

TERMED

**U.S. District Court
District of Hawaii - CM/ECF V3.04 (3/07) (Hawaii)
CIVIL DOCKET FOR CASE #: 1:02-cv-00810-SOM-LEK**

Equal Employment Opp v. RY-4, et al
Assigned to: JUDGE SUSAN OKI MOLLWAY
Referred to: Mag Judge Leslie E Kobayashi
Demand: \$0
Cause: 42:2000 Job Discrimination (Sex)

Date Filed: 12/18/2002
Date Terminated: 11/26/2003
Jury Demand: Both
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: U.S. Government Plaintiff

Plaintiff

**Equal Employment Opportunity
Commission**

represented by **Jonathan T. Peck**
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V.

Defendant**RY-4, Inc.***doing business as*
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Defendant

Roy Yamaguchi Enterprises, Inc.

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Intervenor

Cynthia Cummings
TERMINATED: 11/26/2003

represented by **Daniel G. Hempey**
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TERMINATED: 11/26/2003

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Intervenor

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TERMINATED: 11/26/2003

represented by **Daniel G. Hempey**
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Intervenor

Lisa Yamauchi Kaauwai
TERMINATED: 11/26/2003

represented by **Daniel G. Hempey**
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Date Filed	#	Docket Text
12/18/2002	1	COMPLAINT (Summons(es) issued); Jury trial demand (gab) (Entered: 12/19/2002)
12/18/2002	2	ORDER by Judge David A. Ezra rule 16 conference set for 9:00 3/17/03 before Mag Judge Leslie E. Kobayashi (gab) (Entered: 12/19/2002)
01/17/2003	3	RETURN OF SERVICE executed upon defendant RY-4 on 1/10/03 (gab) (Entered: 01/21/2003)

01/17/2003	4	RETURN OF SERVICE executed upon defendant Hawaiian Pacific Res on 1/10/03 (gab) (Entered: 01/21/2003)
01/17/2003	5	RETURN OF SERVICE executed upon defendant Roy Yamaguchi Enterp on 1/10/03 (gab) (Entered: 01/21/2003)
01/30/2003	6	ANSWER to complaint by defendant RY-4 dba Roy's Poipu Bar and Grill to complaint [1-1]; jury demand; certificate of service (gab) (Entered: 01/30/2003)
02/05/2003	7	ANSWER by defendant Hawaiian Pacific Restaurant Group, defendant Roy Yamaguchi Enterprises, Inc to complaint[1-1]; certificate of service (gab) (Entered: 02/05/2003)
02/25/2003	8	NOTICE OF MOTION and motion by Cynthia Cummings to intervene as intervenor memorandum in support of motion; declaration of counsel; exhibits 1 and 2; set for 9:30 4/3/03 before Mag Judge Leslie E. Kobayashi (gab) (Entered: 02/25/2003)
02/27/2003	9	EO : Continued : [Intervenor Cynthia Cummings' Motion to Intervene as Intervenor] from 04/03/2003 09:30:00 AM to 04/25/2003 09:30:00 AM before LEK. Rule 16 Scheduling Conference set for 3/17/03 at 9:00 AM is also continued to 4/25/03 at 9:30 AM, LEK. Susan L. Marshall to notify all parties. (Ct Rptr :) JUDGE Mag Judge Leslie E. Kobayashi (gab) (Entered: 02/28/2003)
03/14/2003	10	defendant RY-4, Inc.'s statement of no position to Cynthia Cummings' motion to intervene as intervenor re [8-1]; certificate of service (gab) (Entered: 03/14/2003)
03/20/2003	11	CERTIFICATE of service by intervenor Cynthia Cummings (gab) (Entered: 03/21/2003)
04/09/2003	12	REPORT OF PARTIES PLANNING MEETING by plaintiff Equal Employment Opportunity Commission; certificate of service (gab) (Entered: 04/10/2003)
04/15/2003	13	Plaintiff Equal Employment Opp Commission's statement of no opposition to Cynthia Cummings' motion to intervene as intervenor [8-1]; and certificate of service (sealed) (Entered: 04/15/2003)
04/17/2003	14	Amended (Defendants' Name) plaintiff Equal Employment Opportunity Commission's statement of no opposition to Cynthia Cummings' motion to intervene as intervenor and certificate of service (gab) (Entered: 04/18/2003)
04/17/2003	15	ORDER by Mag Judge Leslie E. Kobayashi granting Cynthia Cummings' motion to intervene as intervenor [8-1] (cc: all counsel) (gab) (Entered: 04/18/2003)
04/17/2003	16	SCHEDULING CONFERENCE STATEMENT by plaintiff EEOC and certificate of service (gab) (Entered: 04/18/2003)
04/21/2003	17	SCHEDULING CONFERENCE STATEMENT by defendant RY-4, Inc., dba Roy's Poipu Bar and Grill; certificate of service (gab) (Entered: 04/21/2003)
04/22/2003	18	SCHEDULING CONFERENCE STATEMENT by defendant Hawaiian Pacific Restaurant Group, defendant Roy Yamaguchi Enterprises, Inc.; certificate of service (gab) (Entered: 04/23/2003)
04/24/2003	19	EO : Intervenor Cynthia Cummings' Motion to Intervene as Intervenor is Vacated. Order Granting Motion issued by the Court. Rule 16 Scheduling

