to convict of \$1,100 from brother and gave it to money. 103 H. 68 (App.), 79 P.3d

§707-769 Defenses to

(2) If the owner of the beneficiary, it is a defense to a §707-764 that:

- (a) The property which asserted constitutes
- (b) The defendant and living together at

*** [am L 1997, c 383, §6]

Only the subsection amended is

OFFENSES AGAINST THE PERSON

707-769

- (d) Commit a penal offense;
 - (e) Accuse some person of any offense or cause a penal charge to be instituted against some person;
 - (f) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule, or to impair the threatened person's credit or business repute;
 - (g) Reveal any information sought to be concealed by the person threatened or any other person;
 - (h) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense;
 - (i) Take or withhold action as a public servant, or cause a public servant to take or withhold such action;
 - (j) Bring about or continue a strike, boycott, or other similar collective action, to obtain property that is not demanded or received for the benefit of the group that the defendant purports to represent; or
 - (k) Do any other act that would not in itself substantially benefit the defendant but which is calculated to harm substantially some person with respect to the threatened person's health, safety, business, calling, career, financial condition, reputation, or personal relationships;
- (2) Intentionally compels or induces another person to engage in conduct from which another has a legal right to abstain or to abstain from conduct in which another has a legal right to engage by threatening by word or conduct to do any of the actions set forth in paragraph (1)(a) through (k); or
- (3) Makes or finances any extortionate extension of credit, or collects any extension of credit by extortionate means. [L 1979, c 106, pt of §1; am L 2001, c 33, §3]

Case Notes

In RICO action, plaintiff did not satisfy essential element of extortion and failed to establish attempted extortion regarding defendant's letter to plaintiff. 855 F. Supp. 1156.

[§707-765] Extortion in the first degree.

Case Notes

Evidence sufficient to convict defendant under this section; evidence showed that victim borrowed \$1,100 from brother and gave it to defendant; when victim borrowed the money, it became victim's money. 103 H. 68 (App.), 79 P3d 686.

§707-769 Defenses to extortion. ***

(2) If the owner of the property is the defendant's spouse or reciprocal beneficiary, it is a defense to a prosecution for extortion under paragraph (1) of section 707-764 that:

- (a) The property which is obtained or over which unauthorized control is exerted constitutes household belongings; and
- (b) The defendant and the defendant's spouse or reciprocal beneficiary were living together at the time of the conduct.

[am L 1997, c 383, §68]

Revision Note

Only the subsection amended is compiled in this Supplement.

TO: Mr. Alberto R. Gonzales, phone 202-514-2001, fax 202-307-6777
 United States Attorney General
 United States Department of Justice
 950 Pennsylvania Avenue, NW
 Washington, DC 20530-0001
USPO CERTIFIED MAIL #7004 1350 0001 6618 3528
ATTN: Criminal Division Case #1090300

1 May 2007

Mr. Edward H. Kuo, phone 808-541-2850, fax 808-541-2958
 United States Attorney
 District of Hawaii
 300 Ala Moana Blvd., Suite 6100
 Honolulu, HI 96850
USPO CERTIFIED MAIL #7004 1350 0001 6618 3535

Mr. Lawrence Mahana, phone 808-961-2261, fax 808-961-8865
 Chief of Police
 County of Hawaii
 349 Kapiolani Street
 Hilo, HI 96720
USPO CERTIFIED MAIL #7004 1350 0001 6618 3542

CRIMINAL COMPLAINT

COMES NOW Dan A. Cole, United States Citizen, in exercise of a citizen's Rights and Freedoms as secured to citizens by the Federal Constitution, Bill of Rights, First Amendment Right to petition the Government for redress of grievances, and by rights of equal protection of all laws as secured by the Fourteenth Amendment, by filing this citizen's Criminal Complaint, for violations of a citizen's rights in accordance with Title 18 United States Code Part 1, Chapter 13, Subsection 241. Conspiracy against rights. This complaint is filed against conspirators Mark J. Bennett, Attorney General State of Hawaii; Lincoln S.T. Ashida, Corporation Counsel for the County of Hawaii, Steven Y.K. Chang, Chief of the Solid & Hazardous Waste Branch, State of Hawaii Health Department, and Doe, State, County, Federal public officials/employees.

FILE
 COPY

The documentation hereto attached under TAB "A", 23 April 2007 letter, faxed and receipt electronically verified, and the language contained within speaks for itself and the non-reply to said documentation is a, *de facto*, admission by the County and State of Hawaii of the criminal violations by public officials against the rights of a US citizen in violation of 18 USC 241. Conspiracy against rights.

The documentation hereto attached under TAB "B", Hawaii Revised Statute 342H-30 Prohibition, HRS 342H-1 Definitions and General Provisions, 8/10/01 testimony of Gordon Gota, Island 66, and Paul Nash, Engineer County of Hawaii, to Todd Nichols, Investigator for the State of Hawaii Health Dept. and the November 26, 2001 letter signed Steven Y. K. Change, and the language contained therein speaks for itself and is proof of a conspiracy on the part of Paul Nash and Gordon Gota to defraud the US government, and proof of a violation by Steven Y.K. Chang conspiring with other public officials to violate a citizen's rights of equal protection of all laws as secured to all citizens under the Fourteenth Amendment.

The documentation hereto attached under TAB "C", in combination with recorded telephone conversations with attorney Mitch Roth, Hawaii County Prosecutors Office and attorneys Kathleen Ho, and Heidi Rian, from the State Attorney Generals Office, between Feb -May of 2005, in accordance with the provisions of Hawaii Penal Code 711-1111. Violation of Privacy, provide proof that Hawaii State and County officials conspired to violate 18 USC 241, and used their official office to assist offenders in order to hinder or prevent apprehension, trial, or punishment for such actions in violation of 18 USC 3.

Accessory after the fact. The attached documentation identifies that the Hawaii County Police Department, with the assistance of the Hawaii County Prosecutors Office denied a citizen the ability to file a complaint against public officials who denied him his Constitutional rights, and calls attention to the influence of racially organized government corruption and its influence in County and State governments in Hawaii.

The documentation attached under TAB "D", is the narrative of a Motion before the US Court and provides a time line, history, and identifies public officials involved in or influenced by organized corruption in the County and State of Hawaii governments and the influence of this organized corruption over the business of the US Department of Justice offices and US Court offices in the District of Hawaii, preventing the due course of justice, and the denial of citizens rights as secured by the US Constitution.

DATED: 1 May 2007, Keanan, Hawaii

Dan A. Cole
U.S. Citizen



U.S. Department of Justice

United States Attorney
District of Hawaii

PIKE Federal Building
300 Ala Moana Blvd., Room 6-100
Honolulu, Hawaii 96850

(808) 541-2870
FAX (808) 541-2878

May 31, 2007

Mr. Dan A. Cole
P.O. Box 630
Keaau, HI 96749

Dear Mr. Cole:

We are in receipt of your facsimile dated May 11, 2007. In response to your inquiry, on May 3, 2007, our office received your correspondence entitled "Criminal Complaint." However, the U.S. Attorney's Office for the District of Hawaii represents the United States of America in the defense of claims against the United States, and in affirmative claims on behalf of the United States. This office is not an investigative agency, nor do we represent individual litigants. Thus, no legal action is being taken with respect to your correspondence.

In addition, you requested information regarding the documentation necessary for a FOIA request. All FOIA requests must be signed and submitted in writing to the following address:

FOIA/Privacy Staff
Executive Office for United States Attorneys
600 E Street, N.W. (BICE Room 7300)
Department of Justice
Washington, DC 20530-0001
(202) 616-6757

For further information regarding FOIA requests, please contact the Executive Office for United States Attorneys.

Very truly yours,

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

Lian A. Abernathy
LIAN A. ABERNATHY
Paralegal

:laa

Harry Kim
Mayor



Lawrence K. Mafron
Police Chief

Harry S. Krobohn
Deputy Police Chief

County of Hawaii

POLICE DEPARTMENT

349 Kapitolani Street - Hilo, Hawaii 96720-2598
(808) 935-3311 • Fax (808) 961-3309

May 4, 2007

TO : LINCOLN S. T. ASHIDA, CORPORATION COUNSEL
 ATTN : BRANDON GONZALEZ, DEPUTY CORPORATION COUNSEL
 FROM : PAUL K. FERREIRA, ACTING POLICE CHIEF
 SUBJECT : REVIEW AND COMMENT OF CRIMINAL COMPLAINT
 RE: DAN A. COLE

Enclosed for your review are copies of a Criminal Complaint and various exhibits received from Mr. Dan Cole that was delivered to our department via United States Postal Service, Priority Mail.

This matter involves a complaint filed by Mr. Dan Cole, concerning illegal dumping which occurred at Hawaiian Paradise Park, 15-1490 26th Avenue, Puna. In sum, Mr. Cole alleges individual committed illegal acts of dumping, which in turn caused Mr. Cole financial loss. It does not appear that the department needs to respond to this notice; however, we are asking for your assistance in reviewing the documents and provide any legal comments/recommendations.

Should you have any questions, feel free to contact Major Jay Enagonia of our Administrative Services division at 951-2247

Thank you for your attention in this matter.

jpc

Enclosure

Harry Kim
Mayor



Lawrence K. Mahuna
Police Chief

Harry S. Kubojri
Deputy Police Chief

County of Hawaii

POLICE DEPARTMENT
349 Kapiolani Street • Hilo, Hawaii 96720-2998
(808) 935-3311 • Fax (808) 961-8865

June 7, 2007

Mr. Dan Coles
P.O. Box 630
Keaanu, Hawaii 96749

Dear Mr. Coles:

We received your letter of June 4, 2007, requesting our department to provide you with the laws, procedures, practices, and policies of the Hawaii Police Department that allow moral turpitude within our ranks and the status of your filed complaint.

We are not responsible for an investigation on a criminal complaint filed with the United States Attorney General's Office. If the United States General's Office initiates an investigation of your allegations of wrongdoing within our department, we are fully prepared to cooperate with such investigation.

I would also like to take this opportunity to correct a misrepresentation of facts contained in your June 4, 2007 letter. On May 31, 2007, Major Jay Enanoria of our Administrative Services Division, recalls speaking with you via telephone regarding this matter. Major Enanoria informed you that "No response to these documents is required at this point in time" by the Police Department.

Thank you for bringing your concerns to our attention

Sincerely,

LAWRENCE K. MAHUNA
POLICE CHIEF

TITLE 18 > PART I > CHAPTER 1 > § 2

§ 2. Principals

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

TITLE 18 > PART I > CHAPTER 1 > § 3

§ 3. Accessory after the fact

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Except as otherwise expressly provided by any Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

TITLE 18 > PART I > CHAPTER 1 > § 4

§ 4. Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

TITLE 18 > PART I > CHAPTER 13 > § 241

§ 241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

TITLE 18 > PART I > CHAPTER 19 > § 371

§ 371. Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

TITLE 18 > PART I > CHAPTER 73 > § 1512

§ 1512. Tampering with a witness, victim, or an informant

(a)

(1) Whoever kills or

attempts to kill another person, with intent to—

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

(A) influence, delay, or prevent the testimony of any person in an official proceeding;

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(3) The punishment for an offense under this subsection is—

(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;

(B) in the case of—

(i) an attempt to murder; or

(ii) the use or attempted use of physical force against any person;

imprisonment for not more than 20 years; and

(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

- (1) influence, delay, or prevent the testimony of any person in an official proceeding;**
- (2) cause or induce any person to—**
 - (A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;**
 - (B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;**
 - (C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or**
 - (D) be absent from an official proceeding to which such person has been summoned by legal process; or**
- (3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation ^[1] supervised release, ^[1] parole, or release pending judicial proceedings;**

shall be fined under this title or imprisoned not more than ten years, or both.

(c) Whoever corruptly—

- (1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or**
- (2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,**

shall be fined under this title or imprisoned not more than 20 years, or both.

(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

- (1) attending or testifying in an official proceeding;**
- (2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation ^[1] supervised release, ^[1] parole, or release pending judicial proceedings;**
- (3) arresting or seeking the arrest of another person in connection with a Federal offense; or**
- (4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;**

or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both.

(e) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

§ 1961. Definitions

As used in this chapter—

(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or naturalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1592 (relating to peonage, slavery, and trafficking in persons),^[1] section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), sections 175-173 (relating to biological weapons), sections 229-229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501 (c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b (g)(5)(B);

(2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof;

(3) "person" includes any individual or entity capable of holding a legal or beneficial interest in property;

(4) "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(5) "pattern of racketeering activity" requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) "unlawful debt" means a debt

(A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and

(B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) "racketeering investigator" means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) "racketeering investigation" means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

(9) "documentary material" includes any book, paper, document, record, recording, or other material; and

(10) "Attorney General" includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

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DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Summary:

Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.

For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prison guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.

The offense is punishable by a range of imprisonment up to a life term, or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any.

TITLE 18, U.S.C., SECTION 242

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or

immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnaping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

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Wednesday, September 30, 2009 A3

Hawaii Tribune-Herald

**Nakakuni now
a U.S. attorney**

HONOLULU (AP)

Florence Nakakuni has been confirmed by the full U.S. Senate as Hawaii's first female U.S. attorney.

Nakakuni has been an assistant U.S. attorney in the District of Hawaii since 1985, and she has worked as chief of the drug and organized crime section the last four years.

Nakakuni was nominated in July by President Barack Obama. She replaces Edward Kube Jr., who has served in the post since 2001.

Sen. Daniel Inouye says her extensive legal experience will help her handle the responsibility.

The District of Hawaii includes Hawaii, Saipan, Guam and American Samoa.

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56. Lloyd X. Van De Car
57. Jonathan D. Waxman, deceased
58. Carol K. Yamamoto

01/20/2010 01:08 PM 000200 HAWAII INC 001

WILLIAM PAIKULI ORNELLAS

Attorney At Law

169 South Kukui Street
Honolulu, Hawai'i 96813

Phone (808) 523-5937 FAX (808) 526-1974
Cellular (808) 255-8050 Email: billyo@lava.net

January 19, 2010

Senator Brian T. Taniguchi, Chairperson
Judiciary and Government Operations Committee
Hawaii State Senate
State Capital
Honolulu HI 96813

Re: **Confirmation of Edward H. Kubo, Jr. as Circuit Court Judge
GM109, January 21, 2010, 9:30 a.m.**

Dear Senator Taniguchi,

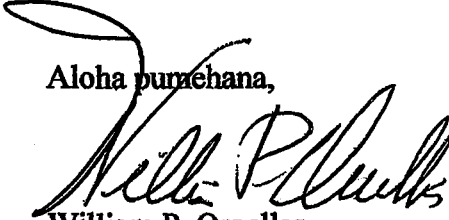
I hereby request that the members of the Senate Judiciary and Government Operations Committee confirm Mr. Edward H. Kubo, Jr. as a Circuit Court Judge in the First Circuit Court of the State of Hawaii. Mr. Kubo has extensive legal experience and possesses the judicial demeanor and temperament to be a good Judge.

Mr. Kubo and I took the Bar Exam in 1979. As a Police Administrator, I frequently reviewed felony investigations with our Detectives and the Prosecuting Attorneys office. Mr. Kubo was a Deputy Prosecutor who advised these detectives and provided insight and legal knowledge that resulted in successful prosecutions of many cases. He also rejected cases from prosecution that did not meet his legal standards.

His skills as a trial attorney were exemplary and his tenure as United States Attorney have given him the administrative skills necessary for a Circuit Court Judge to handle a large caseload. I wholeheartedly support the confirmation of Mr. Edward H. Kubo, Jr. as a Circuit Court Judge.

Please feel free to contact me should you require any further information.

Aloha pumehana,



William P. Ornellas

TAM & STANFORD, LLC
Attorneys at Law

Raymond J. Tam
Glenn J. Stanford

January 20, 2010

Senator Brian Taniguchi, Chairperson
Committee on Judiciary and Government Operations
State Capitol
Honolulu, HI 96813

FAX NO: 586-6659

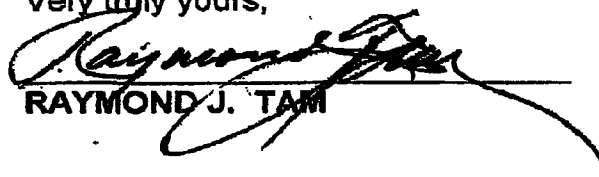
RE: IN FAVOR of the CONFIRMATION of ED KUBO (GM109)

Dear Sen. Taniguchi and Members of the Committee:

I am wholeheartedly in favor of the confirmation of Ed Kubo as Circuit Judge of the First Circuit Court, State of Hawaii. I have known Ed for several years, and I have been very impressed with his knowledge of the law, his fairness, his competence, and his effective fulfillment as U. S. Attorney for the State of Hawaii, which was his prior position.

I believe that he will make a very fine jurist, and I fully support his nomination. I urge you to vote "yes" for his confirmation. I would be willing to answer any questions you may have regarding my recommendation.

Very truly yours,


RAYMOND J. TAM

1001 Bishop Street, Suite 1185
Honolulu, HI 96813

Tel: (808) 522-9111
Fax: (808) 522-9100

ROBERT J. LECLAIR
Attorney at Law
1001 Bishop Street, Suite 1300
Honolulu, HI 96813

(tel) 808•222-1600 E-Mail: leclair@hawaii.rr.com

January 19, 2010

TESTIMONY FROM: Robert J. LeClair, Attorney at Law /s/RJL

TO: Committee on Judiciary and Government Operations
Senator Brian Taniguchi, Chairperson

HEARING DATE/TIME: Thursday, January 21, 2010, 9:30 a.m. Conference Room 16

MEASURE NUMBER: Edward H. Kubo, Confirmation of Appointment to
Circuit Court Judge, First Circuit

SUBMITTED BY E-MAIL: JGOtestimony@Capitol.hawaii.gov

Re: **Positive Endorsement of Confirmation of Edward H. Kubo for Circuit Court Judge
First Circuit**

I recommend without reservation that the Senate Committee on Judiciary and Government Operations recommend the confirmation of Edward H. Kubo for the position of Circuit Court Judge, First Circuit.

I have known Ed since 1974, when he worked as a paralegal with the Legal Aid Society. I have been an attorney in Hawaii since 1972, and I worked for more than 30 years with Kapiolani Community College as Chairperson of the Legal Education Department. For the last 6 years, I have been Executive Director of the Hawaii Justice Foundation. My high opinion of Ed is based on my lengthy history with Ed. During all these times, I have been extremely impressed with Ed's legal experience, dispute resolution skills, judgment, personality characteristics, work ethic, and ability to work with people under all circumstances.

Legal Experience, Dispute Resolution Skills, Administrative Experience, and Work Ethic.

Ed is an excellent problem solver who has the necessary litigation experience to deal with complex legal issues. During his tenure as U.S. Attorney for Hawaii, he was a frequent guest on "You and the Law in Hawaii," which I hosted on 'Olelo for 11 years. Ed has excellent legal analytical skills, and he has an outstanding academic background including an undergraduate degree from U.H. and his J.D. from University of San Diego. Ed has developed impressive skills in the area of dispute resolution. Additionally, he has honed his administrative skills as U.S. Attorney, where he supervises a staff of approximately 100 people. Ed is extremely honest and hard-working. Ed's legal experience, dispute resolution skills, administrative experience, and work ethic make him an excellent addition to the Circuit Court.

Judgment, Integrity, and Personality Characteristics. I have observed the respect Ed has among fellow members of the Hawaii Bar. Ed treats all people with courtesy and respect. There will not be complaints from litigants or counsel that he has treated them unfairly or without due respect. I have observed Ed in some volatile situations, and he never loses his composure. He is able to bring an atmosphere of calm rationality to situations. He is always able to express his views professionally without offending people. Ed has excellent judgment, and he weighs issues carefully before taking action. Those who have worked with Ed know that he has the personality characteristics essential to being an excellent judge.

Commitment to Public Service. Ed has a commitment to public service. Serving as a Circuit Court Judge would be an extension of Ed's passion for public service.

I have absolutely the highest respect for Ed Kubo. He is of the highest moral character and will never be an embarrassment to the Bar or to the Judiciary. He is able listen carefully before making a decision. Once he makes a decision, he has the moral courage to act upon the decision and to complete the process.

If further information is needed, please do not hesitate to e-mail me at leclair@hawaii.edu or call me directly at 222-1600. Again, without reservation I endorse Edward H. Kubo for the position of Circuit Court Judge.

