

1 IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

2 STATE OF HAWAII

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4 CHELSIE EVANS, Individually and )  
as the Personal Representative )  
5 of THE ESTATE OF TRE' )  
PU'UWAILA'AHIAOLOPAKAAMELEHUA- )  
6 NANI EVANS-DUMARAN, DECEASED, )

7 Plaintiffs, )

8 Vs. )

9 SCOTT MARTIN, COUNTY OF MAUI, )  
STATE OF HAWAII, AND DOE )  
10 DEFENDANTS 1 THROUGH 20, )

11 Defendants. )

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15 TRANSCRIPT OF ELECTRONICALLY RECORDED PROCEEDINGS

16 had before the Honorable Annalisa M. Bernard Lee, Circuit

17 Court Judge presiding, on Wednesday, September 23, 2026,

18 in the above-entitled matter: Plaintiffs' motion for an

19 order to show cause against the County of Maui for failure

20 to comply with subpoenas duces tecum.

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25 Transcribed by:

1 APPEARANCES:

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3 Gary Y. Okuda, Esq. Attorney for Plaintiffs  
4 Leu Okuda & Doi  
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6 Honolulu, Hawaii 96813

7 Isaac E. Row, Esq. (via Zoom) Attorney for Defendant  
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9 1003 Bishop Street, Suite 2750  
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11 John J. Gores, Esq. Attorney for Petitioner  
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14 Wailuku, Hawaii 96793

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1                   **WEDNESDAY, SEPTEMBER 23, 2026**

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3                   THE CLERK:   Next, 2CCV-24-0034, Chelsie  
4   Evans, et cetera versus Scott Martin, et al.:   Plaintiffs'  
5   motion for an order to show cause against the County of  
6   Maui for failure to comply with subpoenas duces tecum.

7                   MR. OKUDA:   Good morning, your Honor.   Gary  
8   Okuda on behalf of Plaintiff/Movant.   May the record also  
9   reflect the presence of Plaintiff Chelsie Evans.

10                  THE COURT:   Okay.   Good morning.

11                  MR. GORES:   Good morning, your Honor.   John  
12   Gores, deputy corporation counsel, for the County of Maui.

13                  THE COURT:   Good morning.

14                  MR. ROW:   Good morning, your Honor.   Isaac  
15   Row, attorney for Defendant Scott Martin.

16                  THE COURT:   Okay.   And good morning to you  
17   as well, sir.

18                  All right.   This is Plaintiffs' motion for  
19   an order to show cause against the County of Maui for  
20   failure to comply with subpoena duces tecum.

21                  I will invite counsel to add anything that  
22   they want to add that's not already in any motions or  
23   responses for the record.   But after reviewing everything,  
24   I am -- unless anyone throws something at me, I think I  
25   am -- I'm inclined to rule a certain way.

1                   MR. OKUDA: Yes. Your Honor, if I may,  
2     it's unfortunate we had to file this motion, but the good  
3     thing about this motion, if there is a good thing, is  
4     since the filing of the motion, the County of Maui has  
5     produced to our court reporter, Ralph Rosenberg Court  
6     Reporters, Incorporated, additional documents.

7                   And so I tried in my reply memorandum to  
8     submit to the Court my affidavit updating the Court on  
9     what documents -- or what subpoenas were complied with.

10                  Since -- since then -- or let me just  
11     recount. We received responses for a subpoena which was  
12     attached as Exhibit B-7. That's from the custodian of  
13     records of the fire and public safety commission. We  
14     received response for subpoena B-8, which was from the  
15     fire and public safety department. We received responses  
16     from subpoena B-9, Exhibit B-9, which was department of  
17     human concerns.

18                  We also received responses for a subpoena  
19     attached as Exhibit B-11, which was the office of the  
20     mayor, and Exhibit B-14, which was the custodian of  
21     records for the Maui Police Department. That's in  
22     addition to three earlier subpoenas which were received  
23     before the filing of our motion, which was public works,  
24     department of transportation, and the budget department.

25                  Yesterday I received an email from Ralph

1 Rosenberg Court Reporter informing me -- and for the  
2 record, let me quote it so I don't misstate it. This was  
3 an email dated September 22, 2026 from Vanessa,  
4 V-A-N-E-S-S-A, Figeroa, F-I-G-E-R-O-A, of Ralph Rosenberg  
5 Court Reporters. And what she wrote to me is this, and I  
6 quote: Hello, Gary. In the above-mentioned case,  
7 custodian, colon, office of the mayor, County of Maui,  
8 comma, has produced supplemental records, and due to  
9 different sizes and formats and thousands of PDF files and  
10 a lot of video files, comma, we will be duplicating the  
11 flash drive. Please let me know if you have any  
12 questions. Have a good day.

