

1ST CIRCUIT COURT  
STATE OF HAWAII  
FILED

2009 AUG -5 AM 7:56

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CLERK

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

09-1-1808-08 SSM-

GWENDOLYN P. ROWLAND; )  
MONA ANN C. HOOPAI; LEONAE )  
RODRIGUES; JOYCE ANN )  
UILA PURDY; ROSS NAITO; )  
BRADLEY AKAU; DENNIS K. )  
KAUKA; DAVID ROPA; JOHN )  
MAUGA; ANDREW STINNETT; )  
and BLAISE KIMURA, )

Plaintiffs, )

vs. )

LINDA LINGLE, in her capacity as )  
the Governor of the State of Hawaii; )  
the STATE OF HAWAII; and )  
DOES 1-10, )

Defendants. )

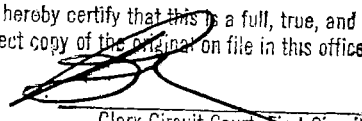
Civil No. \_\_\_\_\_  
(Other Civil Action)

COMPLAINT; EXHIBIT "A"  
and SUMMONS

COMPLAINT

COME NOW Plaintiffs GWENDOLYN P. ROWLAND, MONA  
ANN C. HOOPAI, LEONAE RODRIGUES, JOYCE ANN UILA PURDY;  
ROSS NAITO; BRADLEY AKAU; DENNIS K. KAUKA; DAVID ROPA; JOHN  
MAUGA; ANDREW STINNETT; and BLAISE KIMURA (hereinafter

I do hereby certify that this is a full, true, and  
correct copy of the original on file in this office



Clerk Circuit Court, First Circuit

collectively referred to as "named Plaintiffs") by and through their attorney CHARLES K.Y. KHIM, and hereby allege and aver as follows:

## INTRODUCTION

1. The present case is a Class Action for: (a) declaratory relief; (b) injunctive relief; and (c) money damages; for a deprivation of the named Plaintiffs' and members of the Plaintiff class' Constitutional right to equal protection of the laws, under Article I of the Hawaii State Constitution and the Fourteenth Amendment to the U.S. Constitution. These named Plaintiffs, and members of the Plaintiff class, all of whom are State of Hawaii governmental employees (hereinafter referred to as "State employees") suffered said deprivation of their Constitutional right to equal protection of the laws when their right to continue to perform work for the State government in the amount of hours/days that they are normally assigned to work, and thereby sustain themselves and their families at a normal rate, was impinged upon by the Defendant LINDA LINGLE (hereinafter referred to as "Defendant Lingle") and Defendant STATE OF HAWAII (hereinafter referred to as "Defendant State"). This unconstitutional impingement occurred when said Defendants subjected the named Plaintiffs and members of the Plaintiff class to a reduction in the opportunity to perform said governmental work, via the implementation of: (a) a three (3) day per month furlough from work; and (b) an anticipatory repudiation of that right via a notification of a

layoff from employment; while said Defendants did not subject private sector employees who are the functional equivalents of the State workers and who are performing virtually the same type of work for the State government as the named Plaintiffs, and members of the Plaintiff class, to the same furlough and notice of layoff, with the Defendants having no compelling or even rational reason for engaging in said unequal treatment.

2. In order to meet the Hawaii Constitutional requirement to balance the budget of the Defendant State, this last fiscal year of Defendant State, which expired on June 30, 2009, Defendants State and Lingle delayed or lagged the date upon which Defendant State transferred its monies from the Defendant State's General Fund: to Defendant State's Special Fund for the payment of pension benefits to, among others, retired State workers (the Employees' Retirement System); and to Defendant State's Special Fund for the providing of health, life insurance benefits and other similar benefits to, among others, actively employed and retired State employees (the Employer-Union Health Benefit Trust Fund), from the fiscal year in which said contributions to the foregoing Special Funds were due and owing, to just a few days into the next fiscal year.

3. In Defendant State's current fiscal year, which commenced on July 1, 2009, the compelling State reason of Defendants State and Lingle for engaging in the foregoing discriminatory conduct

against the named Plaintiffs and members of the Plaintiff class was because said discriminatory conduct was necessary in order to balance the Defendant State's budget. Said rationale does not pass constitutional muster because assuming, *arguendo*, that balancing the Defendant State's budget was a compelling state interest, discriminating against only State employees by impinging upon their right to continued employment by the State, by furloughing them and anticipatorily discharging them from employment by notifying them that they were laid off, and not taking the same actions against private sector employees who are performing State government work, is not the least drastic means by which to accomplish the foregoing compelling state interest. Rather, utilizing the very same fringe benefit contribution deferral or "lag" that Defendants Lingle and State utilized to successfully balance the Defendant State's budget the previous fiscal year, is the least drastic means by which to accomplish said compelling state interest. This is especially so, since Defendants Lingle and State's stated goal was to reduce the wages of the named Plaintiffs and members of the Plaintiff class by 13.8%, via furloughs and/or layoffs, in order to balance the Defendant State's budget. HRS, § 88-122(e) provides that the contribution rate to the Employees' Retirement System is 13.75% of the wages of regular State employees, and 15.75% of the wages of State corrections officers and firefighters. Thus, the 13.8% savings goal sought

by the Defendants can easily be met by deferring or lagging said contributions by a few days.

4. Moreover, even if the rational basis test is applicable herein, balancing the Defendant State's budget is not a rational basis for engaging in financial discrimination against only State employees and not against private sector employees performing State government work. The foregoing clearly indicates that the Defendants violated the equal protection of the laws clause herein, when they reduced or eliminated the work of only State employees and not private sector employees who are performing State employee work.

#### PARTIES

5. Plaintiff, GWENDOLYN P. ROWLAND (hereinafter referred to as "Plaintiff Rowland") is a resident of the State of Hawaii, and is employed by the State of Hawaii Department of Transportation, Airports Division as a custodian, and has been continuously so employed from at least August 1, 1987 through the present. During the entire aforesaid period of time, Plaintiff Rowland has been and is for employment purposes, under the direct chain of command of the Defendant Lingle in her capacity as the Governor of the State of Hawaii (hereinafter referred to as "Lingle").

6. Plaintiff MONA ANN C. HOOPAI (hereinafter referred to as "Plaintiff Hoopai") is a resident of the State of Hawaii, and is employed by

the State of Hawaii Department of Education as a custodian, and has been continuously so employed since at least January 1, 1983 through the present. During that entire time, Plaintiff Hoopai has been and is for employment purposes, under the indirect chain of command of Defendant Lingle, inasmuch as Defendant Lingle, through withholding the release of appropriated funds to Plaintiff Hoopai's Department, effectively controls Plaintiff Hoopai's hours of work, including whether said Plaintiff's hours of work will be diminished via a furlough, or whether said Plaintiffs' hours of work will be eliminated via a layoff from employment.