The Honorable Brain T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice Chair
Senate Committee on Judiciary and Government Operations
State Capitol, Room 16
415 South Beretania Street
Honolulu, Hawaii 96813

**SUBMITTING FOR CONSIDERATION AND CONFIRMATION
AS CIRCUIT JUDGE OF THE FIRST CIRCUIT,
GUBERNATORIAL NOMINEE, EDWARD H. KUBO, JR.**

Chair Taniguchi, Vice Chair Takamine, and Members of the Committee:

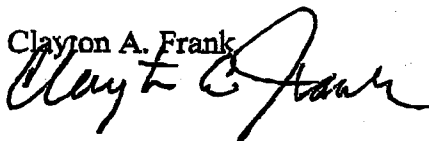
I strongly support the nomination and confirmation of Edward H. Kubo, Jr. as Circuit Court Judge of the First Circuit.

In my current position as the Director of the Department of Public Safety and in my previous job positions (Warden, Inspections and Investigations Administrator, Division Administrator, etc.) within the department, I have had many opportunities over the years to work with Mr. Kubo and his staff in many sensitive and critical cases. During these times, I have always found Mr. Kubo to be even tempered and gauged his decisions in the true sense of public safety for all concerned.

Besides being the U.S. Attorney for Hawaii, Mr. Kubo has served as a County Prosecutor, private attorney, and has worked tirelessly and effectively with State, County, Military and Federal Law Enforcement officials in helping to keep the citizens of Hawaii safe. Mr. Kubo's vast experience in and out of the courtroom has prepared him well for the position as a Judge.

It is for these reasons; I strongly support and urge the confirmation of Mr. Edward H. Kubo Jr. as Judge for the First Circuit Court.

Clayton A. Frank



JOSEPH K. KAMELAMELA
41 Iiwipolena Road
Hilo, Hawai'i 96720

January 19, 2010

Senator Brian Taniguchi
Chairperson
Committee on Judiciary and Government Operations
Hawai'i State Capitol
Honolulu, Hawai'i 96813

Dear Chair Taniguchi:

Re: Confirmation of Ed Kubo (GM109) - Circuit Court of the First Circuit, State of Hawai'i, for Thursday, January 21, 2010 at 9:30 a.m., State Capitol Senate Conference Room 16

I highly recommend Ed Kubo, former U.S. Attorney, District of Hawai'i, to be confirmed as a Judge within the Circuit Court of the First Circuit.

Since 2001, I have been the Litigation Division Supervisor, Office of the Corporation Counsel, County of Hawai'i. Our litigation division handles all legal matters, such as in the areas of tort, construction issues, employment matters, federal mandates and so on. Personally, I successfully defended the County of Hawai'i, and its employees, in jury trials in both the Circuit Courts of the Third Circuit, State of Hawai'i, and U.S. District Courts, District of Hawai'i.

I've known Mr. Kubo throughout my entire legal career (over 30 years). We actually first met in 1975 to prepare, with two other college friends, for the LSAT exam because we all wanted to become lawyers.

Mr. Kubo handled a substantial amount of felony jury trial while with the Prosecutor's Office for the City and County of Honolulu. He had been conscientious, diligent and motivated to do the best legal work for the Honolulu Prosecutor's Office. At that time, and till today, he has demonstrated extraordinary legal ability to fairly and equitably evaluate any and all of his assigned criminal prosecution cases and other related matters.

Later, after former President George Bush appointed Mr. Kubo as the U.S. Attorney, he became more visible publicly within our State. Mr. Kubo provided our police department with assistance in the prevention of criminal acts and enforcement of the law by instituting programs and partnerships, such as the Weed and Seed Program, which benefited our island community.

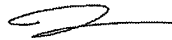
Many people in our legal profession have great respect for Mr. Kubo. He is even-tempered, tolerant and patient. Because he conducts himself in a humble way, he will be an

incredible jurist who has the utmost integrity and excellent legal ability.

Mr. Kubo is more than just a legal colleague or a friend. He truly cares for people. He has compassion for everyone. He will strengthen our Judiciary because of his respect for the law, his willingness to listen to all sides of an argument and his ability to determine a fair and just result.

If you have any questions or concerns, please call me at (808) 961-5119.

Sincerely,



Kamelamela, Joseph
Jan 19 2010 9:20 PM

JOSEPH K. KAMELAMELA
Deputy Corporation Counsel
Litigation Division Supervisor
County of Hawai'i

From: Bob Barrett [bbarrett@coastalwindows.com]
Sent: Tuesday, January 19, 2010 9:22 PM
To: JGO Testimony
Subject: Confirmation of Ed Kubo (GM109)
Attachments: image001.jpg

Senator Brian Taniguchi,

I am writing this letter in support of Mr. Ed Kubo for Circuit Court Judge. It is my opinion that he is the best person for the job. He has and has always had the best interest of this state in mind.

I believe that this political world that we live in is forcing this country, as well as this state, to discard bipartisan politics and vote for the person that best serves the community. That person is Mr. Kubo and I implore you to confirm him as our next Circuit Court Judge.

I want to thank you for your service to the public and I appreciate the things our elected officials do for our state.

Please do the right thing for our state and confirm Mr. Ed Kubo. He won't let us down, he never has.

Respectfully,

Bob Barrett

President
Coastal Windows Inc.
808-676-0529 Phone
808-676-0823 Fax
800-588-0529 Neighbor Island
<http://www.coastalwindows.com>

From: mkmasunaga@aol.com
Sent: Wednesday, January 20, 2010 12:29 AM
To: JGO Testimony
Cc: Sen. Suzanne Chun Oakland; Sen. Mike Gabbard; Sen. Colleen Hanabusa; Sen. Clayton Hee; Sen. Jill Tokuda; joshuaboothgreen@yahoo.com; Sen. Russell Kokubun; Sen. Brian Taniguchi; Sen. Dwight Takamine; Sen. Clarence Nishihara; Sen. Robert Bunda; Sen. Sam Slom; mkmasunaga@co.hawaii.hi.us; Mkmasunaga@aol.com
Subject: From Margaret K. Masunaga - to Committee on Judiciary and Government Operations

Dear Chair Brian Taniguchi:

My name is Margaret Kuroda Masunaga and I am testifying in STRONG SUPPORT of the confirmation of ED KUBO (GM109) as the next First Circuit Court Judge.

I am traveling from Kona to testify at the hearing on Thursday, January 21, 2010, at 9-30 a.m. because I believe it is so important for me to show my support for Ed Kubo.

I first met Ed over 15 years ago when he was an Assistant U.S. Attorney and I was a Deputy Corporation Counsel for the County of Hawaii. We worked on a case involving persistent non-support of a doctor who hid his assets in order to avoid paying child support for his four children in New Jersey. Ed Kubo was tenacious in obtaining the necessary evidence in order to prove the doctor's ability to pay child support and the doctor's refusal to support his children from a prior marriage. Through this case, I observed Ed's legal ability to gather documentation to prove his case and actually do something about the problem with parents trying to get out of fulfilling their obligation to support their children.

Ed Kubo is fair, dedicate to public service, and knows the importance of upholding our State and U.S. Constitution. He is able to communicate with every segment of society. I have personally observed how he explained complex legal theories to students at Konawaena High School, or how to prevent teen dating violence at a conference of students, parents, teachers, and service providers. Ed also spoke to Konawaena Middle School students about the dangers of crystal methamphetamine with graphic pictures of an ice addict.

Konawaena Elementary, Kona Hongwanji Preschool and Son Shine Preschool students in Kealakekua also enjoyed hearing Ed read to them and they told Ed what they wanted to be when they grew up. He also visited the Capt. Cook Support Group meeting and heard first hand from a heroin user who was clean and sober for five days and fighting to kick the habit. The West Hawaii Bar Association also sponsored a seminar with Ed Kubo as the featured speaker.

Ed Kubo did all of the above while serving as U.S. Attorney for the District of Hawaii. Never before did the Big Island ever have a U.S. Attorney who paid attention to what was happening on the neighbor islands. We truly appreciate his efforts in helping us. Ed also recommended Kona for federal funding and as a result, the Prosecutor's Office was awarded the grant.

When I was served on the Board of Governors of the National Asian Pacific American Bar Association (NAPABA), Ed Kubo was honored as the recipient of the Trailblazer Award. He also received the Hawaii State Bar Association YLD Justice Award.

Needless to say, Ed is highly qualified to be a Circuit Court Judge. He has the right judicial temperament, legal experience, analytical skills and ability to be a fair and impartial judge.

I urge the Senate Committee on Judiciary and Government Operations to unanimously support the confirmation of Ed Kubo. You will not be disappointed!

Thank you.

Sincerely,

Margaret K. Masunaga
P. O. Box 345
Kealakekua, Hawaii 96750
(808) 987-1046

TESTIMONY ON GM 109
CONFIRMATION OF EDWARD H. KUBO, JR.

By
Thomas L. Read

Senate Committee on Judiciary and Government
Operations
Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Thursday, January 21, 2010; 9:30 AM
State Capitol, Conference Room 016

Senator Taniguchi, Senator Takamine, and Members of the Committee:

I urge this committee to confirm Edward H. Kubo, Jr., as a Circuit Court Judge for the First Circuit, State of Hawaii. I had the pleasure of working with Ed for almost ten years while I was with the United States Department of Justice and with the Hawaii Department of Public Safety. I have always found Ed to be very hard working, intelligent, honest, and of the highest moral fiber. He is easy to work with and consistently seeks to "do the right thing" when difficult issues arise.

Ed has served his country and this state in an exemplary manner during his professional career. He has been recognized for his achievements and contributions to the state while he was the United States Attorney for the District of Hawaii, but his real contribution was the leadership in law enforcement and the community during his tenure. Ed has the legal experience both in the private sector and in the government sector to be an outstanding judge. He is blessed with a great "judicial temperament" that will be an asset to the state when he is on the bench.

Ed would be a true asset to Judiciary in the State of Hawaii, and he is very deserving to be considered for this position. I strongly urge this committee to confirm Edward H. Kubo, Jr. as a Circuit Judge in the First Circuit, State of Hawaii.

January 20, 2010

Senator Brian T. Taniguchi
Chair, Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, HI 96813

Subject: Letter of support for Mr. Edward H. Kubo, Jr. for appointment to
the Circuit Court of the First Circuit, State of Hawai'i

Aloha Chair Taniguchi,

It is with honor that I am able to write this letter in support of Mr. Edward Kubo, Jr. for appointment to the First Circuit Court.

I have been involved with the community from a young age, eventually becoming a mentor to individuals of all ages with the purpose of inspiring civic duty and self-responsibility through public service. It is in this line of work that you come across individuals from all walks of life, personalities and attitudes towards "giving back" and contributing to society as a whole.

However, once in a while you meet individuals that stand out. Who, through their actions, surpass expectations and shatter limitations as to what you think people are capable of. Ed is one of these individuals.

Ed exemplifies what a model citizen should be and should aspire to, someone who possesses a deep appreciation for his country and government; who has a special talent for conveying and inspiring those feelings of patriotism and duty within others.

Having known Ed for quite some time, I can say that he also possesses all of the skills, experience and wisdom required to remain impartial and unbiased when making tough decisions. He is a man of great compassion with the fortitude to do what's right, regardless of popularity.

I am confident that Ed will serve the people of the State of Hawai'i well and am pleased to offer this recommendation for your consideration.

Mahalo,

Christopher J. Wong

From: Milton Tani [milton@triallawhawaii.com]
Sent: Wednesday, January 20, 2010 11:32 AM
To: JGO Testimony
Subject: Edward Kubo Nomination

1/20/10

This is my submission in support of Edward Kubo for circuit court judge. Over the years, Mr. Kubo has always been conscientious, reasonable, and fair. These are great qualities that a judge should have. Please confirm his appointment to the bench. Thank you.

**Testimony of John M. Tonaki,
State Public Defender to the Senate Committee on Judiciary
and Government Operations**

January 21, 2010

GM109: Nomination of Edward H. Kubo, Jr. to the Circuit Court of the First Circuit

Chair Taniguchi and Committee Members:

This is in support of the nomination of Edward H. Kubo, Jr. to the Circuit Court of the First Circuit. I have known Mr. Kubo for more than twenty years and believe that his superb legal skills and honorable character make him an excellent appointee to the bench. We tried cases against each other many years ago when he was a deputy prosecuting attorney and during this time, I developed a tremendous amount of respect for him as an opponent in court. However, my respect for him went even deeper as a lawyer who always practiced with honor and integrity.

We kept in touch when he became an assistant U.S. Attorney and eventually, the head U.S. Attorney for the District of Hawaii. We had a chance to sit on various discussion panels and task forces and I always enjoyed these chances to speak about the criminal justice system with Ed. He did an outstanding job as U.S. Attorney and always took the opportunity to consult with me about issues which affected the state system.

He quite obviously has the organizational skills and leadership abilities to be an excellent judge but he also is a "local boy" who, I know, cares deeply about his community. This is demonstrated by his service to numerous community organizations. I support his nomination without hesitation.

Thank you for the opportunity to be heard on this matter.

LAW OFFICE OF LINDA C.R. JAMESON
547 HALEKAUWILA STREET, SUITE 102\
HONOLULU, HAWAII 96813
TEL: (808)358-9874

January 20, 2010

Senator Brian Taniguchi, Chairperson
Comimittee on Judiciary and Government Operations

Re: Confirmation of Ed Kubo

Dear Senator Taniguchi,

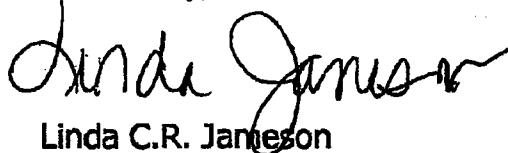
My name is Linda Jameson and I am a defense attorney in private practice specializing in criminal law. I was also a deputy public defender for 23 years and during that time came to know Ed Kubo.

When I was at the public defender's office, Ed did many high profile criminal trials as a deputy prosecuting attorney and is therefore an experienced trial attorney which will hold him in good stead as a circuit court judge. In this position, the judge must have a good handle on rules of procedure and the rules of evidence and with his experience and knowledge at trials, I believe that Ed would serve very well as a judge.

As far as temperament, I believe that Ed has the perfect temperament as a judge. The position requires an even temper and Ed has that, as well as a great sense of humor which is so often needed in trials. Ed also possesses a professionalism and pride in his work.

With his experience as a trial attorney and his experience in administration as the U.S. attorney, I strongly recommend Ed Kubo to the position of judge of the circuit court of the first circuit.

Yours truly,



Linda C.R. Jameson

THOMAS D. FARRELL
Attorney at Law ♦ LLLC
Certified Specialist in Family Law*
700 Bishop Street, Suite 2100
Honolulu, Hawaii 96813

January 9, 2010

Hon. Brian T. Taniguchi
Chair, Senate Committee on Judiciary
and Government Operations
Room 219, State Capitol
Honolulu, Hawaii 96813

by email to sentaniguchi@capitol.hawaii.gov
[original to follow by mail]

Re: Nomination of Edward H. Kubo as First Circuit Judge

Dear Senator Taniguchi:

It is my pleasure to write in support of the nomination of Ed Kubo to be a judge of the Circuit Court of the First Circuit.

I have known Ed since he started out with the Prosecuting Attorneys' office in the early 1980's, where he gained a reputation as a competent and fair prosecutor. While still a relatively young lawyer, he was named an Assistant US Attorney, and after several years with the Justice Department, he became the head of that office in Hawaii. I have worked with him during my tenure as a deputy attorney general of our state, and also in private practice, and I have always found him to be both reasonable and thoroughly professional. Interestingly, I also worked with Ed in my capacity as an Army Reserve intelligence officer. After 9/11, I was mobilized and served as the senior counterintelligence officer for the military's homeland defense efforts in Hawaii. Our biggest priority was to establish the Joint Terrorism Task Force – Pacific, the inter-agency intelligence fusion center for counter-terror efforts in Hawaii. As US Attorney, Ed was instrumental in helping bring this collaboration to fruition.

Ed's involvement in community service activities is far too extensive to recite here, but I am particularly impressed with the fact that he has taken the lead in helping our returning vets as a founder of the Hawaii Wounded Warrior Community Support Program.

This is the kind of person we want to see sitting on the Circuit bench. I urge you and the members of your committee to act favorably on this nomination.

Sincerely,



Thomas D. Farrell

f:\tdf\misc\kubo.doc

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also handling national security cases involving revocation or denial of security clearances

Telephone (808) 535-8468 • Fax (808) 585-9568 • email to tom@farrell-hawaii.com

*Certified by the National Board of Trial Advocacy. The Supreme Court of Hawaii grants Hawaii certification only to lawyers in good standing who have successfully completed a specialty program accredited by the American Bar Association.

-----Original Message-----

From: "Rita K. Martin" <rmartin@usvetsinc.org>

Date: Thu, 7 Jan 2010 16:25:34

To: <sentaniguchi@Capitol.hawaii.gov>

Cc: <tkubo@hawaii.rr.com>

Subject: FW: Kubo Nomination

Senator Brian Taniguchi, Chairperson
Senate Judiciary and Government Operations Committee

Dear Senator Tanighchi,

It is my privilege to send this letter of support for Ed Kubo, who has been nominated for the First Circuit Court judgeship.

As Community Relations Coordinator for the homeless shelter in Waianae, the Waianae Civic Center (a program of U. S. Veterans Initiative), I have worked alongside with Ed and his wife, Tammy. She founded the Keiki Birthday Party for four homeless shelters and both of them have participated in the actual events onsite.

Ed blends in quite well no matter what the audience. He listens intently and is a great communicator. In the beginning, I observed Ed in how we interacted with others--we need more people like him in "high" places who are effective communicators. Whether it be "talk story" time or engaging in more formal settings, Ed blends well.

My expertise is really in the field of domestic violence for 21 years, five of which were managing three such shelters. Ed is passionate about protecting our citizens and putting criminals where they belong to the full extent of the law. His track record on white collar crimes, illegal drugs busts as well as high profile cases is commendable.

We need Ed as a judge in the First Circuit. His presence commands attention. Criminals fear him. The community needs him.

Thank you. My contact number is (808) 499-7367.

Rita K. Martin
Community Relations Coordinator
USVETS - Waianae Civic Center
United States Veterans Initiative
85-638 Farrington Highway
Waianae, HI 96792
www.usvetsinc.org
Cell: (808) 620-0900
Phone: (808) 696-6707
Fax: (808) 696-6779
rmartin@usvetsinc.org
"Serving Those Who Served"

From: Paoa [mailto:pchangnaluai@yahoo.com]
Sent: Tuesday, January 05, 2010 11:15 PM
To: sentaniguchi@Capitol.hawaii.gov
Subject: Ed Kubo

Dear Senator Brian Taniguchi,

My husband, Aleksander K. Naluai and I, ask that you confirm Ed Kubo for Judge. Ed was Hawaii's U.S. District Attorney after serving our community for 8 years. His professionalism and dedication not only permeated his career field, but transcended into his personal life as well.

Despite his busy schedule, Ed found the time to support our local troops when they were overseas this last year. My husband, Aleksander, a member of the 100th Battalion, 442d Infantry, recalls numerous occasions where gift packages arranged for donation by Ed Kubo and his wife, Tammy with many local businesses. More importantly, he recalls the joy on the soldiers faces after receiving a package. Not only did Ed provide soldiers with a touch of home so far away, but he provided the opportunity for local business owners to give back to the soldiers protecting their freedoms and way of life. His willingness to serve our community professionally and in private makes him a prime candidate for judgeship. We know that he will be a fair and impartial judge because of his character.

Mahalo for your attention to this matter.

Sincerely,

Aleksander and Paoakalani Naluai

From: "keith@natorilaw.com" <keith@natorilaw.com>
To: sentaniguchi@capitol.hawaii.gov
Sent: Tue, January 5, 2010 10:30:56 PM
Subject: Edward H. Kubo, Jr. as Circuit Court Judge of the First Circuit

January 5, 2010

VIA E-MAIL (sentaniguchi@capitol.hawaii.gov)

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu , Hawaii 96813

Re: Edward H. Kubo, Jr. as Circuit Court Judge of the First Circuit

Dear Senator Taniguchi:

I am writing to support the judicial nomination of Edward H. Kubo, Jr. as Circuit Court Judge of the First Circuit. I have the utmost regard for his integrity, diligence, legal knowledge and ability, professional experience, temperament to serve the judiciary, financial responsibility, and commitment to public service. His unflagging attentiveness and energy indicate to me that he is of sound body, health and mind.

The circumstances under which we met and came to know each other is perhaps illuminating. I have known Mr. Kubo for about seven years. I met him in his capacity as U.S. Attorney for the District of Hawai'i. I was the Vice President of Legal Services and Regional Counsel for Kaiser Foundation Health Plan, Inc. in Honolulu , Hawaii . Mr. Kubo's U.S. Attorney's office was investigating Kaiser for false claims and billings.

