

SB-714

Submitted on: 2/10/2021 5:09:37 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jesse Rivera	Individual	Support	No

Comments:

Aloha Senate Judiciary Committee!

I send this in support of SB714. It makes total sense for the Hawaii Publicity Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009. The persons name, especially if it was well known to the public is still the persons name that will more than likely live on for many years to come. Their heirs or successors should be able to protect their legacy no matter when they might have passed.

If possible, I'd also like the opportunity to be linked in during the zoom video conference on Feb 12, 2021.

Mahalo for your time!

Jesse Rivera

Statement of William G. Meyer III
before the Senate Judiciary Committee
in strong support of SB 714 (Relating to Publicity Rights)
Hearing: Friday, February 12, 2021, at 9:15am

Dear Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

My name is William G. Meyer III, and I hereby express my strong support of SB 714. I have been practicing business law in Honolulu since 1979 with a focus on entertainment and intellectual property law. Over the years I have had the honor and opportunity to represent and assist many noted local artists, entertainers, and public figures and the heirs of such persons.

Background – The Hawaii Publicity Rights Act (“HPRA”)

In 2009, HPRA recognized the existence of a property right, known as the “right of publicity,” in a person’s “persona” (i.e., their name, voice, signature, and likeness). The law was originally enacted to address concerns that the personas of Hawaii’s musicians, entertainers, and cultural icons, both living and dead, were being appropriated by third parties for commercial gain without the permission of such persons or their heirs.

The genesis of HPRA was a dispute between a record label and the estate of the iconic Hawaiian artist “Aunty” Genoa Keawe over the use of (the then-deceased) Aunty Genoa’s persona despite the objections of her son, Mr. Eric Keawe. As a result of this dispute, and recognizing that other local artists and their heirs were subject to misappropriation of identity, the estate of Genoa Keawe and the Office of Hawaiian Affairs (“OHA”) pushed for the passage of HPRA to protect the personas of all people, both living and dead, for a period of 70 years after their death. The bill, S.B. 1005, was part of OHA’s legislative package in 2009.

The Hawaii Publicity Rights Act Was Always Intended to Protect the Personas of Those Who Died Before it Was Enacted

From its inception, HPRA was intended to protect the publicity rights of persons such as Aunty Genoa Keawe for a period of 70 years even though they (like she) died prior to the enactment of the law. This fact is evident from the very circumstances that precipitated HPRA in 2009 as well as HPRA’s legislative history and the public testimony submitted in connection therewith.

The community response after HPRA was passed further confirms that the law was understood to protect the personas of those who predeceased its enactment. I have encountered many transactions involving the publicity rights of persons who died before HPRA was enacted and it was commonly understood among attorneys and clients alike that such publicity rights were protected under HPRA.

Notably, almost half of the publicity rights names currently registered with the State of Hawaii, Department of Commerce and Consumer Affairs (“DCCA”) pursuant to HPRA were registered by the heirs and successors of people who predeceased the passage of HPRA. Attached hereto as **Exhibit A** is a printout of the DCCA Publicity Rights Name Registration List,

retrieved from the DCCA website on February 10, 2021. Attached hereto as **Exhibit B** is a table of the DCCA Publicity Rights Name Registrations with a column listing the person's date of death showing that, excluding duplicate registrations, seventeen of the forty-one persons whose publicity rights have been registered are people who died prior to the enactment of HPRA.

Why is SB 714 Necessary?

SB 714 is necessary because a recent case held that HPRA does not protect the personas of people who died before the law was enacted on July 15, 2009, even if the 70-year protection period has not yet expired. See *N. K. Collins, LLC v. William Grant & Sons, et al.*, ECF No. 126, Civ. No. 19-000386-ACK-RT (D. Haw. July 17, 2020).

At issue in that case was the persona of someone who died in 1973. The plaintiff sought relief under HPRA, alleging that a third party was exploiting the deceased's persona for commercial purposes without the heirs' permission. Relevant here is the judge's finding that relief under HPRA was unavailable because the legislature did not adequately express its intent that HPRA was intended to apply retroactively (i.e., to people who died before HPRA was enacted, even if less than 70 years has passed since such person's death). Under Hawaii law, a statute only applies retroactively where the legislative intent is clear.

This court ruling created the same dilemma that the legislatures in California, Washington, and Indiana faced with respect to their right of publicity statutes. Although the legislatures in those states meant for their right of publicity statutes to apply retroactively, courts held that each state's statute lacked sufficient language to demonstrate the legislatures' intent. In response to these rulings, each state passed legislation amending its right of publicity law to clarify that the protection extends to those who died prior to the effective date of the original statute.

Similar to legislative amendments made by California, Washington, and Indiana, SB 714 amends HPRA to clearly express the legislature's intent that the law applies to persons who died before July 15, 2009 (the date HPRA was enacted) so long as the 70-year protection period has not expired.

Unless this legislature passes SB 714, the personas of countless local and other persons who died before July 15, 2009 have no protection under HPRA from misappropriation for commercial purposes. The current situation leaves local icons such as Aunty Genoa Keawe, Don Ho, Eddie Aikau, Israel Kamakawiwo'ole, Patsy Mink, Duke Kahanamoku, and countless others with zero protection under HPRA despite the fact that many have relied on the protections of HPRA for years.

Accordingly, I strongly urge this Committee to pass SB 714 so that the heirs and legal representatives of those who have passed prior to July 15, 2009 may be protected under HPRA.

