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PUBLICATION FORM
OFFICE OF ENVIRONMENTAL QUALITY CONTROL

MAY 23 2016

Project Name: Charles M. Bostwick, et al. v. David Lokana Keku Opio, et al.,
Circuit Court of the Second Circuit, Civil No. 16-1-0221(2)
Applicable Law: Quiet Title Action for Accretion under Chapter 669, H.R.S.
Type of Document: Complaint; Exhibits "A"&"B"; Summons
Island: Molokai
District: County of Maui
TMK: (2) 5-6-011-023 and (2) 5-6-008-016
Permits Required:
Applicant or Proposing Agency: Plaintiffs Charles M. Bostwick and Prindi A. Flug
(Address, Contact Person, Telephone) c/o W. Keoni Shultz, Esq., Cades Shutte LLP
1000 Bishop Street, Suite 1200
Honolulu, HI 96813
Approving Agency or Accepting Authority: Circuit Court of the Second Circuit
(Address, Contact Person, Telephone)
Consultant: N/A
(Address, Contact Person, Telephone)
Status: Complaint filed April 27, 2016

Project Summary: (Provide proposed action and purpose/need in less than 200 words. Please keep the summary brief and on this one page): **YOU ARE HEREBY NOTIFIED** that Plaintiffs **CHARLES M. BOSTWICK**; and **PRINDI A. FLUG**, have filed a complaint in the Second Circuit Court, State of Hawaii, Civil No. 16-1-0221(2), to quiet the title to that certain parcel of land described in and covered by Apana 1 of Land Commission Award No. 8103 to HAWAII (k), and the land accreted thereto, within the lands identified as Tax Map Key No. (2) 5-6-011-023, containing 1.352 acres, more or less, and Tax Map Key No. (2) 5-6-008-016, containing 1.305 acres, more or less, all situate, lying and being at Kapualei, Molokai, County of Maui, State of Hawaii.

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MAY 23 2016

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CADES SCHUTTE LLP

PHILIP J. LEAS 1467-0
W. KEONI SHULTZ 7467-0
1000 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813-4216
Telephone: (808) 521-9200

Attorneys for Plaintiffs
CHARLES M. BOSTWICK and
PRINDI A. FLUG

V. ISHIHARA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT
STATE OF HAWAII

CHARLES M. BOSTWICK and
PRINDI A. FLUG,

Plaintiffs,

v.

DAVID LOKANA KEKU OPIO;
HAWAII (k);
L.B. WAIHINANO (k) aka WAIHINANO;
DAVID LOKANA KEKU aka D.L.
KEKU;
HIRAM AUKAI KEKU;
CLARA N. MUNA aka CLARA KEKU;
JOSE C. MUNA aka JOEY MUNA;
HIRAMLONO MUNA;
WILLIAM BRYANT aka WILLIAM KEKU
aka HIRAM AUKAI KEKU, JR.;
ELAINE V. BRYANT;
BILLIE McDANIEL;
BARBARA EMBREE;
COLLEEN SMITH aka COLLEEN
McCORRISTON aka COLLEEN
BARTRON;
STATE OF HAWAII;
MELVIN LILIKALANI PAOA, Trustee;
WILLIAM BRIAN ACASON;
HERMAN K. KANAHELE, JR.;
JAMES W. AUSTIN; WARREN J.
GUNDERSON and HOWARD R.
GREEN, Trustees;

CIVIL NO. 16-1-0
(Quiet Title)

COMPLAINT; EXHIBITS "A" &
"B"; SUMMONS

OFC. OF ENVIRONMENTAL
QUALITY CONTROL

16 MAY 11 12:53

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I hereby certify that this is a full, true and
correct copy of the Original.

Clerk, Second Circuit Court

their respective heirs and assigns;
DOE DEFENDANTS 1-200; and
ALL WHOM IT MAY CONCERN,

Defendants.

