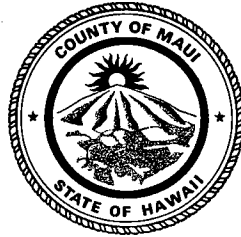


ALAN M. ARAKAWA
Mayor

PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
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DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
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7/13/13 12:44 AM
OFFICE OF THE
COUNTY COUNSEL

April 4, 2013

MEMORANDUM

TO: G. Riki Hokama, Chair
Policy and Intergovernmental Affairs Committee

FROM: Richard B. Rost *RBR*
Deputy Corporation Counsel

SUBJECT: Litigation Matters - Settlement of Claims and Lawsuits
(PIA-1)
Justin Dobbs v. County of Maui, et al
Civil No. 12-1-0812(2)

Our Department respectfully requests the opportunity to present to the Committee a settlement demand with regard to the above-referenced lawsuit. This matter is time sensitive due to the deadline included with the demand.

A copy of a proposed resolution and the complaint are attached.

It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

We request that a representative from Department of Liquor Control be in attendance during discussion of this matter.

Should you have any questions or concerns, please do not hesitate to contact me.

RBR/jcm
Attachments
cc: Franklyn Silva, Director of Liquor Control
S:\CLERICAL\JCM\FORMS\2013 memo to PIA.wpd

Resolution

No. _____

AUTHORIZING SETTLEMENT OF JUSTIN DOBBS V. COUNTY OF MAUI,
ET AL., CIVIL NO. 12-1-0812(2)

WHEREAS, Plaintiff Justin Dobbs filed a complaint entitled Justin Dobbs v. County of Maui, et al., Civil No. 12-1-0812(2), against the County of Maui, current County employees Franklyn L. Silva and Bill D. Pacheco, and former County employees James D. Lloy and Harry Matsuura, Sr., in the Circuit Court of the Second Circuit, State of Hawaii, on October 12, 2012; and

WHEREAS, Plaintiff alleges he was retaliated against for reporting allegedly illegal behavior by employees of the Department of Liquor Control, while he was employed by said Department; and

WHEREAS, Plaintiff also alleges that his right to free speech under the Hawaii Constitution was violated, that he suffered intentional infliction of emotional distress, and that his termination from County employment was a violation of public policy; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a

Resolution No. _____

resolution of this case by way of a negotiated settlement or Offer of Judgment; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Policy and Intergovernmental Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

Resolution No. _____

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Liquor Control, and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY:



RICHARD B. ROST
Deputy Corporation Counsel
County of Maui

S:\ALL\LITIGATION CASES\Dobbs v. County\reso.settlement.wpd

VENETIA K. CARPENTER-ASUI @ 11:45

VENETIA K. CARPENTER-ASUI
A Law Corporation

VENETIA K. CARPENTER-ASUI 6901
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FILED
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D. PELLAZAR, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

Attorney for Plaintiff
JUSTIN D. DOBBS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

12-1-0812(2)

JUSTIN D. DOBBS,)

Plaintiff,)

vs.)

COUNTY OF MAUI; JAMES D. LLOY;
FRANKLYN L. SILVA; BILL D.
PACHECO; HARRY MATSUURA, SR.;
JOHN DOES 1-10; DOE ENTITIES 1-10;)

Defendants.)

Civil No. _____

VERIFIED COMPLAINT;
DECLARATION OF JUSTIN D.
DOBBS; DEMAND FOR JURY
TRIAL; SUMMONS

COMPLAINT

JUSTIN D. DOBBS (hereinafter "Plaintiff"), by and through his attorney,
complaining of the COUNTY OF MAUI (hereinafter "Defendant COUNTY"), JAMES
D. LLOY (hereinafter "Defendant LLOY"), FRANKLYN L. SILVA (hereinafter
"Defendant SILVA"), BILL D. PACHECO (hereinafter "Defendant PACHECO"), and
HARRY MATSUURA, SR. (hereinafter "Defendant MATSUURA"), collectively
"Defendants", alleges and states:

I hereby certify that this is a full, true and
correct copy of the Original.

