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HAWAIIAN PARADISE PARK OWNERS

ASSOCIATION, KARIN HOFFMAN,

and JEFFREY FINLEY

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THIRD CIRCUIT

3CCV-23-0000302

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IN THE CIRCUIT COURT OF THE THIRD CIRCUIT

STATE OF HAWAII

NICOLE CRAIG, as an individual and as
Trustee of the Revocable Living Trust of
Nicole L. Craig,

Plaintiff,

vs.

HAWAIIAN PARADISE PARK
OWNERS ASSOCIATION, a Hawai'i
nonprofit corporation, KARIN
HOFFMAN, as an individual and HPPOA
Director, JEFFREY FINLEY, as an
individual and HPPOA Director, and
DOES 1-50, inclusive,

Defendants.

HAWAIIAN PARADISE PARK
OWNERS ASSOCIATION, a Hawai'i
nonprofit corporation, KARIN
HOFFMAN, as an individual and HPPOA
Director, JEFFREY FINLEY, as an

Civil No. 3CCV-23-0000302 (Hilo Division)
(Declaratory Judgment)

SCHEDULING CONFERENCE STATEMENT
OF DEFENDANTS HAWAIIAN PARADISE
PARK OWNERS ASSOCIATION, KARIN
HOFFMAN, and JEFFREY FINLEY;
CERTIFICATE OF SERVICE

Scheduling Conference

Date: February 14, 2025

Time: 10:40 a.m.

Judge: Hon. Henry T. Nakamoto

TRIAL DATE: To be Set

individual and HPPOA Director, and
DOES 1-50, inclusive,

Third-Party Plaintiffs,

vs.

WATUMULL INVESTMENT CO., LLC,

Third-Party Defendant.

638-050

SCHEDULING CONFERENCE STATEMENT OF
DEFENDANTS HAWAIIAN PARADISE PARK OWNERS
ASSOCIATION, KARIN HOFFMAN, and JEFFREY FINLEY

Pursuant to Rule 12(a)(7) of the Rules of Circuit Courts of the State of Hawaii (RCCH),
Defendants and Third Party Plaintiffs HAWAIIAN PARADISE PARK OWNERS
ASSOCIATION, KARIN HOFFMAN, and JEFFREY FINLEY submit the following Scheduling
Conference Statement.

A. BRIEF DESCRIPTION OF THE CASE (also specify if asserting legal and equitable
claims):

Hawaiian Paradise Park (“HPP”) is a rural community association comprised of 8,850
one-acre lots that was created in 1958, before statehood and before the enactment of HRS
Chapter 421J (planned community statute). The community was established and land was
subdivided by Third Party Defendant WATUMULL INVESTMENT CO., LLC’s predecessor
without provisions for infrastructure such as roads, water, sewer, telephone, and mail service.
HPP is located in the district of Kea‘au, which is the fastest growing district in the State of
Hawai‘i.

HPP is the second-largest subdivision in the United States but it largely lacks the basic,
necessary infrastructure for mail delivery. There are only a little more than 2,000 mailboxes
placed along the side of roads within the HPP subdivision, which means three out of four lot

owners do not have access to mail delivery within the community. The USPS has indicated that it will eventually cease delivery to these roadside mailboxes because of safety concerns.

The nearest post office is approximately seven miles away in Kea‘au and has a years-long waiting list for P.O. box rental. HPP residents have their mail delivered to relatives’ homes in other towns, rent private mailboxes for up to \$700 per year, or keep P.O. boxes in towns as far away as Pepeeko and even Kona. The lack of mail delivery presents significant quality-of-life challenges to several thousand HPP residents who depend on mail to receive essential goods.

Defendant HPPOA has worked with the United States Postal Service to bring mail delivery to all HPP residents via four mailbox parks which will be built on less than an acre on each of four vacant 20-acre lots, which were originally obtained from Third Party Defendant Watumull Investment Co., LLC. These mailbox parks will be well-lit, ADA-accessible, and feature safe, off-street parking. HPP residents will receive convenient, free mail delivery, and the addition of these cluster mailboxes will also alleviate the backlog of P.O. Box demand at post offices.