Kaiser ended up paying a rather significant fine and was saddled with the equivalence of a 5-year probationary penalty status with the federal government. However, during the process, and particularly thereafter, I was deeply impressed with the professional, supportive and engaging manner in which Mr. Kubo handled the matter and the government's relationship with Kaiser.

Rather than treat the Kaiser organization as a criminal element, he invited Kaiser to organize training and information sessions bringing together the U.S. Attorneys Office with healthcare organizations in the community. He treated us with dignity and respect. He listened to us. We began as wary adversaries. We've ended up as community colleagues and friends.

As one who was once a clerk for a State circuit court judge, who has practiced law in Hawaii for over 25 years, and who has resided in the First Circuit for over 50 years, I believe I have some perspective on who would make an excellent Circuit Court Judge of the First Circuit. In my estimation, there is no one more qualified than Mr. Kubo.

Thank you very much for considering my comments.

Yours sincerely,

Keith Lee
277-6778

From: "Kiyokawa, Karl" <kkiyokawa@triwest.com>

To: sentaniguchi@Capitol.hawaii.gov

Sent: Tue, January 5, 2010 8:50:45 PM

Subject: Support for Ed Kubo, First Circuit Court Judge Nomination

Aloha Senator Taniguchi,

I am writing to support Ed Kubo in his nomination for First Circuit Court Judge.

As Vice President for Hawaii Operations with TriWest Healthcare Alliance, I had the opportunity to work with Ed and got to know him and his wife Tammy quite well. In this role, and as a life-long Hawaii resident, I wholeheartedly support Ed's nomination for First Circuit Court Judge. TriWest Healthcare Alliance is the Department of Defense contractor for the military's health plan, TRICARE, in the 21-state West Region that includes the State of Hawaii.

I first met Ed through his tireless and outstanding work to support our country's military. As the U.S. Attorney for Hawaii, Ed stepped forward to forge unprecedented, solid working relationships with Hawaii's military and established the Malama Na Koa (Caring for our Warriors) Program. I had the honor to serve with him on committees and supported events generated through his vision to support Hawaii's wounded warriors. His passion for our country's military is genuine and infectious.

There is no doubt that Ed's legal experience and track record speaks for itself to support his nomination for First Circuit Court Judge. Combining this with his ability to bring people together to collaborate towards a common goal, you have an unequivocal profile of a person who will serve the people of Hawaii well. The icing on the cake is Ed's integrity that he infuses in everything he undertakes. I respect and admire him for his ability to do this with steadfast humility.

Character is the foundation that drives people's actions and decisions. Ed's character equals quality, honor and integrity. He will be an outstanding First Circuit Court Judge.

Thank you for your consideration of my support for Ed Kubo.

Mahalo!

v/r

Karl S. Kiyokawa
Vice President Hawaii Operations
TriWest Healthcare Alliance
3375 Koapaka Street, C310
Honolulu, HI 96819
phone: 808.838.7219
cell: 808.221.2979
fax: 866.302.5846 (toll-free)
email: kkiyokawa@triwest.com

----- Forwarded Message -----

From: Jeff Albert <albertj001@hawaii.rr.com>

To: sentaniguchi@Capitol.hawaii.gov

Sent: Wed, January 6, 2010 6:35:01 AM

Subject: Appointment of Ed Kubo

Dear Senator Taniguchi,

I am writing to lend my enthusiastic support to the confirmation of Ed Kubo as a judge of the First Circuit.

Many have spoken of Ed's outstanding legal career, and it has been outstanding, a kind of Horatio Alger story, the story of a man with deep local roots who by dint of his own integrity, talent, and years of mind numbing and selfless work in the service of the community rose to what many consider to be the most prestigious law enforcement position in the State, and a man who served in that position for eight difficult years with honor and distinction.

But I would like to emphasize here, as well, another side to Ed Kubo, a side that I suspect only those who have been privileged to know him well are privy to.

Ed is a person of exceptional warmth, humility and grace, a person whose respect for and love of his fellow man, and life-long commitment to the well being of all the people of Hawaii, have been nothing short of inspirational to those who know him.

Although for his years of service Ed has certainly earned for himself a well-deserved place among those whom we consider to be our community leaders, Ed has never lost what Kipling once referred to as "the common touch," never lost his profound and honest love and respect for even the least of those who make up the community he has served so well.

He is truly a man who, again in Kipling's words, has always filled "the unforgiving minute with sixty seconds worth of distance run," and for this and for all the reasons I have alluded to above I deeply believe that Ed Kubo will bring honor, distinction and grace to the position of Judge of the First Circuit.

Respectfully,

Jeffrey M. Albert

#3361

Gale Ching

To: info@hsba.org
Subject: Nomination of Edward Kubo, Jr.

Hawaii State Bar Association

Re: Confirmation Of Edward H. Kubo, Jr. as
Circuit Court Judge of the First Circuit

Dear Sir/Madam;

My name is Gale L. F. Ching, Esq. and I am a practicing attorney in Honolulu. I am pleased to have learned that Edward H. Kubo, Jr. has been nominated as a Circuit Court Judge for the First Circuit. I have had the privilege of knowing Ed for over twenty (20) years and have the utmost respect for him. Ed has always been a humble person and very respectful of others. He has carried himself responsibly throughout his career and shown the integrity that is needed in assuming a judicial position. Based on my years of contact with Ed, he has always been even tempered and I know that this will carry on while he is on the bench. Ed has dedicated his career to public service and now being afforded the opportunity to serve as a Judge will fulfill his commitment to public service.

I have no doubt whatsoever in supporting the nomination of Edward H. Kubo, Jr. as a Circuit Court Judge for the First Circuit as he possesses the necessary qualifications of having integrity, proper judicial temperament, vast professional experience in the legal field and a willingness to serve the public. Ed's presence as a Judge will be an asset to the Judiciary.

I urge you to look favorably upon the nomination of Edward H. Kubo, Jr. as a Circuit Court Judge for the First Circuit

Should you have any questions, please contact me. Thank you for your cooperation.

Very truly yours,

LAW OFFICE OF GALE L. F. CHING, LLLC

Gale L. F. Ching

David C. Livingston
303 Kipukai Place
Honolulu, Hawaii 96825

808 542-4945 Cell ~ 808 947-2255 Edward Jones Office ~ 808 395-5469 Fax
Trimark1@lava.net ~ www.thingsworthsaving.com

January 5, 2010

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Aloha Senator Taniguchi:

I respectfully request your Committee's support of the nomination of former U.S. Attorney Edward H. Kubo, Jr. to serve as a Circuit Court judge of the First Circuit (O'ahu). I have had the pleasure of working with Ed while serving on the board of directors of the Coalition for a Drug Free Hawaii. He is a dedicated community leader.

Mr. Kubo has dedicated his career to upholding the law and defending the public against crime. He has a well-rounded legal background that includes extensive experience as: the U.S. chief federal law enforcement officer and principal litigator in Hawaii; a prosecuting attorney for the city; and a private practice trial attorney.

During his tenure with the U.S. Attorney's Office, Mr. Kubo focused on major federal criminal investigations, such as: white collar crimes; mortgage fraud; civil rights violations; tax evasion; corruption; crimes on government installations; and violent crimes. He also covered federal civil areas including: fraud against government; employment discrimination; medical malpractice defense; and defense of military initiatives.

Other key areas Mr. Kubo focused on involved federal criminal narcotics enforcement and organized crime, including: international drug trafficking; court-approved wiretaps; complex conspiracies; financial investigations and forfeiture of property; and racketeering prosecutions.

Mr. Kubo has been an exemplary public servant, and an outstanding citizen, who is committed to improving our statewide community. I am confident he will continue to serve the public well as a Circuit Court judge.

Sincerely,

Dave

David C. Livingston
President, TriMark Hawaii

David C. Livingston

Via E-mail

Honorable Brian T. Taniguchi
Chairperson
Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
Honolulu, HI 96813

January 5, 2010

Re: Circuit Court Judicial Nominee Edward H. Kubo

Dear Senator Taniguchi and Committee Members:

I was very pleased to hear that United States Attorney Edward H. Kubo will be continuing his public service in a judicial capacity.

I first met Mr. Kubo 24 years ago, when he was a prosecutor and I was a law clerk in the State Circuit Court. One of my earliest memories of Mr. Kubo was his effective prosecution of the State's first DUI jury trial in 1986. During this high publicity case, Mr. Kubo demonstrated superb courtroom skills. His professionalism, intelligence, and knowledge of the law, the evidentiary rules, and Circuit Court procedures resulted in a just verdict.

Later, I had the privilege of working with Mr. Kubo both at the City Prosecutor's Office and, during the past eight years, as a Special Assistant U.S. Attorney on Operation Weed and Seed. Throughout the years, Mr. Kubo was a remarkable role model and mentor.

As a former trial attorney with Carlsmith and Dwyer, a former Deputy Prosecuting Attorney for the City & County of Honolulu, and the U.S. Attorney for Hawaii, Mr. Kubo's vast experience in criminal prosecution and civil litigation, both in the state and federal court systems, is unmatched. Mr. Kubo is an outstanding attorney with impeccable ethical standards. He is articulate, insightful, diplomatic and discreet. Throughout his career, he has earned a reputation for legal excellence, strong work ethic, integrity, honesty, thoroughness and dedication to public service. Mr. Kubo would make an excellent judge.

On a personal note, what strikes me most about Mr. Kubo is his humility. Despite his prominence in our legal community and countless contributions to the betterment of society, Mr. Kubo remembers his roots. He says hello to people. He listens. He is down-to-earth. He is still the same local boy from Waipahu that I met decades ago. If he is appointed to the bench, Mr. Kubo will remain centered, never arrogant. He will serve the people of Hawaii with excellence and honor.

Should you or anyone from your office desire any additional information about Mr. Kubo, please do not hesitate to contact me at the office (808) 768-7475 or on my mobile phone (808) 295-3130.

Thank you for the opportunity to comment.

Very truly yours,

Cecelia C. Y. Chang
Deputy Prosecuting Attorney
HSBA #3929

From: ETanigawa
To: sentaniguchi@Capitol.hawaii.gov
Sent: Tuesday, January 05, 2010 4:19 PM
Subject: Edward Kubo

Dear Senator Brian Taniguchi and Members of the Senate Judiciary and Government Operations Committee:

This email is to whole heartedly endorse Mr. Edward Kubo, Jr. for the Oahu circuit judge seat to replace the retiring Frances Wong.

I have known Ed since he was a child and have always admired him to be caring, honest, filial, and very capable in whatever he does.

I strongly believe he did an outstanding job for the state of Hawaii as our US attorney, and I do believe he will serve our state well again as Oahu circuit judge.

Sincerely,

Edna Tanigawa
2182 Auhuhu St.
Pearl City, Hawaii 96782

ELTON AU
P.O. BOX 240435
HONOLULU, HAWAII 96824

Telephone : 808-294-0742

Email: ewmau@hotmail.com

January 7, 2010

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Senator Taniguchi:

This letter is to recommend Edward H. Kubo Jr. for the position of Circuit Court judge of the First Circuit Court. I have had the pleasure of knowing Edward for over twenty years. I first met him when he was an Assistant Prosecuting Attorney and I was a law clerk at Circuit Court. During the many years of our friendship, I have known him in many capacities, both professionally and socially.

Edward has extensive criminal and civil experience as an Assistant Prosecuting Attorney, Assistant U.S. Attorney, U.S. Attorney and also as a senior associate at a private law firm. He has worked on many high profile cases and has been a great asset to law enforcement in Hawaii.

I have always known Edward to be fair-minded, ambitious, committed, efficient, responsible, ethical, patient, trustworthy, humorous and caring. Edward has the many qualities that make him well qualified for continuing his service to our community as a Circuit Court judge. It is with great pleasure that I recommend Edward without reservation. Please contact me if you need further information. Thank you for your attention in this matter.

Very truly yours,



Elton Au, Esq.

EWMA

From: Mel Masuda, J.D., M.P.A.

Sent: Thursday, January 07, 2010 11:22 PM

To: sentaniguchi@Capitol.hawaii.gov

Subject: Letter of Support for Confirmation of Edward H. Kubo, former U.S. Attorney, as State Circuit Court Judge

Dear Senator Taniguchi (Brian) and Senators
on the State Senate Judiciary Committee,

I am pleased--and honored--to write this e-mail Letter of Support for the confirmation of Edward H. Kubo, the U.S. Attorney for the District of Hawaii for the past eight years, as State Circuit Court Judge.

It has been my honor and privilege to have known Mr. Kubo--whom I know by his nickname of Ed--from the earliest time when Ed started off as a deputy prosecutor for the City & County of Honolulu nearly three decades ago until the present, when Ed has topped off his law-practice career by serving the public as an outstanding U.S. Attorney for the District of Hawaii. As all of you Senators know, Ed has compiled an excellent record as U.S. Attorney in fighting drugs and organized crime. At the same time, Ed has always been fair-minded and has balanced protecting the public with also protecting the legitimate constitutional rights of defendants--a balanced point of view that he will bring to the bench as a State Circuit Court Judge.

For these above-stated reasons, I respectfully urge that you Senators, please, confirm the nomination of Ed Kubo to be State Circuit Court Judge.

Sincerely and Aloha,

Professor of Business Law and
Criminal Justice,
Melvin (Mel) Masuda,
Hawaii Pacific University

From: Rene Siracusa (renesiracusa3@gmail.com)
To: sentakamine@Capitol.hawaii.gov
Date: Fri, January 8, 2010 2:08:12 PM
Subject: Appointment of Ed Kubo to Circuit Court Judgeship

Aloha Senator Takamine -

I am writing as an individual, but also on behalf of Malama O Puna, which is a member of the Pahoia Weed and Seed Steering Committee. I have worked with Ed Kubo since 2003 and have been very impressed with him on many counts. He is a warm and caring person, but he also has integrity and will serve as a fine role model on the bench, as he did as US Attorney. Ed came to our high school in Pahoia annually to address the students and show them how deleterious the use of drugs can be if they succumb to peer pressure. He wouldn't leave the gym until he was sure that every single student got the message loud and clear. He was always articulate but not patronizing or condescending. He was always easy to work with. He was a constant source of support for the positive changes we were working on for our community. He didn't puff himself up and promote his own accomplishments, but always complimented us for our efforts - he gives a really good pep talk! And he went above and beyond the call of duty without being asked. This is the kind of person we need on the bench. I only wish that he had been nominated for the 3rd Circuit, so that we could have him back with us again.

Please support his nomination to be a judge in Circuit Court.

Mahalo plenty,
Rene Siracusa
Malama O Puna



Rustam A. Barbee
Attorney at Law, LLLC

1188 BISHOP STREET, SUITE 2606 • HONOLULU, HAWAII 96813
TEL. (808) 524-4406 • FAX: (808) 524-4306

January 8, 2010

Senator Brian Taniguchi
Chair, Senate Judiciary Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, HI 96813

RE: Endorsement of Edward H. Kubo for appointment
as Judge for the Hawaii First Circuit Court

Dear Chairman Taniguchi:

It is a pleasure for me to write and support the nomination and appointment of Edward H. Kubo as Judge for the First Circuit Court.

I have known Ed Kubo for more than 17 years during which time we have been colleagues and adversaries in federal court criminal cases. Ed rose through the ranks from Assistant United States Attorney to become United States Attorney for the district of Hawaii. Based upon my personal and professional dealings with Ed in many cases over many years, I believe I have formed an accurate impression of his ability and character. He has a friendly personality, is cooperative and caring of others and is honest and conscientious. First and foremost, Ed is an experienced lawyer who exercises good judgment in his practice of law. He displays integrity and civility in and out of court. He treats his responsibilities seriously and is well prepared for hearings and trial before the court.

In addition to my personal high opinion of Ed, he enjoys an excellent reputation among the community of federal criminal law attorneys in Hawaii.

In closing, I am extremely confident that Ed will succeed in the challenging environment of serving the public and become an excellent Judge. I wholeheartedly support the appointment of Edward H. Kubo to the bench in the Hawaii First Circuit. He possesses a fine judicial temperament and will bring a breadth of experience and fine legal ability to the job.

Sincerely,

A handwritten signature in black ink, appearing to read "Rustam A. Barbee", written over a horizontal line.

RUSTAM A. BARBEE



91-255 Ohiwa Street, Kapolei, Hawaii 96707 ▲ Tel: 808.682.1515 ▲ Fax: 808.682.5529 ▲ Toll Free: 1.800.342.1515

January 8, 2010

Senator Brian T. Taniguchi
Chairperson
Senate Judiciary and Government
Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, HI 96813

Re: Edward H. Kubo

Dear Senator Taniguchi:

It is a pleasure to write in support of judicial nominee Edward H. Kubo for the position of Circuit Court Judge in the First Circuit. I have been working with Mr. Kubo over the past year on a drug-free program. Through this period, I have observed him to be very conscientious and focused on any task he undertakes.

I can unequivocally attest to Mr. Kubo's personal character and integrity. Mr. Kubo's judicial temperament is excellent as he is compassionate, objective, fair and reasonable.

Mr. Kubo will make an excellent judge and will be a credit to our judicial system.

Thank you.

Very truly yours,


KENNETH J. KOBATAKE

KJK:imm

BENJAMIN M. ACOB
150 S. High Street
Wailuku, HI 96793

January 11, 2010

Honorable Senator Brian T. Taniguchi,
Chairperson, Senate Judiciary and Government Operations Committee
Honolulu, Hawaii 96813

Re: Judicial Nomination of Ed Kubo

Dear Honorable Senator Taguchi:

My name is Benjamin M. Acob, currently the Prosecuting Attorney for the County of Maui, and I am writing in support of Mr. Kubo on his judicial nomination as First Circuit Court judge.

I have come to personally know Mr. Kubo since 2001 when he became the United States Attorney for Hawaii. As First Deputy Prosecuting Attorney and Prosecuting Attorney for the County of Maui, I represented our department to the meetings of the Law Enforcement Coalition (LEC) and Hawaii Prosecuting Attorneys Association (HPAA) while Mr. Kubo represented his agency. Mr. Kubo also personally visited our department in his quest to offer the assistance of his agency to the neighbor islands in the fight against crime. It was during these times that I observe all the qualities that will serve him to be an excellent judge for the State of Hawaii.

When Mr. Kubo says that he would do something, he can be counted on to follow through. This was exemplified by his commitment to assist the neighbor islands in prosecuting career criminals in the federal system when it was advantageous to do so. This was also true on other matters like providing training and assistance on federal matters.

From observations in LEC and HPAA discussions on legal issues, one can easily and immediately appreciate Mr. Kubo's vast legal knowledge and experience. His knowledge of federal law in addition to state law that he acquired when he was in private practice and when he was a Deputy Prosecuting Attorney for the City and County of Honolulu will only help him on the bench. Also, Mr. Kubo possesses a very calm demeanor; he remains respectful and calm in contentious situations. I am confident that the legal community and members of the public that will come before him will greatly benefit from his respectful and calm demeanor.

Mr. Kubo's history of public service speaks greatly of his desire to improve the community and help others. Besides his visible and leading role in the Hawaii's war against drugs, he visited many elementary schools and gave speeches to middle and high

school students on the dangers of drugs, and helps homeless shelters on their "Keiki Birthday Program." He also serves as Chairperson or as member of the Board of Directors for organizations such as Drug-Free Coalition of Hawaii, Palama, Settlement, and Kids Hurt Too. I truly believe that he will continue to care for the community and the state in his new role as judge.

Thank you for the opportunity to testify in support of Mr. Kubo. If you have any questions, please call me at (808) 344-3035.

Very truly yours,

/s/

Benjamin M. Acob

Jan M. Harada, J.D.
3009 Ala Makahala Pl., #1801
Honolulu, Hawaii 96818

January 11, 2010

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Nomination of Edward H. Kubo as Circuit Court Judge of the First Circuit (Oahu)

Dear Senator Taniguchi:

I am grateful for the opportunity to submit this letter in strong support of Mr. Kubo's judicial nomination to the First Circuit Court.

In June of 2006 I started working for Palama Settlement, a community-based 501(c)(3) non-profit organization, of which Mr. Kubo was a Board member at the time. Of our large, 27 member Board, Mr. Kubo was one of our most valued members, because he was not a member only in name. Rather, Mr. Kubo was an active Board member, attending meetings when his schedule allowed, volunteering for various community events and activities, and sharing his knowledge when his specific expertise was needed. In August of 2007 the Board selected me as its new Executive Director, and Mr. Kubo was one of the primary Board members I turned to for advice, mentoring, and guidance.