COMPLAINT

Pursuant to Chapter 669, Hawaii Revised Statutes, Plaintiffs CHARLES M. BOSTWICK and PRINDI A. FLUG (collectively "Plaintiffs"), by and through their undersigned counsel, bring this action against Defendants DAVID LOKANA KEKU OPIO; HAWAII (k); L.B. WAIHINANO also known as ("aka") WAIHINANO; DAVID LOKANA KEKU aka D.L. KEKU; HIRAM AUKAI KEKU; CLARA N. MUNA aka CLARA KEKU; JOSE C. MUNA aka JOEY MUNA; HIRAMLONO MUNA; WILLIAM BRYANT aka WILLIAM KEKU aka HIRAM AUKAI KEKU, JR.; ELAINE V. BRYANT; BILLIE McDANIEL; BARBARA EMBREE; COLLEEN SMITH aka COLLEEN McCORRISTON aka COLLEEN BARTRON; STATE OF HAWAII; MELVIN LILIKALANI PAOA, Trustee; WILLIAM BRIAN ACASON; HERMAN K. KANAHELE, JR.; JAMES W. AUSTIN; WARREN J. GUNDERSON and HOWARD R. GREEN, Trustees of the James W. Austin Trust, their respective heirs and assigns; DOE DEFENDANTS 1-200; and ALL WHOM IT MAY CONCERN, to establish Plaintiffs' fee simple title to those certain parcels of land described in and covered by Apana 1 of Land Commission Award No. 8103 to HAWAII (k), and the land accreted thereto, within the lands identified as Tax Map Key No. (2) 5-6-011-023, containing 1.352 acres, more or less (the "Mauka Parcel"), and Tax Map Key No. (2) 5-6-

008-016, containing 1.305 acres, more or less (the "Makai Parcel"), all situate, lying and being at Kapualei, Molokai, County of Maui, State of Hawaii (the Mauka and Makai Parcels will be hereinafter collectively described as the "Parcels").

On information and belief, Plaintiffs further allege as follows:

1. The portion of the Parcels that has accreted is natural and permanent and existed for over 50 years before May 20, 2003. A survey description of the Mauka Parcel is attached hereto as Exhibit "A," and a survey description of the Makai Parcel is attached hereto as Exhibit "B," subject to the location of the seaward boundary in accordance with applicable law defining a shoreline boundary.

2. Land Commission Award No. 8103 was issued to HAWAII (k) on December 20, 1852. Apana 1 of Land Commission Award No. 8103, makes up 27,684 square feet, more or less, of the Mauka Parcel. No conveyance of Apana 1 of Land Commission Award No. 8103, appears of record by HAWAII (k), nor is there a Bureau of Health and Vital Statistics record of his death, probate of his estate or a judicial determination of his heirs, whereupon his interest in the Parcels descended by intestate succession to his son named in ¶ 3 below:

3. L.B. WAIHINANO also known as ("aka") WAIHINANO, who did not convey the Parcels during his life and who died without a probate of his estate or a judicial determination of his heirs, whereupon his interest in the Parcels descended by intestate succession to his son, L.B. Waihinano Opio aka L.B. Waihinalo the Younger, who by deed dated August 3, 1897, recorded in the

Bureau of Conveyances of the State of Hawaii (the "Bureau") at Liber 172, Page 177, conveyed his interest in the Parcels to his nephew named in ¶ 4 below:

4. DAVID LOKANA KEKU OPIO (k), who did not convey the Parcels during his life and who died without a probate of his estate or a judicial determination of his heirs, whereupon his interest, if any, in the Parcels descended by intestate succession to his father named in ¶ 5 below:

5. DAVID LOKANA KEKU, aka D.L. KEKU, who did not convey the Parcels during his life and who died before 1959 without a probate of his estate or a judicial determination of his heirs, whereupon his interest, if any, in the Parcels descended by intestate succession to the person named in ¶ A. below:

A. HIRAM AUKAI KEKU, who did not convey the Parcels during his life and who died on July 16, 1959 without a probate of his estate or a judicial determination of his heirs, whereupon his interest, if any, in the Parcels descended by intestate succession to the persons named in ¶¶ (1.) to (2.) below:

(1.) CLARA N. MUNA aka CLARA KEKU, who did not convey the Parcels during her life and who died on December 17, 1987 without a probate of her estate or a judicial determination of her heirs, whereupon her interest, if any, in the Parcels descended by intestate succession to the persons named in ¶¶ a. and b. below:

a. JOSE C. MUNA aka JOEY MUNA, who did not convey the Parcels during his life and who died on March 1, 1996 without a probate of his estate or a judicial determination of his heirs, whereupon his

interest, if any, in the Parcels descended by intestate succession to the person named in ¶ b. below:

b. HIRAMLONO MUNA.