Plaintiff has filed suit to stop the construction of these mailbox parks. Plaintiff has alleged that the HPP-owned land upon which the mailbox parks are being built cannot be used for that purpose. Plaintiff also alleges breaches of fiduciary duties against Defendants Karin Hoffman and Jeffrey Finley and that monies from the annual assessments cannot be used to construct the mailbox parks, and is seeking punitive damages.

Defendants HPPOA, Karin Hoffman, and Jeff Finley have denied all of Plaintiff’s allegations.

Defendants HPPOA, Karin Hoffman, and Jeff Finley have filed a third-party complaint against Third Party Defendant Watumull Investment Co., LLC alleging that certain restrictions in

HPP property deeds was meant to prevent or stifle commercial competition and to create a commercial monopoly for itself in the immediate vicinity of the properties. Defendants also allege that certain restrictions in HPP property deeds constitute unfair and deceptive acts or practices, continues to be against public policy, and continues to be unlawful.

Third Party Defendant has denied all of Defendants – Third Party Plaintiffs’ allegations.

☒ If a party is seeking a remedy other than monetary damages, please specify the relief sought:

Plaintiff seeks remedies other than monetary damages against Defendants for the following counts:

COUNT 1: The mailbox parks cannot be built on the land they are being built on.

COUNT 2: Money collected from the annual assessments cannot be used to build the mailbox parks.

COUNT 3: Money collected from the annual assessments cannot be used for anything other than road maintenance.

COUNT 4: HPPOA must disgorge monies from its non-restricted general fund to its road fund.

COUNT 8: HPPOA is not a planned community association under HRS Chapter 421J.

COUNT 9: All work on the mailbox parks must be halted.

Defendants – Third Party Plaintiffs seek remedies other than monetary damages against Third Party Defendant for the following counts:

COUNT I: Restrictions contained in the HPP property deeds must be declared void *ab initio*.

COUNT 2: Restrictions contained in the HPP property deeds must be removed.

COUNT 5: Defendants – Third Party Plaintiffs are entitled to indemnity, contribution, and/or reimbursement from Third-Party Defendant.

B. STATEMENT OF JURISDICTION AND VENUE (WITH CITED AUTHORITY) AND A SHORT DESCRIPTION OF THE FACTS CONFERRING VENUE:

“The two concepts [jurisdiction and venue] should not be confused. The requirements of jurisdiction are grounded in the state's inherent judicial power while requirements of venue are grounded in convenience to litigants. [] Jurisdiction is a concept closely allied with judicial power. One of the aspects of jurisdiction involves the division and allocation of the sum total of the judicial power among the various courts of the state. [] The term ‘jurisdiction’ may also be used to describe the territorial limits of the sum total of the sovereign's judicial power. Where judicial circuits or divisions are created within the state, however, the allocation of the judicial business among the various circuits or divisions is an allocation based upon convenience to parties. Limitations which localize actions within a given judicial circuit or division are venue requirements. Since venue requirements are based upon concepts which are unrelated to judicial power, requirements of venue may be waived.” *Alamida v. Wilson*, 53 Haw. 398, 400–01, 495 P.2d 585, 588 (1972) (citing *Kauai v. Kauai County*, 47 Haw. 271, 386 P.2d 880 (1963)).

Defendant’s position is the Court lacks subject-matter jurisdiction because the First Amended Complaint has not been brought as a verified derivative action under HRS Chapter 414D. Venue is proper because HPP is in the Kea‘au district of the County of Hawai‘i.

C. JURY OR NON-JURY TRIAL (check one):

☒ JURY TRIAL.

Defendants – Third Party Plaintiffs filed a demand for jury trial on November 17, 2023 [Dkt. 92].

☐ NON-JURY TRIAL.