As an inactive member of the Hawaii State Bar, I also have the background and knowledge of the legal field to believe that Mr. Kubo would make an immediate and positive contribution to the State of Hawaii Judiciary at a time when the Judiciary is losing many of its judges, to early retirement. I believe that Mr. Kubo possesses all of the necessary skills and characteristics, both personal and professional, to merit his nomination and selection. In my interaction with him through his time as a Board member and then after he left, as a mentor and consultant to the Board President, I have observed his ability to (1) command/earn the respect of those around him, at all levels (i.e. professionals, public, rich, poor, diverse ethnic groups, people from both sides of the political aisle, etc.), (2) problem-solve in a manner that is unbiased, fair, and based on the facts presented, and (3) mediate high-intensity/tension-filled situations with unparalleled professionalism and calm (better than anyone I have ever known, Mr. Kubo has the ability to

address a highly intense and negative situations in a way that effectively calms the situation down, gets everyone to continue talking despite disagreement, and results in a workable compromise and solution to the problem at hand).

I fully believe that for if your Committee approves Mr. Kubo's nomination you will be adding instant value to the Judiciary that goes beyond what he will contribute to the legal community and judicial system. He is simultaneously "Mr." Kubo to those who work with him in a professional setting, and "Uncle Ed" to those low-income and/or at-risk children who have had the good fortune of interacting with him at the community center/community-based level.

Thank you for this opportunity to submit my support and should you have any questions please do not hesitate to contact me at 349-5980 and/or pupukea22@yahoo.com.

Sincerely,

/s/

Jan M. Harada

DWYER SCHRAFF MEYER GRANT & GREEN

ATTORNEYS AT LAW ♦ A LAW CORPORATION

1800 PIONEER PLAZA ♦ 900 FORT STREET MALL ♦ HONOLULU, HAWAII 96813
TELEPHONE: (808) 524-8000 ♦ FACSIMILE: (808) 537-4667 ♦ HOME PAGE: www.dwyerlaw.com

JOHN R. DWYER, JR.
PAUL A. SCHRAFF
WILLIAM G. MEYER, III
RONALD V. GRANT
ADELBERT GREEN

LAUREN B. LUIS

OF COUNSEL:
BEATRICE L. K. DAWSON

JARED H. JOSSEM (1942-2003)

January 11, 2010

BY E-MAIL and U.S. MAIL

Senator Brian Taniguchi, Chairperson
Senate Judiciary & Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

RE: EDWARD H. KUBO, JR.

Dear Senator Taniguchi:

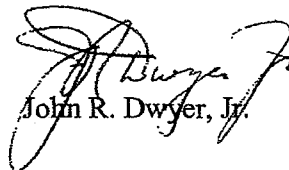
I understand that Mr. Edward H. Kubo, Jr. will be appearing before your Committee during the confirmation process to become a Circuit Court Judge. I only know Mr. Kubo professionally; I am not a social friend. He worked for my law firm for two years (approximately 25 years ago) and reported directly to me in my firm's commercial litigation practice. Frankly, after enticing him from the Prosecutor's Office, I was disappointed when he decided to answer Chuck Marsland's call to return to public service. Since then I have only spoken to him in passing several times, but have followed his career in the media – particularly while he was the United States Attorney.

My professional experience working closely with him indicates that he is very competent and hard working, and extremely honest and forthright. From my perspective, after 35 years of law practice before our State and Federal Courts, I cannot imagine a person with as much or more appropriate experience and integrity than Mr. Kubo for this appointment.

Thus, I support his appointment wholeheartedly.

Aloha,

DWYER SCHRAFF MEYER GRANT & GREEN


John R. Dwyer, Jr.

Senator Brian T. Taniguchi
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

January 5, 2010

Dear Senator Taniguchi:

I am writing in support of former United States Attorney Edward Kubo's nomination for First Circuit Court Judge.

I served as the Federal Bureau of Investigation's, Special Agent in Charge, from 2003 until my retirement in 2007. During that period of time, I had occasion to work with Mr. Kubo on virtually a daily basis. The issues which we addressed were varied and wide-ranging.

As United States Attorney, Mr. Kubo was called upon to make many difficult decisions on matters of prosecution, civil representation for the people and agencies of the United States, and providing direction for the United States Department of Justice here in Hawaii.

I found that Mr. Kubo was always committed to finding the truth and in providing a fair and balanced approach to resolving problems and issues. He did so by carefully weighing the facts and circumstances, giving those involved an opportunity to present their respective positions and concerns, and then making a prosecutive or issues based decision. In my experience with Mr. Kubo, I always found him to be a person of exceptional character and integrity, who enjoyed a similar reputation with the federal agencies which he represented. I have always known him to be loyal to the Constitution and the safeguarding of persons' rights.

I believe that Edward Kubo would be an excellent selection for this important judicial position and consider that he brings an exceptional skill set, distinct experience base, and the right temperament for assuming the bench.

Sincerely,

/s/

Charles L. Goodwin
1150 Makaaoo Street
Honolulu, Hi 96825

TO: State of Hawaii Senate Judiciary Committee

FROM: Mr. Gervin Miyamoto, Retired Lieutenant Colonel-Hawaii Air National Guard, Retired Honolulu Police Department-Lieutenant and current Federal Government employee-in Law Enforcement

SUBJECT: **Letter of Support, for Mr. Edward H. Kubo Jr, Circuit Court Judge**

It is with great pleasure that I submit this **Letter of Support** for former United States Attorney, Edward H. Kubo Jr, for the position of Circuit Court Judge, State of Hawaii.

I have known Mr. Edward H. Kubo, Jr. for more than 27 years while serving as an Investigator with the Honolulu Police Department, as the Commander of the 154th Security Forces Squadron, Hawaii Air National Guard and in my Federal Law Enforcement capacity. He has always been considerate, kind and a trusted friend.

There is no doubt that Mr. Kubo is intelligent, compassionate and has the energy to be a balanced, fair and impartial Circuit Court Judge. His exemplary jurisprudence and kind temperament will enhance the State of Hawaii Judiciary.

Mr. Kubo's creditability within our "multi-jurisdictional" law enforcement environment, specifically Federal, State, all counties police departments, and all services within the military law enforcement make this nominee unique and suitable for this distinguished position.

Community groups from Kalihi, Chinatown, Ewa Beach, Kapolei, Waipahu and every neighbor island has been compassionately and professional reached by Mr. Kubo. He is well liked and has made the time to appear at events, even on weekends to assist the community.

Finally, perceptions are based on "experience and education." Mr. Kubo has worked hard as an Attorney in the private sector, worked hard as a Deputy Prosecuting Attorney, worked hard as an Assistant United States Attorney, and worked hard as the United States Attorney for eight years deserves the confirmation to become the next Circuit Court Judge, State of Hawaii.

I thank you for your time and consideration.

Respectfully,

Signed ////Gervin Miyamoto////
487-2803, 554-0370
gmiyamoto002@hawaii.rr.com

SCHLACK ITO LOCKWOOD PIPER & ELKIND

A LIMITED LIABILITY LAW COMPANY

ERIC A. ELKIND

TOPA FINANCIAL CENTER
745 FORT STREET · SUITE 1500
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TELEPHONE (808) 523-6040 · FAX (808) 523-6030

DIRECT DIAL:
(808) 523-6090

INTERNET:
eelkind@sil-law.com

January 14, 2010

Via Email: sentaniguchi@capitol.hawaii.gov

Senator Brian T. Taniguchi
Chairperson, Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

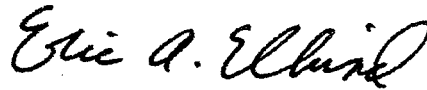
Re: Confirmation of Edward H. Kubo, Jr. as Circuit Court Judge of the First Circuit

Dear Senator Taniguchi:

This letter is written in support of the confirmation of Edward ("Ed") H. Kubo, Jr. as Circuit Court Judge of the First Circuit. I have known Ed since 1993, when we worked together at the Office of the United States Attorney for the District of Hawaii. During my time there, Ed unselfishly offered himself as a mentor to me, and I found him to be a skilled and passionate litigator, a patient teacher, and an ethical and compassionate person. Following our initial working relationship, we have continued a social friendship and I have continued to be impressed by Ed's many significant accomplishments.

Ed's vast litigation experience and tireless dedication to public service makes him an ideal candidate for serving on the Judiciary. If confirmed, I believe he would be a fair, impartial and principled judge. Consequently, I strongly support his confirmation. Thank you for your consideration.

Very truly yours,



Eric A. Elkind

cc: Edward Kubo (*via email*)

COLETTE C. DHAKHWA
Attorney at Law

11 January 2010

The Honorable Brian T. Taniguchi, Chairperson
Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813
PH: (808) 586-6460
FAX: (808) 586-6461
sentaniguchi@Capitol.hawaii.gov

Dear Senator Taniguchi,

Circuit Court Judge Nominee Ed Kubo has asked if I would write a letter on his behalf, and I am happy to respond.

My acquaintance with Ed dates from my beginning years as a law clerk/bailiff to the Honorable Marie N. Milks, Ret., in 1985. For three years (1986-1989), we were colleagues at the Department of the Prosecuting Attorney. Since then, although our professional paths have not crossed, the imprint he left on me has remained, and as a member of the public and practicing attorney, I have continued to track his career at the U.S. Attorney's office. Ed seems to have devoted his legal career to public service, and in pursuing a position on the bench, wants to continue to serve our community, for which I am thrilled.

The Ed I knew and liked when we worked together and still like now was always down to earth, hard working, persevering, knowledgeable, and approachable. As a deputy prosecutor senior to myself, he was easy to talk to and patient, and I felt comfortable consulting with him on any matter at any time. He could also leave personalities aside; I never observed him to be anything but fair and objective when advising this then junior attorney. These aspects of his personality and professional conduct, I believe are attributes of a good judge. Moreover, Ed was even keeled and unflappable, even when faced with adverse decisions and verdicts, as we all were. I see this aspect of his personality as projecting a suitable judicial temperament. Never did I see him "come apart at the seams," in what generally was and could be a high stress job as a deputy prosecutor. Inasmuch as I still appear before judges, I note a job on the bench can also be "high stress," and I believe that Ed is and will be up to the task.

Based on my experience of having worked with him early on, then, I have no hesitation in offering my support to Ed, and offering this opinion of his professional conduct and suitability to be confirmed as a circuit court judge.

Thank you for giving consideration to Ed Kubo, and thank you for taking the time to read this.

Yours truly,

Colette C. Dhakhwa

Coates & Frey

P. Gregory Frey
Managing Attorney

Of Counsel
Bradley A. Coates*
A Law Corporation
Senior Counsel
Paul W. Soenksen

ATTORNEYS AT LAW • LLLC

Jessi L. K. Hall
John D. Hughes
Ann S. Isobe 磯部 末 アン
R. Barrie Michelsen
Traci Rei Morita 森田 麗 トレーシー
Karl E. Phillips
D. Bradley Russell

January 19, 2010

Via Telefax: 586-7339
Chairperson, Senate Judiciary and
Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Senator Taniguchi and Senators on the
State Senate Judiciary Committee:

I am pleased to write this letter of support for the confirmation of Edward H. Kubo as State Circuit Court Judge.

I am honored to recommend Mr. Kubo who I have known since the earliest time when he started off as a Deputy Prosecutor for the City & County of Honolulu nearly three decades ago. Then, for awhile we were neighbors in the Pioneer Plaza during his stint with the Carlsmith Dwyer firm. Ultimately, as we all know, Ed topped off his law-practice career by serving the public for the past eight years as an outstanding U.S. Attorney for the District of Hawaii. Ed compiled an excellent record as U.S. Attorney in fighting drugs and organized crime. At the same time, he has always been fair-minded and has balanced protecting the public with also protecting the legitimate constitutional rights of Defendants – a balanced point of view that he will bring to the bench as a State Circuit Court Judge.

As the founder of Hawaii's largest family law firm, I know all too well how important it is to have fair and decisive judges on the bench...because I have witnessed first hand how poorly the judicial system functions otherwise. I believe Ed Kubo will be a major asset in keeping the system functioning smoothly. For all the above reasons, I respectfully urge that you confirm the nomination of Ed Kubo to be State Circuit Court Judge.

Very truly yours,

COATES & FREY
ATTORNEYS AT LAW, LLLC



BRADLEY A. COATES
Of Counsel

BAC:bj/jl
F:\home\ba\misc\state senate judiciary.ltr (011910)

Domestic & Family Relations • Divorce • All Family Law

*Mr. Coates, the firm's founder, remains an active and vital part of the office in an "Of Counsel" capacity, but no longer maintains an ownership interest in the firm.

From: jackiehan36@hotmail.com
To: sentaniguchi@capitol.hawaii.gov
Subject: Support for nomination of Mr. Kubo for Circuit Court Judge
Date: Thu, 14 Jan 2010 20:16:11 -1000

1/14/10

Dear Senator Taniguchi,

I'm writing to express my support of the nomination of Edward H. Kubo, Jr. for Circuit Court Judge. Looking at his career, his experience is relevant and he has surmounted rigorous tests of physical and mental endurance which have proven him well-qualified for this position.

I searched the Hawaii Reporter, Honolulu Advertiser and Honolulu Star-Bulletin online for information about Mr. Kubo. In all three publications, there was overwhelmingly positive news about him throughout his legal career of many decades.

Mr. Kubo's persistence in fighting drugs in a corrupt system...says much about his sense of integrity and ability to stand his ground despite pressure to bend to the system.

U.S. Bureau of Labor Statistics states, "The most visible responsibility of judges is presiding over trials or hearings and listening as attorneys represent their clients." Mr. Kubo, as U.S. Attorney, District of Hawaii, has a profound understanding of courtroom proceedings and litigation strategies. He took on difficult cases which there were major obstacles to his winning but he won the cases nevertheless. At the City Prosecutor's Office, Mr. Kubo headed the Jury Training Unit and instructed policemen and others on law...a judge must be well-versed in standard legal courtroom procedures.

Mr. Kubo is well-rounded and prepared to preside over areas handled by the Circuit Court Judge. According to the Hawaii State Judiciary website, circuit courts "have exclusive jurisdiction in probate, guardianship and criminal felony cases, as well as civil cases where the contested amount exceeds \$25,000." While other nominees for the Circuit Court Judge have had extensive experience as City and County of Honolulu prosecuting attorneys and/or district court judges, their experience did not cover certain key areas handled by Circuit Court Judge and did not have national impact like the cases Mr. Kubo handled as U.S. Attorney. Thus, I believe he is most qualified for the position.

Sincerely,
Jacqueline H. Farmer

SCHLACK ITO LOCKWOOD PIPER & ELKIND

A LIMITED LIABILITY LAW COMPANY

MATTHEW M. MATSUNAGA

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January 19, 2010

VIA EMAIL TRANSMISSION:
sentaniguchi@Capitol.hawaii.gov

The Honorable Brian T. Taniguchi
Chairperson, Senate Judiciary and
Government Operations Committee
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Senator Taniguchi:

Re: Edward H. Kubo, Jr.
Nomination as Circuit Court Judge of the First Circuit

I have known Ed Kubo for over ten years. He has dedicated his career to public service – as a prosecuting attorney for the City and County of Honolulu, and recently as the United States Attorney for Hawaii – the first product of Hawaii’s public schools to serve in that capacity.

His father, a career Army man who fought in the Korean and Vietnam wars, and his mother, a housewife, both never finished college but always exhorted him that he would go far if he applied himself, worked hard and showed compassion to others. He has done just that. During his tenure with the U.S. Attorney’s Office, Kubo focused on major federal criminal investigations such as white-collar crimes, mortgage fraud, civil rights violations, tax evasion, corruption, crimes on government installations and violent crimes, and made our community a much safer one.

He is also actively involved in professional and community organizations and has earned many awards in recognition of his commitment and effort to giving back to our community.

One of the best things about Ed is the fact that he is married to Tammy Kubo, who is even more active in contributing to our community. She started the Keiki Birthday Program to celebrate life and improve the self-esteem of the children at the Kakaako Homeless Shelter. Through Tammy and Ed’s efforts, the program has expanded to five shelters across the state. But this letter is about Ed, not Tammy.

SCHLACK ITO LOCKWOOD PIPER & ELKIND
A LIMITED LIABILITY LAW COMPANY

The Honorable Brian T. Taniguchi
Chairperson, Senate Judiciary and
Government Operations Committee
January 19, 2010
Page 2 of 2

I am proud to support Edward H. Kubo, Jr.'s nomination as Circuit Court Judge of the
First Circuit.

Sincerely,

SCHLACK ITO LOCKWOOD PIPER & ELKIND
A LIMITED LIABILITY LAW COMPANY


Matthew M. Matsunaga

January 13, 2010

Senator Brian T. Taniguchi
Chairperson
Senate Judiciary and Government Operations Committee
Hawaii State Capitol, Room 219
Honolulu, HI 96813

Re: Nomination of Ed Kubo for Circuit Court Judge

Dear Senator Taniguchi,

I would like to offer my strong support for Attorney Ed Kubo as a candidate for Circuit Court Judge. I have personally known him and his family for almost 15 years.

As a personal friend, I have known Ed Kubo to be a strong advocate of fairness and justice. He is a man of integrity and strong values. He is very personable and a family man as well.

Attorney Ed Kubo would be a great asset to Hawaii's legal system and a great contributor in bringing righteousness to the citizens of Hawaii.

If confirmed by the Senate, Attorney Ed Kubo will carry out his duties with impartiality and with the highest regard for our laws and our legal system.

Sincerely,

Jean Jeremiah
387-5481

From: jrrhnl@aol.com
Sent: Wednesday, January 20, 2010 2:33 PM
To: JGO Testimony
Subject: Nomination of Ed Kuba for Judge of the Circuit Court

SENATOR BRIAN TANIGUCHI, CHAIRPERSON,
COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

RE: CONFIRMATION OF ED KUBO; GM 109, Jan. 21, 2010 at 9:30 AM

TO THE HONORABLE SENATOR TANIGUCHI COMMITTEE MEMBERS:

I HAVE KNOWN MR. KUBO ABOUT 10 YEARS AND HAVE HAD MATTERS WITH HIM WHILE AN AUSA.
I ALSO HAVE HAD MATTERS WITH MR. KUBO AS THE U.S. ATTORNEY, DISTRICT OF HAWAII.

MR. KUBO'S INTEGRITY AND DILIGENCE ARE EXEMPLARY.

I HAVE ALWAYS FOUND MR. KUBO WELL-PREPARED AND HAVING IN DEPTH KNOWLEDGE OF BOTH THE LAW
AND HIS FILE CONTENTS. HIS ABILITIES EXCEL IN KEEPING HIS OATH OF OFFICE AND INCORPORATING
PRAGMATISM IN RESOLVING CASES.

MR. KUBO'S PROFESSIONAL EXPERIENCE IS WELL-ROUNDED. AMONGST HIS PEERS, HE HAS THE HIGHEST
RESPECT AS A CONSUMMATE PROFESSIONAL.

A WELL-BALANCED TEMPERAMENT IS A HALLMARK OF MY EXPERIENCE WITH MR. KUBO AND ALL THOSE
WHOM I HAVE KNOWN INTERACTING WITH HIM.

ABSENT PERSONAL KNOWLEDGE OF HIS FINANCIAL RESPONSIBILITY I PROFFER A SOLID INFERENCE OF
COMPLETE SOUNDNESS.

MR. KUBO'S CAREER HAS BEEN IN PUBLIC SERVICE AND MERITS ITS CONTINUATION.

WHILE I AM AWARE OF PRIOR HEALTH ISSUES, I UNDERSTAND THEM TO BE RESOLVED AND WOULD HAVE
NO RESERVATION AS TO HIS APPOINTMENT BASED ON SAME.

MR. KUBO IS NOT ONLY WHOLLY RESPECTED BUT PERSONIFIES THE ALOHA SPIRIT. ED WOULD BE A
WELCOME ADDITION TO OUR CIRCUIT COURT BENCH.

THANK YOU FOR CONSIDERATION MY TESTIMONY IN SUPPORT OF MR. KUBO.

RESPECTFULLY SUBMITTED,

JOHN R. REMIS #4593
ATTORNEY AT LAW
1188 BISHOP STREET, STE. 1504
HONOLULU, HAWAII 96813
524-4343

From: Pam Burns [pburns@hawaiianhumane.org]
Sent: Wednesday, January 20, 2010 2:55 PM
To: JGO Testimony
Subject: Letter of Support for Ed Kubo

Dear Senator Taniguchi & Members of the Senate Committee on Judiciary and Government Operations,

I am writing to voice my unwavering support of Ed Kubo to serve as a Circuit Court Judge of the First Circuit.