(2.) WILLIAM BRYANT aka WILLIAM KEKU aka HIRAM AUKAI KEKU, JR., who did not convey the Parcels during his life and who died on April 25, 2005 without a probate of his estate or a judicial determination of his heirs, whereupon his interest, if any, in the Parcels descended by intestate succession to the person named in ¶ a. below:

a. ELAINE V. BRYANT, who did not convey the Parcels during her life and who died in November 2015, without a probate of her estate or a judicial determination of her heirs, whereupon her interest, if any, in the Parcels descended by intestate succession to the persons named in ¶¶ i. to ii. below:

i. BILLIE McDANIEL.

ii. BARBARA EMBREE.

6. No conveyances appear of record by which any of the parties in ¶¶ 2. to 5. above, conveyed any interest in the Parcels to Kaapuni (w) and Kahiamoe (w). By Deed dated February 21, 1908, recorded in the Bureau at Liber 299, Page 244, Kaapuni (w) (and husband, Kema) and Kahiamoe (w) purported to convey all their interest in the Parcels, besides other land, to Mrs. Ane Kaehu (w).

7. By the June 29, 1912 Judgment handed down in the ejectment action filed in the Circuit Court of the Second Circuit, Territory of Hawaii, in

Kaehu v. Namealoha, Law No. 328, as between the two parties in the subject action, Ane Kaehu (w) claimed to own the Parcels as a grantee of a deed from Kaapuni (w) and Kahiamoe (w) who were cousins of the mother of DAVID LOKANA KEKU OPIO, while Meeau Namealoha (w) claimed to own the Parcels also as a cousin of the mother of DAVID LOKANA KEKU OPIO, but neither party acknowledged DAVID LOKANA KEKU OPIO's father, DAVID LOKANA KEKU, who would have inherited in intestacy from his son instead of any cousins of his wife, the mother of DAVID LOKANA KEKU OPIO. Because none of the parties in ¶¶ 2. to 5. above were named as a defendant in Kaehu v. Namealoha, Law No. 328, or made a defendant in the action by substitute service or otherwise, the action could not have any effect on title interests held by the parties in ¶¶ 2. to 5. above.

8. By Warranty Deed dated December 28, 1912, recorded in the Bureau at Liber 382, Page 322, Ane Kaehu (w) (and husband) conveyed the Parcels, besides other lands to Hugh McCorriston. From the date of the foregoing deed from Ane Kaehu (w) to Hugh McCorriston, paper title to the Parcels descends straight and unbroken to Plaintiffs.

9. Defendant COLLEEN SMITH aka COLLEEN McCORRISTON aka COLLEEN BARTRON is cited in case she or any of her heirs claims an interest in the Parcels.

10. Plaintiffs and their predecessors in title were in adverse possession of the Parcels, including the accretion thereto, in excess of 10 years prior to May 4, 1973, and in excess of 20 years prior to the date hereof through, inter

alia, Plaintiffs' predecessors' prior development activities including the building of houses on the Parcels and the maintenance and occupancy of the same, and the paying of taxes on the Parcels for over a hundred years. The claims of all persons of an estate or interest in the Parcels, adverse to Plaintiffs' fee simple title, are barred by adverse possession thereof by Plaintiffs and their predecessors in title in excess of 10 years prior to May 4, 1973, and in excess of 20 years prior to the date hereof.