Respectfully submitted,

Bill Meyer

EXHIBIT A

Department of Commerce and Consumer Affairs
Business Registration

[Home](#) » [Online Services](#) » Publicity Rights Name Registration

PUBLICITY RIGHTS NAME REGISTRATION

ID NUMBER	APPLICANT'S NAME AND ADDRESS	FILE NUMBER	STATUS	REGISTRATION DATE	EXPIRATION DATE	PUBLICITY RIGHTS NAME	PURPOSE	CERTIFICATE NUMBER
1	Cyril Pahinui 94-870 Lumiaua St. K-104, Waipahu HI 96797		E	8/14/2009	8/13/2014	GABBY PAHINUI PUBLICITY RIGHTS	Entertainment/Event & Collateral Services	270001
2	Don Ho Revocable Living Trust of October 29, 1992 P. O. Box 61236, Honolulu HI 96839		E	8/20/2009	8/19/2014	DONALD TAI LOY HO PUBLICITY RIGHTS	Entertainment, general business, merchandising	270002
3	Michael A. Cobb 91-1121 Keoneula Blvd. L4, Ewa Beach HI 96706		E	8/26/2009	8/25/2014	MICHAEL ANTONIO COBB PUBLICITY RIGHTS	Entertainer, Entertainment, Music	270003
4	William Grant & Sons Limited The Glenfiddich Distillery, Dufftown Banffshire, United Kingdom		A	9/18/2009	9/17/2024	NORMAN KEITH COLLINS (A/K/A SAILOR JERRY) PUBLICITY RIGHTS	Alcoholic beverages, clothing and accessories, footwear, jewelry, travel bags and tote bags, housewares, smokers articles, books, calendars, posters, postcards, stickers, emblems, patches, glassware, playing cards, aftershave, gifts and merchandise; entertainment and information services general business services and retail services, including internet retail services.	270004
5	GENOA KEAWE RECORDS, INC. 2283 Tantalus Drive, Honolulu HI 96813	14527D1	E	12/30/2009	12/29/2014	GENOA LEILANI KEAWE PUBLICITY RIGHTS	Recording, Entertainment, Producer, Product Wholesale and Retail Sales	270005
6	AIKAU FAMILY, LLC 352 Auwaiolimu Street, Honolulu HI 96813	38340C5	E	2/25/2010	2/24/2015	EDWARD RYON MAKUAHANAI "EDDIE" AIKAU PUBLICITY RIGHTS	Clothing, general merchandise, sports competitions including surf competitions, nonprofit fundraising, charitable work, books, documentaries, movies, videos and other entertainment, photographs, sculptures and other artwork, and other uses including other promotional uses.	270006
7	Sydney Lehua Iaukea P. O. Box 10373, Honolulu, HI 96816		E	3/4/2010	3/3/2015	CURTIS PIEHU IAUKEA PUBLICITY RIGHTS	Literary works, film, entertainment, merchandising and general business.	270007
8	Kuulei N. Mitchell – Personal Representative Heirs of Leilani Hia'a Kalaeloa Mitchell 91-204 Piliplii Uia Place, Kapolei HI 96707		E	6/21/2010	6/20/2020	LEILANI HIA'A KALAELOA MITCHELL PUBLICITY RIGHTS	Gift items, accessories, books, Modeling Art Paintings or Images, Entertainment Music Records, and photograph and family names, her name, of her foundation.	270008

Registration Number	Registrant Name	Business Type	Effective Date	Expiration Date	Registrant Address	Business Description	Registration Number	
9	Russ K. Keaulana	A	5/5/2011	5/4/2017	84-708 Upena St., Makaha, HI 96792	RUSS K. KEAULANA aka RUSS K., RUSS K. MAKAHA and RUSTY KEAULANA	Promotional purposes as well as surf competitions and merchandise	270009
10	Sarah Piiiani Smith	E	10/4/2011	10/3/2016	P. O. Box 2519 Honolulu HI 96804	SARAH PIILANI SMITH	Entertainment, merchandising & general business	270010
11	Leonard G. Horowitz	E	5/31/2012	5/30/2017	13-3775 Kalapana Hwy Pahoia HI 96778	DR. LEONARD HOROWITZ	Journalism	270011
12	Sherri Kane	E	5/31/2012	5/30/2017	P O Box 75104 Honolulu HI 96836	SHERRI KANE	Journalism	270012
13	Abigail Kinoiki Kekaulike Kawananakoa	E	8/23/2012	8/22/2017	420 Kekau Place Honolulu HI 96817	ABIGAIL KINOIKI KEKAULIKE KAWANANAKOA	Charitable and philanthropic activities including those directed to preserving and enriching cultural and historic knowledge, and general business.	270013
14	Jeff Apaka	E	9/17/2012	9/16/2017	2140 Kuhio Avenue Suite 2310 Honolulu, Hawaii 96815	ALFRED APAKA PUBLICITY RIGHTS	Entertainment, General Business, Merchandising	270014
15	Lei Mamo Howell	E	7/26/2013	7/25/2018	1164 Kealaolu Avenue Honolulu HI 96816	LEI MAMO HOWELL	Clothing and fashion design and production, merchandising, general business	270015
16	Dana-Li Annette Kwai Tsin Dung	E	8/2/2013	8/1/2018	2303 Ho'onanea Street Honolulu HI 96822	DANA-LI DUNG	Entertainment, events, merchandising, music, promotional purposes and general business	270016
17	Darah Dung	E	8/2/2013	8/1/2018	2303 Ho'onanea Street Honolulu HI 96822	DARAH DUNG	Entertainment, events, merchandising, music, promotional purposes and general business	270017
18	Denby Dung	E	8/2/2013	8/1/2018	2303 Ho'onanea Street Honolulu HI 96822	DENBY DUNG	Entertainment, events, merchandising, music, promotional purposes and general business	270018
19	Angelica Ionananimakamae Marrero	E	12/3/2013	12/2/2018	1204 Kuokoa Street Pearl City HI 96782	MONTGOMERY ERNEST THOMAS KALUHIOKALANI A.K.A. BUTTONS A.K.A. BUTTONS KALUHIOKALANI PUBLICITY RIGHTS NAME	Retail, merchandise, promotions, advertising, movies, photos, films, images and music for any organization or product being sold for profit. Sports competitions including surf competitions, nonprofit fundraising, charitable work, and sculptures and other art work. All and anything pertaining to my father.	270019
20	AIKAU FAMILY, LLC	38340C5 A	10/24/2014	10/23/2024	352 Auwaiolimu Street, Honolulu HI 96813	EDWARD RYON MAKUAHANAI "EDDIE" AIKAU	Clothing, general merchandise, sports competitions including surf competitions, nonprofit fundraising, charitable work, books, documentaries, movies, videos and other entertainment, photographs,	270020