Clerk, Second Circuit Court

I. JURISDICTION & VENUE

1. This Court has jurisdiction of the claims against Defendants because Defendants, and/or each of them, have submitted themselves to the jurisdiction of the Circuit Court of the Second Circuit by transacting business in the County of Maui, State of Hawaii and/or by committing or causing to be committed tortuous actions and conduct in violation of the laws of the State of Hawaii within the County of Maui, State of Hawaii.

2. Venue is proper in this Circuit as both the Plaintiff and each of the Defendants reside and conduct business in this Circuit and the events and omissions giving rise to Plaintiff's claim arose in this Circuit.

II. PARTIES

3. Plaintiff at all times relevant herein was a resident of the County of Maui, in the State of Hawaii.

4. Defendant COUNTY is a government entity with its principal place of business located at 2145 Kaohu Street, Room 105, Wailuku, Maui, Hawaii 96793.

5. Defendant LLOY at all times relevant herein was a resident of the County of Maui, State of Hawaii, and is sued in his individual capacity and his official capacity as a Field Supervisor of Defendant COUNTY.

6. Defendant SILVA at all times relevant herein was a resident of the County of Maui, State of Hawaii, and is sued in his individual capacity and his official capacity as a Director of Defendant COUNTY.

7. Defendant PACHECO at all times relevant herein was a resident of the County of Maui, State of Hawaii, and is sued in his individual capacity and his official capacity as a Chief Enforcement Officer of Defendant COUNTY.

8. Defendant MATSUURA at all times relevant herein was a resident of the County of Maui, State of Hawaii, and is sued in his individual capacity and his official

capacity as a Field Supervisor of Defendant COUNTY.

9. Plaintiff does not know the true names of Defendants Does and therefore sues them under fictitious names for the reason that their true names and identities are presently unknown to Plaintiff, except that they are persons and/or entities who are in some manner presently unknown to Plaintiff and engaged in the activities alleged herein; and/or persons who conducted some activity in a negligent and/or willful manner; which conduct was the legal cause of the injuries or damages to Plaintiff and/or were in some manner related to the previously named Defendants engaged in the activities alleged herein; and Plaintiff prays leave to insert their true names and capacities, activities and/or responsibilities, whether individual, business or governmental when the same is ascertained. Plaintiff has been unable to ascertain the identities of these Doe Defendants through an examination of all documents available to him at this time.

10. All Defendants will be collectively referred to as "Defendants."

III. FACTS

11. Plaintiff enlisted in the U.S. Army on April 1, 1997 and was honorably discharged on October 7, 2002. During Plaintiff's service in the U.S. Army he received numerous certificates of achievement including but not limited to: 7/10/97 Certificate of Successful Completion of Individual Infantry Training, 8/1/97 Certificate of Successful Completion of the Airborne Course, 4/1/98 Certificate of Promotion, 10/11/98 Department of the Army - Achievement Medal, 10/28/98 Certificate of Achievement for exceptional achievement; 8/9/00 Certificate of Completion of the AH-64a Attack Helicopter Repairer Course, 11/14/00 Certificate of Achievement Citation for meritorious achievement as Soldier of the Month, 3/19/01 Certificate of Promotion, 3/9/01 Certificate of Graduation - Primary Leadership Development Course, 4/10/01 Certificate of Achievement Citation for exceptional performance as Soldier of the Month.

12. On August 15, 2005 Plaintiff was hired by the Yuba County Sheriff's

Department in Marysville, California as a Deputy Sheriff. On or about December 15, 2008 Plaintiff resigned from his job to pursue his formal education.

13. On or about June 1, 2009 Plaintiff received a Police Officer Standards of Training Certificate from the Yuba College in Marysville, California.