7. Plaintiff LEONAE RODRIGUES (hereinafter referred to as "Plaintiff Rodrigues") is a resident of the State of Hawaii, and is employed by the State of Hawaii Department of Health as a physical therapist assistant, and has been continuously employed by the State of Hawaii since at least January 1, 1983 through the present. During the entire aforesaid period of time, Plaintiff Rodrigues has been and is, for employment purposes, under the direct chain of command of the Defendant Lingle.

8. Plaintiff JOYCE ANN UILA PURDY (hereinafter referred to as "Plaintiff Purdy") is a resident of the State of Hawaii, and is employed by the State of Hawaii Department of Education, as a custodian, and has been so employed from at least November 1, 2004 through the present.

During the aforesaid period of time, Plaintiff Purdy has been under the indirect chain of command, in the same manner as Plaintiff Hoopai.

9. Plaintiff ROSS NAITO (hereinafter referred to as "Plaintiff Naito") is a resident of the State of Hawaii and is employed by the State of Hawaii Department of Public Safety (hereinafter referred to as "PSD") as an Adult Corrections Officer, III (hereinafter referred to as "ACO III") and has been so employed from at least the year 2001 to the present. Plaintiff Naito is under the direct chain of command of Defendant Lingle, for employment purposes.

10. Plaintiff BRADLEY AKAU (hereinafter referred to as "Plaintiff Akau") is a resident of the State of Hawaii, and is employed by the DPS as an ACO III, and has been so employed since the year 1999 to the present. Plaintiff Akau is under the direct chain of command of Defendant Lingle, for employment purposes.

11. Plaintiff DENNIS K. KAUKA (hereinafter referred to as "Plaintiff Kauka") is a resident of the State of Hawaii, and is employed by DPS as an ACO III, and has been so employed since the year 1986 to the present. Plaintiff Kauka is under the direct chain of command of Defendant Lingle, for employment purposes.

12. Plaintiff DAVID ROPA (hereinafter referred to as "Plaintiff Ropa") is a resident of the State of Hawaii, and is employed by DPS as an ACO III, and has been so employed since the year 1998 to the

present. Plaintiff Ropa is under the direct chain of command of Defendant Lingle, for employment purposes.

13. Plaintiff JOHN MAUGA (hereinafter referred to as "Plaintiff Mauga") is a resident of the State of Hawaii, and is employed by DPS as an ACO III, and has been so employed since the year 1999 to the present. Plaintiff MAUGA is under the direct chain of command of Defendant Lingle, for employment purposes.

14. Plaintiff ANDREW STINNETT (hereinafter referred to as "Plaintiff Stinnett") is a resident of the State of Hawaii, and is employed by DPS as an ACO IV, and has been employed by DPS since the year 2000 to the present. Plaintiff Stinnett is under the direct chain of command of Defendant Lingle, for employment purposes.

15. Plaintiff BLAISE KIMURA (hereinafter referred to as "Plaintiff Kimura") is a resident of the State of Hawaii, and is employed by DPS as an ACO III, and has been so employed since the year 1997 to the present. Plaintiff Kimura is under the direct chain of command of Defendant Lingle, for employment purposes.

16. Defendant Lingle is the Governor of the Defendant STATE OF HAWAII, and is being sued in that capacity. As the Governor of the State of Hawaii, Defendant Lingle is vested with the executive power of the State of Hawaii (hereinafter referred to as "State") government and as such is the chief executive officer of the executive branch of the State government, and thus is responsible for the correct



and proper performance of, and the faithful execution of, the laws of the State and the United States of America. Defendant Lingle resides within the physical jurisdictional bounds of the above entitled First Circuit Court.

17. Defendant STATE OF HAWAII (hereinafter referred to as "Defendant State"), has its principal place of business within the jurisdictional boundaries of the above entitled First Circuit Court, is a governmental entity and a State within the meaning of the laws of the United States of America, and the laws of the State of Hawaii. It employs all of the named Plaintiffs, and members of the Plaintiff class;

18. Defendants Does 1-10 (hereinafter referred to as "Doe Defendants") are persons, corporations, partnerships, business entities, non-profit entities, and/or governmental entities who acted in a negligent, wrongful, tortuous or unconstitutional manner which proximately caused or contributed to injuries and damages sustained by the named Plaintiffs and members of the Plaintiff class. The named Plaintiffs have been unable to ascertain the names and identities of the above-named Doe Defendants from the investigation that has been conducted to date based upon their review of Defendants' documents and applicable statutory and case law. Accordingly, the named Plaintiffs and members of the Plaintiff class have sued the unidentified Doe Defendants herein with fictitious names pursuant to Rule 17(d) of the Hawaii Rules of Civil Procedure, and Plaintiffs will substitute the true

names, identities, capacities, acts and/or omissions of the Doe Defendants when the same are ascertained.

### JURISDICTION AND VENUE

19. This court has jurisdiction over this matter pursuant to HRS § 603-21.5, § 632-1, and § 661-1.

20. Venue properly lies in the above entitled Circuit Court of the First Circuit pursuant to HRS § 603-36, because the claims for relief of the named Plaintiffs and members of the Plaintiff class and the sub-set of the Plaintiff class arose in said judicial circuit, and all of the defendants herein reside or have their principal places of business within the physical jurisdictional boundaries of the foregoing judicial circuit.

### FACTUAL ALLEGATIONS

21. At the present time, the Defendant State employs tens of thousands of employees, all of whom are either the named Plaintiffs or members of the Plaintiff class. These State employees can be divided into two (2) sub-categories:

- (a) Defendant State employees who are under the direct chain of command of the Defendants, by reason of the executive power of the Defendant State being vested in the Defendant Lingle; and
- (b) Defendant State employees who are under the indirect control of the Defendants, because notwithstanding the fact

that the terms and conditions of their employment are, pursuant to either constitutional provisions or statutory provisions, controlled by a different Defendant State governmental entity, the amount of days that these employees work, or whether they work at all, are *de facto* controlled by the Defendants, inasmuch as Defendant Lingle ultimately controls the amount of appropriated money that will be released to the respective State entities which control said State employees regarding the payment of their wages, thus effectively controlling how many days of work will be assigned to them, and how many days these employees will be furloughed, *i.e.*, not assigned to perform work, and thus not paid, and whether said employees will be laid off from employment.

22. On or about June 1, 2009, Defendant Lingle announced that she was exercising the executive power of the State to furlough all State employees, without pay for three (3) days per month, for a period of two (2) State fiscal years. This furlough was to commence on July 1, 2009, the beginning of State fiscal year 2009. This notice was given to all of the named Plaintiffs herein, and all of the members of the Plaintiff class.