<u>EXHIBIT A</u>						sculptures and other artwork, and other uses including other promotional uses.	
21	The Howard Hughes Company, LLC	E	3/3/2015	3/2/2020	HOWARD ROBARD HUGHES, JR.	real estate development; real estate leasing; real estate management	270021
	13355 Noel Road, 22nd Floor, Dallas Texas 75240						
22	Don Ho Revocable Living Trust	A	9/23/2015	9/22/2020	DON TAI LOY HO PUBLICITY RIGHTS	entertainment, general, business, merchandising	270022
	P O Box 61236, Honolulu HI 96839						
23	Estate of Jose Manuel Figueroa, PlainsCapital Bank Temporary Trustee	A	10/05/2015	10/04/2020	JOSE MANUEL FIGUEROA ALSO KNOWN AS JOAN SEBASTIAN	celebrity personality	270023
	7201 N. 10th Street, McAllen TX 78504						
24	Tatsuya Yamamoto	A	10/26/2015	10/25/2025	TATSUYA YAMAMOTO AKA "EDDY Y"	graphic design for fabric, clothing, bags and other consumer goods	270024
	92-1509 Aliinui Dr 9C, Kapolei HI 96707						
25	Daniilo Couto	A	04/01/2016	03/31/2021	DANILO COUTO	promotional purposes as well as surf competitions and merchandise	270025
	59-608 Kam Hwy., Haleiwa HI 96712						
26	Ramona Charlene Evans Dickens	A	08/01/2016	07/31/2021	JAMES CECIL DICKENS P/K/A LITTLE JIMMY DICKENS	entertainment industry	270026
	5010 West Concord Road Brentwood, TN 37027						
27	The George Richard Chamberlain Revocable Living Trust dtd December 13, 1982 as amended and restated	A	09/08/2016	09/07/2021	GEORGE RICHARD CHAMBERLAIN	entertainment	270027
	c/o Cades Schutte LLP 1000 Bishop Street, 12th floor Honolulu, HI 96813						
28	Joanne Marroni	A	04/24/2017	04/23/2022	DANE KEALOHA	entertainment, general business, merchandising	270028
	P.O. Box 791125 Paia, HI 96779						
29	Vicki L. Borges	A	04/25/2017	04/24/2022	JAMES J. BORGES III AKA JIMMY BORGES	musical entertainment, general business, merchandising	270029
	1561 Kanunu Street #505 Honolulu, HI 96814						
30	JWCF, LP	A	07/14/2017	07/13/2022	JOHNNY CARSON AKA JOHN W. CARSON	entertainment and licensing	270030
	16000 Ventura Blvd., Suite 900 Encino, CA 91436						
31	MOTION PICTURE ASSOCIATES, LLC	A	12/18/2017	12/17/2022	CECIL B. DEMILLE	entertainment and licensing	270031
	223 West Alameda Ave., #101 Burbank, CA 91502						
32	TRUSTEES OF THE PARKER RANCH FOUNDATION TRUST	A	6/13/2018	6/12/2023	RICHARD SMART	As licensed	270032
	66-1304 Mamelahoa Highway, Kamuela Hawaii 96743						
33	THE LOUIS ARMSTRONG	A	10/11/2018	10/10/2023	LOUIS DANIEL ARMSTRONG	entertainment, general business,	270033

<u>EXHIBIT A</u>							
	EDUCATIONAL FOUNDATION, INC.					merchandising, music, promotional purposes, education	
	c/o Howard Schain, 10 E. 40th St., Suite 2710, New York NY 10016						
34	CHELLE C PAHINUI	A	1/22/2019	1/21/2024	CYRIL LANI PAHINUI	website & music publishing	270034
	P O Box 29693, Honolulu HI 96820						
35	RONALD REAGAN PRESIDENTIAL FOUNDATION AND INSTITUTE	A	5/2/2019	5/1/2024	NANCY DAVIS REAGAN	educational and entertainment and collateral services, merchandising and general business, retail services, charitable and philanthropic activities	270035
	40 Presidential Drive, Simi Valley, CA 93065						
36	RONALD REAGAN PRESIDENTIAL FOUNDATION AND INSTITUTE	A	5/2/2019	5/1/2024	RONALD WILSON REAGAN	educational and entertainment and collateral services, merchandising and general business, retail services, charitable and philanthropic activities	270036
	40 Presidential Drive, Simi Valley, CA 93065						
37	THE ESTATE OF JAMES BROWN	A	6/18/2019	6/17/2024	JAMES JOSEPH BROWN	Entertainment, general business, merchandising, music, promotional purposes, education	270037
	C/O SWEENY, WINGATE & BARROW, P.A., 1515 Lady Street, Columbia, SC 29201						
38	N.K. COLLINS, LLC	A	6/14/2019	6/13/2024	NORMAN KEITH COLLINS AKA SAILOR JERRY	General business, merchandising, art, education and licensing	270038
	900 FORT STREET MALL, SUITE 1800, HONOLULU, HI 96813						
39	PETER LEE MERRIMAN	A	11/06/2019	11/05/2024	PETER LEE MERRIMAN	Bar and restaurant services, cookbooks, food products, clothing, general merchandise, promotional purposes and general business	270039
	50 Nonoho Place, Paia, Hawaii 96779						
40	ESTATE OF ARETHA FRANKLIN	A	11/15/2019	11/14/2024	ARETHA LOUISE FRANKLIN	Entertainment, general business, merchandising, music, promotional purposes, education	270040
	c/o Thav Gross, 30150 Telegraph Rd. Ste 444 Bingham Farms, MI 48025 attn: David Bennett, Esq.						
41	BRANDON NACAPOY	A	2/3/2020	2/2/2025	BRANDON NACAPOY AKA BRAHJ	General Business	270041
	46-114 Nahewai Place, Kaneohe HI 96744						
42	BRANDON NACAPOY	A	2/3/2020	2/2/2025	BRANDON NACAPOY AKA BRAHJAH	General Business	270042
	46-114 Nahewai Place, Kaneohe HI 96744						
43	BARRY WHITE FAMILY TRUST	A	2/4/2020	2/3/2025	BARRY EUGENE WHITE P/K/A/ BARRY WHITE	Entertainment, general business, merchandising, music, promotional purposes, education	270043
	c/o JACK PERRY, 15021 Ventura Blvd., Suite 799,						