I have known Ed professionally and personally and believe that he is the best candidate for the job because of his many outstanding qualities: his high standards of integrity, pursuit of excellence, expert knowledge of the justice system and commitment to making Hawaii a better place.

Ed has worked tirelessly for the betterment of Hawaii's people and animals. During his tenure as U.S. Attorney for the District of Hawaii, he played a critical role in the successful prosecution and conviction in the first case to be tried under the Federal Animal Fighting Prohibition Act. His work is among the finest in Hawaii.

His outstanding professional experience and exemplary record are a testament to Ed's passion for making Hawaii a better place for all. I fully support the nomination of Ed Kubo to the First Circuit Court and encourage the Committee to vote in favor of him as Hawaii's next First Circuit Judge.

Sincerely,

Pamela Burns

January 19, 2010

Hawaii State Senate
Judiciary Selection Committee
Hawaii State Capitol
Honolulu, Hawaii

Re: Edward H. Kubo, Jr.

Dear Sirs:

It has come to my attention that Edward H. Kubo, Jr. has been nominated for a State of Hawaii Circuit Court judgeship. I would like to raise the grave concerns I have regarding the prospect of Mr. Kubo ever again holding a position in which justice or the public trust is entrusted to him.

I write to you today as a private citizen of the State of Hawaii who cares deeply about this State and its people, but with the insight of one who has dedicated his entire legal career as a prosecutor to the administration of justice. From what I have witnessed during the previous tenure of Mr. Kubo as United States Attorney, I do not believe he would serve honorably or in the best interests of justice if appointed to the bench.

In my career as a prosecutor at both the state and federal level, I have had the privilege of serving under several distinguished leaders: visionaries such as Alan Bersin, the former U.S. Attorney for the Southern District of California and now a top aide within the Department of Homeland Security as well as one of the architects of Operation Gatekeeper, the sweeping federal law enforcement initiative that restored law and order to the southwest United States/Mexico border, and the person who gave me the opportunity to become an Assistant U.S. Attorney in 1998; Charles LaBella, another former U.S. Attorney for the Southern District of California who successfully convicted some of the biggest organized crime families ever prosecuted in federal court; Gregory Vega, former U.S. Attorney for the Southern District of California and currently one of three finalists for the top position of Administrator for the Drug Enforcement Administration; and Daniel Bogden, the former and current U.S. Attorney for the District of Nevada, who may have the unprecedented distinction of serving as a U.S. Attorney after being nominated by first a Republican and, later, a Democratic president.

Each of those individuals were dynamic, passionate people who dedicated their careers to public service and never compromised their pursuit of justice for any reason. In doing so, they all showed great command and leadership by fully understanding the duties before them, displaying personal expertise in the skills required to accomplish those duties and gaining the respect of those who served under them.

I also had the privilege of appearing before many wonderful judges who were beacons of justice and who displayed, on a daily basis, the intelligence, reason and demeanor commensurate of the most positions in the justice system.

During my 5-year tenure under his administration, I neither witnessed Mr. Kubo accomplish nor display any of those attributes. He was largely viewed as incompetent by the line Assistant U.S. Attorneys and typically had no clue what was going on in the office unless and until it provided an opportunity for him to call a press conference. Even then, the pre-press conference meetings with him were painful and laborious tasks where it was embarrassingly evident Mr. Kubo did not grasp fundamental basics of federal law or prosecution principles.

Not that incompetence wouldn't be enough to disqualify Mr. Kubo as a candidate for the current judicial opening; however, there is a much more troubling history of conduct on the part of Mr. Kubo that are the main causes to lead me to believe I have no choice but to report them to you.

From the outset of my arrival in the U.S. Attorney's Office in 2004, Mr. Kubo spent the vast majority of his time outside the office attending scores, possibly hundreds, of breakfasts and luncheons sponsored by virtually every civic group and association on the island. It became clear to everyone that these appearances were not for the purpose of furthering justice or educating the community in any way but were solely for the self-promotion of Mr. Kubo. In fact, the running joke in the office was what position Mr. Kubo was preparing to run for as none of us had ever seen anyone "campaign" that diligently before.

In the last two years of his term, Mr. Kubo took those efforts to a whole new level as he made no attempt to hide the fact, and publicly stated, he was in search of his next job knowing his term would almost certainly end with the departure of President Bush. However, those efforts went from those that were viewed somewhat comically by those in and outside the office to a much more sinister level as Mr. Kubo, on repeated occasions, directed the office to take actions, and

inactions, which were curious at the very least to, in some cases, clearly contrary to the interests of justice. Those actions coincided with the interests of other people or agencies within the federal government and which Mr. Kubo made no secret that he was hoping for future employment so that he could reach his 20-year mark of federal service and the pension which would accompany it. Those positions included posts within the Department of Homeland Security, such as FEMA, as well as the U.S. Department of Veterans' Affairs (VA).

Mr. Kubo's affinity for self-promotion extended beyond public appearances to countless press releases issued by the U.S. Attorney's Office to announce innocuous awards bestowed upon Mr. Kubo by these various civic groups. Even otherwise worthy causes such as 'Malama na Koa', the support program for wounded Hawaii soldiers returning from duty "created" by Mr. Kubo (May 20, 2008 press release issued by U.S. Attorney's Office), were thinly veiled means for his self-promotion.

In order to justify his involvement as well as that of the U.S. Attorney's Office, Mr. Kubo characterized the "Wounded Warriors" program as a "community outreach program" to assist the transition of returning soldiers wounded in duty including advising them of their USERRA rights, etc. In my 17-year prosecuting career, nearly every office I have worked in has employed community outreach programs to some degree and have covered issues ranging from graffiti to gun possession to illegal immigration. All of those programs were prosecution oriented and had wide ranging impact on the local community.

However, nothing about Mr. Kubo's "Wounded Warriors" program carried any of the hallmarks of a true community outreach program. First, as well publicized as the program was outside of the office, there was almost an air of secrecy about it within the office. I was certainly never aware of the program as a designated "community outreach program." In fact, I was never aware of there being any "community outreach program" in place under Mr. Kubo's administration.

Secondly, the "target audience" of the program is a tiny fraction of a percentage point of the population of the District of Hawaii. The number of returning wounded soldiers in Hawaii numbers in the mere hundreds and, while certainly a worthy cause, the program would not have anywhere close to the widespread impact that is sought by a true "community outreach program." Third, the program is heavily "overlapped", meaning various entities such as the Department of Defense, Veterans' Affairs, and all the branches of the armed forces already address

the issues targeted by Mr. Kubo's program.

Finally, the U.S. Attorney's Office has no enforcement or prosecution authority or responsibilities under USERRA or any other issues regarding returning soldiers. Enforcement is strictly the province of the Department of Justice's Civil Rights Division and, prior to that, was under the jurisdiction of the Department of Labor. Thus, it had absolutely no connection to the responsibilities and mission of the U.S. Attorney's Office which is to prosecute criminal cases brought by the federal government, to prosecute and defend civil cases in which the United States is a part, and to collect debts owed the federal government which are administratively uncollectible.

In my opinion, because it is worthy, the program should have been run on Mr. Kubo's personal time rather than directed out of the U.S. Attorney's Office using federal resources and employees. I believe the true purpose of Mr. Kubo's program was intended to place himself in line with a future post with Veterans' Affairs, a position in which he openly expressed great interest.

Mr. Kubo also demonstrated incredible pettiness and vindictiveness and ignored the best interests of the U.S. Attorney's Office for his own personal agenda when, in his last year as U.S. Attorney, he attempted to fire the office's hardest working and most productive prosecutor because of a long and ongoing personality conflict between the two. That attempt failed, but resulted in the office losing the services of this individual for over a year after he was placed on administrative leave so that the trumped up allegations made by Mr. Kubo could be investigated. To show the minor nature of the actual incident, as opposed to that fronted by Kubo, the final disposition of an independent Department of Justice investigation was that the AUSA in question should be suspended for 1 week.

Much more disturbing was that Mr. Kubo sought to dismiss several pending prosecutions indicted by the suspended AUSA in order to "teach him a lesson." One of those included a public corruption case that was literally in the middle of trial before Chief U.S. District Judge Susan Oki Mollway. If not for the intervention of the FBI, who was the investigating agency for the case at trial and who warned Mr. Kubo they would go public if he dismissed the case, and current U.S. Attorney Florence Nakakuni, who was the Narcotics Section Chief at the time, Kubo would have dismissed the cases. Of course, the only ones harmed would have been the citizens of Hawaii.

By the end of his term, not even justice was immune from Mr. Kubo's personal agenda. This was exemplified when, on March 13, 2009, Mr. Kubo directed the filing of an "amicus brief" by the U.S. Attorney's Office in the Family Court of the First Circuit (FC-DA No. 08-1-2474) seeking to intervene and ease the conditions of a domestic violence Order of Protection granted against a probationary, lowlevel Immigration & Customs Enforcement (ICE) transport officer on behalf of a ten-year ICE Senior Special Agent. The filing reeked on several levels and the true reason for the filing has yet be revealed.

First, the situation was essentially a personnel matter involving two ICE employees within ICE which has its own legal counsel to address such issues. Second, any information about the situation would have been required to be forwarded from ICE to the U.S. Attorney's Office, which had no independent knowledge whatsoever, thus invalidating the entire concept of the U.S. Attorney's Office having "unique knowledge" or being an interested or affected party to the issue which is the purpose of an amicus brief. Third, the brief was filed without the knowledge or approval of the U.S. Attorney's Civil Chief who had a standing order that all filings must be submitted to him for his approval. I later learned the Civil Chief took exception to both his circumvention and the office's involvement in the matter. Fourth, in speaking with several long-time federal prosecutors around the country, the reaction was universal that the type of action directed by Mr. Kubo was unprecedented, "bizarre" and unheard of as far as a U.S. Attorney's Office attempting to insert itself in a state Family Court involving a personnel matter between two employees of another federal agency. Fifth, the filed brief absurdly attempted to paint the probationary, lowlevel transport officer as irreplaceable to ICE and stated that the Order of Protection against him was causing an adverse effect "on the public's interest in effective law enforcement and efficient use of public resources" as well as a "significant burden on the government's operations."

At the time of the filing, there had been a string of domestic violence murders in the state. The security manager for the U.S. Attorney's Office objected to the office's involvement in the matter for obvious reasons: First, it was a not a politically correct position in any form and there was nothing but downside risk to the office being involved. In a worse case scenario, had the alleged abuser killed or harmed the recipient of the Order of Protection, there was, and is, a paper trail leading directly from Family Court to the U.S. Attorney's Office which had attempted to advocate on behalf of an accused domestic batterer. Those concerns did not sway Mr. Kubo.

To this day, very few members of the U.S. Attorney's Office are aware of this action. I have firsthand knowledge because I previously had a personal relationship with the Senior Special Agent who obtained the Order of Protection against her former boyfriend and came to me for help when this action was taken. Not only was the office aware of my relationship, they were also on notice that the same transport officer and alleged domestic batterer had admitted, in writing, to threatening me via text message the previous year and that there had been two mysterious burglary attempts on my home, in which access was twice made but no items were taken, just one week before the amicus brief was filed and the alleged abuser was due in court to address allegations he had violated the Order. I reported the burglaries to the police and my office along with my suspicion that the perpetrator was the same individual who was subject to the Order of Protection. Despite that, Mr. Kubo not only directed the filing of the amicus brief, potentially further jeopardizing the safety of me and my family, but did so without my having any knowledge the office was contemplating such an action. In fact, I received notification of the filing from the attorney who was representing the Senior Special Agent in the Family Court matter two days after the brief was filed.

Clearly, there is no logical or rational explanation as to why Mr. Kubo would take such action other than that he stood to benefit, or at least hoped to benefit, from acting on behalf of ICE, an agency under the umbrella of the Department of Homeland Security, and one of the potential future employers he had targeted. Of course, it is ironic, to say the least, that if Mr. Kubo would be appointed to the bench it is my understanding he would begin at the Family Court, a place where less than a year ago, he attempted to intervene on behalf of an accused domestic batterer.

If Mr. Kubo's behind the scenes conduct were not enough, within the office the cronyism employed by Mr. Kubo in appointing his best friends to high, and sometimes invented positions, degraded office morale to the point that an unofficial countdown began within the office with the target day being his last as U.S. Attorney. By the bitter end, even Mr. Kubo knew he was no longer wanted or respected in the office as he packed up his belongings and silently departed after business hours without so much as an emailed farewell.

In my opinion, Mr. Kubo put his personal interests and agenda ahead of the best interests of the U.S. Attorney's Office, the best interests of the community and ahead of justice. In doing so, he not only failed, but abused, the public trust with which he was entrusted. Thus, I urge you, as a seeker of justice, not to subject the

citizens of Hawaii to a judge who seeks his personal interests before those of justice or the public. In my mind, having utterly failed to seek justice or protect the public trust as U.S. Attorney, Ed Kubo should never again wield the privilege and responsibility to seek justice or serve the public as Judge for the Circuit Court or in any other public office.

Sincerely,

Mark A. Inciong

January 19, 2010

To: Senator Colleen Hanabusa
Senator Brian T. Taniguchi
State Capitol
~~415 S. Beretania St.~~
Honolulu, HI 96813

Dear Senators Hanabusa and Taniguchi:

Please allow me to provide information concerning the nomination of Edward H. Kubo, Jr. to serve as a Circuit Court judge of the First Circuit. The views I express are personal and I do not speak for the United States Department of Justice.

I have known Ed Kubo since 1990. I have been an Assistant United States Attorney (AUSA) for twenty-three years and have been an AUSA in the District of Hawaii since 1990. I have worked in the three United States Attorney's Offices and have served under six United States Attorneys.

I can say without reservation that in my opinion Mr. Kubo is not qualified to serve as a judge on the First Circuit Court of Hawaii.

As an AUSA, Mr. Kubo was regarded by his contemporaries as unknowledgeable prosecutor who was often unprepared to handle the simple cases that he was assigned. Mr. Kubo never fully comprehended constitutional criminal procedure, or the rules of evidence nor did he have a good grasp of the Hawaii Code of Professional Responsibility. Ed Kubo just never took the job seriously.

As a representative of the United States before Senior United States District Judge Manuel L. Real, Mr. Kubo failed to appear in court on September 22, 1997 in a criminal trial in United States v. Michael Sanders, Cr. No. 97-00797 MLR. Mr. Kubo decided it was time to leave the federal building and go to lunch without checking with his supervisors or the Court. As a result of Mr. Kubo's lackadaisical attitude, the case against the defendant was dismissed. Mr. Kubo was ordered to write letters of apology to the Court and to the jurors. I have enclosed a copy of the criminal docket in that case.

In fact, the defendant and his defense attorney were present in court and Mr. Kubo's supervisors were unable to locate him as he had left the federal building to go to Burger King without advising anyone.

The United States was forced to go back to the grand jury on September 25, 1997 and obtain another indictment. Mr. Kubo was assigned to try that case and the case was assigned to United States District Judge David A. Ezra. In a jury trial before Judge Ezra on October 16, 1997, the jury acquitted the defendant. ~~I have also enclosed a copy of the indictments and judgment of acquittal.~~

Another example of Mr. Kubo's irresponsible behavior as an AUSA is Mr. Kubo's decision to attend a movie matinee at Dole Cannery Theater without first receiving permission from a supervisory AUSA and submitting a leave slip. Unfortunately, Mr. Kubo bumped into then United States Attorney Steve Alm at the theater and was forced to return to the office and submit a written leave request to his supervisor to cover his unexcused absence.

When Mr. Kubo was selected as United States Attorney, most of us in the office believed that Mr. Kubo would grow into the job. Sadly, we were wrong. Mr. Kubo failed to meet the responsibilities of his office and the citizens and law enforcement agencies of the District of Hawaii have been poorly served. Mr. Kubo never prosecuted a case as the United States Attorney and only appeared in court when there was press interest in the case. Mr. Kubo has never handled a major case in his twenty years in the United States Attorney's Office. He has never prosecuted a complex fraud or tax case, a continuing criminal enterprise case, RICO case or organized crime case. Mr. Kubo has never supervised a wiretap or complex money laundering investigation. But when it comes to claiming the credit, Ed Kubo is right there.

As the United States Attorney, Mr. Kubo has failed to lead the attorneys and staff of the office. In a recent decision by the United States Court of Appeals for the Ninth Circuit, United States Attorney Edward Kubo was criticized for failing to properly train and supervise the military attorneys he sent into United States District Court as special Assistant United States Attorneys. A copy of that decision, United States v. Harrison, 585 F.3d 1155 (9th Cir. 2009) is enclosed. The number of criminal cases filed in United States District Court by the United States Attorney's Office in calendar year 2009 has dropped thirty-five percent despite the fact that the total number of federal prosecutors has increased during Mr. Kubo's tenure.

Mr. Kubo has heralded his involvement in the Wounded Warriors Program in Hawaii and its service to Hawaii's veterans. It is ironic that after I returned to the office from service in

Iraq with the Army Reserve, I had to retain legal counsel to force Mr. Kubo to comply with the Uniform Services Employment and Re-Employment Rights Act and to re-employ me with my previous benefits. Mr. Kubo is willing to take up any cause in the community as long as it advances his personal interests and career.

In summary, in my opinion, Mr. Kubo has spent the last eight years building his resume, at the expense of the people of this district.

Thank you for the opportunity to provide information on this matter.

Very truly yours,


THOMAS MUEHLECK

Enclosures.

Westlaw.

Page 1

585 F.3d 1155, 2009 Daily Journal D.A.R. 14,711
(Cite as: 585 F.3d 1155)

H

United States Court of Appeals,
Ninth Circuit.
UNITED STATES of America, Plaintiff-Appellee,
v.
Rex T. HARRISON, Defendant-Appellant.
No. 08-10391.

Argued and Submitted May 13, 2009.
Filed Aug. 19, 2009.
Amended Oct. 9, 2009.

Background: Defendant was convicted, by jury, of one count of assaulting federal officer and inflicting bodily injury, and one count of forcibly assaulting, resisting, opposing, impeding, intimidating, or interfering with federal officer, and was sentenced by the United States District Court for the District of Hawai'i, David A. Ezra, J. Defendant appealed.


Holdings: On denial of rehearing, the Court of Appeals, Kozinski, Chief Judge, held that:
(1) prosecutors' misconduct was not prejudicial to defendant;
(2) instruction did not require unreasonable inference of guilt from defendant's flight;
(3) defendant was not deprived of due process and fair trial rights regarding assault count;
(4) instruction regarding forcible assault constituted reversible error; and
(5) sentence enhancement for obstruction of justice by perjury was warranted.

Affirmed in part, reversed in part, and remanded.

Bybee, Circuit Judge, filed opinion concurring in part and dissenting in part and would grant petition for rehearing.

Opinion, 578 F.3d 1005, superseded.

West Headnotes

[1] Criminal Law 110  1030(1)

110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(E)1 In General
110k1030 Necessity of Objections in General
110k1030(1) k. In General. Most Cited Cases
Where criminal defendant's trial lawyer failed to object to errors his new lawyer raises on appeal, review is for plain error.

[2] Criminal Law 110  2045

110 Criminal Law
110XXXI Counsel
110XXXI(D) Duties and Obligations of Prosecuting Attorneys
110XXXI(D)5 Presentation of Evidence
110k2043 Examination of Accused
110k2045 k. Cross-Examination.
Most Cited Cases
Prosecutor may not ask a defendant to comment on the truthfulness of another witness.

[3] Criminal Law 110  2045

110 Criminal Law
110XXXI Counsel
110XXXI(D) Duties and Obligations of Prosecuting Attorneys
110XXXI(D)5 Presentation of Evidence
110k2043 Examination of Accused
110k2045 k. Cross-Examination.
Most Cited Cases
Prosecutor's questioning during cross-examination in defendant's trial on two counts of assaulting federal officer constituted misconduct, where prosecutor asked defendant to comment on truthfulness of other witnesses, prosecutor pitted own credibility against defendant's credibility, and prosecutor's im-

585 F.3d 1155, 2009 Daily Journal D.A.R. 14,711
(Cite as: 585 F.3d 1155)

proper questioning was organizational theme for his entire cross-examination. 18 U.S.C.A. § 111(a, b).

[4] Criminal Law 110 ⇨ 2174

110 Criminal Law

110XXXI Counsel

110XXXI(F) Arguments and Statements by Counsel

110k2164 Rebuttal Argument; Responsive Statements and Remarks

110k2174 k. Comments on Evidence or Witnesses. Most Cited Cases

Although prosecutor was entitled to rebut defendant's suggestion that military police officers were motivated to lie at defendant's trial on two counts of assaulting federal officer, prosecutor's comments during closing argument crossed line into impermissible vouching, since prosecutor stated that government stood behind officers, and commented that officers had been promoted with no adverse action whatsoever after internal military investigation, clearly suggesting that information not presented to jury, but available to investigators, supported officers' testimony. 18 U.S.C.A. § 111(a, b).