13 And so, your Honor, our main concern was  
14 just to get documents. We tried initially by doing a  
15 single subpoena addressed to the custodian of records of  
16 the County of Maui. We believed that was the proper  
17 approach given the fact that the county charter states  
18 that essentially the corporation counsel represents the  
19 County.

20 I documented in our declaration that the  
21 response was: There's no such thing as the custodian of  
22 records for the County of Maui. And when I asked, well,  
23 can you kind of tell me who to send the subpoena to, the  
24 response was, we're not going to tell you.

25 So I sent out all these subpoenas. It's

1 not like we just filed this motion, you know, the next  
2 day. The subpoenas themselves specifically stated the  
3 County and the responding departments, who we're forced to  
4 now separate out all these subpoenas. These departments,  
5 they can produce it to the court reporter's office, so  
6 it's a neutral party getting the documents, and whatever  
7 arrangements are worked out, including time, it -- you  
8 know, we're -- we're okay with that.

9 And the record shows, your Honor, I've sent  
10 follow-up emails asking for status. There wasn't a  
11 response.

12 But cutting to the chase here, Judge, I  
13 apologize that I had to get the Court involved in this.  
14 We're not looking to throw anyone in jail. It looks like  
15 now there is real response to our subpoenas. And I'll  
16 take Mr. Gores' word or representation that, you know, the  
17 subpoenas that we haven't gotten a response to, they're  
18 working on it. Okay. We're not near the discovery  
19 cutoff, but I don't want to wait until the last minute to  
20 get this done.

21 And so given the fact that we finally are  
22 seeing action being taken, your Honor, my request at this  
23 point is -- I would have no objection if the Court simply  
24 would take no action on our motion, and -- and hopefully  
25 what's taking place now, that records are being produced

1 and -- by the way, I will state for the record, I think  
2 the fact that the office of mayor has made a supplemental  
3 production of thousands of documents, when the first  
4 production didn't include it, that shows that they are  
5 treating the subpoena with good faith. So I'm not  
6 ascribing bad faith or anything like that.

7                   So my request at this point in time, given  
8 what has taken place, is -- I would -- I would have no  
9 objection if the Court at this point in time takes no  
10 action on our motion.

11                   THE COURT: Do you want the Court to take  
12 no action, or do you want to just withdraw your motion at  
13 this time?

14                   MR. OKUDA: Well, I can -- I can withdraw  
15 the motion. I understand that leaving a motion on the  
16 JEFS, on the docket raises this issue about an undisposed  
17 motion. So, I mean, unless -- unless there's an  
18 objection, yes, we can withdraw that motion, with the  
19 understanding that what seems to be taking place now, that  
20 the County is diligently producing the records, that that  
21 would continue.

22                   And by the way, Judge, my letter that's  
23 included in -- in the file, I stand behind it. When I  
24 said I will fly here to Maui personally to talk to  
25 whomever if there is a dispute or a problem, I'll fly

1 here. I won't do it impersonally by Zoom. I'll come  
2 here.

3 So I'm willing to withdraw the motion if  
4 that's the case.

5 THE COURT: Okay. All right. Well, I'm  
6 happy to hear that you are satisfied with what's now being  
7 produced by the multiple different county agencies, I  
8 guess.

9 And with that said, Counsel, is there  
10 anything that you wanted to add?

11 MR. GORES: I just want to clarify a few  
12 points that Mr. Okuda raised so that the Court is actually  
13 aware.

14 Number one, we're not a party to this  
15 lawsuit. That needs to be made very clear. We have no  
16 involvement in it. We're not in this case.

17 And when we first -- there was an attempt  
18 to serve, quote, County of Maui records custodian, I  
19 reached out to Mr. Okuda. And I take great offense to his  
20 claim we wouldn't tell him who. We told him, whatever  
21 departments you're looking for records, all you have to do  
22 is serve their custodian. There is no County of Maui  
23 records custodian. That's why he tried to serve me. All  
24 right? That's the first point. And I put that in a  
25 letter -- it's our Exhibit A -- to Mr. Okuda. Okay?