		Conference set for 04/25/2003 09:30:00 AM before LEK will still be held as scheduled. Parties notified by phone. (Ct Rptr : C6 Tape) JUDGE Mag Judge Leslie E. Kobayashi (gab) (Entered: 04/25/2003)
04/24/2003	20	INITIAL DISCLOSURE by defendant RY-4, Inc. dba Roy's Poipu Bar and Grill; certificate of service (gab) (Entered: 04/25/2003)
04/25/2003	21	EP : Rule 16 Scheduling Conference not held. Status Conference held. Intervenor's Complaint to be filed by 5/27/03. Further rule 16 Scheduling conference set for 9:00 6/5/03 before Mag Judge Leslie E. Kobayashi (Ct Rptr : C6 no record) JUDGE Mag Judge Leslie E. Kobayashi (gab) (Entered: 04/28/2003)
04/28/2003	22	CERTIFICATE of service by defendant Hawaiian Pacific Res, defendant Roy Yamaguchi Enterp (gab) (Entered: 04/28/2003)
05/27/2003	24	NOTICE OF MOTION and motion by intervenor Leslie Hamilton, intervenor Lisa Yamauchi Kaauwai to intervene as intervenors memorandum in support of motion; declaration of counsel; exhibits 1 and 2; set for 11:00 7/1/03 before Mag Judge Leslie E. Kobayashi (gab) (Entered: 05/27/2003)
05/27/2003	23	Plaintiff-INTERVENOR Cynthia Cummings' complaint in intervention; demand for jury trial; summons (gab) (Entered: 06/30/2003)
05/28/2003	25	SCHEDULING CONFERENCE STATEMENT by intervenor Cynthia Cummings; certificate of service (gab) (Entered: 05/29/2003)
05/30/2003	26	NOTICE OF MOTION and motion by defendant RY-4, defendant Hawaiian Pacific Res, defendant Roy Yamaguchi Enterp to dismiss plaintiff intervenor's state claims; memorandum in support of motion; declaration of Jeffrey S. Harris; exhibits A-C; certificate of service; set for 11:15 8/25/03 before Judge Susan O. Mollway (gab) (Entered: 06/02/2003)
06/05/2003	27	EP : Further Rule 16 Scheduling Conference held. 1. Jury trial on April 6, 2004 at 9:00 a.m. before SOM 2. Final Pretrial Conference on February 24, 2004 at 9:00 a.m. before LEK 3. Final Pretrial Conference before District Judge N/A 4. Final Pretrial Statement by February 17, 2004 5. File motions to Join/Add Parties/Amend Pleadings by September 5, 2003 6. File other Non-Dispositive Motions by January 7, 2004 7. File Dispositive Motions by November 5, 2003 8a. File Motions in Limine by March 16, 2004 8b. File opposition memo to a Motion in Limine by March 23, 2004 11a. Plaintiff's Expert Witness Disclosures by October 6, 2003 11b. Defendant's Expert Witness Disclosures by November 5, 2003 12. Discovery deadline February 6, 2004 13. Settlement Conference set for November 19, 2003 at 2:00 p.m. before LEK 14. Settlement Conference statements by November 12, 2003 20. Submit Voir Dire Questions, Special Verdict Form, Concise Statement of Case and Jury Instructions by March 23, 2004 21. File Final witness list by March 16, 2004 24. Exchange Exhibit and Demonstrative aids by March 9, 2004 25. Stipulations re: Authenticity/Admissibility of Proposed Exhibits by March 16, 2004 26. File objections to the Exhibits by March 23, 2004 28a. File Deposition Excerpt Designations by March 16, 2004 28b. File Deposition Counter Designations and Objections by March 23, 2004 29. File Trial Brief by March 23, 2004 30. File Findings of Fact & Conclusions of Law by N/A Other Matters: Discussion held

