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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of
JOSEPH CHING, deceased, CAROLINE
BRIGHT, DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF
HAWAI'I DEPARTMENT OF
HAWAIIAN HOME LANDS, et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**PLAINTIFFS' UNOPPOSED MOTION
FOR FINAL APPROVAL;
MEMORANDUM IN SUPPORT OF
MOTION; DECLARATION OF
THOMAS R. GRANDE;
DECLARATION OF ROBERT
COOMES REGARDING NOTICE AND
CLAIMS ADMINISTRATION,
EXHIBITS "A" – "G"; EXHIBITS "1" –
"5"; NOTICE OF HEARING MOTION;
AND CERTIFICATE OF SERVICE**

HEARING:

DATE: July 21, 2023
TIME: 9:00 a.m.
Judge Lisa W. Cataldo

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PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL

Plaintiffs above-names request that the Court grant final approval to the settlement in this case and approve the proposed Order Granting Unopposed Motion for Final Approval.

This motion is made pursuant to Rules 7(b) and 23 of the Hawai'i Rules of Civil Procedure and is supported by the attached Memorandum of Law and all the files and records in this proceeding and such additional evidence and testimony as may be presented at the hearing on this matter.

DATED: Honolulu, Hawai'i, June 19, 2023.

_____/s/ Thomas R. Grande
THOMAS R. GRANDE
CARL M. VARADY

Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**MEMORANDUM IN SUPPORT OF
UNOPPOSED MOTION FOR FINAL
APPROVAL**

POST-TRIAL PROCEEDINGS

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<i>Amchem Products v. Windsor</i> , 521 U.S. 591 (1997)	14
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<i>Cobell v. Salazar</i> , (D.D.C. Case No. 1:96CV01285-JR)	21, 22
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<i>Crown v. Parker</i> , 462 U.S. 345 (1983)	31
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<i>In re Mego Financial Corp. Sec. Litig.</i> , 213 F.3d 454 (9 th Cir. 2000)	44
<i>In re Volkswagen “Clean Diesel” Mktg. Sales Practices and Products Liability Litigation</i> , 895 F.2d 597 (9 th Cir. 2018)	10
<i>Kalima v. State</i> , 111 Haw. 84, 137 P.3d 990 (2006) (<i>Kalima I</i>)	5, 7, 15, 21
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<i>Koolauloa Welfare Rights Group v. Chang</i> , 65 Haw. 341, 652 P.2d 185 (1982)	1
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<i>Officers for Justice v. Civil Service Comm’n. for the City and County of San Francisco</i> , 688 F.2d 615 (9 th Cir. 1982)	40
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<i>Senne v. Kansas City Royals Baseball Corp.</i> , 934 F.3d 918 (9 th Cir. 2019)	15
<i>Shaw v. North American Title Co.</i> , 76 Haw. 323, 326, 876 P.2d 1291 (1994)	10
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Hawaii Statutes

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Haw. R. Civ. P. 23(b)(3).....	12, 14
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Government Reports

<i>A Broken Trust, The Hawaiian Home Lands Program: Seventy Years of Failure of the Federal and State Governments to Protect Civil Rights of Native Hawaiians</i> , Hawaii Advisory Committee to U.S. Commission on Civil Rights (1991)	6
<i>An Action Plan to Address Controversies Under the Hawaiian Home Lands Trust and Public Land Trust</i> (Office of the Governor, State of Hawai'i 1991)	6
Benjamin Cayetano, Governor's Message No. 241, Statement of Objections to House Bill No. 1675 (Haw. June 10, 1999), reprinted in H.R. JOURNAL, 20th Leg., Reg. Sess. 882 (Haw. 1999).....	7
Interim Report for the ACT 275, SLH 1969, Program Study and Evaluation of the Department of Hawaiian Home Lands, State of Hawaii, Analytical Planning Consultants, January 20, 1971 ("1971 Analytical Planning Report")	37
<i>Management and Financial Audit of the Department of Hawaiian Home Lands</i> ; Legislative Auditor Report No.93-22 (December 1993)	6
<i>Report to United States Secretary of the Interior and the Governor of the State of Hawaii</i> , Federal-State Task Force on Hawaiian Homes Commission Act (August 1983)	6
<i>Review of the Hawaiian Homes Commission Programs</i> , U.S. Department of the Interior, Office of Inspector General, Audit Report (September 1982)	6

Treatises

1 A. Conte & H. Newberg, <i>Newberg on Class Actions</i> § 3:10 (4th Ed. 2005)	13
1 A. Conte & H. Newberg, <i>Newberg on Class Actions</i> § 3.22 (4th Ed. 2005)	14
1 H. Newberg, <i>Newberg on Class Actions</i> § 4.25 at 318 (2d ed. 1985)	15
5 3B Moore's Federal Practice P 23.60	31
Barbara J. Rothstein & Thomas E. Willging, "Managing Class Action Litigation: A Pocket Guide for Judges" (2005)	46
National Consumer Law Center, <i>Consumer Class Actions</i> (10 th Ed. 2017).....	12, 16, 27

Articles

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Theodore Eisenberg & Geoffrey P. Miller, "The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical Issues", 57 Vand. L.Rev. 1529, (2004).....	46

MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR FINAL APPROVAL

I. INTRODUCTION

Pursuant to Haw. R. Civ. P. 23(e),¹ Plaintiffs request that the Court grant final approval to the settlement in this case and enter the draft² Order Granting Final Approval of Class Action Settlement and Motion for Attorneys' Fees and Waiver of Costs; Final Judgment attached as Exhibit "1."

Plaintiffs incorporate by reference the Payment Distribution Plan attached hereto as Exhibit 2 and the Probate Plan and Qualified Settlement Trust approved by the Probate Court and this Court on June 13, 2023 [Dkt. 1693].

II. DECISIONS NECESSARY FOR COURT'S FINAL APPROVAL

The Court must address four issues to approve this settlement.

First, the Court must determine that the settlement class is certifiable as a class action under the requirements of Haw. R. Civ. P. Rule 23(a) and Rule 23(b)(3).

Second, the Court must find the claims administration process outlined in the preliminary approval order was implemented and administered fairly and consistent with due process requirements.

Third, the Court must find that the proposed settlement is fair, adequate, and reasonable to the Settlement Class as a whole.

Fourth, the Court must finalize the procedures and budget for implementing the post-Final Approval settlement payment process and probate process.

Defendants have agreed not to oppose Plaintiffs' motion for final approval.³

¹ "Dismissal or compromise. A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs." *See also Koolauloa Welfare Rights Group v. Chang*, 65 Haw. 341, 652 P.2d 185 (1982).

² The draft Order may be amended after the deadline for declarations of support and objections and the Court's ruling on this motion.

³ April 14, 2022 Settlement Agreement, ¶ VIII.A.5 at 17.

A. Defendants shall:

III. CLAIMS ADMINISTRATION CHALLENGES

In a typical class action settlement, after the parties reach settlement approval, there is generally a minimum of six months⁴ for the claims administration process to start. An average claims administration period is twelve to eighteen months and longer for cases with data challenges, such as this one. Declaration of Thomas R. Grande, ¶ 10. If the typical timetable had been followed in this case, the claims process would have started in January 2023 and would be completed in June 2024 or later. *Id.*

* * * *

5. Not oppose Plaintiffs' application to the Court for:
- a. final approval of the Settlement;
 - b. final approval of the Payment Distribution Plan; and
 - c. Payment of Plaintiffs' Attorneys' Fees to Plaintiffs' counsel except as set forth in section VII(C), above.

Defendants' obligations under this paragraph are subject to Defendants being provided a reasonable opportunity to review, comment on, and concur with said applications prior to Plaintiffs' filing of the applications, which non-opposition shall not be unreasonably withheld, conditioned, or delayed.

The draft Motion for Final Approval, Order Granting Final Approval, Judgment, Payment Distribution Plan and Declaration of Rob Coomes were submitted to Defendants prior to filing for their review. Some of Defendants' suggested changes were incorporated into the final documents. Declaration of Thomas R. Grande, ¶ 4. Defendants' position regarding these motions is as follows:

“State Defendants do not oppose the Court’s granting of the Motion for Final Approval, or the Court’s approval of the Settlement and Settlement Agreement. State Defendants reserve their right to: (1) file a position statement regarding the Motion for Final Approval and the Payment Distribution Plan; (2) file an opposition to Class Counsel’s Motion for Attorneys’ Fees; and (3) object to the form of any proposed orders or judgment that Plaintiffs may submit to the Court and to submit their own forms thereof as permitted by Rule 23 of the Rules of the Circuit Court.”
Id.

⁴ The parties usually take two months to select a claims administrator and develop a claims plan; two months to file the motion for preliminary approval and two months to organize and start the claims administration process. Declaration of Thomas R. Grande, ¶ 5.

Because of the exigencies of time with an aged class population dying at a rate of 3-4 per month⁵, the time period for the claims administration process was extremely compressed – claims administration started *before* preliminary approval; claims administration planning and implementation were concurrent; preliminary approval and notice to the class preceded the approval of funding; claims administration services were rendered months before the settlement was funded; and critically for settlement purposes, settlement payment was computed and disclosed to class members *prior* to final approval.⁶ Declaration of Thomas R. Grande, ¶ 11.

This highly compressed schedule was made more challenging by incomplete and spoliated class records; a class period that spanned 70 years; claims forms that were submitted 30 years ago; more than 49% of the class members being deceased; concurrent development, planning, and organization of a second claims administration process for probate proceedings; development, planning, organization and implementation of a separate claims evaluation process for construction; and the inevitable unexpected challenges in attempting to complete all of these tasks as accurately and timely as possible. Declaration of Thomas R. Grande, ¶ 12.

Notwithstanding these obstacles, Class Counsel have completed the claims review process within the time period set by the Court.

IV. SUMMARY OF CLAIMS AND PAYMENT DISTRIBUTION

The Hawaiian Home Lands Trust Individual Claims Review Panel (“Claims Panel” or “Panel”) received 4,327 claims from 2,752 individual claimants. *Report to the Governor and the 1997 Hawai'i Legislature* (Hawaiian Home Lands Trust Individual Claims Review Panel). As of September 30, 1999, the Panel dismissed 1,709 claims (40%) and had 2,000 claims still under investigation (46%), which means a total of 3,709 claims (86%) were not reviewed by the Panel or presented to the Legislature for compensation. With respect to individual claimants, only 578 individuals received recommendations for award or settled their claims. This is only 13% of the

⁵ 44 class members are known to have died between April 2022 and April 2023. There are 1,346 class members reported to be deceased. The number of heirs who have died during that time is unknown. Declaration of Thomas R. Grande, ¶ 6.

⁶ Unlike a typical case, class members could be informed of their estimated settlement payments because Class Counsel agreed to limit their fee payment and agreed to waive their costs, allowing the claims calculations to be made *before* Final Approval. Declaration of Thomas R. Grande, ¶ 7.

total claimants who filed with the Panel. *Id.*; *Report to the Governor and the 1999 Hawai'i Legislature* (Hawaiian Home Lands Trust Individual Claims Review Panel). Because the Legislature refused to fund *any* recommendations, claimants received nothing.

In contrast, this Settlement Agreement and Payment Distribution Plan will provide settlement payments to 2,518 individuals for 3,363 claims⁷, more than 500% the number of class members who received recommendations for compensation from the Panel. Significantly, the settlement payments include claims for deceased relatives—typically parents—who were identified in Panel claim forms, but whose claims were not recognized by the Panel.⁸

Declaration of Thomas R. Grande, ¶ 13. In addition, the Court has adopted a Probate Plan that will distribute settlement proceeds to the estates of approximately⁹ 1,346 deceased class members, so that an estimated 5,000 to 6,000 additional individuals will receive compensation from this settlement. Declaration of Thomas R. Grande, ¶ 14. This result accomplishes the concept of generational economic rehabilitation and self-sufficiency for which the Hawaiian Homes Commission Act was created. Haw. Homes Comm. Act § 101.

The settlement payment amounts to class members affirm that this purpose has been met by the Settlement Agreement. The total gross value for all valid claims computed under the Court's approved Distribution Rules [Dkt. 1589] is \$319,866,262.44 (avg. \$126,941.85). The \$328 million settlement payment exceeds total claim value for the entire class. The total payout after attorneys' fees, incentive payments and costs are deducted is \$286,196,287.28. Thus, members will be receiving 89% of their individual total damages and will receive an average award of \$113,660.16. Declaration of Thomas R. Grande, ¶ 15. The exceptional nature of this result is clearly and convincingly established by the fact that the negotiated settlement amount exceeds the total claims value by 2.5% or \$8,133,737.56.

⁷ There are 2,253 Residential Claims, 1,076 Agricultural Claims, 232 Pastoral Claims and 102 Construction claims that will be paid out under the Settlement.

⁸ The Panel did not recognize claims made on behalf of deceased persons and other representative claimants.

⁹ This number is approximate because of the ongoing death of elderly class members.

In contrast, the Claims Panel made a total of 578 recommended awards, with a total damage recommendation of \$17,970,822.74. For the 441 claimants who received such recommendations, the average recommended award was \$40,750.16 *Report to the Governor and the 1997 Hawai'i Legislature* (Hawaiian Home Lands Trust Individual Claims Review Panel); *Report to the Governor and the 1999 Hawai'i Legislature* (Hawaiian Home Lands Trust Individual Claims Review Panel). None of the claims recommended for payment were paid. Claimants received nothing from the Legislature.

These statistics demonstrate that even if the legislature had funded claims under Chapter 674, the settlement is an extraordinary result achieved through extraordinary efforts and, standing alone, warrants this Court's approval of this motion.

V. THE HAWAIIAN HOME LANDS TRUST

In 1920, Congress enacted the Hawaiian Homes Commission Act (HHCA), which created a land trust intended to rehabilitate displaced Native Hawaiian people by enabling them to lease residential, agricultural, or pastoral homestead land from the Trust for one dollar per year. *Kalima v. State (Kalima I)*, 111 Haw. 84, 87, 137 P.3d 990, 993 (2006); Hawaiian Homes Commission Act, ch. 42, § 207, 42 Stat. 108, 48-49 (1920). The federal government and the Territory of Hawai'i administered the HHCA until August, 21, 1959 when the State assumed the trust obligations as a condition of statehood. Hawai'i State Constitution, Art. XII, §§ 1-3.

As trustee, the State of Hawai'i assumed the fiduciary duty: (1) to place beneficiaries of Hawaiian Home Lands Trust on the land "to the fullest extent possible," *Ahuna v. Department of Hawaiian Home Lands*, 64 Haw. 327, 332, 640 P.2d 1161, 1165 (1982), (2) to "plac[e] native Hawaiians on the lands set aside under [the Hawaiian Homes Commission Act] in a prompt and efficient manner" (HHCA, §101 (1990); *The Aged Hawaiians v. Hawaiian Homes Comm'n.*, 78 Haw. 192, 211 n. 30, 891 P.2d 279, 298 n. 30 (1995); and (3) to administer the Trust in such a manner as to avoid delays in homestead awards arising from the State's breaches of trust. *Kalima I*, 111 Haw. at 91, 137 P.3d at 997.

"However, the federal government, and later the state government, which took over the role of trustee in 1959, mismanaged the Trust by misappropriating home lands for non-beneficiary use, failing to restore the lands or compensate the trust, and failing to keep adequate records. Rather than placing beneficiaries on homestead lots, the State placed beneficiaries on a long waitlist. The waitlist for leasing home lands grew and continued to grow." *Kalima v. State*

of Hawai'i, 148 Haw. 129, 147, 468. P.3d 143, 161 (2020)(“*Kalima II*”); *Report to United States Secretary of the Interior and the Governor of the State of Hawaii*, Federal-State Task Force on Hawaiian Homes Commission Act (August 1983) at 30 (forty-year estimate to complete homestead development for current waitlist).

In the early 1980s, several state and federal agencies produced highly critical evaluations of the State of Hawai'i and DHHL's execution of its fiduciary responsibility.¹⁰

In response, in 1991 Governor John Waihe'e adopted *An Action Plan to Address Controversies Under the Hawaiian Home Lands Trust and Public Land Trust* (Office of the Governor, State of Hawai'i 1991). The Action Plan had three parts:

- 1) A waiver of sovereign immunity and prospective right to sue under for future breaches of trust under “The Native Hawaiian Judicial Trusts Relief Act,” 1988 Haw. Sess. L. Act 395, § 3 at 945. Act 395 was codified as Haw. Rev. Stat. Chapter 673.
- 2) A \$600 million payment to compensate the trust for illegally withdrawn land and other breaches. 1995 Haw. Sess. L. Act 14; and
- 3) A waiver of sovereign immunity, appointment of an Individual Claims Review Panel and right to sue for past breaches of trust under the “Individual Claims Resolution Under the Hawaiian Home Lands Trust Act.” 1991 Haw. Sess. L. Act 323, § 1 at 990. Act 323 was codified as Haw. Rev. Stat. Chapter 674.

Chapter 674 established the Hawaiian Home Lands Trust Individual Claims Review Panel to evaluate and recommend compensation to Native Hawaiians who suffered individual breaches of trust between August 21, 1959, and June 30, 1988. Chapter 674 granted

¹⁰ E.g., *Breach of Trust? Native Hawaiian Homelands*, Hawaii Advisory Committee to U.S. Commission on Civil Rights, (October 1980); *Review of the Hawaiian Homes Commission Programs*, U.S. Department of the Interior, Office of Inspector General, Audit Report (September 1982); *Report to United States Secretary of the Interior and the Governor of the State of Hawaii*, Federal-State Task Force on Hawaiian Homes Commission Act (August 1983); *A Broken Trust, The Hawaiian Home Lands Program: Seventy Years of Failure of the Federal and State Governments to Protect Civil Rights of Native Hawaiians*, Hawaii Advisory Committee to U.S. Commission on Civil Rights (1991); *Management and Financial Audit of the Department of Hawaiian Home Lands*; Legislative Auditor Report No.93-22 (December 1993).

beneficiaries the right to sue and trial de novo if they were dissatisfied with the legislative action taken on the Panel's recommended remedies. Haw. Rev. Stat. §§ 672-4 & -17.

Because the Panel did not finish its work by 1999, the Legislature passed House Bill No. 1675 (H.B. 1675), which extended the notice, filing, and Panel report deadlines by one year, to allow additional time for all claims to be reviewed. However, then-Governor Benjamin Cayetano vetoed the bill, concluding that the administrative process was not working and that it would take *more than an additional year* for the Panel to complete its work, which he deemed "totally unacceptable." Benjamin Cayetano, Governor's Message No. 241, Statement of Objections to House Bill No. 1675 (Haw. June 10, 1999), reprinted in H.R. Journal, 20th Leg., Reg. Sess. 882 (Haw. 1999).

VI. THE PROPOSED SETTLEMENT

A. The History of the Litigation

On December 29, 1999, two days before the expiration of the statute of limitations, Plaintiffs filed this case on behalf of 2,752 individuals who submitted claims to the Hawaiian Home Lands Trust Individual Claims Review Panel under Haw. Rev. Stat. Chapter 674.

Over the course of 24-years of litigation, there have been six separate class certifications, two bench trials (2009 and 2013) and two appeals.

In 2000, the Court certified a "right to sue" class and ruled that the class members had the right to sue for damages under Chapter 674 in circuit court. The Hawai'i Supreme Court affirmed Plaintiffs' right to sue in 2006. *Kalima I*, 111 Haw. at 113 137 P.3d at 1019.

After remand, this Court certified five subclasses, including the Waiting List Subclass. Because all class members were members of the Waiting List Subclass, the Court ruled that the Waiting List Subclass damages would be resolved first before other subclass and individual claims would be litigated.

In 2009, after a six-week bench trial, the Court found Plaintiffs proved by clear and convincing evidence that the State of Hawai'i breached its trust obligations to the Waiting List Subclass. The Court recertified the Waiting List Subclass for liability, causation, and the fact of damage and ruled that these elements were proven on a sub-class-wide basis. In 2013, after certification of the Waiting List Subclass for the method of computing damages and a subsequent bench trial, the Court ruled that a common measure of damages -- Fair Market Rental Value --

would be used to measure damages for all Waiting List Subclass members. The Court subsequently recertified the Waiting List Damages Subclass for the amount of damage.

From September 15, 2009, until November 26, 2017, 89 substantive motions, memoranda, and submissions were filed and argued by the parties, and rulings were entered by the trial court regarding the methods and proof—individual or class-based—by which beneficiaries could receive damages. Declaration of Thomas R. Grande, ¶ 16.

Between 2013 and 2017, Class Counsel evaluated thousands of DHHL records to determine start and end dates and other information necessary to prove claims for delay in receiving a homestead award. The Court also established a common procedural process (Special Master) and common substantive rules to compute damages.

The court entered judgment and certified the case for appeal, pursuant to Haw. R. Civ. Pro. 54(b). The Hawai‘i Supreme Court affirmed, among other things, the Fair Market Rental Value (“FMRV”) damages model for the Waiting List Damages Subclass as an appropriate class-wide measure of damages. *Kalima II*, 148 Hawai‘i at 147, 468 P.3d at 161.

B. Settlement Negotiations

With motions pending before the Court regarding the damages period, claims administration process, and damages claims forms, Defendants requested, and Plaintiffs agreed, to a settlement conference to begin on March 18, 2022. Under the direct supervision of Hon. Gary W.B. Chang, who agreed to facilitate settlement discussions on extremely short notice, the parties grappled with and resolved many complex financial and structural issues to reach a proposed settlement. The parties worked continuously, night and day, over a four-week period. Critically, after decades of absence, the Hawai‘i Legislature became directly involved in settlement negotiations. The Legislature’s engagement was critical. With Judge Chang’s expert guidance as a neutral and steady hand, the Legislature and Plaintiffs agreed in principle to resolve these long-festering breach of trust claims. The State moved from the \$17 million offered in 2014 to \$328 million. Plaintiffs accepted.

On April 14, 2022, the parties agreed to the material terms of the settlement, subject to final legislative, gubernatorial, and judicial approval. The Hawai‘i Legislature agreed to fund the settlement through SB3041 SD2 HD1 CD1, which passed the final reading in both chambers on May 3, 2022. Governor David Ige signed SB3041 into law on July 11, 2022. This motion seeks

to effectuate the State's and Class Members' intent to finally put these long-standing and indisputable grievances to rest.

C. The Settlement Agreement

The Settlement Agreement provides that the State pay a lump sum of \$328 million to Settlement Class Members with valid claims, fund the costs of settlement administration, and pay Plaintiffs' Attorneys' Fees in exchange for a full release of Chapter 674 claims.

D. The Settlement Class.

On June 9, 2012, the Court granted preliminary approval¹¹ to a Settlement Class defined as:

All persons who filed claims with the Hawaiian Home Lands Trust, Individual Claims Review Panel on or before August 31, 1995.

To assure that all class members with valid claims are compensated and to ensure full finality, the Settlement includes all class members who filed a claim with the Panel. This definition is consistent with the original "right to sue" class certified by the Court on August 29, 2000.

Settlement Class members who were determined through the Claims Administration Process to have valid claims, except those in the eight categories set forth below, qualify for payments under the settlement.

Under the settlement, class members who have claims for delay in receiving homestead awards ("Waiting List Class Members") receive settlement payments based on the Fair Market Rental Value (FMRV) model approved by the Hawai'i Supreme Court. Under the FMRV model, settlement payments are calculated with a start date as the date of application or attempted application. The end date is the earliest of (1) the date of a homestead award; (2) the date of the applicant's death; or (3) April 14, 2022 (the date of the settlement agreement).

¹¹ June 9, 2022 *Order Granting Preliminary Approval of Class Action Settlement, Decertification of Subclasses 1-4 and 6, Certification of Settlement Class, Appointment of Class Counsel, Class Representatives, Settlement Special Master, and Claims Administrator, Approval of Plan of Notice and Scheduling of Fairness Hearing* filed on June 2, 2022 (Dkt. 1496).

Pursuant to this Court’s January 5, 2023, Distribution Plan¹², which established the rules governing the distribution of class funds, class members’ construction defect claims were evaluated by a Construction Expert, Wayson Wong, appointed by the Special Master and approved by the Court, to measure cost of repair payments for 104 class members with construction defect claims. The cost of repair is based upon the reasonable cost at the time the claim was submitted. *Id.*

VII. STANDARDS FOR APPROVAL OF CLASS ACTION SETTLEMENT

Under Haw. R. Civ. P. 23, a class action may only be settled after notice to the class and court approval.¹³ Although no published Hawai‘i decision has considered the standards for approval of a class action settlement, there is a well-established body of federal case law on the subject and Haw. R. Civ. P. 23(e), governing the compromise of a class action, is substantially the same as the former¹⁴ parallel federal rule. *Collins v. South Seas Jeep Eagle*, 87 Haw. 86, 88, 952 P.2d 374, 376 (1997) (“Where a Hawai‘i rule of civil procedure is identical to the federal rule, ‘the interpretation of this rule by federal courts is highly persuasive.’”) (*quoting Shaw v. North American Title Co.*, 76 Haw. 323, 326, 876 P.2d 1291, 1294 (1994)).

A court may approve a proposed class action settlement of a certified class only “after a hearing and on finding that it is fair, reasonable, and adequate,” See Fed. R. Civ. P. 23(e)(2). See also *Manual on Complex Litigation* (4th) § 21.634 at 322 (2004) (“*Manual*”)(settlement must be “fair, reasonable and adequate”).

“Judicial review must be exacting and thorough.” *Manual*, § 21.61 at 309. See *In re Volkswagen “Clean Diesel” Mktg. Sales Practices and Products Liability Litigation*, 895 F.2d 597, 609 (9th Cir. 2018)(“The district court must undertake a stringent review, ‘explor[ing]

¹² January 5, 2023 *Order Adopting First Amended Findings And Recommendations Of the Special Master To Approve Proposed Settlement Distribution Plan And Revised Class Notices* (Filed December 22, 2022); *Revised Exhibits 1-6* [Dkt. 1580].

¹³ “Dismissal or compromise. A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.”

¹⁴ Fed. R. Civ. P. 23 was amended in 1998, 2003, 2007, 2009 and 2018. The Hawai‘i Rules have not been conformed to any of these rules and was last amended in 2011. However, cases construing the federal rule should be considered persuasive.

comprehensively all factors, and ...giv[ing] a reasoned response to all non-frivolous objections.” (citing *Dennis v. Kellogg Co.*, 697 F.3d 858, 864 (9th Cir. 2012).

“In making its ruling, the Court must ensure that there is a sufficient record as to the basis and justification for the settlement. Rule 23 requires specific findings as to how the settlement meets or fails to meet the statutory requirements. The record and findings must demonstrate to a reviewing court that the judge has made the requisite inquiry and has considered the diverse interests and the requisite factors in determining the settlement’s fairness, reasonableness, and adequacy.” *Manual* § 21.635 at 322-23 (2004).

VIII. THE PRELIMINARY APPROVAL ORDER CERTIFIED THE SETTLEMENT CLASS AND EVALUATED AND FOUND THE SETTLEMENT TO BE FAIR, REASONABLE AND ADEQUATE

In its preliminary approval of the settlement, this Court has already evaluated and found the settlement to be “fair, reasonable and adequate.”:

Subject to a Fairness Hearing and Final Approval, the terms of the Settlement Agreement attached as Exhibit 1 to the Motion are preliminarily approved as being fair, reasonable, adequate and in the best interests of the Settlement Class in light of the benefits to Class Members; the strength of Plaintiffs’ case and the State’s defenses; and the complexity, expense and probable duration of further litigation and the risk and delay inherent in possible appeals. In preliminarily approving the Settlement Agreement, the Court makes the following findings:

- a. The proposed class representatives and Settlement Class Counsel have adequately represented the Settlement Class in the settlement negotiations;
- b. The parties engaged in substantial discovery over the course of the 23-year history of the case;
- c. The Settlement Agreement was entered into at arm’s length by experienced counsel with the assistance of Circuit Court Judge Gary W.B. Chang;
- d. The relief provided by the Settlement Agreement is clearly adequate;
- e. The Settlement Agreement treats members of the Settlement Class equitably relative to each other; and

f. The Settlement Agreement is sufficiently within the range of reasonableness that notice of the Settlement Agreement should be given to members of the proposed Settlement Class.

Order Granting Preliminary Approval¹⁵ at 2-3.

Because the Court has previously certified the settlement class, approved the claims administration process, and reviewed the proposed settlement and the plan of notice, final approval should be granted unless class members have raised some meritorious objections. National Consumer Law Center, *Consumer Class Actions* § 15.5 at 348.

In reviewing the proposed settlement, the Court need not address whether the settlement is ideal or the best outcome, but only whether the settlement is fair, free of collusion, and consistent with plaintiffs' fiduciary obligations to the class. *See Hanlon v. Chrysler Corp.*, 150 F.3d at 1027 (*overruled on other grounds by Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011)).

The Order Granting Preliminary Approval directs the Court to consider at the Final Approval Hearing: (1) the proposed Settlement; (2) the distribution of the Settlement Fund including the issuance of settlement payments to Payment Recipients; (3) Settlement Class Counsels' request for an award of attorneys' fees; (4) the request for an incentive payment to the Class Representatives to be paid from the Settlement Fund; and (5) determination of how to issue settlement payments for deceased Settlement Class members whose claims are then or expected to be processed in probate. Preliminary Approval Order at 8.

IX. THE SETTLEMENT CLASS SHOULD BE CERTIFIED

"Even if the parties have agreed to settle a case on a class-wide basis, the court must determine whether the proposed class satisfies all the requirements of Rule 23(a) (numerosity, typicality, commonality, and adequacy of representation) and either Rule 23(b)(1), (2), or (3)."

¹⁵ June 9, 2022 *Order Granting Plaintiffs' Motion For: (1) Preliminary Approval Of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification of Subclasses 1- 4 And 6; (4) Appointment of Class Representatives And Appointment of Class Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval of Plan Of Notice and Scheduling Of Fairness Hearing [Dkt.1496]* ("Preliminary Approval Order").

Manual § 22.91 at 450 (2004)(“Manual”) “Rule 23(a) and (b) standards apply equally to certifying a class action for settlement or for trial.” *Id.* § 21.32 at 251.

Here, as in the six prior class certifications entered by the Court, all of the requirements of Haw. R. Civ. P. 23 are met.

A. Rule 23(a) Requirements are Met.

Haw. R. Civ. P. 23(a)¹⁶ requirements of numerosity, commonality, typicality, and adequacy are met in this case, as the Court had previously ruled. Preliminary Approval Order at 3-4.

1. Numerosity.

The class size is approximately 2,700. Consistent with this Court's prior rulings, the numerosity element is satisfied.¹⁷

2. Commonality.

Commonality requires only a single factual or legal issue¹⁸ to be common throughout the class.¹⁹ The following question of law and fact is common to the proposed Settlement Class: All class members filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel.

¹⁶ “(a) Prerequisites to a Class Action. One or more members of a class may sue or be sued as representative parties on behalf of all only if (1) the class is so numerous that joinder of all members is impracticable, (2) there is questions of law or fact common to the class, (3) the claims or defenses of the representative parties is typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class.”

¹⁷ “While many state courts have held numerosity to be a number exceeding a hundred, the requirement has been satisfied by as few as thirteen potential individuals who may be included in a class.” *Life of the Land v. Burns*, 59 Haw. 244, 253, 580 P.2d 405, 411 (1978) (internal citations omitted).

¹⁸ “The test or standard for meeting the Rule 23(a)(2) prerequisite is qualitative rather than quantitative; that is there need be only a single issue common to all members of the class. Therefore, this requirement is easily met in most cases.” 1 A. Conte & H. Newberg, *Newberg on Class Actions* § 3:10 (4th Ed. 2005).

¹⁹ *Life of the Land v. Land Use Commission*, 63 Haw. 166, 182, 623 P.2d 431, 444 (1981)(the pertinent criterion is the presence of common claims or defenses extending throughout the class).

3. Typicality.

Rule 23(a)(3)'s requirement that the named plaintiff's claims be typical is satisfied where there is no conflict of interest between the claims of the named plaintiff and the claims of the class.²⁰ Here, all the beneficiaries have a common claim as defined by Haw. Rev. Stat. § 674-17. Thus, the class representatives, who have suffered damages proximately caused by Defendants' breaches of trust, have claims typical of the class as a whole.

4. Adequacy.

Rule 23(a)(4) requires that the "representative parties will fairly and adequately protect the interests of the class." "The adequacy inquiry under Rule 23(a)(4) serves to uncover conflicts of interest between named parties and the class they seek to represent." *Amchem Products v. Windsor*, 521 U.S. 591, 626 (1997).

This requirement is satisfied upon a finding : (1) that the suit is not collusive and plaintiffs' interests are not antagonistic or in conflict with the class; and (2) that the representative parties' attorneys are qualified, experienced, and generally able to conduct the litigation. 1 A. Conte & H. Newberg, *Newberg on Class Actions* § 3.22 (4th Ed. 2005). Both prerequisites of adequacy of representation are met here. Representative Plaintiffs' interests are co-extensive and not in conflict with the interests of the class members. Each of them has already served as a class and subclass representative. Class Counsel are experienced and qualified to handle this litigation. The settlement is not collusive since it was negotiated at arm's length by a judicial officer. The magnitude of the \$328 million settlement payment is, itself, clear and convincing proof of that arms-length process.

B. Rule 23(b)(3) Requirements are Met.

Certification under Rule 23(b)(3)²¹ is appropriate where common factual or legal

²⁰ See *Life of the Land*, 63 Haw. at 183, 623 P.2d at 445 ("Reading the third and fourth preconditions together, we too equate typicality with the absence of conflict of interest.").

²¹ "23(b) Class actions maintainable. An action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and in addition... (3) the court finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or

questions predominate over any individual issues and where a class action is the superior resolution method.

1. Predominance.

“The predominance test is not a numerical test and does not require the court to add up the common issues and the individual issues and determine which is greater.” *Deutschman v. Beneficial Corp.*, 132 F.R.D. 359, 375 (D. Del. 1990) (quoting 1 H. Newberg, *Newberg on Class Actions* § 4.25 at 318 (2d ed. 1985)). “Rather, the court must determine whether the members of the class seek a remedy to a common legal grievance and whether the common questions of law and fact central to the litigation are common to all class members.” *Deutschman*, 132 F.R.D. at 375.

Here, the common legal grievance(s) and common questions of fact that predominate are the breaches of trust by DHHL; the common questions of law that predominate are the legal standards and rulings of this Court and *Kalima I* and *Kalima II*. With respect to the cost of repair damages for construction claims, this Court previously certified²² the method of computing damages and the amount of damages to include out-of-pocket expenses as an alternative damage remedy. The construction measure of damages (cost of repair) is consistent with these prior rulings. Moreover, differences in computing individual damages is not normally a bar to class certification, *Senne v. Kansas City Royals Baseball Corp.*, 934 F.3d 918, 943 (9th Cir. 2019)(Even in a properly certified class, “[d]amages may well vary, and may require individualized calculations.”).

2. Superiority.

A class action is the only method and is, therefore, the superior method of resolving the damages claims for the Settlement Class. Only four (4) Class Members opted out of the settlement case. Declaration of Robert Coomes, ¶ 16, and no class members have pursued

defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of a class action.”

²² The State of Hawai'i did not appeal any certification rulings in its second appeal. See *Kalima II*.

individual claims through the commencement and prosecution of individual actions. Declaration of Thomas Grande, ¶ 17. Judicial economy will be served by resolving the claims in one forum, and there are no significant obstacles in the management of the claims and the settlement payments.

In sum, there are no material differences in the class from the previously certified classes to preclude recertification for final approval.

X. THE CLAIMS ADMINISTRATION PROCESS

The Court's second task is to evaluate the procedural course of the claims administration process and how the process was implemented. These considerations include how the notice provided to the class was completed, including appropriate follow-up; the claims submission, validation, and correction process; the class settlement distribution process; the method of allocation and each class member's share; and the number of opt-outs. See generally National Consumer Law Center, *Consumer Class Actions* § 15.3 at 347 (10th Ed. 2017).

A. Class Counsel

Class Counsel engaged in an extraordinary post-settlement effort to develop, organize, and implement the claims administration process.²³ In a typical class action, class counsel has little – if any – direct involvement in the organization and implementation of the claims process. Class Counsel generally has little incentive to engage in any additional work. Declaration of Thomas Grande, ¶ 18.

Because of its complexity, compressed time period, and advanced age of the class members, as well as Class Counsel's thorough familiarity with the legal principles and incomplete and disheveled records, this case required Class Counsels' ongoing concurrent development and organization of three separate tasks, each of which generally takes months and detailed planning – (1) developing the claims administration process; (2) reviewing claims records for data necessary to facilitate and implement the claims administration process; and (3) developing the probate administration process.

²³ Class Counsel were not paid any additional compensation for work after the settlement date and during the claims administration process and will not be paid additional compensation for additional work after final approval to oversee completion of the claims administration and payment process.

Class Counsel developed the claims administration process between April 14, 2022 (date of settlement) and September 1, 2022 (date of funding), while the claims process was ongoing. In a typical arm's-length settlement, settlement negotiations and claims administration planning are finished months before the preliminary approval hearing. Declaration of Thomas Grande, ¶ 19. This planning process allows for complete and thorough evaluation of claims administration options, administration organization, and funding, which are typically secured before court approval and before the claims administration process begins.

Here, because of the State's pressing settlement posture, the imposition of an early legislative deadline for settlement (May 3, 2022), and a delayed approval by Governor Ige (July 11, 2022), Class Counsel had to seek preliminary approval based on a settlement agreement that had not been funded until after it was approved on June 9, 2022, by the Court. As a result, Class Counsel had to engage the Settlement Special Master, accountant, Claims Administrator, local call center, contractors, and others based on deferred compensation and deferred reimbursement of ongoing costs to avoid any interruption of the claims administration process. Declaration of Thomas R. Grande, ¶ 20.

Implementing the claims administration process required constant monitoring by class counsel – weekly meetings were held, each of which dealt with multiple ongoing tasks to timely complete the claims process. See Special Master Reports #1-5.

Because the claim submission process was completed between 1991 and 1995 and was based upon incomplete and disorganized Department of Hawaiian Home Lands records created between 1959 and the present, Class Counsel expended extraordinary effort to complete (1) the claims compilation process (2013 – 2017; 2018-2022; 2022-present); (2) the claims validation process (2013 – present), and (3) the data compilation and data validation process (2018-present). Claims data compilation is also not typically the responsibility of Class Counsel. However, by necessity, Class Counsel took on this responsibility to avoid further delays that would have occurred if the claims records had been simply handed off to the Claims Administrator.

In addition to the above tasks, Class Counsel developed a Probate Plan to provide direct services to deceased class members' heirs and a procedure to inform public assistance beneficiaries of alternatives to preserve their settlement payment. Significantly, the Probate Plan includes a Qualified Settlement Trust that will allow for the group filing of individual probate petitions for the approximately 1,346 deceased class members, including probate proceedings for

the approximately 155 class members who died out of state. Declaration of Thomas R. Grande, ¶ 21. Unlike typical class cases involving a large number of deceased class members, in which estates, potential heirs, and devisees are required to fend for themselves after final approval, this claims administration process is unique: it provides direct probate services for a large number of estates and thousands of potential heirs. The Probate Plan will provide them a comprehensive, cost-effective means of proceeding *en masse* on an expedited docket, group notice and access to the Department of Health, Department of Hawaiian Home Lands and Claims Administrators' data, avoiding the costs and delays that would otherwise be inherent if individual probates, notices and heir research were required.

In short, by working literally every day for the past year, Class Counsel replicated the nine-year (1991-1999) Hawaiian Claims Office claims resolution process in less than one year.

B. Settlement Special Master

The Settlement Special Master's, the Honorable Michael Broderick (ret), supervisory role was to oversee the notice plan, administer the Settlement Fund with the Court's supervision and final approval, and account for claims administration and distribution of settlement payments. As evidenced in his periodic reports, Judge Broderick devoted substantial time and effort in fulfilling this role by working with Class Counsel and the Claims Administrator to implement the Claims Administration Plan in the following areas through oversight and supervision:

- a) All components of the claims notice plan;
- b) Outside consultants (accountant, tax, construction);
- b) Plan of Notice and outreach to the Settlement Class;
- c) Claims validation process;
- d) Data validation process;
- e) Claims computation process;
- f) Distribution rules;
- g) Probate Plan and Qualified Settlement Trust;
- h) Payment Distribution Plan;
- i) Periodic reports to the Court.

See generally Settlement Special Master's Reports Nos. 1-7.

C. Construction Expert Wayson Wong

At Class Counsel's recommendation, the Court and Settlement Special Master approved the retention of local construction expert Wayson Wong, a trained engineer and attorney with 45 years of construction litigation experience. Mr. Wong was tasked with evaluating 40-year-old construction claims based on incomplete records, using similar cases, his experience and expertise and consulting with another expert.

The Construction Expert Report involve a separate claims validation and claims resolution project that was as complex as any individual construction group action involving over one hundred claims. The limitations presented were substantial – Construction Expert Wayson Wong had to rely on limited anecdotal information presented over thirty years ago for construction defects as old as sixty years ago. He developed an analytical framework that compared available individual repair estimates to formulate estimates for claims with very little data. It required detailed analysis of the few investigative reports, expert reports, and HCO factual findings and records to establish base line settlement payments in order to compute final repair estimates. Declaration of Thomas R. Grande, ¶ 22.

Mr. Wong's analysis and work product have been exemplary and are an integral part of the final claims process.

D. Tax Expert Robert Wood

At Class Counsels' recommendation, the Court and Settlement Special Master approved the retention of a nationally-known tax expert, who has evaluated the nature of the payments for the waiting list and construction claims and advised the Claims Administrator as trustee of the Qualified Settlement Trust not to issue 1099 tax forms to the Class Members for their settlement payments. Mr. Wood has prepared a short form letter explaining his opinion that was mailed with Notice #3. He has also prepared a lengthier opinion letter explaining the bases of his opinion that is available on the settlement website, <https://kalima-lawsuit.com>.

Mr. Wood's analysis and work product have been excellent and are an integral part of the final claims process.

E. Probate Special Master and Probate Special Counsel

Class Counsel developed the initial Probate Plan presented to Chief Judge Browning and this Court. The initial Probate Plan was the result of extensive but ultimately fruitless research

for a model to pursue 1,346 individual probates on a class wide or groupwide basis. After reviewing several different distribution models (e.g., World Trade Center; World War II Jewish Reparations) and reviewing numerous reparation models (e.g., Global Models for Questions of Reparations²⁴ and Models for Reparative Justice)²⁵, Class Counsel recruited Probate Special Master Emily Kawashima and Probate Special Counsel Scott Suzuki, who proposed the current Probate Plan. Declaration of Thomas R. Grande, ¶ 23.

1. Revised Probate Plan/Qualified Settlement Trust

The revised Probate Plan presented by Ms. Kawashima and Mr. Suzuki included, at Mr. Suzuki's suggestion, an innovative use of a Qualified Settlement Trust ("QST"). Because no Class Member, alive or deceased, is in constructive receipt of any of the settlement proceeds, a QST can be administered to determine the true beneficiaries of the settlement funds without the need to initiate probate proceedings for 1,346 deceased class members.

Through one extended Trust Proceeding, the QST provides a streamlined process to appropriately and efficiently distribute the settlement funds to the heirs and devisees of the Deceased Class Members, whether they passed away in Hawaii or elsewhere. The Probate Plan also includes directions for funding a special needs trust for beneficiaries of the QST whose public assistance may be affected by receiving settlement funds.

While this process is referred to as a "Probate Plan," it is not intended to be limited only to "probate proceedings," *per se*. Rather, the Probate Plan is carried out through a Trust Proceeding, which falls under the exclusive jurisdiction of the Probate Court, thus the "Probate Plan" designation. Upon petitions for instructions, the Probate Court will ultimately enter orders determining the beneficiaries of the QST. The Probate Plan and QST are flexible and may be modified as necessary with the Court's approval to address any future contingencies.

²⁴ "Repair for Historical Harms: Global Models for Questions of Reparations." Yale MacMillan Center (Panel May 10, 2021) available at <https://macmillan.yale.edu/news/global-models-questions-reparations>.

²⁵ "Reparations, Repatriation and Redress" Symposium Syllabus, University of Minnesota Libraries Publishing Services 2014 available at <https://reparations.lib.umn.edu>.

2. Individual Probate Process

In a typical probate case, each individual proceeding is initiated by filing a petition in Probate Court. The petition may request probating a will or adjudication of intestacy. In either case, the filing party must pay a filing fee of \$215 and each case is designated with its own probate number.²⁶ The filing party may also be required to publish notice of hearing and notice to creditors in a publication of general circulation, which currently costs approximately \$1,000. This does not include the cost of retaining an attorney who would represent the filing party. Probate Proceedings for Deceased Class Members who died more than five (5) years ago may have further complications, as there are statutory limitations on the authority of a personal representative for such estates.