23. The net effect of the foregoing furlough was to reduce all State employees' wages by approximately thirteen and eight-tenths percent (13.8%) per month.

24. This furlough was effectuated in two (2) ways. For those State employees under Defendant Lingle's direct chain of command, Defendant Lingle ordered that said employees shall have their work hours reduced by three (3) work days per month. For those State employees not under Defendant Lingle's direct chain of command, but

rather under Defendant Lingle's indirect chain of command, Defendant Lingle, through the release or withholding of funds appropriated for those employees' payroll, effectively controlled said employees' hours of work. Defendant Lingle ordered that thirteen and eight-tenths percent (13.8%) of the appropriated funds for said employees' payroll shall be withheld from the Defendant State governmental entity from whom said indirectly subordinate employees salaries are paid from, thus effectively causing said employees to be furloughed, without pay, for three (3) work days per month.

25. On or about June 24, 2009, the Defendants Lingle and State issued an executive order requiring the implementation of said three (3) day per month furlough for all State employees, including the named Plaintiffs and members of the Plaintiff class, effective July 1, 2009, by utilizing the foregoing procedure. This furlough was allegedly implemented because the Defendants contended that the alleged economic crisis which was faced by the Defendant State supposedly required said furlough. These crises supposedly included the ability to meet the mandate in the Hawaii Constitution that the annual budget be balanced.

26. In order to ameliorate the harm to the public that would occur by the implementation of the foregoing furlough, the Defendants implemented courses of action which had the opposite effect of balancing the Defendant State's budget. For example, at Defendant's Pearl Harbor

Elementary School, the Health Nurse from Defendant State's Department of Health who is represented by the United Public Workers Union, who applies her license nursing skills to medically disabled special education students who need said nurse's professional services, was scheduled to be subjected to said furlough. During the days on which she was to be furloughed, Defendant State hired a private nursing agency named "Nurse Finders" to provide the same professional services that would have been provided to said disabled students, by said United Public Workers nurse, but for said nurse being subject to furlough. A significantly higher cost than the cost to employ said United Public Workers nurse would be paid to Nurse Finders for said nursing services.

27. On or about July 2, 2009, certain of the labor organizations that represent certain State employees, including the named Plaintiffs and a substantial amount of the members of the Plaintiff class, obtained injunctive relief, *pendente lite*, prohibiting the Defendants Lingle and State from furloughing certain State employees who are subject to collective bargaining, including the named Plaintiffs and most of the members of the Plaintiff class, until the Defendants herein bargained with said labor organizations over the issue of furloughing said State employees.

28. On or about July 17, 2009, Defendants State and Lingle directly notified a mass amount of members of the Plaintiff class that

they will be laid off or discharged from the Defendant State's employ, in order to help balance the Defendant State's budget.

29. On or about July 20, 2009, named Plaintiffs Naito, Akau, Kauka, Ropa, Mauga, Stinnett and Kimura and some members of the Plaintiff class, were notified at their workplace, Kulani Correctional Facility on the island of Hawaii, that all of the Defendant State's Kulani employees who are under the control, for employment purposes, of Defendant State's PSD, shall be discharged from their employment therewith, via a layoff, in order to aid in the balancing of the Defendant State's budget. This notice was delivered by Defendants Lingle's and State's agents Tommy Johnson and Michael Hoffman.

30. As a result of the closure of the Defendants' Kulani Correctional Facility, a substantial number of inmates housed thereat shall be incarcerated in a privately owned and privately operated prison located on the mainland. The net effect is that the wages, fringe benefits and jobs that have been taken away from the nearly one hundred State PSD government workers at Kulani due to said closing of Kulani, as well as millions of dollars of State government money per year, will be given to this mainland private prison company and its mainland employees, all of whom will be performing Hawaii State employee work. Some of these mainland private prison company employees are being investigated for raping and engaging in the sexual abuse of nineteen (19) women prisoners, including several Hawaii women prisoners, with five (5) such

employees having been, or currently being, subject to felony criminal charges as a result of said investigation.

31. In order to expand the inmate housing capacity at Kulani, the Defendants planned to expand Kulani, the Hawaii Community Correctional Center (hereinafter referred to as "HCCC") and its adjacent Hale Nani Annex, to house an additional 64 female inmates and 128 male inmates, pursuant to a May 2008 construction proposal and draft environmental assessment. In furtherance of this expansion, Defendant State purchased five (5) solid-shell "tent" living structures, each measuring three thousand, two hundred square feet (3,200 sq. ft.), for a total of sixteen thousand square feet (16,000 sq. ft.) of living space, for the aforesaid male and female inmates. The construction preparation and site work have already been completed, with these five (5) structures currently ready to be constructed and erected. If completed, these structures would alleviate the need to send one hundred ninety-two (192) Hawaii inmates to the foregoing private mainland prison, and eliminate the need to close the Kulani Correctional Facility and layoff the nearly one hundred State government employees, now slated for layoff.

32. Defendants have abandoned their foregoing Kulani expansion project, thus wasting the substantial amount of money used to buy said structures and concomitant facilities, and to complete the construction work, *i.e.*, the site work necessary to construct said structures.

33. At all times material herein, including the present, there have been private sector employees who are, and have previously been, performing work that has been traditionally performed by State government employees, and currently is performed by State government employees, including work performed by the named Plaintiffs, and members of the Plaintiff class. For employment purposes, these private sector employees who are performing State government work are the functional equivalent of State government employees.

34. At all times material herein, the Defendants herein had the power to cause the foregoing private sector employees to be furloughed and laid off in much the same manner, as set forth in paragraph 21(b), *supra*, as said Defendants have to furlough and layoff State employees that are under the indirect chain of command of said Defendants. This is by reason of the fact that pursuant to HRS, Chapters 103D and 103F, and H.A.R., Chapters 3-140, *et seq.*, Defendants Lingle and State had the authority in the present situation to terminate or restructure contracts between the Defendant State and the entities which employ the foregoing private sector employees, and pursuant to which said private sector employees are employed. Thus, said Defendants had the power to require said private sector employers effectuate a three (3) day per month furlough. Said Defendants, utilizing said authority could also effectuate the layoff of employees, in an amount to effectuate layoffs that would equal the current anticipatory layoff being



effectuated against the named Plaintiffs and members of the Plaintiff class.

35. Defendants Lingle and State did not effectuate a three (3) day per month furlough of the foregoing private sector employees that it did against the public workers of the State.

36. Defendants Lingle and State did not effectuate an anticipatory mass layoff of the foregoing private sector employees at any material time herein, in any manner which resembled the foregoing layoff against named Plaintiffs and members of the Plaintiff class.