Sherman Oaks, CA 91403		EXHIBIT A					
44	ALICE INOUE	A	2/5/2020	2/4/2025	ALICE INOUE	Services and products that offer life guidance	270044
	560 North Nimitz Hwy., #220, Honolulu HI 96817						
45	Vanessa Bryant, Trustee of the Bryant Community Property Trust	A	3/11/2020	3/10/2025	Kobe Bryant, aka Kobe Bean Bryant and Kobe B. Bryant	Entertainment, merchandising and general business	270045
	c/o Leah M. Bishop, Esq., Loeb & Loeb LLP, 10100 Santa Monica Blvd., Ste 2200, Los Angeles, CA 90067						
46	KUULEI N.MITCHELL	A	8/27/2020	8/26/2025	LEILANI HIA'A KALUHIUOKALANI MITCHELL KALAKAUA EHU "KALAELOA"	Books, modeling, art, paintings or images, photo's, entertainment music records	270046
	c/o 91-204 Piliipili Ula Place, Kapolei HI 96707						
47	ANDREANNA KALUHIOKALANI	A	11/10/2020	11/9/2025	MONTGOMERY ERNEST THOMAS KALUHIOKALANI AKA BUTTS, AKA BUTTONS, AKA BUTTONS KALUHIOKALANI	Retail items or merchandise, promotions, advertisements, movies, films, images, music, concerts, clothing, for any organization, corporation, LLC, LLP or product being sold for profit, sports competitions including surf competitions, nonprofit fundraising, charitable work, and sculptures & other artwork. All and anything pertaining to our father.	270047
	95-534 Limahana Place, Waipahu HI 96797						

EXHIBIT B

Hawaii Publicity Rights Name Registrations

Registered rights for those who died before the Hawaii Publicity Rights Act was enacted on July 15, 2009 are indicated in **BOLD and HIGHLIGHTED**

ID	REGISTERED PUBLICITY RIGHTS NAME	DATE OF DEATH	APPLICANT NAME	REGISTRATION DATE	CERTIFICATE NUMBER
1	GABBY PAHINUI PUBLICITY RIGHTS	10/13/1980	Cyril Pahinui	8/14/2009	270001
2	DONALD TAI LOY HO PUBLICITY RIGHTS	4/14/2007	Don Ho Revocable Living Trust of October 29, 1992	8/20/2009	270002
3	MICHAEL ANTONIO COBB PUBLICITY RIGHTS	N/A	Michael A. Cobb	8/26/2009	270003
4	NORMAN KEITH COLLINS (A/K/A SAILOR JERRY) PUBLICITY RIGHTS	6/12/1973	William Grant & Sons Limited	9/18/2009	270004
5	GENOA LEILANI KEAWE PUBLICITY RIGHTS	2/25/2008	GENOA KEAWE RECORDS, INC.	12/30/2009	270005
6	EDWARD RYON MAKUAHANAI "EDDIE" AIKAU PUBLICITY RIGHTS	3/17/1978	AIKAU FAMILY, LLC	2/25/2010	270006
7	CURTIS PIEHU IAUKEA PUBLICITY RIGHTS	3/5/1940	Sydney Lehua Iaukea	3/4/2010	270007
8	LEILANI HIA'A KALAELOA MITCHELL PUBLICITY RIGHTS	4/11/2009	Kuulei N. Mitchell – Personal Representative Heirs of Leilani Hia'a Kalaeloa Mitchell	6/21/2010	270008
9	RUSS K. KEAULANA aka RUSS K., RUSS K. MAKAHA and RUSTY KEAULANA	N/A	Russ K. Keaulana	5/5/2011	270009
10	SARAH PIILANI SMITH	N/A	Sarah Piilani Smith	10/4/2011	270010
11	DR. LEONARD HOROWITZ	N/A	Leonard G. Horowitz	5/31/2012	270011
12	SHERRI KANE	N/A	Sherrri Kane	5/31/2012	270012
13	ABIGAIL KINOIKI KEKAULIKE KAWANANAKOA	N/A	Abigail Kinoiki Kekaulike Kawananakoa	8/23/2012	270013
14	ALFRED APAKA PUBLICITY RIGHTS	1/30/1960	Jeff Apaka	9/17/2012	270014
15	LEI MAMO HOWELL	1/30/2020	Lei Mamo Howell	7/26/2013	270015
16	DANA-LI DUNG	N/A	Dana-Li Annette Kwai Tsin Dung	8/2/2013	270016