14. On or about January 15, 2010 Plaintiff saw an Internet job posting by Defendant COUNTY for the position of Liquor Control Officer Trainee.

15. On or about January 20, 2010 Plaintiff submitted a job application to Defendant COUNTY.

16. On or about June 23, 2010 Plaintiff received written notice from Defendant SILVA stating that Plaintiff had “successfully pass[ed] the written test administered by the Department of Personnel Services which determined that [Plaintiff] met the minimum qualifications for the Liquor Control Officer Trainee position” for the Maui County Department of Liquor Control.

17. On or about August 30, 2010 Plaintiff received written notice from Defendant SILVA stating that Plaintiff had been “selected for the position of Liquor Control Officer Trainee.” Upon receipt of this notice, Plaintiff uprooted his family and moved his wife and three children from the State of California to the State of Hawaii, island of Maui.

18. On or about October 16, 2010 Plaintiff began employment with Defendant COUNTY as a Liquor Control Officer Trainee.

19. From October 16, 2010 through April 16, 2011 Defendant COUNTY's training consisted of a formal training program which included inspection and investigative techniques, report writing, court, liquor control adjudication board, and liquor commission procedures, verbal judo, certification for the use of sound level recorder and graph meter, Rules of the Liquor Commission, County of Maui; Chapter 281, Hawaii Revised Statutes; Laws and Regulations under the Federal Alcohol

Administration Act; Departmental Orders; Departmental Operation and Procedure Manual and others and some field work.

20. Plaintiff's duties and responsibilities as a Liquor Control Officer included, but were not limited to:

- (1) conducting inspections of liquor licensed premises to insure compliance of state liquor laws and the rules and regulations of the Liquor Commission, County of Maui;**
- (2) checking for liquor law violations such as selling or serving liquor to minors, to persons under the influence of liquor and to persons known by the licensee to be addicted to the excessive use of liquor;**
- (3) observes and ascertains whether licensees are complying with the terms and conditions of their respective licenses;**
- (4) checks on the sale, service or consumption of liquor on or within any licensed premises before, during or after hours prescribed by the Liquor Commission;**
- (5) checks on the sale of drinks which contain less than one fluid ounce of liquor;**
- (6) checks if employees are consuming liquor while on duty or any other misconduct of employees;**
- (7) checks on the stacking of liquor for consumption by the patrons;**
- (8) checks on the possession of liquor by licensee other than authorized by the license;**
- (9) checks on the selling, serving, or allowing the consumption of liquor by a licensee or his employee on areas other than the licensed premises;**
- (10) checks to see if the licensee is in compliance with the maximum**

- permissible sound level;
- (11) checks entertainment in licensed premises to see that the conditions of entertainment permits are carried out;
 - (12) checks to see that amusement devices or equipment on the premises are properly licensed;
 - (13) vessels in port - checks for compliance with liquor laws, rules and regulations;
 - (14) conducts checks to insure special conditions of licenses or permits placed by the Commission or Director are complied with;
 - (15) prepares and submits activity reports inspection tour;
 - (16) trains to conduct investigations involving observed or apparent violations of liquor laws or violations of the Rules and Regulations of the Liquor Commission, County of Maui;
 - (17) conducts investigations involving the examination of business records and books;
 - (18) interviews witnesses and makes other inquiries to obtain sufficient proof of liquor law violations;
 - (19) issues notice of violation for on-view violations;
 - (20) prepares reports on findings including recommendations and cites pertinent provisions of laws, rules and regulations;
 - (21) serves subpoenas to witnesses and testifies at formal hearings and/or in court;
 - (22) resolves minor discrepancies with licensees and interprets and explains applicable provisions of the liquor laws, rules and regulations;
 - (23) may occasionally conduct investigations for the purpose of

determining whether or not all requirements relative to the issuance of liquor licenses and permits and/or for transfers and renewals of liquor licenses and permits have been complied with;

- (24) may participate in covert operations; and
- (25) may exercise the power of arrest and seizure as circumstances warrant.

