

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI‘I

KEITH DAVID RICKY FUJIWARA MEGA TRUST,
Individually and as Beneficiary of the
KEITH DAVID RICKY FUJIWARA MEGA TRUST,
Plaintiff,

v.

DEPARTMENT OF LAND AND NATURAL RESOURCES (DLNR); DEBRA DUDOIT, in her Official Capacity as Harbor Master and Enforcement Officer for DLNR;
DEBRA DUDOIT, in her Individual Capacity;
JOHN DOES 1-10,
Defendants.

Civil No.: [To Be Assigned]

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
DEMAND FOR JURY TRIAL
VERIFICATION**

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Statutes

[HRS § 1-1](#) **HRS § 1-1**

Application: Applies common law principles in cases where statutory law does not provide a remedy and equity requires redress.

Use in Complaint: Supports the claim of equitable estoppel (Count I) by establishing that government inaction can create reasonable reliance.

Statutory Language: "The common law of England, as ascertained by English and American decisions, is declared to be the common law of the State of Hawaii in all cases, except as otherwise expressly provided by the laws of the United States, the laws of the State of Hawaii, or Hawaiian judicial precedent."

[HRS § 91-4\(a\)](#) **HRS § 91-4(a)**

Application: Prevents retroactive application of rules or amendments to prior lawful uses.

Use in Complaint: Cited in Grandfathering Protections (Count V) to argue that Plaintiff's longstanding use of property cannot be disturbed by new regulations.

Statutory Language: "No rule adopted on or after July 1, 1962, shall be valid unless adopted in substantial compliance with this chapter. Rules shall not be retroactive unless they are adopted pursuant to specific statutory authorization expressly requiring or authorizing retroactivity."

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[HRS § 91-9](#)

Application: Requires administrative agencies to provide notice and a meaningful opportunity to be heard in contested cases.

Use in Complaint: Supports the Violation of Due Process (Count II) by asserting that Defendants failed to provide adequate notice or process before enforcement actions.

Statutory Language: "In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall include a statement of (1) the date, time, place, and nature of hearing; (2) the legal authority under which the hearing is to be held; and (3) the particular sections of the statutes and rules involved."

HRS § 91-14(g)

Application: Prohibits administrative actions that are arbitrary, capricious, or clearly erroneous.

Use in Complaint: Supports Arbitrary and Capricious Action (Count IX) by highlighting the selective enforcement targeting Plaintiff.

Statutory Language: "The court may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions, or orders are: (1) In violation of constitutional or statutory provisions; (2) In excess of the statutory authority or jurisdiction of the agency; (3) Made upon unlawful procedure; (4) Affected by other error of law; (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion

HRS § 101-31

Application: Governs eminent domain, requiring just compensation for takings of private property for public use.

Use in Complaint: Used in the Fifth Amendment Violation (Count III) to argue that Defendants' actions constitute an uncompensated taking.

Statutory Language: "Private property shall not be taken or damaged for public use without just compensation."

HRS § 490:9-501

Application: Governs secured transactions and prioritizes the rights of secured parties in collateral covered by valid UCC-1 filings.

Use in Complaint: Cited in Violation of UCC-1 Financing Protections (Count VIII) to argue that Defendants interfered with secured trust assets.

Statutory Language: "The office in which to file a financing statement to perfect the security interest or agricultural lien is the office designated for the filing or recording of a record of a mortgage on the related real property."

HRS § 554A-5

Application: Establishes fiduciary obligations requiring fiduciaries to act in the best interests of beneficiaries.

Use in Complaint: Supports Breach of Fiduciary Duty (Count VI) by showing Defendants failed to protect trust assets as required.

Statutory Language: "A fiduciary shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust."

HRS § 658A-6

Application: Mandates the enforcement of arbitration agreements in disputes between parties.
Use in Complaint: Supports Violation of Arbitration Clause (Count VII) by showing Defendants

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bypassed the binding arbitration agreement.

