

Transcript Part 1: Case No. 1DSC-21-0000748
December 8, 2021 Hearing

re: Motion to Disqualify the Department of the Attorney General from
Representing Defendant Asuncion in the Matter of Defamation

IDENTIFICATION OF PARTIES. CLARIFICATION OF FILINGS. ADDITIONAL STATEMENTS.

Start Time	Judge Bautista	Vanessa Ott, Plaintiff	Michael Azuma, Deputy Atty Gen'l - Defense Counsel	Observers Erik Ott; Lunsford Phillips
14:15:36	Court Clerk: "Case number 10, Vanessa Ott versus Christine Asuncion."			
14:15:44		Vanessa Ott, Plaintiff is here.		
22:15:47	Okay. Good Afternoon, Ms. Ott. Thank you. And let me check in who we have for the defense. Mr. Azuma, are you still with us?			
14:15:55			Yes. Good afternoon, your honor. This is Deputy Attorney General Michael Azuma on behalf of Defendant Christine Asuncion whose presence has been waived by the previous chair, uh, I'm sorry, judge.	
14:16:08	Okay. Very well. And, so, at this point what we have in this case is a motion that was filed by Ms. Ott. A motion to disqualify the Attorney General's Office. Okay. The court has received that. Okay. Now let me just check on one thing because when we were checking in parties earlier this afternoon, we did that there is an Erik Ott who's also present? And also, Mr. Phillips, are you also, what is your representation in this case?			
14:16:44				[Phillips]: Have I taken off my mute?
14:16:47	I can hear you.	Yes, we can hear you.		

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14:16:49				[Phillips]: You can hear me. Alright. I am a member of the Hawai'i State Bar Association. I am available if the court or any of the parties raise and issue that I could be helpful with input, I'd be happy to give it. So, I'm standing by.
14:17:20	Okay. So, let me see if I'm clear, Mr. Lunsford. You are just here in standby for Ms. Ott and you are not currently representing her. Correct?			
14:17:30				[Phillips]: That's correct.
14:17:32	Okay. Very good. So, thank you for that. And, so, I also understand Erik Ott is also, obviously related to Ms. Ott, is also standing by in support. Is that correct, Ms. Ott?			
14:17:45		Yes, sir.		
14:17:46	For purposes of this hearing, okay, Ms. Ott, you're going to be required to represent yourself. At this point you do not have retained counsel representing you. I just want to make that clear.			
14:18:01	And Mr. Azuma represents the Attorney General's Office. Now, I've reviewed your motion, Ms. Ott, your motion to disqualify. I've also reviewed the State's response to that motion, the State's Memorandum in Opposition. Okay? And, so what I need to know, starting with you, Ms. Ott, did you have, in addition to what you already put in your motion, did you have any additional argument, or information to present to the court?	That is correct.		
14:18:32		Yes. I submitted a memo back on the 4th. It's in JEFS. It's		

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		in the electronic filing system? It's Docket number 39?		
14:18:42	Mmm-hmm. I did receive	Yes. So, that has significantly additional information, in addition to the original statements.		
14:18:51	Okay. And I did review that as a supplemental filing to your motion. So, I apologize, Ms. Ott, I didn't spell that out. I did rev-, the court has received both, have reviewed both. And now, I'm going to turn to Mr. Azuma, and just confirm that Mr. Azuma, you've also had a chance to review the memo, the Supplemental Memo filed by Ms. Ott on December 4th. Is that correct?			
14:19:20			That is correct, your honor.	
14:19:22	Okay. And, so, Ms. Ott, am I correct to assume, or note that your motion and your supplemental memo, that represents your legal argument in support of your motion. Correct?			
14:19:37		Correct.		
14:19:38	Okay. Do you, at this time, have anything in addition, not already in one of these documents, to add?			
14:19:47		Uh. Well, not to add, but I'm just wondering what the legal argument is against following the law. I've very confused why this is even an issue because the law clearly states that you can't represent individuals in cases		

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		of defamation. So, if my motion isn't granted, I would really love to know some details about the law as to why. But, that's all I have to say.		
14:20:20	Okay. And so, I'm going to turn now to Mr. Azuma. Mr. Azuma. Do you have any additional arguments or information in addition to what you've presented in your Memorandum In Opposition?			
14:20:35			No, your honor. For the most part, the State will rest on its filing. Perhaps, just to add, that the statute, that you know that Plaintiff is pointing the court to, has to do the waiver of the State's immunity. And, of course, the additional filing that she had, the case law she cited to, I believe it was <i>Costales v. Rosete</i> , that had to do with whether or not an individual could be also, you know, sued as an individual as well as the State and it doesn't have anything to do with whether or not the Attorney General can represent individuals. And, in this case, Christine Asuncion is an employee of the DOE as my declaration said so. I have nothing futher than that.	