1                   Secondly, you know, we did file an  
2   objection to this form subpoena with the Court.  Never  
3   once was there an attempt to make a ruling on the nature  
4   of these subpoenas; for example, every document that  
5   contains the name of Plaintiffs' decedent.

6                   Your Honor, we still tried with these  
7   subsequent subpoenas to the records custodians to pull  
8   every single document that has the name Evans on it.  
9   You'd be surprised how many different Evanses deal with  
10  the different departments for the County of Maui.  We  
11  ended up pulling over 55,000 pages of records.  We  
12  narrowed it down to 36,604 pages.

13                  Mr. Okuda suggested -- because we were  
14  getting served with subpoenas on the departments, the same  
15  subpoena we had objected to, I asked him, please give me  
16  the returns of service so we know who you served so we can  
17  coordinate with them.  You'll get it through JEFS.  We're  
18  not a party.  We're not monitoring this case.  Okay?

19                  Ultimately he started serving them -- even  
20  though he had these subpoenas for two weeks, he didn't  
21  start serving them until two or three days before the  
22  return date.  That's when Mr. Okuda proposed the protocol,  
23  the protocol of, okay, we'll waive this, we'll have a meet  
24  and confer after you've had a chance to go through all of  
25  these.

1                   We had to bring in two lawyers and a  
2 contractor to go through these documents. Okay? That  
3 took away a lot of resources and time and expense from the  
4 County's taxpayers. But we did it. All right?

5                   Now, I take offense to Mr. Okuda saying  
6 we're producing. We did produce. We told his court  
7 reporters, look, we have the documents for the first group  
8 of rolling production that Mr. Okuda wanted, made it  
9 available on June the 12th. We never heard back from the  
10 court reporters until the end of July.

11                   I talked to the court reporter and I -- I  
12 myself, I asked the court reporter, you know, how about we  
13 just send these to you. Ask your counsel that subpoenaed  
14 for a certification. We'll look over the certification  
15 and have the records custodian sign them.

16                   She said, I've got to talk to Mr. Okuda.  
17 She got back to me. She said, no, we have to go pick them  
18 up. Then the court reporter scheduled appointments, never  
19 showed up. All right?

20                   And the first batch of custodians, seven of  
21 them if I recall correctly, had the documents. She didn't  
22 start picking them up until August, and in fact, some of  
23 them she didn't collect until Hurricane Lowell. She shows  
24 up at MEMA unannounced, even though they had requested she  
25 come out before that, schedule an appointment. She just

1 showed up during a hurricane, during a level 1 activation,  
2 looking for the records.

3 Now, what's really bothering the County is  
4 on August 25th, we were about to produce the last batch.  
5 August 25th, Mr. Okuda emails, hey, let's meet and confer.  
6 Let's -- get back to me by the end of this week so we can  
7 schedule a time.

8 He didn't wait until the end of the week.  
9 The next day he brought this motion. All right? Never  
10 met and conferred, admittedly didn't do that. We had to  
11 respond to this motion. I asked him to withdraw it. He  
12 waits until today to withdraw it.

13 The documents have been sitting with the --  
14 in the custodians, waiting for their court reporter to  
15 show up whenever. My understanding is they've all been  
16 picked up. I don't know what the arrangement is between  
17 Mr. Okuda. I don't know -- and his court reporter, in  
18 terms of whether or not he's paying them for them or not.  
19 I have no idea.

20 But I can tell you this: They have been  
21 available. They were supposed to be picked up. I checked  
22 last week. It was confirmed by my custodians that all of  
23 them have been picked up. I don't know what the  
24 supplemental is from the mayor's office. Maybe they  
25 couldn't download something at the court reporter's. I

1 don't know.

2 But we're done, and we want to be finished  
3 with this, your Honor, because this is very frustrating.  
4 He suggests a protocol, didn't follow it, didn't follow  
5 it, and here we are today.

6 I would submit, your Honor, there's  
7 different reasons for this. Okay? But most of the stuff  
8 they're asking for has absolutely nothing to do with the  
9 issues in this case. It's a very small issue, whether  
10 Captain Martin acted with willful misconduct to result in  
11 the work injury to Plaintiffs' decedent. It's very small,  
12 very tiny. And what they're asking for has really nothing  
13 to do with it.