D. ASSIGNMENT OF CASE TO AN EXPEDITED OR NON-EXPEDITED TRACK UNDER RULE 16.1 OF THE HAWAII RULES OF CIVIL PROCEDURE (HRCP) (check one):

- ☐ Expedited Track: Based on considerations of fairness, cost-effectiveness, and expedition, this case should be assigned to an expedited trial track to secure the just, speedy, and efficient resolution of the case.
- ☒ Non-Expedited Track: Considering factors such as the number of claims and parties involved, the monetary value of the case, the extent and nature of the claims, the volume and extent of discovery, and the number of witnesses, experts and documents, this case should be assigned to a non-expedited trial track.

E. APPROPRIATENESS, EXTENT, AND TIMING OF DISCLOSURES (check one):

- ☒ The undersigned has or will provide all disclosures pursuant to HRCP 26 within the time limits prescribed within the rule or will provide disclosures as set forth in the Joint Report of the Parties.
- ☐ DISCLOSURES pursuant to HRCP 26 not covered by the Joint Report of the Parties:

F. DISCOVERY COMPLETED:

Defendants – Third Party Plaintiffs have disclosed an expert witness and provided an expert report to the Plaintiff.

DISCOVERY IN PROGRESS:

Defendants – Third Party Plaintiffs continue to work on written discovery and intend to depose the Plaintiff, a representative for the Third Party Defendant, and any other witness who may possess relevant information.

MOTIONS PENDING AND HEARING DATE(S): None.

G. STATEMENT ADDRESSING APPROPRIATENESS OF ANY SPECIAL PROCEDURES OR OTHER MATTERS SPECIFIED IN HRCP 16(c) THAT ARE NOT COVERED BY THE JOINT REPORT OF THE PARTIES FILED PURSUANT TO HRCP RULE 26(f):

Defendants do not foresee the need for any special procedures or other matters as set forth in HRCP Rule 16(c) at this time.

H. RELATED CASES (IN STATE OR FEDERAL COURT) WITH CASE STATUS (e.g., pending, adjudicated or otherwise terminated):

None.

I. ANY ADDITIONAL MATTERS: *

The parties conferred on January 24, 2025 and are interested in participating in an early settlement conference with the Court.

J. THE UNDERSIGNED CERTIFIES (CHECK ONE):

☒ THE PARTIES CONFERRED ON January 24, 2025 (at least 21 days before the scheduling conference) on the following matters:

- ✓ the nature and basis of their claims and defenses;
- ✓ the possibilities for promptly settling or resolving the case;
- ✓ making or arranging for disclosures required by HRCP 26(a)(1);
- ~~✓ whether the case should be assigned to an expedited or non-expedited track for trial under HRCP 16.1;~~
- ✓ ~~preserving discoverable information;~~ and
- ✓ a proposed discovery plan.

☐ THE PARTIES DID NOT CONFER AS REQUIRED BY RULE 12(a)(6) OF THE RULES OF THE CIRCUIT COURTS OF THE STATE OF HAWAII BECAUSE:

DATED: Honolulu, Hawai‘i, February 7, 2025.

/s/ Barron T. Oda

JAMES SHIN

JAMES R. FERGUSON

BARRON T. ODA

Attorneys for Defendants and Third Party Plaintiffs
HAWAIIAN PARADISE PARK OWNERS
ASSOCIATION, KARIN HOFFMAN,
and JEFFREY FINLEY

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(Declaratory Judgment)

CERTIFICATE OF SERVICE

638-050COS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly served by
depositing the same in the United States Mail, postage prepaid [M], hand-delivery [HD],
facsimile transmission [F], electronic mail [EM], or Judiciary Electronic Filing System [JEFS] to
the following on February 7, 2025.

NICOLE CRAIG
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[JEFS]

In Pro Per for Plaintiff
NICOLE CRAIG

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[JEFS]

Attorney for Third-Party Defendant
WATUMULL INVESTMENT CO., LLC

DATED: Honolulu, Hawai'i, February 7, 2025.

/s/ Barron T. Oda
JAMES SHIN
JAMES R. FERGUSON
BARRON T. ODA
Attorneys for Defendants
HAWAIIAN PARADISE PARK OWNERS
ASSOCIATION, KARIN HOFFMAN,
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