[5] District and Prosecuting Attorneys 131 ⇨ 3(.5)

131 District and Prosecuting Attorneys

131k3 Deputies, Assistants, and Substitutes

131k3(.5) k. In General. Most Cited Cases

When the United States Attorney endows lawyers with the powers of federal prosecutors, he has a responsibility to properly train and supervise the prosecutors so as to avoid trampling defendants' rights.

[6] Criminal Law 110 ⇨ 1171.3

110 Criminal Law

110XXIV Review

110XXIV(Q) Harmless and Reversible Error

110k1171 Arguments and Conduct of Counsel

110k1171.3 k. Comments on Evidence or Witnesses, or Matters Not Sustained by Evid-

ence. Most Cited Cases

Criminal Law 110 ⇨ 1171.8(2)

110 Criminal Law

110XXIV Review

110XXIV(Q) Harmless and Reversible Error

110k1171 Arguments and Conduct of Counsel

110k1171.8 Presentation of Evidence

110k1171.8(2) k. Cross-Ex-

amination. Most Cited Cases

Prosecutorial misconduct involving asking defendant to comment on truthfulness of other witnesses and vouching during closing arguments did not prejudice defendant, at his trial on two counts of assaulting federal officer, since misconduct did not affect outcome of proceedings as government presented physical evidence of defendant's guilt, including injury to one of his knuckles, state police officer testified to defendant's extreme intoxication, state police officer and military police officer testified that defendant used profanity and struggled during arrest, four witnesses undermined defendant's credibility, and belated curative instruction was given to ameliorate vouching. 18 U.S.C.A. § 111(a, b).

[7] Criminal Law 110 ⇨ 778(11)

110 Criminal Law

110XX Trial

110XX(G) Instructions: Necessity, Requisites, and Sufficiency

110k778 Presumptions and Burden of Proof

110k778(11) k. Flight or Surrender.

Most Cited Cases

An instruction that jury can infer consciousness of guilt from defendant's flight is proper only if the evidence supports a chain of unbroken inferences from (1) defendant's behavior to flight, (2) flight to consciousness of guilt, (3) consciousness of guilt to consciousness of guilt concerning the crime charged, and (4) consciousness of guilt concerning the crime charged to actual guilt of the crime

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charged.

[8] Criminal Law 110 ⇨ 778(11)

110 Criminal Law

110XX Trial

110XX(G) Instructions: Necessity, Requisites, and Sufficiency

110k778 Presumptions and Burden of Proof

110k778(11) k. Flight or Surrender.

Most Cited Cases

In evaluating an instruction that jury could infer defendant's consciousness of guilt from his flight, reviewing court considers whether the defendant knew the police suspected him of a particular crime and whether the defendant fled immediately after the crime.

[9] Criminal Law 110 ⇨ 1038.1(1)

110 Criminal Law

110XXIV Review

110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review

110XXIV(F) In General

110k1038 Instructions

110k1038.1 Objections in General

110k1038.1(1) k. In General.

Most Cited Cases

Criminal Law 110 ⇨ 1152.21(1)

110 Criminal Law

110XXIV Review

110XXIV(N) Discretion of Lower Court

110k1152 Conduct of Trial in General

110k1152.21 Instructions

110k1152.21(1) k. In General. Most

Cited Cases

When criminal defendant has objected to a jury instruction at trial, review is for abuse of discretion.

[10] Criminal Law 110 ⇨ 778(11)

110 Criminal Law

110XX Trial

110XX(G) Instructions: Necessity, Requisites, and Sufficiency

110k778 Presumptions and Burden of Proof

110k778(11) k. Flight or Surrender.

Most Cited Cases

Instruction that jury could infer from defendant's flight that he was conscious of his guilt for assaulting and inflicting bodily injury on federal officer was supported by evidence of chain of unbroken inferences from defendant's behavior to his flight, to his consciousness of guilt, to his consciousness of guilt concerning crime charged, and to his actual guilt of crime charged; after striking officer in face, defendant would have been aware that police suspected him of crime when he fled scene, chain of inferences was not broken when defendant reported that his car was stolen, as jury could have inferred that defendant made false report to set up imaginary car thief as fall-guy for crime, and jury would not have mistakenly inferred that instruction applied to defendant's first attempt to flee, as no reasonable inference could be made that defendant was conscious of guilt because he fled prior to committing crime. 18 U.S.C.A. § 111(b).

[11] Constitutional Law 92 ⇨ 4679

92 Constitutional Law

92XXVII Due Process

92XXVII(II) Criminal Law

92XXVII(H)5 Evidence and Witnesses

92k4679 k. Cross-Examination. Most

Cited Cases

Constitutional Law 92 ⇨ 4690

92 Constitutional Law

92XXVII Due Process

92XXVII(H) Criminal Law

92XXVII(II)5 Evidence and Witnesses

92k4690 k. Vouching for Witnesses;

Bolstering, Most Cited Cases

(Formerly 92k4629)

Criminal Law 110 ⇨ 2045

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110 Criminal Law
110XXXI Counsel
110XXXI(D) Duties and Obligations of Prosecuting Attorneys
110XXXI(D)5 Presentation of Evidence
110k2043 Examination of Accused
110k2045 k. Cross-Examination.
Most Cited Cases

Criminal Law 110 ↪2200

110 Criminal Law
110XXXI Counsel
110XXXI(F) Arguments and Statements by Counsel
110k2191 Action of Court in Response to Comments or Conduct
110k2200 k. Comments on Evidence or Witnesses. Most Cited Cases
Prosecutor's multiple errors by improper cross-examination questioning and vouching during closing argument did not render defendant's trial on two counts of assaulting federal officer fundamentally unfair, precluding defendant's claim of deprivation of his rights to due process and fair trial, since prosecutor's improper questioning only highlighted credibility judgment that defendant was himself asking jury to make, and vouching paired with curative instruction did not make defense far less persuasive than it otherwise might have been. U.S.C.A. Const.Amend. 5.

[12] Criminal Law 110 ↪1038.1(4)

110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(F)1 In General
110k1038 Instructions
110k1038.1 Objections in General
110k1038.1(3) Particular Instructions
110k1038.1(4) k. Elements of Offense and Defenses. Most Cited Cases

Obstructing Justice 282 ↪18

282 Obstructing Justice

282k17 Trial
282k18 k. Instructions. Most Cited Cases
Instruction that jury could convict if defendant intentionally used force in assaulting, resisting, or intimidating federal officer, and clarification that there was use of force when one person intentionally physically intimidated another, constituted plain error, even though statute prohibited any force against federal officer, since instruction defined "force" out of statute entirely by equating force with physical intimidation so that jury could have convicted defendant for no more than purposefully standing in manner that emphasized his size and strength, and statute required proof of assault, but physical intimidation would not always constitute assault. 18 U.S.C.A. § 111(a).

[13] Criminal Law 110 ↪1038.1(4)

110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(F)1 In General
110k1038 Instructions
110k1038.1 Objections in General
110k1038.1(3) Particular Instructions
110k1038.1(4) k. Elements of Offense and Defenses. Most Cited Cases

Obstructing Justice 282 ↪18

282 Obstructing Justice

282k17 Trial
282k18 k. Instructions. Most Cited Cases
Plainly erroneous instruction defining force as physical intimidation, under criminal statute prohibiting forcibly assaulting, resisting, opposing, impeding, intimidating, or interfering with federal officer and requiring proof of assault, warranted reversal of verdict against defendant, on grounds that he might not have been convicted absent error, be-

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cause no strong and convincing evidence of force or assault excused instruction; officer stated that she was "not a hundred percent confident" that defendant said he was going to attack officer, and, while at times officer said that defendant "started running" in her direction, at other times she said he merely "looked like he was starting to come running." 18 U.S.C.A. § 111(a).

[14] Sentencing and Punishment 350H → 761

350H Sentencing and Punishment
350HIV Sentencing Guidelines
350HIV(C) Adjustments
350HIV(C)2 Factors Increasing Offense Level

350Hk761 k. Obstruction of Justice.
Most Cited Cases

Defendant's sentence upon conviction of two counts of assaulting federal officer warranted obstruction of justice enhancement based on defendant's perjury on stand, since defendant concocted fanciful story, and then to cover one lie, lied again and then lied again. 18 U.S.C.A. § 111(a, b).

*1157 Edward H. Kubo, Jr., United States Attorney; Lawrence L. Tong, Assistant United States Attorney, Honolulu, HI, for plaintiff-appellee the United States of America.

Peter C. Wolff, Jr., Office of the Federal Public Defender, Honolulu, HI, for defendant-appellant Rex T. Harrison.

Appeal from the United States District Court for the District of Hawaii, David A. Ezra, District Judge, Presiding. D.C. No. 1:07-CR-00384-DAE-1.

Before: ALEX KOZINSKI, Chief Judge, JAY S. BYBEE and CONSUELO M. CALLAHAN, Circuit Judges.

*1158 Opinion by Chief Judge KOZINSKI; Partial Concurrence and Partial Dissent by Judge BYBEE.

ORDER

The opinion is amended to replace the first two sentences of the first full paragraph on page 11321 of the slip opinion with the following:

<Although the evidence under count 2 would have been sufficient to support the jury's verdict, had the jury been properly instructed, it was ambiguous. Officer Kirby testified that she would not have ordered her dog to attack "without [Harrison] saying that he was going to do something to me," but she also said she was "not a hundred percent confident that he said he was going to attack me." And while at times Officer Kirby said that Harrison "started running" in her direction, at other times she said he merely "looked like he was starting to come running.">

Appellant's Petition for Rehearing and for Rehearing En Banc is otherwise denied. See Fed. R.App. P. 35, 40. Judge Bybee would grant the petition.

No further petitions for rehearing or rehearing en banc may be filed.

KOZINSKI, Chief Judge:

Everyone could have done more to protect defendant's rights at trial.

I

This is a tale of two Rex Harrisons. The first is the Harrison of Officers Jenkins and Kirby, two military police officers, who describe a man so drunk he could barely stand straight. A man who reeked of alcohol at a distance of six feet. Who snarled, "I don't think I should have to give you shit" when asked for his driver's license. A man who punched Officer Jenkins in the face and told Officer Kirby, "I'm not afraid of you and I'm not afraid of your fucking dog."

The second Rex Harrison is the man of his own telling. This Harrison had only "a couple of beers with dinner." When confronted by the officers, he

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humbly apologized for trespassing. This Harrison was calm and non-confrontational; he had the milk of human kindness by the quart in every vein. He certainly never hit anyone.

The jury must have believed the first story because it convicted Harrison of two counts of assaulting a federal officer. He appeals.

II

[1] Except where otherwise noted, Harrison's trial lawyer failed to object to the errors his new lawyer raises on appeal. We therefore review for plain error, asking the usual questions, including whether there was prejudice. See, e.g., *United States v. Reccio*, 371 F.3d 1093, 1100 (9th Cir.2004).

Count 1

A. Harrison was convicted of assaulting Officer Jenkins and inflicting "bodily injury." 18 U.S.C. § 111(b). He complains that the prosecutors engaged in improper questioning during cross-examination and improper "vouching" during closing arguments.

[2][3] It's black letter law that a prosecutor may not ask a defendant to comment on the truthfulness of another witness, *United States v. Combs*, 379 F.3d 564, 572 (9th Cir.2004), *United States v. Geston*, 299 F.3d 1130, 1136 (9th Cir.2002), but the prosecutors here did just that. One prosecutor asked: "You're saying that [they're] going on the stand, swearing an oath to testify to the truth and then lying ... ?" *1159 He even pitted his own credibility against Harrison's, asking, "So I'm in the conspiracy against you, is that right?" These were not isolated incidents: Improper questioning was an organizational theme for the prosecutor's entire cross-examination.

[4] The vouching was similarly patent. The government was entitled to rebut Harrison's suggestion that Officers Jenkins and Kirby were motivated to lie, but it crossed the line when one prosecutor

mentioned during closing that the officers had been promoted "with no adverse action whatsoever" after an internal military investigation. This clearly "suggest[ed] that information not presented to the jury," but available to the investigators, supported the officers' testimony. *United States v. Necochea*, 986 F.2d 1273, 1276 (9th Cir.1993). And it would be hard to find a clearer case of "placing the prestige of the government behind a witness," *id.*, than the prosecutor's statement that the "[g]overnment stands behind" Officers Jenkins and Kirby.

[5] The government concedes the impropriety of many of these statements, but points out that the prosecutors were Special Assistant United States Attorneys on loan from the military. That's no excuse at all; when the United States Attorney endows lawyers with the powers of federal prosecutors, he has a responsibility to properly train and supervise them so as to avoid trampling defendants' rights. Indeed, everyone involved could have done better: The defense attorney should have objected as soon as he saw the prosecutors step out of line. And the respected and experienced district judge should not have tolerated this protracted exhibition of unprofessional conduct.

[6] Nevertheless, Harrison must also show prejudice, and he hasn't. Harrison insists the government's case was "not overwhelming, but consisted of no more than a credibility contest...." But the government presented physical evidence of Harrison's guilt, including an injury to one of his knuckles. Harrison admitted making a spurious 911 stolen-car call when he knew full well his car was with the MPs. A state police officer who saw Harrison later that night testified to his extreme intoxication. And both the state police officer and a third MP testified that Harrison used profanity and struggled while being arrested. After four witnesses undermined Harrison's credibility, we cannot say the prosecutors' misconduct "affected the outcome of the district court proceedings." *United States v. Olano*, 507 U.S. 725, 734, 113 S.Ct. 1770, 123

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[...Ed.2d 508 (1993). Any prejudice from the vouching was also ameliorated by the judge's belated curative instruction. See *Combs*, 379 F.3d at 575.

Harrison relies on *Geston* and *Combs*, but they are not on point. *Combs* reduced to a pure credibility contest between a defendant and two witnesses. 379 F.3d at 573. In *Geston*, because a prior trial resulted in a hung jury, we inferred that the case was a close one and thought the prosecutor's misconduct might well have tipped the balance. 299 F.3d at 1136.

[7][8][9] B. Harrison claims the jury should not have been instructed that it could infer consciousness of guilt from his flight. Such an instruction is proper only if the evidence supports "a chain of unbroken inferences" from (1) defendant's behavior to flight; (2) flight to consciousness of guilt; (3) consciousness of guilt to consciousness of guilt concerning the crime charged; and (4) consciousness of guilt concerning the crime charged to actual guilt of the crime charged. *United States v. Dixon*, 201 F.3d 1223, 1232 (9th Cir.2000). Courts consider "whether the defendant knew the police suspected him of a *1160 particular crime" and "whether the defendant fled immediately after the crime." *Id.* Harrison objected at trial, so we review for abuse of discretion. *United States v. Perkins*, 937 F.2d 1397, 1401 (9th Cir.1991).

[10] With respect to count 1, all the necessary inferences were supported. Having struck an officer in the face, Harrison would have been aware that police suspected him of a crime. And Harrison surely did flee the scene. Harrison claims the chain of inferences was broken when he reported his car as stolen. But the jury could have inferred that he made a false report in an effort to set up an imaginary car thief as the fall-guy for his crimes. Nor can we say the instruction was invalid because the jury might have mistakenly thought it applied to Harrison's first attempt to run away, prior to striking Officer Jenkins. The instruction permitted the jury to draw a reasonable inference; it did not require an unreasonable one. No reasonable jury would have inferred that Harrison was conscious of guilt be-

cause he fled prior to committing the crime.

[11] C. Harrison suggests that the multiple errors at trial deprived him of his due process and fair trial rights and urges us to reverse under a "cumulative effects" theory. But the errors did not render the trial "fundamentally unfair." *Parle v. Runnels*, 505 F.3d 922, 927 (9th Cir.2007). The prosecutor's improper questioning only highlighted a credibility judgment that Harrison was himself asking the jury to make. And the prosecutor's vouching, when paired with a curative instruction, did not make the defense "far less persuasive than it might [otherwise] have been." *Id.* (quoting *Chambers v. Mississippi*, 410 U.S. 284, 294, 93 S.Ct. 1038, 35 L.Ed.2d 297 (1973)).

Count 2

Harrison was also convicted of forcibly assaulting, resisting, opposing, impeding, intimidating, or interfering with Officer Kirby. 18 U.S.C. § 111(a). Harrison challenges his conviction based on the same prosecutorial misconduct and an additional erroneous jury instruction.

A. The misconduct once again was not prejudicial. To be sure, because there were no witnesses other than Harrison and Officer Kirby, this part of the case did reduce to a credibility contest akin to *Geston* or *Combs*. But once the jury believed that Harrison struck Officer Jenkins, it was not going to believe Harrison when he claimed he was a perfect gentleman towards Officer Kirby.

[12] B. The district court told the jury it could convict if "the defendant intentionally used force in assaulting, resisting, or intimidating" Officer Kirby, and it clarified that "[t]here is use of force when one person intentionally physically ... intimidates ... another." That was plain error. While "a defendant may be convicted of violating section 111 if he ... uses any force whatsoever against a federal officer," including a mere threat of force, *United States v. Sommerstedt*, 752 F.2d 1494, 1496 (9th

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Cir.1985), the instruction here defined "force" out of the statute entirely by equating it with physical intimidation. As instructed, the jury could have convicted Harrison for no more than purposefully standing in a way that emphasized his size and strength. The instruction was likewise improper under *United States v. Chapman*, which clarified after Harrison's trial that section 111 always requires proof of an assault. 528 F.3d 1215, 1222 (9th Cir.2008). Just as physical intimidation need not involve use of force, it will not always constitute assault.

*1161 [13] We cannot find the "strong and convincing evidence" of force or assault that might excuse this instruction under plain error review. See *United States v. Alferahin*, 433 F.3d 1148, 1158 (9th Cir.2006). The government suggests that the jury's verdict on the third (state law) count of the indictment shows that it necessarily found the missing elements, but that count involved conduct at an entirely different time.

Although the evidence under count 2 would have been sufficient to support the jury's verdict, had the jury been properly instructed, it was ambiguous. Officer Kirby testified that she would not have ordered her dog to attack "without [Harrison] saying that he was going to do something to me," but she also said she was "not a hundred percent confident that he said he was going to attack me." And while at times Officer Kirby said that Harrison "started running" in her direction, at other times she said he merely "looked like he was starting to come running." Certainly the evidence did not compel a finding of "force" under *Sommerstedt*-much less "assault" under *Chapman*.

Because Harrison might not have been convicted absent error below, we reverse with respect to count 2. We need not decide whether the court erroneously instructed the jury that it could infer consciousness of guilt under count 2 from Harrison's flight after his encounter with Officer Kirby.

III

[14] Harrison also challenges the district court's enhancement of his sentence for lying on the stand. We review for clear error, asking whether the district court could have found (1) that Harrison gave false testimony, (2) on a material matter, (3) with willful intent. *United States v. Garro*, 517 F.3d 1163, 1171 (9th Cir.2008). According to Harrison, the fact that he stuck to his story after trial shows that he "honestly, if somewhat delusively," believed his own testimony. But, after observing Harrison's demeanor, the district court concluded that he "concocted a fanciful story, and then in order to cover one lie, lied again and then lied again." In light of the patent discrepancy between Harrison's testimony, the physical evidence and the testimony of every other witness, we cannot say that was clear error.

* * *

We uphold the judgment of conviction with respect to count 1 and reverse with respect to count 2. We also vacate Harrison's sentence. See *United States v. Ruiz-Alvarez*, 211 F.3d 1181, 1184 (9th Cir.2000). This partial affirmance does not condone what happened at trial. Rather, this mixed result suggests only that trials can sometimes serve justice despite strenuous efforts to the contrary.

AFFIRMED IN PART, REVERSED IN PART AND REMANDED.

BYBEE, Circuit Judge, concurring in part and dissenting in part:

I agree with the majority that Harrison's conviction on count two must be reversed because the jury instruction on that count was faulty under our decision in *United States v. Chapman*. 528 F.3d 1215 (9th Cir.2008). I respectfully dissent, however, from the majority's affirmance of Harrison's conviction on count one. This case is controlled by two decisions holding that improper prosecutorial questions regarding the credibility of witnesses constituted plain error requiring reversal of the defend-

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ants' convictions. See *United States v. Combs*, 379 F.3d 564 (9th Cir.2004); *1162 *United States v. Geston*, 299 F.3d 1130 (9th Cir.2002). Distilled to its essence, the case against Harrison consisted of little more than a credibility contest between him and the two military police officers whom he accused of abusing their authority. In light of the extensive misconduct at trial, and the conflicting evidence of Harrison's guilt, I cannot say with confidence that he would have been convicted of assaulting Officer Jenkins in the absence of the prosecutor's improper questioning.