It is likely that the cost of probate proceedings would impose a significant access to justice issue for a majority of the Deceased Class Members, many of whom died intestate with multiple heirs, and whose share of the Deceased Class Member's estate is fractionalized. Class Counsel was mindful of the fact that a number of the families cannot afford the cost of retaining counsel in order to initiate a probate proceeding and sought to minimize expenses through the Probate Plan.

3. The Cobell Model

Probate Special Counsel and Probate Special Master reviewed other large class action lawsuits which involved payments to heirs/ devisees of deceased class members. One that was useful for reference is *Cobell v. Salazar*, (D.D.C. Case No. 1:96CV01285-JR). In 1996, Elouise Cobell, representative of the Blackfeet tribe, and other Native American representatives brought a Federal class action lawsuit against two departments of the United States government, the Department of Interior and the Department of the Treasury, for mismanagement of Indian trust funds. Through lengthy and complex litigation, the class members in *Cobell* received compensation for these claims. As in the *Kalima* case, a large number of the class members in *Cobell* passed away before they received their compensation.

²⁶ This is in reference to probate proceedings initiated in the State of Hawai'i.

To address the interests of the deceased class members in *Cobell*, a Special Master was appointed with authority to distribute settlement payments to heirs and devisees. This process required separate probate proceedings adjudicated by the Special Master. Many of these separate proceedings required the Special Master to rule on motions that modified the designees and addressed probate matters as they arose. Many of these motions required detailed analysis of complex probate laws of 24²⁷ different states to determine payment distribution. The process also required plaintiffs to file numerous motions seeking court orders and rulings of the Special Master to direct the payment of settlement funds to the estates or the heirs/devisees of the estates of deceased class members. This was a successful, but enormous undertaking.

As a result of the above, the distribution process took over five years to complete as the Special Master developed procedures for bypassing formal proceedings in order to get the funds to the proper parties.

4. Probate Plan/QST Advantages Over *Cobell* and Individual Probate Process

The Probate Plan improves on the *Cobell* and individual probate process in three significant ways. First, the Probate Plan utilizes a single QST to avoid the need to initiate separate probate proceedings. Trusts are one of the most common tools that are used to help avoid the need for probate, and the QST is intended for that purpose. Second, the Probate Court can address designees and probate matters on a planned basis, i.e., coordinated and regular scheduling. Third, distributions from the QST are governed by the Hawaii Uniform Trust Code, which eliminates the need to evaluate the complex rules of separate jurisdictions in which Class Members may have passed away. The Probate Court will oversee the administration of the QST, relieving the need for other jurisdictions to be involved.

Without some method of identifying the heirs/ devisees of these numerous estates in a consolidated manner, the Court would be deluged with over thirteen hundred separate probate proceedings. The cost to the families would be exorbitant and the amount of judicial resources necessary to handle all of these cases would be overwhelming.

²⁷ In the instant case, there are approximately 155 deceased class members in at least 27 states. Declaration of Thomas R. Grande, ¶ 8.

5. How the QST Works

Although the QST has all of the benefits of a traditional trust, it is a highly sophisticated tool designed specifically for this case. The QST is an extraordinary measure that allows the Court to manage the volume of decedents and to identify their heirs/ devisees. The outcome is the same as if numerous probate petitions were filed on behalf of the unrepresented Class Members.

The Probate Special Counsel will be filing Petitions for Instructions and will contain requests for instructions about several Deceased Class Members in each Petition. Each petition will adhere to the same rigorous procedural standards required for probate proceedings and will be subject to the same standard of proof by the Court. Instead of determining “heirs and devisees” of separate estates, the Court will confirm the “beneficiaries” of the QST, who are the heirs and devisees of those deceased class members included in each Petition.

In this process, which has been carefully and creatively outlined in fine detail by Ms. Kawashima as the Probate Special Master, the QST bypasses traditional probate proceedings without compromising the safeguards and requirements of a probate proceeding. The QST allows the Court to address estates both with and without wills, ancillary proceedings from other jurisdictions, estates of the heirs, and estates that have previously been closed.

6. QST Distributions & Safeguards

The distribution process provides safeguards that are quadruple-checked before distributions will be made. The first check is performed by Epiq, the Claims Administrator, which will gather information relating to the estate of each deceased Class Member. The second check is performed by the Probate Special Counsel who will evaluate the information and outline the basis for determining a beneficial interest in the QST through a series of petitions to the Probate Court. The third check is performed by the Probate Special Master, who as a neutral, will review each petition and make recommendations, and present findings to the Probate Court. Finally, the Probate Court will consider the petitions and enter orders accordingly.

Execution of this plan will require extensive research, filing of petitions, issuance of court orders and ultimately the distribution of settlement proceeds to an estimated 5,000 to 6,000 heirs and devisees. In effect, it involves the administration of an adjunct class action of equal complexity to the claims administration in this case.

7. Summary of Probate/QST Advantages

The Probate Plan and QST provide for (1) coordinated research for heirs through Department of Health records, Department of Hawaiian Home Land records, and Information Request Forms submitted by family members, (2) coordinated individual and published notice of hearings and notice to creditors, reducing expenses, (3) group resolution of identifying heirs/devisees, avoiding the expense and magnitude of filing 1,346 individual cases (or more if beneficial interests flow to subsequent generations of deceased class members), a benefit both to family members and the Probate Court, (4) an option for family members to retain private counsel, (5) referral to mediation where a family dispute arises, and (6) directions for funding a special needs trust for beneficiaries of the QST whose public assistance benefits may be affected by the receipt of settlement funds. Declaration of Thomas R. Grande, ¶ 24.

The use of a QST may also provide an economic advantage to the beneficiaries through potential tax planning and by allowing interest on undistributed trust funds to accrue for the benefit of the beneficiaries.

Not surprisingly, this plan will take a minimum of 18 months and likely longer to implement.

8. Model for Reparations Distribution

The distribution model designed in collaboration with Class Counsel, Probate Special Master Emily Kawashima, and Probate Special Counsel Scott Suzuki is unprecedented. Class Counsel is not aware of any other class case in which a separate, independent process for deceased class members has even been attempted. The Probate Plan/QST adopted by this Court provides one model for the distribution of reparations or other settlement payments that are distributed to ancestors and heirs. The QST vehicle may also be a model for group or class distributions for persons with complicated legal status, such as minors or individuals with special needs.

XI. CLAIMS ADMINISTRATION PROCESS

Claims Administrator Epiq Class Action and Claims Solutions, Inc. was responsible for the day-to-day administration of the settlement process, including notice, claims validation, and claims computation. The Claims Administrator performed class list and class notice services; maintained electronic evidence; confirmed electronic evidence provided by the Class Counsel;

conducted and recorded communications with individual class members; provided information on a constantly updated website that included important relevant documents, filings and information; identified and obtained information from estate representatives and potential heirs; provided probate information; operated a call-back center that communicated directly with class members; maintained the individual claims data in electronic format; and computed settlement payments. The Claims Administrator will process all settlement payments to living class members and provide administrative support and claims administration services for the Probate Plan. The Claims Administrator will also serve as trustee of the Qualified Settlement Trust.

A. Weekly Claims Administration Meetings

The Settlement Special Master and Class Counsel met with Epiq representatives on a weekly basis to review pending agenda items; assign tasks; and generally supervise the claims administration process. See Settlement Special Master Reports Nos 1 – 5.

A similar process has been put in place for the Probate Plan. Probate Special Master Emily Kawashima and Probate Special Counsel Scott Suzuki meet with Epiq representatives on a weekly basis for the same purposes outlined above.

B. Plan of Notice and Outreach to the Settlement Class

The notification plan needed to be particularly robust in this claims administration process because of the extreme length of the litigation and the large number of deceased class members. The primary elements of the plan were:

1) Community Outreach– The Sovereign Council of Hawaiian Homestead Associations (SCHHA) conducted an in-person, all-Island community outreach in ten homestead areas on each island in July 2022. This multi-week effort involved approximately twenty volunteers who distributed information about the settlement in person on O‘ahu, Maui, Hawai‘i, and Kauai.

2) Attorney Talk Story – SCHHA hosted monthly Attorney Talk Story Zoom sessions, each lasting approximately 1 ½ - 2 hours and involving an average of 100+ participants. These sessions have been held each month for the past year and are used to update and inform the class members of case developments and to give class members an opportunity to ask questions about the case and the settlement.

3) Monthly Articles – Monthly articles giving case updates by Class Counsel in the Office of Hawaiian Affairs newsletter *Ka Wai Ola* and the Department of Hawaiian Home Lands publication *Ka Nuhou Uila*.

4) IVR Recording²⁸ – An Interactive Voice Recording giving several response options (general information; update contact information; information for relatives of deceased class members) and providing for call back from a live operator has been in place since June 2022. As of June 2, 2023, there were 11,700 total calls made to the IVR Center, with 3,354 voice mails. IVR operators made 3,127 return calls to class members or relatives, totaling 17,855 minutes (297.58 hours). Exhibit 3: June 2, 2023 Client Activity Report.

5) A dedicated mail and email response team²⁹ that responded to written and email requests. Not unsurprisingly, most of the communication was by email. There were 90 letters received by Epiq, with 119 letters sent back in response and 5,296 emails received by Epiq with 1,019 emails sent in response.³⁰

6) A class settlement website (kalima-lawsuit.com) with complete settlement information including (i) all Important Documents, (ii) Information Request Forms, and (ii) Claim Correction Forms. As of June 2, 2023, the settlement website had 25,472 unique sessions, with 62,509 page hits. Exhibit 3.

²⁸ The Claims Administrator established a telephone intake service to receive and make follow-up telephone calls to Class Members and their representatives. The telephone intake has both local and toll-free telephone numbers. For each call, intake representatives record: (1) updated contact information from living class members and (2) deceased class members' family representatives' contact information. The telephone intake service also responded to Class Members' requests for additional information. This telephone intake will continue until the completion of the probate process.

²⁹ Epiq updated the initial address list provided by the Defendants through a data reporting agency. Individual notice was sent via email to any class members for whom the Claims Administrator had email addresses. These email addresses were provided by Class Counsel from prior communications and included approximately 1,500 email addresses and Epiq from its proprietary data service.

³⁰ Not every communication required a response. Emails updating addresses or contact information did not require a substantive response from the response team. Declaration of Thomas Grande, ¶ 9.

7) Three mailed notices at three stages of claim resolution – start³¹; date confirmation³² and payment.

8) Two publication notices in Hawai‘i newspapers of general circulation.³³

C. Notice Plan Effectiveness

A motion for final approval should include a declaration from the person most knowledgeable about how and when notice was given – mailing of notices; how many notices were returned and remailed, number of claims received, and method of processing them. National Consumer Law Center, *Consumer Class Actions* § 15.3 at 347 (10th Ed. 2017). See Fed. R. Civ. P. 23(e)(2)(C)(ii).

As verified by the Declaration of Robert Coomes, Epiq Senior Settlement Project Manager, the notice plan was extremely effective, measured by response rates in typical cases.

³¹ First Notice: Mail/Email - Confirmation of Contact Information & Appointment of Family Representative – July 1, 2022. Individual notice was sent by first-class mail to all Class Members’ last known addresses explaining: (1) the basic terms of settlement; (2) how to use the settlement website, (3) the telephone numbers to call for information and to update contact data; (4) the Settlement Class definitions, exclusions and the right to opt-out. The first notice included an explanatory letter from Class Counsel summarizing the settlement and an Information Request Form and postage-paid return envelope to provide Class Members a ready method of updating their contact information and to identify the names of heirs of deceased class members.

³² Second Notice – Mail/Email - November 1, 2022 - Class Member Confirmation of Dates of Loss, Death or Award. Class members were sent a second mailed and emailed notice which allowed them to correct their dates of loss and award data before settlement payments were computed. This avoided a Class Member receiving a settlement payment that does not accurately reflect their circumstances. The second notice also notified Class Members who are not entitled to settlement payments and gave those Class Members an opportunity to opt-out of the settlement.

³³ Publication notice was made once in the following public newspapers: the Honolulu Star-Advertiser, the Hilo Tribune Herald, West Hawai‘i Today, the Maui News, the Garden Isle, and the Molokai Dispatch starting July 1, 2022. Notice was also announced on the DHHL website, *Ka Wai Ola* (Office of Hawaiian Affairs’ monthly newsletter), *Ka Nuhou Uila* (DHHL’s monthly newsletter) and by the Sovereign Council of Hawaiian Homestead Associations (“SCHHA”) online and other SCHHA media outlets.

See generally Exhibit 3: June 2, 2023 Client Activity Report.³⁴ Importantly, notice was given by mail and email to all known or discovered email addresses for class members and deceased class members' family representatives.

For the first and second notices, there were 9,421 individual mailings, including remailings.³⁵ After each mailing, additional public records research was conducted to find updated addresses. After Notice #2, there were 103 undeliverable addresses for living class members. With additional follow-up research, including research from the Department of Hawaiian Home Lands, an additional 57 addresses were found. After Notice #2 there were 123 undeliverable addresses for deceased class members. (Follow-up for these undeliverable addresses will be made during the probate process. This number is not surprising since mailings were sent to the last known address of deceased class members). Additional efforts to locate both living and deceased class members will continue during the payment distribution process and probate process.

Class members were requested to submit Information Request Forms to verify the accuracy of their contact information and to provide the names and contact information for deceased class members' heirs and devisees.

Living class members submitted 864 Information Request Forms (approximately 74% of living class members). Relatives of deceased class members submitted 661 Information Request Forms (approximately 49% of deceased class members).

D. Errors in Notice Implementation

There were errors in implementing the Notice Plan, all of which were resolved by methods recommended by the Special Master and were presented to the Court for approval. These included errors in dates of death for some class members and errors involving triplicate claims. These mistakes were corrected as soon as they were reported to Class Counsel by a corrected mailed notice approved by the Court. Declaration of Rob Coomes, ¶ 9(b)(viii).

³⁴ An updated Client Activity Report will be submitted after completion of the June 13, 2023 mailing.

³⁵ The number of mailings greatly exceed the number of class members because mailings were sent to deceased class member family representatives.

Due process protections for anyone who was sent an incorrect notice were preserved by extending the date to submit additional documentation or correct or object to the amended notice and to opt out. Declaration of Rob Coomes, ¶ 9(b)(viii).

E. Follow-up to Notice Plan

The State of Hawai‘i is searching DHHL records for additional information about living and deceased class members. In addition, post-final approval, (1) Epiq is formulating a plan for an intensive follow-up to locate living class members, with costs to be apportioned to those settlement payments, and (2) the Probate Plan budget includes several options for intensive follow-up to deceased class members’ families, including proprietary database searches for heir information, direct calling, and mailing and other options.

F. Submission of Claims

In a typical class action, class members are asked to submit claim forms (coupons) in response to the notice of preliminary approval. In this case, Settlement Class members were not required to submit a claim form to be considered for a settlement payment. Instead, their status as a Settlement Class Member was determined by their having timely submitted one or more claims to the Hawaiian Claims Office between 1991 and August 31, 1995. All claim forms were transmitted from the Hawaiian Claims Office to the Plaintiffs during discovery. Each Settlement Class Member’s claim(s) was reviewed as described below to determine whether the claim(s) is “valid” under the criteria of the Settlement Agreement categorizing the Class Member as a Payment Recipient, and if so, how much the settlement payment for that Payment Recipient will be.³⁶

The first step in validating claims was to determine if they fell within one of the specific “no payment” categories set forth in the Settlement Agreement and approved by the Court. Plaintiffs who fall within one of the categories noted below will not receive a settlement payment. Those class members were informed they are not entitled to a settlement payment prior to the opt-out deadline.

³⁶ Under the terms of the Settlement Agreement, all Settlement Class Members are Payment Recipients except for those whom the Settlement Agreement specifically states shall not be entitled to Settlement Payment.

Under the Settlement Agreement, the following persons will not receive a settlement payment:

- (1) Individuals who did not file a claim with the Panel on or before August 31, 1995.
- (2) Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.
- (3) Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- (4) Individuals who filed a timely claim with the Panel, but the claim was not a valid HRS Chapter 674 claim.
- (5) Individuals who filed a timely claim with the Panel but settled their claim.
- (6) Individuals who opted-out of the Lawsuit in response to the 2007 class notice.
- (7) Individuals who opted-out of the Lawsuit in response to the 2012 class notice.
- (8) Individuals who opted-out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

1. Claims Not Within the Jurisdiction of HRS Chapter 674

Categories (1) to (4) include claims that do not fall within the jurisdictional limits of HRS Chapter 674. The rulings of this Court and the Hawai‘i Supreme Court established that class claims, in this case, must be based on HRS Chapter 674. The claims that fall within categories (1) to (4) were determined by a review of individual claim files during and after the second notice preparation, including the claims correction period. (September 2022 to June 2023). In essence, their status as a “no claim” or “no jurisdiction claim” was based on a review of all available evidence and a determination that had the claims been litigated, they would have been dismissed on the identified jurisdictional grounds.

As of this submission, there are 231 individuals found within one or more of these four no-payment categories. Although the Settlement Class Members whose claims fall within categories (1) to (4) will not receive a settlement payment for those claims, they will still be bound by the Settlement Agreement and the releases given pursuant thereto. Epiq will submit a supplemental declaration to update the number of additional No Claim Class Members, if any. Declaration of Robert Coomes, ¶ 9(d)(ii).

2. Settled Claims

During the Hawaiian Claims Office process, certain claimants settled their HCO claims by agreeing to withdraw their claims with prejudice in exchange for certain specified actions to be taken by DHHL. Those settled claims are barred by the written settlement agreements, and thus they cannot be pursued in this case. There were 35 settled claims for 31 Settlement Class Members. Under the terms of the Settlement Agreement, no settlement payment will be made to Settlement Class Members for the settled claims, but those Settlement Class Members are nevertheless bound by the Settlement and the releases given pursuant thereto.

3. Prior Opt-Out

Individuals who opted-out of the lawsuit in 2007 and 2012 are barred by their voluntary exclusion from the litigation from receiving settlement payments. There were 18 2007 and eight (8) 2012 opt-outs.

4. Settlement Class Opt-Outs

Because Haw. Rev. Stat. § 674-17 provides for *de novo* review of any claim asserted in this lawsuit, Settlement Class Members were given an additional right to exercise the option of filing a separate action. If a Settlement Class Member elects to pursue a separate action, that Settlement Class Member must opt-out of this lawsuit and pursue an independent claim at her/his own risk and expense. Because the case was filed on December 29, 1999, only two days remain on the statute of limitations once the Court's order giving approval to settlement becomes final.³⁷

In matters litigated as class actions, the general rule is that a judicially-approved settlement is binding upon the members of the class who have not opted-out. Haw. R. Civ. P. Rule 23(c)(2); 5 3B MOORE'S FEDERAL PRACTICE ¶ 23.60, 23-468; see also *In Re Four Seasons*

³⁷ Under class action tolling rules adopted by the Hawai'i Supreme Court, "the commencement of a class action suspends the applicable statute of limitations as to all asserted members of the class who would have been parties had the suit been permitted to continue as a class action." *Levi v. Univ. of Haw.*, 67 Haw. 90, 93, 679 P.2d 129, 132 (1984). The statute begins to run again after final resolution of the class action or denial of certification. E.g., *Crown v. Parker*, 462 U.S. 345, 354 (1983)(plaintiff who received right to sue during putative class action retained full 90 days in which to bring suit after class certification was denied).

Securities Laws Litigation, 525 F.2d 500 (10th Cir. 1975). *Alden v. Kona Palisades, Inc.*, 641 P.2d 330, 332, 3 Haw. App. 47 (Haw. App. 1982).

Notice of the right to opt-out and the potential expiration of the statute of limitations for individual claims were included in the first, second, and third notices sent to class members. This allows any class members who choose to opt-out to retain counsel and pursue their claims independently well in advance of the foreshortened two-day limitations period that now exists, and which will run once the order granting final approval to the settlement enters.

Class members who were sent corrective notices of no claim letters were given additional time consistent with due process requirements to exercise their opt-out rights. Declaration of Thomas Grande, ¶ 25.

There were four (4) valid³⁸ opt-outs from the Settlement Class. Declaration of Thomas Grande, ¶ 26.

5. No Settlement Payment Notification

All Settlement Class Members who were not entitled to a settlement payment received notice of their "no payment" status and the reason therefor and were given an opportunity to contest the "no payment" determination by submitting corrections or other information to establish that they have a valid claim. There were 202 total no payment letters sent with the Second Notice.

Because claim validation was an ongoing process, during the claims review process post-Second Notice, additional individuals were identified as being within categories (1) to (4), i.e., not having a claim because of the jurisdictional requirements of HRS chapter 674. As a result of this ongoing review, no claim letters were sent at three stages of the claim review process. First, five (5) class members were sent a No Claim Notification on April 18, 2023 and were given the opportunity to submit corrections/objections by June 1, 2023. Second, one (1) class member was sent a No Claim Notification on May 9, 2023, and was given the opportunity to submit corrections/objections by June 19, 2023. Third, one (1) class member was sent a No Claim

³⁸ Five (5) opt-out requests were received. However, one was rescinded, resulting in a total of four (4) valid opt-outs. See Exhibit 3: June 2, 2023 Client Activity Report; Declaration of Robert Coomes, ¶ 16, 17.

Notification on May 15, 2023, and was given the opportunity to submit corrections/objections by June 26, 2023. Fourth, 22 class members were sent a No Claim Notification on June 14, 2023 and were given the opportunity to submit corrections/objections by July 6, 2023. Declaration of Robert Coomes, ¶ 9(c)(i-iv).

G. Claim and Data Validation Process

Once claims are submitted in a class case, a two-step process is required and followed to (a) validate the claims, i.e., do the claims comply with the requirements established in the settlement agreement and order granting preliminary approval and (b) validate the claims data submitted, in this case, starting and ending dates for homestead delay claims and cost of repair for construction claims.

1. December 29, 1999, to April 14, 2022 – Claim Review

Proof issues in the case, after remand from *Kalima I*, presented extraordinary challenges to determine the validity of the claims presented to the Panel. Class Counsel reviewed over 15,000 individual records to establish application and award dates and other criteria for each of the Class Members whose files were identified and produced by Defendants. Declaration of Thomas R. Grande, ¶ 27.

Class Counsel conducted exhaustive research pre-settlement to validate the claims data, i.e., to review all available records to determine the type of claim (waiting list or construction), type of homestead applied for or received, and start and end dates. *See* Section XII *infra*.

2. April 14, 2022, to January 2023 – Data Review

In preparation for submitting the Second Notice, which contained the start and end dates for waiting list claims and identified construction claims, the Claims Administrator compiled dates of loss, death, or award (if any) for all Class Members. Dates of loss for the majority of Class Members were preliminarily determined by Class Counsels' review of DHHL application and award files, DHHL application and award summaries, and HCO claim forms originally filed by Class Members. Declaration of Thomas Grande, ¶ 28.

This preliminary data was cross-checked against (1) the Panel Claim Forms, (2) Investigative Reports prepared by the Panel to confirm dates of loss for each class member, and

(3) DHHL application and award files and other primary and secondary sources, such as excel spreadsheets, application and award summaries, and other documentary evidence. Declaration of Thomas Grande, ¶ 29.

After the initial data run, there were approximately 600 individual files that we re-reviewed to obtain complete and accurate data for all class members. Once this process was completed, there were additional data inconsistencies that required a review of several hundred additional individual claims. Declaration of Thomas Grande, ¶ 30.

3. January 2023 to June 2023 - Second Notice and Claim Correction

In the Second Notice sent to Class Members in January 2023, Class Members were asked to submit Correction Forms for any inaccurate data entries and allowed to submit additional evidence or information if they had a construction claim. There were 206 Waiting List Correction Claim Forms submitted, and one Construction Correction Form submitted. Exhibit 3. In addition, there were daily telephone and email communications received by the Claims Administrator that involved questions or clarification of the claims data.

Routine questions, such as updating an address or confirmation of claim, were made by the Claims Administrator. Communications that involved substantive decisions involving the identify of a class member, the validity of a claim, and the accuracy of claims data were “escalated” and transmitted to Class Counsel for their review and recommended decision. There were approximately 150 escalations resolved by Class Counsel between January and June 2023. Declaration of Thomas Grande, ¶ 43.

All formally submitted Correction Forms and informal requests were evaluated and resolved by Class Counsel, irrespective of the timing of the request. Every correction or request for clarification was considered and resolved. Declaration of Thomas Grande, ¶ 31.

H. Distribution Plan Rules, including Method of Allocation (Class Member Share)

The Court has previously approved the Settlement Distribution Plan [Dkt. 1589], which outlined the rules applied by the Claims Administrator to determine the amount of settlement payment. The application of those rules to individual class members resulted in specified individual payments based upon the Payment Distribution Plan.

I. Payment Distribution Plan

The Payment Distribution Plan is filed concurrently herewith and is incorporated by reference.

In summary, the Payment Distribution Plan incorporates the Distribution Plan, Probate Plan, and Qualified Settlement Trust. It provides for the *pro rata* distribution of settlement proceeds to all Payment Recipients; distribution of proceeds for living and deceased Payment Recipients through a Qualified Settlement Trust; and the Payment Distribution Plan also sets out a proposed timetable for resolution of the probate claims, provides for the filing of a Final Report at the conclusion of the claims period and sets out guidelines for redistribution of settlement proceeds and/or *cy pres* award of any remaining funds.

J. Settlement Payment Distribution Process

Settlement funds ultimately will be used to fund a Qualified Settlement Trust known as the “Kalima Class Action Settlement Trust” (the “QST”), established by this Court. The Trustee of the QST will make distributions of the beneficial interests to each beneficiary pursuant to the terms of the QST after final approval of the settlement. As more fully explained in the Payment Distribution Plan, living Payment Recipients will receive their final distributions via certified mail thirty days after the appeals period has run. Beneficial interests in the QST for Deceased Payment Recipients will be distributed pursuant to the Probate Plan upon order of the Probate Court instructing the Trustee of the QST.

In summary, Class Counsel and the Claims Administrator have fulfilled all of the notice, claim review and data compilation required by the Preliminary Approval Order. The task faced by Class Counsel was daunting – Class Counsel was required to compile valid claims data based upon incomplete and spoliated DHHL records.

XII. DHHL COULD NOT PRODUCE BASIC CLAIMS DATA

Class Counsel have spent literally thousands of hours since 2014 attempting to piece together incomplete historical records to obtain basic claim data for each class member – date of application or attempted application, type of application, and date of award, if any. As aptly summarized by the Supreme Court,

The State’s decision to continue to litigate this case for decades has compounded the challenges resultant from its own failure to keep adequate records....It is clear to us that the State, by mismanaging the Trust, failing to keep adequate records, and continuing to

litigate this case for decades, is responsible for creating a situation in which it will be difficult to accurately assess damages.

Kalima II 148 Haw. At 143, 147, 468 P.3d at 157, 161.

A. DHHL Failed to Keep Adequate Records During the Class Period

Record keeping problems were pervasive throughout the class period. *See, e.g., Organization and Administration of the Hawaiian Home Lands Program*, Legislative Reference Bureau, State of Hawai‘i (Report No. 1d 1964), Chapter IV, Summary of Present Problems at 60 (“important but correctable data problems”); *State of Hawaii Department of Hawaiian Home Lands Audit Report July 1, 1962 to June 30, 1972*, State of Hawaii Department of Accounting and General Services (July 12, 1973) at 2 *et seq.* (“failure to record documents”; “serious deficiencies in record keeping”); *Financial Audit of the Loan Funds of the Department of Hawaiian Home Lands*, Legislative Auditor, State of Hawaii (Audit Report No. 79-4 September 1979) at 11, 19 (“internal control systems were seriously deficient”; “records are inaccurate and unverifiable”; “lease and loan application records are inadequate, obsolete, and inaccurate. Documentations are inadequate to establish the applicant” qualifications for leases ... the data on applicants waiting for leases are not properly updated.”) *See* November 2, 2009 Decision Regarding Liability and Causation Following Bifurcated Trial on Aforesaid Issues at 15 (failure to keep adequate records contributed to delay of awards).

B. Court Rules That Class Counsel Must Compile Claims Data

Because the State breached its fiduciary obligation to maintain adequate records³⁹, the State could not (and still cannot) produce a complete set of coherent basic data— a list of application and award dates for the class members which was required to populate a database and compute settlement damages.

After several discovery requests and motions, this Court ruled that Class Counsel – not the Department of Hawaiian Home Lands – had to review and obtain this information from DHHL.

Notwithstanding the fact that DHHL as trustee maintained possession of all records, this Court ruled that the State’s production of records was a sufficient discovery response and that

³⁹ *See* November 2, 2009 Decision Regarding Liability and Causation Following Bifurcated Trial on Aforesaid Issues at 3-5 (trustee’s obligation to maintain adequate records).

Plaintiffs would have to establish application and award dates by reviewing each record since it was just as easy for plaintiffs as defendants to search the files. July 1, 2014 Order Granting State Defendants’ Motion for Protective Order (filed February 28, 2014) ROA 210:399

(“Plaintiffs are already in possession of the requested information [through the production of paper files].”).

In effect, because DHHL as trustee, could not produce the information, Class Counsel was charged with that task.

C. Data Review Challenges Were Enormous

The challenge faced by Class Counsel in preparing claims data is highlighted by a 1971 report:

[A] major hindrance to efficient administration of the Department lay in the archaic departmental record-keeping system. All accounts and records are maintained strictly on a manual basis. This means that any request for information typically requires hours of manual human search and computation....record-keeping is a laborious task which is done inefficiently.

Interim Report for the ACT 275, SLH 1969, Program Study and Evaluation of the Department of Hawaiian Home Lands, State of Hawaii, Analytical Planning Consultants, January 20, 1971 (“1971 Analytical Planning Report”) at 71.

More than anything else, the incomplete and, in some cases, unintelligible records and data produced by Defendants forced Class Counsel to spend inordinate amounts of time scouring decades-old files and data and to conduct a hand-search page by page for information the Department of Hawaiian Home Lands should have been able to produce instantaneously. Declaration of Thomas R. Grande, ¶ 32.

Because the class period spanned from August 21, 1959, to June 30, 1988, some beneficiaries’ files originated in the early 1950s and even the 1940s in a few cases. Many files were destroyed, incomplete, or missing.

D. DHHL Lost Hundreds of Files

After months of frustrating searching and researching, Plaintiffs concluded that files for approximately 611 individuals – over twenty percent of the class members— were missing in whole or in part. Reply Memorandum in Support of Motion for Sanctions [filed August 30, 2016], Exhibit 2. ROA 220:14, 27. In addition, 197 class members had previously filed Lost

Application claims with the Hawaiian Claims Office prior to 1995. Declaration of Thomas R. Grande, ¶ 33.

E. DHHL Spoliates Computer and Paper Records During Litigation

Critically, during the litigation of this case, DHHL compounded the problem by intentional or grossly negligent spoliation of evidence.

Contrary to Department of Attorney General policy, only one of the thousands of files produced contained a prohibition on removing documents, the standard practice of the Department of Attorney General:

***PENDING LITIGATION, DO NOT REMOVE ANY DOCUMENTS
FROM THIS FILE,
REFER ALL INQUIRIES TO THE DEPT. OF ATTORNEY GENERAL.***

Declaration of Thomas R. Grande, ¶ 34.

DHHL designated representative Rodney Lau identified twenty-seven types of critical documents that are contained the client files, Reply Memorandum at 7, ROA 220:14, 20. Mr. Lau testified that DHHL policy is that the “physical records are the certified records.” Supplemental Memorandum at 4, ROA 224:333, 336.

Mr. Lau testified that the State’s official policy is to keep all documents in the files. However, DHHL staff actually followed a policy of removing and discarding documents that were no longer necessary upon (1) an award of land or (2) a transfer of a land award or (3) the death and succession of a land award. Reply Memorandum in Support of Motion for Sanctions [filed August 30, 2016] at 3-6, ROA 220:14, 17-19.

Because of the Department of Attorney General’s failure to place “Do Not Remove” notices in the files, numerous files were spoliated. Motion for Sanctions at 6-7; Exhibit 10. ROA 214: 639, 648-49; 767. At least 492 files were disassembled and “reconstituted”, *Id.*, Exhibit 1. ROA 224:333. 681 of the files had four pages or less, when most files should contain scores of pages. Supplemental Memorandum in Support of Motion for Sanctions, Exhibit 2. ROA 224:333.

In total, 1,173 out of 5,720 DHHL files -- more than twenty percent -- were spoliated or had missing documents. Declaration of Thomas R. Grande, ¶ 35.

DHHL’s computer records were also spoliated. In 2006, seven years after the filing of this case, DHHL changed computer systems and destroyed the pre-2006 data that may have

provided historical information about application dates and lost files.⁴⁰

F. DHHL Produces Piecemeal, Unorganized Records

Because DHHL did not maintain a central filing system, individual records were not maintained in one location and many files were incomplete.

Between October 14, 2013 and February 9, 2017, Defendants made 18 “dumps” of files, or a total of 5,720 files for almost 2,800 class members.⁴¹ Supplemental Memorandum in Support of Motion for Sanctions [filed July 10, 2017] at 2, ROA 224:333, 334.

However, there was no organization to the productions. Each production contained new records and additional documents from existing records that had been previously produced, requiring Class Counsel to review the same records multiple times. Some class members had as many as five or six different portions of files produced at different times. This piecemeal file production has continued into the claims administration period. Declaration of Thomas R. Grande, ¶ 36.

E. Production Problems During the Claims Administration Period

The original schedule adopted by the Court provided for an April 2023 Final Approval Hearing. This timetable was premised on Defendants producing (1) all HCO Claim files (originally produced on February 28, 2022) and (2) all award data (to be produced by July 1, 2022). These deadlines were intended to give Class Counsel two months to complete their initial data review (September 1, 2023) and an additional two months (November 1, 2023) to finalize the data with Epiq. Declaration of Thomas R. Grande, ¶ 37.

⁴⁰ See generally Motion for Sanctions and to Adopt Method of Calculating Damages Where Defendants Have Lost Application and Award files [filed June 29, 2016] ROA 214:639, When the DHHL changed computer programs, the old data was migrated and integrated into the new computer system making it inaccessible because it was overwritten by new information. Then the DHHL threw away the old data.

“A. [T]he [old computer program] was shut down and disposed of...Q. [C]ould that data be accessed..today?...A. We no longer have it.” Motion for Sanctions at 7-10, ROA 214:639, 649-52 (Testimony of State of Hawai'i DHHL Designated Representative Linda Inouye).

⁴¹ Because class members could file for a residential and an agricultural or homestead lease, many class members have multiple applications.

On September 15, 2022, Defendants sent Class Counsel an additional 447 Hawaiian Claims Office files that were not produced by the February 28, 2022 deadline ordered by the Court due to a downloading error.⁴² Defendants' award data was not fully produced until October 15, 2023.⁴³ Because much of the award data was inconclusive, incomplete, or did not contain accurate information for accelerated and undivided homestead awards, it did not provide substantial additional award information. Declaration of Thomas R. Grande, ¶ 38.

Once the final data was produced in mid-October, Class Counsel completed their final review – which was projected to take 120 days -- in 45 days (by November 30, 2022), which allowed the Claims Administrator to begin completing its database necessary to fulfill the Notice Plan and send out the Second Notice. The resultant delay required Epiq to compress its review schedule and as a consequence, there were mailing errors in the Second Notice that required remailing and a further adjustment of the schedule. Declaration of Thomas R. Grande, ¶ 39.

XIII. THE SETTLEMENT SHOULD BE APPROVED

A. General Considerations

Because the result is a compromise, the court should not judge the legal and factual questions by the same criteria applied at a trial on the merits. *Officers for Justice v. Civil Service Comm'n. for the City and County of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982), *cert. denied*, 459 U.S. 1217 (1983). The court need not “reach any ultimate conclusions on the contested issues of fact and law which underlie the merits of the dispute, for it is the very uncertainty of outcome in litigation and avoidance of wasteful and expensive litigation that induce consensual settlements.” *Class Plaintiffs v. Seattle*, 955 F.2d 1268, 1291 (1992)(citation omitted).

⁴² October 28, 2022 Second Stipulation To Amend Timetable Of Events Contained In Exhibit 4 To June 9, 2022, Order Granting Plaintiffs' Motion For: (1) Preliminary Approval Of Class Action Settlement [Dkt. 1496] And Order.

⁴³ See September 7, 2022 Stipulation To Amend Timetable Of Events Contained In Exhibit 4 To June 9, 2022, Order Granting Plaintiffs' Motion For: (1) Preliminary Approval Of Class Action Settlement [Dkt. 1496] at 3.

B. The Settlement is Fair, Reasonable, and Adequate

“To determine whether a proposed settlement is fair, reasonable, and adequate, the court must examine whether the interests of the class are better served by the settlement than by further litigation.” *Manual*, § 21.61 at 309.

Fairness calls for a comparative analysis of the treatment of class members vis-à-vis each other and vis-à-vis similar individuals with similar claims who are not in the class. *Manual*, § 21.62 at 315 (2004).

Here, all Payment Recipients have had their settlement payments determined according to the same standards for claim validation and the same standards for payment computation.

The standards are similar to any individuals with similar claims who are not in the class because they are based on data-based community standards – for those with delay claims, Fair Market Rental Value based on lease rent for comparable open market lots with infrastructure; for those with construction claims the reasonable cost of repair at the time the claims were submitted.

Reasonableness depends on an analysis of the class allegations and claims and the responsiveness of the settlement to those claims. *Manual*, § 21.62 at 315 (2004).

Here, the class claims were for fair compensation for delays in receiving homestead awards and construction defects. Settlement payments approximate 89% of the full claim value of each Class Members’ claims (apply a fee of 12.19%) based on the methodologies approved for purposes of the Settlement.

Adequacy of the settlement involves a comparison of the relief granted relative to what class members might have obtained without using the class action process. *Manual*, § 21.62 at 315 (2004).

Here, class members would have received no relief without using the class action process. Any individual case brought would have insurmountable hurdles.

XIV. FACTORS TO REVIEW TO DETERMINE IF SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE

Review of class settlements must necessarily be determined on a “case-by-case basis.” *Evans v. Jeff. D.*, 475 U.S. 717, 742 (1986). In order to determine whether a settlement is “fair, reasonable and adequate...[c]ourts have generated lists of factors to shed light on this concern.” Fed. R. Civ. P. 23(e)(2)Commentary (2018 Amendments).

Because of the risk of mechanical application of factors that may not be relevant in all cases⁴⁴, the 2018 Commentary notes that the new federal rule “directs the parties to present the settlement to the court in terms of a shorter list of core concerns, by focusing on the primary procedural considerations and substantive qualities that should always matter to the decision whether to approve the proposal.”

Plaintiffs have evaluated the settlement under both the Fed. R. Civ. P. 23(e) factors and the Ninth Circuit factors traditionally relied upon by Hawai‘i’s courts. Under either analysis, the settlement should be given final approval.

A. Fed R. Civ P. 23(e) Factors Support Final Approval

Fed. R. Civ. P. 23(e)(2) factors⁴⁵ support final approval:

⁴⁴ The 2018 Commentary cautions that “A lengthy list of factors can take on an independent life, potentially distracting attention from the central concerns that inform the settlement-review process. A circuit’s list might include a dozen or more separately articulated factors. Some of those factors—perhaps many—may not be relevant to a particular case or settlement proposal. Those that are relevant may be more or less important to the particular case. Yet counsel and courts may feel it necessary to address every factor on a given circuit’s list in every case. The sheer number of factors can distract both the court and the parties from the central concerns that bear on review under Rule 23(e)(2).”

⁴⁵ “[T]he court may approve [a settlement] only after a hearing and only on finding that it is fair, reasonable, and adequate after considering whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm's length;
- (C) the relief provided for the class is adequate, taking into account the following:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
 - (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
 - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.”

1. Adequacy of Representation

Class Counsel negotiated a settlement agreement that compensated class members at 89% of the value of their claims as calculated for settlement purposes.

2. Arm's-Length Negotiation

The settlement was negotiated at arm's length by Judge Gary W.B. Chang.

3. Adequate Relief Considerations

a. Costs, risks, and delay of trial and appeal

There would be substantial risks of delay and appeal going forward without this settlement, resulting in further class member deaths before final compensation.

b. Effectiveness of Claim Processing and Distribution of Benefits

Despite extreme challenges, the claim processing and distribution process is highly effective by looking at the extremely low percentage of "no contact" living and deceased class members.

c. Proposed attorneys' fees award, including time of payment

Fees are proposed to be paid at 12.19 %, much lower than the escalating civil rights contingent fee agreement that provided for 33.33% before the suit, 40% after, and 45% after the appeal, agreed to by the Class Representative and the 20% paid by the State of Hawai'i in similar cases. See Plaintiffs' Motion for Attorneys' Fees and Waiver of Costs filed concurrently.

d. Side agreements under 23(e)(3)⁴⁶

There are no side agreements.

e. Class members are treated equitably

All class members are compensated by the same formulas (Waiting List and Construction).

⁴⁶ Fed. R. Civ. P. 23(e)(3)" *Identifying Agreements*. The parties seeking approval must file a statement identifying any agreement made in connection with the proposal."

B. Ninth Circuit Factors Support Final Approval

The Ninth Circuit has identified eight factors⁴⁷ that may be useful in determining if a particular settlement is fair, reasonable, and adequate. *Id.* These eight factors are:

1. The Strength of Plaintiffs' Case

Plaintiffs' case was extremely demanding and *sui generis*. The case was finally settled after 23 years of litigation, two trials, two appeals, and an entry of judgment and affirmance by the Supreme Court. It was apparent until March 13, 2022, when settlement negotiations began, that the Defendants intended to litigate every single case demanding individualized proof from claims arising decades ago from a class that included 1,346 deceased class members. The daunting nature of the litigation, the continued opposition of the Defendants to even meet, as ordered, during the appeal period, and the reiteration of arguments demanding personalized proof rejected by the Hawai'i Supreme Court are direct proof that every possible issue was contested from 1999 until April 12, 2022.

2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

In determining whether the settlement is fair, the Court should balance the continuing risk of litigation against the benefits and certainty of a recovery. See *In re Mego Financial Corp. Sec. Litig.*, 213 F.3d 454, 458 (9th Cir. 2000).

The State has contested post-judgment proceedings aggressively and further litigation would be extremely expensive and complex for this reason, resulting in a substantial risk of further delay.

3. The Risk of Maintaining Class Action Status Throughout the Trial

This factor is not relevant.

⁴⁷ *In re Bluetooth Headset Products Liability Litigation*, 654 F.3d 935, 946 (9th Cir. 2011); *Churchill Village, L.L.C. v. General Electric*, 361 F.3d 566, 576 (9th Cir.), *cert. denied*, 125 S. Ct. 56 (2004); *see also Officers for Justice v. Civil Service Comm'n.*, 688 F.2d 615, 625 (9th Cir. 1982) (citations omitted).

4. The Amount Offered in Settlement

Class members will be paid 89% of the value of their claims as calculated for settlement purposes after attorneys' fees, incentive payments, and claims administration costs are paid. The negotiated settlement amount exceeds the total claims value by 2.5% or \$8,133,737.56. This is an exceptional result. That excess defrays the Claims Administration Costs and incentive payments completely, with approximately \$7 million remaining to defray attorneys' fees.

5. The Extent of Discovery Completed and the Stage of the Proceedings

The case was settled after 23 years of contentious litigation and discovery.

6. The Experience and Views of Counsel

Class Counsel believe the settlement is extremely fair. Declaration of Thomas R. Grande, ¶ 40. The view of the attorneys actively conducting the litigation "is entitled to significant weight." *Fisher Bros. v. Cambridge-Lee Industries, Inc.*, 630 F. Supp. 482, 488 (E.D. Pa. 1985).

7. The Presence of Government Participants

The State of Hawai'i is a governmental participant.

8. The Reaction of the Class Members to the Settlement, Attorneys Fees, and Costs

This factor will be addressed after the July 6, 2023, deadline for declarations of support and objections. However, numerous class members at the Talk Story sessions and in direct contact with Class Counsel have expressed their support for the proposed settlement. Declaration of Thomas R. Grande, ¶ 41.