Statutory Language: "An agreement contained in a record to submit to arbitration any existing or subsequent controversy arising between the parties is valid, enforceable, and irrevocable, except upon a ground that exists at law or in equity for the revocation of a contract."

HRS § 669-1

Application: Provides the legal framework for adverse possession claims, including requirements for continuous and exclusive use for statutory periods.

Use in Complaint: Cited in Adverse Possession (Count IV) to establish Plaintiff's rights based on continuous use of the property.

Statutory Language: "An action may be brought by any person against another who claims, or who may claim, an estate or interest in real property adverse to the plaintiff, for the purpose of determining the adverse claim."

HRS § 501-87

Application: Addresses adverse possession claims for registered lands and sets conditions for such claims.

Use in Complaint: Further supports Adverse Possession (Count IV) by aligning Plaintiff's claim with statutory requirements for open and notorious possession.

Statutory Language: "Adverse possession of registered land shall not be allowed unless the adverse possessor has paid all taxes and assessments on the land for a period of at least twenty years."

Case Law

1. *Heckler v. Community Health Services*, 467 U.S. 51 (1984)
2. *Goldberg v. Kelly*, 397 U.S. 254 (1970)
3. *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978)
4. *Marozsan v. United States*, 852 F.2d 1469 (7th Cir. 1988)
5. *Walker v. City of Hutchinson*, 352 U.S. 112 (1956)
6. *Cigna Corp. v. Amara*, 563 U.S. 421 (2011)
7. *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440 (2006)
8. *In re SLM Corp.*, 755 F.3d 84 (2d Cir. 2014)
9. *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000)
10. *City of Anchorage v. Nesbett*, 530 P.2d 1324 (Alaska 1975)
11. *Barnes v. McDowell*, 647 F. Supp. 1307 (E.D. Ky. 1986)
12. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982)
13. *Trezevant v. City of Tampa*, 741 F.2d 336 (1984)
14. *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)

15. *Stop the Beach Renourishment, Inc. v. Florida Dep't of Env'tl. Prot.*, 560 U.S. 702 (2010)
16. *Armstrong v. United States*, 364 U.S. 40 (1960)
17. *Hodel v. Irving*, 481 U.S. 704 (1987)
18. *Eastern Enterprises v. Apfel*, 524 U.S. 498 (1998)

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19. *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987)
20. *Wilkie v. Robbins*, 551 U.S. 537 (2007)
21. *Murr v. Wisconsin*, 137 S. Ct. 1933 (2017)
22. *Knick v. Township of Scott*, 139 S. Ct. 2162 (2019)
23. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Reg'l Planning Agency*, 535 U.S. 302 (2002)
24. *Pruneyard Shopping Center v. Robins*, 447 U.S. 74 (1980)
25. *Armstrong v. United States*, 364 U.S. 40 (1960)
26. *United States v. Causby*, 328 U.S. 256 (1946)
27. *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229 (1984)
28. *Kelo v. City of New London*, 545 U.S. 469 (2005)
29. *Horne v. Department of Agriculture*, 576 U.S. 350 (2015)
30. *Palazzolo v. Rhode Island*, 533 U.S. 606 (2001)
31. *Yee v. City of Escondido*, 503 U.S. 519 (1992)
32. *Suitum v. Tahoe Regional Planning Agency*, 520 U.S. 725 (1997)
33. *Keystone Bituminous Coal Ass'n v. DeBenedictis*, 480 U.S. 470 (1987)
34. *Hawaii v. Office of Hawaiian Affairs*, 556 U.S. 163 (2009)
35. *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987)

DEFINITIONS

1. **Trust Assets:** Refers to the property, including the houseboat and tender, protected under the KEITH DAVID RICKY FUJIWARA MEGA TRUST.
2. **Arbitration Clause:** A binding agreement within the trust requiring all disputes involving trust assets to be resolved through arbitration, as enforced by HRS § 658A-6.
3. **UCC-1 Financing Statement:** A legal instrument filed under HRS § 490:9-501 to establish a lien and secure the trust's property from unauthorized seizure or encumbrance.
4. **Fiduciary Obligations:** Legal duties imposed on the U.S. Government and other entities designated as custodians of the trust assets, as governed by HRS § 554A-5.
5. **Grandfathering Protections:** Legal principles under HRS § 91-4 preventing retroactive application of regulations to lawful preexisting uses.