37. The Hawaii Supreme Court held in *York v. State of Hawaii*, 53 Haw. 557, 560, 498 P.2d 644, 646 (1972) that a State employee has a **“fundamental interest . . . [in] the right to work [at his or her State job] and thereby sustain one’s self and family.”** In *York*, the Hawaii Supreme Court further held that under the equal protection of the laws provision in the Constitution, said right to work at a State job in order to support one’s self and family “cannot be impinged [while other employees’ right to employment is not impinged] absent of a showing of a rational relationship to a countervailing legitimate interest on the part of the State,” 53 Haw., at 560 498 P.2d, at 646. In *York*, the Hawaii Supreme Court held that the equal protection of the laws clause of the Hawaii State and U.S. Constitutions prevented the Defendant State from adversely affecting the opportunity of in essence an employee of Defendant State who originated from outside of the physical . . .

jurisdictional boundaries of Defendant State, to perform government work of Defendant State, while not interfering with the opportunity of in essence an employee of Defendant state who originated from within the physical jurisdictional boundaries of Defendant State, unless a rational relationship to a countervailing legitimate interest existed on the part of the defendant State. In *York*, the Hawaii Supreme Court held that favoritism for the in-state employee, in the form of a three (3) year residency requirement, was not a countervailing legitimate interest which warranted an impingement of the employment of the worker who hailed from outside the Defendant State.

38. Defendant Lingle recognized that the foregoing principle applied to prohibit disparate treatment of workers performing State government work, based on the source of their paychecks, when on or about June 17, 2009, Defendant Lingle stated in a letter to the U.S. Social Security Administration that Defendant Lingle "recognized that employees working side-by-side, whether their paychecks come from federal funds, state funds, special funds, or **other taxpayer resources**, should be treated in the same, even-handed manner."

39. In the present situation, there are two (2) classes of employees who are performing State government work: private sector employees of private contractors; and State employees. The class which is comprised of State employees is being discriminated against by Defendants *vis-à-vis* the class comprised of private sector employees.

This discrimination constitutes the imposition of a three (3) day furlough and a layoff of only the State employee class. The Defendants Lingle and State lacked a rational relationship between their policy of continuing to provide full time employment to private sector employees who were and are performing State government work, and said Defendants' new policy of impinging, via furloughs and layoffs, on the right of the named Plaintiffs and members of the Plaintiff class, as State government employees, to perform the same State government work full time. There is no compelling state interest or rational basis to the Defendants' assertion that Defendants' discrimination against the named Plaintiffs, and members of the Plaintiff class, of impinging, via furloughs and layoffs, on the foregoing Plaintiffs' fundamental interest in the right to work the usual amount of hours that are normally assigned to them while not impinging on the same fundamental rights of private sector employees performing State government work, notwithstanding Defendants' claim that their discrimination is proper because it is necessary to do so in order for said Defendants' to fulfill their Constitutional obligation to balance the Defendant State's budget during any given fiscal year. This is because traditionally, and for the past fiscal year (2008-2009 fiscal year), the Defendant Lingle, her predecessor Governors and Defendant State, when in a difficult financial situation, have utilized their traditional remedy of deferring or lagging their obligation to make State employee fringe benefit contributions to the

Defendant State Special Funds for pension benefits and health insurance benefits, from within the then current fiscal year, to a few days into the next fiscal year.

40. Moreover, it is almost never cheaper for a private sector contractor utilizing private sector employees to perform work traditionally performed by Defendant State's public workers, *i.e.*, the named Plaintiffs, and members of the Plaintiff class. Under HRS, § 105-55(a), usually for any contract for services with Defendant State in excess of twenty-five thousand dollars (\$25,000.00), **"the services to be rendered shall be performed by [private sector] employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work."**

41. Cost savings by having a private contractor and its private sector employees who perform the work of State public workers does not often occur, thus making cost savings not a compelling reason or even a rational basis for engaging in the aforesaid discrimination against the named Plaintiffs and members of the Plaintiff class. For example, Defendant State's contract for services with Benton & Associates, Ltd., a Maryland State corporation, which is a third twelve month extension of the original contract, and which is currently in effect from July 1, 2009 to June 30, 2010, provides for a per diem hotel room allowance of \$177.00; and a per diem meals and "incidentals" rate of \$112.00, for a total per diem rate of \$299.00. This contract calls for

1,198 per diem days for all Benton & Associates employees for said annual contract period. The daily pay rate per employee ranges from \$1,600.00 to \$1,000.00, far higher than the daily pay of the comparable State employee. A copy of this Benton contract is attached hereto as Exhibit "A". The foregoing demonstrates that Defendants Lingle and State have violated the named Plaintiffs and members of the Plaintiff class' Constitutional right to equal protection of the laws. The damage therefrom to the named Plaintiffs and members of the Plaintiff class will be demonstrated at trial.

#### CLASS ACTION ALLEGATIONS

42. The named Plaintiffs bring this action on their own behalf and on behalf of the members of the Plaintiff class, all of whom are similarly situated to the named Plaintiffs.

43. The Plaintiff class consists of the following individuals:

All State employees, including State employees who are exempt from civil service membership and/or excluded from collective bargaining, who, in 2009 were furloughed or notified that they shall be furloughed from their State government jobs, by Defendants Lingle and State's direct or indirect actions, under the purported reason of ameliorating the Defendant State's alleged budget shortfall; and a sub-set of the foregoing State employees who were laid off or notified that they shall be laid off from their State government jobs, by Defendants Lingle and State's direct or indirect actions, under the purported reason of ameliorating the Defendant State's alleged budget shortfall.

44. This action has been brought and may be properly maintained as a Class Action pursuant to Hawaii Rules of Civil Procedure, Rule 23.

45. Numerosity of the Class. The Plaintiff class is so numerous that joinder of all such persons is impracticable and the disposition of their claims in a class action, rather than individual actions, will benefit the parties and the court. The exact size of the Plaintiff class is unknown to the named Plaintiffs, although it is believed to be thousands of people. Members of the Plaintiff class may be identified from Defendants' records.

46. Existence of Common Questions of Law and Fact. There is a well defined community of interest in the questions of law and fact involved in this case which affect all members of the Plaintiff class and which predominate over any individual issues. Questions of law and fact common to the Plaintiff class members include, but are not limited to, the following:

- (a) Whether the normal amount of work hours/days which were assigned to the named Plaintiffs and members of the Plaintiff class was impinged upon, and the normal amount of work hours/days which were assigned to the private sector employees who were performing State government work which was not impinged upon;
- (b) Whether the strict scrutiny or rational basis standard of Constitutional analysis applies to the instant matter;
- (c) What was the reason why the Defendants substantially impinged upon the normal amount of work hours/days which were assigned only to the named Plaintiffs and members of the Plaintiff class, and did not substantially

impinge upon the normal amount of work hours/days which were assigned to the private sector employees; and

- (d) What type of declaratory relief, injunctive relief and monetary damages should be awarded to the named Plaintiffs and members of the Plaintiff class.