XV. CLASS REPRESENTATIVE INCENTIVE PAYMENT

"[C]ourts regularly give incentive awards to compensate named plaintiffs for the work they performed – their time and effort invested in the case." *Chiefton Royalty Co. v. Enervest Energy Institutional Fund*, 861 F.3d 1182, 1195 (10th Cir. 2017). Plaintiffs propose that the three class representatives be given an incentive award of \$25,000 each. Class representatives Leona Kalima, Dianne Boner, and Raynette Ah Chong have each devoted many hours attending client meetings and court hearings, communicating with class members, testifying at depositions and trial, and engaging in numerous other activities supporting Class Counsel and the case directly and indirectly. Declaration of Thomas R. Grande, ¶ 42.

XVI. MOTION FOR ATTORNEYS' FEES AND WAIVER OF COSTS

Attorneys' fees have been limited by the settlement agreement to a range of between approximately eight percent (8.54%, or \$28 million) to approximately twelve percent (12.19%, or \$40 million) of the total settlement amount. Under the settlement agreement, Defendants will not object to fees requested up to \$28 million. See Plaintiffs' Motion for Fees and Waiver of Costs filed concurrent herewith.

XVII. SUPPORT AND OBJECTIONS TO SETTLEMENT

A. Opt-Outs

There have been only four (4) Settlement Class opt-outs filed with the court, which is evidence of general approval of the settlement by the class. The percentage of opt-outs (.014 percent) is comparable to the typical number of opt-outs in consumer cases. See, e.g., Theodore Eisenberg & Geoffrey P. Miller, "The Role of Opt-Outs and Objectors in Class Action Litigation: Theoretical and Empirical Issues", 57 Vand. L.Rev. 1529, 1532-33 (2004) (mean rate approximately 2 percent for employment cases); Barbara J. Rothstein & Thomas E. Willging, "Managing Class Action Litigation: A Pocket Guide for Judges" (2005) (mean rate of approximately .1 percent for opt-outs). Nonetheless, courts have approved class action settlements where a substantially higher percentage of opt-outs was filed. E.g., *Sommers et al. v. Abraham Lincoln Federal Savings & Loan Association*, 79 F.R.D. 571, 577 (C.D. Pa. 1978)(approving settlement where 8,000 of 188,000, or 4%, of class members opted-out).

B. Support for Settlement and Objectors

The deadline to submit declarations of support of the settlement or to object is July 6, 2023. Plaintiffs and Defendants will file a memorandum in response to any declarations in support and objections by July 14, 2023.

XVIII. POST FINAL APPROVAL AND TIMETABLE

After final approval, the remainder of the claims process will proceed on two tracks. General administrative costs and expenses relating to claims payment follow-up will be apportioned to the class as a whole. Fees and costs relating to the Probate Plan will be approved by the Probate Court.

This Court will continue to have final authority to review and approve (1) administrative expenses and (2) the final distribution of benefits and remaining funds upon the conclusion of the

probate period (estimated to be December 2024, at the earliest). Class Counsel will submit an interim report to the Court in February/March 2024 and a final report at the conclusion of the claims process, expected to be December 2024 or later.

XIX. FUTURE CLAIMS ADMINISTRATION COSTS, PROBATE COSTS, BUDGETING, AND ACCOUNTING

A. Class Costs

Claims Administration costs through June 2023 total approximately \$1,046,000.

The administration costs include not just the costs for the Claims Administrator and its essential work, but also the costs for the other professionals who contributed to the settlement effort.

The claims administration process, including the probate process, is anticipated to continue until at least December 2024. However, because of uncertainties concerning the probate process timetable, future costs have been estimated to June 2025. During this time period, the Claims Administrator will incur future costs for claims administration services to both living and deceased class members for the administration, distribution, and follow-up, including additional research to contact and deliver settlement payments, telephone services, settlement website, etc. Exhibit 4: Epiq Redacted Budget Estimate for Class Costs.

To ensure that these payments are correctly allocated, the Claims Administrator has estimated future class claims administration costs to be \$682,700, which would represent anticipated costs and fees between June 2023 and June 2025.

These estimated costs are not a budgetary projection, and any requests for payment of future class costs will be upon application and approval of the Settlement Special Master and Class Counsel.

B. Probate Costs

All fees and costs attributable to the implementation of the Probate Plan will be paid from the QST and attributed to the beneficial interests affected thereby, upon submission of declarations or affidavits by the Probate Special Counsel and the Probate Special Master. These fees and costs will be subject to Probate Court approval before disbursement. Requests for approval of claims administration costs and apportionment of costs between individual QST beneficiaries will be made by petition of the Probate Special Counsel. Probate claims administration costs are estimated to be \$820,187. Exhibit 5: Epiq Redacted Budget for Probate Costs.

C. Accounting

Claims administration costs for the class as a whole and claims administration fees and costs for probate matters will be billed and accounted for separately.

1. Claims Administration Services for All Class Members

There are 2,518 living and deceased class members who are Payment Recipients. Post-Final Approval Claims Administrative Services for all Payment Recipients have been deducted from the Gross Settlement amount and are apportioned among all class members.

2. Claims Administration Services for Deceased Class Members

There are an estimated 1,346 deceased class members. Post-Final Approval Claims Administration Services for deceased class members will be apportioned among all deceased class members. Each estate will be charged the same pro-rata amount, subject to Probate Court approval.

3. Individual Services by Probate Special Master/ Probate Special Counsel

Pre-Final Approval fees incurred by the Probate Special Master and Probate Special Counsel for the development of the Probate Plan and QST will be apportioned among all deceased class members. Each estate will be charged the same pro-rata amount, subject to Probate Court approval.

Post-Final approval fees and costs incurred by the Probate Special Master and Probate Special Counsel for the resolution of individual estates on a group basis will be charged to the individual and/or grouped estates, subject to Probate Court approval.

XX. REQUESTED ALLOCATION

The Settlement Agreement requires that after Final Approval, the Claims Administrator shall issue settlement payments from the Net Settlement Amount via check in accordance with the Payment Distribution Plan approved by the Court. All settlement payment checks issued to Settlement Class Members will expire and become void 120 days after they are issued. Payment Recipients will be informed of the expiration date in the letter transmitting the check.

The Net Settlement Amount is the amount available for settlement payments to Payment Recipients, i.e., the amount available for distribution after deduction for expenses that are permitted to be paid.

Plaintiffs ask that the following amounts be allocated as requested in the Order Granting Final Approval of Class Action Settlement and Motion for Attorneys' Fees and Waiver of Costs and that the Claims Administrator be directed to make final payment:

- a. Settlement Payments for Class Members:
\$286,196,287.28
- b. Attorneys' Fees to Class Counsel:
\$40,000,000
- c. Hawai'i State Excise Tax for Oahu to Class Counsel:
Waived by Class Counsel
- d. Litigation Costs to Class Counsel:
Waived by Class Counsel
- e. Incentive Awards to Class Representatives:
\$75,000
- f. Retention for Claims Administration Expenses – June 2023 to December 2024
\$682,700

XXI. CONCLUSION

Most class actions have a diffuse and insignificant positive economic and social impact. In contrast, this case will have a significant and direct immediate positive economic and social impact on the Native Hawaiian community, who are direct beneficiaries of the trust, as well as significant and direct delayed positive economic and social impact for heirs and beneficiaries, who may not meet blood quantum requirements but whose families have suffered from the impact of those same breaches of trust.⁴⁸

For all the foregoing reasons and other good cause, Plaintiffs request that the Court approve the proposed Order Granting Final Approval and Motion for Attorneys' Fees in the form filed concurrently herewith.

[SIGNATURE ON THE FOLLOWING PAGE]

⁴⁸ See generally Andrade, Troy J.H., "Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act," American Indian Law Review, Vol. XLVI, No. 1 (2021-2022).

DATED: Honolulu, Hawai‘i, June 19, 2023.

/S/ Thomas R. Grande
THOMAS R. GRANDE
CARL M. VARADY

ATTORNEYS FOR PLAINTIFFS

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of
JOSEPH CHING, deceased, CAROLINE
BRIGHT, DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF
HAWAI'I DEPARTMENT OF
HAWAIIAN HOME LANDS, et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**NOTICE OF HEARING MOTION;
AND CERTIFICATE OF SERVICE**

NOTICE OF HEARING MOTION

TO: ANNE E. LOPEZ
Attorney General, State of Hawai'i

CRAIG Y. IHA
KATIE L. LAMBERT
DAVID D. DAY
RYAN K. KANAKA'OLE

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LINDA LEE K. FARM
DONNA H. KALAMA

Special Deputy Attorneys General
Farm Benedict Sugihara
Bishop Street Tower, Suite 1601
700 Bishop Street
Honolulu, Hawai'i 96813

NOTICE IS HEREBY GIVEN that the above motion shall come on for hearing before the Honorable Lisa W. Cataldo, Judge of the above-entitled Court, at a location to be determined and via Zoom videoconference at **9:00 a.m. on July 21, 2023**, or as soon thereafter as counsel can be heard.

DATED: Honolulu, Hawai‘i, June 19, 2023.

/s/ Thomas R. Grande
THOMAS R. GRANDE
CARL M. VARADY

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document shall be duly served electronically through JEFS.

DATED: Honolulu, Hawai‘i, June 19, 2023.

/s/ Thomas R. Grande
THOMAS R. GRANDE
CARL M. VARADY
Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of
JOSEPH CHING, deceased, CAROLINE
BRIGHT, DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF
HAWAI'I DEPARTMENT OF
HAWAIIAN HOME LANDS, et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**DECLARATION OF THOMAS R.
GRANDE**

DECLARATION OF THOMAS R. GRANDE

I, THOMAS R. GRANDE, hereby declare:

1. I am an attorney licensed to practice law before all Courts in the State of Hawaii and am co-counsel for the class in this case. I make this Declaration based upon my own personal knowledge.
2. I am the principal of Grande Law Offices, which I started in 2006. Grande Law Offices' mission statement reflects a belief I have held throughout my adult life, "A Commitment to Service in the Public Interest." I am a solo practitioner.
3. I have submitted a declaration in support of Plaintiffs' motion for fees that outlines my professional background.
4. The draft Motion for Final Approval, Order Granting Final Approval, Judgment, Payment Distribution Plan, and Declaration of Rob Coomes were submitted to Defendants prior to filing for their review. Some Defendants' suggested changes were incorporated into the final documents.
5. In my experience in working on approximately fifty class action settlements, the parties usually take two months to select a claims administrator and

develop a claims plan, two months to file the motion for preliminary approval, and two months to organize and start the claims administration process.

6. 44 class members are known to have died between April 2022 and April 2023. There are 1,346 class members reported to be deceased. The number of heirs who are deceased is unknown.

7. Unlike a typical case, class members in this case are informed of their estimated settlement payments before Final Approval because Class Counsel agreed to limit their fee payment and agreed to waive their costs, allowing the claims calculations to be made before Final Approval.

8. In the instant case, there are approximately 155 deceased class members in at least 27 states.

9. Epiq updated the initial address list provided by the Defendants through a data reporting agency. Individual notice was sent via email to any class members for whom the Claims Administrator had email addresses. These email addresses were provided by Class Counsel from prior communications and included approximately 1,500 email addresses and Epiq from its proprietary data service. Not every communication required a response. Emails updating addresses or contact information did not require a substantive response from the response team.

10. An average claims administration period is twelve to eighteen months and longer for cases with data challenges, such as this one.

11. Because of the exigencies of time with an aged class population dying at a rate of 3-4 per month, the time period for the claims administration process was extremely compressed – claims administration started before preliminary approval; claims administration planning and implementation were concurrent; preliminary approval and notice to the class preceded the approval of funding; claims administration services were rendered months before the settlement was funded; and critically for settlement purposes, settlement payment was computed and disclosed to class members *prior* to final approval.

12. This highly compressed schedule was made more challenging by incomplete and spoliated class records; a class period that spanned 70 years; claims forms that were submitted 30 years ago; more than 49% of the class members being deceased;

concurrent development, planning, and organization of a second claims administration process for probate proceedings; development, planning, organization and implementation of a separate claims evaluation process for construction; and the inevitable unexpected challenges in attempting to complete all of these tasks as accurately and timely as possible.

13. This Settlement Agreement and Payment Distribution Plan will provide settlement payments to 2,518 individuals for 3,363 claims, more than 500% of the number of class members who received recommendations for compensation from the Panel. The settlement payments include claims for deceased relatives—typically parents—who were identified in Panel claim forms but whose claims were not recognized by the Panel.

14. The Probate Plan adopted by the Court will distribute settlement proceeds to the estates of approximately 1,346 deceased class members so that an estimated 5,000 to 6,000 additional individuals will receive compensation from this settlement.

15. The total gross value for all valid claims computed under the Court's approved Distribution Rules [Dkt. 1589] is \$319,866,262.44 (avg. \$126,941.85). The \$328 million settlement payment exceeds the total claim value for the entire class. The total payout after attorneys' fees, incentive payments, and costs are deducted is \$286,196,287.28. Thus, members will be receiving 89% of their individual total damages and will receive an average award of \$113,660.16.

16. From September 15, 2009, until November 26, 2017, 89 substantive motions, memoranda, and submissions were filed and argued by the parties, and rulings were entered by the trial court regarding the methods and proof—individual or class-based—by which beneficiaries could receive damages.

17. No class members have pursued individual claims through the commencement and prosecution of individual actions.

18. Class Counsel engaged in an extraordinary post-settlement effort to develop, organize, and implement the claims administration process. In a typical class action, class counsel has little – if any – direct involvement in the organization and

implementation of the claims process. Class Counsel generally has little incentive to engage in any additional work.

19. Class Counsel developed the claims administration process between April 14, 2022 (date of settlement) and September 1, 2022 (date of funding), while the claims process was ongoing. In a typical arm's-length settlement, settlement negotiations and claims administration planning are finished months before the preliminary approval hearing.

20. Class Counsel had to engage the Settlement Special Master, accountant, Claims Administrator, local call center, contractors, and others based on deferred compensation and deferred reimbursement of ongoing costs to avoid any interruption of the claims administration process.

21. The Probate Plan includes a Qualified Settlement Trust that will allow for the group filing of individual probate petitions for the approximately 1,346 deceased class members, including probate proceedings for the approximately 155 class members who died out of state.

22. The Construction Expert Report involved a separate claims validation and claims resolution project that was as complex as any individual construction group action involving over one hundred claims. The limitations presented were substantial – Construction Expert Wayson Wong had to rely on limited anecdotal information presented over thirty years ago for construction defects as old as sixty years ago. It required detailed analysis of the few investigative reports, expert reports, and HCO factual findings and records in order to establish baseline settlement payments in order to compute repair estimates.

23. After reviewing several different distribution models (e.g., World Trade Center; World War II Jewish Reparations) and reviewing numerous reparation models (e.g., Global Models for Questions of Reparations and Models for Reparative Justice), Class Counsel recruited Probate Special Master Emily Kawashima and Probate Special Counsel Scott Suzuki, who proposed the current Probate Plan.

24. The Probate Plan and QST provide for (1) coordinated research for heirs through Department of Health records, Department of Hawaiian Home Land records, and Information Request Forms submitted by family members, (2) coordinated

individual and published notice of hearings and notice to creditors, reducing expenses, (3) group resolution of identifying heirs/ devisees, avoiding the expense and magnitude of filing 1,346 individual cases (or more if beneficial interests flow to subsequent generations of deceased class members), a benefit both to family members and the Probate Court, (4) an option for family members to retain private counsel, 5) referral to mediation where a family dispute arises, and (6) directions for funding a special needs trust for beneficiaries of the QST whose public assistance benefits may be affected by the receipt of settlement funds.

25. Class members who were sent corrective notices of no claim letters were given additional time consistent with due process requirements to exercise their opt-out rights.

26. There were four (4) valid opt-outs from the Settlement Class.

27. Class Counsel reviewed over 15,000 individual records to establish application and award dates and other criteria for each of the Class Members whose files were identified and produced by Defendants.

28. Dates of loss for the majority of Class Members were preliminarily determined by Class Counsels' review of DHHL application and award files, DHHL application and award summaries, and HCO claim forms originally filed by Class Members.

29. Preliminary claims data was cross-checked against (1) the Panel Claim Forms, (2) Investigative Reports prepared by the Panel to confirm dates of loss for each class member, and (3) DHHL application and award files and other primary and secondary sources, such as excel spreadsheets, application and award summaries, and other documentary evidence.

30. After the initial data run, there were approximately 600 individual files that we re-reviewed to obtain complete and accurate data for all class members. Once this process was completed, there were additional data inconsistencies that required a review of several hundred additional individual claims.

31. All formally submitted Correction Forms and informal requests were evaluated and resolved by Class Counsel, irrespective of the timing of the request. Every correction or request for clarification was considered and resolved.

32. The incomplete and, in some cases, unintelligible records and data produced by Defendants forced Class Counsel to spend inordinate amounts of time scouring decades-old files and data and to conduct a hand-search page by page for information the Department of Hawaiian Home Lands should have been able to produce instantaneously.

33. 197 class members had previously filed Lost Application claims with the Hawaiian Claims Office prior to 1995.

34. Contrary to Department of Attorney General policy, only one of the thousands of files produced in this case contained a prohibition on removing documents, the standard practice of the Department of Attorney General:

PENDING LITIGATION, DO NOT REMOVE
ANYDOCUMENTS FROM THIS FILE, REFER ALL
INQUIRIES TO THE DEPT. OF ATTORNEY
GENERAL.

35. In total, 1,173 out of 5,720 DHHL files -- more than twenty percent -- were spoliated or had missing documents.

36. Piecemeal file production by DHHL has continued into the claims administration period.

37. The original schedule adopted by the Court provided for an April 2023 Final Approval Hearing. This timetable was premised on Defendants producing (1) all HCO Claim files (originally produced on February 28, 2022) and (2) all award data (to be produced by July 1, 2022). These deadlines were intended to give Class Counsel two months to complete their initial data review (September 1, 2023) and an additional two months (November 1, 2023) to finalize the data with Epiq.

38. Defendants' award data was not fully produced until October 15, 2023. Because much of the award data was inconclusive, incomplete, or did not contain accurate information for accelerated and undivided homestead awards, it did not provide substantial additional award information.

39. Once the final data was produced in mid-October, Class Counsel completed their final review – which was projected to take 120 days -- in 45 days (by November 30, 2022), which allowed the Claims Administrator to begin completing its

database necessary to fulfill the Notice Plan and send out the Second Notice. The resultant delay required Epiq to compress its review schedule, and as a consequence, there were mailing errors in the Second Notice that required remailing and a further adjustment of the schedule.

40. Class Counsel believe the settlement is extremely fair.

41. Numerous class members at the Talk Story sessions and in direct contact with Class Counsel have expressed their support for the proposed settlement.

42. Class representatives Leona Kalima, Dianne Boner, and Raynette Ah Chong have each devoted many hours to attending client meetings and court hearings, communicating with class members, testifying at depositions and trial, and engaging in numerous other activities supporting Class Counsel and the case directly and indirectly.

43. Routine questions, such as updating an address or confirmation of claim, were made by the Claims Administrator. Communications that involved substantive decisions involving the identify of a class member, the validity of a claim, and the accuracy of claims data were “escalated” and transmitted to Class Counsel for their review and recommended decision. There were approximately 150 escalations resolved by Class Counsel between January and June 2023.

44. Attached hereto as Exhibit “1” is a true and correct copy of a draft Order Granting Final Approval and Judgment.

45. Attached hereto as Exhibit “2” is a true and correct copy of the proposed Payment Distribution Plan.

46. Attached hereto as Exhibit “3” is a true and correct copy of Epiq’s Client Activity Report.

47. Attached hereto as Exhibit “4” is a true and correct copy of anticipated class claims administration costs through the end of the claims distribution period.

48. Attached hereto as Exhibit “5” is a true and correct copy of anticipated probate claims administration costs through the end of the claims distribution period.

[SIGNATURE ON THE NEXT PAGE]

I, Thomas R. Grande, declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai‘i, June 19, 2023.

/s/ Thomas R. Grande_____

Thomas R. Grande

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of JOSEPH
CHING, deceased, CAROLINE BRIGHT,
DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF
HAWAI'I DEPARTMENT OF HAWAIIAN
HOME LANDS; et al.,

Defendants.

Civil No. 99-4771-12 LWC
(Class Action)

DECLARATION OF ROBERT COOMES
REGARDING NOTICE AND CLAIMS
ADMINISTRATION

DECLARATION OF ROBERT COOMES
REGARDING NOTICE AND CLAIMS ADMINISTRATION

I, ROBERT COOMES, hereby declare and state the following:

1. I am a Senior Settlement Project Manager employed by Epiq Class Action & Claims Solutions, Inc. ("Epiq"). Unless otherwise stated, I make all of the statements contained in this declaration on my own personal knowledge.

2. I have more than four years of experience handling all aspects of settlement administrations. The statements of fact in this declaration are based on my personal knowledge and information provided to me by my colleagues in the ordinary course of business, and if called on to do so, I could and would testify competently thereto.

3. Epiq was appointed as the Claims Administrator pursuant to the Court's Preliminary Approval Order dated June 8, 2022 (the "Order"), and in accordance with the

Settlement Agreement dated June 2, 2022 (the “Agreement”).¹ I submit this Declaration in order to advise the Parties and the Court regarding Epiq’s handling to date of the Settlement administration, in accordance with the Order and the Agreement.

4. Epiq was established in 1968 as a client services and data processing company. Epiq has administered bankruptcies since 1985 and settlements since 1993. Epiq has routinely developed and executed notice programs and administrations in a wide variety of mass action contexts including settlements of consumer, antitrust, products liability, and labor and employment class actions, settlements of mass tort litigation, Securities and Exchange Commission enforcement actions, Federal Trade Commission disgorgement actions, insurance disputes, bankruptcies, and other major litigation. Epiq has administered more than 4,500 settlements, including some of the largest and most complex cases ever settled. Epiq’s class action case administration services include administering notice requirements, designing direct-mail notices, implementing notice fulfillment services, coordinating with the United States Postal Service (“USPS”), developing and maintaining notice websites and dedicated telephone numbers with recorded information and/or live operators, processing exclusion requests, objections, claim forms and correspondence, maintaining class member databases, adjudicating claims, managing settlement funds, and calculating claim payments and distributions. As an experienced neutral third-party administrator working with settling parties, courts, and mass action participants, Epiq has handled hundreds of millions of notices, disseminated hundreds of millions of emails, handled millions of phone calls, processed tens of millions of claims, and distributed hundreds of billions in payments.

¹ All capitalized terms not otherwise defined in this document shall have the same meanings ascribed to them in the Order and Agreement.

OVERVIEW OF ADMINISTRATION

5. Pursuant to the Agreement and Order, Epiq was appointed to provide, and is providing, the following administrative services for the benefit of Settlement Class Members:

- Perform Class List and Class Notice services;
- Mail three (3) Notices to Settlement Class Members;
- Maintain electronic evidence;
- Confirm electronic evidence provided by the Parties;
- Maintain the individual claims data in electronic format;
- Compute and process Settlement Payments;
- Establish and maintain an official informational website containing information about the Settlement;
- Establish and maintain an official toll-free number that Settlement Class Members may contact for additional information about the Settlement;
- Review and process opt-outs sent to or received by Epiq;
- Review and process objections sent to or received by Epiq;
- As appropriate, review and process correction forms; and
- As appropriate, obtain and verify addresses of Settlement Class Members and appropriate relatives.

DATA PREPARATION

1. The data preparation for this matter has been complex and has required collaboration with many parties over the course of the Settlement Administration. Epiq has received data from many sources, including, but not limited to:

- a. Data provided by Class Counsel, both for the purpose of disseminating the First Notice, as well as preparing the Start and End dates used in the Second Notice;
- b. Data collected from Counsel's Settlement Website prior to migration to Epiq's web servers;
- c. Data collected by Ward Research, who initially handled the Call Center services prior to the migration of these services to Epiq;
- d. Data provided by the Department of Hawai'ian Home Lands;
- e. Data provided by the State of Hawai'i's Department of Health;
- f. Data collected by Epiq after the First Notice, both electronically from a portal on the Settlement Website, as well as a version formatted for dissemination via postal mail (collectively, "Information Request Form");
- g. Data collected by Epiq from other postal correspondence;
- h. Data collected by Epiq from email correspondence;
- i. Data collected by Epiq from voicemails and callbacks to Class Members and their representatives via the toll-free and local phone numbers set up for Settlement Administration; and
- j. Data collected by updating Class Member records through a third-party database, Trans Union.

2. To develop the database based on the aforementioned data sources used in this Settlement Administration, we generally performed the following processes:

- a. Matched and collated records using Social Security Number (SSN) to pull in data from multiple sources;
- b. Performed address research, cleansed and standardized data;

- c. Developed and analyzed custom queries to validate and correct data conflicts; and
- d. Where necessary, shared unresolved conflicts with Class Counsel to finalize the respective data for various administrative purposes.

PUBLICATION NOTICE

3. Pursuant to Section 7 of the Order and Section VI(B) of the Agreement, Epig published 2 Publication Notices, which appeared as a one quarter-sized placement in the following publications on these respective dates:

- First Notice:
 - Hawai'i Tribune-Herald on July 10, 2022,
 - Honolulu Star-Advertiser on July 10, 2022,
 - Lihue Garden Island on July 10, 2022,
 - West Hawai'i Today on July 10, 2022,
 - Molokai Dispatch on July 13, 2022,
 - Maui News on July 16, 2022.
- Second Notice:
 - Hawai'i Tribune-Herald on February 12, 2023,
 - Honolulu Star-Advertiser on February 12, 2023,
 - Lihue Garden Island on February 12, 2023,
 - West Hawai'i Today on February 12, 2023,
 - Molokai Dispatch on February 15, 2023,
 - Maui News on February 18, 2023.

4. The date of each publication notice corresponded to the day of week which the respective publication had the highest reach. Proof of the publications are attached hereto as **Exhibit A**.

5. On information and belief from information provided by Plaintiff's Counsel, notice was also announced on the Department of Hawai'ian Home Lands (DHHL) website, Ka Wai Ola (Office of Hawaiian Affairs' monthly newsletter), Ka Nuhou Uila (DHHL's monthly newsletter) and by the Sovereign Council of Hawaiian Homestead Associations ("SCHHA") online and other SCHHA media outlets.

EMAIL NOTICE PROCEDURES

6. Pursuant to Section 7 of the Order and Section VI(B) of the Agreement, Epiq was to cause the Court-approved Email Notice to be formatted for electronic distribution by email to Settlement Class Members for whom an email address was included in the Class Data.

7. The Email Notice was formatted for distribution using imbedded html text, provided Settlement Class Members with a link to the Settlement website. The Email Notice was formatted with easy-to-read text without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers and/or SPAM filters. Epiq also followed standard email protocols, including utilizing "unsubscribe" links and Epiq's contact information in the Email Notice.

8. Epiq established and maintains an email inbox, info@kalima-lawsuit.com, for Settlement Class Members to submit documents and ask and receive answers to questions regarding the Settlement. As of June 2, 2023, Epiq has received 5,296 incoming emails and sent 1,895 emails. Not all emails required a response, including emails updating address or contact information Epiq will continue to maintain this inbox throughout the Settlement administration.

NOTICES

6. Pursuant to section 7 of the Order and section VI(B) of the Agreement, Epiq was responsible for implementing the Notice Plan approved by the Court.

7. Prior to mailing the Notices to the Settlement Class List, all mailing addresses were checked against the National Change of Address (“NCOA”) database maintained by the United States Postal Service (“USPS”) in accordance with Section 44 of the Agreement.² In addition, the addresses were processed via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the addresses. To the extent that any Settlement Class Member had filed a USPS change of address request, and the address was certified and verified, the current address listed in the NCOA database was used in connection with the Notice mailing. This address updating process is standard for the industry and for the majority of promotional mailings that occur today. Where applicable, the Settlement Class List was sent through the USPS NCOA, CASS, and DPV process during each Notice phase and records were updated with new addresses when an update was found. Additionally, where a Notice from each Notice phase was returned as undeliverable, Epiq performed skip trace searches using a third-party service, to seek additional address updates to remail these notices.

8. Prior to commencing any mailings for this matter, Epiq established a dedicated post office box in Hawai’i, with priority forwarding to Epiq, to allow Settlement Class Members to contact the Claims Administrator or submit documents by mail. Epiq has and will continue to maintain the P.O. Box throughout the administration process.

² The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and last known address.

9. Epiq has effectuated the Notice Program as follows:
- a. The First Notice was sent:
 - i. via postal mail on July 5, 2022, to 2,669 Class Member records, which included Class Members, as well as representatives of Class Members;
 - ii. by email on July 11, 2022, to 1,895 email addresses;
 - iii. via postal mail on August 24, 2022, to 25 Class Members who had previously opted out;
 - iv. via postal mail on August 24, 2022, to 31 Class Members who settled prior to Preliminary Approval; and
 - v. via postal mail on September 22, 2022, to 266 Class Members where an updated address had been found.
 - vi. Attached hereto as **Exhibit B** is a template of the Court-approved First Notices that Epiq disseminated electronically and via USPS to Settlement Class Members.
 - b. The Second Notice was mailed only by the USPS and was comprised of:
 - i. A notice specific to Class Members who had previously Settled or Opted Out. These notices were sent to 56 Class Members on January 17, 2023.
 - ii. A notice specific to Class Members who had been determined to have a claim eligible for payment. A Claim Notice was sent to 2,555 Class Members on January 31, 2023.
 - iii. A notice specific to Class members who had been determined to have a construction claim eligible for payment. A Construction Claim Notice was sent to 103 Class Members on January 31, 2023.

- iv. A notice specific to Class Members who had been determined to not have a claim eligible for payment. A No Claim Notice was sent to 202 Class Members on January 31, 2023.
- v. Attached hereto as **Exhibit C** is a template of the Court-approved Settled and Opt Out Notice, Claim Notice, and No Claim Notice (collectively “Second Notice”).
- vi. The Second Notice gave Class Members the opportunity to correct start and end dates that would be used to calculate their estimated awards. Epiq received 210 correction forms which were then reviewed and provided final determinations by Counsel.
- vii. The Second Notice also gave class members the opportunity to object to the determination of previously Settled and Opt Out claims, or to the determination that they had no claim eligible for an award from the Settlement. Epiq received 15 objections which were then forwarded to Counsel for review and provide final determination.
- viii. As a result of data inaccuracies discovered after the Second Notice was sent, Epiq sent 507 corrected Second Notices to affected Class Members. The date to opt out from the Settlement or to object to the determination on these notices was April 3, 2023.

1. On March 10, 2022, Epiq sent 18 correction letters to Class Members who previously had settled their claims. The documentation supporting the claim’s settlement was also included.

2. On March 10, 2022, Epiq sent 21 correction letters to Class Members who previously opt out from the settlement. The documentation supporting the Class Member's prior opt out was also included.
 3. On March 10, 2022, Epiq sent 14 correction letters to Class Members who had been previously informed they had 3 claims.
 4. On March 13, 2022, Epiq sent 454 correction letters to Class Members who had been sent Second Notices with incorrect start or end dates.
 5. Attached hereto as **Exhibit D** are templates of the Court-approved notices to sent to these populations (collectively "Corrective Notices.")
- c. Since the Second Notice, Class Counsel has further determined that 29 Class Members who were initially sent Claim Notices, did not have a claim eligible for payment. Each of these Class Members have been sent a Claim to No Claim Notice to inform of this change.
- i. Epiq sent 5 Notices on April 18, 2023. These notices had a deadline of June 1, 2023, to opt out from the Settlement or object to the determination.
 - ii. Epiq sent 1 Notice on May 9, 2023. This notice had a deadline of June 19, 2023, to opt out from the Settlement or object to the determination.
 - iii. Epiq sent 1 Notice on May 16, 2023. This notice had a deadline of June 26, 2023, to opt out from the Settlement or object to the determination.

- iv. Epiq sent 22 Notices on June 14, 2023. This notice had a deadline of June 30, 2023, to object to the determination and July 6, 2023 to opt out from the Settlement.
 - v. The template used for each of these No Claim Notices was the same as the initial Notice 2 No Claim notice except for the dates referenced in paragraphs 9 c i-iv.
- d. As of the execution of this declaration, the Third Notice was in progress of completion.
- i. On June 13, 2023, Epiq sent notice to 2,518 Class Members who are eligible for an award from the Settlement. The deadline to object to the Settlement on these notices was July 6, 2023.
 - ii. A Supplemental Notice to No Claim Class Members is expected to be mailed on June 20, 2023 to X Class Members. The deadline to object to the Settlement on these notices is July 14, 2023. A supplemental declaration will be provided to update the status of this aspect of the Notice Program.
 - iii. Attached hereto as **Exhibit E** are templates of the Court-approved Third Notices.

10. As of June 19, 2022, Epiq has mailed the First and/or Second Notice to 2,797 records, of which 114 unique records currently known to be undeliverable, which is a 95.92% deliverable rate.

11. Of the records which were sent the Second Notice, Epiq has had no contact with 917 unique records, which includes phone calls and postal or email correspondence, which is a contact rate of 67.21%.

SETTLEMENT WEBSITE

12. On July 6, 2022, Epiq relaunched a website, www.kalima-lawsuit.com on Epiq's web servers. The initial website had previously been hosted by Class Counsel. This website enables potential Settlement Class Members to obtain additional information about the proposed Settlement, as well as important documents, including the Settlement Agreement, Notices, and various Court documents ("Website"). The Website contains a summary of options available to Settlement Class Members, deadlines to act, provides answers to frequently asked questions, information for Class Members, information for relatives of deceased Class Members, and contact information for visitors to contact the Settlement Administrator. Settlement Class Members are also able to submit an Information Request Form via the website, or download a paper Information Request Form, which they could then file by mail or email. References to the Website were prominently displayed in all Notices.

13. As of June 2, 2023, the Website has been visited by 25,472 unique visitors and 65,509 website pages have been viewed.

TOLL-FREE INFORMATION LINE

14. On April 26, 2022, Epiq established and is maintaining a toll-free interactive Voice Response Unit ("VRU"), 1-833-639-1308, as well as a local Hawai'ian phone number, 808-650-5551, to provide information and accommodate inquiries from Settlement Class Members. Callers hear an introductory message and then are provided with scripted information about the Settlement in the form of recorded answers to frequently asked questions. Callers also have the option of leaving a voicemail for a call center representative to call them back. Both the toll-free and local phone numbers were included in the Notice sent to Class Members and the automated telephone system is available 24 hours per day, 7 days per week.

15. As of June 2, 2023, the toll-free number has received 11,700 calls representing 13,365 total minutes, and call center representatives have handled 3,127 outbound calls representing 17,855 minutes of use.

REQUESTS FOR EXCLUSION

16. Settlement Class Members who wished to be excluded from the Settlement were required to mail a written request to Epiq postmarked on or before April 3, 2023. As of June 19, 2023, Epiq has received 4 timely and valid opt out requests.

17. Five opt-out requests were received. However, one was rescinded due to not providing the appropriate documentation to represent a deceased class member.

18. Attached hereto as **Exhibit F** is a list of the 4 timely and valid opt out requests.

OBJECTIONS TO THE SETTLEMENT

19. Settlement Class Members who wished to object to the Settlement were required to submit written objections to the Clerk of the Court, postmarked on or before the objection deadline of July 6, 2023. As of June 19, 2023, Epiq is not aware of nor has received any timely written objections to the Settlement.

SETTLEMENT PAYMENT COMPUTATION

20. As required by the Agreement, Epiq has worked closely with Class Counsel and the Settlement Special Master to calculate the estimated Settlement Payments for each Settlement Class Member. These calculations were based on the dates extracted from each Settlement Class Member's respective claims documentation, Correction Form submissions, and the review of those dates against the terms of the Settlement. Those dates were then applied to the matrices provided by the Defendants and the award calculation methodology provided by Class Counsel. Awards for construction defects were determined by a third-party evaluator, approved by the Court, and then

applied the pro rata calculation methodology. Epiq then reviewed the final calculations internally and then shared with Class Counsel for validity and approval. Approval of the estimated awards was given on June 7, 2023.

21. All documents attached hereto are true and correct copies of originals.

22. A true and correct copy of Epiq's June 2, 2023 Client Activity Report is attached hereto as **Exhibit G**.

I declare under penalty of perjury under the laws of the United States and the State of Hawai'i that the foregoing is true and correct and that this declaration was executed on June 19, 2023, in New Albany, Indiana.

/s/ Robert

Robert Coomes

Senior Settlement Project Manager

Epiq Class Action & Claims Solutions, Inc. ("Epiq")

Exhibit A

Pittsburgh man acquitted of manslaughter

By **CHELSEA JENSEN**
West Hawaii Today

A Kona jury late Thursday acquitted a 38-year-old Pittsburgh man of a single charge of manslaughter stemming from the 2021 death of a fellow visitor. Benjamin P. Fleming was found not guilty of manslaughter by a jury of his peers following a multi-day trial in Kona Circuit Court stemming from the March 29, 2021, death of Abhishek Gupta, 33.

Fleming, Gupta and Alexander Germany-Wald, all friends, arrived on the Big Island on March 28, 2021, to celebrate graduating from Carnegie Mellon University in Pittsburgh. Tragically, after a long night of drinking, Gupta ended up dead early March 29, 2021.

According to the prosecution and defense, Fleming put Gupta, also of Pittsburgh, in a chokehold to break up an altercation between Gupta and Germany-Wald.

Prosecutors argued that Fleming, who was a member of the U.S. Army Special Forces, acted recklessly in administering the deadly chokehold while the defense argued the incident was a tragic accident, and that the chokehold was not long enough or strong enough to kill Gupta.

Defense Attorney Thomas Otake thanked Circuit Court Judge Robert D.S. Kim for an “extremely well run and fair trial” as well as the jury for its service and not guilty verdict.

“We emphasized throughout the trial that Mr. Gupta’s death was undoubtedly a tragedy, but it was not a crime. Ben and I are relieved that the jury agreed with us. The prosecutors did a good job, and I don’t blame them for taking this case to trial. But our jury trial system leaves these decisions in the hands of the people of our community. And the people have spoken,” Otake said. “That being said, it is important to remember that a not guilty verdict, and feelings of empathy for the Gupta family can coexist.”

Hawaii County Prosecuting Attorney Kelden Waltjen said his office believes the case was proven beyond a reasonable doubt, stating “we are disappointed in the jury’s verdict; however, we respect their decision and thank them for their thoughtful deliberations.”

He thanked the various police, prosecutors and counselors who worked the case on behalf of the county, noting their “dedication and commitment to seeking justice for the Gupta Family.”

“We pray that they find some closure and that Abhishek is able to rest in peace. This verdict will not deter our Office from continuing to pursue justice for victims and their families,” Waltjen concluded.

Law creates state police force

Ige signs bill establishing new Department of Law Enforcement

By **JOHN BURNETT**
Hawaii Tribune-Herald

Editor’s Note: This story was originally published in the Tribune-Herald’s Saturday E-edition. It is being rerun today for our print readers.

Gov. David Ige on Friday signed House Bill 2171 into law as Act 278, creating a new state Department of Law Enforcement and converting the Department of Public Safety into the Department of Corrections and Rehabilitation.

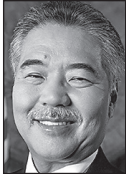
Hawaii has never had a state police department, per se, and the state Sheriff’s Division is under the umbrella of DPS, which runs the jails and prisons.

The signing ceremony was done amid much pomp and circumstance in the state Capitol courtyard in Honolulu, including a bagpiper heralding the start of the ceremony.

“I have been involved with public service for three decades. I think this is the first new department or establishment of a new agency that I can remember in a long, long time,” Ige said. “Over the past few years, we have been focused on two really, really important issues that both deal with the Department of Public Safety. The first has been the transformation of the correctional system from being about incarceration and punishment to being about rehabilitation and reintegration of those incarcerated in our community.

“At the same time over the last couple of

years, we have been focused on transformation of state law enforcement”



IGE

into a separate entity, the governor added.

Ige said it made sense to separate the functions into separate departments.

“We will, as a state, be able to give more attention and focus to both missions,” he said. “This will also streamline complex multi-island investigations. ... It will improve our ability to address state priorities with county law enforcement partners, and create centralized command and control for critical incident management.

“Importantly, the new department will ensure that there uniform standards for officers to follow. I believe this will go a long way toward increasing public trust.”

The new law went into effect upon Ige’s signature.

The statute transfers the administration of criminal law enforcement and investigations from DPS to the Department of Law Enforcement and establishes the Department of Corrections and Rehabilitation for the administration of the state’s prisons and jails effective Jan. 1, 2023.

The legislation also establishes a statewide

training center under DLE for the certification of all DLE officers. The training center will also be made available to federal, state and county law enforcement agencies upon their request.

The measure also appropriates \$900,000 to hire individuals to create the framework for the new law enforcement department.

Rep. Mark Nakashima, a Hamakua Democrat and the House Judiciary and Hawaiian Affairs chairman, said during the ceremony he was concerned, at first “that at the end of the (Ige) administration, we were undertaking such a change in state government.”

“However ... in separating these two divergent purposes ... and putting them into two separate departments, I see the wisdom in moving forward with this bill at this time,” Nakashima said.

The bill received the support of Attorney General Holly Shikada; Maj. General Kenneth Hara, the director of the Hawaii Emergency Management Agency and state’s adjutant general and homeland security adviser; Frank Pace, administrator of the Hawaii Office of Homeland Security; Department of Public Safety Director Max Otani; John Tobon, special agent in charge of U.S. Homeland Security Investigations; and numerous sheriff’s deputies who

submitted testimony.

The measure received opposition by the State of Hawaii Organization of Police Officers, the state’s powerful police union.

In written testimony, SHOPO President Robert “Bobby” Cavaco said the bill “will give sheriffs the authority to conduct ‘law enforcement operations and investigations throughout the state.’”

“However, the bill is silent as to what that means or what that will entail and at the same time states that the bill is not intended to ‘impair or diminish’ our officers’ responsibilities.” What all of this means is anyone’s guess,” he added.

Also submitting opposing testimony was Daniel Hanagami, chief special investigator in the state Attorney General’s Office, who specified his testimony was as a private citizen.

“The proposed legislation offers lofty goals without real substance to achieve those goals,” Hanagami testified. “The bill does not include the county police departments as a major consulting entity and establishes the Public Safety Department as the driving force behind this bill. The Public Safety Department lacks certification, experience and expertise. The planning of the law enforcement department should have better leaders to pursue this effort.”

Email John Burnett at jburnett@hawaiitribune-herald.com.

REALITY

From the front page

Rejecting what they hear from scientists, journalists or public officials, these people instead embrace tales of dark plots and secret explanations. And their beliefs, say experts who study misinformation and extremism, reflect a widespread loss of faith in institutions like government and media.

A poll conducted last year by The Associated Press-NORC Center for Public Affairs Research found that just 16% of Americans say democracy is working well or extremely well. Another 38% said it’s working only somewhat well.

Other surveys reveal how many people in the United States now doubt the media, politicians, science and even each other. The distrust has gone so deep that even groups that seem ideologically aligned are questioning each others’ motives and intentions.

On the day before Independence Day in Boston this year, a group of about 100 masked men carrying fascist flags marched through the city. Members proudly uploaded videos and photos of the march to online forums popular with supporters of former President Donald Trump and QAnon adherents, who believe a group of satanic, cannibalistic child molesters secretly runs the globe.

Instead of praise, the white supremacists were met with incredulity. Some posters said the marchers were clearly FBI agents or members of antifa — shorthand for anti-fascists — looking to defame Trump supporters. It didn’t matter that the men boasted of their involvement and pleaded to be believed. “Another false flag,” wrote one self-described conservative on Telegram.

Similarly, when an extremist website that sells unregulated ghost guns asked its followers about their July 4th plans, several people responded by accusing the group of working for the FBI. When someone claiming to be Q, the figure behind QAnon, answered online

monument that some conservative Christians criticized as satanic was bombed, many posters on far-right message boards cheered. But many others said they didn’t believe the news.

“I don’t trust it. I’m still thinking ff,” wrote one woman on Twitter, referencing “false flag,” a term commonly used by conspiracy theorists to describe an event they think was staged.

The global public relations firm Edelman has conducted surveys about public trust for more than two decades, beginning after the 1999 World Trade Organization’s meeting in Seattle was marred by anti-globalization riots. Tonia Reis, director of Edelman’s Trust Barometer surveys, said trust is a precious commodity that’s vital for the economy and government to function.

“Trust is absolutely essential to everything in society working well,” Reis said.

For experts who study misinformation and human cognition, the fraying of trust is tied to the rise of the internet and the way it can be exploited on contentious issues of social and economic change.

Distrust and suspicion offered obvious advantages to small bands of early humans trying to survive in a dangerous world, and those emotions continue to help people gauge personal risk today. But distrust is not always well suited to the modern world, which requires people to trust the strangers who inspect their food, police their streets and write their news. Democratic institutions are one way of adding accountability to that trust.