14 I -- we sat and we looked at -- they want  
15 the COVID stuff. How does that factor into the theory of  
16 this case? I have no idea. Request number 12. Request  
17 numbers 4 and 5, we want your communications with HIOSH  
18 essentially. Barred by HRS 396-14. Mr. Okuda has known  
19 that since October of 2024.

20 This is a bad subpoena, but we tried and  
21 we've produced 36,604 pages, bogged down the departments  
22 that he subpoenaed, bogged down our office having to  
23 allocate two lawyers full-time to review this for  
24 responsiveness and privilege, had to bring in a contractor  
25 to work on this for documents 90 percent of which are

1 irrelevant.

2                   Then, your Honor, this Monday at 3:00 a.m.,  
3 I got an email. 3:00 a.m. I said, who is sending me an  
4 email at 3:00 a.m.? Mr. Okuda, telling me he's reviewed  
5 the fire department records, and apparently there are no  
6 emails in it. Tell me where the stuff is that you  
7 produced.

8                   Number one, it's not my job. Number two, I  
9 went and looked. You know the very first document in that  
10 production, Bate number 1, was an email.

11                   This is harassment and it's an abuse, your  
12 Honor, a great abuse. We've produced. We're done. We  
13 want to be done with this.

14                   So I will accept the withdrawal. But we've  
15 incurred great expense to have to deal with this. That's  
16 why we asked for our fees.

17                   THE COURT: All right. Understood.

18                   MR. GORES: Thank you, your Honor.

19                   MR. OKUDA: Your Honor, may I respond?

20                   THE COURT: You know, no. You don't need  
21 to. And I understand both of your sides. When I was  
22 prepared to make my ruling, some of what both of you  
23 mentioned were going to be noted in my -- in my ruling as  
24 well.

25                   But honestly, at this point, I -- I think

1 the issue is moot. Anything that you would say is really  
2 just, in my opinion, ad hominem at this point and not  
3 relevant to the Court.

4 MR. OKUDA: Okay. I understand.

5 THE COURT: However, I do -- I should note  
6 with respect to the County's request for attorneys' fees,  
7 you know, I don't -- it's not been any statute, rule, or  
8 agreement, or any other authority has been mentioned for  
9 why a county agency or a government is asking for  
10 attorneys' fees. And given the history of production in  
11 this case, even though it was a lengthy and certainly  
12 drawn-out history, the Court does decline to award fees in  
13 any event. So the County's request for attorneys' fees is  
14 denied.

15 I was obviously a little -- despite  
16 everything that the County has gone through and noting  
17 that the party -- the County is no longer a party in this  
18 case, it still was surprising to the Court that the  
19 County's asking for attorneys' fees. But nonetheless, the  
20 request is denied.

21 MR. OKUDA: Your Honor, may I just say one  
22 thing? And it's not an ad hominem attack. Can I just  
23 say, what's hurtful to us is a statement that this is just  
24 minor matters. Ms. Evans' son, who she raised as a single  
25 mother, a single teenage mother, is dead, and that is not

1 a minor matter.

2 And one housekeeping thing, Judge. I've  
3 submitted a request for a status conference for -- to  
4 discuss a possible early settlement conference.

5 THE COURT: I noted that, yeah. I saw  
6 that.

7 MR. OKUDA: Yeah. And if I can just --  
8 just mention that I did submit that request.

9 THE COURT: Okay. Yeah. And I was  
10 actually going to mention that as well. I did note that  
11 there was a request for a status conference, but -- well,  
12 the Court -- I think we have that and we'll address it.

13 THE CLERK: Yeah.

14 MR. OKUDA: Okay. Thank you very much.

15 THE COURT: All right. Thank you.

16 MR. OKUDA: Thank you, your Honor.

17 MR. GORES: Thank you, your Honor.

18 THE COURT: You're welcome.

19 MR. ROW: Thank you, your Honor.

20 THE COURT: Thank you.

21 (End of Proceedings.)

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C E R T I F I C A T E

I, Angie Weaver, a Court Reporter of the Circuit Court of the Second Circuit, State of Hawaii, do hereby certify that the foregoing pages, 1 through 15 inclusive, comprise a full, true and correct transcript of the proceedings had in connection with the above-entitled cause.

Dated this 28th day of September, 2026.

A handwritten signature in cursive script that reads "Angie Weaver".

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ANGIE WEAVER, RPR, CRR, CSR #520