11. Plaintiffs believe Defendant STATE OF HAWAII (the "State") owns an adjoining parcel of land designated as Kamehameha V Highway (Route 450), which runs between the Makai Parcel and Mauka Parcel. Defendant State also owns the adjoining land makai of the Makai Parcel. Defendant MELVIN LILIKALANI PAOA, Trustee, owns an adjoining parcel of land identified as TMK No. (2) 5-6-008-017, which lies on the west side of the Makai Parcel, and an adjoining parcel of land identified as TMK No. (2) 5-6-011-022, which lies on the west side of the Mauka Parcel. Defendant WILLIAM BRIAN ACASON owns an adjoining parcel of land identified as TMK No. (2) 5-6-011-021, which lies on the north side of the Mauka Parcel. Defendant HERMAN K. KANAHELE, JR. owns an adjoining parcel of land identified as TMK No. (2) 5-6-011-024, which lies on the east side of the Mauka Parcel. Defendants JAMES W. AUSTIN, WARREN J. GUNDERSON and HOWARD R. GREEN, trustees of the James W. Austin Trust, own an adjoining parcel of land identified as TMK No. (2) 5-6-008-013, which lies on the east side of the Makai Parcel. Defendants named in the paragraph are named in this matter as required by Chapter 669, Haw.

Rev. Stat., so that these defendants may assert any claims they may have concerning the ownership of the Parcels or the boundaries of the Parcels as identified in Exhibit "A" for the Mauka Parcel and Exhibit "B" for the Makai Parcel.

12. DOE DEFENDANTS 1-200 are persons or entities, whose identity or interest is so far unknown, despite reasonable efforts to identify them through diligent and good-faith examination of records at the Bureau of Conveyances, court records, obituaries and other genealogical references, and who may claim an interest, lien or other encumbrance on the Parcels which are the subject of this case. Plaintiffs are entitled to the same relief as to DOE DEFENDANTS 1-200 as the relief Plaintiffs seek as to the other defendants.

13. Based on the foregoing, Plaintiffs own the fee simple interest in the Parcels.

WHEREFORE, Plaintiffs pray that the Court quiet the title and enter judgment that Plaintiffs are the owners in fee simple of the Parcels as described in Exhibits "A" and Exhibit "B" attached, and grant Plaintiffs such other and further relief as the Court deems just and proper.

DATED: Honolulu, Hawaii, April 22, 2016.