Because the majority neglects to set forth the facts, I am going to present them briefly.

The events at issue in this case took place on "Army Beach," a portion of Mokuia Beach in Oahu. The Army declared the area off-limits at night and military police patrolled the beach each evening to enforce this prohibition. On the night of March 9, 2007, military police officers Travis Jenkins and Amber Kirby were patrolling the beach with Kirby's narcotics dog. At approximately 11:53 p.m., the officers saw Harrison's silver Mazda parked near the beach.

Harrison and Officers Jenkins and Kirby offer conflicting accounts of what occurred next. According to the officers, Harrison refused multiple directives to leave the beach and instead yelled profanities at them. In response to Harrison's display, the officers requested his identification and vehicle registration information; after a brief period of grudging cooperation, Harrison attempted to flee the officers by running towards nearby bushes. When Officer Jenkins attempted to bring Harrison back, Harrison punched him in the face. Officer Kirby eventually caught up with Harrison in the woods, where Harrison again mouthed profanities at her. Officer Kirby was frightened by Harrison's movements towards her but her narcotics dog refused to attack Harrison and he was thus able to flee the scene.

Harrison, for his part, told a markedly different story at trial. According to Harrison, he had two or three beers at a friend's house, but stopped drinking between 6:30 and 6:45 p.m. Harrison went home, but left just before 10:00 p.m. in response to a friend's invitation to come to a party near the beach. Upon arriving at the beach, Harrison was unable to find his friends, so he parked in the area near the bushes. At that point, Officers Jenkins and Kirby approached and told him he was on military property. Harrison apologized, told them why he was on the beach, and offered to leave, but the officers demanded to see identification and would not allow him to depart. After allowing the officers to run his Hawaii driver's license, Harrison asked again if he could leave, but the officers told him "No, you cannot go. We're not letting you go that easy. We're not letting you go without finding something on you." Harrison protested the treatment he was receiving and claimed it was harassment, but Officer Jenkins told him that he could do whatever he wanted, and patted his gun.

Harrison then started walking towards the bushes. Officer Jenkins jumped on top of him and both men hit the ground hard, with Harrison using his right hand to break the fall. Harrison then ran for the bushes to get help. He denied both punching Officer Jenkins and assaulting Officer Kirby while the two were in close quarters in the bushes.

Officer Kirby then returned to the scene of these disputed events and two Hawaii state police officers, Kenneth Roberts and Kalai Phillips, arrived at the beach a few minutes after being called. After about an hour, Officer Roberts left the scene and he received a dispatch indicating that Harrison*1163 had contacted the Hawaii Police Department claiming that his car had been stolen. Officer Roberts informed his field supervisor that Harrison was the individual for whom the military was looking. Officer Roberts invited Harrison to accompany him to Army Beach to retrieve his car, which Harrison agreed to do. Upon their arrival, Officers Jenkins and Kirby, with the assistance of the Hawaii police

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officers, placed Harrison under arrest.

On August 9, 2007, a federal grand jury in the district of Hawaii indicted Harrison for, among other things, assault on a federal officer, in violation of 18 U.S.C. §§ 111(a)(1) and (b), against Officer Jenkins, and misdemeanor assault on a federal officer, in violation of 18 U.S.C. § 111(a)(1), against Officer Kirby. After trial, the jury convicted Harrison of both counts.

II

To their combined credit, neither the majority nor the government attempts to defend the outrageous behavior of the lead prosecutor in this case. Indeed, the prosecutor's veracity-based questioning was so extensive that summarizing it all is no easy task. I counted at least twenty-six separate questions of this nature. The subjects covered by these improper questions included, but were not limited to, the following: (1) Whether Officer Kirby had "made up" the claim that Harrison charged at her and that she drew her weapon in response [ER 601]; (2) whether the government's witnesses similarly made up the location where Harrison's car was parked [ER 602]; (3) whether Officers Jenkins and Kirby had lied in asserting that Harrison harassed them [ER 602-03]; (4) whether both officers lied in claiming that they told Harrison that he was on Army property and thus needed to leave [ER 604]; (5) whether the officers were in a conspiracy against him [ER 604]; (6) whether Officers Jenkins, Kirby, and Roberts were "dirty cops" [ER 605]; (7) whether Harrison was "saying that their [sic] going on the stand, swearing an oath to testify to the truth and then lying against [him]" [ER 605]; (8) whether Officers Jenkins and Kirby made up the claim that Harrison told them that he used to be in the Air Force [ER 611]; (9) whether other witnesses who testified that they saw swelling on Officer Jenkins's face shortly after the disputed events occurred were lying [ER 617]; (10) whether Officer Kirby made up the claim that Harrison told her, from the bushes, "F* * * you and your f* * * * * dog, I'm not afraid of you and

your f* * * * * dog" [ER 623]; and (11) whether Officers Kirby and Jenkins, as well as Investigator Sutherland, had lied in claiming that Harrison "curs[ed] up a storm" at all three of them [ER 636-37]. The prosecutor closed his cross-examination by asking Harrison whether the officers were "in cahoots against him" and whether they had lied in order to get him in trouble. [ER 641]. The prosecutor even took the extraordinary step of pitting his own credibility against Harrison's.

As Harrison correctly notes and the majority acknowledges, the prosecutor's improper questioning was not simply a matter of one or two isolated incidents; it was the underlying theme of the prosecutor's entire cross-examination. [Blue Br. 37; Maj. Op. at 1158-59]. Virtually every line of the trial transcript devoted to the cross-examination contains objectionable content. Indeed, the extensive summary above actually understates the prosecutor's misconduct. In response to some of the prosecutor's questions, Harrison initially resisted the conclusion that discrepancies between his testimony and that of other witnesses were the result of deliberate misrepresentations, and the prosecutor *1164 repeated several questions multiple times (often in a slightly different form) in an attempt to elicit additional statements from Harrison in the effect that other witnesses were lying. [See, e.g., ER 602-03, 605, 641-42].

Jurors are almost always confronted with conflicting testimony from different witnesses. That is why we have the jury; if there aren't any conflicts, then the case can be resolved on summary judgment (at least in the civil context). Resolving these he said/she said conflicts is a first-order determination. We expect the jurors to work through the conflicts and decide for themselves who, if anyone, has accurately described the events. This the jurors must do "by assessing the witnesses and witness testimony in light of their own experience." *Gaston*, 299 F.3d at 1136 (internal quotation marks omitted).

By contrast, we do not permit second-order questions: That is, we do not permit attorneys to support

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or undermine witnesses by either vouching for their veracity ("Brutus is an honorable man") or branding them unreliable ("All Cretans are liars"). Accordingly, "it is reversible error for a witness to testify over objection whether a previous witness was telling the truth." *Id.*; see also *Combs*, 379 F.3d at 572 (improper to ask witness whether law enforcement official was lying); *United States v. Sanchez*, 176 F.3d 1214, 1219 (9th Cir.1999) (same). As the majority notes, counsel-regrettably-failed to object to the prosecutor's questions. Nonetheless, in *Combs* and *Geston*, the defendants' attorneys also did not object to improper veracity-based questioning at trial but we nonetheless concluded in both cases that such questioning constituted plain error requiring reversal of the defendants' convictions.

III

With all due respect to my colleagues in the majority, our decisions in *Combs* and *Geston* mandate reversal of both of Harrison's convictions. The unprofessional conduct in this case was far more extensive than in *Combs* and probably *Geston* as well.^{FN1} In *Combs*, we found plain error based on a single exchange in which the prosecutor in that case elicited testimony from the defendant that a federal agent was lying (the prosecutor referred back to this exchange in his closing argument). 379 F.3d at 567. That exchange, although clearly improper, pales in comparison to what occurred here.

FN1. I say "probably" because in *Geston* we provided the transcript of the government's questioning of one witness, but we merely observed that the government "[s]imilarly" questioned a second witness. 299 F.3d at 1136. If the questioning of the second witness was indeed similar, the prosecutorial abuse in this case far exceeded the improper questioning in *Geston*. Moreover, unlike in this case, the improper questioning in *Geston* was limited to the testimony of two outside witnesses,

rather than the defendant himself, another factor that made the questioning here far more damaging to Harrison's right to a fair trial.

Of course, it is well established that "[w]hen applying the plain error standard, we consider all circumstances at trial including the strength of the evidence against the defendant." *United States v. Rudberg*, 122 F.3d 1199, 1206 (9th Cir.1997) (internal quotation marks omitted). Accordingly, we have affirmed convictions even after acknowledging that improper veracity-based questioning occurred at trial. See, e.g., *United States v. Ramirez*, 537 F.3d 1075, 1086-87 (9th Cir.2008).

Having said that, the government's evidence against Harrison was not nearly strong enough to justify affirmation of his conviction on count one. To be fair, Harrison almost certainly mischaracterized *1165 events on several occasions during his testimony at trial. Harrison testified that he only had "a couple of beers with dinner" several hours prior to his encounter with Officers Jenkins and Kirby and that he was not intoxicated during any of the events in dispute. However, Officer Roberts testified that Harrison's eyes were red, watery, glassy and bloodshot and that he smelled strongly of alcohol. Harrison also admitting donning a trash bag as clothing after the incident, behavior that is not generally associated with sobriety. When Harrison called 911, he falsely (or at least misleadingly) reported that his car was stolen, but he did not mention the incident with Officers Jenkins and Kirby or even allude generally to an encounter with military police. Harrison also did not tell Officer Roberts about his encounter with the two military police officers while Officer Roberts was transporting him back to the beach. Moreover, Harrison's account of his arrest was refuted by the four officers at the scene, who all testified that Harrison physically resisted and shouted profanities at them.

The majority has great fun with Harrison's story. However, virtually all of the discrepancies relied upon by the majority involve collateral issues. Har-

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risson did himself no favors by denying that he resisted arrest and claiming that he was not intoxicated, but Harrison was not charged with public intoxication, and count one had nothing to do with whether he resisted arrest after Officer Roberts transported him back to the beach. Rather, the jury's determination on count one turned solely on whether the jury believed that Harrison assaulted Officer Jenkins when he and Officer Kirby initially encountered Harrison.

The physical evidence bearing on this question didn't amount to a hill of beans. Investigator Sutherland testified that Officer Jenkins had a bruise on his face shortly after the initial encounter with Harrison and he described the bruise as a "7 to 8" on a scale from one to ten; however, Investigator Sutherland took two photographs of Officer Jenkins's face within hours of the disputed events, neither of which depict any noticeable redness or swelling. [Compare ER 415-16, with DSER 1-3]. Even assuming that Officer Jenkins's injuries were indeed far more severe than these photos indicate, any such injuries are quite arguably consistent with Harrison's version of events, in which he claimed that Jenkins initially tackled him and that both of them then hit the ground hard. The majority also relies upon testimony of an injury to Harrison's knuckles, but we don't have any visual evidence indicating the severity of this injury; given the government's seeming exaggeration of the injuries to Officer Jenkins's face, I am not inclined to take this testimony at face value (no pun intended) and the majority shouldn't either. In any event, while the jury could have found this to be evidence of assault, it also could have accepted Harrison's claim that any such injury was the incidental result of Jenkins having tackled him. Contrary to the majority's characterization then, the jury's determination on count one indeed involved little more than a credibility contest between Harrison on the one hand, and Officers Jenkins and Kirby on the other.

In *Combs*, we faced an evidentiary landscape quite similar to the one at issue here: "the circumstantial

evidence of the charged offense" was not particularly strong and "[m]uch of it was equally consistent with Combs's defense," leaving the jury with a credibility dispute between Combs on the one hand, and a DEA agent and jailhouse informant on the other. 379 F.3d at 572-73. We concluded that this evidence was not strong enough to uphold Combs's conviction. As I noted above, the improper questioning in this case was far *1166 more extensive than that at issue in *Combs*.

Although the majority recognizes that the prosecutor's questions were improper, it essentially concludes that the questions didn't matter because they "only highlighted a credibility judgment that Harrison was himself asking the jury to make." Maj. Op. at 1160. This point, however, applies in almost any case in which a prosecutor asks impermissible second-order questions regarding the credibility of other witnesses. For example, there would obviously have been no point in even asking such questions here if Harrison had offered a legal defense or theory in which the credibility of opposing witnesses was *not* at issue—such as entrapment, insanity, or mistaken identity. Indeed, in *Geston*, we specifically noted that such questioning was particularly improper "[i]n a case where witness credibility was paramount." 299 F.3d at 1137.

This case provides a perfect example of the prejudicial effect of such questions. Harrison may well have been lying about what happened between him and Officers Kirby and Jenkins. But it's not as though his story was implausible—Officers Kirby and Jenkins would hardly be the first law enforcement officers to abuse their authority by harassing someone without provocation. And two additional facts lend at least some support to his story. First, Officers Jenkins and Kirby paint a picture of Harrison as profane and belligerent but it is undisputed that he furnished his driver's license to them upon request; that's how they knew who he was. Second, if Harrison in fact knew he was guilty of assaulting two military officers, it is somewhat strange that he would call the police and return to the beach to re-

585 F.3d 1155, 2009 Daily Journal D.A.R. 14,711
(Cite as: 585 F.3d 1155)

trieve his car, particularly since he had to have known that Officers Jenkins and Kirby had taken his driver's license and thus knew his identity.

It is not our role to weigh this evidence. It suffices to say that a jury could certainly believe that Harrison was borderline intoxicated and that his behavior irritated Officers Jenkins and Kirby but nonetheless conclude that Harrison did not assault Officer Jenkins and that the officers forced the confrontation by arbitrarily refusing to allow him to leave and then tackling him when he attempted to walk away. But by compelling Harrison repeatedly to accuse four separate witnesses of lying and then ridiculing him directly thereafter, the prosecutor made it more difficult for the jury to perform its duty to independently evaluate the credibility of the witnesses who offered conflicting testimony. The prosecutor's questions were particularly harmful in this case because some of them identified conflicts that had no bearing on whether Harrison had assaulted Officers Jenkins and Kirby, but were instead designed to depict Harrison as an absurd, paranoid individual by forcing him repeatedly to accuse other witnesses of lying.

IV

Because the only direct evidence of Harrison's guilt rose and fell on the credibility of two hardly disinterested witnesses—the precise issue that the prosecutor improperly and repeatedly injected into his cross-examination of Harrison—I would vacate Harrison's conviction on count one. I thus respectfully dissent from that portion of the judgment.

C.A. 9 (Hawai'i), 2009.

U.S. v. Harrison

585 F.3d 1155, 2009 Daily Journal D.A.R. 14,711

END OF DOCUMENT

COPY

STEVEN S. ALM
United States Attorney
District of Hawaii

ELLIOT ENOKI
First Assistant U.S. Attorney

EDWARD H. KUBO, JR.
Assistant U. S. Attorney
Room 6100, PJKK Federal Building
300 Ala Moana Blvd., Box 50183
Honolulu, Hawaii 96850
Telephone: 541-2850

Attorneys for Plaintiff
UNITED STATES OF AMERICA

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JUL 10 1997
at 10 o'clock and 5 min. P.M.
WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL SANDERS,

Defendant.

CR. NO. _____
INDICTMENT
[18 U.S.C. § 2262(A)(1)]

INDICTMENT

The Grand Jury charges that:

On or about July 4, 1997, in the District of Hawaii and elsewhere, MICHAEL SANDERS, did travel across a State line, to wit, between New Mexico and Hawaii, with the intent to engage in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person for whom the

//

protection order was issued, to wit, Mary Beth Sanders, and subsequently engaged in such conduct.

All in violation of Title 18, United States Code, Section 2262(a)(1).

DATED: 7/10, 1997, at Honolulu, Hawaii.

A TRUE BILL

John P. Lawler Jr.
FOREPERSON, GRAND JURY

[Signature]
UNITED STATES ATTORNEY

[Signature]
FIRST ASSISTANT U.S. ATTORNEY

[Signature]
ASSISTANT U.S. ATTORNEY

United States v. Michael Sanders,
Cr. No. 97-_____; Indictment

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

OCT 22 1997

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

at 2 o'clock and 15 min. P.M.
WALTER A. Y. H. CHINN, CLERK

UNITED STATES OF AMERICA,)
 Plaintiff,)
)
 VS.)
)
 MICHAEL SANDERS)
)
 Defendant.)

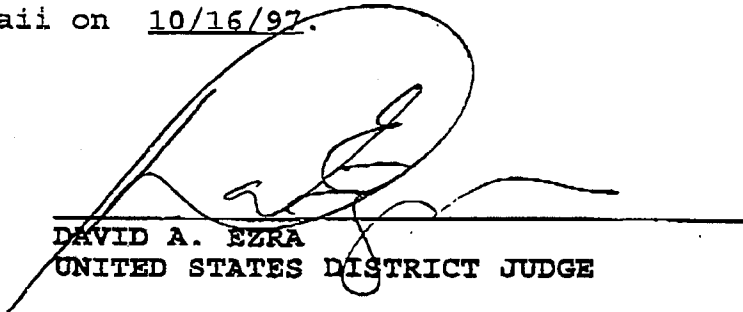
CRIMINAL NO. 97-01079 DAE

JUDGMENT OF ACQUITTAL

The Jury on 10/16/97, having found the defendant,
MICHAEL SANDERS , not guilty,

IT IS HEREBY ORDERED that the Indictment file on September 25, 1997
against MICHAEL SANDERS, be dismissed.

Dated at Honolulu, Hawaii on 10/16/97.



DAVID A. EZRA
UNITED STATES DISTRICT JUDGE

cc: USA
AFPD
USPO, USM

STEVEN S. ALM
United States Attorney
District of Hawaii

ELLIOT ENOKI
First Assistant U.S. Attorney

EDWARD H. KUBO, JR.
Assistant U. S. Attorney
Room 6100, PJKK Federal Building
300 Ala Moana Blvd., Box 50183
Honolulu, Hawaii 96850
Telephone: 541-2850

Attorneys for Plaintiff
UNITED STATES OF AMERICA

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
SEP 25 1997
at _____ o'clock and _____ min.
WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DAE

UNITED STATES OF AMERICA,) CR. NO. 97 01079
)
Plaintiff,) INDICTMENT
) [18 U.S.C. § 2262(a)(1)]
vs.)
)
MICHAEL SANDERS,)
)
Defendant.)

INDICTMENT

The Grand Jury charges that:

On or about July 4, 1997, in the District of Hawaii and elsewhere, **MICHAEL SANDERS**, did travel across a State line, to wit, between New Mexico and Hawaii, with the intent to engage in conduct

80.000
1000
1000
1000
1000

that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person for whom the protection order was issued, to wit, Mary Beth Sanders, and subsequently engaged in such conduct.

All in violation of Title 18, United States Code, Section 2262(a)(1).

DATED: Sept. 25, 1997, at Honolulu, Hawaii.

A TRUE BILL

Mary Beth Sanders
FOREPERSON, GRAND JURY

Jr *[Signature]*
UNITED STATES ATTORNEY

[Signature]
FIRST ASSISTANT U.S. ATTORNEY

[Signature]
ASSISTANT U.S. ATTORNEY

United States v. Michael Sanders,
Cr. No. 97-_____ ; Indictment

CM/ECP-DC V3.2.2 (1/09) **LIVE**

https://ecf.hid.circ9.dcn/cgi-bin/fdktRpt.pl?900696039285114-L_801_0-1

TERMED

U.S. District Court
District of Hawaii (Hawaii)
CRIMINAL DOCKET FOR CASE #: 1:97-cr-00797-MLR-1
Internal Use Only

Case title: USA v. Sanders
 Magistrate judge case number: 1:97-mj-00277

Date Filed: 07/10/1997
 Date Terminated: 09/22/1997

Assigned to: Judge Manuel L. Real

Defendant (1)

Michael Sanders
TERMINATED: 09/22/1997

represented by **Pamela J. Berman Byrne**
 Office of the Federal Public Defenders
 PJKK Federal Building
 300 Ala Moana Blvd Rm 7-104
 Honolulu , HI 96813
 541-2521
TERMINATED: 09/22/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
 Community Defender Appointment*

Pamela J. Byrne
 Office of the Federal Public Defender
 PJKK Federal Building
 300 Ala Moana Blvd Rm 7-104
 Honolulu , HI 96850
 541-2521
 Fax: 541-3545
 Email: pamela_byrne@fd.org
TERMINATED: 09/22/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or
 Community Defender Appointment*

Pending Counts

None

Disposition

CM/ECF-DC V3.2.2 (1/09) **LIVE**

https://ecf.hid.circ9.dcn/cgi-bin/DktRpt.pl?900696039285114-L_801_0_1

Highest Offense Level (Opening)

None

Terminated Counts

18:2662(A)(1) interstate violation of protective order 07/04/97 Ct 1 (1)

Disposition

case is dismissed for want of prosecution.