When that trust breaks down, polarization and anxiety increases, creating opportunities for people pushing their own “alternative facts.”

“People can’t fact check the world,” said Dr. Richard Friedman, a New York City psychiatrist and professor at Weill Cornell Medical College. “They’re stuck in repeating streams of infor-

EXHIBIT “A” TO DECLARATION OF ROBERT COOMES

new Q was actually a government agent. This past week, when a Georgia

are a lot of bad actors with the ability to weaponize that fear and anxiety.”

NOTICE OF CLASS ACTION SETTLEMENT

IF YOU FILED A CLAIM WITH THE HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS REVIEW PANEL ON OR BEFORE AUGUST 31, 1995, YOU MAY BE ENTITLED TO RECEIVE A SETTLEMENT PAYMENT AS A CLASS MEMBER IN *KALIMA v. STATE OF HAWAI’I, DEPARTMENT OF HAWAIIAN HOMELANDS, et al.* Civil No. 99-4771-12-LWC

On June 6, 2022, First Circuit Court Judge Lisa W. Cataldo preliminarily approved a settlement of this case. The class members for this settlement are:

“All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.”

The following persons will not be entitled to a settlement payment:

- 1) Individuals who did not file a claim with the Panel on or before August 31, 1995.
- 2) Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.
- 3) Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- 4) Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
- 5) Individuals who filed a timely claim with the Panel but settled their claim.
- 6) Individuals who opted out of the Lawsuit in response to the 2007 class notice.
- 7) Individuals who opted out of the Lawsuit in response to the 2012 class notice.
- 8) Individuals who opt-out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

Class members will be mailed information about their legal rights and options.

If you are a class member you do not have to take any action at this time for your claim to be considered. However, please provide current contact information by the methods described below.

If you are a relative of a deceased class member, please designate a person to receive information for your family by the methods described below.

You may update your contact information in any of the following four ways:

- Complete and mail back the Information Request Form that will be mailed to you; or
- Call 808-650-5551 or 1-833-639-1308; or
- Update your information at www.Kalima-Lawsuit.com; or
- Attend a community meeting to be held in your area or virtually online. Check www.Kalima-Lawsuit.com for the schedule.

QUESTIONS? Please call **808-650-5551** or **1-833-639-1308**, or visit **www.Kalima-Lawsuit.com** for more information or to update your contact information.

Inā makemake ‘oe i kēia ‘ōlelo hō‘ike ma ka ‘ōlelo Hawai‘i, e kelepona mai, 808-650-5551 ai‘ole 1-833-639-1308.

THIS IS AN OFFICIAL NOTIFICATION OF THE FIRST CIRCUIT COURT – PLEASE DO NOT CONTACT THE COURT

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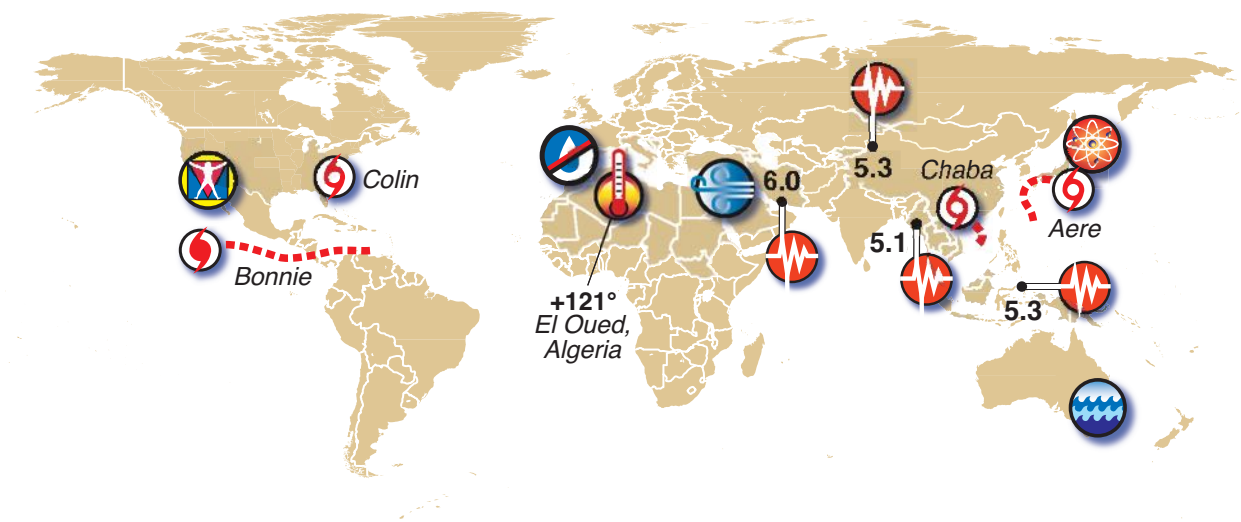
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EARTHWEEK: DIARY OF A CHANGING WORLD

For week ending Friday

By Steve Newman



Nanoparticle vaccine

California researchers say they have developed a new type of vaccine that protects against a spectrum of COVID-19-like coronaviruses, including those that have yet to emerge. Caltech's Pamela Bjorkman says the new nanoparticle vaccine provides protection in monkeys and mice by training the animals' immune systems to recognize up to eight viruses at a time, even triggering immunity to viruses never seen before. Bjorkman says if the vaccine works in humans as well, it could even protect against betacoronaviruses that have yet to make the leap from animals to humans. This would eliminate the need to tweak existing vaccine technology once new pathogens emerge.

Climate shift

Changes in the size and strength of the prevailing high-pressure system over the Atlantic have brought parts of Spain and Portugal their driest climate in over a thousand years. This expansion of the Bermuda-Azores High

came as the western U.S. also developed a worsening "megadrought" that threatens cities such as Los Angeles, Phoenix and Las Vegas with critical water shortages. Writing in the journal Nature Geoscience, U.S. researchers say the Mediterranean became drier as the high expanded dramatically during the 20th century in step with global heating. The vast high-pressure area controls where and when rain falls across Western Europe, typically directing storms into the Iberian Peninsula during winter.

Sandstorm surge

Global heating is resulting in earlier and more frequent sandstorms across parts of the Middle East. A single storm can swirl for days, causing havoc in a dozen countries. Storms so far this summer have caused hospitals to be flooded with patients suffering from respiratory ailments. Schools and businesses have been forced to close many times this year because of choking sand. Officials and environmental groups say that the hotter climate, altered weather patterns and poor

management of agriculture and water resources are turning the region's soil into sand.

Swamped Sydney

The fourth major flood emergency to submerge parts of Australia's largest metropolitan area since March forced thousands of flood-weary residents to evacuate yet again. Overflowing dams and sodden ground unable to absorb more water have sent torrents into Sydney's suburbs, where residents say they are fatigued by months of constant threats to their homes and lives due to an altered climate.

Nuclear returns

Some evacuated residents from near Japan's meltdown-plagued Fukushima Daiichi nuclear power plant are being told they may return home permanently 11 years after intense radiation from the nuclear disaster forced them to flee. Police and fire patrols are being reestablished in Okuma, but it is unclear how many residents will return. About 130 square miles across seven

Fukushima municipalities remain off-limits due to high levels of radiation and are likely to remain so well into the future.

Earthquakes

At least five people were killed and 44 others injured when Iran's Hormozgan province was rocked by a strong tremor. Earth movements were also felt in western Myanmar, Indonesia's North Maluku province and northwest China's Xinjiang region.

Tropical cyclones

At least five people died from Tropical Storm Bonnie's passage over Central America. Bonnie later reached hurricane force in the Pacific. A tornado spawned by Typhoon Chaba damaged buildings in South China's Guangdong province. Southern Japan was drenched by Tropical Storm Aere and its remnants. Colin formed briefly over coastal South Carolina.

Distributed by Andrews McMeel Syndication; ©MMXXII Earth Environment Service

Anchovy boom period has fish falling from sky

By Livia Albeck-Ripka
New York Times

One night last month, Britt Gerhard and her husband heard a bang on the roof of their house in San Francisco around 8 p.m. It was so loud, they thought it was an earthquake.

The couple had just put their 4-year-old daughter to bed, and Gerhard, a 38-year-old artist, was alarmed. Suddenly, shiny and silver things, each just a few inches long, began flying past the window.

They were anchovies. "We went outside, and there were just fish everywhere, about 20 to 30 fish," Gerhard said. "I was like, 'OK, we've had a pandemic and fires, and now fish are falling from the sky.'"

In the past month a handful of residents in the Bay Area have reported similar occurrences. Then, last week, several thousand dead anchovies washed up about 30 miles north, on the shore of the Bolinas Lagoon.

The happenings might seem bizarre, or even biblical, but scientists say they have a perfectly rational explanation: The anchovy population off the California coast is booming.

Those that washed ashore were likely chased by marine predators into the shallow lagoon waters, where they soon got stuck and ran out of oxygen, said Jarrod Santora, a marine ecologist with the National Oceanic and Atmospheric Administration.

As for the fish falling from the sky, he added, "That's just birds carrying them back to their chicks, and they can only carry so many and some of them fall out."

Santora said that the gulls that nest atop buildings in the city often fight one another for food, and that they might drop their fish in a process known as kleptoparasitism: "That's when a bird beats up on another bird for its lunch."

Anchovies are a boom-and-bust species: Their populations naturally shrink and expand, and scientists don't know exactly why. But since a marine heat wave that ended around 2016, the population of anchovies off the California coast has exploded "by orders of magnitude," Santora said. It has created a banquet for the birds, sea lions and whales that feast on them, he added.

"These humpbacks are recovering and they're very hungry," Santora said, adding that he suspected that a group of the whales could have driven the anchovies into shallow water. The whales, he said, cooperatively feed in small groups by splitting the fish into smaller schools, weakening their defenses.

The mass anchovy die-off in Bolinas Lagoon was rare but not unprecedented. In 2013, anchovies crowded into Santa Cruz harbor, depriving themselves of oxygen. The next year, a mass die-off of the tiny fish fouled an Oregon beach town. Earlier this year, thousands of the fish also washed up dead on a beach in Chile.

Staff members with Marin County Parks, which manages the lagoon, said that most of the fish had either been eaten or washed back out to sea but that the phenomenon had provided a brief glimpse into the wonders of ocean life.

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ABE’S DEATH RAISES SECURITY QUESTIONS

Mari Yamaguchi
ASSOCIATED PRESS

TOKYO — A top police official on Saturday acknowledged possible security lapses that allowed an assassin to fire his gun into former Japanese Prime Minister Shinzo Abe while he was addressing a campaign rally, raising questions including how could the attacker get so close behind him.

Abe was shot in the western city of Nara on Friday and airlifted to a hospital but died of blood loss. Police arrested the attacker, a former member of Japan’s navy, at the scene. Police confiscated his homemade gun and several others were later found at his apartment.

The attacker, Tetsuya Yamagami, told investigators he acted because he believed rumors that Abe was connected to an organization that he resents, police said. Japanese media reported that the man had developed hatred toward a religious group that his mother was obsessed about and that caused his family financial problems. The reports did not specify the group.

On Saturday, a black hearse carrying Abe’s body and accompanied by his wife, Akie, arrived at his home in Tokyo’s upscale residential area of Shibuya. Many mourners, including top party officials, waited for his remains and lowered their heads as the vehicle passed.

Nara prefectural police chief Tomoaki Onizuka said Abe’s assassination was his “greatest regret” in a 27-year



KYODO NEWS VIA AP

In this image from a video, Japan’s former Prime Minister Shinzo Abe makes a campaign speech in Nara, western Japan shortly before he was shot Friday.

career.

“I cannot deny there were problems with our security,” Onizuka said. “Whether it was a setup, emergency response, or ability of individuals, we still have to find out. Overall, there was a problem and we will review it from every perspective.”

Abe’s assassination ahead of Sunday’s parliamentary election shocked the nation and raised questions over whether security for the former prime minister was adequate.

Some observers who watched videos of the attack noted a lack of attention in the open space behind Abe as he spoke.

A former Kyoto prefectural police investigator, Fumikazu Higuchi, said the footage suggested security was sparse at the event and

insufficient for a former prime minister.

“It is necessary to investigate why security allowed Yamagami to freely move and go behind Mr. Abe,” Higuchi told a Nippon TV talk show.

Experts also said Abe was more vulnerable standing on the ground level, instead of atop a campaign vehicle, which is usually the case but was reportedly unavailable due to his hastily arranged visit to Nara.

“Looks like police were mainly focusing on forward, while paying little attention to what’s behind Mr. Abe, and nobody stopped the suspect approaching him,” said Mitsuru Fukuda, a crisis management professor at Nihon University. “Clearly there were problems.”

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EXHIBIT “A” TO DECLARATION OF ROBERT COOMES

Russia’s information war expands through Eastern Europe

Blood stains are seen on a damaged car after a deadly Russian missile attack in Vinnytsia, Ukraine on Thursday. As Russia’s war in Ukraine rages on, the Kremlin is expanding its information war throughout Eastern Europe, spreading propaganda and disinformation blaming NATO and the West for its Ukraine invasion.



AP file photo

By DAVID KLEPPER
The Associated Press

WASHINGTON — As bullets and bombs fall in Ukraine, Russia is waging an expanding information war throughout Eastern Europe, using fake accounts and propaganda to spread fears about refugees and rising fuel prices while calling the West an untrustworthy ally.

In Bulgaria, the Kremlin paid journalists, political analysts and other influential citizens 2,000 euros a month to post pro-Russian content online, a senior Bul-

garian official revealed this month. Researchers also have uncovered sophisticated networks of fake accounts, bots and trolls in an escalating spread of disinformation and propaganda in the country.

Similar efforts are playing out in other nations in the region as Russia looks to shift the blame for its invasion of Ukraine, the ensuing refugee crisis and rising prices for food and fuel.

For Russia’s leaders, expansive propaganda and disinformation campaigns are a highly cost-effective alternative to tra-

ditional tools of war or diplomacy, according to Graham Brookie, senior director at the Atlantic Council’s Digital Forensic Research Lab, which has been tracking Russian disinformation for years.

“Stirring up these reactions is the low-hanging fruit for Russian information operations,” Brookie said. “Their state media does audience analysis better than most of the media companies in the world. Where these narratives have succeeded are countries where there is more weaponization of domestic dis-

course or more polarized media markets.”

Bulgaria was long counted a stalwart Russian ally, though the country of 7 million residents has turned its attention westward in recent decades, joining NATO in 2004 and the European Union three years later.

When Bulgaria, Poland and other former Warsaw Pact nations sided with their NATO allies in support of Ukraine, Russia responded with a wave of disinformation and propaganda that sought to exploit public debates over globalization and westernization.

For Poland, that took the form of anti-Western propaganda and conspiracy theories. One, spread by a Russian-allied hacking group in an apparent effort to divide Ukraine and Poland, suggested that Polish gangs were harvesting the organs of Ukrainian refugees.

Russia’s onslaught comes as Eastern European governments, like others around the world, grapple with dissatisfaction and unrest caused by rising prices for fuel and food.



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COMMUNITY REPORTERS
The Molokai Dispatch is seeking residents to join our team as reporters. Do you have an interest in writing and a desire to contribute to our coverage of island issues? Email editor@themolokaidispatch.com. Pay available per story.

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COMMUNITY CALENDAR

THURSDAY JULY 14

- **Molokai Core Four Classes at MEO Business Development Center.** July 14, 20, 21, 27 and 28, Wednesdays and Thursdays at 5 pm, Zoom and in-person. Call (808) 553-3270 for more info and registration.
- **Community Ownership Models Subcommittee Meeting, discussing purchase of Molokai Ranch.** Via Zoom from 5 to 6:30 pm. Community-led project facilitated by Sust'ainable Molokai. Visit linktr.ee/communityownershipofMKKRanch for Zoom links and info.

SUNDAY, JULY 17

- **Watercolor Painting Workshop** with Kalani Pruet at Halawa Tropical Farms. Transportation available. Visit molokaiartscenter.org to sign up.

MONDAY, JULY 18

- **Office of Hawaiian Affairs Board of Trustees community meeting at Lanikeha.** Light dinner at 5 pm, meeting starts at 6 pm.
- **Molokai Agri-Business Training.** July 18 Resources and Funding, Aug. 1 Agtech/Tools/Equipment. Held virtually, 4 to 6 pm. Free for beginning to intermediate market gardeners or farmers to provide education on

growing food to generate income. Contact Jamie Ronzello, jamie@sustainablemolokai.org.

TUESDAY, JULY 19

- **Office of Hawaiian Affairs Board of Trustees meeting** at Lanikeha, 10 am.

THURSDAY, JULY 21

- **Instrumental Music Concert.** Musicians from the National Orchestral Institute will do a workshop with Molokai Instrumental Music Education students in the afternoon. Concert at St. Damien's Church at 6 pm, free and open to the public.

SAVE THE DATE

- **Let's Talk Story about suicide prevention, hope, help and healing.** For more info call 243-4315. Sponcored by MEO, E Ola Hou and County of Maui. Thursday July 27 at Kalaikamanu Hou Hall from 4:30 to 6 p.m.
- **Saturday Keiki Art Classes at the MAC,** held weekly for ceramics and mixed media. Session 1: 9:45-10:45 am, Session 2: 11am -12pm. Sign up at molokaiartscenter@gmail.com; walk-ins now welcome but studio limited to 10 people.

If you are a farmer or have a farm business on Molokai, please fill out Sust'ainable Molokai's Farm Business Needs Survey to help us better understand the needs of our local farm businesses.

Community Calendar is brought to you by:

Sust'ainable Molokai
a 501(c)(3) non-profit community development organization working to restore 'Aina Momona to Molokai.
www.sustainablemolokai.org

To submit an event for the calendar, please email editor@themolokaidispatch.com and include the name, date, location and time of the event, along with a brief description and contact info. Yard sales are not included in the calendar.

NOTICE OF CLASS ACTION SETTLEMENT

IF YOU FILED A CLAIM WITH THE HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS REVIEW PANEL ON OR BEFORE AUGUST 31, 1995, YOU MAY BE ENTITLED TO RECEIVE A SETTLEMENT PAYMENT AS A CLASS MEMBER IN KALIMA v. STATE OF HAWAI'I, DEPARTMENT OF HAWAIIAN HOMELANDS, et al.
Civil No. 99-4771-12-LWC

On June 6, 2022, First Circuit Court Judge Lisa W. Cataldo preliminarily approved a settlement of this case. The class members for this settlement are:

“All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.”

The following persons will not be entitled to a settlement payment:

- 1) Individuals who did not file a claim with the Panel on or before August 31, 1995.
- 2) Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.
- 3) Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- 4) Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
- 5) Individuals who filed a timely claim with the Panel but settled their claim.
- 6) Individuals who opted out of the Lawsuit in response to the 2007 class notice.
- 7) Individuals who opted out of the Lawsuit in response to the 2012 class notice.
- 8) Individuals who opt-out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

Class members will be mailed information about their legal rights and options.

If you are a class member you do not have to take any action at this time for your claim to be considered. However, please provide current contact information by the methods described below.

If you are a relative of a deceased class member, please designate a person to receive information for your family by the methods described below.

You may update your contact information in any of the following four ways:

- Complete and mail back the Information Request Form that will be mailed to you; or
- Call 808-650-5551 or 1-833-639-1308; or
- Update your information at www.Kalima-Lawsuit.com; or
- Attend a community meeting to be held in your area or virtually online. Check www.Kalima-Lawsuit.com for the schedule.

QUESTIONS? Please call **808-650-5551** or **1-833-639-1308**, or visit **www.Kalima-Lawsuit.com** for more information or to update your contact information.

Inā makemake ‘oe i kēia ‘ōlelo hō‘ike ma ka ‘ōlelo Hawai‘i, e kelepona mai, 808-650-5551 ai‘ole 1-833-639-1308.

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Weak protection for vanishing whale violates law, judge says

ASSOCIATED PRESS

PORTLAND, Maine — The federal government hasn't done enough to protect a rare species of whale from lethal entanglement in lobster fishing gear, and new rules are needed to protect the species from extinction, a judge has ruled.

The government has violated both the Endangered Species Act and the Marine Mammal Protection Act by failing to protect the North Atlantic right whale, U.S. District Judge James Boasberg ruled on Friday. The whales number less than 340 in the world and have been declining rapidly in population in recent years.

Boasberg's ruling was a victory for conservation groups that have long sought to save the whale and a new challenge for lobster fishermen who

have fought back against tightening restrictions on where and how they can fish. Boasberg ruled that the court's findings "do not dictate that it must immediately shutter the American lobster fishery," but instead said the parties must propose potential remedies to the threat faced by whales.

The ruling "may seem a severe result for the lobster industry" and the government, but no one "operates free from the strict requirements imposed by the MMPA and ESA," Boasberg wrote.

Environmental groups celebrated the ruling, while some members of the fishing industry took a more measured approach.

The ruling came after a group of environmental organizations sued the federal government with a complaint that it wasn't doing enough to

save whales from lobster gear. Boasberg's ruling validates that claim, said Kristen Monsell, an attorney for the Center for Biological Diversity, one of the groups that sued.

"Lobster gear is a deadly threat to right whales, and the courts are telling the federal government to quit stalling and start taking real action. The Biden administration has to work much harder to help the industry prevent these agonizing, deadly entanglements," Monsell said.

The Maine Lobstermen's Association, the largest fishing trade group on the East Coast, said in a statement that it was still reviewing the ruling. The association also pointed to a section of Boasberg's ruling that said the National Marine Fisheries Service "may find that other measures exist to reduce lethal take, or that projected take is in



This Dec. 2, 2021, photo provided by the Georgia Department of Natural Resources shows an endangered North Atlantic right whale entangled in fishing rope being sighted with a newborn calf in waters near Cumberland Island, Ga. The federal government hasn't done enough to protect a rare species of whale from lethal entanglement in lobster fishing gear, and new rules are needed to protect the species from extinction, a judge has ruled.
GEORGIA DEPARTMENT OF NATURAL RESOURCES/NOAA PERMIT #20556 VIA AP

fact lower than originally estimated." That renders the ruling "a mixed bag," the association said.

"We are heartened that the court recognizes the great importance of Maine's lobstering heritage and appreciates the potential and unnecessary harm that could be imposed on the men and women who work so hard to make

our industry thrive," said Patrice McCarron, executive director of the Maine Lobstermen's Association.

The right whales give birth off Florida and Georgia and come north to the waters off New England and Canada to feed. They're also imperiled by lethal collisions with ships, and federal authorities are expected to soon release new

guidelines to help protect them from that threat.

The whales were once numerous, but they were decimated during the commercial whaling era. Some scientists have said warming ocean temperatures are causing them to stray from protected areas in search of food, and that has left them more vulnerable to collisions and entanglement.

Production resumes at troubled Abbott baby formula factory

BY FRANK BAJAK
ASSOCIATED PRESS

Production of baby formula has resumed at the Abbott Nutrition factory in Michigan whose February shutdown over contamination contributed to a national shortage, a company spokesman said.

Damage from severe thunderstorms including flooding had forced the Sturgis plant to halt operations in mid-June just two weeks after restarting production with

additional sanitizing and safety protocols.

Production of EleCare, a specialty formula for infants with severe food allergies and digestive problems, was restored at Sturgis following a July 1 reboot, said Abbott spokesman John Koval.

"We are working to restart Similac production as soon as we can. We'll provide more information when we have it," he said via email.

Abbott recalled several leading brands of formula in February, including Similac. That squeezed supplies

already been strained by supply chain disruptions and stockpiling during COVID-19 shutdowns.

The shortage was most dire for children with allergies, digestive problems and metabolic disorders who rely on specialty formulas.

President Joe Biden's administration has since eased import rules for foreign manufacturers, airlifted formula from Europe and invoked federal emergency rules to prioritize U.S. production.

Abbott is one of just four

companies that produce about 90% of U.S. formula. Koval declined to say how much of Abbot's overall U.S. supply of infant formula is produced at the Sturgis plant.

The plant was closed in February after the Food and Drug Administration began investigating four bacterial infections among infants who consumed powdered formula from the plant. Two of the babies died. The company says its products have not been directly linked to the infections, which involved different

bacterial strains.

FDA inspectors eventually uncovered a host of violations at the plant, including bacterial contamination, a leaky roof and lax safety protocols.

On Wednesday, the Food and Drug Administration announced plans to help overseas makers of infant formula that have sent supplies, under emergency approval to address the shortfall, secure long-term authorization to market their formula in the U.S. The plan is to provide American consumers

with more choices and make supplies more resilient against current or future shortages.

FDA commissioner, Dr. Robert Califf, and Susan Mayne, the director of the agency's Center for Food Safety and Applied Nutrition, said in a statement that the Sturgis plant shutdown "compounded by unforeseen natural weather events, has shown just how vulnerable the supply chain has become."

THREAT:

CONTINUED FROM PAGE 3A

fire and minimal winds, smoke impacts were not expected to stretch far beyond the park, he said.

The giant sequoias, native in only about 70 groves spread along the western slope of California's Sierra Nevada range, were once considered impervious to flames but have become increasingly vulnerable as wildfires fueled by a buildup of undergrowth from a century of fire suppression and drought exacerbated by climate change have become more intense and destructive.

Lightning-sparked wildfires over the past two years have killed up

to a fifth of the estimated 75,000 large sequoias, which are the biggest trees by volume.

There was no obvious natural spark for the fire that broke out Thursday next to the park's Washburn Trail, Phillippe said. Smoke was reported by visitors walking in the grove that reopened in 2018 after a \$40 million renovation that took three years.

The fire had grown to about 1.1 square miles by Saturday morning.

A fierce windstorm ripped through the grove a year-and-a-half ago and toppled 15 giant sequoias, along with countless other trees.

The downed trees, along with massive numbers of pines killed by bark beetles, provided ample fuel

for the flames.

The park has used prescribed burns to clear brush around the sequoias, which helps protect them if flames spread farther into the grove.

Meanwhile, most evacuation orders were lifted Saturday in the Sierra foothills about 80 miles (128 kilometers) to the northwest of the Yosemite fire, where a fire broke out on July 4. The Electra Fire that began near Jackson was mostly contained, and only areas directly within the fire's perimeter remained under evacuation orders, according to the California Department of Forestry and Fire Protection.

JAPAN:

CONTINUED FROM PAGE 3A

assassination of former Prime Minister Shinzo Abe at a political rally, police in Japan faced sharp questions about the adequacy of his security, even as parliamentary candidates resumed campaigning Saturday, in a sign that despite the tragedy, political life was carrying on. White vans bearing large photos of politicians and blaring their names from loudspeakers rode through the streets. Candidates fist-bumped with supporters and posed for selfies. And politicians, many from Abe's Liberal Democratic Party, made their final appeals to voters before an election Sunday, in the shadow of deep mourning.

Blinken presses China's top diplomat on Ukraine. The battle in Ukraine shifted to a geopolitical

pressing him to change positions and join the United States and partners to "stand up" against Russia's war, while also trying to ease overall tensions with Beijing. It was a change of tone for the Biden administration, which just over a week ago pushed for a NATO blueprint to include a sharp rebuke of China, labeling its policies "coercive," its cyberoperations "malignant" and its rhetoric "confrontational."

UN: Russia and Ukraine are to blame for nursing home attack

A U.N. report says Ukraine's armed forces bear a large share of the blame for a deadly assault on a care home for the elderly and disabled. Ukrainian fighters occupied the facility in March and then battled Russian forces while dozens of

nervous civilians in a brutal and unprovoked attack. But the U.N.'s Office of the High Commissioner for Human Rights said that Ukrainian soldiers occupied the nursing home a few days before the attack, effectively making the building a target.

Amid chaos, some at July 4 parade ran toward gunfire to help

People from every corner of the Highland Park community sprung into action on July 4 after a gunman opened fire on a parade route in the Chicago suburb. Bystanders tied tourniquets and administered CPR, and doctors and nurses ran to the scene to help. Nearly a dozen people, including off-duty doctors, nurses, a football coach and a tech salesman, were among the first to administer lifesaving assistance. They are relieved they could help, but wish they id all are scarred by what they saw: broken bodies, awful injuries, and death.

By wire sources

EXHIBIT "A" TO DECLARATION OF ROBERT COOMES

Blinken met with the Chinese foreign minister at the end of a Group of 20 summit in Indonesia,

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Class members will be mailed information about their legal rights and options.

If you are a class member you do not have to take any action at this time for your claim to be considered. However, please provide current contact information by the methods described below.

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• Call 808-650-5551 or 1-833-639-1308; or

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• Attend a community meeting to be held in your area or virtually online. Check www.Kalima-Lawsuit.com for the schedule.

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Inā makemake 'oe i kēia 'ōlelo hō'ike ma ka 'ōlelo Hawai'i, e kelepona mai, 808-650-5551 ai'ole 1-833-639-1308.

THIS IS AN OFFICIAL NOTIFICATION OF THE FIRST CIRCUIT COURT – PLEASE DO NOT CONTACT THE COURT

NEWS

Wagner owner says war in Ukraine could last for years

By SUSIE BLANN
Associated Press

KYIV, Ukraine — The owner of the Russian Wagner Group private military contractor actively involved in the fighting in Ukraine has predicted that the war could drag on for years.

Yevgeny Prigozhin said in a video interview released late Friday that it could take 18 months to two years for Russia to fully secure control of Ukraine's eastern industrial heartland of Donbas. He added that the war could go on for three years if Moscow decides to capture broader territories east of the Dnieper River.

The statement from Prigozhin, a millionaire who has close links to Russian President Vladimir Putin and was dubbed "Putin's chef" for his lucrative Kremlin catering contracts, marked a recognition of the difficulties that the Kremlin has faced in the campaign, which it initially expected to wrap up within weeks when Russian troops invaded Ukraine on Feb. 24.

Russia suffered a series of humiliating setbacks in the fall when the Ukrainian military launched successful counteroffensives to reclaim broad swaths of territory in the east and the south. The Kremlin has avoided making forecasts on how long the fighting could continue, saying that what it called the



Associated Press

A city center damaged by Russian shelling is shown Friday in Bakhmut, Donetsk region, Ukraine.

"special military operation" will continue until its goals are fulfilled.

The Russian forces have focused on Ukraine's Luhansk and Donetsk provinces that make up the Donbas region where Moscow-backed separatists have been fighting Ukrainian forces since 2014.

Ukrainian and Western officials have warned that Russia could launch a new broad offensive to try to turn the tide of the conflict as the war approaches the one-year mark. But Ukraine's military intelligence spokesman, Andriy Chermak, told Kyiv Post that "Russian command does not have enough resources for large-scale offensive actions."

"The main goal of Russian troops remains to achieve at least some tactical success in eastern Ukraine," he said.

Prigozhin said that the Wagner Group mercenaries were continuing fierce battles for

control of the Ukrainian stronghold of Bakhmut in the Donetsk region. He acknowledged that the Ukrainian troops were mounting fierce resistance.

As Russian troops have pushed their attacks in the Donbas, Moscow has also sought to demoralize Ukrainians by leaving them without heat and water in the bitter winter.

On Friday, Russia launched the 14th round of massive strikes on Ukrainian energy facilities and other vital infrastructure. High-voltage infrastructure facilities were hit in the eastern, western and southern regions, resulting in power outages in some areas.

Ukraine's energy company, Ukrenergo, said Saturday that the situation was "difficult but controllable," adding that involved backups to keep up power supplies but noting that power rationing will continue in some areas.

Big Island history

1948

Among the many resolutions passed by delegates at the fourth annual convention of Councils of the Young Men's institute held in Honolulu Saturday and Sunday were the following concerning Hilo:

1. A memorandum to the late V.A. Carvalho.
2. A resolution requesting congress to amend the organic act to permit World War II veterans who resided in the territory two years prior to induction into service to select and purchase territorial home sites at nominal prices without bidding.
3. Pledging the support and encouragement of establishing scholarship to Catholic high schools in the territory.
4. Protesting against the completion of a contemplated exchange of land between the commissioner of public lands and Ruddle Sales and Service Co. Ltd., Hilo, covering two or three parcels of land lying between the St. Mary's and St. Joseph's new school site on Kinole street (copies of this resolution to be sent to the commissioner of public lands and Governor Stainback).

1973

Brian De Lima was elected Youth Governor of the 20th annual Waiakea Settlement YMCA Hilo Youth Legislature on Feb. 4th.

He will be installed in office at the opening session of the annual

legislative meeting on Friday night.

De Lima, son of Mr. and Mrs. Richard De Lima of 1555 Kinole Street, is also active in the YMCA's Youth Advocates program. He is the Big Island president of the association of Student Councils and the student representative on the Hawaii State Board of Education.

De Lima will be guest of honor at a Governor's Banquet on Monday night, Feb. 19, at the Naniloa Surf Hotel.

1998

HONOLULU — When Gov. Ben Cayetano last month proposed building a 2,300-bed prison in Ka'u, he said he was doing so because it was the only place in Hawaii where the community supported having the facility. Not so, according to 1,300 Ka'u residents, whose signatures on petitions opposing a prison were presented Wednesday to state lawmakers.

Community leaders said they rounded up the signatures this past weekend, compared with the two years it took prison supporters to get 800 signatures. In response to what appears to be substantial community opposition to the prison and the state's bill to fast-track the planning and permitting process, members of three Senate committees said they plan to go to Ka'u soon to meet with the residents.

Big Island History is compiled by Brandon Haleamau for the Tribune-Herald using newspaper archives. Whenever possible, the news accounts were taken verbatim from the newspaper.

Read all about it in the

Hawaii
Tribune-Herald

www.hawaiitribune-herald.com



NOTICE TO BUSINESSES THAT STORE, USE, OR MANUFACTURE ANY HAZARDOUS SUBSTANCE

The Hawaii Island Local Emergency Planning Committee (LEPC) reminds Hawaii businesses and facilities that Hawaii Revised Statutes, (HRS), Hawaii Emergency Planning and Community Right-To-Know Act (HEPCRA), Section 128E-6(2), mandates that the owner or operator of a facility in the State that stores, uses, or manufactures any hazardous substances may be required to submit a completed Tier II Chemical Inventory Report Form and a filing fee payment by March 1 of each year to the Department of Health. For further information regarding applicability of the requirement, definitions, and reporting forms please visit the website: <https://health.hawaii.gov/heer/about-heer/organization/hepcra/hepcra-right-to-know-compliance/>

The information is used for emergency response planning by the Hawaii Fire Department, the Hawaii Department of Health, and the LEPC.

For questions or guidance please contact Sharon Leonida, at sharon.leonida@doh.hawaii.gov, with the State of Hawaii, Department of Health, Hazard Evaluation and Emergency Response Office (HEER) at telephone (808) 586-4249 or fax (808) 586-7537.

KALIMA CLASS ACTION SETTLEMENT – SECOND NOTICE

IF YOU FILED A CLAIM WITH THE HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS REVIEW PANEL ON OR BEFORE AUGUST 31, 1995, YOU MAY BE ENTITLED TO A SETTLEMENT PAYMENT AS A CLASS MEMBER IN *KALIMA v. STATE OF HAWAII, DEPARTMENT OF HAWAIIAN HOMELANDS, et al.* Civil No. 99-4771-12-LWC

On June 6, 2022, First Circuit Court Judge Lisa W. Cataldo preliminarily approved a settlement of this case. The class members for this settlement are:

"All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995."

In July 2022, class members were mailed information about their legal rights and options. You will be receiving a second notice after January 31, 2023 to give you important information about your claim and whether it is part of the settlement.

If your claim is part of the settlement, your second notice will include Start and End dates for your settlement payment. These dates are based on currently known data. They are subject to change before the final calculations are made if more accurate data becomes known. You will receive your final dates and estimated settlement payment in a third notice, which is expected to be sent after June 6, 2023. Please review this mailing carefully. Requested corrections must be submitted by April 3, 2023, using the Claim Correction form included with the second notice or found at www.Kalima-Lawsuit.com.

If you are a class member who did not receive a mailed notice in July 2022, please provide current contact information by the methods described below. If you are a relative of a deceased class member, please designate a person to receive information for your family by the methods described below.

Court's Revised Case Schedule

The Court has approved a new schedule for final approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- The second notice containing your start and end dates will be mailed on **January 31, 2023**.
- The deadline to opt out of the lawsuit is **April 3, 2023**.
- The third notice containing your estimated settlement payment will be mailed on **June 6, 2023**.
- The deadline for final approval of the Settlement is **July 21, 2023**.

You may update your contact information or designate a representative for a deceased class member in any of the following three ways:

- Update your information at www.Kalima-Lawsuit.com/request; or
- Download and return the Information Request Form from www.Kalima-Lawsuit.com/important-documents; or
- Request and return an Information Request Form by calling 808-650-5551 or 1-833-639-1308 or e-mailing info@kalima-lawsuit.com.

QUESTIONS? Please call 808-650-5551 or 1-833-639-1308, or visit www.Kalima-Lawsuit.com for more information or to update your contact information.

Inā makemake 'oe i kēia 'ōlelo hō'ike ma ka 'ōlelo Hawai'i, e kelepona mai, 808-650-5551 ai'ole 1-833-639-1308.

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BEST OF HAWAII
2022
Real Estate

YOUR SUPER TRANSACTION

Nothing is more American than the spirit of self-reliance but trying to quarterback the largest transaction of your life can actually find you throwing passes right into the hands of the opposing team. Statistics show that you can cost yourself time, effort and certainly money by attempting to do so. The majority of homes sold are still listed with an agent, especially here in Hawaii. With so many buyers from off-island, it's unrealistic to believe buyers have time, patience or motivation to drive miles and "EXHIBIT A" of time in which to conclude their purchase, they want to make wise use of their time. After one disappointing experience visiting a home listed in the newspaper or posted on Zillow or Craig's List (watch out for scammers), most buyers flock right back to an agent. Motivation alone should leave buyers and sellers with serious doubts about proceeding without professional assistance. Sellers normally desire to "save" the commission or worse, they may be attempting to hide defects or getting across the "sold" line is your goal, hire a professional quarterback. Just like the big guys, we're extremely Blog forward at www.hawaiianrealtyhomes.com

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Third flying object, seen over Yukon, is downed

By Helene Cooper
New York Times

WASHINGTON>> A U.S. fighter jet, acting on the orders of President Joe Biden and Canadian Prime Minister Justin Trudeau, shot down another unidentified flying object Saturday, Canadian and U.S. officials said, in the latest installment of the drama playing out in the skies of North America.

"I ordered the takedown of an unidentified object that violated Canadian airspace," Trudeau said in a statement posted on Twitter. He said a U.S. F-22 with the North American Aerospace Defense Command, which is operated jointly by the United States and Canada, downed the object over the Yukon Territory.

As with the object that Biden ordered shot down near Alaska on Friday, officials said they had yet to determine just what had been blasted out of the sky over the Yukon, which borders Alaska.

Trudeau said he had spoken with Biden on Saturday afternoon. "Canadian Forces will now recover and analyze the wreckage of the object,"

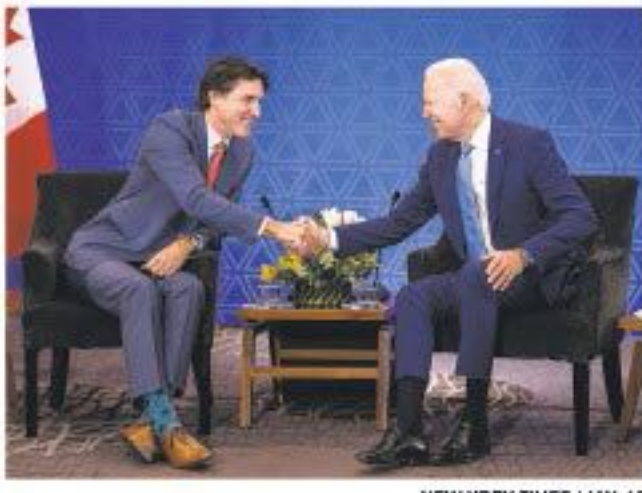
he said in his Twitter post.

The White House said in a statement Saturday that Biden and Trudeau had "discussed the importance of recovering the object in order to determine more details on its purpose or origin."

Late Saturday, the Federal Aviation Administration classified an area near Havre, Mont., as "national defense airspace," closing it to air traffic. The agency had used similar terminology a week earlier, just before the United States shot down a Chinese spy balloon off the coast of South Carolina.

A joint statement from NORAD and U.S. Northern Command later said that NORAD had detected a radar anomaly and sent fighter aircraft to investigate, but they did not find anything that correlated with the radar hits. Officials have acknowledged that a heightened awareness could lead to false positives.

The object taken down over the Yukon was picked up on radar as it passed over Alaska late Friday, Pentagon officials said earlier Saturday. NORAD sent American fighter jets, which were soon joined by Canadian



NEW YORK TIMES / JAN. 10

Canadian Prime Minister Justin Trudeau and President Joe Biden, who held a bilateral meeting last month during a summit of North American leaders, on Saturday conferred on what to do with the latest mysterious object to enter North American airspace.

fighters, to track it.

"Monitoring continued today as the object crossed into Canadian airspace," said Brig. Gen. Patrick Ryder, the Pentagon press secretary. The F-22 shot down the object over Canadian territory using the same Sidewinder air-to-air missile that was used to take down two previous flying objects, Ryder said, including a Chinese spy balloon one week earlier.

Defense Secretary Lloyd

Chinese spy balloon in American skies about two weeks ago, prompting Secretary of State Antony Blinken to cancel a planned trip to China. The Chinese government acknowledged that the dirigible was one of its own, although it said it was for weather research. Beijing said a similar balloon that was spotted over Central and South America the same weekend was also for civilian purposes.

U.S. intelligence agencies have determined that China's spy balloon program is part of a global surveillance effort designed to collect information on the military capabilities of countries around the world, according to three U.S. officials.

The balloon flights, some officials believe, are part of an effort by China to hone its ability to gather data about U.S. military bases — in which it is most interested — as well as those of other nations in the event of a conflict or rising tensions. U.S. officials said this past week that the balloon program had operated out of multiple locations in China.

On Friday, U.S. officials disclosed that the military

had shot down an unidentified flying object over the Arctic Ocean near Alaska. John Kirby, a spokesperson for the National Security Council, said in a press briefing that the object had been downed "out of an abundance of caution."

Troops with U.S. Northern Command were working Saturday near Deadhorse, Alaska, with Alaska National Guard units, the FBI and local law enforcement to recover the object and determine its nature, Defense Department officials said.

With the recovery activities taking place on sea ice, in freezing temperatures and with limited daylight, service members are being forced to move slowly, the officials said.

"We have no further details at this time about the object, including its capabilities, purpose and origin," the Pentagon said in a statement about the Alaskan incident.

There were multiple theories in Washington as to the provenance of the objects, but several Biden administration officials cautioned that much remained unknown about the last two objects shot down.

Collision between plane, shuttle bus at LAX injures 5

By Amanda Holpuch
New York Times

Five people were injured Friday night after an American Airlines plane struck a shuttle bus at Los Angeles International Airport in California, officials said, in what was the latest in a string of unusual incidents at major airports in the past four weeks.

The plane, an Airbus A321, had no passengers and was being towed on a taxiway around 10 p.m. local time

when it hit a bus that was transporting passengers between terminals, the Federal Aviation Administration said.

Emergency medical workers treated five people who were involved in the "low-speed" collision, the Los Angeles Fire Department said.

Four people were hospitalized. The tug driver who had been towing the jet was taken to the hospital in moderate condition, and the bus driver and two bus passengers were transported in fair condition,

the Fire Department said. Only one person was on the plane, a worker, who declined to be taken to the hospital after receiving treatment, the department said.

American Airlines said that the airplane was not operating as a commercial flight when the collision happened and that no customers had been on board.

The jet was being towed from a gate to a parking area. Other airport operations remained normal, the

airport said in a statement.

A large skid mark from the jet's tire was visible, and the windshield of the bus had extensive damage, according to ABC7.com.

The FAA said that it would investigate the collision, which follows a recent spate of unusual incidents at major airports.

On Feb. 4, two airplanes narrowly avoided a collision at Austin-Bergstrom International Airport in Texas after a FedEx cargo plane aborted

its landing on the same runway that a Southwest Airlines flight had been cleared to take off from.

The day before, a United Airlines Boeing 787 that was being towed clipped the wing of a parked United plane, a Boeing 757-200, at Newark Liberty International Airport, the FAA said. No one was injured, and airport operations were not affected, the Port Authority of New York and New Jersey said.

And last month, at Ken-

neddy International Airport in New York, a Delta Air Lines plane had to abort its takeoff after an American Airlines plane crossed about 1,000 feet in front of it, the FAA said. The National Transportation Safety Board said Friday that it had subpoenaed the pilots of the American Airlines plane after they declined its request for electronically recorded interviews.