CADES SCHUTTE LLP



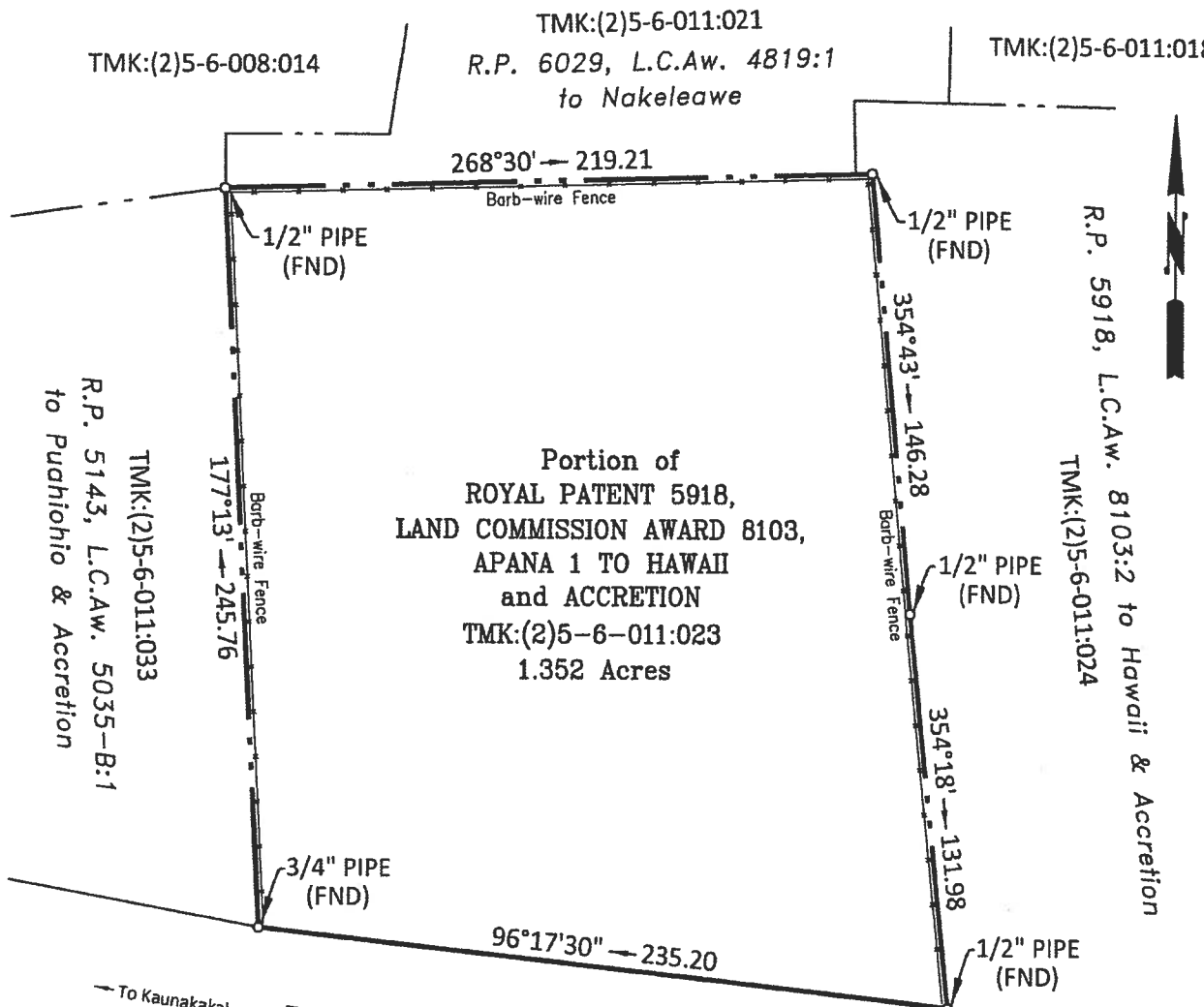
PHILIP J. LEAS

W. KEONI SHULTZ

Attorneys for Plaintiffs

CHARLES M. BOSTWICK and

PRINDI A. FLUG



Prepared For:

Malia Busby
Busby Land Surveying
PO Box 64
Kualapuu, HI 96757

This map was prepared by me or under
my direct supervision.

Randall Sherman

Licensed Professional Land Surveyor
State of Hawaii Certificate Number LS4187
License Expiration Date: April 30, 2016
Land Court Certificate Number 189