INTRODUCTION

1. Plaintiff seeks declaratory and injunctive relief to protect his property rights and prevent irreparable harm caused by Defendants' enforcement actions against his houseboat and tender, both of which are trust assets of the **KEITH DAVID RICKY FUJIWARA MEGA TRUST**.
2. Plaintiff's houseboat has been his primary residence for over 10 years, and his 14-foot dinghy serves as an essential tender for daily transportation to and from the nearest land access point.

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3. Defendants' actions, including threats to remove the houseboat and impound the tender, violate the trust's protections, constitutional provisions, fiduciary obligations, and principles of equity, creating undue hardship and economic loss for Plaintiff.
4. Plaintiff seeks relief under the Fifth Amendment, due process protections, equitable estoppel, grandfathering, UCC-1 financing protections, and the fiduciary obligations imposed by the trust.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to Article VI, Section 1 of the Hawaii State Constitution and HRS § 603-21.5.
6. Venue is proper under HRS § 603-36 because the events giving rise to this Complaint occurred within the First Circuit, and the property at issue is located in Honolulu, Hawaii.

PARTIES

Plaintiff

7. **Plaintiff KEITH DAVID RICKY FUJIWARA MEGA TRUST** is the Beneficiary of the **KEITH DAVID RICKY FUJIWARA MEGA TRUST**, holding ownership of the houseboat and tender as protected trust assets.

Defendants

8. **Defendant Department of Land and Natural Resources (DLNR)** is a state agency responsible for managing Hawaii's natural resources, including harbors.
9. **Defendant Debra Dudoit**, in her capacity as Harbor Master and Enforcement Officer for DLNR, oversees harbor operations and enforces regulations. She is sued in both her official and individual capacities.
10. **John Does 1-10** are individuals or entities responsible for the actions described

herein. **FACTUAL ALLEGATIONS**

Defendants' recent enforcement actions threaten to remove Plaintiff's houseboat and impound his tender without proper notice or an opportunity to contest the actions, violating Plaintiff's rights under state and federal law.

Defendants' Actions

12. Over the past decade, Defendants conducted multiple cleanup sweeps in the harbor area, removing other structures but knowingly allowing Plaintiff's houseboat to remain. In 2016, then-Governor David Ige viewed Plaintiff's houseboat from across the river

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alongside other officials. No objections were raised, further demonstrating implied approval by the government.

13. Defendants' inaction during these sweeps constitutes implied consent and acknowledgment of the houseboat's lawful presence.

14. Recently, Defendants initiated actions to enforce regulations prohibiting houseboats in the area, threatening removal of Plaintiff's property.

15. Defendants failed to provide adequate notice or an opportunity for Plaintiff to contest the enforcement actions, violating principles of due process and equity.

16. During multiple harbor sweeps, Defendants removed other unauthorized structures but consistently left Plaintiff's houseboat untouched, reinforcing the assumption of compliance.

Public Interest and Equitable Treatment:

26. The trust's protections align with the public interest in fairness, equitable treatment, and non arbitrary enforcement of regulations. Removing Plaintiff's houseboat and tender would disproportionately harm Plaintiff while benefiting no public purpose.

Essential Role of the Dinghy Dock

27. The dinghy dock in the harbor is the only reasonable location for tenders to dock, serving as a critical access point for individuals who rely on tenders for transportation to and from their primary vessels or homes.

28. Plaintiff's 14-foot dinghy, a tender to his houseboat, has been parked at this dock for daily transportation between his houseboat and the nearest land access point.

29. By statute, the dock is designated for tenders serving vessels moored in the harbor. However, residents of a nearby island, who are not directly tied to moored boats, have also been allowed to use the dock.