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition**Plaintiff**

USA

represented by **Edward H. Kubo, Jr.**
 Office of the United States Attorney
 Prince Kuhio Federal Building
 300 Ala Moana Blvd Ste 6100
 Honolulu, HI 96850
 541-2850
 Email: Ed.Kubo@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/07/1997	1	COMPLAINT by Peter Lee, SA FBI, against Michael Sanders signed by Mag Judge Francis I. Yamashita [1:97-m -277] (gab) (Entered: 07/08/1997)
07/07/1997	2	ARREST Warrant issued for Michael Sanders bail set for NO BAIL by Mag Judge Francis I. Yamashita [1:97-m -277] (gab) (Entered: 07/08/1997)
07/07/1997	3	EP: MINUTES: INITIAL APPEARANCE of Michael Sanders ; Request for court appointed attorney granted. Defendant sworn to Financial Affidavit ; preliminary exam set for 1:15 7/10/97 for Michael Sanders before Mag Judge Edward C. King ; detention hearing set for 1:15 7/10/97 for Michael Sanders Defendant remanded to the custody of the U.S. Marshals. Pamela J. Berman Byrne, Edward Kubo, Peter Lee present (Ct Rptr: Tape) by Mag Judge YAMASHITA [1:97-m -277] (sealed) (Entered: 07/10/1997)
07/07/1997	4	FINANCIAL Affidavit as to Michael Sanders [1:97-m -277] (sealed) (Entered: 07/10/1997)

CM/ECF-DC V3.2.2 (1/09)**LIVE**

https://ecf.hid.circ9.dcn/cgi-bin/DklRpt.pl?900696039285114-L_801_0-1

07/07/1997	5	ORDER of Temporary Detention Pending Hearing Pursuant to Bail Reform Act as to Michael Sanders by Mag Judge Francis I. Yamashita [1:97-m -277] (sealed) (Entered: 07/10/1997)
07/08/1997	6	Motion to detain defendant without bail as to defendant Michael Sanders [1:97-m -277] (sealed) (Entered: 07/10/1997)
07/09/1997	7	RETURN on Clerks Temporary Commitment - exec by USM - 7/7/97 as to defendant Michael Sanders (gs) (Entered: 07/10/1997)
07/09/1997	8	ARREST Warrant returned executed as to Michael Sanders on 7/7/97 (gs) (Entered: 07/10/1997)
07/09/1997		ARREST of defendant Michael Sanders on 7/7/97 (gs) (Entered: 07/10/1997)
07/10/1997	9	EP: INDICTMENT by USA Counts filed against Michael Sanders (1) count(s) 1; PS ordered (Lisa Groulx) by Mag Judge KING (gab) Additional attachment(s) added on 6/13/2006 (bbb,). (Entered: 07/11/1997)
07/10/1997	10	PS issued as to Michael Sanders ; arraignment set for 1:15 7/10/97 for Michael Sanders before Mag Judge Edward C. King (gab) (Entered: 07/11/1997)
07/10/1997	11	EP: MINUTES: A & P and Detention Hrng - Deft present; Artn waived; Plea of NOT GUILTY entered; JS/JT: 9/9/97 @ 9:00 A.M. (DAE); FPT: 8/18/97 @ 9:30 A.M. (FIY); Deft's M/Due 7/31/97; Govt resp 8/14/97; Govt's Oral M/Cont trial -objections by deft; Court grants Govt's Oral M/Cont trial - citing continuity of counsel; Kubo to prepare order; JS/JT: 9/23/97 @ 9:00 A.M. (DAE); FPT: 9/8/97 @ 9:30 A.M. (FIY); DH - Deft's oral M/Cont DH - GRANTED; DH contd to 7/14/97 at 2:30 p.m. (FIY) ; Michael Sanders, USA Attorney Edward Kubo Jr., Pamela J. Byrne present (Ct Rptr: Debra Chun) by Mag Judge Edard C. King (gs) (Entered: 07/12/1997)
07/10/1997	12	PS returned executed on 7/10/97 as to Michael Sanders (gs) (Entered: 07/12/1997)
07/11/1997	13	Government's Proffer for Defendant's Detention Hearing; Exhibit "A"; Certificate of Service (gs) (Entered: 07/12/1997)
07/14/1997	14	EP: MINUTES: Detention Hearing; Motion to Detain GRANTED; Deft remanded to the custody of the USMS; Michael Sanders, USA Attorney Edward Kubo Jr., Pamela J. Byrne present (Ct Rptr: Terrence Chun) by Mag Judge Yamashita (gs) (Entered: 07/17/1997)
07/16/1997	15	ORDER Granting Government's Motion to Detain Defendant without bail by Mag Judge Francis I. Yamashita re [14-1] (gs) (Entered: 07/17/1997)
07/24/1997	16	ORDER Granting Government's Oral Motion to Continue Trial and Waiver of Speedy Trial Period by Mag Judge Edward C. King Final Pretrial conference set for 9:30 9/8/97 for Michael Sanders ; jury trial set for 9:00 9/23/97 for Michael Sanders , Time from 9/9/97 to 9/22/97 is excluded under the Speedy Trial Act (sealed) (Entered: 07/28/1997)
07/25/1997	17	Notice of Compliance with Local Rule 320-1(a); Certificate of Service (sealed) (Entered: 07/28/1997)

CM/ECF-DC V3.2.2 (1/09)**LIVE**

https://ecfhd.circ9.dcn/cgi-bin/DktRpt.pl?900696039285114-L_801_0-1

08/07/1997	18	Notice of Motion; MOTION to reconsider Release of Deft; Memorandum of Law; Exhibits "A" and "B"; Declaration of Counsel; Certificate of Service by defendant Michael Sanders Motion hearing set for 8/8/97 @ 9:30 a.m. (gs) (Entered: 08/11/1997)
08/13/1997	19	EP: MINUTES: Motion for reconsideration of bail - denied. Defendant's presence waived. [18-1]; Attorney Edward Kubo Jr., Pamela J. Byrne, Peter Lee present (Ct Rptr: Terrence Chun) by Mag Judge YAMASHITA (gab) (Entered: 08/17/1997)
08/22/1997	20	Notice of Appeal; Memorandum of Law; Exhibits "A" and "B"; certificate of Service from Magistrate's Order by defendant Michael Sanders (cc: CRD, Judge Ezra) (gs) (Entered: 09/05/1997)
08/26/1997	21	EO: MINUTES Deft's Appeal of Magistrate's Detention order is set for Aug 29, 1997 @ 2:30 p.m.; Parties notified; by Judge Ezra (gs) (Entered: 09/05/1997)
08/29/1997	22	EP: MINUTES: Deft's Appeal of Magistrate's Detention Order: The court affirms the Magistrate's Detention Order; Deft's Motion for Bail is DENIED; Michael Sanders, USA Attorney Edward Kubo Jr., Pamela J. Byrne present (Rptr: Yukie Ichikawa) by Judge Ezra (gs) (Entered: 09/05/1997)
09/08/1997	23	EP: MINUTES: Final pretrial conference continued to 9/15/97 at 9:30 FIY; Deft to COP; deft not present; for Michael Sanders ; USA Attorney Edward Kubo Jr., Pamela J. Byrne present (Ct Rptr: Yukie Ichikawa) by Mag Judge Yamashita (gs) (Entered: 09/11/1997)
09/12/1997	24	NOTICE of Intent to Admit Other Bad Acts of Trial as to deft. Michael Sanders by plaintiff USA; Certificate of Service (sealed) (Entered: 09/15/1997)
09/12/1997	25	Government's Proposed JURY Instructions as to deft. Michael Sanders; Certificate of Service (sealed) (Entered: 09/15/1997)
09/15/1997	27	EP: MINUTES: Jury Trial before Judge DAE set for 9:00 09/23/97; Representations by counsel on trial time: days US- 2, days Dfnt(s)- 1 Fed. R. Crim. P. 16(a)(1)(C)(E) disclosures made as to Defendant; Fed. R. Evid. 404(b) by none; Motions in limine filed and served by 9/17/97; Mem in opp to motions in limine by 9/19/97; Brady and Giglio Material by disclosed; Jury Instructions exchanged by completed; Witness lists per stipulation by 9/16/97; Parties will exchange exhibits; Original exhibits tabbed and in ; Stipulations filed by 09/17/97; Voir Dire Questions by 09/17/97; Trial Briefs by 09/17/97; Jencks Disclosure by the Friday before trial as to Michael Sanders ; Attorney Edward Kubo Jr., Pamela J. Byrne present (Ct Rptr: Yukie Ichikawa) by Mag Judge YAMASHITA (gab) (Entered: 09/18/1997)
09/16/1997	26	EO: MINUTES Case is reassigned to Judge Manuel Real. jury selection to commence on 1:30 p.m. 9/22/97 for Michael Sanders Parties notified. by Judge EZRA (gab) (Entered: 09/18/1997)
09/17/1997	28	Report of Final Pretrial Conference, Minutes and ORDER by Mag Judge Francis I. Yamashita (gab) (Entered: 09/18/1997)

CM/1:CF-DC V3.2.2 (1/09)**LIVE**

https://ecf.hid.circ9.dcr/cgj-bin/DktRpt.pl?900696039285114-L_801 0-1

09/17/1997	29	Government's PROPOSED Voir Dire Questions; Certificate of Service (gab) (Entered: 09/18/1997)
09/18/1997	30	Notice of Motion and MOTION in limine to Exclude Certain Evidence by defendant Michael Sanders Memorandum of Law; Exhibit "A"; Declaration of Counsel; Certificate of Service; Motion hearing set for 09/22/97 @ 1:30 p.m. (MLR) (gab) (Entered: 09/19/1997)
09/18/1997	31	Government's Potential Trial WITNESS list; Certificate of Service (gab) (Entered: 09/19/1997)
09/18/1997	32	PROPOSED Voir Dire Questions by defendant Michael Sanders; Certificate of Service (gab) (Entered: 09/19/1997)
09/18/1997	33	Joint JURY Instruction Settlement Statement by plaintiff USA; Exhibit "A"; Certificate of Service (gab) (Entered: 09/19/1997)
09/22/1997	34	Government's Memorandum in RESPONSE to Defendant's Motion In Limine; Certificate of Service [30-1] (gs) (Entered: 09/23/1997)
09/22/1997	35	OBJECTION to Delivery of Opening Statement before an Unsworn Jury; Certificate of Service by defendant Michael Sanders (gs) (Entered: 09/24/1997)
09/22/1997	37	EP: MINUTES: Conference held outside the presence of the jurors. Def. present w/counsel. Judge Real clarifies with counsel that he will proceed first with Jury Selection in the case of CR 96-00263 MLR, USA v. Andrus and then will select the jury in this case. Attorney Edward Kubo Jr., Pamela J. Byrne present (Ct Rptr: Yukie Ichikawa) by Judge REAL (gab) (Entered: 09/26/1997)
09/22/1997	38	EP: MINUTES: Jury Selection - (out of the presence of the jurors) Pamela Byrne present w/def. Edward Kubo not present. As the Court did not excuse counsel, the case dismissed as to Michael Sanders (1) count(s) 1 for want of prosecution. Attorney Pamela J. Berman Byrne present (Ct Rptr: Yukie Ichikawa) by Judge MANUEL REAL (sealed) (Entered: 09/29/1997)
09/23/1997	36	Notice of Motion; MOTION to reconsider order Dismissing Case; Declaration of Counsel; Certificate of Service by USA as to Michael Sanders (gs) (Entered: 09/24/1997)
09/24/1997	39	EP: MINUTES: Govt's M/Reconsideration: No ruling from the Court regarding Govt's motion. Mr. Kubo is ordered by the Court to write a letter of apology to every member of the Jury Panel that were present for the Jury selection forthwith. [36-1] ; Attorney Edward Kubo Jr., Pamela J. Berman Byrne present (Ct Rptr: Yukie Ichikawa) by Judge EZRA (sealed) (Entered: 09/29/1997)
09/18/1998		Transcript of Proceedings 07/14/97 and 08/13/97 contained in 1 volume - Orig ;# of pages: Total of 28; Terrence Chun; 1 (afc) (Entered: 09/18/1998)
04/18/2000	40	ORDER for Dismissal by Judge Manuel L. Real case dismissed as to Michael Sanders (1) count(s) 1. case is dismissed for want of prosecution. , case terminated (gab) (Entered: 04/19/2000)

Lance M. Goto
P.O. Box 4526
Honolulu, Hawaii 96812

January 20, 2010

The Honorable Brian T. Taniguchi, Chair
Senate Committee on Judiciary and Government Operations
Twenty-fifth State Legislature
Regular Session of 2010
State of Hawaii

BY EMAIL TRANSMISSION TO JGOTestimony@capitol.hawaii.gov.

**RE: GM 109 Submitting for consideration and confirmation to the
Circuit Court of the First Circuit, Gubernatorial Nominee, EDWARD
H. KUBO, JR.**

Date: Thursday, January 21, 2010, 9:30 a.m.
Location: State Capitol, Conference Room 016
Copies: 1

Chair Taniguchi and Members of the Senate Committee on Judiciary and Government Operations:

I, Lance Goto, am writing in an individual capacity, in support of the confirmation of Gubernatorial Nominee, EDWARD H. KUBO, JR., to the Circuit Court of the First Circuit.

I am currently a deputy attorney general working under Attorney General Mark Bennett. I have been with the Department of the Attorney General since 1997, and have also worked for the two prior Attorney Generals, Earl Anzai and Margery Bronster. All the while, I have worked in the area of criminal prosecutions. Prior to 1997, I worked for twelve years as a deputy prosecuting attorney for the City and County of Honolulu. In that office, I worked under Prosecutors Charles Marsland, Keith Kaneshiro and Peter Carlisle. I have practiced in the area of criminal law for over twenty-four years.

I worked with Mr. Kubo at the Honolulu Prosecutor's Office for a few years before he left to join the U.S. Attorney's Office. While he was Hawaii's U.S. Attorney and I was working with the Criminal Justice Division of the Department of the Attorney General, I had numerous opportunities to participate in meetings and projects with Mr. Kubo on various law enforcement issues. Based on my experiences with Mr. Kubo, I feel comfortable in making certain representations about him, and supporting his nomination.

The Honorable Brian T. Taniguchi

January 20, 2010

Page 2

Mr. Kubo has practiced law in Hawaii for many years. He is very experienced and knowledgeable on the law and procedure. He also has strong litigation skills. Just as importantly, he is adept at communicating with others and working well with them. His experience as the U.S. Attorney for Hawaii has helped him become very capable of managing people, developing policies and implementation plans to address many different kinds of issues, and dealing with people. With all of his knowledge and experience, Mr. Kubo will be a strong, capable and fair judge.

Mr. Kubo will be a great addition to the First Circuit Court, and the people of Hawaii will be very fortunate to have someone with his abilities and character serving on the bench.

I respectfully request the committee support Mr. Kubo's confirmation.



UNIVERSITY
of HAWAII
MĀNOA

January 20, 2010

Senator Brian Taniguchi
Chairperson
Committee on Judiciary and Government Operations
Hawai'i State Capitol, Room 219
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Taniguchi and Members of the Committee:

RE: GM109

Hearing Thursday, January 21, 2010 at 9:30 AM

I am pleased to write in support of the nomination of Edward H. Kubo, Jr. to be a Circuit Court Judge of the First Circuit. I believe that Mr. Kubo has all the necessary qualifications and the right temperament and commitment to the search for justice to be an excellent Circuit Court Judge.

Mr. Kubo and I are not close friends, but I have had the genuine pleasure of getting to know him professionally in a number of different ways. Throughout my many contacts with Mr. Kubo, I always have been impressed with his professionalism, his deep devotion to public service, and his relaxed, self-deprecating, and very winning personality. In addition, he stands out for his open-mindedness and his willingness to listen.

Mr. Kubo's extensive trial experience as a Deputy City Prosecuting Attorney, followed by his long service both as an Assistant U.S. Attorney and as the U.S. Attorney for Hawai'i, certainly makes him unusually well-qualified to serve as a judge. But the fundamental factors that make it particularly easy to highly recommend Mr. Kubo for this important judicial position are his outstanding personal qualities, his integrity, diligence, and intelligence, and his strong sense of fairness and his respect for others.

Please feel free to contact me if additional details would be of use to you in your deliberations by phone at: 956-6363 or via e-mail at: soifer@hawaii.edu.

Thank you.

Sincerely yours,

Aviam Soifer
Dean and Professor

Senator Brian Taniguchi

Chair, Committee on Judiciary and Government Operations (Fax No.: 808 586-6659)

Re: Nomination of Edward H. Kubo (GM 109)

20 Jan 10

Dear Senator Taniguchi and Members of the Committee:

This letter is written in strong support for the nomination of Edward H. Kubo to be a Circuit Court Judge.

I have know Mr. Kubo for nearly twenty years, primarily on a professional basis, mostly during his years as an Assistant and then the U.S. Attorney for the District of Hawaii.

He possesses the personal and professional qualities required of a Judge serving the people of Hawaii.

Mr. Kubo's demeanor, personality, integrity, training, administrative capabilities and knowledge of the law and Justice system have prepared him well to assume the role of a Judge. In addition, he possesses the moral courage to make the proper decisions and rulings that he will confront as a jurist.

During my years serving the federal bankruptcy system I worked with Mr. Kubo in developing and recommending cases for prosecution. His support and willingness to successfully prosecute bankruptcy crimes sent a strong message to the public in the battle against white collar crime and fraud.

I humbly ask the Committee and Senate as a whole to approve the nomination of Edward H. Kubo as a Circuit Court Judge.

Respectfully submitted,



Gayle J. Lau, Esq.

P.O. Box 26436

Honolulu, HI 96825

808 291-3955

DONALD IKEDA
Council Member
District 2 South Hilo



Phone No.: (808) 961-8261
Fax No.: (808) 961-8912
E-mail: dikeda@co.hawaii.hi.us

HAWAII COUNTY COUNCIL

County of Hawai'i
Hawai'i County Building
25 Aupuni Street
Hilo, Hawai'i 96720

January 19, 2010

SENT VIA FACSIMILE AND E-MAIL

Senator Brian Taniguchi, Chairperson
Senate Judiciary and Government Operations Committee
Fax: 808-586-6461
senttaniguchi@capitol.hawaii.gov

Testimony in Support of Edward H. Kubo, Jr. **As Judge in the Circuit Court of the First Circuit, State of Hawai'i**

I am honored to speak in strong support of the nomination of Edward H. Kubo, Jr., as a Judge in the Circuit Court of the 1st Judicial Circuit for the State of Hawai'i.

Edward H. Kubo, Jr. has always placed the interest of safer communities as his top priority. He maintains a fair and impartial attitude and yet remains compassionate and understanding of the needs of people and their communities. Through his efforts and support, our County has been able to rid communities of illicit drugs, establish drug-free educational programs for our children and provide up-to-date training for law enforcement personnel. Mr. Kubo was instrumental in clearing the illicit drug trafficking out of the Pu'u'ueo area, making the community a safer place for all. His efforts have extended throughout Hawai'i County and other counties as well. Indeed, Mr. Kubo has an extensive and historically proven track record of success throughout the entire State of Hawai'i.

Over the years, Mr. Kubo has demonstrated his leadership. He has an uncanny ability to effectively bring agencies and people together to work collaboratively in the furtherance of establishing safer communities. Mr. Kubo exhibits a knack for organization, teamwork spirit and fostering long-lasting collaborative relationships, yet he remains humble and down-to-earth.

He has served the community well, as a Deputy Prosecutor, an assistant U.S. Attorney, and in private practice. He is familiar with motions, hearings, trials and other court proceedings. His decorum is above reproach. His transition to Circuit Court Judge will be straightforward and he will be a credit to the court system and the Hawai'i Bar.

I believe Mr. Kubo is well qualified for the position of a Circuit Court Judge, and he will exceed all expectations with his dedication and commitment to our communities and the State. Please feel free to call me if you wish to discuss this matter further.

January 19, 2010

Page 2

Thank you for allowing me to speak in support of the nomination of Edward H. Kubo, Jr.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Donald Ikeda". The signature is fluid and cursive, with the first name "Donald" and last name "Ikeda" clearly distinguishable.

Donald Ikeda, Council Member
District 2, South Hilo
County of Hawai'i

D:awm