The Associated Press contributed to this report

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ukraine

Wagner owner: War could drag on for years

Susie Blann
ASSOCIATED PRESS

KYIV, Ukraine — The owner of the Russian Wagner Group private military contractor actively involved in the fighting in Ukraine has predicted that the war could drag on for years.

Yevgeny Prigozhin said in a video interview released late Friday that it could take 18 months to two years for Russia to fully secure control of Ukraine's eastern industrial heartland of Donbas. He added that the war could go on for three years if Moscow decides to capture broader territories east of the Dnieper River.

The statement from Prigozhin, a millionaire who has close links to Russian President Vladimir Putin and was dubbed "Putin's chef" for his lucrative Kremlin catering contracts, marked a recognition of the difficulties that the Kremlin has faced in the campaign, which it initially expected to wrap up within weeks when Russian troops invaded Ukraine on Feb. 24.

Russia suffered a series of humiliating setbacks in the fall when the Ukrainian military launched successful counteroffensives to reclaim broad swaths of territory in the east and the south. The Kremlin has avoided making forecasts on how long the fighting could continue, saying that what it called the "special military operation" will continue until its goals are fulfilled.

The Russian forces have focused on Ukraine's Luhansk and Donetsk provinces that make up the Donbas region where Mos-



UBKOS VIA AP

A city center damaged by Russian shelling is seen in Bakhmut, Donetsk region, Ukraine, on Friday, Feb. 10, 2023.

cow-backed separatists have been fighting Ukrainian forces since 2014.

Ukrainian and Western officials have warned that Russia could launch a new broad offensive to try to turn the tide of the conflict as the war approaches the one-year mark. But Ukraine's military intelligence spokesman, Andriy Chernyak, told Kyiv Post that "Russian command does not have enough resources for large-scale offensive actions."

"The main goal of Russian troops remains to achieve at least some tactical success in eastern Ukraine," he said.

Prigozhin said that the Wagner Group mercenaries were continuing fierce battles for control of the Ukrainian stronghold of Bakhmut in the Donetsk region. He acknowledged that the Ukrainian troops were mounting fierce resistance.

As Russian troops have pushed their attacks in the Donbas, Moscow has also sought to demoralize Ukrai-

nians by leaving them without heat and water in the bitter winter.

On Friday, Russia launched the 14th round of massive strikes on Ukrainian energy facilities and other vital infrastructure. High-voltage infrastructure facilities were hit in the eastern, western and southern regions, resulting in power outages in some areas.

Ukraine's energy company, Ukrenergo, said Saturday that the situation was "difficult but controllable," adding that involved back-ups to keep up power supplies but noting that power rationing will continue in some areas. Head of Ukraine's state nuclear operator Energoatom Petro Kotin said Saturday that more power will come into the country's energy system after two nuclear reactors have been repaired.

Ukraine's military chief, Gen. Valerii Zaluzhnyi, said that Russian forces launched 71 cruise missiles, 35 S-300 missiles and

seven Shahed drones between late Thursday and midday Friday, adding that Ukrainian air defenses downed 61 cruise missiles and five drones.

The Ukrainian authorities reported more attacks by killer drones later on Friday. The Ukrainian air force said the military downed 20 Shahed drones in the evening.

Russia's Defense Ministry said that Friday's strikes hit all the designated targets, halting the operation of Ukraine's defense factories and blocking the delivery of supplies of Western weapons and ammunition. The claim couldn't be independently verified.

Late Friday, Russian military bloggers and some Ukrainian news outlets posted a video showing an attack by a sea drone on a strategic railway bridge in the Odesa region. The grainy video showed a fast-moving object on the surface of the water approaching the bridge in Zatok, about 30 miles southwest of Odesa, and exploding in a powerful blast.

The authenticity of the video couldn't be verified, but the Ukrainian military on Saturday confirmed the use of sea drones by Russian forces.

Ukraine's military chief Zaluzhnyi said in an online statement that he has expressed concern about the use of such drones in a phone conversation with the U.S. Chairman of the Joint Chiefs of Staff, Gen. Mark Milley, on Saturday, adding that it "poses a threat to civilian navigation in the Black Sea."

The attack marks the

first combat use of a sea drone by Russia in the conflict. Igor Korotchenko, a retired colonel of the Russian armed forces who frequently comments on the conflict on Russian state TV, noted Saturday that such drones should be equipped with a more pow-

erful load of explosives to inflict more significant damage.

The bridge, which was targeted by Russian missile strikes early in the war, serves the railway link to Romania, which is a key conduit for Western arms supplies.

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NATION AND WORLD

IN BRIEF

The Associated Press

Worker pleads not guilty to killing 7

REDWOOD CITY, Calif. — A farmworker charged with killing seven people last month in back-to-back shootings at two Northern California mushroom farms has pleaded not guilty.

Chunli Zhao is charged with seven counts of murder and one count of attempted murder.

Zhao admitted to the shootings during a jailhouse media interview days after the shooting.

Outage cancels flights at JFK

NEW YORK — A power outage in a terminal of New York's Kennedy International Airport has stretched into a second day.

The outage has stranded passengers and forced flights to be canceled or diverted to other airports.

The airport operators said Terminal 1 would remain closed Friday "due to electrical issues," but that limited operations could resume Saturday.

Airport operators say the outage was caused by an electrical panel failure that led to a small fire.

An Air New Zealand flight was two-thirds of

the way across the Pacific Ocean when it had to make a U-turn and head back to Auckland.

The flight landed back in New Zealand after more than 16 hours in the air.

No update on the outage in New York has been provided Friday. JFK has five active terminals.

5 plead not guilty in Nichols case

MEMPHIS, Tenn. — The next hearing for five former Memphis, Tennessee, police officers charged with killing Tyre Nichols has been scheduled for May 1.

All five pleaded not guilty Friday to second-degree murder and other charges.

Nichols' mother said after the shooting that she looked for him in the eye in court.

RowVaughn Wells says that the officers will see her at every court date "until we get justice for my son."

Nichols died three days after a beating caught on video during a Jan. 7 arrest.

The officers have been fired. They are Black, as was Nichols.

Republicans to adopt loyalty pledge

NEW YORK — Republican presidential candidates will be blocked from the debate stage this summer if they do not sign a pledge to support the GOP's ultimate presidential nominee.

That's according to a proposal set to be adopted

by the Republican National Committee next week.

The proposal sets up a potential clash with former President Donald Trump, who has raised the possibility of leaving the Republican Party and launching an independent bid if he does not win the GOP nomination.

Republican leaders have few, if any, tools to control the former president.

But party officials are hopeful that a loyalty pledge, while ultimately unenforceable, would create some shared commitment to unity as the presidential primary season takes off.

A spokesman would not say whether Trump will sign the pledge.

TikTok plans two more data centers

LONDON — TikTok

is planning two more European data centers, as the popular Chinese-owned video sharing app seeks to allay growing concerns about data privacy for its users in the West.

The company said in a blog post Friday that it's finalizing a plan for a second data center in Ireland, following its first announced there last year.

TikTok also reported that it had 125 million monthly active users in the European Union, putting it over the threshold for extra scrutiny under the bloc's new digital rules set to take effect later this year.

Google, Twitter, Apple and Facebook and Instagram will also face the stricter EU scrutiny, according to monthly user numbers they released in time for a Friday deadline.

Rocket launch aborted in Japan

TOKYO — Japan's space agency has aborted the inaugural launch of its next-generation H3 rocket after the auxiliary booster engines failed to ignite.

Officials say the main engine of the rocket, which is carrying an observation satellite and an experimental sen-

sor to detect missile launches, had already ignited when the launch was halted.

They described it as an aborted launch — not a failure — because it was suspended as a result of safety features that functioned properly.

The new H3 rocket was developed at a cost of \$1.5 billion as a successor to Japan's H-2A rocket.

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EXHIBIT "A" TO DECLARATION OF ROBERT COOMES

Community Contributed

Trustee and Beneficiary in Trust

By Eileen M.S. Nims, Esq.



A revocable trust is a wonderful invention. It allows you to protect your assets from going through probate, while maintaining full control over your properties while you are alive. That is because during your lifetime, you are both the trustee and the beneficiary. Upon your passing, the trust becomes irrevocable. This means that no changes can be made to the instructions and the content of the trust. A huge advantage of an irrevocable trust is that is also shields the beneficiaries’ share of assets against predators, creditors and disability. Predators are those people who suddenly become the beneficiary’s best friend, or people who ask money for their child’s medical bills, or people who will sell you a bridge in Iowa. Creditors are those making any monetary demands, such as in cases of liens, litigation judgements and divisions of assets in a divorce. Disability of a beneficiary in this context can come in several forms. They could be entangled in a battle against addiction, or they could be the recipients of government assistance due to an accident or illness, or they could be incarcerated. However, this protection only applies if the beneficiary is not also the trustee. The trustee is the person who holds the key to the trust, while the beneficiary is the person who is the recipient of the contents of the trust. As long as the holder of the key is not the same person as the recipient, the trust protects against distribution to

the beneficiaries in cases of predators, creditors and disability. If the trustee is the same person as the beneficiary, the trust is seen as an open door and there is no separation and therefore no protection. Meanwhile, the trust language will instruct the trustee who gets what, when, where and how. This allows the beneficiary to receive funds and assets from the trust for appropriate uses, while keeping the assets and funds safe from wasteful expenditures. Again, this is only possible when the beneficiary is not also the trustee. Another important reason for keeping the trustee and beneficiaries separate is when there are multiple beneficiaries. If only one of the beneficiaries is trustee, there is not only the loss of protection for that beneficiary’s share of the trust, but also a conflict of interest between the trustee and the other beneficiaries. Say a Molokai house is to be shared between three siblings and they all have different ideas on how to split this up, the beneficiary who is also trustee will be in the middle of a sibling dispute. A neutral third-party will be able to be impartial and all beneficiaries will be on equal footing with each other. This can be a good friend, or an office such as the non-profit Maximum Legal Corporation, or a for-profit company or bank. Most trust litigation cases stem from feelings of being short-changed or misled by the trustee. Don’t put your loved ones in that position! If you want to receive individualized legal advice with regards to trusts, please feel free to contact Eileen M.S. Nims, J.D. at eileen@nimsesq.com or by phone at (808) 664-1834.

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Professed And Counting

By Father Pat Killilea, St. Francis Church, Kalaupapa

It has been said, though not written, that on Feb. 8, 1944 Patrick and Mary (Fallon) Killilea found me at the end of a rainbow. Subsequently I grew up on my family’s small farm in North East Galway. I attended Killian National School and played Gaelic football for my parish of Newbridge. After finishing primary school, I attended St. Joseph’s College secondary school and played rugby and Gaelic football for my school. I got quite a kick out of both. During the Easter vacation of my senior year, a Sacred Hearts priest from my parish came by my home and convinced me to enter the novitiate of the Sacred Hearts in Cooteshill, County Cavan. A year later, on Aug. 22 of 1963, I took first vows as a Brother of the Sacred Hearts. Then on Sept. 13, 1963, my fellow novices and I boarded a British Overseas airplane bound for Boston’s Logan Airport. The next morning we arrived at Queen of Peace seminary at the base of Mt. Monadnock in Jaffrey, New Hampshire, where we studied and shoveled snow for the next six years. During those six years, I did not get to speak with my parents or any of my family since my family, as of yet,

did not have a phone. So my American cousins were my contact with the outside world. After completing six years of philosophy and theology, my Irish classmates and I flew home to Ireland on an Aer Lingus jet and shortly thereafter were ordained to the priesthood on May 25, 1969, the Feast of Pentecost. Most of my priestly ministry was spent in Massachusetts in parish life in the Diocese of Fall River. I did spend a year in an all-boys school overlooking Galway Bay and three years in our mission in the Bahamas where it is said, “Everything is better in the Bahamas.” Some of us are still trying to figure that out! Then on June 29, 2012 I landed in Kalaupapa, the Hansen’s disease settlement where St. Damien gave his life for the unfortunate victims of this dread disease. Even as the notorious Russian balloon hovers over the central USA, my thoughts hover over my years in religious life. I thank the Lord for calling me to membership and ministry as a Brother of the Sacred Hearts. I am not usually given to flowery words or expressions. So I simply thank the Lord for calling me to religious life and I thank all those who have enabled me to live my life happily as a Brother of the Sacred Hearts. Aloha.

NOTICE OF PUBLIC HEARING MOLOKAI PLANNING COMMISSION

The Molokai Planning Commission of the County of Maui hereby gives notice of a public hearing on March 22, 2023, commencing at 11:00 a.m., or as soon thereafter as is practicable, either at the Mitchell Pauole Center, 90 Ainoa Street, Kaunakakai, Molokai, or via the BlueJeans videoconferencing platform on the following matters:

A BILL FOR AN ORDINANCE AMENDING CHAPTERS 12.24 AND 19.36, MAUI COUNTY CODE, RELATING TO THE LANDSCAPE PLANTING PLAN

Ms. Kathleen Ross Aoki, Acting Planning Director, referring Council Resolution No. 22-258, to the Maui, Molokai, and Lanai Planning Commissions, a proposed bill entitled “A PROPOSED BILL AMENDING CHAPTER 12.24 AND 19.36, MAUI COUNTY CODE, RELATING TO THE LANDSCAPE PLANTING PLAN.” (J. Hart)

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/138364/Bill-for-Ordinance-amending-Chapter-1936B-relating-to-the-Landscape-Planting-Plan>

The subject public hearing will be conducted in accordance with the Hawaii Revised Statutes, the Maui County Code, and the Rules of the Molokai Planning Commission.

Information pertaining to the subject public hearing item may be obtained from the Maui County Department of Planning, 2200 Main Street, Suite 315, Wailuku, Maui; the Office of the County Administrator, Mitchell Pauole Center, 100 Ainoa St., Kaunakakai, Molokai, or by emailing planning@mauicounty.gov, and at the Molokai Public Library, 15 Ala Malama Avenue, Kaunakakai, Molokai. Copies of the subject public hearing item will be mailed or emailed to any interested person who requests a copy and pays the required fees for copying and postage.

All testimony regarding the public hearing item may be filed prior to the date of the hearing by providing 15 copies of said written testimony to the Department of Planning, 2200 Main Street, Suite 315, Wailuku, Maui, Hawaii 96793, or may be submitted by mail, via email to planning@mauicounty.gov, or may be presented at said hearing if the hearing is not closed to the public. Written testimony must be received by the Department of Planning before the public hearing closes on March 22, 2023. Further information will be provided on the posted meeting agenda.

MOLOKAI PLANNING COMMISSION
by KATHLEEN ROSS AOKI
Acting Planning Director

KALIMA CLASS ACTION SETTLEMENT – SECOND NOTICE

IF YOU FILED A CLAIM WITH THE HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS REVIEW PANEL ON OR BEFORE AUGUST 31, 1995, YOU MAY BE ENTITLED TO A SETTLEMENT PAYMENT AS A CLASS MEMBER IN *KALIMA v. STATE OF HAWAI’I, DEPARTMENT OF HAWAIIAN HOMELANDS, et al.* Civil No. 99-4771-12-LWC

On June 6, 2022, First Circuit Court Judge Lisa W. Cataldo preliminarily approved a settlement of this case. The class members for this settlement are:

“All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.”

In July 2022, class members were mailed information about their legal rights and options. You will be receiving a second notice after January 31, 2023 to give you important information about your claim and whether it is part of the settlement.

If your claim is part of the settlement, your second notice will include Start and End dates for your settlement payment. These dates are based on currently known data. They are subject to change before the final calculations are made if more accurate data becomes known. You will receive your final dates and estimated settlement payment in a third notice, which is expected to be sent after June 6, 2023. **Please review this mailing carefully. Requested corrections must be submitted by April 3, 2023, using the Claim Correction form included with the second notice or found at www.Kalima-Lawsuit.com.**

If you are a class member who did not receive a mailed notice in July 2022, please provide current contact information by the methods described below. If you are a relative of a deceased class member, please designate a person to receive information for your family by the methods described below.

Court’s Revised Case Schedule

The Court has approved a new schedule for final approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- The second notice containing your start and end dates will be mailed on **January 31, 2023**.
- The deadline to opt out of the lawsuit is **April 3, 2023**.
- The third notice containing your estimated settlement payment will be mailed on **June 6, 2023**.
- The deadline for final approval of the Settlement is **July 21, 2023**.

You may update your contact information or designate a representative for a deceased class member in any of the following three ways:

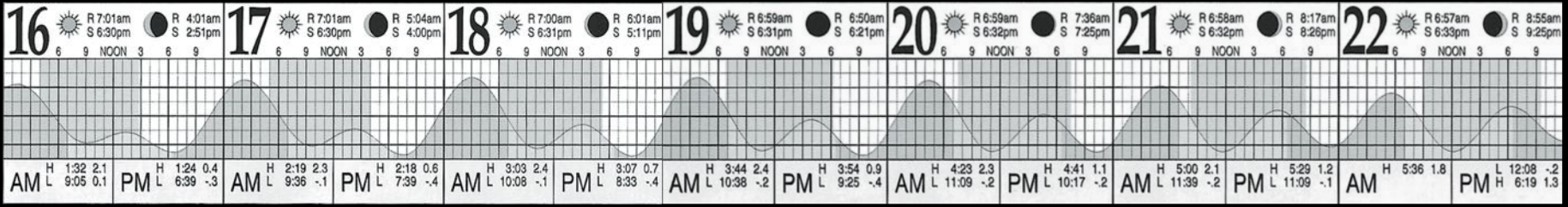
- Update your information at www.Kalima-Lawsuit.com/request; or
- Download and return the Information Request Form from www.Kalima-Lawsuit.com/important-documents; or
- Request and return an Information Request Form by calling 808-650-5551 or 1-833-639-1308 or e-mailing info@kalima-lawsuit.com.

QUESTIONS? Please call **808-650-5551** or **1-833-639-1308**, or visit www.Kalima-Lawsuit.com for more information or to update your contact information.

Inā makemake ‘oe i kēia ‘ōlelo hō‘ike ma ka ‘ōlelo Hawai‘i, e kelepona mai, 808-650-5551 ai‘ole 1-833-639-1308.

THIS IS AN OFFICIAL NOTIFICATION OF THE FIRST CIRCUIT COURT – PLEASE DO NOT CONTACT THE COURT

Tide, Sun & Moon Calendar | brought to you by FRIENDLY MARKET CENTER



TRUDEAU: US FIGHTER SHOT DOWN OBJECT OVER NORTHERN CANADA

ASSOCIATED PRESS

OTTAWA, Ontario — Canadian Prime Minister Justin Trudeau said Saturday that on his order a U.S. fighter jet shot down an "unidentified object" that was flying high over the Yukon, acting a day after the U.S. took similar action over Alaska.

North American Aerospace Defense Command, the combined U.S.-Canada organization that provides shared defense of airspace over the two nations, detected the object flying at a high altitude Friday evening over Alaska, U.S. officials said. It crossed into Canadian airspace on Saturday.

Trudeau spoke with President Joe Biden, who also ordered the object to be shot down. Both Canadian and U.S. jets operating as part of NORAD were scrambled and it was a U.S. jet that shot the object down.

F-22 fighter jets have now taken out three objects in the airspace above the U.S. and Canada over seven days, a stunning development that is raising questions on just what, exactly, is hovering overhead and who has sent them.

At least one of the objects downed was believed to be a spy balloon from China, but the other two had not yet been publicly identified. While Trudeau described the object Saturday as "unidentified," a NORAD spokesman, Maj. Olivier Gallant, said the military



Canadian Prime Minister Justin Trudeau speaks in Vancouver, British Columbia, Jan. 22. On Saturday, Trudeau said that on his order a U.S. warplane shot down an unidentified object that was flying high over northern Canada, acting a day after U.S. planes took similar action over Alaska. DARRYL DYCK/THE CANADIAN PRESS VIA AP, FILE

had determined what it was but would not reveal details.

Trudeau said Canadian forces would recover the wreckage for study. The Yukon is westernmost Canadian territory and the among the least populated part of Canada.

Just about a day earlier, White House National Security Council spokesman John Kirby said an object roughly the size of a small car was shot out of the skies above remote Alaska. Officials couldn't say if it contained any surveillance equipment, where it came from or what purpose it had.

Kirby said it was shot down because it was flying at about 40,000 feet and posed a "reasonable threat" to the safety of civilian flights, not because of any knowledge that it was engaged in surveillance.

According to U.S. Northern Command, recovery operations continued Saturday on sea ice near Deadhorse, Alaska.

In a statement, the Northern Command said there were no new details on what the object was. It said the Alaska Command and the Alaska National Guard, along with the FBI and local law enforcement, were conducting search and recovery.

"Arctic weather conditions, including wind chill, snow, and limited daylight, are a factor in this operation, and personnel will adjust recovery operations to maintain safety," the statement said.

Last Saturday, U.S. officials shot down a large white balloon off the coast of South Carolina.

The balloon was part of a large surveillance program that China has

been conducting for "several years," the Pentagon has said. The U.S. has said Chinese balloons have flown over dozens of countries across five continents in recent years, and it learned more about the balloon program after closely monitoring the one shot down near South Carolina.

China responded that it reserved the right to "take further actions" and criticized the U.S. for "an obvious overreaction and a serious violation of international practice."

The Navy continued survey and recovery activities on the ocean floor off South Carolina, and the Coast Guard was providing security. Additional debris was pulled out Friday, and additional operations will continue as weather permits, Northern Command said.

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- Sous Chef
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EXHIBIT "A" TO DECLARATION OF ROBERT COOMES

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KALIMA CLASS ACTION SETTLEMENT – SECOND NOTICE

IF YOU FILED A CLAIM WITH THE HAWAIIAN HOME LANDS TRUST INDIVIDUAL CLAIMS REVIEW PANEL ON OR BEFORE AUGUST 31, 1995, YOU MAY BE ENTITLED TO A SETTLEMENT PAYMENT AS A CLASS MEMBER IN *KALIMA v. STATE OF HAWAII, DEPARTMENT OF HAWAIIAN HOMELANDS, et al.* Civil No. 99-4771-12-LWC

On June 6, 2022, First Circuit Court Judge Lisa W. Cataldo preliminarily approved a settlement of this case. The class members for this settlement are:

"All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995."

In July 2022, class members were mailed information about their legal rights and options. You will be receiving a second notice after January 31, 2023 to give you important information about your claim and whether it is part of the settlement.

If your claim is part of the settlement, your second notice will include Start and End dates for your settlement payment. These dates are based on currently known data. They are subject to change before the final calculations are made if more accurate data becomes known. You will receive your final dates and estimated settlement payment in a third notice, which is expected to be sent after June 6, 2023. Please review this mailing carefully. Requested corrections must be submitted by April 3, 2023, using the Claim Correction form included with the second notice or found at www.Kalima-Lawsuit.com.

If you are a class member who did not receive a mailed notice in July 2022, please provide current contact information by the methods described below. If you are a relative of a deceased class member, please designate a person to receive information for your family by the methods described below.

Court's Revised Case Schedule

The Court has approved a new schedule for final approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- The second notice containing your start and end dates will be mailed on January 31, 2023.
- The deadline to opt out of the lawsuit is April 3, 2023.
- The third notice containing your estimated settlement payment will be mailed on June 6, 2023.
- The deadline for final approval of the Settlement is July 21, 2023.

You may update your contact information or designate a representative for a deceased class member in any of the following three ways:

- Update your information at www.Kalima-Lawsuit.com/request; or
- Download and return the Information Request Form from www.Kalima-Lawsuit.com/important-documents; or
- Request and return an Information Request Form by calling 808-650-5551 or 1-833-639-1308 or e-mailing info@kalima-lawsuit.com.

QUESTIONS? Please call 808-650-5551 or 1-833-639-1308, or visit www.Kalima-Lawsuit.com for more information or to update your contact information.

Inā makemake 'oe i kēia 'ōlelo hō'ike ma ka 'ōlelo Hawai'i, e kelepona mai, 808-650-5551 ai'ole 1-833-639-1308.

THIS IS AN OFFICIAL NOTIFICATION OF THE FIRST CIRCUIT COURT – PLEASE DO NOT CONTACT THE COURT

Exhibit B

Kalima, et al. v. State of Hawai'i et al. Settlement

PO Box 135035, Honolulu, HI 96801
808-650-5551 OR 833-639-1308

July 1, 2022

Dear Clients and their Ohana -

You are receiving this letter because you have been identified as a Class Member in the *Kalima v. State of Hawai'i* lawsuit, filed December 29, 1999. We are pleased to report that the State of Hawai'i has agreed to settle the lawsuit. The general terms of the Settlement are that the State will pay \$328 million to (1) settle all claims in the lawsuit; (2) locate Class Members, validate, and calculate the settlement payment they will receive; and (3) pay claims administration costs, attorneys' fees, and other costs of settlement. We believe that this Settlement is an enormous victory and will benefit thousands of people. We are saddened, however, that almost 1,000 of the original 2,721 Class Members have passed since this lawsuit was filed in December 1999.

We are writing to thank you for your continued support and to make sure you fully understand the process we will go through next.

The Settlement has been approved by the legislature but still must be approved by the Governor. However, we have received preliminary approval from the Court, and we are allowed to move forward to complete our work to validate claims and determine the individual settlement payments to be made to Class Members with valid claims.

The claims process will take some time for both living and deceased Class Members' claims. The details are explained in the Notice we have enclosed. We ask for your continued patience and promise that we will move the case to final approval of the Settlement as soon as possible.

Not all Class Members will be entitled to a settlement payment. Some individuals may not have valid claims. Some settled their claims, or opted out of the case, or did not allege a breach of trust by DHHL during the class period.

If you are a Class Member, please update your contact information with your current address, telephone number, and email following the instructions in the enclosed Notice.

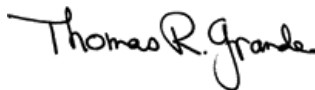
If you are a relative of a deceased Class Member, please designate a family member who will be the primary contact person for their claim and provide us with your name, address, telephone number, and email following the instructions in the enclosed Notice.

You may contact us or update your information by returning the enclosed form, visiting **Kalima-Lawsuit.com**, or calling **808-650-5551 or 833-639-1308**. You will be receiving mailings in the future when we have updates. Please review them and respond promptly when you receive them.

Thank you again for your support of our collective efforts in this case.



With aloha,
Carl M. Varady



Thomas R. Grande

EXH. "B" TO DECLARATION OF ROBERT COOMES

NOTICE OF CLASS ACTION SETTLEMENT

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE ENTITLED TO A SETTLEMENT PAYMENT AS A CLASS MEMBER IN

KALIMA v. STATE OF HAWAII, DEPARTMENT OF HAWAIIAN HOMELANDS, et al.
Civil No. 99-4771-12-LWC

This is an official communication of the First Circuit Court and is not a solicitation. You do not have to pay money or take any other action to join this lawsuit.

On June 6, 2022, First Circuit Court Judge Lisa W. Cataldo preliminarily approved a settlement of this case. The class members for this Settlement are

“All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.”

The following persons will not be entitled to a settlement payment:

- 1) Individuals who did not file a claim with the Panel on or before August 31, 1995.
- 2) Individuals who filed a timely claim with the Panel, but the claim did not assert an individual breach of trust that occurred between August 21, 1959, and June 30, 1988.
- 3) Individuals who filed a timely claim with the Panel, but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- 4) Individuals who filed a timely claim with the Panel, but the claim was not a valid HRS Chapter 674 claim.
- 5) Individuals who filed a timely claim with the Panel but settled their claim.
- 6) Individuals who opted out of the Lawsuit in response to the 2007 class notice.
- 7) Individuals who opted out of the Lawsuit in response to the 2012 class notice.
- 8) Individuals who opt out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

If you are a Settlement Class Member, you do not have to take any action at this time for your claim to be considered. However, please provide current contact information by the methods described below.

If you are a relative of a deceased Settlement Class Member, please designate a person to receive information for your family by the methods described below.

You may update your contact information in any of the following four ways:

- Call 808-650-5551 or 833-639-1308; or
- Update your information through the website at <https://www.kalima-lawsuit.com>; or
- Complete and mail back the enclosed Information Request Form; or
- Attend a community meeting to be held in your area or virtually online. Check Important Dates on the website for the meeting schedule, <https://www.kalima-lawsuit.com>.

What does the Settlement provide?

The State of Hawai'i has agreed to create a \$328 million Settlement Fund for the Settlement Class Members. If the Settlement is approved by the Court, Settlement Class Members who have valid claims may be eligible to receive a payment paid out of the Settlement Fund, after payment is made for special master and claims administration costs, attorneys' fees, and a Class Representative Incentive Award. The amount of the settlement payment will be based on an established Court-approved distribution plan. The payment amount cannot be determined at this time, but each Settlement Class Member will be notified at a later date of the following: (1) whether their claim is valid; and, if so, (2) the estimated amount to be paid to that Settlement Class Member under the Settlement.

Please turn this page over to see your legal rights and options.

Your Legal Rights and Options in this Settlement

Right to Payment for Class Members	<p>If you are a Settlement Class Member, you do not have to take any action at this time to receive a settlement payment. The validity of your claim will be determined at a later date. However, please confirm and update your mailing address, telephone number(s), and email address by using the https://www.kalima-lawsuit.com contact information update page OR by mailing the information to the following address:</p> <p>Kalima Claims Administrator P.O. Box 135035 Honolulu, HI 96801</p>
Right to Payment for Deceased Class Members	<p>If you are a relative of a deceased Class Member, please designate someone to represent your family. Please provide your name, mailing address, telephone number(s), and email address by using the https://www.kalima-lawsuit.com contact information update page OR by mailing the information to the following address:</p> <p>Kalima Claims Administrator P.O. Box 135035 Honolulu, HI 96801</p>
If You Wish to Exclude Yourself from Participating in the Settlement	<p>You may exclude yourself from participating in this Settlement. If you do so, you will not receive a payment from the Settlement Fund. You will retain any claims you may have against the State of Hawai'i and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal right you may have at your own risk and your own expense.</p> <p>To exclude yourself from the Settlement, you must mail a signed letter to the Claims Administrator at Kalima Settlement, P.O. Box 135035, Honolulu, Hawai'i 96801, <i>postmarked by December 15, 2022</i>. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation as well as your full name, address, telephone number, a statement that you wish to be excluded, and your signature.</p> <p>If you wish to exclude the claims of a deceased class member, you must obtain probate court approval appointing you as the personal representative of the estate.</p> <p>If you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. Any separate lawsuit should be filed before April 14, 2023, to ensure it falls within the potential statutory limitations period. Please consult with a lawyer about filing your claim.</p>
If You Wish to Object	<p>You may file an objection if you wish to object to the Settlement. The deadline to object to the Settlement is March 15, 2023.</p>

Inā makemake 'oe i kēia 'ōlelo hō'ike ma ka 'ōlelo Hawai'i, e kelepona mai, 808-650-5551 ai'ole 833-639-1308.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this case. They will not be able to give you advice about this case. If you have questions, please call 808-650-5551 OR 833-639-1308 .

NOTICE: The attorneys and other people working on this case will never ask you for your banking or other financial information. You may be asked to verify your identity.

**THIS IS AN OFFICIAL NOTIFICATION OF THE FIRST CIRCUIT COURT –
PLEASE DO NOT CONTACT THE COURT.**

CLASS MEMBER INFORMATION:

YYY Y

[illegible]

We are sorry for your loss. We will send you more information about the probate process in the future.

First Name:

[illegible]

MI:

7

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Last Name:

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ZIP Code:

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[illegible]

☐ Yes ☐ No



Kalima Lawsuit Settlement Update

Kalima Claims Administrator <info@kalima-lawsuit.com>

Mon 7/11/2022 4:08 PM

CAUTION: This email originated from outside of Epiq. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report phishing by using the "Phish Alert Report" button above.

Dear Clients and their Ohana,

You are receiving this email to provide an update on the Kalima v. State of Hawai'i lawsuit, filed December 29, 1999. We are pleased to report that the State of Hawai'i has agreed to settle the lawsuit. The general terms of the Settlement are that the State will pay \$328 million to (1) settle all claims in the lawsuit; (2) locate Class Members, validate whether they will receive payment, and calculate the settlement payment they will receive; and (3) pay claims administration costs, attorneys' fees, and other costs of settlement. We believe that this Settlement is an enormous victory and will benefit thousands of people. We are saddened, however, that almost 1,000 of the original 2,721 Class Members have passed since this lawsuit was filed.

We are writing to thank you for your continued support and to make sure you fully understand the process we will go through next.

The Settlement has been approved by the legislature and was signed into law by the Governor on July 11, 2022. We have received preliminary approval of the settlement from the Court. We now are moving forward to complete our work to validate claims and determine the individual settlement payments to be made to Class Members with valid claims.

The claims process will take some time for both living and deceased Class Members' claims. The details are explained in the Notice we have linked to this e-mail. We ask for your continued patience and promise that we will move the case to final approval of the Settlement as soon as possible.

Not all Class Members will be entitled to a settlement payment. Some individuals may not have valid claims. Some settled their claims, or opted out of the case, or did not allege a breach of trust by DHHL during the class period.

If you are a Class Member, please update your contact information with your current address, telephone number, and email by either visiting [Kalima-Lawsuit.com](https://www.kalima-lawsuit.com), or calling **808-650-5551** or **833-639-1308**.

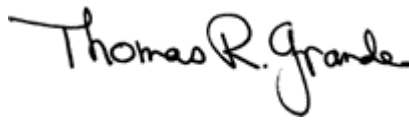
If you are a relative of a deceased Class Member, please designate a family member who will be the primary contact person for their claim and provide us with their name, address, telephone number, and email [info@Kalima-Lawsuit.com](mailto:info@kalima-lawsuit.com), or call **808-650-5551** or **833-639-1308**.

Official Court Documents including the Settlement Agreement, Order Granting Preliminary Approval of the Settlement, and other materials may be found on the website at [Kalima-Lawsuit.com](https://www.kalima-lawsuit.com).

Thank you again for your support of our collective efforts in this case.



With aloha,
Carl M. Varady



Thomas R. Grande

AG789_v02

To unsubscribe from this list, please click on the following link: [Unsubscribe](#)

Exhibit C

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF NO ENTITLEMENT TO PAYMENT FROM CLASS ACTION SETTLEMENT
Kalima v. State of Hawai'i, CIVIL NO. 99-4771-12 LWC

YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE NOT ENTITLED TO A PAYMENT FROM THE KALIMA v. STATE OF HAWAI'I CLASS ACTION SETTLEMENT FOR THE FOLLOWING REASON:

You filed a timely claim(s) with the Panel but settled your claim(s).

You have a right to object to the determination that you are not entitled to a payment by submitting your objection in writing, **postmarked by March 17, 2023**, to the following address:

Claims Administrator
Kalima v. State of Hawai'i Settlement
P.O. Box 135035
Honolulu, HI 96801

Please provide copies of any documents or other evidence that you believe should be considered in support of your position.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice.
They will not be able to give you advice about this case. If you have questions, please
call 1-808-650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

EXH. "C" TO DECLARATION OF ROBERT COOMES

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF NO ENTITLEMENT TO PAYMENT FROM CLASS ACTION SETTLEMENT
***Kalima v. State of Hawai'i*, CIVIL NO. 99-4771-12 LWC**

YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE NOT ENTITLED TO A PAYMENT FROM THE KALIMA v. STATE OF HAWAI'I CLASS ACTION SETTLEMENT FOR THE FOLLOWING REASON:

You opted out of the lawsuit in response to the 2007 or 2012 class notice. A copy of the settlement agreement or notice that you chose to opt out of is enclosed.

You have a right to object to the determination that you are not entitled to a payment by submitting your objection in writing, **postmarked by March 17, 2023**, to the following address:

Claims Administrator
Kalima v. State of Hawai'i Settlement
P.O. Box 135035
Honolulu, HI 96801

Please provide copies of any documents or other evidence that you believe should be considered in support of your position.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice.
They will not be able to give you advice about this case. If you have questions, please
call 1-808-650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

EXH. "C" TO DECLARATION OF ROBERT COOMES

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF CLAIM FROM CLASS ACTION SETTLEMENT
Kalima v. State of Hawai'i, CIVIL NO. 99-4771-12 LWC

**YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE A CLASS MEMBER IN
THE *KALIMA V. STATE OF HAWAI'I* CLASS ACTION SETTLEMENT.**

Based on currently available records from the State of Hawai'i Department of Hawaiian Home Lands ("DHHL"), the starting date and ending dates we have been able to identify for your claims are:

Type of Homestead

Start Date

End Date

THESE DATES ARE BASED ON CURRENT DATA. THEY ARE SUBJECT TO CHANGE BEFORE THE FINAL CALCULATIONS IF MORE ACCURATE DATA BECOMES KNOWN. YOU WILL RECEIVE YOUR FINAL DATES AND ESTIMATED SETTLEMENT PAYMENT IN A NOTICE SENT AFTER JUNE 6, 2023. **PLEASE SEE THE LAST PAGE OF THIS LETTER FOR THE COURT'S REVISED CASE SCHEDULE.**

Important Definitions

- "Type of Homestead" is the type you applied for or attempted to apply for, were awarded or assigned, or sought or received as a successor to an application or a homestead lease.
- "Start date" is the date you applied or attempted to apply for a homestead or succeeded or attempted to succeed to a homestead application.
- "End date" is the date of your lease award, if any, or the date of a Settlement Class Member's death or April 14, 2022, whichever is earliest. The award date for accelerated and undivided awards is the date of subdivision approval or occupancy.

These definitions also apply to claims brought on behalf of others who applied, attempted to apply, succeeded to, or attempted to succeed to an application or a homestead lease.

The Hawai'i Supreme Court has ruled that the State of Hawai'i Department of Hawaiian Homelands breached its trust obligations to beneficiaries by failing to keep accurate records. The amount of payment you receive will be based upon accurate start and end dates for your claim(s). Because of DHHL's failure to keep accurate records, the above information we have may not be correct.

Please carefully review these dates and, if necessary, correct this information using the enclosed form and return it to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801. Your corrections must be postmarked by **April 3, 2023**, to be accepted.

**IF YOU AGREE WITH THE INFORMATION LISTED ABOVE AND WISH TO
PARTICIPATE IN THE SETTLEMENT, YOU DO NOT NEED TO TAKE FURTHER ACTION
OR RESPOND TO THIS LETTER.**

You will receive a notice after June 6, 2023, informing you of the amount of your Settlement Payment based upon the above information or your verified corrected information. The Court has scheduled the Fairness Hearing for July 21, 2023. Settlement Payments will be distributed starting thirty days after the Fairness Hearing, unless any Settlement Class Member appeals or the Court orders other delays.

Information about how start and end dates are determined, information for relatives of deceased Settlement Class Members, and how to opt out or intervene can be found below and on the following pages.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or via email at info@kalima-lawsuit.com.

Outline of Rules of Payment Eligibility and that Determine Start and End Dates of Claims

The First Circuit Court has approved and adopted the following rules to determine who is eligible to receive a Settlement Payment and to determine the start and end dates of claims.

Rules for Determining Settlement Class Members Who are Not Entitled to a Settlement Payment

Under the Settlement Agreement approved by the Court, the following Settlement Class Members will not receive Settlement Payments:

1. Individuals who did not file a claim with the Hawaiian Claims Office Panel ("Panel") on or before August 31, 1995.
2. Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust that occurred between August 21, 1959, and June 30, 1988.
3. Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
4. Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
5. Individuals who filed a timely claim with the Panel but settled their claim.
6. Individuals who opted out of the lawsuit in response to the 2007 Class Notice.
7. Individuals who opted out of the lawsuit in response to the 2012 Class Notice.
8. Individuals who opt out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

Rules for Determining Persons Who May be Entitled to a Settlement Payment

1. Individuals who filed a claim with the Panel on or before August 31, 1995, and whose claims are not within the eight categories in the Settlement Agreement described above.
2. Individuals who filed a claim with the Panel on or before August 31, 1995, on behalf of another person such as a father, mother, or other relative, irrespective of whether that person is deceased, who are identified in the HCO Claim Form, and whose claims are not within the eight categories in the Settlement Agreement described above.

General Rules for Measuring Claims

1. Any claim that involves a delay between an application or attempted application and award will be treated as a Waiting List claim.
2. Applications refused for improper reasons do not affect the claim.

Rules for Determining Starting Date (Date of Loss) for Claims

1. The starting date for claims shall be the earliest of (1) attempted application or (2) actual application by a qualified beneficiary.
2. "Attempted application" means a qualified beneficiary attempted to apply for a homestead in person or by mail and the application was refused for some improper reason, such as gender, marital status, income, assets, property ownership, last name, appearance, or any other improper reason.

3. “Application date” is the earliest application date. Later transfers to other areas or islands do not affect the application date.
4. An application submitted prior to August 21, 1959, shall be considered to be filed as of August 21, 1959.
5. If an estimate of the application date was given by the Settlement Class Member, the date shall be the midpoint of the estimated time period (e.g., “July” = 7/15; “1970” = 6/30/70; “early 1960s” = 6/30/62).
6. An application date that is unknown and cannot be obtained from any current source shall be considered the 21st birthday (before July 1, 1985) or 18th birthday (between July 1, 1985, and June 30, 1988, the end of the Class Period). For Settlement Class Members who applied or attempted to apply before they were of age, their claims will begin the date of their 21st birthday, for applications before July 1, 1985, and their 18th birthday, for applications after July 1, 1985.

Rule for Successors to Applications

The application date for a successor to an application is the date of succession to the application.

Rules for Type of Applications

1. A Settlement Class Member shall be awarded payment for a maximum of two claims for each type of application submitted (e.g., residential and agricultural or residential and pastoral). Where a Settlement Class Member applies for both agricultural and pastoral, the earliest application will serve as a single claim because a beneficiary cannot hold both agricultural and pastoral leases. If both agricultural and pastoral applications are filed on the same date, the claim will be calculated as an agricultural claim.
2. A Settlement Class Member’s claim shall be measured by the type of application submitted, not the type of application awarded.

Rules for Determining Ending Date for Claims

1. The ending date for claims shall be the date of lease award, or, if there is no award, the date of death or April 14, 2022 (the date of Settlement), whichever is earliest.
2. A Settlement Class Member’s date of lease award shall be considered the date the lease was effective, or the date of subdivision approval for accelerated or undivided interest awards.
3. A Settlement Class Member’s date of award for an accelerated or undivided interest award that is transferred by the Settlement Class Member before the date of occupancy or subdivision approval is the date of that transfer.

Information for Relatives of Deceased Settlement Class Members

To Receive a Settlement Payment, Family Members of Deceased Settlement Class Members Must Submit an Information Request Form and Be Confirmed as Heirs.

If you have not already done so, please complete an Information Request Form, which can be downloaded from or submitted at kalima-lawsuit.com. To request that the form be sent to you via mail or email, contact info@kalima-lawsuit.com or call 808-650-5551 OR 833-639-1308.

How will the Settlement Payment to Deceased Class Members Be Made?

If the Settlement Class Member did not identify family members as heirs, family members who seek to qualify to receive a Settlement Payment must be confirmed as heirs. They must do so through a special court proceeding called probate.

Probate court proceedings will divide the Settlement Payment according to the terms of the deceased Settlement Class Member’s will or trust. If the deceased Settlement Class Member did not have a will or trust (called “intestate probate”), Hawai’i probate law will determine how the payment is divided among the confirmed heirs.

Who Will Represent Deceased Settlement Class Members in Probate Court? Should We Hire Our Own Attorney?

You may hire your own attorney for probate proceedings. Reasons to hire a probate attorney include: (1) if you want to confirm your status as an heir and personal representative, which may allow you to receive payment sooner; or (2) if there is a potential for disputes among family members.

How do We Find an Attorney?

If the deceased Settlement Class Member had a will or trust, you should contact the attorney who prepared the will or trust to discuss this question. Otherwise, you may contact the Hawai'i State Bar Association Lawyer Information and Referral Service at 808-537-9140 or email LRIS@hsba.org and ask for a referral to lawyers who specialize in probate matters.

What Are the Requirements for Settlement Class Members Who Died outside of Hawai'i?

Please consult with a probate attorney in your state if your family member died outside of Hawai'i and send a certified copy of the family member's death certificate to the Claims Administrator. If you seek to be confirmed as an heir or personal representative of your family member's estate, you should retain an attorney for that purpose.

What if We Can't Afford an Attorney?