21. From October 16, 2010 through April 16, 2011 during Plaintiff's probationary training period, he observed violations of law, rule, ordinance or regulation, adopted pursuant to law of this State, a political subdivision of this State, or the United States, including, but not limited to:

- (1) Club Koa 7/1/11 Defendant MATSUURA ate and drank free; he allowed several hostesses to sit on his lap/grab his buttocks/hug him/kiss him while he was on duty in the capacity of a Field Supervisor. The President of Liquor Commission Robert Tanaka was also present and he allowed several hostesses to sit on his lap while he was eating and drinking with other Liquor Commissioners who also allowed the hostesses to sit on their laps. Defendant MATSUURA and Plaintiff who were both on duty.

Owners/managers would deliver gifts of food including sushi rolls, pastries, doughnuts on a weekly basis to the Department of Liquor Control's front office. All of the employees of the Department of Liquor Control Enforcement Division and Administration Division, would eat these gifts.

- (2) Four Seasons Resort-Employee Cafeteria Defendant LLOY ate and drank for free on a weekly basis in the presence of Plaintiff, Trainee Julie Earl, Trainee Sarah Cordeiro, and Trainee Cullen

Kawano, even going so far as to help himself to food and drinks in the kitchen area, while he was on duty in the capacity of Field Supervisor.

- (3) Four Seasons Resort - Concierge Room Defendant LLOY would also eat and drink for free in the Concierge Room on a weekly basis. Defendant LLOY would also approach the female hostesses in the Concierge Room for high rollers on the floor above the employee cafeteria, and hug and kiss them, and drink and eat for free, while he was on duty in the capacity of Field Supervisor. Defendant LLOY would do this in the presence of Plaintiff, Trainee Julie Earl, Trainee Sara Cordeiro, and Trainee Cullen Kawano.
- (4) Four Seasons Resort - Ferraros Restaurant Defendant LLOY ate and drank for free on or about January 2011, while he was on duty in the capacity of Field Supervisor with Plaintiff, Trainee Cullen Kawano, and Four Seasons Resort Head of Security Matt Stevenson.
- (5) Tiffany's Bar and Grill Defendant LLOY and Defendant MATSUURA ate and drank free on a weekly basis while they were both on duty in the capacity of Field Supervisors, in the presence of Plaintiff and Trainee Cullen Kawano.
- (6) Mala Ocean Tavern Defendant LLOY ate and drank free on a monthly basis while they were both on duty in the capacity of Field Supervisors, in the presence of Plaintiff and Trainee Cullen Kawano. Defendant LLOY would also hug and kiss the hostesses despite being on duty.

- (7) Watercress Bar and Grill Defendant MATSUURA ate and drank free on a monthly basis while they were both on duty in the capacity of Field Supervisors, in the presence of Plaintiff and Trainee Cullen Kawano.
- (8) Dog and Duck Restaurant Defendant LLOY on or about January 2011 engaged in sexual contact with an intoxicated patron in front of the restaurant. Defendant LLOY allowed the female to grab his genitals and rub her buttocks against his genitals, in the presence of Plaintiff, Trainee Julie Earl, Trainee Cullen Kawano, Trainee Sara Cordeiro, Defendant MATSUURA, while they were all on duty conducting an inspection of the premises.
- (9) Micky's Place owners/managers would deliver gifts of food including sushi rolls, pastries, doughnuts on a weekly basis to the Department of Liquor Control's front office. All of the employees of the Department of Liquor Control Enforcement Division and Administration Division, would eat these gifts.

Defendant MATSUURA would allow the hostesses to kiss his mouth/grab his buttocks/grab his genitals during monthly inspections in the presence of Plaintiff and Trainee Cullen Kawano.

- (10) Star Light owners/managers would deliver gifts of food including sushi rolls, pastries, doughnuts on a weekly basis to the Department of Liquor Control's front office. All of the employees of the Department of Liquor Control Enforcement Division and Administration Division, would eat these gifts.