Exhibit Showing

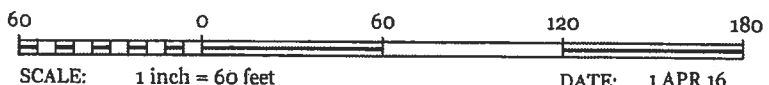
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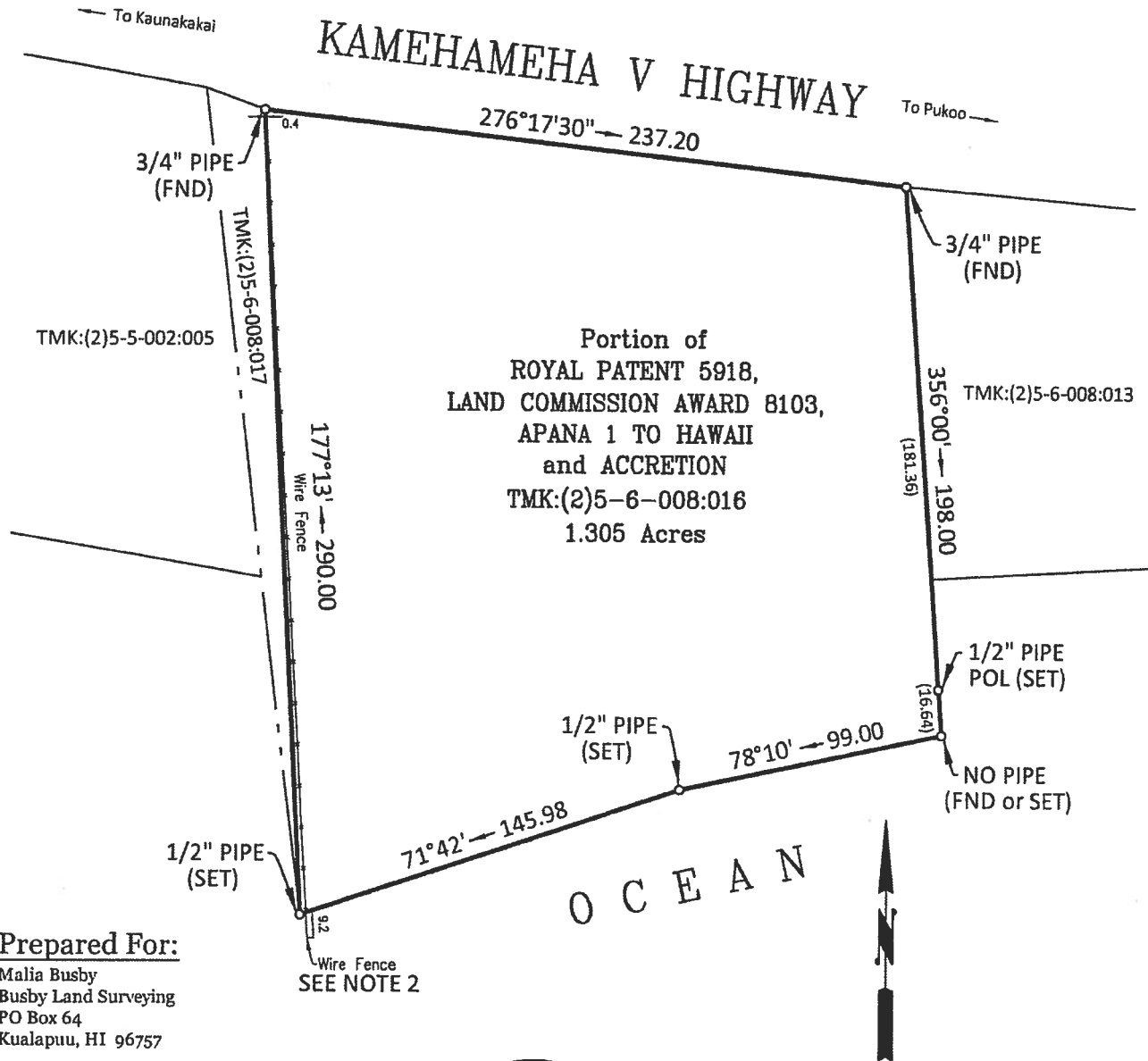
**Royal Patent 5918,
Land Commission Award
8103, Apana 1 to Hawaii
and Accretion**

Situated at
Kapualei, Molokai, Hawaii

NOTES:

1. This map is based on an actual field survey performed on 24 MAR 16.
2. Unless shown herein no encroachments were noted during the course of this survey.





Prepared For:

Malia Busby
Busby Land Surveying
PO Box 64
Kualapuu, HI 96757

This map was prepared by me or under my direct supervision.

Randall Sherman

Licensed Professional Land Surveyor
State of Hawaii Certificate Number LS4187
License Expiration Date: April 30, 2016
Land Court Certificate Number 189



Exhibit Showing

a portion of

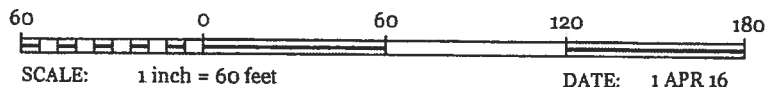
**Royal Patent 5918, Land
Commission Award 8103,
Apana 1 to Hawaii
and Accretion**

Situated at

Kapualei, Molokai, Hawaii

NOTES:

1. This map is based on an actual field survey performed on 24 MAR 16.
2. Wire fence encroachment (9.2 x 0.4 = approx. 4 sq.ft.).
3. POL: Point-on-line



IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

CHARLES M. BOSTWICK and
PRINDI A. FLUG,

Plaintiffs,

v.