The Court will be asked to approve a Probate Plan that provides for a Special Administrator who will be paid out of settlement funds. If the Court approves this plan, the Special Administrator may be able to: (1) determine if there are existing wills or trusts; (2) file a motion to confirm known heirs; and (3) obtain probate court approval to divide the Settlement Payment among confirmed heirs. The attorneys' fees and costs of this work would be deducted from your Settlement Payment. Because there are more than 1,100 deceased Settlement Class Members and thousands of potential heirs, that process is expected to take until December 31, 2023, and possibly longer.

Your Legal Right to Opt Out of This Settlement

If You Wish to Exclude Yourself from Participating in the Settlement	You may exclude yourself from participating in this Settlement. If you do so, you will not receive a payment from the Settlement Fund. The deadline to request exclusion from the Settlement is April 3, 2023 . To exclude yourself from the Settlement, please follow the instructions below.
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You may exclude yourself from participating in the Settlement. If you do so, you will not receive any compensation from the Settlement Fund. You will retain any claims you may have against the State of Hawai'i and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have at your own risk and your own expense.

To exclude yourself from the Settlement, you must mail a signed letter to the Kalima Lawsuit Claims Administrator at P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked on or before **April 3, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation (*Kalima et al. v State of Hawai'i et al.*, Civil No. 99-4771-12 LWC), as well as your full name, address, telephone number, statement that you wish to be excluded, and signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased Settlement Class Member, you must obtain probate court approval appointing you as the personal representative of the estate before doing so.

If you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. **Any separate lawsuit should be filed before July 21, 2023**, to ensure it falls within the potential statutory limitations period. Please consult with an attorney about filing such a claim.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or email info@kalima-lawsuit.com.

Your Legal Right to Intervene in This Case

If You Wish to Intervene in This Case	If you wish to intervene in this case, you may hire an attorney at your own expense to do so. You no longer will be represented by Class Counsel, and you will have to consult with your retained attorney to obtain further information about the intervention process.
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Revised Schedule

The Court has approved a new schedule for Final Approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- This second notice containing your start and end dates will be mailed on **January 31, 2023**.
- The deadline to opt out of the lawsuit is **April 3, 2023**.
- The third notice containing your estimated Settlement Payment will be mailed on **June 6, 2023**.
- The deadline for Final Approval of the Settlement is **July 21, 2023**.

SUBMIT THIS FORM ONLY IF YOU DISAGREE WITH START AND END DATES LISTED IN THE ATTACHED LETTER.

First Name:

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Date of Birth:

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MM DD YYYY

MI:

Last Name:

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Last 4 of Social Security Number:

First Name:	MI:	Last Name:
Address:		
City:	State:	ZIP Code:
Telephone:		
Email:		
Relationship to Settlement Class Member:		

Type of Homestead Application	Start Date			End Date		
Residential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	MM	DD	YYYY	MM	DD	YYYY
Agricultural	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	MM	DD	YYYY	MM	DD	YYYY
Pastoral	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
	MM	DD	YYYY	MM	DD	YYYY

PLEASE SUBMIT ANY DOCUMENTS YOU HAVE TO SUPPORT YOUR POSITION BY MAIL. DO NOT SEND DOCUMENTS YOU HAVE ALREADY SUBMITTED TO THE HAWAIIAN CLAIMS OFFICE OR TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

By my signature below, I affirm on penalty of law that the foregoing statements are true based on my own personal knowledge:

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Signature

Dated:

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MM DD YYYY

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Print name

To request corrections, you must submit this form by mail to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801, OR via email to info@kalima-lawsuit.com. You may download a copy of the correction form by going to kalima-lawsuit.com. **Your corrections must be postmarked by April 3, 2023, to be accepted. YOU ARE NOT PERMITTED TO SUBMIT NEW CLAIMS. THE CLAIMS DEADLINE CLOSED AUGUST 30, 1995. YOU MAY ONLY MAKE CORRECTIONS TO THE CLAIM TYPE, CLAIM START DATE, AND CLAIM END DATE.**

EXH. "C" TO DECLARATION OF ROBERT COOMES

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF CLAIM FROM CLASS ACTION SETTLEMENT
Kalima v. State of Hawai'i, CIVIL NO. 99-4771-12 LWC

**YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU MAY BE ELIGIBLE FOR
PAYMENT IN THE *KALIMA V. STATE OF HAWAII* CLASS ACTION SETTLEMENT FOR A
CONSTRUCTION OR INFRASTRUCTURE CLAIM.**

You are receiving this letter because you submitted a construction or infrastructure claim to the Hawaiian Claims Office between 1991 and 1995. Construction and infrastructure claims are for defective housing, utilities, or lots provided by the Department of Hawaiian Home Lands ("DHHL"). If you did not submit a construction or infrastructure claim to the Hawaiian Claims Office, **please disregard this letter.**

How Will Construction Claims Be Decided?

Construction claims will be decided by a Construction Expert appointed by the Court and supervised by the Settlement Special Master. Based upon the standards approved by the Court found on page 2 of this letter, the Construction Expert will decide: (1) if you have a valid claim for construction or infrastructure defect and (2) if you do have a valid claim, what the reasonable repair cost was for the defect at the time it was repaired or at the time the claim was submitted, whichever occurred first.

What Construction and Infrastructure Claims Will Receive a Settlement Payment?

Construction or infrastructure claims will only be considered for houses constructed or sold by DHHL within the class period from August 21, 1959, to June 30, 1988 (the "Class Period"). Construction or infrastructure damage for all other houses and damage that occurred outside of the Class Period will not be considered.

What Will the Construction Expert Consider?

The Construction Expert will review your submissions to the Hawaiian Claims Office, including any expert or investigative reports and/or factual findings or recommendations made by investigators or the Panel.

You do not have to submit any additional information for your construction or infrastructure claim to be considered. If you wish to submit additional information, please complete and return the attached form. **This form must be postmarked by April 3, 2023, to be accepted. You cannot submit new claims.**

Please see the last page of this letter for the Court's revised schedule.

How Will Claims Be Decided?

The Construction Expert will make recommendations to the Special Master for the Settlement Payment based on the information Settlement Class Members have submitted. You will receive a third notice with the amount of your payment and may accept or object in writing. The Court will review any objections and approve the final Settlement Payment.

How Will Settlement Class Members Find Out if They Are Entitled to a Construction Claim Payment and the Amount?

Settlement Class Members will receive a notice after June 6, 2023, informing them of the amount of their Settlement Payment, if any, based on the information Settlement Class Members provided to the Hawaiian Claims Office. The Court has scheduled the Fairness Hearing for July 21, 2023.

Information for relatives of deceased Settlement Class Members who submitted construction claims is found on page 3.

If you wish to opt out of this Settlement or intervene in the case if you do not opt out, see page 4.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please call 808-650-5551 OR 833-639-1308 or email info@kalima-lawsuit.com.

EXH. "C" TO DECLARATION OF ROBERT COOMES

OUTLINE OF RULES FOR CONSTRUCTION AND INFRASTRUCTURE CLAIMS

General Rule

The purpose of the Construction Expert's work is to determine the reasonable cost of stated necessary repairs. Because of the age of proof, the fact that forty percent of the original Settlement Class Members are deceased, and this is a settlement, not litigation, typical evidentiary analysis based on a preponderance of evidence is not possible. The Construction Expert will make recommendations based on the "some evidence" standard analogous to the analysis that is applied under Haw. R. Civ. Pro. 59 when a new trial is requested after verdict.

Summary of Specific Rules:

1. A Settlement Class Member who submitted a construction or infrastructure claim to the HCO Panel will have the construction or infrastructure claim decided by a Construction Expert supervised by the Special Master appointed by the Court.
2. Construction or infrastructure claims will only be considered by houses constructed or sold by DHHL within the Class Period (*i.e.*, August 21, 1959, to June 30, 1988).
3. Construction or infrastructure damage that occurred outside of the Class Period will not be considered.
4. A construction claim submitted by a Settlement Class Member who succeeded to a homestead after June 30, 1988, shall be considered to be a representative claim on behalf of the person who occupied the lot during the Class Period.
5. The Construction Expert may consider the following evidence to evaluate individual construction claims:
 - a. Submissions by Settlement Class Members
 - b. Expert reports
 - c. Investigative reports
 - d. Factual findings or recommendations made by the Panel or investigator
 - e. Any other relevant facts
6. If an amount of damage or expense is stated, the amount will serve as the basis of the claim unless the Construction Expert determines it to be unreasonable, in which case s/he will make a reasonable recommendation based on similar cases, average repair/damages amounts, or other basis. If no damage amount is stated, the expert will make a recommendation based on similar cases, average repair/damages amounts, or other reasonable basis.
7. The Construction Expert will make recommendations to the Special Master for the Settlement Payment based upon the information submitted. The Court will approve the final Settlement Payment.

Information for Relatives of Deceased Settlement Class Members

To Receive a Settlement Payment, Family Members of Deceased Class Members Must Submit an Information Request Form and Be Confirmed as Heirs.

If you have not already done so, please complete an Information Request Form, which can be downloaded from or submitted at kalima-lawsuit.com/request. To request that the form be sent to you via mail or email, contact info@kalima-lawsuit.com or call 808-650-5551 OR 833-639-1308.

How will the Settlement Payment to Deceased Class Members Be Made?

If the Settlement Class Member did not identify family members as heirs, family members who seek to qualify to receive a Settlement Payment must be confirmed as heirs. They must do so through a special court proceeding called probate.

Probate court proceedings will divide the Settlement Payment according to the terms of the deceased Settlement Class Member's will or trust. If the deceased Settlement Class Member did not have a will or trust (called "intestate probate"), Hawai'i probate law will determine how the payment is divided among the confirmed heirs.

Who Will Represent Deceased Settlement Class Members in Probate Court? Should We Hire Our Own Attorney?

You may hire your own attorney for probate proceedings. Reasons to hire a probate attorney include: (1) if you want to confirm your status as an heir and personal representative, which may allow you to receive payment sooner; or (2) if there is a potential for disputes among family members.

How do We Find an Attorney?

If the deceased Settlement Class Member had a will or trust, you should contact the attorney who prepared the will or trust to discuss this question. Otherwise, you may contact the Hawai'i State Bar Association Lawyer Information and Referral Service at 808-537-9140 or email LRIS@hsba.org and ask for a referral to lawyers who specialize in probate matters.

What Are the Requirements for Settlement Class Members Who Died outside of Hawai'i?

Please consult with a probate attorney in your state if your family member died outside of Hawai'i and send a certified copy of the family member's death certificate to the Claims Administrator. If you seek to be confirmed as an heir or personal representative of your family member's estate, you should retain an attorney for that purpose.

What if We Can't Afford an Attorney?

The Court will be asked to approve a Probate Plan that provides for a Special Administrator who will be paid out of settlement funds. If the Court approves this plan, the Special Administrator may be able to: (1) determine if there are existing wills or trusts; (2) file a motion to confirm known heirs; and (3) obtain probate court approval to divide the Settlement Payment among confirmed heirs. The attorneys' fees and costs of this work would be deducted from your Settlement Payment. Because there are more than 1,100 deceased Settlement Class Members and thousands of potential heirs, that process is expected to take until December 31, 2023, and possibly longer.

Your Legal Right to Opt Out of This Settlement

If You Wish to Exclude Yourself from Participating in the Settlement	You may exclude yourself from participating in this Settlement. If you do so, you will not receive a payment from the Settlement Fund. The deadline to request exclusion from the Settlement is April 3, 2023 . To exclude yourself from the Settlement, please follow the instructions below.
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You may exclude yourself from participating in the Settlement. If you do so, you will not receive any compensation from the Settlement Fund. You will retain any claims you may have against the State of Hawai'i and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have at your own risk and your own expense.

To exclude yourself from the Settlement, you must mail a signed letter to the Kalima Lawsuit Claims Administrator at P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked on or before **April 3, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation (*Kalima et al. v State of Hawai'i et al.*, Civil No. 99-4771-12 LWC), as well as your full name, address, telephone number, statement that you wish to be excluded, and signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased Settlement Class Member, you must obtain probate court approval appointing you as the personal representative of the estate before doing so.

If you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. **Any separate lawsuit should be filed before July 21, 2023**, to ensure it falls within the potential statutory limitations period. Please consult with an attorney about filing such a claim.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or email info@kalima-lawsuit.com.

Your Legal Right to Intervene in This Case

If You Wish to Intervene in This Case	If you wish to intervene in this case, you may hire an attorney at your own expense to do so. You no longer will be represented by Class Counsel, and you will have to consult with your retained attorney to obtain further information about the intervention process.
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Revised Schedule

The Court has approved a new schedule for Final Approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- The second notice containing your start and end dates will be mailed on **January 31, 2023**.
- The deadline to opt out of the lawsuit is **April 3, 2023**.
- The third notice containing your estimated Settlement Payment will be mailed on **June 6, 2023**.
- The deadline for Final Approval of the Settlement is **July 21, 2023**.

By my signature below, I affirm on penalty of law that the foregoing statements are true based on my own personal knowledge:

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Signature

Dated:

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MM DD YYYY

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Print name

To submit additional information about a construction or infrastructure claim, you must submit this form to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801, OR via email to info@kalima-lawsuit.com. You may download a copy of the correction form by going to kalima-lawsuit.com. **You must submit this information by April 3, 2023. CONSTRUCTION DEFECTS OR INFRASTRUCTURE DEFECTS MUST HAVE OCCURRED PRIOR TO JUNE 30, 1988. YOU MAY NOT ASSERT A NEW CLAIM FOR CONSTRUCTION.**

EXH. "C" TO DECLARATION OF ROBERT COOMES

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF NO ENTITLEMENT TO PAYMENT FROM CLASS ACTION SETTLEMENT
***Kalima v. State of Hawai'i*, CIVIL NO. 99-4771-12 LWC**

**YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE NOT ENTITLED TO A
PAYMENT FROM THE KALIMA v. STATE OF HAWAI'I CLASS ACTION SETTLEMENT FOR THE
FOLLOWING REASON:**

- _____ You did not file a claim with the Panel on or before August 31, 1995.
- _____ You filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.
- _____ You filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- _____ You filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.

You have a right to object to the determination that you are not entitled to a payment by submitting your objection in writing with any supporting documentation **postmarked by April 3, 2023**, to:

Claims Administrator
Kalima v. State of Hawai'i Settlement
PO Box 135035
Honolulu, HI 96801

Please provide copies of any documents or other evidence that you believe should be considered in support of your position.

If you wish to opt out of this settlement, please follow the instructions on the reverse side of this notice.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. They will not be able to give you advice about this case. If you have questions, please call (808) 650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

Your Legal Right to Opt Out of This Settlement

If You Wish to Exclude Yourself from Participating in the Settlement	<p>You may exclude yourself from participating in this Settlement. If you do so, you will not receive a payment from the Settlement Fund. The deadline to request exclusion from the Settlement is April 3, 2023.</p> <p>To exclude yourself from the Settlement, please follow the instructions below.</p>
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You may exclude yourself from participating in the Settlement. If you do so, you will not receive any compensation from the Settlement Fund. You will retain any claims you may have against the State of Hawai'i and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have at your own risk and your own expense.

To exclude yourself from the Settlement, you must mail a signed letter to the Claims Administrator at P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked by **April 3, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation (*Kalima et al. v. State of Hawai'i et al.*, Civil No. 99-4771-12 LWC), as well as your full name, address, telephone number, a statement that you wish to be excluded, and your signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased class member, you must obtain probate court approval appointing you as the personal representative of the estate.

EXH. "C" TO DECLARATION OF ROBERT COOMES

If you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. **Any separate lawsuit should be filed before July 21, 2023**, to ensure it falls within the potential statutory limitations period. Please consult with a lawyer about filing your claim.

Your Legal Right to Intervene in This Case

If You Wish to Intervene in This Case	If you wish to intervene in this case, you may hire an attorney at your own expense to do so. You no longer will be represented by Class Counsel and you will have to consult with your retained attorney to obtain further information about the intervention process.
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Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. They will not be able to give you advice about this case. If you have questions, please call 1-808-650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

EXH. "C" TO DECLARATION OF ROBERT COOMES

Exhibit D

Kalima Claims Administrator
P.O. Box 135035
Honolulu, HI
96801

<<Name & Address Block>>

Date: March 10, 2023
Tracking Number: <<TN>>

Aloha << Name >>,

This letter is written because our system sent two conflicting notices about your claims in this case.

Notice of Settled Claims

You previously settled your claims. A copy of your settlement documents was included in the settled claims notice letter sent the week of January 16, 2023. We are enclosing a duplicate copy with this letter. **This letter is correct.**

Under the terms of the Settlement approved by the Court in this case and based upon your previous decision to settle your claims, you are not entitled to a settlement payment.

If you contend you did not settle your claims you may still submit any documents in support of your position **postmarked on or before April 3, 2023.**

Claim Notice

The second notice sent the week of January 31, 2023, was a Claim Notice. **THIS NOTICE WAS MISTAKENLY SENT TO YOU.** An error in the mailing system mistakenly sent the claim notice to you. It should not have been sent. You do not have claims under the Settlement Agreement because you previously settled your claims.

Please contact the Claims Administrator at 1-808-650-5551 or 1-833-639-1308 (Toll-Free), info@kalima-settlement.com, or by mail to the above address if you have any further questions. Please do not contact the Court directly.

We sincerely apologize for any confusion caused by this mistake.

Kalima v State of Hawai'i Claims Administrator

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF NO ENTITLEMENT TO PAYMENT FROM CLASS ACTION SETTLEMENT
***Kalima v. State of Hawai'i*, CIVIL NO. 99-4771-12 LWC**

YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE NOT ENTITLED TO A PAYMENT FROM THE KALIMA v. STATE OF HAWAI'I CLASS ACTION SETTLEMENT FOR THE FOLLOWING REASON:

You filed a timely claim(s) with the Panel but settled your claim(s).

You have a right to object to the determination that you are not entitled to a payment by submitting your objection in writing, **postmarked by March 17, 2023**, to the following address:

Claims Administrator
Kalima v. State of Hawai'i Settlement
P.O. Box 135035
Honolulu, HI 96801

Please provide copies of any documents or other evidence that you believe should be considered in support of your position.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice.
They will not be able to give you advice about this case. If you have questions, please
call 1-808-650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

EXH. "D" TO DECLARATION OF ROBERT COOMES

Kalima Claims Administrator
P.O. Box 135035
Honolulu, HI
96801

<<Name & Address Block>>

Date: March 10, 2023
Tracking Number: <<TN>>

Aloha << Name >>,

This letter is written because our system sent two conflicting notices about your claims in this case.

Opt Out Notice

You previously opted out of the case in 2007 or 2012. A copy of your opt-out notice was included in the opt out notice letter sent the week of January 16, 2023, and we are enclosing a duplicate copy with this letter. **This letter is correct.**

Under the terms of the Settlement approved by the Court and based upon your previous decision to opt out of the case, you are not entitled to a settlement payment.

If you contend you did not opt out of this lawsuit, you may still submit any documents in support of your position **postmarked on or before April 3, 2023.**

Claim Notice

The second notice you received was a Claim Notice. **THIS NOTICE WAS MISTAKENLY SENT TO YOU.** An error in the mailing system mistakenly sent the claim notice to you. It should not have been sent. You do not have claims under the Settlement Agreement because you opted out.

Please contact the Claims Administrator at 1-808-650-5551 or 1-833-639-1308 (Toll-Free), info@kalima-settlement.com, or by mail to the above address if you have any further questions. Please do not contact the Court directly.

We sincerely apologize for any confusion caused by this mistake.

Kalima v State of Hawai'i Claims Administrator

Kalima v. State of Hawai'i Settlement
P.O. Box 135035, Honolulu, HI 96801
Telephone: 808-650-5551 OR 833-639-1308
Email: info@kalima-lawsuit.com

NOTICE OF NO ENTITLEMENT TO PAYMENT FROM CLASS ACTION SETTLEMENT
Kalima v. State of Hawai'i, CIVIL NO. 99-4771-12 LWC

YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE NOT ENTITLED TO A PAYMENT FROM THE KALIMA v. STATE OF HAWAI'I CLASS ACTION SETTLEMENT FOR THE FOLLOWING REASON:

You opted out of the lawsuit in response to the 2007 or 2012 class notice. A copy of the settlement agreement or notice that you chose to opt out of is enclosed.

You have a right to object to the determination that you are not entitled to a payment by submitting your objection in writing, **postmarked by March 17, 2023**, to the following address:

Claims Administrator
Kalima v. State of Hawai'i Settlement
P.O. Box 135035
Honolulu, HI 96801

Please provide copies of any documents or other evidence that you believe should be considered in support of your position.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice.
They will not be able to give you advice about this case. If you have questions, please
call 1-808-650-5551 OR 1-833-639-1308 or email info@kalima-lawsuit.com.

EXH. "D" TO DECLARATION OF ROBERT COOMES

Kalima v State of Hawai'i Claims Administrator
P.O. Box 135035
Honolulu, HI 96801

<<Name & Address Block>>

Date: March 10, 2023
Tracking Number: <<TN>>

Aloha << Name >>,

As stated in your original notice, the information on which your claims are based is subject to correction before the final calculations are made if more accurate data becomes available. Based on further review, your claims have been corrected based on more accurate data.

Under the distribution rules adopted by the Court, Class Members may not receive compensation for both an agricultural application and a pastoral application.

Where Class Members have applied for both agricultural and pastoral homesteads, the earliest of the applications is the claim that is used to calculate the settlement payment.

If agricultural and pastoral applications were made on the same date, the claim will be treated as one for agricultural land.

The corrections in the enclosed claim notice are based on these distribution plan rules approved by the Court. If you wish to correct your claim dates, you must mail the correction form with a **postmark on or before April 3, 2023**.

Please contact the Claims Administrator at 1-808-650-5551 or 1-833-639-1308 (Toll-Free), info@kalima-lawsuit.com, or by mail to the above address if you have any further questions. Please do not contact the Court directly.

Mahalo,

Kalima v State of Hawai'i Claims Administrator

CORRECTED NOTICE

NOTICE OF CLAIM FROM CLASS ACTION SETTLEMENT
Kalima v. State of Hawai'i, CIVIL NO. 99-4771-12 LWC

**YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE A CLASS MEMBER IN
THE *KALIMA V. STATE OF HAWAII* CLASS ACTION SETTLEMENT.**

Based on currently available records from the State of Hawai'i Department of Hawaiian Home Lands ("DHHL"), the starting date and ending dates we have been able to identify for your claims are:

<u>Type of Homestead</u>	<u>Start Date</u>	<u>End Date</u>
<<Residential>>	<<XX/XX/XXXX>>	<<XX/XX/XXXX>>
<<Agricultural>>	<<XX/XX/XXXX>>	<<XX/XX/XXXX>>
<<Pastoral>>	<<XX/XX/XXXX>>	<<XX/XX/XXXX>>

THESE DATES ARE BASED ON CURRENT DATA. THEY ARE SUBJECT TO CHANGE BEFORE THE FINAL CALCULATIONS IF MORE ACCURATE DATA BECOMES KNOWN. YOU WILL RECEIVE YOUR FINAL DATES AND ESTIMATED SETTLEMENT PAYMENT IN A NOTICE SENT AFTER JUNE 6, 2023. **PLEASE SEE THE LAST PAGE OF THIS LETTER FOR THE COURT'S REVISED CASE SCHEDULE.**

Important Definitions

- "Type of Homestead" is the type you applied for or attempted to apply for, were awarded or assigned, or sought or received as a successor to an application or a homestead lease.
- "Start date" is the date you applied or attempted to apply for a homestead or succeeded or attempted to succeed to a homestead application.
- "End date" is the date of your lease award, if any, or the date of a Settlement Class Member's death or April 14, 2022, whichever is earliest. The award date for accelerated and undivided awards is the date of subdivision approval or occupancy.

These definitions also apply to claims brought on behalf of others who applied, attempted to apply, succeeded to, or attempted to succeed to an application or a homestead lease.

The Hawai'i Supreme Court has ruled that the State of Hawai'i Department of Hawaiian Homelands breached its trust obligations to beneficiaries by failing to keep accurate records. The amount of payment you receive will be based upon accurate start and end dates for your claim(s). Because of DHHL's failure to keep accurate records, the above information we have may not be correct.

Please carefully review these dates and, if necessary, correct this information using the enclosed form and return it to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801. Your corrections must be postmarked by **April 3, 2023**, to be accepted.

**IF YOU AGREE WITH THE INFORMATION LISTED ABOVE AND WISH TO
PARTICIPATE IN THE SETTLEMENT, YOU DO NOT NEED TO TAKE FURTHER ACTION
OR RESPOND TO THIS LETTER.**

You will receive a notice after June 6, 2023, informing you of the amount of your Settlement Payment based upon the above information or your verified corrected information. The Court has scheduled the Fairness Hearing for July 21, 2023. Settlement Payments will be distributed starting thirty days after the Fairness Hearing, unless any Settlement Class Member appeals or the Court orders other delays.

Information about how start and end dates are determined, information for relatives of deceased Settlement Class Members, and how to opt out or intervene can be found below and on the following pages.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or via email at info@kalima-lawsuit.com.

Outline of Rules of Payment Eligibility and that Determine Start and End Dates of Claims

The First Circuit Court has approved and adopted the following rules to determine who is eligible to receive a Settlement Payment and to determine the start and end dates of claims.

Rules for Determining Settlement Class Members Who are Not Entitled to a Settlement Payment

Under the Settlement Agreement approved by the Court, the following Settlement Class Members will not receive Settlement Payments:

1. Individuals who did not file a claim with the Hawaiian Claims Office Panel ("Panel") on or before August 31, 1995.
2. Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust that occurred between August 21, 1959, and June 30, 1988.
3. Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
4. Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
5. Individuals who filed a timely claim with the Panel but settled their claim.
6. Individuals who opted out of the lawsuit in response to the 2007 Class Notice.
7. Individuals who opted out of the lawsuit in response to the 2012 Class Notice.
8. Individuals who opt out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

Rules for Determining Persons Who May be Entitled to a Settlement Payment

1. Individuals who filed a claim with the Panel on or before August 31, 1995, and whose claims are not within the eight categories in the Settlement Agreement described above.
2. Individuals who filed a claim with the Panel on or before August 31, 1995, on behalf of another person such as a father, mother, or other relative, irrespective of whether that person is deceased, who are identified in the HCO Claim Form, and whose claims are not within the eight categories in the Settlement Agreement described above.

General Rules for Measuring Claims

1. Any claim that involves a delay between an application or attempted application and award will be treated as a Waiting List claim.
2. Applications refused for improper reasons do not affect the claim.

Rules for Determining Starting Date (Date of Loss) for Claims

1. The starting date for claims shall be the earliest of (1) attempted application or (2) actual application by a qualified beneficiary.
2. "Attempted application" means a qualified beneficiary attempted to apply for a homestead in person or by mail and the application was refused for some improper reason, such as gender, marital status, income, assets, property ownership, last name, appearance, or any other improper reason.

3. “Application date” is the earliest application date. Later transfers to other areas or islands do not affect the application date.
4. An application submitted prior to August 21, 1959, shall be considered to be filed as of August 21, 1959.
5. If an estimate of the application date was given by the Settlement Class Member, the date shall be the midpoint of the estimated time period (e.g., “July” = 7/15; “1970” = 6/30/70; “early 1960s” = 6/30/62).
6. An application date that is unknown and cannot be obtained from any current source shall be considered the 21st birthday (before July 1, 1985) or 18th birthday (between July 1, 1985, and June 30, 1988, the end of the Class Period). For Settlement Class Members who applied or attempted to apply before they were of age, their claims will begin the date of their 21st birthday, for applications before July 1, 1985, and their 18th birthday, for applications after July 1, 1985.

Rule for Successors to Applications

The application date for a successor to an application is the date of succession to the application.

Rules for Type of Applications

1. A Settlement Class Member shall be awarded payment for a maximum of two claims for each type of application submitted (e.g., residential and agricultural or residential and pastoral). Where a Settlement Class Member applies for both agricultural and pastoral, the earliest application will serve as a single claim because a beneficiary cannot hold both agricultural and pastoral leases. If both agricultural and pastoral applications are filed on the same date, the claim will be calculated as an agricultural claim.
2. A Settlement Class Member’s claim shall be measured by the type of application submitted, not the type of application awarded.

Rules for Determining Ending Date for Claims

1. The ending date for claims shall be the date of lease award, or, if there is no award, the date of death or April 14, 2022 (the date of Settlement), whichever is earliest.
2. A Settlement Class Member’s date of lease award shall be considered the date the lease was effective, or the date of subdivision approval for accelerated or undivided interest awards.
3. A Settlement Class Member’s date of award for an accelerated or undivided interest award that is transferred by the Settlement Class Member before the date of occupancy or subdivision approval is the date of that transfer.

Information for Relatives of Deceased Settlement Class Members

To Receive a Settlement Payment, Family Members of Deceased Settlement Class Members Must Submit an Information Request Form and Be Confirmed as Heirs.

If you have not already done so, please complete an Information Request Form, which can be downloaded from or submitted at kalima-lawsuit.com. To request that the form be sent to you via mail or email, contact info@kalima-lawsuit.com or call 808-650-5551 OR 833-639-1308.

How will the Settlement Payment to Deceased Class Members Be Made?

If the Settlement Class Member did not identify family members as heirs, family members who seek to qualify to receive a Settlement Payment must be confirmed as heirs. They must do so through a special court proceeding called probate.

Probate court proceedings will divide the Settlement Payment according to the terms of the deceased Settlement Class Member’s will or trust. If the deceased Settlement Class Member did not have a will or trust (called “intestate probate”), Hawai’i probate law will determine how the payment is divided among the confirmed heirs.

Who Will Represent Deceased Settlement Class Members in Probate Court? Should We Hire Our Own Attorney?

You may hire your own attorney for probate proceedings. Reasons to hire a probate attorney include: (1) if you want to confirm your status as an heir and personal representative, which may allow you to receive payment sooner; or (2) if there is a potential for disputes among family members.

How do We Find an Attorney?

If the deceased Settlement Class Member had a will or trust, you should contact the attorney who prepared the will or trust to discuss this question. Otherwise, you may contact the Hawai'i State Bar Association Lawyer Information and Referral Service at 808-537-9140 or email LRIS@hsba.org and ask for a referral to lawyers who specialize in probate matters.

What Are the Requirements for Settlement Class Members Who Died outside of Hawai'i?

Please consult with a probate attorney in your state if your family member died outside of Hawai'i and send a certified copy of the family member's death certificate to the Claims Administrator. If you seek to be confirmed as an heir or personal representative of your family member's estate, you should retain an attorney for that purpose.

What if We Can't Afford an Attorney?

The Court will be asked to approve a Probate Plan that provides for a Special Administrator who will be paid out of settlement funds. If the Court approves this plan, the Special Administrator may be able to: (1) determine if there are existing wills or trusts; (2) file a motion to confirm known heirs; and (3) obtain probate court approval to divide the Settlement Payment among confirmed heirs. The attorneys' fees and costs of this work would be deducted from your Settlement Payment. Because there are more than 1,100 deceased Settlement Class Members and thousands of potential heirs, that process is expected to take until December 31, 2023, and possibly longer.

Your Legal Right to Opt Out of This Settlement

If You Wish to Exclude Yourself from Participating in the Settlement	You may exclude yourself from participating in this Settlement. If you do so, you will not receive a payment from the Settlement Fund. The deadline to request exclusion from the Settlement is April 3, 2023 . To exclude yourself from the Settlement, please follow the instructions below.
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You may exclude yourself from participating in the Settlement. If you do so, you will not receive any compensation from the Settlement Fund. You will retain any claims you may have against the State of Hawai'i and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have at your own risk and your own expense.

To exclude yourself from the Settlement, you must mail a signed letter to the Kalima Lawsuit Claims Administrator at P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked on or before **April 3, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation (*Kalima et al. v State of Hawai'i et al.*, Civil No. 99-4771-12 LWC), as well as your full name, address, telephone number, statement that you wish to be excluded, and signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased Settlement Class Member, you must obtain probate court approval appointing you as the personal representative of the estate before doing so.

If you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. **Any separate lawsuit should be filed before July 21, 2023**, to ensure it falls within the potential statutory limitations period. Please consult with an attorney about filing such a claim.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or email info@kalima-lawsuit.com.

Your Legal Right to Intervene in This Case

If You Wish to Intervene in This Case	If you wish to intervene in this case, you may hire an attorney at your own expense to do so. You no longer will be represented by Class Counsel, and you will have to consult with your retained attorney to obtain further information about the intervention process.
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Revised Schedule

The Court has approved a new schedule for Final Approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- This second notice containing your start and end dates will be mailed on **January 31, 2023**.
- The deadline to opt out of the lawsuit is **April 3, 2023**.
- The third notice containing your estimated Settlement Payment will be mailed on **June 6, 2023**.
- The deadline for Final Approval of the Settlement is **July 21, 2023**.

Kalima v. State of Hawai'i Claims Administrator
P.O. Box 135035
Honolulu, HI 96801

<<Mail ID>>
<<Name 1>>
<<Name 2>>
<<Address 1>>
<<Address 2>>
<<Address 3>>
<<Address 4>>
<<Address 5>>
<<City>><<State>><<Zip>>
<<Country>>

<<Month Day, Year>>
Tracking Number: <<TN>>

Aloha <<Name 1>>,

As stated in your original notice, the information on which your claims are based is subject to correction before the final calculations are made if more accurate data becomes available. Based on further review, your claims have been corrected based on more accurate data.

Under distribution rules adopted by the Court, August 21, 1959, is the start date for all applications made before that date. Claims end on the date of a homestead award. If there has been no homestead award, claims end on the date of the Class Member's death **OR** the date of settlement (April 14, 2022), whichever date is earlier.

Start date(s) and/or end dates have been corrected to conform to these distribution rules adopted by the Court.

The changes in the enclosed notice are based on the distribution plan rules approved by the Court. If you wish to correct these claim dates, you must mail the correction form with a **postmark on or before April 3, 2023**.

Please contact the Claims Administrator at 808-650-5551 or 833-639-1308 (toll-free), at info@kalima-lawsuit.com, or by mail to the above address if you have any further questions. Please do not contact the Court directly.

Mahalo,

Kalima v. State of Hawai'i Claims Administrator

EXH. "D" TO DECLARATION OF ROBERT COOMES

CORRECTED NOTICE

NOTICE OF CLAIM FROM CLASS ACTION SETTLEMENT
Kalima v. State of Hawai'i, CIVIL NO. 99-4771-12 LWC

**YOU ARE RECEIVING THIS LETTER TO NOTIFY YOU THAT YOU ARE A CLASS MEMBER IN
THE *KALIMA V. STATE OF HAWAII* CLASS ACTION SETTLEMENT.**

Based on currently available records from the State of Hawai'i Department of Hawaiian Home Lands ("DHHL"), the starting date and ending dates we have been able to identify for your claims are:

<u>Type of Homestead</u>	<u>Start Date</u>	<u>End Date</u>
<<Residential>>	<<XX/XX/XXXX>>	<<XX/XX/XXXX>>
<<Agricultural>>	<<XX/XX/XXXX>>	<<XX/XX/XXXX>>
<<Pastoral>>	<<XX/XX/XXXX>>	<<XX/XX/XXXX>>

THESE DATES ARE BASED ON CURRENT DATA. THEY ARE SUBJECT TO CHANGE BEFORE THE FINAL CALCULATIONS IF MORE ACCURATE DATA BECOMES KNOWN. YOU WILL RECEIVE YOUR FINAL DATES AND ESTIMATED SETTLEMENT PAYMENT IN A NOTICE SENT AFTER JUNE 6, 2023. **PLEASE SEE THE LAST PAGE OF THIS LETTER FOR THE COURT'S REVISED CASE SCHEDULE.**

Important Definitions

- "Type of Homestead" is the type you applied for or attempted to apply for, were awarded or assigned, or sought or received as a successor to an application or a homestead lease.
- "Start date" is the date you applied or attempted to apply for a homestead or succeeded or attempted to succeed to a homestead application.
- "End date" is the date of your lease award, if any, or the date of a Settlement Class Member's death or April 14, 2022, whichever is earliest. The award date for accelerated and undivided awards is the date of subdivision approval or occupancy.

These definitions also apply to claims brought on behalf of others who applied, attempted to apply, succeeded to, or attempted to succeed to an application or a homestead lease.

The Hawai'i Supreme Court has ruled that the State of Hawai'i Department of Hawaiian Homelands breached its trust obligations to beneficiaries by failing to keep accurate records. The amount of payment you receive will be based upon accurate start and end dates for your claim(s). Because of DHHL's failure to keep accurate records, the above information we have may not be correct.

Please carefully review these dates and, if necessary, correct this information using the enclosed form and return it to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801. Your corrections must be postmarked by **April 3, 2023**, to be accepted.

**IF YOU AGREE WITH THE INFORMATION LISTED ABOVE AND WISH TO
PARTICIPATE IN THE SETTLEMENT, YOU DO NOT NEED TO TAKE FURTHER ACTION
OR RESPOND TO THIS LETTER.**

You will receive a notice after June 6, 2023, informing you of the amount of your Settlement Payment based upon the above information or your verified corrected information. The Court has scheduled the Fairness Hearing for July 21, 2023. Settlement Payments will be distributed starting thirty days after the Fairness Hearing, unless any Settlement Class Member appeals or the Court orders other delays.

Information about how start and end dates are determined, information for relatives of deceased Settlement Class Members, and how to opt out or intervene can be found below and on the following pages.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or via email at info@kalima-lawsuit.com.

Outline of Rules of Payment Eligibility and that Determine Start and End Dates of Claims

The First Circuit Court has approved and adopted the following rules to determine who is eligible to receive a Settlement Payment and to determine the start and end dates of claims.

Rules for Determining Settlement Class Members Who are Not Entitled to a Settlement Payment

Under the Settlement Agreement approved by the Court, the following Settlement Class Members will not receive Settlement Payments:

1. Individuals who did not file a claim with the Hawaiian Claims Office Panel ("Panel") on or before August 31, 1995.
2. Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust that occurred between August 21, 1959, and June 30, 1988.
3. Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
4. Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
5. Individuals who filed a timely claim with the Panel but settled their claim.
6. Individuals who opted out of the lawsuit in response to the 2007 Class Notice.
7. Individuals who opted out of the lawsuit in response to the 2012 Class Notice.
8. Individuals who opt out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

Rules for Determining Persons Who May be Entitled to a Settlement Payment

1. Individuals who filed a claim with the Panel on or before August 31, 1995, and whose claims are not within the eight categories in the Settlement Agreement described above.
2. Individuals who filed a claim with the Panel on or before August 31, 1995, on behalf of another person such as a father, mother, or other relative, irrespective of whether that person is deceased, who are identified in the HCO Claim Form, and whose claims are not within the eight categories in the Settlement Agreement described above.

General Rules for Measuring Claims

1. Any claim that involves a delay between an application or attempted application and award will be treated as a Waiting List claim.
2. Applications refused for improper reasons do not affect the claim.

Rules for Determining Starting Date (Date of Loss) for Claims

1. The starting date for claims shall be the earliest of (1) attempted application or (2) actual application by a qualified beneficiary.
2. "Attempted application" means a qualified beneficiary attempted to apply for a homestead in person or by mail and the application was refused for some improper reason, such as gender, marital status, income, assets, property ownership, last name, appearance, or any other improper reason.

3. “Application date” is the earliest application date. Later transfers to other areas or islands do not affect the application date.
4. An application submitted prior to August 21, 1959, shall be considered to be filed as of August 21, 1959.
5. If an estimate of the application date was given by the Settlement Class Member, the date shall be the midpoint of the estimated time period (e.g., “July” = 7/15; “1970” = 6/30/70; “early 1960s” = 6/30/62).
6. An application date that is unknown and cannot be obtained from any current source shall be considered the 21st birthday (before July 1, 1985) or 18th birthday (between July 1, 1985, and June 30, 1988, the end of the Class Period). For Settlement Class Members who applied or attempted to apply before they were of age, their claims will begin the date of their 21st birthday, for applications before July 1, 1985, and their 18th birthday, for applications after July 1, 1985.

Rule for Successors to Applications

The application date for a successor to an application is the date of succession to the application.

Rules for Type of Applications

1. A Settlement Class Member shall be awarded payment for a maximum of two claims for each type of application submitted (e.g., residential and agricultural or residential and pastoral). Where a Settlement Class Member applies for both agricultural and pastoral, the earliest application will serve as a single claim because a beneficiary cannot hold both agricultural and pastoral leases. If both agricultural and pastoral applications are filed on the same date, the claim will be calculated as an agricultural claim.
2. A Settlement Class Member’s claim shall be measured by the type of application submitted, not the type of application awarded.

Rules for Determining Ending Date for Claims

1. The ending date for claims shall be the date of lease award, or, if there is no award, the date of death or April 14, 2022 (the date of Settlement), whichever is earliest.
2. A Settlement Class Member’s date of lease award shall be considered the date the lease was effective, or the date of subdivision approval for accelerated or undivided interest awards.
3. A Settlement Class Member’s date of award for an accelerated or undivided interest award that is transferred by the Settlement Class Member before the date of occupancy or subdivision approval is the date of that transfer.

Information for Relatives of Deceased Settlement Class Members

To Receive a Settlement Payment, Family Members of Deceased Settlement Class Members Must Submit an Information Request Form and Be Confirmed as Heirs.

If you have not already done so, please complete an Information Request Form, which can be downloaded from or submitted at kalima-lawsuit.com. To request that the form be sent to you via mail or email, contact info@kalima-lawsuit.com or call 808-650-5551 OR 833-639-1308.

How will the Settlement Payment to Deceased Class Members Be Made?

If the Settlement Class Member did not identify family members as heirs, family members who seek to qualify to receive a Settlement Payment must be confirmed as heirs. They must do so through a special court proceeding called probate.

Probate court proceedings will divide the Settlement Payment according to the terms of the deceased Settlement Class Member’s will or trust. If the deceased Settlement Class Member did not have a will or trust (called “intestate probate”), Hawai’i probate law will determine how the payment is divided among the confirmed heirs.

Who Will Represent Deceased Settlement Class Members in Probate Court? Should We Hire Our Own Attorney?

You may hire your own attorney for probate proceedings. Reasons to hire a probate attorney include: (1) if you want to confirm your status as an heir and personal representative, which may allow you to receive payment sooner; or (2) if there is a potential for disputes among family members.

How do We Find an Attorney?

If the deceased Settlement Class Member had a will or trust, you should contact the attorney who prepared the will or trust to discuss this question. Otherwise, you may contact the Hawai'i State Bar Association Lawyer Information and Referral Service at 808-537-9140 or email LRIS@hsba.org and ask for a referral to lawyers who specialize in probate matters.

What Are the Requirements for Settlement Class Members Who Died outside of Hawai'i?

Please consult with a probate attorney in your state if your family member died outside of Hawai'i and send a certified copy of the family member's death certificate to the Claims Administrator. If you seek to be confirmed as an heir or personal representative of your family member's estate, you should retain an attorney for that purpose.

What if We Can't Afford an Attorney?

The Court will be asked to approve a Probate Plan that provides for a Special Administrator who will be paid out of settlement funds. If the Court approves this plan, the Special Administrator may be able to: (1) determine if there are existing wills or trusts; (2) file a motion to confirm known heirs; and (3) obtain probate court approval to divide the Settlement Payment among confirmed heirs. The attorneys' fees and costs of this work would be deducted from your Settlement Payment. Because there are more than 1,100 deceased Settlement Class Members and thousands of potential heirs, that process is expected to take until December 31, 2023, and possibly longer.

Your Legal Right to Opt Out of This Settlement

If You Wish to Exclude Yourself from Participating in the Settlement	You may exclude yourself from participating in this Settlement. If you do so, you will not receive a payment from the Settlement Fund. The deadline to request exclusion from the Settlement is April 3, 2023 . To exclude yourself from the Settlement, please follow the instructions below.
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You may exclude yourself from participating in the Settlement. If you do so, you will not receive any compensation from the Settlement Fund. You will retain any claims you may have against the State of Hawai'i and the Released Parties (as that term is defined in the Settlement Agreement) and are free to pursue whatever legal rights you may have at your own risk and your own expense.

To exclude yourself from the Settlement, you must mail a signed letter to the Kalima Lawsuit Claims Administrator at P.O. Box 135035, Honolulu, Hawai'i 96801, postmarked on or before **April 3, 2023**. The exclusion letter must state that you exclude yourself from this Settlement and must include the name and case number of this litigation (*Kalima et al. v State of Hawai'i et al.*, Civil No. 99-4771-12 LWC), as well as your full name, address, telephone number, statement that you wish to be excluded, and signature. So-called "mass" or "class" exclusion requests are not permitted.

If you wish to exclude the claims of a deceased Settlement Class Member, you must obtain probate court approval appointing you as the personal representative of the estate before doing so.