47. **Typicality of Claims or Defenses.** The named Plaintiffs' claims are typical of those of the members of the Plaintiff class because the Defendants impinged upon the normal amount of hours/days that were assigned to both the named Plaintiffs, as well as members of the Plaintiff class. The defenses to those claims will be the same, be it asserted by the named Plaintiffs, or members of the Plaintiff class.

48. **Fairness and Adequacy of Representation.** The named Plaintiffs and their legal counsel will fairly and adequately represent the members of the Plaintiff class because they will fairly and adequately protect the interest of said class. The named Plaintiffs' interests are consonant with the interests of the members of the Plaintiff class which they seek to represent. The named Plaintiffs are committed to the vigorous prosecution of this action and have retained competent counsel experienced in complex litigation, class action litigation and consumer litigation, and litigation against public entities. The interests of the class will be fairly and adequately protected by the named Plaintiffs and their counsel.

49. **Risk of Inconsistent Adjudications, and Dispositive Rulings Against Others.** Prosecution of separate actions by individual

members of the Plaintiff class would create a risk of inconsistent or varying adjudications with respect to individual members of the Plaintiff class, which would establish incompatible standards of conduct for the Defendants opposing the Plaintiff class. In addition, the prosecution of separate actions would create as a practical matter, adjudications with respect to individual members of the Plaintiff class which would, as a practicable matter, be dispositive of the interests of the other Plaintiff class members not parties to the adjudications, or which would substantially impair or impede their ability to protect their interests.

50. Defendants' Act and Refusals to Act Against in Class in General Make Injunctive Relief Appropriate. This action may also be maintained as a class action because Defendants have acted and refused to act on grounds generally applicable to the class as a whole, thereby making appropriate preliminary and final injunctive relief with respect to the members of the Plaintiff class appropriate, and make corresponding declaratory relief appropriate.

**COUNT I:**

**CLAIM FOR DECLARATORY RELIEF**

51. Named Plaintiffs and members of the Plaintiff class reallege, as if fully set forth, each allegation set forth above.

52. The foregoing establishes that Defendants Lingle and State have violated the equal protection of laws clause in Article I of



Defendant State's Constitution, and the Fourteenth Amendment to the U.S. Constitution, when said Defendants unequally treated the named Plaintiffs and members of the Plaintiff class by reducing or permanently eliminating their normal amount of work hours/days, including a layoff or an anticipatory layoff of said individuals, while maintaining or substantially maintaining the normal amount of work hours/days of the foregoing private sector employees who were performing, and continue to perform, State government work.

53. The foregoing indicates that an actual controversy exists herein within the meaning of HRS, § 632-1, thus authorizing this Court to make binding adjudications of the rights of the named Plaintiffs and members of the Plaintiff class, *vis-a-vis*, the Defendants herein.

54. By reason of the premises, this matter should be maintained as an action for a declaratory ruling, with this court declaring that the Defendants herein have violated the Constitutional right of the named Plaintiffs and members of the Plaintiff class to equal protection of the laws, when said Defendants furloughed them and notified certain of them that they shall be laid off from employment, while not subjecting the foregoing private sector employees to furloughs and notices of layoffs, in the same amount and/or manner as the named Plaintiffs, and members of the Plaintiff class.

**COUNT II:**

CLAIM FOR INJUNCTIVE RELIEF

55. The named Plaintiffs and members of the Plaintiff class reallege, as if fully set forth, each allegation stated above.

56. The foregoing establishes that the Defendants Lingle and State have violated, in the manner set forth above, the Constitutional right of the named Plaintiffs and members of the Plaintiff class to equal protection of the laws.

57. By reason of the premises, the above entitled court should issue a preliminary and/or permanent injunction requiring said Defendants to reinstate the named Plaintiffs and members of the Plaintiff class who were laid off by said Defendants, pursuant to said notices of layoff, and to rescind said notices of layoff, and notify the appropriate harmed Plaintiffs and members of the Plaintiff class of the same. This court should also issue an order enjoining said Defendants from any future layoffs and furloughs of the named Plaintiffs and members of the Plaintiff class. This court should also issue a permanent injunction requiring said Defendants to provide all named Plaintiffs and members of the Plaintiff class who lost hours or days of work by reason of said furloughs and layoffs, with the following remedies, for the duration of the time that said individuals were temporarily and/or permanently displaced from active, paid State government employment by reason of being furloughed and/or laid off by said Defendants: (a) back service credit for retirement benefits, such as service credit for retiree medical

and pension benefits; (b) seniority credit for active employment benefits, including but not limited to seniority for promotion purposes, transfer purposes, temporary assignment purposes and bumping rights; (c) back employer fringe benefits monetary contributions, such as monetary contributions to the Employees' Retirement System of the State of Hawaii (hereinafter referred to as "ERS") and the State of Hawaii Employers' and Unions' Health Benefits Trust Fund (hereinafter referred to as "EUTF"); (d) back pay; and (e) all other employment benefits.

**COUNT III:**

**CLAIM FOR MONEY DAMAGES**

58. The named Plaintiffs and members of the Plaintiff class reallege, as if fully set forth, each allegation stated above.

59. The foregoing establishes that the Defendants Lingle and State have violated, in the manner set forth above, the Constitutional right of the named Plaintiffs and members of the Plaintiff class to equal protection of the laws.

60. By reason of the premises, and to the extent that the foregoing elements of the injunctive relief prayed for in the preceding Count II are considered to be claims for money damages, then the named Plaintiffs and members of the Plaintiff class assert a claim for money damages for said elements of the foregoing claim for injunctive relief. In addition, the named Plaintiffs and members of the Plaintiff class assert

claims for compensatory, general and special money damages, and punitive damages that result from the foregoing violations of law, in an amount that will be proved at trial.

**WHEREFORE**, the named Plaintiffs and members of the Plaintiff class pray that the above entitled court grant them the following relief, in the form of a judgment which provides for the following:

(a) A certification that the instant matter shall be maintained as a class action under HRCP, Rule 23(a), (b)(1) and (b)(2).

(b) A declaration that the Defendants Lingle and State have violated the right of the named Plaintiffs and members of the Plaintiff class to equal protection of the laws, under the Federal and Hawaii State Constitutions, when said Defendants implemented furloughs and notices of layoffs of the named Plaintiffs and members of the Plaintiff class, while not implementing furloughs and notices of layoffs of the foregoing private sector employees who were, at all material times herein, performing State government work, and who are currently performing State government work.