Defendant MATSUURA would allow the hostesses to

kiss his mouth/grab his buttocks/grab his genitals during monthly inspections in the presence of Plaintiff and Trainee Cullen Kawano.

- (11) 7 Pools owners/managers would deliver gifts of food including sushi rolls, pastries, doughnuts on a weekly basis to the Department of Liquor Control's front office. All of the employees of the Department of Liquor Control Enforcement Division and Administration Division, would eat these gifts.

Defendant MATSUURA would allow the hostesses to kiss his mouth/grab his buttocks/grab his genitals during monthly inspections in the presence of Plaintiff and Trainee Cullen Kawano.

On or about March 2011 while conducting an inspection, Defendant MATSUURA and Plaintiff observed a male patron and a hostess engaged in oral copulation. Defendant MATSUURA took no action to stop the act.

- (12) Donna's Place on or about December 2010 Plaintiff and Defendant MATSUURA entered the front door, and Plaintiff saw what looked like under age females run to a room in the front of the establishment and close the door. Plaintiff began walking to the room, and was stopped by Defendant MATSUURA who told Plaintiff "we do not regulated the back rooms because there is no liquor served there", but these were under age females (younger than 21 years of age) in a liquor premises, which was a violation of law, but Defendant MATSUURA still prohibited Plaintiff from investigating or entering the room. Defendant MATSUURA

would drink for free while conducting weekly inspections in front of Plaintiff.

Donna's Place's owners/managers also would deliver gifts of food including sushi rolls, pastries, doughnuts on a weekly basis to the Department of Liquor Control's front office. All of the employees of the Department of Liquor Control Enforcement Division and Administration Division, would eat these gifts.

13. On or about October 2010 Plaintiff learned that Defendant SILVA hired his two sons who did not meet the minimum qualifications of one year of law enforcement experience prior to being hired, and were allowed to work together at the Lahaina Field Office which is designated for one senior investigator and one Liquor Control Officer II. Both of Defendant SILVA's sons are Liquor Control Officer III's, and they work with another senior investigator.

23. Defendant COUNTY issued a policy entitled "County of Maui Ethics for Elected Officials, Employees, Members of Boards and Commissions" dated 1992 which was issued to Plaintiff by Defendant COUNTY during Plaintiff's training:

APPLICABILITY

This law applies to you if you are an elected or appointed officer, a member of a Board or Commission, or an employee of the County of Maui.

GIFTS

You may not solicit or accept a gift, directly or indirectly, if it can be reasonably inferred under the circumstances that the gift is intended to

influence or reward you for any official action.

[§ 10-4 (1) (a). MCC]

**WHAT ARE THE PENALTIES FOR VIOLATION
OF THE LAW**

Public contracts, if any, are voidable.

Any person found to have violated the Code of Ethics shall, upon conviction, be punished by a fine of not more than \$1,000 for each violation.

The County may recover any fee, compensation, gift or profit.

a:\ethics\guide\ek

MAL: 03/92

Defendant LLOY, Defendant SILVA, Defendant PACHECO and Defendant MATSUURA each violated Defendant COUNTY's ethics code by soliciting and accepting gifts which were intended to influence or reward them for their official action/inaction in the performance of their duties as employees of Defendant COUNTY.

24. The Charter of the County of Maui (2003 ed.), section 10-4 Prohibitions, states in relevant part:

1. No officer or employee of the county shall:
 - a. Solicit, accept or receive any gift; directly or indirectly, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence the officer or employee in the performance of the officer's or employee's official

duties or is intended as a reward for any official action on the officer's or employee's part.

Defendant LLOY, Defendant SILVA, Defendant PACHECO and Defendant MATSUURA each violated Defendant COUNTY's Charter soliciting and accepting gifts which were intended to influence or reward them for their official action/inaction in the performance of their duties as employees of Defendant COUNTY.