DAVID LOKANA KEKU OPIO;
HAWAII (k);
L.B. WAIHINANO (k) aka WAIHINANO;
DAVID LOKANA KEKU aka D.L.
KEKU;
HIRAM AUKAI KEKU;
CLARA N. MUNA aka CLARA KEKU;
JOSE C. MUNA aka JOEY MUNA;
HIRAMLONO MUNA;
WILLIAM BRYANT aka WILLIAM KEKU
aka HIRAM AUKAI KEKU, JR.;
ELAINE V. BRYANT;
BILLIE McDANIEL;
BARBARA EMBREE;
COLLEEN SMITH aka COLLEEN
McCORRISTON aka COLLEEN
BARTRON;
STATE OF HAWAII;
MELVIN LILIKALANI PAOA, Trustee;
WILLIAM BRIAN ACASON;
HERMAN K. KANAHELE, JR.;
JAMES W. AUSTIN; WARREN J.
GUNDERSON and HOWARD R.
GREEN, Trustees; their respective
heirs and assigns;
DOE DEFENDANTS 1-200; and
ALL WHOM IT MAY CONCERN,

Defendants.

CIVIL NO. _____
(Quiet Title)

SUMMONS

SUMMONS

STATE OF HAWAII

To the above-named defendants:

You are hereby summoned and required to file with the Court and serve upon PHILIP J. LEAS and W. KEONI SHULTZ, Plaintiffs' attorneys, whose

address is 1000 Bishop Street, Suite 1200, Honolulu, Hawaii 96813, an answer to the Complaint which is hereby served upon you, within twenty (20) days after service of this Summons upon you, exclusive of the day of service.

If you fail to do so, judgment by default will be rendered against you for the relief demanded in the Complaint.

This Summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this Summons, personal delivery during those hours.

A failure to obey this Summons may result in an entry of default and default judgment against the disobeying person or party.

DATED: Wailuku, Maui, Hawaii, APR 27 2016.

/sgd/ V. ISHIHARA (seal)

CLERK OF THE ABOVE-ENTITLED COURT

In accordance with the Americans with Disabilities Act and other applicable state and federal laws, if you require reasonable accommodation for a disability, please contact the ADA Coordinator at the Second Circuit Court Administration Office at PHONE NO. 244-2700, FAX 244-2704, or TTY 244-2889, at least ten (10) working days prior to your hearing or appointment date.

Transmittal Memorandum

TO : Office of Environmental Quality Control
235 South Beretania Street, Suite 702
Honolulu, Hawaii 96813

FROM : Analyn Coloma,
Legal Assistant to W. Keoni Shultz, Esq.

DATE : May 5, 2016

RE : *Charles M. Bostwick, et al. v. David Lokana Keku Opio, et al.*
Civil No. 16-1-0221 (2)

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 '16 MAY 11 P2:52
 OFFICE OF ENVIRONMENTAL
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We are sending you the following:

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|-------|--------|-----------|--|
| 1 | | 4/24/2016 | COMPLAINT; EXHIBITS "A" & "B"; SUMMONS |
| | 1 | ----- | OFFICE OF ENVIRONMENTAL QUALITY CONTROL- PUBLICATION FORM |

- | | |
|---|--|
| <input type="checkbox"/> For your information | <input type="checkbox"/> For signature and return |
| <input type="checkbox"/> For your files | <input type="checkbox"/> For signature, forwarding, as noted below & return |
| <input type="checkbox"/> Per your request | <input type="checkbox"/> For review & comment |
| <input type="checkbox"/> Per our conversation | <input type="checkbox"/> For distribution |
| <input checked="" type="checkbox"/> For necessary action | <input type="checkbox"/> For recording/filing |
| <input type="checkbox"/> Are returned herewith | |

REMARKS: Should you have any questions regarding the above, please contact me at (808) 521-9281. Thank you very much for your assistance in this matter.