EXHIBIT B

ID	REGISTERED PUBLICITY RIGHTS NAME	DATE OF DEATH	APPLICANT NAME	REGISTRATION DATE	CERTIFICATE NUMBER
17	DARAH DUNG	N/A	Darah Dung	8/2/2013	270017
18	DENBY DUNG	N/A	Denby Dung	8/2/2013	270018
19	MONTGOMERY ERNEST THOMAS KALUHIOKALANI A.K.A. BUTTONS A.K.A. BUTTONS KALUHIOKALANI PUBLICITY RIGHTS NAME	11/2/2013	Angelica Ionananimakamae Marrero	12/3/2013	270019
20	EDWARD RYON MAKUAHANAI "EDDIE" AIKAU	3/17/1978	AIKAU FAMILY, LLC	10/24/2014	270020
21	HOWARD ROBARD HUGHES, JR.	4/5/1976	The Howard Hughes Company, LLC	3/3/2015	270021
22	DON TAI LOY HO PUBLICITY RIGHTS	4/14/2007	Don Ho Revocable Living Trust	9/23/2015	270022
23	JOSE MANUEL FIGUEROA ALSO KNOWN AS JOAN SEBASTIAN	7/13/2015	Estate of Jose Manuel Figueroa, PlainsCapital Bank Temporary Trustee	10/05/2015	270023
24	TATSUYA YAMAMOTO AKA "EDDY Y"	N/A	Tatsuya Yamamoto	10/26/2015	270024
25	DANILO COUTO	N/A	Danilo Couto	04/01/2016	270025
26	JAMES CECIL DICKENS P/K/A LITTLE JIMMY DICKENS	1/2/2015	Ramona Charlene Evans Dickens	08/01/2016	270026
27	GEORGE RICHARD CHAMBERLAIN	N/A	The George Richard Chamberlain Revocable Living Trust dtd December 13, 1982 as amended and restated	09/08/2016	270027
28	DANE KEALOHA	N/A	Joanne Marroni	04/24/2017	270028
29	JAMES J. BORGES III AKA JIMMY BORGES	5/30/2016	Vicki L. Borges	04/25/2017	270029
30	JOHNNY CARSON AKA JOHN W. CARSON	1/23/2005	JWCF, LP	07/14/2017	270030
31	CECIL B. DEMILLE	1/21/1959	MOTION PICTURE ASSOCIATES, LLC	12/18/2017	270031
32	RICHARD SMART	11/13/1992	TRUSTEES OF THE PARKER RANCH FOUNDATION TRUST	6/13/2018	270032

EXHIBIT B

ID	REGISTERED PUBLICITY RIGHTS NAME	DATE OF DEATH	APPLICANT NAME	REGISTRATION DATE	CERTIFICATE NUMBER
33	LOUIS DANIEL ARMSTRONG	7/6/1971	THE LOUIS ARMSTRONG EDUCATIONAL FOUNDATION, INC.	10/11/2018	270033
34	CYRIL LANI PAHINUI	11/17/2018	CHELLE C PAHINUI	1/22/2019	270034
35	NANCY DAVIS REAGAN	3/6/2016	RONALD REAGAN PRESIDENTIAL FOUNDATION AND INSTITUTE	5/2/2019	270035
36	RONALD WILSON REAGAN	6/5/2004	RONALD REAGAN PRESIDENTIAL FOUNDATION AND INSTITUTE	5/2/2019	270036
37	JAMES JOSEPH BROWN	12/25/2006	THE ESTATE OF JAMES BROWN	6/18/2019	270037
38	NORMAN KEITH COLLINS AKA SAILOR JERRY	6/12/1973	N.K. COLLINS, LLC	6/14/2019	270038
39	PETER LEE MERRIMAN	N/A	PETER LEE MERRIMAN	11/06/2019	270039
40	ARETHA LOUISE FRANKLIN	8/16/2018	ESTATE OF ARETHA FRANKLIN	11/06/2019	270040
41	BRANDON NACAPOY AKA BRAHJ	N/A	BRANDON NACAPOY	2/3/2020	270041
42	BRANDON NACAPOY AKA BRAHJAH	N/A	BRANDON NACAPOY	2/3/2020	270042
43	BARRY EUGENE WHITE P/K/A/ BARRY WHITE	7/4/2003	BARRY WHITE FAMILY TRUST	2/4/2020	270043
44	ALICE INOUE	N/A	ALICE INOUE	2/5/2020	270044
45	Kobe Bryant, aka Kobe Bean Bryant and Kobe B. Bryant	1/26/2020	Vanessa Bryant, Trustee of the Bryant Community Property Trust	3/11/2020	270045
46	LEILANI HIA'A KALUHIUOKALANI MITCHELL KALAKAUA EHU "KALAELOA"	4/11/2009	KUULEI N.MITCHELL	8/27/2020	270046
47	MONTGOMERY ERNEST THOMAS KALUHIOKALANI AKA BUTTS, AKA BUTTONS, AKA BUTTONS KALUHIOKALANI	11/2/2013	ANDREANNA KALUHIOKALANI	11/10/2020	270047

Statement of Eric Kaleolani Keawe
before the
SENATE JUDICIARY COMMITTEE
Friday, February 12, 2021, at 9:15 AM
Via Videoconference
in consideration of

SB 714 - RELATING TO PUBLICITY RIGHTS

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

I am writing in support of SB 714 because I believe it is important for the Hawaii Publicity Rights Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009, as the legislature intended when the law was passed. If this bill is not passed, the personas of countless local icons who died before July 15, 2009 could be misappropriated for commercial purposes without the consent of their heirs or successors. I strongly urge this Committee to support SB 714 in order to protect these folks' legacies, preserve local culture, and to ensure that in Hawai'i, heirs and successors maintain control of their deceased loved ones' personas.

My name is Eric K. Keawe President of Genoa Keawe Records, Inc. and the son of the late Genoa Leilani Keawe aka Genoa Keawe. I am the heir/successor of Genoa Leilani Keawe aka Genoa Keawe, who passed away on February 25, 2008, before the Hawaii Publicity Rights Act was enacted on July 15, 2009. I registered the publicity rights of Genoa Leilani Keawe aka Genoa Keawe with DCCA pursuant to the Hawaii Publicity rights Act under her record company Genoa Keawe Records, Inc.. Based on my understanding the Hawaii Publicity Rights Act protects the personas of all persons living and dead for a term of 70 years after death (even those who died before the statute was enacted).

