

NO. 04-15306

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EARL F. ARAKAKI, et al.,)	D.C. No. CV-02-00139 SOM/KSC
)	District of Hawaii
Plaintiffs-Appellants,)	
)	
vs.)	
)	OHA DEFENDANTS-APPELLEES'
LINDA LINGLE, in her)	MOTION FOR EXTENSION OF TIME
official capacity as)	TO FILE ANSWERING BRIEF;
GOVERNOR OF THE STATE OF)	DECLARATION OF COUNSEL;
HAWAII, et al.,)	CERTIFICATE OF SERVICE
)	
State Defendants-Appellees,)	
)	
HAUNANI APOLIONA, et al.,)	
)	
OHA Defendants-Appellees,)	
)	
MICAH KANE, et. al.,)	
)	
HHCA/DHHL Defendants-)	
Appellees,)	
)	
THE UNITED STATES OF)	
AMERICA, and JOHN DOES 1-10)	
)	
Defendants-Appellees,)	
)	
STATE COUNCIL OF HAWAIIAN)	
HOMESTEAD ASSOCIATIONS,)	
and ANTHONY SANG, SR.,)	
)	
SCHAA Defendants/)	
Intervenors-Appellees)	
)	

HUI KAKO'O'AINA)
HO'OPULAPULA, BLOSSOM)
FEITEIRA and DUTCH SAFFERY,)
)
HUI Defendants/Intervenors-)
Appellees.)
_____)

**OHA DEFENDANTS-APPELLEES' MOTION FOR
EXTENSION OF TIME TO FILE ANSWERING BRIEF**

DECLARATION OF COUNSEL

CERTIFICATE OF SERVICE

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**OHA DEFENDANTS-APPELLEES' MOTION FOR
EXTENSION OF TIME TO FILE ANSWERING BRIEF**

OHA Defendants-Appellees hereby respectfully move, pursuant to Ninth Circuit Rule 31-2.2(b), for a 28-day extension of time to allow their Answering Brief to be filed August 3, 2004, for the reasons stated in the attached Declaration of Counsel.

DATED: Honolulu, Hawaii, June 9, 2004.

SHERRY P. BRODER
JON M. VAN DYKE
MELODY MacKENZIE
Attorneys for OHA Defendants-Appellees

DECLARATION OF COUNSEL

I, SHERRY P. BRODER, do declare under the penalty of perjury that the foregoing is true and correct.

1. I am one of the attorneys of record for OHA Defendants-Appellees in the above entitled matter, and declare as follows:

2. The Answering Brief is currently due July 6, 2004, pursuant to the Time Schedule Order dated February 25, 2004.

3. The Answering Brief was first due July 6, 2004, as stated in the previous paragraph, no previous extensions of time having been sought.

4. OHA Defendants hereby request an extension of time to file its Answering Brief of 28 days, to August 3, 2004.

5. The requested extension of time is necessary for several reasons. My mother is 81 years old, very ill, and being treated on the East Coast, and I will need to continue my commute back and forth to the East Coast during this time period. Co-counsel Jon Van Dyke is currently traveling and out of the country teaching in Bulgaria and Austria from June 17 to July 5, 2004. In addition, such an extension of time is necessary given the complexity of the legal issues in this case, and the large number of issues that Plaintiffs-Appellants have chosen to raise in their Opening Brief. The Opening Brief is a lengthy 68 pages long, and deals with

multiple highly complex justiciability, constitutional Indian law, and issue preclusion matters, as well as numerous other issues that must be addressed.

6. The above reasons demonstrate my substantial need for the requested 28-day extension of time.

7. During the past three months, I have reviewed portions of the record and researched much of the law I believed would be relevant to this appeal. In addition, I have worked on these issues for many years. I represent that I have exercised diligence and that the Answering Brief will be filed within the time requested.

8. This request is made in the interest of justice and will not prejudice any of the parties. I have consulted with the other parties to this appeal, and none of them (including the United States), except for Plaintiffs-Appellants, object to this request. This request for additional time is very modest and as state taxpayers the Plaintiffs-Appellants can hardly allege any kind of prejudice whatsoever since the alleged injury to their pocketbook is miniscule. The programs that Plaintiffs-Appellants are challenging have been going on for either 25 years (Office of Hawaiian Affairs), or over 80 years (Department of Hawaiian Home Lands). Consequently, our requested 4-week extension will cause no prejudice. Plaintiffs-

Appellants pursued a preliminary injunction and even withdrew their preliminary injunction request; see Clerk' s Record 164 in the District Court.

DATED: Honolulu, Hawaii, June 9, 2004.

SHERRY P. BRODER

CERTIFICATE OF SERVICE

I hereby certify that one copy of the foregoing was duly served on each of the following persons by depositing the same in the U.S. mails, first class postage prepaid, on June 9, 2004:

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DATED: Honolulu, Hawaii, June 9, 2004.

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