25. On or about April 16, 2011 Plaintiff successfully completed his six (6) month probationary period as a Liquor Control Officer Trainee.

26. On or about April 27, 2012 Plaintiff received a Probationary Performance Evaluation Report for the evaluation period from October 16, 2010 through April 15, 2011 wherein Defendant PACHECO wrote under comments, "recognition of superior work."

27. On or about late April 2011 Plaintiff verbally reported the above violations of law, rule, ordinance or regulation, adopted pursuant to law of this State, a political subdivision of this State, or the United States to Defendant LLOY. Defendant LLOY smiled and replied, "this isn't the mainland, these are gifts of Aloha, go along with the program if you want to make it in this Department."

28. In May 2011, immediately after reporting the violations of law, rule, ordinance or regulation, adopted pursuant to law of this State, a political subdivision of this State, or the United States to Defendant LLOY, Defendants collectively retaliated against Plaintiff by:

- a. 5/11 issuing Plaintiff a counseling statement falsely alleging that he was performing deficiently,
- b. 5/11 attempting to revert Plaintiff's employment status from permanent to probationary,
- c. 6/28/11 issuing Plaintiff a second counseling statement falsely

alleging that he was performing deficiently,

- d. 6/29/11 initiating an investigation of Plaintiff for an off duty incident of alleged rudeness,
- e. 8/11 reprimanding Plaintiff for allegedly not paying attention 3 months earlier during a class, and
- f. 8/16/11 terminating Plaintiff effective 8/27/11.

29. On or about June 28, 2011 Plaintiff submitted a written response to Defendant SILVA regarding the retaliation he was being subjected to in response to his reports of illegal activities within Defendant COUNTY. Defendant SILVA ignored Plaintiff's written complaint of retaliation.

30. On or about September 15, 2011, Plaintiff was found eligible for unemployment benefits by the State of Hawaii, Unemployment Insurance Division. Defendant COUNTY appealed the decision and a hearing on the appeal was scheduled on November 2, 2011.

31. In further retaliation, and in order to support its termination of Plaintiff on August 27, 2011, and to support its unemployment appeal, on October 26, 2011 (2 months after his termination) Defendant PACHECO issued a letter informing Plaintiff that he was under investigation for workplace violence for false allegations that were mischaracterizations taken out of context.

32. In further retaliation and in order to support its termination of Plaintiff on August 27, 2011, and to support its unemployment appeal, on November 3, 2011 (3 months after his termination), Defendant LLOY filed a false police report alleging that Plaintiff was a suspect in damage to his vehicle without having a shred of evidence that Plaintiff was involved. Defendant LLOY also requested in writing that the charges be increased from a petty misdemeanor to a class C felony. Ultimately, the case was closed.

33. In further retaliation and in order to support its termination of Plaintiff on

August 27, 2011, on February 10, 2011 (6 months after the termination), Defendant SILVA issued a letter to Plaintiff informing him that he was terminated (apparently for a second time), this time for false allegations of workplace violence, effective February 29, 2012.

34. As evidence that Defendants collectively intended to retaliate against Plaintiff for engaging in protected activity in May 2011 Defendant LLOY, Defendant SILVA, Defendant PACHECO and Defendant MATSUURA each stated that they were worried that Plaintiff would become another "Charles Bunch." Charles Bunch was a plaintiff in a high profile 1994 whistleblower lawsuit filed against Defendant COUNTY regarding claims of retaliation against the plaintiffs for their involvement in a local and federal investigation of illegal activity within Defendant COUNTY.

COUNT I

(Hawaii Whistleblowers Protection Act §378-62 and §378-70 Hawaii Revised Statutes)

35. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 34 above as though fully set forth herein.

36. The actions and conduct of Defendants, and/or each of them, as foresaid, constitutes retaliation against Plaintiff because of complaints he made concerning illegal and unethical activities occurring with the Department and his expressed desire to report the same to the Maui Police Department.