The Hawaii Publicity Rights Act was initiated due to a personal situation that I was going through with old recordings of my mother Genoa Keawe that was re-released by a 3rd party company. My mother and the owner of this 3rd party company had communication for many years since I believe it was around mid-late 90's when a contract was sent to her. She had the contract reviewed by an attorney. She was counseled and advised not to sign it. The compensation was very minimal and they required a lot of work on her part to do promotions and etc.. So for many years this 3rd party company has been trying to release this product using her name, her image on the recording and her voice singing. At one point he sent Genoa a printed mark up of the project. She was not happy with it and told him that she disapproved of it. This 3rd party was not happy with her response. Negotiations ended with a remark from the owner that one day he would be able to move forward with his project.

Our mother Genoa Keawe passed February 25th 2008. In June 2008 I saw the project being sold online. I immediately called the individual and told him to cease and desist immediately. From this point on we received notice from his attorney and was told that there is nothing we could do to stop the release of this project because they obtain authorization from hires of the original owner/producer. I'm not even sure they had the authority to sign such a document in behalf of their father who was deceased as well.

Late in 2008 at an event honoring women of Hawaii while sitting in the audience I shared my situation with an Alu Like executive officer at the time. In January 2009 I received a call from their attorney representative who asked if I would be interested in moving forward to establish a Bill in the Legislature

that is today known as the Hawaii Publicity Rights Act to prevent these situations from occurring in the future. With some help from my famous entertainer cousin and a few other associate attorneys we successfully passed the first legislative bill for the Hawaii Publicity Rights Act.

As a trustee of my mother's Trust at the time it was my responsibility to act in her behalf and protect her wishes even in her death. As her son and President of her record company I rely upon the Hawaii Publicity Rights Act to enforce and protect the publicity rights of our mother Genoa Leilani Keawe who died before the statute was enacted.

Thank you for the opportunity to testify on this measure.

Signed,

Eric K. Keawe

February 8, 2021

Committee on Judiciary
Chair Rhoads
Vice Chair Keohokalole

The Senate
The Thirtieth-First Legislature
Regular Session of 2021

RE: SB 714 - RELATING TO PUBLICITY RIGHTS
DATE: Friday, February 12, 2021
TIME: 9:15 am
VIA Videoconference
State Capitol 415 South Beretania Street, Honolulu HI

Aloha Chair Rhoads, Vice Chair Keohokalole, and the Members of the Committees,

Thank you for the opportunity to testify in SUPPORT of SB 714 - RELATING TO PUBLICITY RIGHTS.

SAG-AFTRA represents over 1150 actors, recording artists, and media professionals in our state. We are the professional performers working in front of the camera and behind the microphone.

This measure clarifies that the Hawaii Publicity Rights Act (HPRA), codified as HRS 482P, applies retroactively to protect the publicity rights of individuals who died prior to the date of its enactment. This small addition to the HPRA will go a long way to protect and empower families of those who are deceased and being exploited. We support this clarification that “allows the people of Hawai‘i to protect their legacy and rights that are not covered by federal copyright law and state and federal trademark laws.”

Thank you again for your continued support and please don’t hesitate to contact the SAG AFTRA Hawaii Local office for more information on this issue as it relates to professional performers.

Respectfully,



Mericia Palma Elmore
Executive Director SAG-AFTRA Hawaii Local

SB-714

Submitted on: 2/10/2021 3:16:16 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Gilliom	Individual	Support	No

Comments:

My name is Eric Gilliom I am an entertainer here in Hawaii I urge you to support SB714.

My late Grandmother Jennie Hanaialii Wood was a famous entertainer here in Hawaii, She performed in over 200 Hollywood TV shows and films as well as on Broadway and in Vegas. We would hate to see her image and legacy used inappropriately without or families permission which is currently how it stands, we have no protection. Please support this bill for all of Hawaii's people, entertainers, polititians and every citizen. Thank You.

Statement of Meriel Jane Collins
Before the
SENATE JUDICIARY COMMITTEE
Friday, February 12, 2021 at 9:15am
Via Videoconference

In consideration of
SB 714 – RELATING TO PUBLICITY RIGHTS

Chair Rhoads, Vice Chair Keohokalole and Members of the Senate Committee on Judiciary:

We are writing in support of SB 714 because we believe it is important for the Hawaii Publicity Rights Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009, as the legislature intended when the law was passed. If this bill is not passed, the personas of countless local icons who died before July 15, 2009 could be misappropriated for commercial purposes without the consent of their heirs or successors.

We **strongly** urge this Committee to support SB 714 in order to protect these folks' legacies, preserve local culture, and to ensure that in Hawai'i, heirs and successors maintain control of their deceased loved ones' personas.

We are the daughters of Norman Kieth Collins, aka Sailor Jerry, who passed away on June 12, 1973, before the Hawaii Publicity Rights Act was enacted on July 15, 2009.

Based on our understanding that the Hawaii Publicity Rights Act protects the personas of all persons living and dead for a term of 70 years after death (even those who died before the statute was enacted), we have relied upon the Hawaii Publicity Rights Act to enforce and protect the publicity rights of Norman Kieth Collins, aka Sailor Jerry, who died before the statute was enacted.

Thank you for the opportunity to testify on this measure.