(c) A permanent injunction ordering the Defendants Lingle and State to immediately cancel and rescind any and all furloughs and notices of layoffs of the named Plaintiffs and members of the Plaintiff class.

(d) A permanent injunction ordering the Defendants Lingle and State to reinstate to employment to their job positions, and to reinstate normal work hours and days, any and all named Plaintiffs and members of the Plaintiff class who were temporarily and/or permanently displaced from active, paid State government employment by reason of being furloughed and/or laid off by said Defendants.

(e) A permanent injunction ordering Defendants Lingle and State to afford all named Plaintiffs and members of the Plaintiff class the following remedies, for the duration of time that said individuals were temporarily and/or permanently displaced from active, paid State government employment by reason of being furloughed and/or laid off by said Defendants: (i) back service credit for retirement benefits, such as retiree medical and pension benefits; (ii) back seniority credit for active employment benefits, including but not limited to seniority for promotion purposes, transfer purposes, temporary assignment purposes and bumping rights; (iii) back employer fringe benefits monetary contributions, such as monetary contributions to the Employees' Retirement System of the State of Hawaii (hereinafter referred to as "ERS") and the State of Hawaii Employers' and Unions' Health Benefits Trust Fund (hereinafter referred to as "EUTF"); (iv) back pay including back overtime pay that would have been normally earned for the aforesaid period of time; and (v) all other employment and compensation benefits, including the monetary value of meals that would

have been provided to said individuals as employment fringe benefits - -  
for example meals for prison guards at correctional facilities.

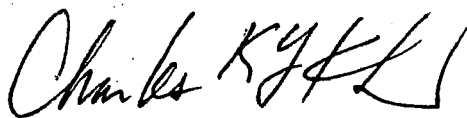
(f) A permanent injunction enjoining the Defendants herein from: (i) furloughing in the future, the named Plaintiffs and members of the Plaintiff class; and (ii) laying off, in the future, the named Plaintiffs and members of the Plaintiff class.

(g) Payment of all compensatory damages, general damages, special damages, and punitive damages that were incurred by the named Plaintiffs and members of the Plaintiff class are entitled to by reason of the Defendants' violations of the Federal and/or State Constitutional right to equal protection of the laws.

(h) Reasonable attorney's fees.

(i) All other remedies that the above entitled court deems just and proper.

DATED: Honolulu, Hawaii, August 5, 2009.



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CHARLES K.Y. KHIM #2731  
Attorney for Plaintiffs and Members  
of the Plaintiff Class

**EXHIBIT A**







STATE OF HAWAII

SUPPLEMENTAL CONTRACT NO. 3
TO CONTRACT CF-DHS-06-DIR-010-SW

(Insert contract number or other identifying information)

This Supplemental Contract No. 3, executed on the respective dates indicated below, is effective as of June 30, 2009, between the DEPARTMENT OF HUMAN SERVICES, State of Hawaii

(Insert name of state department, agency, board or commission)

("STATE"), by its DIRECTOR

(Insert title of state officer executing contract)

(hereafter also referred to as the HEAD OF THE PURCHASING AGENCY or designee ("HOPA")), whose address is 1390 Miller Street, Honolulu, Hawaii 96813, and BENTON & ASSOCIATES, LTD. ("CONTRACTOR"),

a CORPORATION

(Insert corporation, partnership, joint venture, sole proprietorship, or other legal form of the CONTRACTOR)

under the laws of the State of Maryland, whose business address and federal and state taxpayer identification numbers are as follows: 4255 Buckskin Lake Drive, Ellicott City, Maryland, 21042, Hawaii address is Executive Centre, 1088 Bishop Street, Suite 1702 Hawaii ID No. W61600691, Federal ID No. 52-1846693

RECITALS

A. WHEREAS, the STATE and the CONTRACTOR entered into Contract CF-DHS-06-DIR-010-SW

(Insert contract number or other identifying information)

dated February 1, 2006, which was amended by Supplemental Contract No(s) 1
dated June 28, 2007, which was amended by Supplemental Contract No(s) 2
dated June 30, 2008, which was amended by Supplemental Contract No(s) N/A
dated (hereafter collectively referred to as "Contract") whereby the CONTRACTOR agreed to provide the goods or services, or both, described in the Contract; and

B. WHEREAS, the parties now desire to amend the Contract.

NOW, THEREFORE, the STATE and the CONTRACTOR mutually agree to amend the Contract as follows: (Check Applicable box(es))

- Amend the SCOPE OF SERVICES according to the terms set forth in Attachment-S1, which is made a part of the Contract.
Amend the COMPENSATION AND PAYMENT SCHEDULE according to the terms set forth in Attachment-S2, which is made a part of the Contract.
Amend the TIME OF PERFORMANCE according to the terms set forth in Attachment-S3, which is made a part of the Contract.
Amend the SPECIAL CONDITIONS according to the terms set forth in Attachment-S6 SUPPLEMENTAL SPECIAL CONDITIONS, which is made a part of the Contract.
Recognize the CONTRACTOR'S change of name.

FROM:

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

As set forth in the documents attached hereto as Exhibit \_\_\_\_\_, and incorporated herein.


A tax clearance certificate from the State of Hawaii  is  is not required to be submitted to the STATE prior to commencing any performance under this Supplemental Contract.

A tax clearance certificate from the Internal Revenue Service  is  is not required to be submitted to the STATE prior to commencing any performance under this Supplemental Contract.

The entire Contract, as amended herein, shall remain in full force and effect.

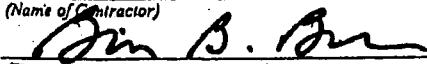
IN VIEW OF THE ABOVE, the parties execute this Contract by their signatures, on the dates below, to be effective as of the date first above written.

**STATE: DEPARTMENT OF HUMAN SERVICES**

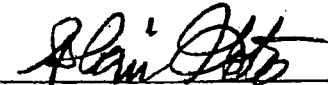
  
(Signature)  
Lillian B. Koller  
(Print Name)  
Director  
(Print Title)  
JUN 26 2009  
(Date)

**CONTRACTOR**

COMPANYS SEAL  
(If available)

BENTON & ASSOCIATES, LTD.  
(Name of Contractor)  
  
(Signature)  
BILL B. BENTON  
(Print Name)  
V P  
(Print Title)  
6/12/09  
(Date)

**APPROVED AS TO FORM:**

  
Deputy Attorney General

\* Evidence of authority of the CONTRACTOR'S representative to sign this Contract for the CONTRACTOR must be attached.