30. Plaintiff supports the island residents' use of the dock, recognizing the necessity of equitable access to this shared resource for essential transportation purposes.

31. Recently, Defendants, including Defendant Dudoit in her role as Harbor Master, threatened to impound and seize Plaintiff's dinghy, even though it is being used in compliance with the dock's intended purpose.

32. Defendants have taken enforcement actions targeting Plaintiff's use of the dock while inconsistently applying the same rules to other users, violating principles of fairness and equity.

EXPANDED CAUSES OF ACTION

Count I: Equitable Estoppel

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- **Legal Basis:** Under HRS § 1-1 and Hawaiian common law, equity demands redress where reliance upon government inaction causes harm.
- **Supporting Case Law:** *City of Anchorage v. Nesbett*, 530 P.2d 1324 (Alaska 1975).

Applicable Maxims:

- **“Silence implies consent.”** (*Qui tacet consentire videtur*): By not objecting to the Plaintiff's use of the property, the government tacitly consented to his possession.
- **“He who acts in reliance upon another shall not be injured by that reliance.”** (*Nemo ex suo delicto meliorem suam conditionem facere potest*): Plaintiff's reliance on the government's inaction justifies his claim to equitable relief.
- **“Equity regards as done that which ought to be done.”** (*Equitas agit in personam*): The court should enforce the equitable obligation created by the government's implicit approval.

Argument: Defendants allowed Plaintiff's houseboat and tender to remain undisturbed for over 10 years, creating reasonable reliance on government inaction. Plaintiff improved his property, relying on this implied approval.

Count II: Violation of Due Process

Legal Argument:

Defendants failed to provide adequate notice or a meaningful opportunity to contest their enforcement actions, violating Plaintiff's procedural rights.

- **HRS Reference:** HRS § 91-9 (requiring due process in administrative proceedings).
- **Legal Support:** *Goldberg v. Kelly*, 397 U.S. 254 (1970) (procedural due process is

required before deprivation of significant property interests).

Applicable Maxims:

- **“No one should be condemned unheard.”** (*Audi alteram partem*): The principle that all parties must be given an opportunity to present their case.
- **“Justice is blind to all but the truth.”** (*Justitia est caeca nisi veritatem videat*): The court must ensure fairness and impartiality in procedural matters.
- **“Where there is a right, there is a remedy.”** (*Ubi jus, ibi remedium*): Plaintiff’s right to due process necessitates judicial intervention.

Count III: Fifth Amendment Violation

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- **Legal Basis:** Defendants’ actions constitute an uncompensated taking in violation of the Fifth Amendment and HRS § 101-31.
- **Supporting Case Law:** *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982).

Argument: The removal and impoundment of the houseboat and tender deprive Plaintiff of economically viable use, constituting a regulatory taking.

Applicable Maxims:

- **“Property rights must not be infringed without just compensation.”** (*Res perit domino*): The government cannot take private property without providing fair value.
- **“Justice requires equity for all.”** (*Fiat justitia ruat caelum*): Plaintiff is entitled to equitable treatment under the Fifth Amendment.
- **“The law abhors a forfeiture.”** (*Lex reprobat moram*): Property cannot be unjustly taken without due cause or compensation.

4. Adverse Possession

Legal Argument:

Plaintiff has satisfied the statutory requirements for adverse possession through continuous, open, and exclusive use of the property for over 10 years.

• **HRS Reference:** HRS § 669-1 and HRS § 501-87 (providing legal framework for adverse possession claims after statutory periods of continuous and exclusive use). • **Legal Support:** *Marozsan v. United States*, 852 F.2d 1469 (7th Cir. 1988) (recognizing adverse possession where possession was open, notorious, and continuous).

Applicable Maxims:

- **“Possession is nine-tenths of the law.”** (*Possessio est quasi titulus*): Continuous and exclusive possession establishes ownership.
- **“He who uses the land controls it.”** (*Qui utitur solo, solo cedit*): Plaintiff’s longstanding use of the property supports his adverse possession claim.
- **“What is ours cannot be taken from us.”** (*Quod nostrum est sine facto nostro amitti non potest*): Plaintiff’s rights are protected by his uninterrupted possession.