Signed,

Meriel Jane Collins
290 Karsten Drive
Wahiawa, HI 96786

and
Gloria Fornasier
1803 176th Place SE
Vancouver, WA 98683

SB-714

Submitted on: 2/10/2021 4:20:01 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kanoë Cazimero	Individual	Support	No

Comments:

Aloha,

I am in support of SB714 to protect the right of local musicians, performers and composers. Within our family I seek to preserve generations of lyrics and music compositions which have also been performed and recorded - those of William K. Cazimero(d), Rodney H. Cazimero(d), Roland K. Cazimero(d) and Robert Cazimero. As surviving daughter and sister this legacy is the benchmark upon which Traditional and Contemporary Hawaiian Music rests. It is paramount to preserve our musical heritage for it is what makes Hawaii unique among these 50 United States of America.

Nui Ka Mahalo,

"Kanoë"mailekalani Cazimero

1519 Nuuanu Ave #26 Hon Hi 96817

SB-714

Submitted on: 2/10/2021 6:06:06 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Kapanui	Individual	Support	No

Comments:

I am in support of SB714 for which protects the right of deceased individuals from having the unauthorized use of their image or likeness reproduced in any medium or forum, and of also having their royalties taken by an unauthorized third party.

Yours

Robert Lopaka Kapanui

SB-714

Submitted on: 2/10/2021 8:12:21 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
michael ruff	Individual	Support	No

Comments:

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

I am writing in strong support of SB 714 because I believe it is important for the Hawaii Publicity Rights Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009, as the legislature intended when the law was passed. If this bill is not passed, the personas of countless local icons who died before July 15, 2009 could be misappropriated for commercial purposes without the consent of their heirs or successors. I strongly urge this Committee to support SB 714 in order to protect these folks' legacies, preserve local culture, and to ensure that in Hawai'i, heirs and successors maintain control of their deceased loved ones' personas.

Please, considerer those who cannot speak for themselves. Thank you!

Sincerely, Michael ruff

SB-714

Submitted on: 2/10/2021 8:22:57 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Roslyn Catracchia	Individual	Support	No

Comments:

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

I am writing in support of SB 714 because I believe it is important for the Hawaii Publicity Rights Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009, as the legislature intended when the law was passed. If this bill is not passed, the personas of countless local icons who died before July 15, 2009 could be misappropriated for commercial purposes without the consent of their heirs or successors. I strongly urge this Committee to support SB 714 in order to protect these folks' legacies, preserve local culture, and to ensure that in Hawai'i, heirs and successors maintain control of their deceased loved ones' personas.

I strongly support the proposed amendment SB 714. The families of these wonderful entertainers and public persona should have a voice, a say, in how their relatives are represented. We all know how publicity can become a wild card. With the heirs and families watching over their family and loved ones, there will be care taken in important decisions/choices. PLEASE consider strongly passing SB 714. I am completely in support of it, as a resident of Hawaii, as an entertainer, and as the daughter of an amazing musician. I grew up here in Hawaii. I want our people to be honored and remembered well.

Thank you for your time and consideration, and for the opportunity to testify on this measure.

Sincerely,

Roslyn Catracchia

SB-714

Submitted on: 2/10/2021 10:16:40 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kahaiolelo Morales	Individual	Support	No

Comments:

Statement of Kahaiolelo Morales

before the

SENATE JUDICIARY COMMITTEE

Friday, February 12, 2021, at 9:15 AM

Via Videoconference

in consideration of

SB 714 - RELATING TO PUBLICITY RIGHTS

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

I am writing in support of SB 714 because I believe it is important for the Hawaii Publicity Rights Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009, as the legislature intended when the law was passed. If this bill is not passed, the personas of countless local icons who died before July 15, 2009 could be misappropriated for commercial purposes without the consent of their heirs or successors. I strongly urge this Committee to support SB 714 in order to protect these folks' legacies, preserve local culture, and to ensure that in Hawai'i, heirs and successors maintain control of their deceased loved ones' personas.

Thank you for the opportunity to testify on this measure.

Signed,

Kahaiolelo Morales

LATE

SB-714

Submitted on: 2/11/2021 9:49:10 AM
Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Amy Hanaialii Gilliom	Testifying for Hawaii Academy of Recording Arts	Support	No

Comments:

I am the President of Hawai`i Academy of Recording Arts Aka: NÄ• HÄ• kÄ« Hanohano Awards

- I am the heir/successor of Napua Jennie HÄ• naiali`i Woodd who passed away on Jan 9, 2003, before the Hawaii Publicity Rights Act was enacted on July 15, 2009.
- Based on my understanding that the Hawaii Publicity Rights Act protects the personas of all persons living and dead for a term of 70 years after death (even those who died before the statute was enacted), I have
 - registered the publicity rights of Napua HÄ• naiali`i Woodd with DCCA pursuant to the Hawaii Publicity rights Act
 - entered into contracts with third parties to [license, assign, etc.] the publicity rights of Jennie Napua HÄ• naiali`i Woodd who died before the statute was enacted.
 - relied upon the Hawaii Publicity Rights Act to enforce and protect the publicity rights of Napua HÄ• naiali`i Woodd who died before the statute was enacted.

Thank you for the opportunity to testify on this measure.

Signed,

Amy HÄ• naiali`i Gilliom

LATE

SB-714

Submitted on: 2/11/2021 12:49:02 PM

Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Seth Reiss	Individual	Support	No

Comments:

Statement of Seth M.Reiss

before the

SENATE JUDICIARY COMMITTEE

Friday, February 12, 2021, at 9:15 AM

in consideration of

SB 714 - RELATING TO PUBLICITY RIGHTS

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

I am writing in support of SB 714 because I believe it is important for the Hawaii Publicity Rights Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009. I am an intellectual property lawyer and the right of publicity is an important intangible property right that is clarified through statute. I am not sure why personas of those who died prior to 2009 enactment of Hawaii's publicity rights statute should be any less valuable to the personas' heirs than those who died after.

Thank you for the opportunity to testify on this measure.