Resolution of the Board of Directors of  
BENTON & ASSOCIATES, LTD.  
(Name of Company)

At a duly constituted meeting of the Board of Directors of  
Benton & Associates, Ltd., held on the 12th day  
of June, 2009, the following resolutions were adopted:

RESOLVED: That BILL B. BENTON, VICE PRESIDENT  
(Names of Persons or Officer Titles)

be and hereby are authorized and empowered to enter into any contract or agreement on behalf of said Corporation with the United States Government or the State of Hawaii or the City and County of Honolulu for furnishing products or services dealt in by said Corporation; and to execute, deliver, and acknowledge such contracts or agreements on behalf of said Corporation; also to execute, deliver, and acknowledge on behalf of said Corporation all necessary bonds for the performance of such contracts or agreements.

I, the undersigned, hereby certify that the foregoing is a true copy of the resolution adopted by the Board of Directors of the Corporation at a meeting of said Board held on the aforementioned date, and entered upon the regular minute book of said Corporation had lawful authority to adopt the said resolution and to confer the powers thereby granted to the officers therein names, who have full power and lawful authority to exercise the same.

Date: 6/12/09

By: Bill B. Benton  
(Signature)

BILL B. BENTON  
(Print Name)

Its: VICE PRESIDENT  
(Title)

Corporate Seal:



STATE OF HAWAII

CONTRACTOR'S  
STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Agency" means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of BENTON & ASSOCIATES, LTD., CONTRACTOR, the undersigned does declare as follows:

1. CONTRACTOR  is  is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. CONTRACTOR has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).
4. CONTRACTOR has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

CONTRACTOR understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

**Reminder to Agency:** If the "is" block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract must be awarded by competitive sealed bidding under section 103D-302, HRS, or a competitive sealed proposal under section 103D-303, HRS. Otherwise, the Agency may not award the Contract unless it posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACTOR

By

*Bill B. Benton*  
(Signature)

Print Name

BILL B. BENTON

Print Title

VICE-PRESIDENT

Name of Contractor

BENTON & ASSOCIATES, LTD

Date

6/19/09



STATE OF HAWAII  
STATE PROCUREMENT OFFICE

CERTIFICATE OF VENDOR COMPLIANCE

This document presents the compliance status of the vendor identified below on the issue date with respect to certificates required from the Hawaii Department of Taxation (DOTAX), the Internal Revenue Service, the Hawaii Department of Labor and Industrial Relations (DLIR), and the Hawaii Department of Commerce and Consumer Affairs (DCCA).

Vendor Name: **BENTON & ASSOCIATES LTD**  
DBA/Trade Name: **BENTON & ASSOCIATES, LTD.**  
Issue Date: **06/04/2009**  
Status: **Compliant**  
Hawaii Tax#: **W61600691**  
FEIN/SSN#: **52-1846693**  
UI#: **No record**  
DCCA FILE#: **35097**

Status of Compliance for this Vendor on issue date:

Form	Department(s)	Status
A-6	Hawaii Department of Taxation	Compliant
	Internal Revenue Service	Compliant
COGS	Hawaii Department of Commerce & Consumer Affairs	Compliant
LIR27	Hawaii Department of Labor & Industrial Relations	Compliant

Status Legend:

Status	Description
Exempt	The entity is exempt from this requirement
Compliant	The entity is compliant with this requirement
Pending	The entity is compliant with DLIR requirement
Submitted	The entity has applied for the certificate but it is awaiting approval
Not Compliant	The entity is not in compliance with the requirement and should contact the issuing agency for more information



STATE OF HAWAII  
SCOPE OF SERVICES

The Contractor shall continue to provide the services specified in the Scope of Services in the original Contract as modified by the Contract Initiatives (July 1, 2009-June 30, 2010) and the Staff Loading Detail both of which are attached hereto as Exhibit "A" and incorporated herein.

Benton & Associates, Ltd.  
Contract CF-DHS-06-DIR-010-SW  
July 1, 2009 – June 30, 2010

Attachment A

## Contract Initiatives

1. Title IV-E Eligibility (Borgo) – This initiative will continue the contractor's work to assure that all foster children legitimately eligible for Title IV-E are properly documented consistent with applicable Federal policy.

This initiative will include training and monitoring the work of the Title IV-E Quality Assurance Unit established at the University of Hawaii's School of Social Work.

Special emphasis during the coming year will be increasing access to Supplemental Security Income (SSI) on the part of foster children.

2. Title IV-E Pre-Placement Prevention (Goodwin)— This initiative will continue the contractor's work to document children who are "reasonable candidates" for Title IV-E foster care and to accurately determine the amount of Federal Financial Participation (FFP) associated with those costs.

This initiative will include working with providers of Voluntary Case Management and other pre-placement prevention activities (including Enhanced Healthy Start, and Ohana Conferencing).

3. Child Welfare Cost Allocation (Benton) – This initiative will involve developing a new framework for allocating costs of Social Services Division staff.

The priority for the coming year will be developing a new Random Moment Sampling (RMS) system to capture and appropriately allocate costs to the benefitting Federal program.

4. TANF (Chassman)– This initiative will continue to monitor implementation of the 5-year Strategic Plan, assess the effects of Federal policy changes, monitor and evaluate program performance, enhance work participation, document Maintenance of Effort (MOE), and assure that the State takes full advantage of appropriate portions of the Federal Stimulus Legislation.
5. Other (Benton) – Resources have been set aside for priorities approved by the Director during the contract period. For each new initiative a detailed work plan will be developed for approval by the Department.



Staff Loading Detail  
 Person Days @ Initiative  
 2009-2010

	<u>IV-E Eligibility</u>	<u>Title IV-E</u>	<u>Cost Allocation</u>	<u>TANF</u>	<u>Other</u>	<u>TOTAL</u>
Bill Benton, DPA	20	20	100	5	15	160
Joseph Borgo, ACSW	80	10	20	0	10	120
James Murphy, CPA	20	20	0	0	0	40
Deborah Chassman	8	0	5	137	10	160
Mack Storrs	8	0	5	147	0	160
Jon Hobbs	0	0	0	160	0	160
Jo Anne Barnhart	0	0	0	70	0	70
Ray Goodwin	0	100	20	0	0	120
Robert Montgomery	0	100	20	0	0	120
Niche Consultants	5	0	10	0	65	80
TOTAL	141	250	180	519	100	1190



STATE OF HAWAII

**COMPENSATION AND PAYMENT SCHEDULE**

The Consultant shall be compensated for goods and/or services performed, including approved costs incurred and taxes. The estimated budget is attached and labeled as Attachment S2CC.

The Consultant shall submit itemized invoices in original and 3 copies to the DHS Contract Administrator.