37. The actions and conduct of Defendants, and/or each of them, as aforesaid, constitute a violation of the Hawaii Whistleblowers Protection Act, H.R.S. Chapter 378, Sections 378-62 and 378-70.

38. As a direct and legal result of the wrongful actions and conduct of Defendants, and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits,

opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

39. The actions and conduct of Defendants and/or each of them, were willful, wanton, and reckless, and/or engaged in with conscious indifference to the consequences, thereby entitling Plaintiff to punitive and/or exemplary damages.

COUNT II

(Freedom of Speech)

40. Plaintiff hereby incorporates herein all of the allegations contained in the preceding paragraphs.

41. The actions and conduct of Defendants, and/or each of them, as aforesaid, constitute a violation of Plaintiff's freedom of speech as set forth in Article 1, Section 4 of the Hawaii Constitution.

42. As a direct and legal result of the wrongful actions and conduct of Defendants, and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits, opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

43. The actions and conduct of Defendants, and/or each of them, were willful, wanton, and reckless, and/or engaged in with conscious indifference to the consequences, thereby entitling Plaintiff to punitive and/or exemplary damages.

COUNT III

(Intentional Infliction of Emotional Distress)

44. Plaintiff hereby incorporates herein all of the allegations contained in the preceding paragraphs.

45. The actions and conduct of Defendants, and/or each of them, as aforesaid, constitute the intentional infliction of emotional distress.

46. As a direct and legal result of the wrongful actions and conduct of Defendants and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits, opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

47. The actions and conduct of Defendants, and/or each of them, were willful, wanton, and reckless, and/or engaged in with conscious indifference to the consequences, thereby entitling Plaintiff to punitive and/or exemplary damages.

COUNT IV

(Violation of Public Policy)

48. Plaintiff hereby incorporates herein all of the allegations contained in the preceding paragraphs.

49. The actions and conduct of Defendants and/or each of them, as aforesaid, constitute a wrongful discharge from Plaintiff's employment with Defendant COUNTY in violation of public policy.

50. As a direct and legal result of the wrongful actions and conduct of Defendants, and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits, opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

51. The actions and conduct of Defendants and/or each of them, were willful, wanton, and reckless, and/or engaged in with conscious indifference to the consequences, thereby entitling Plaintiff to Punitive and/or exemplary damages.

COUNT VI

(False Light)

52. Plaintiff hereby incorporates by reference herein all allegations contained

in the preceding paragraphs.

53. The communications and statements of Defendants, and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits, opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

54. As a direct and legal result of the wrongful actions and conduct of Defendants, and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits, opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

55. The actions and conduct of Defendants, and/or each of them, were willful, wanton, and reckless, and/or engaged in with conscious indifference to the consequences, thereby entitling Plaintiff to punitive and/or exemplary damages.

COUNT VII

(Fraud/Intentional Misrepresentation)

56. Plaintiff hereby incorporates by referenced herein all allegations contained in the preceding paragraphs.

57. The action and conduct of Defendants, and/or each of them, as aforesaid, constitutes fraud and/or intentional misrepresentation.

58. As a direct and legal result of the wrongful actions and conduct of Defendants, and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits, opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

59. The actions and conduct of Defendants, and/or each of them, were willful, wanton, and reckless, and/or engaged in with conscious indifference to the consequences,

thereby entitling Plaintiff to punitive and/or exemplary damages.

COUNT VIII

(Negligence)

60. Plaintiff hereby incorporates by reference herein all allegations contained in the preceding paragraphs.

61. The actions and conduct of Defendants, and/or each of them, as aforesaid, were negligent and/or grossly negligent.

62. As a direct and legal result of the wrongful actions and conduct of Defendants, and/or each of them, Plaintiff has suffered severe emotional and mental distress, injury to his reputation, humiliation and embarrassment, loss of job benefits, opportunities and compensation, together with such other and further general and special damages as will be shown at trial.