Signed,

/seth m reiss/

Seth M.Reiss

LATE

Statement of Bobbi-Lynn K. Kupihea-Char
before the
SENATE JUDICIARY COMMITTEE
Friday, February 12, 2021 at 9:15am
in consideration of
SB 714 - RELATING TO PUBLICITY RIGHTS

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary:

I am writing in support of SB 714 because it is important for the Hawaii Publicity Rights Act to protect the personas of people who died prior to the enactment of the law on July 15, 2009, as the legislature intended when the law was passed. If this bill is not passed, the personas of countless local icons who died before July 15, 2009 could be misappropriated for commercial purposes without the consent of their heirs or successors. I strongly urge this Committee to support SB 714 in order to protect these folks' legacies, preserve local culture, and to ensure that in Hawai'i, heirs and successors maintain control of their deceased loved ones' personas.

Thank you for the opportunity to give written testimony on this measure.

Me ke ha'aha'a,
Bobbi-Lynn K. Kupihea-Char

Statement of Julia Brotman
before the
SENATE JUDICIARY COMMITTEE
Friday, February 12, 2021, at 9:15 AM
Via Videoconference



in consideration of
SB 714 - RELATING TO PUBLICITY RIGHTS

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Judiciary Committee,

I am testifying to express my strong support of SB 714. Through my work as a business and intellectual property attorney in Hawai'i and as an active board member of the Kaua'i Music Festival (a nonprofit that supports the music community), I have become familiar with the intellectual property issues that often arise in the local business, entertainment, and creative industries. Relevant to SB 714, I have worked on several matters involving the "right of publicity," i.e., the intellectual property right in a person's name, image, signature, voice, or likeness (their "Persona"), particularly with respect to the publicity rights of local artists, musicians, entertainers, and cultural icons.

The Hawaii Publicity Rights Act, enacted in 2009 and codified at HRS 482P (the "HPRA"), generally requires third parties to obtain consent in order to exploit a Persona for commercial purposes. Recognizing the cultural importance of preventing third parties from misappropriating the Personas of our kūpuna and local icons, the HPRA protects a person's Persona throughout their life and for seventy years after death. This postmortem term allows a person's heirs or chosen successors to exercise and enforce the right of publicity under the HPRA, thereby ensuring that the heirs/successors – and not unauthorized third parties – are the ones to control and enjoy the benefits of the person's legacy.

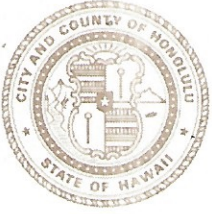
Since its enactment, the HPRA and its seventy-year postmortem term have been important tools used to prevent third parties from exploiting the Personas of local folks who died in the last several decades without permission. In my experience, it has been generally understood among intellectual property attorneys, right of publicity owners, and other interested parties that the HPRA protects the Personas of all people for seventy years after death, regardless of when they died. This is consistent with the legislative history from 2009, which demonstrates the drafters' understanding that the HPRA would apply retroactively to prevent unauthorized third parties from exploiting the Personas of people who died before the law was enacted on July 15, 2009.

However, a federal judge recently found that the HPRA is ambiguous on this point, and therefore held that the heirs of a person who died in 1973 could not use the HPRA to enforce their publicity rights. In light of this ruling, nothing in the HPRA is currently prohibiting unauthorized third parties from misappropriating the Personas of those who passed away before the HPRA was enacted, even over the explicit objections of their heirs and successors. This ruling jeopardizes the rights of countless local families who have, for years, been exercising their rights under the HPRA and relying on the HPRA to protect the legacies of those who died before July 15, 2009. It disrupts existing contractual arrangements involving the license or assignment of such persons' publicity rights, and also calls into question the existing State of Hawai'i, Department of Commerce and Consumer Affairs registrations for publicity rights of people who predeceased the HPRA.

I support the amendment set forth in SB 714 because it resolves all of these issues, addresses the concerns raised by the judge in the above-referenced lawsuit, and confirms the general understanding among the community and the 2009 legislature that the HPRA applies retroactively. This bill is necessary to clarify that the statutory postmortem right of publicity in Hawai'i protects the Personas of all deceased persons for seventy years after death, not just those who passed away after the statute was enacted. **Accordingly, I strongly urge the members of this Committee to join me in supporting SB 714.**

Mahalo,

Julia Brotman



LATE

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU, HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

CAROL FUKUNAGA

HONOLULU CITY COUNCIL, DISTRICT 6
PHONE: 768-5006 FAX: 768-1199
EMAIL: cafukunaga@honolulu.gov

Testimony On Senate Bill 714
Relating To Publicity Rights

Senator Karl Rhoads, Chair
Senate Judiciary Committee
February 12, 2021 – 9:15 AM

Dear Chair Rhoads and Members of the Senate Judiciary Committee,

I am submitting written testimony in strong support of to **Senate Bill 714, Relating to Publicity Rights**, which clarifies the State of Hawaii's recognition of publicity rights in Chapter 482P, Hawaii Revised Statutes, to apply retroactively to those whose deaths preceded enactment of the 2009-2010 legislation.

These legal requirements have been of special importance in protecting the property rights of Hawaiian entertainers and musicians over the years, and are of even greater significance when you consider the number of outstanding musicians and cultural practitioners whose deaths preceded enactment of the original legislation.

During the initial adoption of publicity rights legislation, it was gratifying to help the Keawe family of Papakōlea protect the publicity rights of revered entertainer Genoa Keawe. **Senate Bill 714** will strengthen the ability of other families and descendants to protect the publicity rights of their loved ones in perpetuity.

I urge your favorable consideration in passing this measure today.

Mahalo nui loa,

Councilmember Carol Fukunaga
District 6 (Makiki/Punchbowl, Papakōlea, Downtown,
Chinatown, Kakaako, Pauoa, Nu'uaniu, Liliha, Alewa,
Kamehameha Heights, Kalihi Valley, Aiea, and Moanalua)