Benton & Associates, Ltd.  
 Supplemental Agreement No.3  
 Contract CF-DHS-06-DIR-010-SW

S2CC

	<u>Hourly Rate</u>	<u>Daily Rate</u>	<u>No. of Days</u>	<u>Total</u>
<b>Type A -- Personnel</b>				
Bill Benton, DPA	\$200	\$1,600	160	\$256,000
Joseph Borgo, ACSW	\$150	\$1,200	120	\$144,000
James Murphy, CPA	\$125	\$1,000	40	\$40,000
Deborah Chassman	\$175	\$1,400	160	\$224,000
Mack Storrs	\$150	\$1,200	160	\$192,000
Jon Hobbs	\$150	\$1,200	160	\$192,000
Jo Anne Barnhart	\$150	\$1,200	70	\$84,000
Ray Goodwin	\$175	\$1,400	120	\$168,000
Robert Montgomery	\$125	\$1,000	120	\$120,000
Niche Consultants	\$125	\$1,000	80	<u>\$80,000</u>
<b>Personnel Subtotal</b>				<b><u>\$1,500,000</u></b>
<b>Type B -- Other Operating Cost</b>				
<i>Bill Benton, DPA</i>				
Airfare	\$1,400		12	\$16,800
Lodging*	\$177		120	\$21,240
Meals and Incidentals*	\$112		120	\$13,440
<b>Benton Subtotal</b>				<b><u>\$51,480</u></b>
<i>Joseph Borgo, ACSW</i>				
Airfare	\$1,400		12	\$16,800
Lodging*	\$177		120	\$21,240
Meals and Incidentals*	\$112		120	\$13,440
<b>Borgo Subtotal</b>				<b><u>\$51,480</u></b>
<i>James Murphy, CPA</i>				
Airfare	\$1,400		2	\$2,800
Lodging*	\$177		40	\$7,080
Meals and Incidentals*	\$112		40	\$4,480
<b>Murphy Subtotal</b>				<b><u>\$14,360</u></b>
<i>Deborah Chassman</i>				
Airfare	\$1,400		12	\$16,800
Lodging*	\$177		160	\$28,320
Meals and Incidentals*	\$112		160	\$17,920
<b>Chassman Subtotal</b>				<b><u>\$63,040</u></b>

<b>Total Direct Costs</b>		<b><u>\$1,996,502</u></b>
Indirect Costs	30%	\$598,951
<b>TOTAL</b>		<b><u>\$2,595,453</u></b>
General Excise/Use Tax	4.5%	\$116,795
<b>TOTAL PLUS TAX</b>		<b>\$2,712,248</b>
<b>Estimated FFP***</b>	67%	<b>\$1,817,206</b>
<b>Estimated Cost to the State</b>	33%	<b>\$895,042</b>

\* Denotes use of Federal travel regulations.

\*\* No staff or consultants will be added to the project without the prior authorization of the DHS Director.

\*\*\* Designates estimated rate of Federal Financial Participation (FFP).



STATE OF HAWAII  
TIME OF PERFORMANCE

This Contract is extended for an additional 12-month period starting from July 1, 2009 to June 30, 2010. This is extension 3 of the contract.



STATE OF HAWAII

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

1. By Heads of Departments Delegated by the Director of the Department of Human Resources Development ("DHRD").\*

Pursuant to a delegation of the authority by the Director of DHRD, I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to § 76-16, Hawaii Revised Statutes (HRS).

Lillian B. Koller  
(Signature)

JUN 26 2009  
(Date)

Lillian B. Koller  
(Print Name)

Director  
(Print Title)

\* This part of the form may be used by all department heads and the heads of attached agencies to whom the Director of DHRD expressly has delegated authority to certify § 76-16, HRS, civil service exemptions. The specific paragraph(s) of § 76-16, HRS, upon which an exemption is based should be noted in the contract file. If an exemption is based on § 76-16(b)(15), the contract must meet the following conditions:

- (1) It involves the delivery of completed work or product by or during a specific time;
- (2) There is no employee-employer relationship; and
- (3) The authorized funding for the service is from other than the "A" or personal services cost element.

NOTE: Not all attached agencies have received a delegation under § 76-16(b)(15). If in doubt, attached agencies should check with the Director of DHRD prior to certifying an exemption under § 76-16(b)(15). Authority to certify exemptions under §§ 76-16(b)(2), and 76-16(b)(12), HRS, has not been delegated; only the Director of DHRD may certify §§ 76-16(b)(2), and 76-16(b)(12) exemptions.

2. By the Director of DHRD, State of Hawaii.

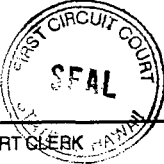
I certify that the services to be provided under this Contract, and the person(s) providing the services under this Contract are exempt from the civil service, pursuant to §76-16, HRS.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print Title, if designee of the Director of DHRD)

<p align="center"><b>STATE OF HAWAII</b> CIRCUIT COURT OF THE FIRST CIRCUIT</p>	<p align="center"><b>SUMMONS TO ANSWER CIVIL COMPLAINT</b></p>	<p>CASE NUMBER</p>
<p>PLAINTIFF</p> <p>GWENDOLYN P. ROWLAND; MONA ANN C. HOOPAI; LEONAE RODRIGUES; JOYCE ANN UILA PURDY; ROSS NAITO; BRADLEY AKAU; DENNIS K. KAUKA; DAVID ROPA; JOHN MAUGA; ANDREW STINNETT; and BLAISE KIMURA</p>	<p align="center">vs.</p>	<p>DEFENDANT</p> <p>LINDA LINGLE, in her capacity as the Governor of the State of Hawaii; the STATE OF HAWAII; and DOES 1-10</p>
<p>PLAINTIFF'S ADDRESS (NAME, ADDRESS, TEL. NO.)</p> <p>CHARLES K.Y. KHIM, ESQ. #2731 Clifford Center 810 Richards Street, Suite 502 Honolulu, Hawaii 96813</p> <p>Telephone No.: (808) 537-5305</p>		
<p><b>TO THE DEFENDANT(S):</b></p> <p>You are hereby summoned and required to serve upon plaintiff's attorney, whose address is stated above, and answer to the complaint which is attached. This action must be taken within twenty days after service of this summons upon you, exclusive of the day of service.</p> <p>If you fail to make your answer within the twenty day time limit, judgment by default will be taken against you for the relief demanded in the complaint.</p> <p><b>This summons shall 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, personal delivery during those hours.</b></p> <p><b>A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.</b></p>		
<p>DATE ISSUED</p> <p><b>AUG - 5 2009</b></p>	<p>CLERK</p> <p>B. TERAOKA</p> 	
<p>I do hereby certify that this is a full, true, and correct copy of the original on file in this office.</p>	<p>CIRCUIT COURT CLERK HAWAII</p>	