63 The actions and conduct of Defendants, and/or each of them, were willful, wanton, reckless, and or engaged in with conscious indifference to the consequences, thereby entitling Plaintiff to Punitive and/or exemplary damages.

WHEREFORE, Plaintiff prays as follows:

a. that Plaintiff be reinstated with his job with Defendant with full seniority, back pay, and benefits;

b. that Plaintiff be awarded compensatory damages, assessed jointly and severally against all Defendants, in an amount to be determined at trial herein.

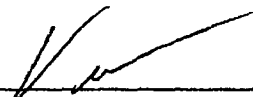
c. that Plaintiff be awarded special damages, assessed jointly and severally against all Defendants, in an amount to be determined at trial;

d. that Plaintiff be awarded exemplary or punitive damages in an amount to be determined at trial;

e. that Plaintiff be awarded attorney's fees and litigation expenses of filing and prosecuting this lawsuit; and

f. that Plaintiff be awarded such other and further relief as this Court deems necessary and proper.

DATED: Honolulu, Hawaii, October 1, 2012



VENETIA K. CARPENTER-ASUI
Attorney for Plaintiff
JUSTIN D. DOBBS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

JUSTIN D. DOBBS,)	Civil No. _____
)	
Plaintiff,)	DECLARATION OF JUSTIN D.
)	DOBBS
vs.)	
)	
COUNTY OF MAUI; JAMES D. LLOYD;)	
FRANKLYN L. SILVA; BILL D.)	
PACHECO; HARRY MATUURA, SR.;)	
DOE INDIVIDUALS 1-10, DOE)	
ENTITIES 1-10)	
)	
Defendants.)	
_____)	


DECLARATION OF JUSTIN D. DOBBS

JUSTIN D. DOBBS hereby declares as follows:

I have read this Complaint, know the contents and verify that the statements are true to my personal knowledge and belief.

I declare under penalty of perjury under the laws of the State of Hawaii that the above is true and correct.

Executed on this 4 day of , October 2012.


JUSTIN D. DOBBS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

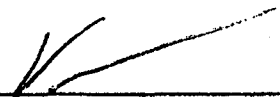
STATE OF HAWAII

JUSTIN D. DOBBS,)
) Civil No. _____
)
 Plaintiff,) DEMAND FOR JURY
) TRIAL
 vs.)
)
 COUNTY OF MAUI; JAMES D. LLOY;)
 FRANKLYN L. SILVA; BILL D.)
 PACHECO; HARRY MATUURA, SR.;)
 DOE INDIVIDUALS 1-10, DOE)
 ENTITIES 1-10)
)
 Defendants.)
 _____)

DEMAND FOR JURY TRIAL

COMES NOW, JUSTIN D. DOBBS, Plaintiff above-named and hereby demands a trial by jury on all issues so triable.

DATED: Honolulu, Hawaii, October 1, 2012.



VENETIA K. CARPENTER-ASUI
Attorney for Plaintiff
JUSTIN D. DOBBS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

JUSTIN D. DOBBS,)	Civil No. _____
)	
Plaintiff,)	SUMMONS
)	
vs.)	
)	
COUNTY OF MAUI; JAMES D. LLOY;)	
FRANKLYN L. SILVA; BILL D.)	
PACHECO; HARRY MATUURA, SR.;)	
DOE INDIVIDUALS 1-10, DOE)	
ENTITIES 1-10)	
)	
Defendants.)	
_____)	

SUMMONS

STATE OF HAWAII

To the above-named Defendant(s):

*JD
with the court*

You are hereby summoned and required to file[^] and serve upon Venetia K. Carpenter-Asui, Plaintiff's attorney, whose address is Ocean View Center, Suite 717, 700 Richards Street, Honolulu, Hawaii 96813, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons must not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, person delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

OCT 12 2012

DATED: WAILUKU Hawaii, _____, 2012.

/sgd/ D. PELLAZAR (seal)

Clerk of the above-entitled Court