

CIVIL MOTIONS CALENDAR  
FIRST CIRCUIT  
FIFTEENTH DIVISION

DATE: THURSDAY, AUGUST 25, 2016  
JUDGE: HONORABLE EDWIN C. NACINO, JUDGE PRESIDING  
CLERK: BERYL PARRILLA  
REPORTER: SHARON HULIHEE  
BAILIFF/LAW CLERK: SEAN C WONG

-----PAGE

1

9:00 A.M.

1SP 16-1-000251 HERMINA M MORITA  
VS.  
THOMAS GORAK ET AL

MARK J BENNETT  
FOR HERMINA M MORITA

- 1) RESPONDENT/DEFENDANT THOMAS GORAK AND DEFENDANT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT (J. MOLAY)
- 2) PETITIONER/PLAINTIFF HERMINA M. MORITA'S CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT (M. BENNETT)

\*\*\*COURT REPORTER: SHARON HULIHEE\*\*\*

9:14 AM: COURT CONVENED W/APPEARANCES BEING MADE BY MARK BENNETT AND MATEO CABALLERO WITH PETITIONER/PLAINTIFF HERMINA MORITA; JOHN MOLAY AND DEIRDRE MARIE-IHA WITH RESPONDENT/DEFENDANT THOMAS GORAK; RICHARD WADA, KRISLEN MAUNAKEA AND WINTEHN PARK FOR HAWAII STATE SENATE (AS AMICUS CURIAE).

9:14 AM: THERE BEING NO OBJECTIONS, THE COURT GRANTED THE APPLICATION OF EXTENDED COVERAGE.

9:15 AM: ARGUMENT BY MR. MOLAY.

9:30 AM: RECESS.

9:35 AM: COURT RECONVENED.

9:35 AM: ARGUMENT BY MR. BENNETT.

10:00 AM: FURTHER ARGUMENT BY MR. MOLAY.

10:04 AM: COURT NOTED THAT THE PARTIES HAVE STIPULATED THAT COUNTS II AND IV WILL BE DISMISSED WITHOUT PREJUDICE. THE COURT TOOK THIS MATTER UNDER ADVISEMENT AND WILL RULE AS TO COUNTS I AND III, VIA MINUTE ORDER.

10:05 AM: MATTER CONCLUDED.

\*\*\*\*\*

MINUTE ORDER: AUGUST 26, 2016

RESPONDENT/DEFENDANT THOMAS GORAK AND DEFENDANT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT AND PETITIONER-PLAINTIFF HERMINA M. MORITA'S

CIVIL MOTIONS CALENDAR  
FIRST CIRCUIT  
FIFTEENTH DIVISION

DATE: THURSDAY, AUGUST 25, 2016  
JUDGE: HONORABLE EDWIN C. NACINO, JUDGE PRESIDING  
CLERK: BERYL PARRILLA  
REPORTER: SHARON HULIHEE  
BAILIFF/LAW CLERK: SEAN C WONG

-----PAGE

2

CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT CAME ON FOR HEARING ON JULY 20, 2016. THE COURT INITIALLY TOOK THESE MATTERS UNDER ADVISEMENT.

BASED UPON THE STIPULATED FACTS, THE WRITTEN SUBMISSIONS (INCLUDING THE SENATE'S AMICUS BRIEF), THE ARGUMENT OF COUNSEL, AND THERE BEING NO GENUINE ISSUES OF MATERIAL FACT, THE COURT HEREBY GRANTS RESPONDENT/DEFENDANT THOMAS GORAK AND DEFENDANT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT AND DISMISSES COUNTS I AND III. THE COURT ALSO DENIES PETITIONER-PLAINTIFF HERMINA M. MORITA'S CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT ON COUNTS I AND III.

AS TO COUNT I, THE COURT ACCEPTS DEFENDANTS' ARGUMENTS WHICH INCLUDED THAT A VACANCY OCCURRED UPON THE EXPIRATION OF MR. CHAMPLEY'S TERM OF OFFICE. THUS, THE COURT FINDS GOVERNOR IGE'S INTERIM APPOINTMENT OF MR. GORAK WHEN THE SENATE WAS NOT IN SESSION TO BE VALID AND SUBJECT TO ALL OTHER LIMITATIONS FOUND IN ARTICLE V, SECTION 6, PARAGRAPH 5 OF THE HAWAII CONSTITUTION.

(\*\*\*SEE PHASE A FOR CONTINUATION OF MINUTES\*\*\*)

CIVIL MOTIONS CALENDAR  
FIRST CIRCUIT  
FIFTEENTH DIVISION

DATE: THURSDAY, AUGUST 25, 2016  
JUDGE: HONORABLE EDWIN C. NACINO, JUDGE PRESIDING  
CLERK: BERYL PARRILLA  
REPORTER:  
BAILIFF/LAW CLERK: SEAN C WONG

-----PAGE

1

9:00 A.M.

1SP 16-1-000251 HERMINA M MORITA  
VS.  
THOMAS GORAK ET AL

MARK J BENNETT  
FOR HERMINA M MORITA

PHASE A - CONTINUATION OF MINUTES

\*\*\*CONTINUATION OF MINUTES - PHASE A\*\*\*

REGARDING COUNT III, THE COURT IS NOT PERSUADED BY PLAINTIFF'S ARGUMENTS REGARDING STANDING AND FINDS THAT PLAINTIFF LACKS STANDING TO PURSUE THIS COUNT.

FINALLY, THE PARTIES STIPULATED THAT COUNTS II AND IV BE DISMISSED WITHOUT PREJUDICE.

MR. MOLAY TO PREPARE THE ORDER AS TO BOTH MOTIONS AND MR. BENNETT TO PREPARE THE STIPULATION FOR DISMISSAL OF COUNTS II AND IV. A COPY OF THIS MINUTE ORDER WAS TRANSMITTED TO MR. MOLAY, MR. BENNETT, AND MR. WADA VIA ATTORNEY COURT JACKET, ON AUGUST 26, 2016.

DATE: 08-26-2016 BY ORDER OF THE COURT: B. Parrilla CLERK