If you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. **Any separate lawsuit should be filed before July 21, 2023**, to ensure it falls within the potential statutory limitations period. Please consult with an attorney about filing such a claim.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this letter. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 OR 833-639-1308 or email info@kalima-lawsuit.com.

Your Legal Right to Intervene in This Case

If You Wish to Intervene in This Case	If you wish to intervene in this case, you may hire an attorney at your own expense to do so. You no longer will be represented by Class Counsel, and you will have to consult with your retained attorney to obtain further information about the intervention process.
---------------------------------------	--

Revised Schedule

The Court has approved a new schedule for Final Approval of the Settlement, which is necessary to complete the complex file review and claims evaluation process necessary before payments can be distributed.

The proposed schedule will extend the current schedule only so far as reasonably necessary to complete the work required. The extended deadlines have been set by the Court to assure that Settlement distribution is as accurate and fair as possible.

- This second notice containing your start and end dates will be mailed on **January 31, 2023**.
- The deadline to opt out of the lawsuit is **April 3, 2023**.
- The third notice containing your estimated Settlement Payment will be mailed on **June 6, 2023**.
- The deadline for Final Approval of the Settlement is **July 21, 2023**.

Exhibit E

NOTICE TO SETTLEMENT CLASS MEMBERS IN THE *KALIMA v. STATE OF HAWAI'I* CLASS ACTION

This notice explains the Settlement Payment process to Settlement Class Members in the *Kalima v. State of Hawai'i* class action and their representatives. Please read the sections that apply to your situation carefully.

NOTICE OF A PROPOSED PAYMENT FROM THE *KALIMA V. STATE OF HAWAI'I* CLASS ACTION SETTLEMENT Pages 1 - 4

All Settlement Class Members and their representatives should read this section. It describes the Settlement Payment(s) Class Members will receive and how those payments were calculated. This section also contains important information for anyone receiving a Settlement Payment who also is receiving public benefits or assistance and information about how you can support or object to the Settlement.

NOTICE AND SPECIAL INSTRUCTIONS FOR PAYMENT OF CLAIMS TO DECEASED CLASS MEMBERS' FAMILIES AND DEVISEES Pages 5 – 6

Representatives and family members of deceased Settlement Class Members should read this section. It describes the probate process that must be completed before the heirs and devisees of deceased Settlement Class Members will receive payment. This section also contains information about retaining a private probate attorney.

DECEASED CLASS MEMBER INFORMATION REQUEST FORM

Representatives and family members of deceased Settlement Class Members: Please submit this form to provide the Claims Administrator with more information about a deceased Settlement Class Member's possible heirs who may be entitled to payments. If applicable to you, you may return this form in the enclosed envelope.

TAX LETTER

All Settlement Class Members and their representatives should read this letter. This letter describes the general tax status of Settlement Payments. Each individual's tax income and other tax obligations are unique. The enclosed Tax Letter is presented for each Class Member's individual use.

DECLARATION IN SUPPORT OF SETTLEMENT

You can use this form to tell the Court you support the Settlement. By submitting the form, you may state to the Court why you believe the Settlement is fair, reasonable, and adequate. **Submitting the declaration of support form is optional and is not necessary to receive any Settlement Payment.**

EXH. “E” TO DECLARATION OF ROBERT COOMES

**NOTICE OF A PROPOSED PAYMENT
FROM THE KALIMA V. STATE OF HAWAII CLASS ACTION SETTLEMENT**

Based upon a review of the records from the Hawaiian Claims Office (“HCO”) and State of Hawai‘i Department of Hawaiian Home Lands (“DHHL”) and any approved corrected information you provided, the start and end dates of your Waiting List Claim(s) and whether you have a Construction Claim have been determined.

Type of Homestead

Start Date

End Date

Construction Claim

___ Yes

___ No

As required by the Court-approved Settlement Distribution Plan, the **estimated*** Settlement Payments for Waiting List Claims were calculated using the Fair Market Rental Value formula approved by the Hawai‘i Supreme Court. Fair Market Rental Value is the amount the Court has concluded a person would **typically** have paid on the open market to rent the same type of lot(s) with infrastructure, less \$1 per year that would have been paid for the DHHL lease (*Kalima v. State*, 148 Haw. 129, 137-38, 468 P.3d 143, 151-52 (2020)). For Construction Claims, the **estimated*** Settlement Payment was calculated using the reasonable cost of repair claimed at the time the claim was submitted, based on the construction expert’s analysis and recommendation, as approved by the Court.

Subject to the Court’s final approval of the Settlement, the **estimated** Settlement Payment(s) for **your claim(s)** will be:

Residential:

Agricultural:

Pastoral:

Construction:

The Court has scheduled the Fairness Hearing for July 21, 2023, at 9:00 a.m. A copy of the Motion for Final Approval and Motion for Fees will be available after it is filed on June 12, 2023, at kalima-lawsuit.com/important-documents. If Final Approval is granted by the Court on July 21, 2023, the Settlement Payment distribution process is expected to begin by September 1, 2023, or when any appeals end, whichever is later.

Please review the following pages for further information about how claims were calculated and for additional instructions on how to support or object to the Settlement:

- Instructions for All Settlement Class Members
- Notice and Special Instructions for Payment of Claims to Deceased Settlement Class Members’ Families and Devises
- Deceased Settlement Class Member Information Request Form
- Tax Letter
- Declaration in Support of Settlement

Please do not call the Judge, the Clerk of the Court, or the State of Hawai‘i about this notice. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 or 833-639-1308 or via email to info@kalima-lawsuit.com.

* Your estimated Settlement Payment may change depending on the Court’s ruling on the attorneys’ fees, claims administration costs, potential objections to the Settlement, and further unanticipated administration costs.

INSTRUCTIONS FOR ALL SETTLEMENT CLASS MEMBERS

IF YOU AGREE WITH THE INFORMATION LISTED ABOVE, YOU DO NOT NEED TO TAKE FURTHER ACTION OR RESPOND TO THIS NOTICE.

The Court has scheduled the Final Approval Hearing for July 21, 2023, at 9:00 a.m. Please follow the instructions below if you wish to support or object to the Settlement or make a statement at the hearing.

YOU DO NOT NEED TO ATTEND THE HEARING TO RECEIVE YOUR SETTLEMENT PAYMENT.

When Will We Receive Payment?

If Final Approval is granted by the Court on July 21, 2023, the Settlement Payment distribution process is expected to begin by September 1, 2023, or when any appeals end, whichever is later.

How Are Settlement Payments Calculated?

The estimated Settlement Payment(s) shown on the prior page was (were) calculated by the following method:

1. Individual claim values for all Settlement Class Members were added together to calculate the "Total Claims Amount."
2. Settlement Class Members' **individual** claim amounts were compared to the Total Claims Amount to calculate each Settlement Class Member's "Proportional Share Percentage" of the "Net Settlement Amount."
3. The Net Settlement Amount is calculated by deducting attorneys' fees, approved Class Representative Incentive Awards, and claims administration costs from the Gross Settlement Amount of \$328 million. Class Counsel has requested the Court approve their fees of approximately 12.19 % of the Gross Settlement Amount (\$40 million), as provided in the Settlement Agreement. Class Counsel has agreed to waive their costs (approximately \$500,000). Class Representative Incentive Awards total \$75,000 as provided for in the Settlement Agreement. Claims administration costs are estimated at .53% of the Gross Settlement Amount (\$1,728,700.00).
4. Settlement Class Members' Settlement Payment(s) are calculated by applying their Proportional Share Percentage to the Net Settlement Amount.

How Do I Support or Object to The Settlement?

1. To tell the Court you support the Settlement, please complete the enclosed Declaration in Support of Settlement and return it by mail addressed to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801, or by email to info@kalima-lawsuit.com. You may also download a copy of the Declaration in Support of Settlement on the website at kalima-lawsuit.com/important-documents. Please mail or email the Declaration to the Claims Administrator by **July 6, 2023**.
2. You also may appear and ask to be heard in support of the Settlement at the July 21, 2023, 9:00 a.m. Final Approval Hearing. Please notify the Claims Administrator by **July 6, 2023**, by mail addressed to P.O. Box 135035, Honolulu, HI 96801, or by email to info@kalima-lawsuit.com if you wish to do so. Settlement Class Members will be heard in the order in which they sign up. Please focus your statements on whether you think the Settlement is fair, reasonable, and adequate.
3. If you wish to object to the Settlement, you must file your objection in writing addressed to *Kalima v. State*, Civ. No. 99-4771-12 LWC, Clerk of the First Circuit Court, Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, HI 96813-5093. The objection must be **received** by the Court no later than **July 6, 2023**. At the same time, you must also send a copy of your objection to the attorneys for all the Parties to the lawsuit, including Class Counsel, and the attorneys representing the Defendant at their addresses found below.

EXH. "E" TO DECLARATION OF ROBERT COOMES

INSTRUCTIONS FOR ALL SETTLEMENT CLASS MEMBERS (CONTINUED)

Court	Class Counsel	Defense Counsel
<i>Kalima v. State</i> , Civ. No. 99-4771-12 LWC Clerk of the First Circuit Court Kaʻahumanu Hale 777 Punchbowl Street Honolulu, HI 96813-5093	Carl M. Varady Pauahi Tower 1003 Bishop Street, Suite 1730 Honolulu, HI 96813 Thomas R. Grande 41-859 Kalanianaʻole Highway, #271 Waimānalo, HI 96795	Anne E. Lopez Attorney General, State of Hawaiʻi 425 Queen Steet Honolulu, HI 96813

Any objection to the proposed Settlement must be filed in writing and must include:

1. the objector's full name, address, email address, and current telephone number;
2. the case name and number of the litigation (*Kalima, et al. v. State of Hawaiʻi, et al.*, Civil No. 99-4771-12 LWC);
3. all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials, whether you intend to appear at the Final Approval Hearing, and the names and addresses of any witnesses you intend to call at the hearing;
4. the identification of any other objections the objector has filed, or has had filed on the objector's behalf, in any other class action cases in the last four years; and
5. the objector's signature.

If you file a written objection, you may appear at the Final Approval Hearing, which is scheduled for July 21, 2023, at 9:00 a.m. (or other date set by the Court), in person or through counsel to show cause as to why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary. However, persons wishing to object to the Final Approval of the Settlement, the request for attorneys' fees and claims administration costs, and/or the request for an Incentive Award to the Class Representatives are required to file written objections that comply with the requirements described above and that are **received** by the Court on or before **July 6, 2023**.

If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by the objection deadline of **July 6, 2023**. If you hire your own attorney, you will be solely responsible for payment of any fees and costs the attorney incurs on your behalf. If you exclude yourself from the Settlement, you cannot file an objection.

Are Settlement Payments Taxable?

Please review the enclosed Tax Letter explaining the general tax status of Settlement Payments. Each individual's tax obligations are unique. The enclosed Tax Letter is presented for each Settlement Class Member's individual use. A copy of the tax opinion on which the letter is based can be viewed at kalima-lawsuit.com/important-documents.

Will My Settlement Payment Affect Certain Public Benefits I Receive?

Certain public assistance programs, including, but not limited to, the Supplemental Nutrition Assistance Program (sometimes called "SNAP" or "food stamps"), subsidized housing/housing assistance (such as public housing or a voucher program sometimes called "Section 8"), some state-issued health insurance policies, some college tuition/grant programs, some Medicaid programs (sometimes known as "Quest" or "Med-Quest"), some VA benefits, Social Security Disability Insurance, or Supplemental Security Income, may be affected by your receipt of a Settlement Payment.

Contact Your Program

Each of these programs has complicated rules. Advice about your specific circumstances and public benefits are beyond the scope of our services, and we cannot advise you about these issues. Please comply with all program rules and requirements for these programs, especially including any rule or requirement that you disclose changes in financial status to the relevant public assistance program. Certain program agencies may provide additional information about their unique rules. The loss or limitation of certain benefits can sometimes be avoided by having payment made into a special type of trust called a "Special Needs Trust."

INSTRUCTIONS FOR ALL SETTLEMENT CLASS MEMBERS (CONTINUED)

Special Needs Trust by Hawai'i-Based Trustee

If you would like to have your Settlement Payment held for you and managed in a Special Needs Trust, please contact the Kalima Claims Administrator by mail at P.O. Box 135035, Honolulu, HI 96801, by phone at 808-650-5551 or 833-639-1308, or via email to info@kalima-lawsuit.com. The Claims Administrator will send you information about Special Needs Trusts, including contact information for a Hawai'i-based trustee. You must notify the Claims Administrator by **August 21, 2023**, that you want information about Special Needs Trusts. If you request such information, your Settlement Payment will be held by the Claims Administrator until the time set by the Court for you to decide whether you want your Settlement Payment to be managed in a Special Needs Trust. Please notify the Claims Administrator if you hire a private attorney to assist you with a Special Needs Trust.

Private Attorney for Special Needs Trust

You may want to hire your own private lawyer (at your own cost) to advise you about these complicated programs and/or a Special Needs Trust. If you want to hire a private attorney to counsel you about the Special Needs Trust, you should make sure that the attorney is familiar with the public benefit programs and Special Needs Trusts. You can contact the Hawai'i State Bar Association Lawyer Referral and Information Service at 808-537-9140 or via email to LRIS@hsba.org to seek assistance from an attorney for this purpose.

EXH. "E" TO DECLARATION OF ROBERT COOMES

NOTICE AND SPECIAL INSTRUCTIONS FOR PAYMENT OF CLAIMS TO DECEASED SETTLEMENT CLASS MEMBERS' FAMILIES AND DEVISEES

The rightful heirs and devisees of deceased Settlement Class Members in this case may be entitled to receive their portion of a deceased Settlement Class Member's Settlement Payment made to that Settlement Class Member's estate.

An "heir" is a spouse, child, or other person who may share in the estate of a deceased Settlement Class Member as defined by H.R.S. §§ 560:1-201, 560:2-101, 560:2-102 and 560:2-701. The "estate" includes a Settlement Payment the deceased Settlement Class Member will receive in this case. A "devisee" means a person designated in a will to receive a share in the estate of a deceased Settlement Class Member, including a trustee, and as defined by H.R.S. § 560:1-201.

Probate Court approval is required for deceased Settlement Class Members' estates, heirs, or devisees to receive Settlement Payments. Please read and follow these instructions carefully.

1. To Seek a Settlement Payment, a Deceased Settlement Class Member's Heirs or Devisees Must Submit an Information Request Form for Deceased Class Members

In order to deliver Settlement Payments to the proper heirs and devisees of deceased Settlement Class Members, and to help expedite this process, the Claims Administrator must have complete contact information about all deceased Settlement Class Members' heirs and devisees. Additionally, please designate one person for each deceased Settlement Class Member to provide and receive information. By submitting this information, it will help speed up payment of the Deceased Class Member's Settlement Payment.

If you have not already done so, please complete the enclosed Information Request Form for Deceased Class Members.

The Information Request Form for Deceased Class Members is also available online at kalima-lawsuit.com/important-documents. If you have already filled out an Information Request Form and the information you submitted is accurate, you do not need to submit another. However, if the information you previously submitted has changed, please submit another form with the updated information.

2. Settlement Payments Made to Heirs and Devisees of Deceased Settlement Class Members

If a deceased Settlement Class Member qualifies to receive a Settlement Payment, the heirs or devisees of the deceased Settlement Class Member must follow the Court-approved Probate Plan. In the Court-approved plan, the Probate Settlement Funds will be managed and administered by a trust. You may review a copy of the Probate Plan and trust at kalima-lawsuit.com/important-documents.

Under Court supervision, the Trustee of the Trust will distribute Settlement proceeds as follows:

- a. Settlement Payments from the Trust will be made to the Personal Representatives of deceased Settlement Class Members' estates after they present appropriate court documents establishing the Personal Representative's appointment.
- b. Settlement Payments from the Trust will be made to the heirs and devisees of deceased Settlement Class Members who do not have Personal Representatives, after orders are issued by the Probate Court of the First Circuit, State of Hawai'i approving those payments.

3. Representation of Deceased Settlement Class Members in Probate Court

The Court-appointed Probate Special Master and Probate Special Counsel will carry out the Court-approved Probate Plan to distribute Settlement Payments to the proper takers entitled to the interests of the deceased Settlement Class Members. Costs and fees associated with this Probate Plan will be deducted from the Settlement Payment of the deceased Settlement Class Member.

4. Private Counsel

Heirs and devisees of the estate of a deceased Settlement Class Member may hire a private attorney at their own cost. You may contact the Hawai'i State Bar Association Lawyer Information and Referral Service at 808-537-9140 or email LRIS@hsba.org and request a referral to lawyers who are willing to work on the "Kalima Probate" claims. The referral service is not an endorsement or recommendation of the attorneys.

EXH. "E" TO DECLARATION 5
OF ROBERT COOMES

**NOTICE AND SPECIAL INSTRUCTIONS FOR PAYMENT OF CLAIMS TO DECEASED
SETTLEMENT CLASS MEMBERS' FAMILIES AND DEVISEES (CONTINUED)**

The deadline to notify the Claims Administrator that you have hired a private attorney is **December 1, 2023**. Please ask your private attorney to inform the Claims Administrator via letter that you are being represented by a private attorney for the probate of the deceased Settlement Class Member's Settlement Payment. Please ask your private attorney to reference the Kalima Settlement in court-filed documents.

5. Out of State Deceased Settlement Class Members

If the deceased Settlement Class Member died outside Hawai'i, the heirs and devisees must send a certified copy of the death certificate to the Claims Administrator. You may submit a paper copy by mail to Kalima Claims Administrator, P.O. Box 135035, Honolulu, HI 96801, or an electronic copy by email to info@kalima-lawsuit.com. Please make sure that you copy or scan both sides of the certificate so that any certification, seal, or stamp on the front or back of it is clear and visible. **Do not send the original copy.** Please also complete the Information Request Form for Deceased Class Members. Please contact a local attorney if you have questions about state laws where the Settlement Class Member died. The Probate Plan describes what documentation will be required to obtain payment and will address the interests of deceased Settlement Class Members who resided out of the State of Hawai'i at the time of their death. A summary of the requirements and a copy of the Probate Plan will be available for review at kalima-lawsuit.com/important-documents.

EXH. "E" TO DECLARATION OF ROBERT COOMES

FAMILY REPRESENTATIVE INFORMATION

If you are a relative of a deceased Settlement Class Member, please designate a person to be your family representative for this Settlement. The representative will serve as the point of communication during the processing of the deceased Settlement Class Member's claim. If you are an heir or devisee, agreeing to act as a representative does not entitle you to receive any additional Settlement proceeds that are paid to the deceased person's estate.

Representative Name:

First Name:

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Last Name:

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Address:

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City:

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State:

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ZIP Code:

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Telephone:

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Email:

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Relationship to Settlement Class Member:

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WHO IS THE SURVIVING SPOUSE (IF ANY)?

First Name:

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MI:

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Last Name:

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Address:

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City:

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State:

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ZIP Code:

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Telephone:

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Email:

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IS THE SPOUSE CURRENTLY RECEIVING PUBLIC BENEFITS OR UNDER A DISABILITY THAT IMPACTS LEGAL CAPACITY?

☐ YES ☐ NO

IF SPOUSE IS DECEASED, PLEASE PROVIDE DATE OF DEATH AND PLACE OF DEATH. (PLEASE PROVIDE COPY OF DEATH CERTIFICATE)

Place of Death:

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Date Death:

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MM

DD

YYYY

EXH. "E" TO DECLARATION OF ROBERT COOMES

Last Name:

[illegible][illegible]

ZIP Code:

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[illegible]

☐ YES ☐ NO

Last Name:

[illegible]

Last Name:

[illegible]

☐ YES ☐ NO

First Name:

[illegible]

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[illegible][illegible][illegible]

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[illegible]

☐ YES ☐ NO

[illegible]

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[illegible][illegible]

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[illegible]

☐ YES ☐ NO

EXH. "E" TO DECLARATION OF ROBERT COOMES

June 6, 2023

TO WHOM IT MAY CONCERN

Re: Settlement Payments to Waiting List Class Members in *Kalima* Settlement.

Our law firm is serving as tax counsel to the Court in the *Kalima v. State of Hawai'i* class action settlement. We were asked to give our tax opinion concerning the settlement payments made to the class members and any obligations the Claims Administrator may have to withhold federal income taxes or to issue IRS Forms 1099 to class members. We have issued a formal tax opinion stating our conclusions and reasoning which is available on <https://www.kalima-lawsuit.com>.

Our opinion is that the Claims Administrator is *not* required to issue IRS Forms 1099 to class members or to withhold amounts for federal income taxes from the class members' settlement payments. Our conclusion is that the settlement payments can be characterized as tax-free reimbursements of previously paid land rent or as a tax-free return of tax basis with regard to amounts paid on account of land mortgage payments and construction costs. We encourage class members to discuss with their own tax advisers to determine if their particular situation may cause some or all of their settlement payments to be subject to federal or state income tax.

For example, a class member may have taxable income if he is being reimbursed for *more* than the actual amount he previously expended for land rent payments for the period covered by the settlement payments, or if he previously claimed tax deductions for land rent or the interest component of land mortgage payments for the period covered by the settlement payments. For class members who are receiving compensation for construction costs or the principal portion of land mortgage payments, they may have taxable gain if these payments exceed their adjusted tax basis in their properties.

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EXH. "E" TO DECLARATION OF ROBERT COOMES

Re: *Kalima* Settlement
June 6, 2023
Page 2

As with any tax opinion we render, we cannot guarantee that the Internal Revenue Service or the courts will concur in the event of an audit. We ask that any questions be directed to the Kalima Claims Administrator. Thank you.

Very truly yours,

Wood LLP



Robert W. Wood

AZB:gp
AAC044-6

EXH. "E" TO DECLARATION OF ROBERT COOMES

**DECLARATION IN SUPPORT OF SETTLEMENT
IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII**

LEONA KALIMA, DIANE BONER, AND RAYNETTE
NALANI AH CHONG, ET AL.,

Plaintiffs,

vs.

STATE OF HAWAII, STATE OF HAWAII DEPARTMENT
OF HAWAIIAN HOME LANDS, ET AL.,

Defendants.

CIVIL NO. 99-4771-12 LWC

(Class Action)

DECLARATION OF

[WRITE OR TYPE YOUR NAME HERE]

declares:

[WRITE OR TYPE YOUR NAME HERE]

1. I am one of the Settlement Class Members in this case. I am above the age of 18 years old and make this declaration of my own personal knowledge.

2. I understand that a settlement has been reached in this case in which the State of Hawaii has agreed to pay \$328 million to settle all the claims that were brought in this case, including mine.

3. I have been informed of the Settlement and how my claim(s) were calculated and how they will be paid through notices I have received, communications with Class Counsel, Court filings by Class Counsel, the Settlement Special Master, and the Claims Administrator, and in reviewing documents and information at kalima-lawsuit.com.

4. I support the Settlement and think it is fair, reasonable, and adequate. [Although it is optional, you may make a statement in your own words of why you support the Settlement in the following space or attach or submit a separate sheet.]

5. I respectfully ask the Court to approve the Settlement at the Final Approval Hearing on July 21, 2023, so that payment can be distributed to me and the other Settlement Class Members by the Claims Administrator.

I declare that the foregoing is true.

DATED: _____, _____, 2023
[FILL IN CITY AND STATE WHERE YOU LIVE] [DATE]

[Sign your name]

[Print your name]

You can submit this form and any additional pages for consideration by the Court. Please mail it using the enclosed return envelope.

EXH. "E" TO DECLARATION OF ROBERT COOMES

NOTICE TO CLASS MEMBERS IN THE *KALIMA v. STATE OF HAWAI'I* CLASS ACTION WHO DO NOT QUALIFY FOR A SETTLEMENT PAYMENT

You have previously been provided with notice of the Settlement in *Kalima v. State of Hawai'i* and were informed that you did not qualify to receive a settlement payment in this case. This Notice contains important information about your rights as a “no payment” Class Member.

The purpose of this notice is to inform you of

- the date and time of the Final Approval Hearing,
- how you can support or object to the Settlement in this case,
- how to get your documents relating to this case, and
- the deadline to file your own lawsuit against the State of Hawai'i if you previously opted out or excluded yourself from the lawsuit or this Settlement.

When will the Final Approval Hearing be held?

The Court has scheduled the Final Approval Hearing (also called the Fairness Hearing) for **July 21, 2023, at 9:00 a.m.** A copy of the Motion for Final Approval and Motion for Attorneys' Fees are available at kalima-lawsuit.com/important-documents.

How do I support or object to the settlement?

1. To tell the Court you support the Settlement, please fill in the enclosed “Declaration in Support of Settlement” and return it to the Kalima Claims Administrator by mail, addressed to P.O. Box 135035, Honolulu, HI 96801, or email it to info@kalima-lawsuit.com. You may also download a copy of the Declaration in Support of Settlement on the website here: kalima-lawsuit.com/important-documents. Please mail or email the Declaration to the Claims Administrator by **July 14, 2023**.

2. You also may appear and ask to be heard in support of the Settlement at the **July 21, 2023, 9:00 a.m. Final Approval Hearing**. Please notify the Claims Administrator by **July 14, 2023**, by mail to P.O. Box 135035, Honolulu, HI 96801, or email to info@kalima-lawsuit.com if you wish to do so. Class Members will be heard in the order in which they sign up. Please focus your statements on whether you think the Settlement is fair, reasonable, and adequate.

3. If you wish to object to the Settlement, you must file your objection in writing, addressed to *Kalima v. State*, Civ. No. 99-4771-12 LWC, Clerk of the First Circuit Court, Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, HI 96813-5093. The objection must be received by the Court no later than **July 14, 2023**. At the same time, you must also send a copy of your objection to the attorneys for all Parties to the lawsuit, including Class Counsel and the attorneys representing the Defendant, at their addresses found below.

Court	Class Counsel	Defense Counsel
<i>Kalima v. State</i> , Civ. No. 99-4771-12 LWC Clerk of the First Circuit Court Ka'ahumanu Hale 777 Punchbowl Street Honolulu, HI 96813-5093	Carl M. Varady Pauahi Tower, Suite 1730 1003 Bishop Street Honolulu, HI 96813 Thomas R. Grande 41-859 Kalaniana'ole Highway, #271 Waimānalo, HI 96795	Anne E. Lopez Attorney General, State of Hawai'i 425 Queen Steet Honolulu, HI 96813

EXH. “E” TO DECLARATION OF ROBERT COOMES

Any objection to the proposed Settlement must be filed in writing and must include

1. the objector's full name, address, email address, and current telephone number;
2. the case name and number of the litigation (*Kalima et al. v State of Hawai'i et al.*, Civil No. 99-4771-12 LWC);
3. all grounds for the objection, with factual and legal support for the stated objection, including any supporting materials, whether the objector intends to appear at the Final Approval Hearing, and the names and addresses of any witnesses the objector intends to call at the hearing;
4. the identification of any other objections the objector has filed, or has had filed on the objector's behalf, in any other class action cases in the last four years; and
5. the objector's signature.

If you file written objections, you may appear at the Final Approval Hearing, which is scheduled to be held on **July 21, 2023**, at 9:00 a.m. (or other date set by the Court), in person or through counsel to show cause as to why the proposed Settlement should not be approved as fair, reasonable, and adequate. Attendance at the hearing is not necessary. However, persons wishing to object to the final approval of the Settlement, the request for attorneys' fees and Claims Administration costs, and/or the request for an Incentive Award to the Class Representatives are required to file written objections that comply with the requirements described above and must be **received** by the Court on or before **July 14, 2023**.

If you hire an attorney in connection with making an objection, that attorney must also file with the Court a notice of appearance by the objection deadline of **July 14, 2023**. If you hire your own attorney, you will be solely responsible for payment of any fees and costs the attorney incurs on your behalf. If you opted out of (excluded yourself from) the Settlement, you cannot file an objection.

Do I need to attend the Final Approval Hearing?

You do **not** need to attend the Final Approval Hearing. Class Counsel will appear at the Final Approval Hearing to represent the Class Members. If you do want to attend the hearing in person, by Zoom, or telephone, please visit the settlement website at kalima-lawsuit.com or contact the Kalima Claims Administrator for more information by email at info@kalima-lawsuit.com or by telephone at 808-650-5551 or 833-639-1308.

How do I receive a copy of my documents?

The State of Hawai'i Department of Hawaiian Home Lands has your original documents. If you want copies of your original documents, please call the State of Hawai'i Department of Hawaiian Home Lands at 808-620-9500.

Plaintiffs' Counsel may have copies of some documents relating to your claim if they were provided by the State of Hawai'i. Those documents may include (1) your Department of Hawaiian Home Lands application and/or lease file and (2) documents from the Hawaiian Home Lands Trust Individual Claims Review Panel.

Documents provided by the State of Hawai'i to Plaintiffs' Counsel may not be complete and may not contain all of the documents in your file(s). To make sure you receive all of your original documents, please contact the State of Hawai'i Department of Hawaiian Home Lands at 808-620-9500.

All copies of documents in Plaintiffs' Counsel's possession will be returned to the State of Hawai'i at the conclusion of this case.

If you want copies of documents provided by the State of Hawai'i to Plaintiffs' Counsel, please notify the Claims Administrator in writing by **September 1, 2023**.

Your request will be forwarded to the State of Hawai'i Department of Hawaiian Home Lands, which will remove any confidential information relating to persons who are not Plaintiffs in this case. After the State's review and removal of any confidential information relating to persons who are not Plaintiffs in this case, your redacted documents will be sent to you by the Claims Administrator. That process may take many months. Please contact the Department of Hawaiian Home Lands if you need copies of your original documents right away and to make sure you have all of the documents from your file(s).

If you do not request copies of your documents by **September 1, 2023**, Plaintiffs' Counsel will return them to the State of Hawai'i. The State of Hawai'i Department of Hawaiian Home Lands has the original documents.

EXH. "E" TO DECLARATION OF ROBERT COOMES

The Court's February 26, 2014, Amended Order Granting Plaintiffs' Motion for Release of Confidential Information filed on March 7, 2023, states the following:

Any material State Defendants produce in accordance with this Order to any person who withdraws, is dismissed, or opts out of this action shall be offered to the person by Plaintiffs' Counsel upon dismissal, withdrawal or opt-out, provided that, if the material is an applicant or lessee file produced by State Defendants, Plaintiffs' counsel shall return such material to the State Defendants for removal of confidential information concerning non-Plaintiffs prior to Plaintiffs' Counsel providing material to the person; if the person does not want the material, Plaintiffs' counsel, at Plaintiffs' Counsel's option return the material to the State Defendants and certify to State Defendants that it was offered, refused or has been destroyed.

A copy of the Confidential Information Order is available at kalima-lawsuit.com/important-documents.

I previously opted out (excluded myself) from the lawsuit or this Settlement. How do I file my own lawsuit against the State of Hawai'i?

If you have previously opted out (excluded yourself) from the lawsuit or this Settlement and you intend to file a separate lawsuit, limitations periods may bar your claim if it is not timely filed. Any separate lawsuit should be filed before July 21, 2023, to ensure it falls within the potential statutory limitations period. Please consult with a lawyer about filing your claim.

Please do not call the Judge, the Clerk of the Court, or the State of Hawai'i about this notice. They will not be able to give you advice about this case. If you have questions, please contact the Claims Administrator at 808-650-5551 or 833-639-1308 or via email at info@kalima-lawsuit.com.

EXH. "E" TO DECLARATION OF ROBERT COOMES

Exhibit F

Requests for Exclusion

Tracking Number:

Name:

390

BRENDA LEE

635

RONETTE KAHAKULANI TAOAL

922

SHEM G KAHAWAII

2243

LEONA UWILAN GUILLERMO

EXH. "F" TO DECLARATION OF ROBERT COOMES

Exhibit G



Kalima v State of Hawaii (40057079)
Client Activity Report
Fairness Hearing Date: 7/21/2023

	Week End	5/12/2023	5/19/2023	5/26/2023	6/2/2023	Cumulative 6/2/2023
Outgoing Mailings Initial Mailing Date 07/05/2022						
Email - Initial		-	-	-	-	1,895
Notice - Initial		-	-	-	-	2,754
Notice - Remail		-	-	-	-	330
Second Notice Claim Letter - Initial		112	-	-	-	3,342
Second Notice No Claim Letter - Initial		-	-	-	-	237
Second Notice Construction Letter - Initial		-	-	-	-	126
Updated Claim Letter - Initial		-	-	-	-	677
Second Notice Settled Letter - Initial		-	-	-	-	34
Second Notice Opt Out Letter - Initial		-	-	-	-	26
Total Mailings Sent		112	-	-	-	9,421
Undeliverable Mailings						
Total Processed Undeliverable Notices (including Remails)		-	6	20	26	1,029
Total Undeliverable Emails		-	-	-	-	626
Unreachable Tracking Numbers*		49	49	49	52	

* All noticing attempts have been unsuccessful

Opt Outs					
Total Opt Outs Received		-	-	-	4

Incoming and Outgoing Communications					
Assignment of Expectancy Form (Received)		-	-	-	33
Construction Correction Form (Received)		-	-	-	4
Claim Correction Form (Received)		-	8	1	206
Correspondence (Received)		2	3	4	90
Correspondence (Sent)		3	2	-	119
Death Certificate (Received)		-	-	-	940
Legacy Deceased Class Member Form (Received)		-	-	-	56
Email Correspondence (Received)		43	38	57	5,296
Email Correspondence (Sent)		22	15	3	1,019
Legacy Information Request Form (Received)		-	-	-	1
Information Request Form Online (Received)		17	10	7	1,673
Information Request Form Paper (Received)		-	3	-	897

Call Center Support		833-639-1308; 808-650-5551		Launch Date 07/05/2022	
IVR - Total Calls		182	194	146	11,700
IVR - Total Minutes		243	282	166	13,365
Voicemails Received		53	51	36	3,354
Live Operator - Total Outgoing Calls		40	38	54	3,127
Live Operator - Total Outgoing Minutes		242	161	298	17,855

Website		www.kalima-lawsuit.com			
Page Hits		1,051	949	914	62,509
Sessions		505	460	448	25,472
Assignment of Expectancy Form		8	15	12	912
Claim Correction Form		3	1	5	344
Claim Notice		11	6	13	539
Construction Correction Form		-	1	-	113
Construction Notice		2	2	1	133
First Mailed Notice		13	7	12	1,032
Information Request Form		8	5	17	891
Letter to Class Members		12	10	14	950
Motion for Preliminary Approval		2	7	1	209
No Claim Notice		-	3	2	227
Opt Out Notice		2	1	-	75
Order Adopting Final Approval Hearing Schedule		2	2	1	47
Order Adopting Notice Schedule		2	6	9	111
Preliminary Approval Order		-	6	5	230
Second Stipulation to Amend Timetable of Events		1	2	3	205
Settled Notice		10	10	9	258
Settlement Agreement		8	21	13	799
Stipulation Regarding State of Hawai'i Dept of Health Records and Order		1	1	1	159
Stipulation to Amend Schedule for Final Approval		5	13	10	164
Stipulation to Amend Timetable of Events		1	2	2	122

DISCLAIMER: Epiq Class Action & Mass Tort Solutions ("ECA") maintains this report for its clients to provide a near-real-time view into the Administrator's database. Please be aware that, while ECA makes every effort to ensure that the information provided is timely, accurate and complete, the status of documents and line-item counts may be changing due to work in progress, analyst review, quality assurance audits, processing of additional documentation, and data validation. Before using these statistics for critical analysis or for court filings, you should contact your Project Manager.

EXH. “1”

**[DRAFT] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND MOTION
FOR ATTORNEYS FEES AND WAIVER OF COSTS**

Plaintiffs' Motion for Final Approval of Class Action Settlement [Dkt ____] and Motion for Attorneys Fees and Waiver of Costs [Dkt ____], both filed on June 19, 2023 were heard by the Honorable Lisa W. Cataldo on July 21, 2023, at 9:00 a.m. Carl M. Varady and Thomas R. Grande appeared for Plaintiffs. Craig Y. Iha and Jordan Ching Deputy Attorneys General, and Linda Lee K. Farm and Donna H. Kalama, Special Deputy Attorneys General, appeared for Defendants.

WHEREAS Plaintiffs and the Class Representatives Leona Kalima, Diane Boner and Raynette Ah Chong, special administrator of the Estate of Joseph Ching, deceased, on behalf of themselves and all other Class Members ("Settlement Class"), have applied to the Court pursuant to Hawai'i Rules of Civil Procedure 23 for an order granting final approval of the proposed settlement of this class action ("Lawsuit") and for attorneys fees in accordance with the June 2, 2022 Settlement Agreement ("Settlement Agreement") in this case, and a Final Judgment implementing the terms of the Settlement Agreement;

WHEREAS the Court has read and considered the Settlement Agreement¹;

WHEREAS the Court has read and considered the Plaintiffs' June 19, 2023 Motion for Final Approval of Settlement, all memoranda, exhibits and declarations in support thereof, and has heard argument of counsel thereon;

WHEREAS the Court has also read and considered the Plaintiffs' June 19, 2023 Motion for Attorney Fees, all memoranda, exhibits and declarations in support thereof, and Plaintiffs' July 14, 2023 Reply, and has heard argument of counsel thereon;

WHEREAS the Court has also read and considered the Defendants' July 3, 2023 Statement of No Opposition to the Motion for Final Approval and July 3, 2023 Memorandum in Opposition to Plaintiffs' Motion for Attorneys' Fees, all exhibits and declarations in support thereof, and has heard argument of counsel thereon;

¹ Terms not defined in this Order shall have the definitions ascribed to them in the Settlement Agreement.

EXH. "1" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

WHEREAS the Court has also read and considered declarations in support of the settlement and objections to the settlement;

WHEREAS the Court has also read and considered Plaintiffs' July 14, 2023 Memorandum in Response to Declarations of Support and Objections and Defendants' July 14, 2023 Memorandum in Response to Declarations of Support and Objections;

WHEREAS, the Probate Court and this Court have approved the June 13, 2023 Probate Plan and Qualified Settlement Trust;

WHEREAS the Court approves the Payment Distribution Plan filed in conjunction with this Motion, attached as Exhibit "1";

WHEREAS, the June 9, 2022 Preliminary Approval Order states that the Court will consider the following at the Final Approval Hearing: (1) the proposed Settlement; (2) the distribution of the Settlement Fund including the issuance of settlement payments to Payment Recipients; (3) Settlement Class Counsel's request for an award of attorneys' fees; (4) the request for an incentive payment to the Class Representatives to be paid from the Settlement Fund; and (5) the determination of how to issue settlement payments for deceased Settlement Class members whose claims are then or expected to be processed in probate.

WHEREAS, based on the above submissions and presentations as well as the Plaintiffs' submissions and presentations in support of the June 2, 2022 Motion for Preliminary Approval² the Court finds that the proposed Settlement is fair, reasonable, and adequate and, therefore, grants its final approval;

NOW, GOOD CAUSE APPEARING THEREFOR, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

² June 2, 2022 Plaintiffs' Motion For Preliminary Approval Of Class Action Settlement, Decertification Of Subclasses 1-4 And 6, Certification Of Settlement Class, Appointment Of Class Counsel, Class Representatives, Settlement Special Master And Claims Administrator, Approval Of Plan Of Notice And Scheduling Of Fairness Hearing; Memorandum In Support Of Motion For Preliminary Approval Of Class Action Settlement, Decertification Of Subclasses 1-4 And 6, Certification Of Settlement Class, Appointment Of Class Counsel, Class Representatives, Settlement Special Master And Claims Administrator, Approval Of Plan Of Notice And Scheduling Of Fairness Hearing [Dkt.1489]

EXH. "1" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

This Court has personal jurisdiction over all Settlement Class Members and jurisdiction to approve the Settlement and the Settlement Agreement.

1. Final Approval of Settlement Agreement

The Settlement Agreement and the Settlement are hereby approved as being fair, reasonable, adequate and in the best interests of the Settlement Class in light of the benefits to Class Members; the strength of Plaintiffs' case and the State's defenses; and the complexity, expense and probable duration of further litigation and the risk and delay inherent in possible appeals. In approving the Settlement Agreement, the Court makes the following findings:

- a. The proposed class representatives and Settlement Class Counsel have adequately represented the Settlement Class in the settlement negotiations;
- b. The parties engaged in substantial discovery over the course of the 23-year history of the case;
- c. The Settlement Agreement was entered into at arm's length by experienced counsel with the assistance of Circuit Court Judge Gary W.B. Chang;
- d. The relief provided by the Settlement Agreement is clearly adequate;
- e. The Settlement Agreement treats members of the Settlement Class equitably relative to each other.

2. Class Definition and Exclusions

Consistent with the certified Settlement Class definition that the Court previously approved in its Order Granting Motion for Preliminary Approval³ ("Preliminary Approval Order"), and in accord with the Settlement Agreement, pursuant to Hawai'i Rule of Civil Procedure 23 the Court hereby finds that the prerequisites for class action treatment have been met and certifies the following class for settlement purposes ("Settlement Class"):

All persons who filed claims with the Hawaiian Home Lands Trust Individual Claims Review Panel on or before August 31, 1995.

³ Order Granting Plaintiffs' Motion For: (1) Preliminary Approval Of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification Of Subclasses 1-4 And 6(4) Appointment Of Class Representatives And Appointment of Class Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval Of Plan Of Notice And Scheduling Of Fairness Hearing filed June 9, 2022 [Dkt.1496].

As set forth in the Settlement Agreement, the definition of the Settlement Class is coextensive with the definition of “Plaintiffs” and includes all persons listed on the “Class and Waiting List Subclass List” attached as Exhibit 1 to Plaintiffs’ Motion to Establish Class and Waiting List Subclass List filed July 1, 2016, and which was adopted by the Court by the Order Granting Plaintiffs’ Motion to Establish Class and Waiting List Subclass List [Filed July 1, 2016], filed July 26, 2017.

The following persons will not receive a Settlement Payment under the terms of the Settlement Agreement:

- a. Individuals who did not file a claim with the Panel on or before August 31, 1995.
- b. Individuals who filed a timely claim with the Panel but the claim did not assert an individual breach of trust which occurred between August 21, 1959, and June 30, 1988.
- c. Individuals who filed a timely claim with the Panel but the claim asserted an individual breach of trust that occurred after June 30, 1988.
- d. Individuals who filed a timely claim with the Panel but the claim was not a valid HRS Chapter 674 claim.
- e. Individuals who filed a timely claim with the Panel but settled their claim.
- f. Individuals who opted out of the Lawsuit in response to the 2007 class notice.
- g. Individuals who opted out of the Lawsuit in response to the 2012 class notice.
- h. Individuals who opt-out of the Settlement Class and this Settlement by sending a valid and timely Opt-Out Letter to the Claims Administrator.

3. Class Certification

The Court finds that certification of the Settlement Class is warranted for the Settlement because:

EXH. "1" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

- a. The Class Members are so numerous that joinder of all of them in the Lawsuit is impracticable;
- b. There are questions of law and fact common to the Class Members which predominate over any individual questions;
- c. The claims of the Class Representatives are typical of the claims of the Class Members;
- d. The Class Representatives and Class Counsel will fairly and adequately represent and protect the interests of all of the Class Members; and
- e. Class treatment of these claims will be efficient and manageable, thereby achieving an appreciable measure of judicial economy, and a class action is superior to other available methods for a fair and efficient adjudication of this controversy.

4. Appointment of Class Representatives and Settlement Class Counsel

The Court hereby finds that Leona Kalima, Diane Boner, and Raynette Ah Chong, Special Administrator of the Estate of Joseph Ching, Deceased, have interests consistent with the Settlement Class and will fairly and adequately serve as Class Representatives. The Court hereby appoints Ms. Kalima, Ms. Boner, and Ms. Ah Chong to continue to serve as Class Representatives of the Settlement Class.

The Court hereby appoints Carl M. Varady and Thomas R. Grande to continue as Settlement Class Counsel.

5. Appointment of Settlement Special Master

The Court appoints the Hon. Michael Broderick (ret.) to continue to serve as Settlement Special Master. The Settlement Special Master may expend all reasonable and necessary funds in fulfillment of his responsibilities to complete implementation of the Claims Administration Process, including but not limited to:

- a. Implementing the provisions of the Payment Distribution Plan;
- b. Supervise and coordinate issuance of settlement payments to living Settlement Class Members;
- c. Supervise and coordinate disbursement of monies for Claims Administration expenses for class-wide claims administration activities;

- d. Coordinate with the Probate Special Master and Probate Special Counsel to implement the Court-approved Probate Plan;
- e. Make periodic and final reports to the Court as ordered or as needed.
- f. Perform such other duties necessary to administer the Claims

Administration Process as requested or as the Court may order.