5. Grandfathering Protections

Legal Argument:

The government’s enforcement of new regulations violates principles of non-retroactivity, infringing upon Plaintiff’s lawful preexisting use of the property.

- **HRS Reference:** HRS § 91-4(a) (limiting retroactive application of new rules or amendments to preexisting lawful uses).
- **Legal Support:** *Walker v. City of Hutchinson*, 352 U.S. 112 (1956) (retroactive enforcement of new laws violates due process protections). Equitable principles require protecting lawful preexisting uses. **Equity and Fair Application of Regulations:** Defendants’ enforcement violates the principle of non-retroactivity under HRS § 91-4, which prevents rules from applying retroactively to prior lawful uses.

Applicable Maxims:

- **“No new obligation arises from the breach of an existing one.”** (*Ex maleficio non oritur contractus*): Plaintiff’s prior lawful use cannot be invalidated by retroactive laws.

“The law protects vested rights.” (*Lex prospicit, non respicit*):

“Justice must uphold equity.” (*Justitia nemini neganda est*):

6. Breach of Fiduciary Duty

Legal Argument:

Defendants, as fiduciaries under the trust agreement, failed to act in the best interests of the Plaintiff by threatening to harm protected trust assets.

- **HRS Reference:** HRS § 554A-5 (outlining fiduciary obligations to act in the best interests of trust beneficiaries).
- **Legal Support:** *Cigna Corp. v. Amara*, 563 U.S. 421 (2011) (fiduciary duty entails acting in the beneficiary’s best interest).

Applicable Maxims:

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- **“Equity regards as done that which ought to be done.”** (*Equitas agit in personam*): Fiduciaries are held to a standard of acting in the beneficiary’s best interests.
- **“A fiduciary cannot profit at the expense of the beneficiary.”** (*Nemo debet esse judex in propria causa*): Defendants’ actions violate their fiduciary obligations.
- **“Trustees are bound to act in good faith.”** (*Fides servanda est*): The government must uphold its fiduciary responsibilities.
- **Failure to Protect Trust Assets:** Under HRS § 554A-5, fiduciaries have a duty to act in the best interests of the trust beneficiaries. Defendants, as fiduciaries under the terms of the trust, violated this obligation by threatening to harm protected assets.

7. Violation of Arbitration Clause

Legal Argument:

- The trust’s arbitration clause mandates that disputes be resolved outside of litigation, which Defendants disregarded. **HRS Reference:** HRS § 658A-6 (requiring enforcement of arbitration agreements in disputes).
- **Legal Support:** *Buckeye Check Cashing, Inc. v. Cardegna*, 546 U.S. 440 (2006) (arbitration clauses must be honored and enforced as agreed by the parties)

Applicable Maxims:

- **“An agreement entered into voluntarily shall be honored.”** (*Pacta sunt servanda*): The arbitration clause must be respected and enforced.
- **“The intent of the parties governs.”** (*Voluntas facit legem*): The trust’s terms are binding on all parties.
- **“Equity aids the vigilant, not those who slumber on their rights.”** (*Vigilantibus non dormientibus aequitas subvenit*): Plaintiff’s assertion of the arbitration clause preserves his procedural rights.

- **Disregarding Binding Arbitration Agreement:** The arbitration clause is binding under HRS § 658A-6, requiring disputes involving the trust to be resolved through arbitration rather than litigation. Defendants’ actions bypassed arbitration, violating this statutory mandate.

8. Violation of UCC-1 Financing Protections

Legal Argument:

- Defendants interfered with Plaintiff’s secured property interests in violation of protections afforded by the UCC-1 Financing Statement. **HRS Reference:** HRS § 490:9- 501(a) (prioritizing secured parties’ rights in collateral under valid UCC-1 filings).

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- **Legal Support:** *In re SLM Corp.*, 755 F.3d 84 (2d Cir. 2014) (valid UCC-1 filings secure priority over trust assets).