6. Appointment of Probate Special Master and Probate Special Counsel

Subject to Probate Court approval, the Court appoints Emily Kawashima, Esq. to continue as Probate Special Master and Scott Suzuki to continue as Probate Special Counsel, who, subject to Probate Court approval, may expend all reasonable and necessary funds in fulfillment of their responsibilities to complete implementation of the Claims Administration Process, including but not limited to:

- a. Implementing the provisions of the Probate Plan, Qualified Settlement Trust and Payment Distribution Plan;
- b. Supervise and coordinate issuance of settlement payments to deceased Settlement Class Members' estates;
- c. Supervise and coordinate disbursement of monies for Claims Administration expenses for probate claims administration activities;
- d. Coordinate with the Settlement Special Master to implement the Court-approved Probate Plan, Qualified Settlement Trust and Payment Distribution Plan;
- e. Make periodic and final reports to the Court as ordered or as needed.
- f. Perform such other duties necessary to administer the Claims

Administration Process as requested or as the Court may order.

7. Appointment of Claims Administrator

The Court authorizes the appointment of Epiq Class Action and Claims Solutions, Inc. ("Epiq") to continue as the Claims Administrator in this settlement.

The Claims Administrator will operate under the direction of the Settlement Special Master to make final computations and process settlement payments and engage in any required follow-up activities to ensure that settlement payments are distributed to living class members.

The Claims Administrator will operate under the direction of the Probate Special Master to compute and process settlement payments and engage in any required follow-up activities to ensure that settlement payments are distributed to the estates of deceased class members.

8. Final Findings on the Settlement Agreement

Pursuant to Hawai'i Rules of Civil Procedure 23, the Court finds the Settlement Agreement is fair, reasonable and adequate and resulted from serious, informed, non-collusive negotiations conducted at arm's length by the Settling Parties and their counsel. In making these final findings, the Court considered the nature of the claims, the amounts and kinds of benefits to be paid in settlement, the information available to the Settling Parties, and the allocation of the settlement payments among Settlement Class Members. The terms of the Settlement Agreement do not have any obvious deficiencies and do not improperly grant preferential treatment to any individual Settlement Class Member. In addition, the Court notes that the Settling Parties reached the proposed Settlement after substantial discovery, motions practice, two trials and two appeals since 1999. After intensive settlement discussions before the Hon. Gary Chang, the Court finds that the Settling Parties entered into the proposed Settlement in good faith, that the proposed Settlement meets the standards for final approval and the Settlement is sufficiently fair, reasonable and adequate to warrant final approval and distribution of the settlement payments pursuant to the Payment Distribution Plan.

9. Payment Distribution Plan

The Court has reviewed the Payment Distribution Plan attached to the Motion for Final Approval and attached hereto as Exhibit "1" and approves it as fair, reasonable and adequate in its terms. The Court specifically finds and approves all of the Payment Distribution Plan elements, including but not limited to provisions relating to the determination of valid claims and the calculation of settlement payments, the payment being made pursuant for "actual damages" as that term is defined in HRS § 674-2 and specifically excluding non-economic damages, including damages for pain and suffering personal injury, consequential damages and punitive damages pursuant to HRS § 674-17 and and specifically exclude payment of interest as set forth in *Kalima v. State*, 148 Haw. 129, 468 P.3d 143 (2020).

The Court also approves as fair, reasonable and adequate the terms of the Payment Distribution Plan relating to the establishment of the Kalima Class Action Settlement Trust (the “QST”) to effectively distribute the settlement proceeds to its beneficiaries, which include the living Class Members and those who derive their beneficial interests from the claims of Deceased Class Members.

The Court incorporates the terms of the Payment Distribution Plan into this Order Granting Final Approval.

10. Probate Plan and Qualified Settlement Trust

The Court has reviewed the Probate Plan and the QST and has approved the Probate Plan, jointly with the Probate Court. The Court finds that the Probate Plan and QST are fair, reasonable and adequate in their terms. The Court incorporates the terms of the Probate Plan and QST into this Order Granting Final Approval. The Court hereby establishes the Kalima Class Action Settlement Trust and orders that the settlement funds be transferred to “Sylvius H. Von Saucken, General Manager – Mass Torts, EPIQ Class Action & Claims Solutions, Inc., Trustee of the Kalima Class Action Settlement Trust”, which trust shall be dated as of the date of the entry of this Order.

11. The Notice Plan and the Administration of the Settlement

In its Order Granting Preliminary Approval, the Court previously approved and ordered the Claims Administrator to carry out the Notice Plan. The Court has reviewed and hereby approves the implementation of the Notice Plan by the Claims Administrator.

Pursuant to the Notice Plan, the Claims Administrator: (i) researched, compiled and updated addresses for living and deceased class members and family representatives; (ii) distributed three (3) written notices and corresponding email notices; (iii) arranged for publication of the class notice; (iv) posted notice on and maintained the settlement website, kalima-lawsuit.com; (v) maintained an Interactive Voice Recording (IVR) voicemail system, with appropriate live operator call-back; (vi) responded to class member inquiries by mail, email and telephone and/or forwarded such inquiries to Class Counsel; (vii) provided written information to class members and their relatives as appropriate; and (viii) received and maintained on behalf of the Court any exclusions from the Settlement Class.

12. Notices to the Class

The Court finds that the Notice Plan and Class Notices fully and accurately informed the Settlement Class Members of all material elements of the proposed Settlement and of each Settlement Class Member's right and opportunity to object to the proposed Settlement. The Court further finds that the mailing and distribution of the class notices and publication of class notices substantially in the manner and form approved by the Court meet the requirements of Hawai'i Rules of Civil Procedure 23, the Constitution of the State of Hawai'i and the United States Constitution (including the due process clause), the Rules of Court, and any other applicable law constituted the best notice practicable under the circumstances and constituted due and sufficient notice to all Settlement Class Members.

13. Administration of the Probate Plan and Qualified Settlement Trust

After Final Approval, the Claims Administrator shall administer the distribution of settlement payments to living and deceased class members who are Payment Recipients and shall provide claims administration support for final distribution of settlement payments to said living and deceased class members under the terms of the Probate Plan and Qualified Settlement Trust, including providing individual notice, research services, IVR services, website maintenance and any other activity consistent with its duties. General class administrative duties shall be under the supervision of the Settlement Special Master and specific probate claims administrative duties shall be under the supervision of the Probate Special Master.

The Claims Administrator shall maintain separate accounting for 1) activities relating to classwide tasks, such as payment distribution, processing and appropriate follow-up and 2) activities relating solely to probate proceedings for estates of individual class members.

14. Objections

___ Settlement Class Members timely objected to the fairness, reasonableness and/or adequacy of the Settlement. The Court has considered these objections and found them to be unmeritorious.

All Settlement Class Members who failed to timely serve written objections in the manner specified in the Court's Preliminary Approval Order are deemed to have waived any objections, are foreclosed from making any objections, whether by appeal or otherwise, to the

Settlement Agreement and Motion for Attorneys Fees, are bound by the terms of the Settlement Agreement and the Final Judgment, and are foreclosed forever from making any objection to the fairness or adequacy or any other aspect of the Settlement Agreement and the Motion for Attorneys Fees, unless otherwise allowed by the Court.

15. “No Claim” or “No Jurisdiction Claim” Settlement Class Members

During the claims review process it was determined that XXX Settlement Class Members asserted claims that did not fall within the jurisdiction of HRS Chapter 674. Said Settlement Class Members are identified on Exhibit ____ (filed *in camera*) to the Payment Distribution Plan. As a result of this “no claim” determination, said Settlement Class Members are not Payment Recipients under the Settlement Agreement, and the Claims Administrator is directed not to distribute settlement payments to these members.

16. Settlement Class Members Who Previously Settled Their Claims

During the claims review process it was determined that XXX Settlement Class Members settled their HCO claims, which settlements were documented in written settlement agreements. As a result of the settlements, said Settlement Class Members’ HCO claims were withdrawn or dismissed with prejudice. Said Settlement Class Members are identified on Exhibit ____ (filed *in camera*) to the Payment Distribution Plan. As a result of these prior settlements, said Settlement Class Members are not Payment Recipients under the Settlement Agreement, and the Claims Administrator is directed not to distribute settlement payments to these members.

16. Exclusions/Opt Outs

Four Settlement Class Members timely excluded themselves from (opted out of) this Settlement. Said Settlement Class Members are identified on Exhibit ____ (filed *in camera*) to the Payment Distribution Plan. As a result of their timely exclusions, the Claims Administrator is directed not to distribute settlement payments to these members.

XXX Settlement Class Members previously excluded themselves from (opted out of) this Lawsuit in 2007 and 2012. Said Settlement Class Members are identified on Exhibit ____ (filed *in camera*) to the Payment Distribution Plan. As a result, said Settlement Class Members are not

EXH. "1" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

Payment Recipients under the Settlement Agreement, and the Claims Administrator is directed not to distribute settlement payments to these members.

All Settlement Class Members who failed to timely serve written exclusions in the manner specified in the Court's Preliminary Approval Order are deemed to have waived the ability to exclude themselves, are foreclosed from excluding themselves from the Settlement, are bound by the terms of the Settlement Agreement and the Final Judgment and are foreclosed forever from excluding themselves from the Settlement or this Lawsuit unless otherwise allowed by the Court.

17. The Final Approval Hearing

On July 21, 2023 at 9:00 a.m., the Court held its hearing on the Motion for Final Approval of Class Action Settlement and Motion for Attorneys Fees pursuant to Hawai'i Rules of Civil Procedure 23.

During and upon conclusion of the Final Approval Hearing, the Court considered the following factors and made the following findings:

- a. The Settlement Agreement is fair, reasonable and adequate;
- b. The Court should enter this Final Order granting final approval of the Settlement and Final Judgment implementing its terms;
- c. The Notices and the Notice Plan were implemented pursuant to the Settlement Agreement and the Court's Preliminary Approval Order and (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise potential Settlement Class Members of the pendency of the Lawsuit, the nature of the proposed Settlement (including Class Counsel's request for award of attorneys fees and waiver of costs), their right to object to the proposed Settlement, their right to exclude themselves from the Settlement Class, and their right to appear at the Final Approval Hearing, (iii) were reasonable and constituted due, adequate, and sufficient notice to all persons entitled to notice and (iv) met all applicable requirements of Hawai'i Rules of Civil Procedure 23, the Constitution of the State of Hawai'i and the United States Constitution (including the Due Process Clause, the rules of Court, an' any other applicable law.

EXH. "1" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

d. The Settlement Class Representatives and Class Counsel adequately represented the Settlement Class and its members for the purposes of entering into and implementing the Settlement and will continue to adequately represent the Settlement Class for implementing the Payment Distribution Plan.

e. Class Counsel's request for an award of Attorneys Fees is substantiated, fair, reasonable and adequate.

f. Based on the foregoing, the Claims Administrator shall allocate and distribute:

1. Settlement Payments for Payment Recipients pursuant to the Payment Distribution Plan:

\$286,196,287.28

2. Attorneys Fees to Class Counsel:

\$40,000,000

3. Hawai'i State Excise Tax for Oahu to Class Counsel:

Waived by Class Counsel

4. Litigation Costs to Class Counsel:

Waived by Class Counsel

5. Incentive Awards to Class Representatives:

\$75,000 (\$25,000 each)

6. Retention for Claims Administration Expenses – June 2023 to December 2024

\$682,700

Pursuant to the terms of the Settlement Agreement, Class Counsel shall defend and indemnify State Defendants against any attorney liens or claims of any person who attempt to enforce such liens or claims against the Payment of Plaintiffs' Attorneys' Fees or any portion of the Class Settlement Amount.

18. Release of Claims

Pursuant to Section V of the Settlement Agreement, Plaintiffs/Settlement Class Members, for themselves, their heirs, successors, and assignees, hereby release all Releasees as defined in the Settlement Agreement from all claims arising out of the facts alleged in this

EXH. "1" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

Lawsuit, all claims that were asserted or could have been asserted before the Panel, and all claims that were asserted or could have been asserted in this Lawsuit (the “Release of Claims”). The Release of Claims shall be effective at the moment of Final Approval (as defined in the Settlement Agreement) or immediately upon transfer of the Class Settlement Amount to the QST, whichever occurs first. Pursuant to the Settlement Agreement, all Settlement Class Members are bound by the terms of the Settlement Agreement, including the Release of Claims. Pursuant to the Settlement Agreement, State Defendants owe no sums to Plaintiffs or Plaintiffs’ attorneys whatsoever other than the Class Settlement Amount.

The Court hereby fully and finally releases and discharges the Releasees from the Released Claims. Plaintiffs, including each and every Settlement Class Member, are hereby permanently barred and enjoined from filing, commencing, instituting, continuing, pursuing, maintaining, prosecuting, intervening in, participating in, or enforcing any Released Claims (including, without limitation, in any individual, class or putative class, representative or other action or proceeding), directly or indirectly, in any judicial, administrative, arbitral or other forum, against the Releasees.

19. Final Accounting

The Settlement Special Master shall prepare a Final Accounting of the Settlement Fund and submit it to the Court upon the completion of the distribution of funds. If there is a balance remaining in the Settlement Fund following the payment of all valid claims, claims administration costs, attorneys’ fees, and Class Representative Incentive payments, the remainder, if any, shall be paid to the Department of Hawaiian Home Lands loan fund established by HHCA § 213(c) and used exclusively for the purposes enumerated in HHCA § 214(a).

20. Retention of Jurisdiction

Without affecting the finality of the Final Judgment for purposes of appeal, the Court retains jurisdiction to consider all further applications arising out of or connected with the Settlement Agreement, including but not limited to requests for transfer of additional funds for

claims administration purposes from the Settlement Special Master and all other matters relating to the claims administration for the class as a whole, i.e. for both living and deceased class members. The Probate Court retains jurisdiction to oversee and implement the Probate Plan and Qualified Settlement Trust for payments relating to deceased class members' estates. This Court retains jurisdiction in all other matters relating to the final disposition of settlement payments as provided for in the Payment Distribution Plan including any and all disputes arising out the claims by any other attorneys seeking attorneys fees, costs, other expenses, or awards resulting from or in any way related to or arising out of this Lawsuit, the Settlement Agreement, the Payment Distribution Plan, the Probate Plan and this Order Granting Final Approval of Class Action Settlement and Motion for Attorneys Fees and Waiver of Costs. Pursuant to the terms of the Settlement Agreement the Court's jurisdiction shall terminate upon final distribution of all settlement funds including payment of residual funds, if any, pursuant to paragraph VII.E. of the Settlement Agreement, or 60 days after the submission of the final report by the Settlement Special Master, whichever is later. Such termination of jurisdiction does not affect the enforceability of the Settlement Agreement.

21. By entering this Order, the Court is not making a determination as to the merits of the Plaintiffs' claims. Pursuant to the Settlement Agreement, the Settlement does not affect the present status or qualification of any Plaintiff/Settlement Class Member on any waiting list maintained by the Department of Hawaiian Home Lands ("DHHL") or qualifications to receive a lease under the Hawaiian Homes Commission Act. Decisions or findings by the Claims Administrator, Class Counsel, the Settlement Special Master, the Probate Special Master, or the Court or Probate Court made for purposes of determining whether a Settlement Class Member is entitled to a settlement payment or the amount of said settlement payment is not binding on DHHL or the Hawaiian Homes Commission except for purposes of this Settlement.

22. Appeals

Should an appeal be filed by any Settlement Class Member or any person purporting to act on behalf of any Settlement Class Member after entry of Final Judgment following this order, Plaintiffs and Defendants shall be permitted to take the deposition(s) of any appellants. Any Class Member filing an appeal must file an appellate bond pursuant to HRAP 7 in the

amount of \$***, which represents the reasonable anticipated additional costs of claims and probate administration resulting from the delay of such an appeal.

EXH. "1" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

[DRAFT] FINAL JUDGMENT

Pursuant to Rule 58 of the Hawaii Rules of Civil Procedure and the Order Granting Final Approval of Class Action Settlement and Motion for Attorneys Fees filed herein on _____, 2023 (the “Final Approval Order”), Final Judgment is hereby entered as set forth in the Settlement Agreement and the Final Approval Order.

All claims against Defendants State of Hawai‘i, State of Hawai‘i Department of Hawaiian Home Lands, State of Hawai‘i Hawaiian Home Lands Trust Individual Claims Review Panel, and Josh Green, M.D., in his official capacity as Governor of the State of Hawai‘i⁴ (collectively, “State Defendants”), are hereby dismissed on the merits with prejudice, and without attorneys’ fees or costs except for those attorneys’ fees awarded to Class Counsel pursuant to the terms of the Final Approval Order.

This Final Judgment resolves all claims and issues as to all parties to this action. Any and all remaining claims and issues, if any, are dismissed with prejudice. There is no just reason for delay and, upon filing, this Final Judgment shall be final and appealable.

⁴ Pursuant to Hawaii Rules of Civil Procedure 25(d)(1), Governor Green has been automatically substituted as a party herein upon taking office.

EXH. “2”

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Honolulu, Hawai'i 96813
Telephone: (808) 523-8447
E-mail: carl@varadylaw.com

GRANDE LAW OFFICES
THOMAS R. GRANDE 3954-0
41-859 Kalaniana'ole Highway, #271
Waimānalo, Hawai'i 96795
Telephone: (808) 271-7500
Email: tgrande@grandelawoffices.com

CLASS COUNSEL

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER, RAYNETTE
NALANI AH CHONG,
special administrator of the estate of
JOSEPH CHING, deceased, CAROLINE
BRIGHT, DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF HAWAI'I
DEPARTMENT OF HAWAIIAN HOME LANDS; et
al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

[PROPOSED] PAYMENT DISTRIBUTION PLAN
AND ORDER

POST-TRIAL PROCEEDINGS JUDGE:
HON. LISA W. CATALDO

SETTLEMENT JUDGE: HON. GARY W.B.
CHANG

[PROPOSED] PAYMENT DISTRIBUTION PLAN AND ORDER

Plaintiffs hereby submit the following plan for distribution of settlement payments to individual living Class Members and to the estates of deceased Class Members, and for procedures following Final Approval.

EXH. "2" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

I. Requirement that a Payment Distribution Plan be Proposed and Approved

The Settlement Agreement defines the Payment Distribution Plan as “the plan that requires the Claims Administrator to pay the Net Settlement Amount in the form of settlement payments to Payment Recipients after Final Approval.” Settlement Agreement § I.21. “Settlement payments” refer to the individual payments to Payment Recipients. Settlement Agreement § I.33. All Settlement Class members are “Payment Recipients” except individuals excluded from receiving payment by § VIII. C. of the Settlement Agreement. The Net Settlement Amount is “the amount available for settlement payments to Payment Recipients pursuant to the Payment Distribution Plan,” i.e., the amount remaining after deductions for claims administration costs and attorneys’ fees. Settlement Agreement § I.17.

Final Approval means the occurrence of the following:

Following the Fairness Hearing, the Court has entered a final appealable order or judgment approving the Settlement, and

- i. The time for appellate review and review by application for certiorari has expired, and no notice of appeal has been filed; or
- ii. If appellate review or review by application for certiorari is sought, after any and all avenues of appellate review have been exhausted, the order approving settlement has not been modified, amended, or reversed in any way.

Settlement Agreement § I.12. The Payment Distribution Plan is required to be approved by the Court. Settlement Agreement § VIII.F.

ii. Settlement Distribution Plan

By an Order filed on January 5, 2023 [Dkt 1589], this Court adopted and approved Plaintiffs’ Proposed Settlement Distribution Plan attached as Revised Exhibit 1 to said Order (the “Plan”). The Plan contains guidelines and rules to be used to validate the claims of Settlement Class Members and to compute the value of

validated claims.

The Plan implements the Settlement Agreement's mandate that "[a]ll Settlement Class Members are Payment Recipients" unless they fall into one or more of the specifically identified exceptions. The Plan describes and provides the methodology for computing the value of two categories of valid claims: (1) waiting list/delay claims; and (2) construction/infrastructure claims.

III. Calculation of Settlement Payments

Individual settlement payments for Payment Recipients have been calculated through the following process, in accordance with the Settlement Agreement and prior orders of this Court. Settlement payments to Class Members for delays in receiving homestead awards will be calculated by the Claims Administrator based on each Class Members' individual circumstances. Delays in residential, agricultural, and pastoral awards will be calculated using the interval between the date of application or attempted application as the start date, and date of award, or, if no award is made, the date of the Class Member's death, or date of settlement (April 14, 2022), whichever is earliest, as the end date.

Payment amounts will be calculated using the matrices prepared by Defendants' experts and approved by the Court to establish values for the length of delay, calculated incrementally from the start date to the end date, less \$1 per year that would have been paid for the DHHL lease if it had been awarded.

Construction claims will be determined by the Construction Expert based upon the reasonable cost of repair and will be reviewed and approved by the Court.

In the event that the settlement amount, less attorneys' fees and claims

administration costs, is not sufficient to pay each claim at 100% of calculated value, all claims will be calculated and paid on a *pro rata* basis.

IV. Determination of Valid Claims

Notice to Settlement Class Members was provided as required by the Settlement Agreement and by the Court, and all of the claims of Settlement Class Members have been reviewed.¹ Based on that review, a determination has been made as to which claims are valid under the principles and rules set forth in the Plan. The settlement value of each valid claim has been computed by applying the principles and rules in the Plan.

V. Settlement Payment is for Actual Damages

Settlement payments made pursuant to this Payment Distribution Plan are made for “actual damages” as that term is defined in HRS § 674-2² and specifically exclude noneconomic damages, including damages for pain and suffering, personal injury, consequential damages and punitive damages pursuant to HRS § 674-17³ and

¹ A final individualized notice setting forth the estimated amount of the settlement payment for each Payment Recipient based on this Payment Distribution Plan was mailed on June 13, 2023. A report of the complete Notice Plan will be submitted with Plaintiffs’ Motion for Final Approval of Settlement which is to be filed by June 19, 2023.

² “Actual damages” means direct, monetary out-of-pocket loss, excluding noneconomic damages as defined in section 663-8.5 and consequential damages, sustained by the claimant individually rather than the beneficiary class generally, arising out of or resulting from a breach of trust, which occurred between August 21, 1959, and June 30, 1988, and was caused by an act or omission by an employee of the State with respect to an individual beneficiary in the management and disposition of trust resources.”

³ §674-17 Right to sue, individual claims. (a) An aggrieved individual claimant shall have the right to bring an action, in accordance with this part, in the circuit courts of the State for recovery of actual damages suffered by the claimant arising out of or

specifically exclude payment of interest as set forth in *Kalima v. State*, 148 Haw. 129, 468 P.3d 143 (2020) Based upon the opinion of Plaintiffs' tax counsel, this payment is made as reimbursement for rental and repair payments and, on that basis, the Claims Administrator will not issue any IRS 1099 forms for these payments.

VI. Proration of Settlement Values Determines Each Payment Recipient's Settlement Payment

In order to determine the specific amount each Payment Recipient is to receive the settlement value of each validated claim will be prorated as follows:

1. Individual claim values (i.e., the computed settlement value described above) for all Payment Recipients will be added together to calculate the "Total Claims Amount."
2. Payment Recipients' individual claim amounts were compared to the "Total Claims Amount" to calculate each Class Member's "Proportional Share Percentage" of the "Net Settlement Amount."
3. The "Net Settlement Amount" was calculated by deducting attorneys' fees and claims administration costs from the \$328,000,000 Class Settlement Amount. For purposes of calculating the Net Settlement Fund, Class Counsel will seek attorneys' fees award of 12.19% of the Class Settlement Amount (\$40 million), which is the maximum amount provided for in the Settlement Agreement. Class Representative Incentive Awards totaling \$75,000. Case and

resulting from a breach of trust which occurred between August 21, 1959, to June 30, 1988; provided that no action shall be filed until after October 1, 1997.

Claims Administration costs that have been or will be incurred through December 2024, for notices, calculations and payment distribution are estimated at .53% of the Gross Settlement Amount (\$1,728,700). Payment Recipients' settlement payments were then calculated by multiplying the Net Settlement Amount by their Proportional Share.

VI. Projected Time Period for Distribution of Settlement Payments

If Final Approval is granted on July 21, 2023, and no appeals are filed, it is expected that distribution of settlement payment checks can begin on or around September 1, 2023. It is anticipated that the Trustee of the Qualified Settlement Trust ("QST") will make distributions to living Class Members, without court approval, and to those with beneficial interests derived from deceased Class Members, upon approval of the Probate Court. The time period for distribution of settlement payments to those who have beneficial interests in the QST derived from deceased Class Members is expected to extend to at least December 2024. These time periods are estimates.

VII. Qualified Settlement Trust and Deceased Class Members

There are approximately 1,346 Class Members who are known to be deceased. A Probate Plan has been approved to efficiently and fairly distribute settlement proceeds to and among the parties who have a legitimate an interest in the respective estates of the deceased Class Members.

The Court has established the Kalima Class Action Settlement Trust, which is a Qualified Settlement Trust within the meaning of Treasury Regulation Section 1.468B

(the “QST”). The Beneficiaries of the QST are defined as those “parties who have a valid claim and or interest in the proceeds of the settlement funds derived from the Civil Matter, including parties who are entitled to the estates of deceased Class Members”. *Article 1-2.1* of the QST. The method of distributions from the QST to all of the beneficiaries of the QST is set forth in *Article 1-5* of the QST.

Upon petition to the Probate Court by Probate Special Counsel and with the oversight and recommendations of the Probate Special Master, the Probate Court will provide instructions to the Trustee of the QST to make proper distributions to the QST beneficiaries.

Costs and fees associated with the probate process will be charged to the Estates of the deceased Settlement Class Member both as a group, for generally applicable services and costs, and individually for specific probate petitions, subject to the Probate Court’s approval.

The QST will be subject to the Court’s ongoing oversight, will be responsible for administration and distribution of the settlement funds and for complying with federal reporting requirements.

Interim and final reports will be submitted for approval to the Probate Court by the Probate Special Master and Probate Special Counsel and QST Trustee.

VIII. Additional Efforts to Deliver Undistributed Funds

At the conclusion of the Probate Plan and distribution, in the case where Settlement Class Members received a *pro rata* payment that is less than 100% of their Proportional Share of the Total Claims Amount, the Claims Administrator will calculate supplemental payments on a *pro rata* basis based on the value of their

individual claims up to 100% of their Proportional Share of the Total Claims Amount.

IX. Remainder Funds

Any remainder of the Class Settlement Amount that cannot be distributed after all authorized payments are made in accordance with the Settlement Agreement, this Payment Distribution Plan, and applicable orders of the Court, shall be paid to the Department of Hawaiian Home Lands loan fund established by section 213(c) of the Hawaiian Homes Commission Act and used exclusively for the purposes enumerated in section 214(a) of the Hawaiian Homes Commission Act. Settlement Agreement § VII.E.

X. Final Report

At the conclusion of the distribution of settlement payments, Class Counsel, the Probate Special Master and the Claims Administrator will submit a Final Report to the Court with details of the claims distribution process and status.

This Payment Distribution Plan shall be incorporated into and be a part of the Probate Plan; the Probate Plan also is incorporated into this Payment Distribution Plan.

APPROVED AND SO ORDERED:

HON. LISA W. CATALDO
JUDGE OF THE ABOVE-ENTITLED COURT

KALIMA, ET AL. v. STATE OF HAWAI'I, ET AL. CIVIL NO. 99-4771-12 LWC; PAYMENT DISTRIBUTION PLAN AND ORDER

EXH. “3”



Kalima v State of Hawaii (40057079)
Client Activity Report
Fairness Hearing Date: 7/21/2023

	Week End	5/12/2023	5/19/2023	5/26/2023	6/2/2023	Cumulative 6/2/2023
Outgoing Mailings Initial Mailing Date 07/05/2022						
Email - Initial		-	-	-	-	1,895
Notice - Initial		-	-	-	-	2,754
Notice - Remail		-	-	-	-	330
Second Notice Claim Letter - Initial		112	-	-	-	3,342
Second Notice No Claim Letter - Initial		-	-	-	-	237
Second Notice Construction Letter - Initial		-	-	-	-	126
Updated Claim Letter - Initial		-	-	-	-	677
Second Notice Settled Letter - Initial		-	-	-	-	34
Second Notice Opt Out Letter - Initial		-	-	-	-	26
Total Mailings Sent		112	-	-	-	9,421
Undeliverable Mailings						
Total Processed Undeliverable Notices (including Remails)		-	6	20	26	1,029
Total Undeliverable Emails		-	-	-	-	626
Unreachable Tracking Numbers*		49	49	49	52	

* All noticing attempts have been unsuccessful

Opt Outs					
Total Opt Outs Received		-	-	-	4

Incoming and Outgoing Communications					
Assignment of Expectancy Form (Received)		-	-	-	33
Construction Correction Form (Received)		-	-	-	4
Claim Correction Form (Received)		-	8	1	206
Correspondence (Received)		2	3	4	90
Correspondence (Sent)		3	2	-	119
Death Certificate (Received)		-	-	-	940
Legacy Deceased Class Member Form (Received)		-	-	-	56
Email Correspondence (Received)		43	38	57	5,296
Email Correspondence (Sent)		22	15	3	1,019
Legacy Information Request Form (Received)		-	-	-	1
Information Request Form Online (Received)		17	10	7	1,673
Information Request Form Paper (Received)		-	3	-	897

Call Center Support		833-639-1308; 808-650-5551		Launch Date 07/05/2022	
IVR - Total Calls		182	194	146	11,700
IVR - Total Minutes		243	282	166	13,365
Voicemails Received		53	51	36	3,354
Live Operator - Total Outgoing Calls		40	38	54	3,127
Live Operator - Total Outgoing Minutes		242	161	298	17,855

Website		www.kalima-lawsuit.com			
Page Hits		1,051	949	914	62,509
Sessions		505	460	448	25,472
Assignment of Expectancy Form		8	15	12	912
Claim Correction Form		3	1	5	344
Claim Notice		11	6	13	539
Construction Correction Form		-	1	-	113
Construction Notice		2	2	1	133
First Mailed Notice		13	7	12	1,032
Information Request Form		8	5	17	891
Letter to Class Members		12	10	14	950
Motion for Preliminary Approval		2	7	1	209
No Claim Notice		-	3	2	227
Opt Out Notice		2	1	-	75
Order Adopting Final Approval Hearing Schedule		2	2	1	47
Order Adopting Notice Schedule		2	6	9	111
Preliminary Approval Order		-	6	5	230
Second Stipulation to Amend Timetable of Events		1	2	3	205
Settled Notice		10	10	9	258
Settlement Agreement		8	21	13	799
Stipulation Regarding State of Hawai'i Dept of Health Records and Order		1	1	1	159
Stipulation to Amend Schedule for Final Approval		5	13	10	164
Stipulation to Amend Timetable of Events		1	2	2	122

DISCLAIMER: Epiq Class Action & Mass Tort Solutions ("ECA") maintains this report for its clients to provide a near-real-time view into the Administrator's database. Please be aware that, while ECA makes every effort to ensure that the information provided is timely, accurate and complete, the status of documents and line-item counts may be changing due to work in progress, analyst review, quality assurance audits, processing of additional documentation, and data validation. Before using these statistics for critical analysis or for court filings, you should contact your Project Manager.

EXH. “4”



Kalima v. State of Hawai'i Settlement

Project Requirements and Estimated Volumes

Total Estimated Individual Class Size	2,700
Case Duration (Months)	22

Summary Estimate

Data Standardization and Class Notice	\$ -
Project Management and Reporting	\$ 503,995
Website Hosting and Client Dashboard	\$ 2,750
Toll Free Contact Center	\$ 103,989
Information Request Form and Individual Successor Claim Processing and Review	\$ 43,301
Distribution and Fund Management	\$ 16,548
Postage and Expenses	\$ 12,124
Total Estimate	<u>\$ 682,707</u>

**Detailed Estimate****Kalima v. State of Hawai'i Settlement****Project Management**

Project Manager	Per Hour		\$	201,495
Project Coordinator	Per Hour		\$	220,000
Data Analyst and Reporting	Per Hour		\$	82,500
				\$ 503,995

Website and Reporting

Website Hosting	Per Month		\$	2,750
				\$ 2,750

Toll Free Contact Center

IVR Maintenance Fee	Per Month		\$	2,750
IVR Minutes of Use	Per Minute		\$	1,793
Contact Center Agent - Training	Per Hour		\$	2,200
Contact Center Agents Call Backs - Shared	Per Minute		\$	97,246
				\$ 103,989

Information Request Form and Individual Successor Claim Processing and Review

Information Request Form - Intake and OCR	Per Form		\$	113
Scanning and Image Storage	Per Image		\$	288
Correspondence Review and Response	Per Hour		\$	42,900
				\$ 43,301

Distribution and Fund Management

Payment Run Coordination (w/2 Reissue Runs)	Per Hour		\$	3,250
Account Management and Reconciliation	Per Hour		\$	11,050
Check Mailing Class Member Address Research 1-50k	Per input		\$	1,250
Print 1-image Paper Check with Stub	Per Check		\$	811
Record Undeliverable Check (assumes 40%)	Per Piece		\$	188
				\$ 16,548

Total Estimated Administration Fee **\$ 670,583**

EXH. "4" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL



Kalima v. State of Hawai'i Settlement

Postage and Expenses

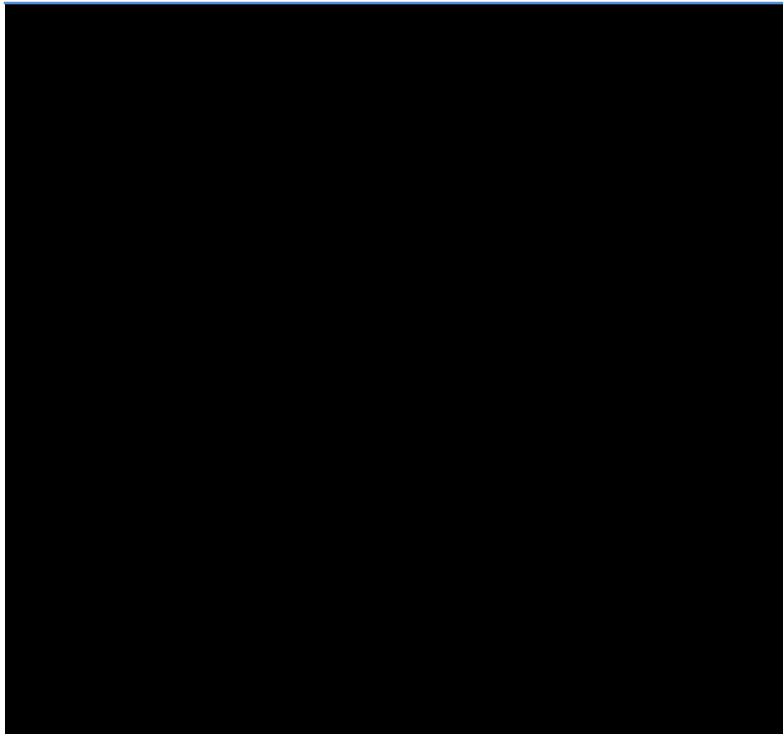
Hawaii Based Post Office Box - Dedicated including Premium Forwarding	Per Year		\$ 1,792
Postage* Paper Checks	Per Check		\$ 632
Postage* - Express Mailing of Checks	Per Piece		\$ 1,000
Photocopies, Delivery and Box Storage	As Used		\$ 700
Bank Fees - Account	Per Month		\$ 5,500
Settlement Fund (QSF) Income Tax Return	Per Year		\$ 2,500
*Discounted rates as applicable			\$ 12,124

Total Estimated Costs \$ 12,124

Total Estimate \$ 682,707

Estimate does not include sales tax where applicable.

Standard Rates



Estimate Valid Until: 9/13/2023

EXH. "4" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

EXH. “5”



Probate Process

Kalima v. State of Hawai'i Settlement

Probate Process

Project Requirements and Estimated Volumes

Total Estimated Deceased Class Members	1,346	
Total Estimated Deceased Class Members Hawaii	1,170	
Total Estimated Deceased Class Members Other States	176	
Total Estimated Heirs (assuming 5 heirs per Class Member)	6,730	
Mailing 1: Probate Notice - deceased class members last known address and family representatives from information request form	1,500	
Percentage of Undeliverable mail	2%	
Mailing 2: Cover Letter and Petition for Instructions to all heirs (assumes 5 heirs per	6,730	
Percentage of Undeliverable mail	2%	
Toll-Free Phone with IVR Deceased Class Member Option (voicemail with call backs)	Yes	
Contact Center Agent Support	Yes	
Informational Website	Yes	Start Date Sept 1 2023
Probate Case Duration (Months)	16	Conclude by Dec 31 2024

Summary Estimate

Data Standardization and Class Notice	\$	19,744
Project Management and Reporting	\$	189,800
Website Hosting and Client Dashboard	\$	17,875
Toll Free Contact Center Probate Only	\$	105,887
Probate Documentation Intake and Review	\$	481,496
Distribution and Fund Management	\$	59,825
Postage and Expenses	\$	9,375
Total Estimate	\$	<u>884,002</u>

EXH. "5" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL

**Detailed Estimate****Kalima v. State of Hawai'i Settlement**

Activity	Unit		Amount
Data Standardization and Class Notice			
Import and Standardize Data*	Per File		\$ 2,000
Data Analyst	Per Hour		\$ 3,960
Forms Set-up and Mailing Coordination	Per Layout		\$ 2,000
NCOA Address Update (\$500 minimum) Mailings 1 and 2	Per 1,000		\$ 4,520
Mailing 1: Print/Mail Detailed Probate Notice	4-Image Printed as Lot		\$ 900
Record Undeliverable Mail	Per Piece		\$ 9
Mailing 2: Print/Mail Cover Letter and Petition for Instructions	8-Images Printed as Lot		\$ 6,124
Record Undeliverable Mail	Per Piece		\$ 39
Out of State Deceased TU search	Per input		\$ 44
Notice Remails	Per Piece		\$ 148
*Data provided must meet Epiq data standards. Epiq can standardize data at additional cost of			\$ 19,744
Project Management Probate			
Project Manager	Per Hour		\$ 87,500
Project Coordinator	Per Hour		\$ 82,500
Data Analyst and Reporting	Per Hour		\$ 19,800
			\$ 189,800
Website Probate Information Updates			
Static Website Updates	Per Hour		\$ 4,875
Facilitator set up** - secure case management database searchable by Court, Counsel and by Class Members to review award data	Fixed Fee		\$ 10,000
Website Hosting	Per Month		\$ 3,000
			\$ 17,875
Toll Free Contact Center Probate Only			
Message Recording Fee (IVR Script Change)	Per Hour		\$ 125
IVR Maintenance Fee	Per Month		\$ 3,000
IVR Minutes of Use	Per Minute		\$ 15,143
Contact Center Agent - Training	Per Hour		\$ 550
Email Agents - Shared	Per Minute		\$ 29,023
Contact Center Agents Call Backs - Shared	Per Minute		\$ 58,046
			\$ 105,887

EXH. "5" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL



Kalima v. State of Hawai'i Settlement

Activity	Unit		Amount
Probate Documentation Intake and Review			
Probate Documentation Intake	Per Class Member		\$ 2,633
Scanning and Image Storage	Per Image		\$ 1,123
2 hours per deceased class member: Special Claims Team reviewing documentation and working with representatives/family members/outside law firms to ensure documentation is sufficient;	Blended Hourly		\$ 228,820
30 min per deceased class member: Special Claims Team coordinating with Probate Special Counsel and Probate Special Master regarding documentation	Blended Hourly		\$ 57,205
30 mins per deceased class member: Special Claims Team Administration	Blended Hourly		\$ 57,205
1 hour per deceased class member: Special Claims Team preparing the claim as well as heirs/beneficiaries for payment.	Blended Hourly		\$ 114,410
Quality Assurance	Per Hour		\$ 13,600
Correspondence Review and Response	Per Hour		\$ 6,500
			\$ 481,496
Distribution and Fund Management			
Escrow Management	Per Year		\$ 3,500
Compute individual damages (formulas to be provided by class counsel) assumes 6000 heirs	Per Hour		\$ 33,000
Programming Distribution Calculation Database for Heirs	Per Hour		\$ 9,750
Payment Run Coordination (w/2 Reissue Runs)	Per Hour		\$ 1,950
Account Management and Reconciliation	Per Hour		\$ 1,530
Mailing 3: Print 2-image Cover Letter and Paper Check with Stub	Per Check		\$ 10,095
			\$ 59,825
Total Estimated Administration Fee			\$ 874,627

EXH. "5" TO PLAINTIFFS' MOTION FOR FINAL APPROVAL



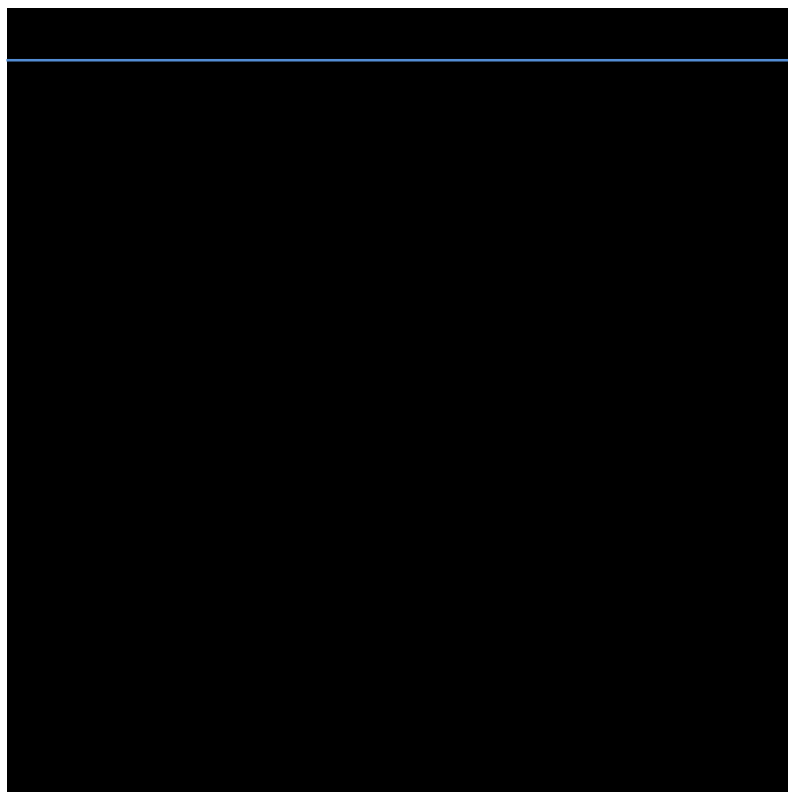
Kalima v. State of Hawai'i Settlement

Activity	Unit		Amount
Postage and Expenses			
Postage* - Notice Mailings 1 & 2	Blended Total		\$ 4,789
Postage* Mailing 3 Cover Letter with Paper Checks per heir	Per Check		\$ 3,836
Photocopies, Delivery and Box Storage	As Used		\$ 750
Bank Fees - Account	Per Month		\$ -
Settlement Fund (QSF) Income Tax Return	Per Year		\$ -
*Discounted rates as applicable			\$ 9,375

Total Estimated Costs \$ 9,375

Total Estimate \$ 884,002

Estimate does not include sales tax where applicable.



Estimate Valid Until: 9/13/2023

EXH. "5" TO PLAINTIFFS' MOTION
FOR FINAL APPROVAL

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,
RAYNETTE NALANI AH CHONG,
special administrator of the estate of
JOSEPH CHING, deceased, CAROLINE
BRIGHT, DONNA KUEHU, and JAMES
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF
HAWAI'I DEPARTMENT OF
HAWAIIAN HOME LANDS, et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC
(Class Action)

**NOTICE OF HEARING MOTION;
AND CERTIFICATE OF SERVICE**

NOTICE OF HEARING MOTION

TO: ANNE E. LOPEZ
Attorney General, State of Hawai'i

CRAIG Y. IHA
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NOTICE IS HEREBY GIVEN that the above motion shall come on for hearing before the Honorable Lisa W. Cataldo, Judge of the above-entitled Court, at a location to be determined and via Zoom videoconference at **9:00 a.m. on July 21, 2023**, or as soon thereafter as counsel can be heard.

DATED: Honolulu, Hawai‘i, June 19, 2023.

/s/ Thomas R. Grande
THOMAS R. GRANDE
CARL M. VARADY

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document shall be duly served electronically through JEFS.

DATED: Honolulu, Hawai‘i, June 19, 2023.

/s/ Thomas R. Grande
THOMAS R. GRANDE
CARL M. VARADY
Attorneys for Plaintiffs