Applicable Maxims:

- **“He who is first in time is stronger in right.”** (*Qui prior est tempore potior est jure*): The trust’s priority lien must be honored.
- **“A creditor’s rights are sacrosanct.”** (*Creditorum in litibus pars est major*): Defendants’ interference violates established creditor protections.
- **“Equity protects secured interests.”** (*Secundum aequitatem*): Plaintiff’s secured rights must remain inviolable. **Interference with Secured Interests in Property:** Under HRS § 490:9- 501, secured parties are entitled to priority in protecting their interests in collateral covered by a valid UCC-1 Financing Statement. Defendants’ actions violate these protections by attempting to interfere with trust assets.

9. Arbitrary and Capricious Action

Legal Argument:

- Defendants selectively enforced regulations against Plaintiff while permitting similarly situated parties to remain unaffected.
- **HRS Reference:** HRS § 91-14(g) (prohibiting administrative decisions that are arbitrary, capricious, or erroneous).
- **Legal Support:** *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000) (selective enforcement violates equal protection rights).

Applicable Maxims:

- **“Justice requires equal treatment.”** (*Justitia omnibus*): Arbitrary enforcement undermines fairness.
 - **“Justice is blind to all but the truth.”** (*Justitia est caeca nisi veritatem videat*): The law must be applied impartially.
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- **“He who seeks equity must do equity.”** (*Qui sentit commodum, debet sentire onus*): The government cannot impose inequitable burdens on Plaintiff while allowing others to escape enforcement.
 - **Selective and Discriminatory Enforcement:** Under HRS § 91-14(g), administrative decisions that are arbitrary, capricious, or clearly erroneous violate state law. Defendants’ actions targeting Plaintiff while allowing other similarly situated users to remain violate this standard.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court grant the following relief:

1. Injunctive Relief:

- Issue a preliminary and permanent injunction preventing Defendants, their agents,

or anyone acting under their direction from:

- Removing or impounding Plaintiff's houseboat or tender.
- Interfering with Plaintiff's lawful use of the dinghy dock at Keehi Lagoon Harbor.
- Taking any actions that would disrupt Plaintiff's use and enjoyment of the trust assets.

2. Declaratory Relief:

- Declare that Plaintiff's houseboat and tender are protected trust assets under the KEITH DAVID RICKY FUJIWARA MEGA TRUST.
- Declare that Defendants' enforcement actions violate Plaintiff's rights under the Fifth Amendment, Hawaii Constitution, arbitration clause, fiduciary duty, UCC-1 protections, and grandfathering principles.
- Affirm Plaintiff's vested rights to the property based on reliance on government inaction and substantial investment.

3. Monetary Damages:

- Award Plaintiff compensatory damages for harm caused to the trust assets, including:
 - Economic losses due to interference with trust property.
 - Costs associated with maintaining and improving the houseboat and tender over the past 10 years.
 - Any additional expenses or losses incurred as a result of Defendants' actions.
- Award Plaintiff punitive damages in an amount sufficient to deter future violations by Defendants.

4. Enforcement of Trust Protections:

- Order Defendants to comply with the binding arbitration clause and resolve disputes involving the trust assets through arbitration.
- Enforce the UCC-1 Financing Statement protecting the trust assets from unauthorized seizure or encumbrance.

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5. Costs and Attorney's Fees:

- Award Plaintiff reasonable attorney's fees and costs incurred in pursuing this action.

6. Other Relief:

- Grant any additional relief deemed just and proper by the Court.

VERIFICATION I, KEITH DAVID RICKY FUJIWARA, declare under penalty of perjury under the laws of the State of Hawaii that the foregoing is true and correct.

Executed on January 16, 2025, at Honolulu, Hawaii.

[Signature]

KEITH DAVID RICKY FUJIWARA

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: [Insert Date]

Respectfully Submitted,

[Your Name/Attorney's Name]

[Your Contact Information]

[Attorney's Contact Information, if applicable]