		re: mediation. Costs and travel to be split 50-50. Mediation to be held in Honolulu. Status Conference Re: Discovery prior to mediation set for 9:30 7/10/03, LEK. Judge Susan Oki Mollway's Trial Procedures given to parties. A copy of the Rule 16 Scheduling Order mailed to all parties. ; rule 16 conference held on 9:00 6/5/03 before Mag Judge Leslie E. Kobayashi , ; Jury Trial set for 9:00 4/6/04 before Judge Susan O. Mollway , ; Pretrial conference set for 9:00 2/24/04 ; settlement/status conference set for 2:00 11/19/03 before Mag Judge Leslie Kobayashi , ; Discovery ddl set for 2/6/04 ; Motion filing ddl set for 11/5/03 (Ct Rptr : C7 no record) JUDGE Mag Judge Leslie E. Kobayashi (gab) (Entered: 06/06/2003)
06/10/2003	28	Rule 16 SCHEDULING ORDER Mag Judge Leslie E. Kobayashi (cc: all counsel) (gab) (Entered: 06/10/2003)
06/13/2003	29	MEMORANDUM by defendant RY-4, defendant Hawaiian Pacific Res, defendant Roy Yamaguchi Enterp in opposition to Leslie Hamilton and Lisa Yamauchi Kaauwai's motion to intervene as intervenors [24-1]; declaration of Philip S. Uesato; exhibits A through F; certificate of service (gab) (Entered: 06/16/2003)
06/20/2003	30	Reply MEMORANDUM by intervenor Leslie Hamilton, intervenor Lisa Yamauchi Kaauwai in support of Hamilton and Kaauwai's motion to intervene as intervenors [24-1]; declaration of counsel; exhibits 3-8; certificate of service (gab) (Entered: 06/20/2003)
06/26/2003	31	Plaintiff INTERVENOR Cynthia Rodrigues' (fka Cynthia Cummings) Amended Complaint in intervention; demand for jury trial; summons (gab) (Entered: 06/30/2003)
06/27/2003	32	EO : The Court, having reviewed Leslie Hamilton and Lisa Yamauchi Kaauwai's Motion to Intervene as Intervenors, hereby informs the parties of its inclination to grant the motion based on this Court's reading of 42 U.S.C. 2000e-5(f)(1), which conveys a right to intervene upon "aggrieved" persons. Id. ("The person or persons aggrieved shall have the right to intervene in a civil action brought by the [EEOC]. . . ."); see also Fed. R. Civ. P. 24(a)(1) ("Upon timely application anyone shall be permitted to intervene in an action . . . when a statute of the United States confers an unconditional right to intervene. . . ."). The right of intervention in Title VII cases may be invoked if "the action was commenced by the EEOC in response to a charged filed either (a) by the proposed intervenor or (b) by another private party having a nearly identical claim to the claim raised by the proposed intervenor." <i>Spirit v. Teachers Ins. & Annuity Ass'n</i> , 93 F.R.D. 627, 642 (S.D.N.Y. 1982), <i>aff'd in part, rev'd in part on other grounds</i> , 691 F.2d 1054 (2d Cir. 1982). The Court invites argument regarding Defendants' position that proposed intervenors failure to file charges with the EEOC or obtain a right-to-sue letter is fatal to their request to intervene. In particular, the Court would like the parties to address: <i>EEOC v. Die Fliegermaus, L.L.C.</i> , 77 F. Supp. 2d 460, 469 (S.D.N.Y. 1999) ("[W]here the EEOC has elected to bring suit, plaintiffs have the statutory right to intervene [and u]nder such circumstances, receipt of a right to sue letter is not a jurisdictional prerequisite.") (citations omitted); <i>Madlock v. Sardis Luggage Co.</i> , 302 F. Supp. 866 (N.D. Miss. 1969); and <i>Snell v. Suffolk County</i> , 782 F.2d 1094, 1100 (2d Cir. 1986) (adopting the single filing rule "which provides that where one plaintiff had filed a timely

		EEOC complaint, other non-filing plaintiffs may join in the action if their individual claims arise out of similar discriminatory treatment in the same time frame") (internal quotation marks and alteration omitted). The parties should appear at the July 1, 2003 hearing prepared to discuss the issues raised in these cases and/or to direct the Court to controlling case law that either supports or contradicts this matter. The Court notes, this inclination is intended only to help the parties prepare for oral argument and is not the Court's final decision in the matter. Rather, the parties are encouraged to raise relevant case law and/or facts to show the Court why its inclination is mistaken or correct. re [24-1] (Ct Rptr :) JUDGE Mag Judge Leslie E. Kobayashi (gab) (Entered: 06/30/2003)
06/30/2003	33	EO : Counsel Phillip S. Uesato contacted the Court to indicate that Defendant RY-4, Inc. will be withdrawing their opposition to Movants' Leslie Hamilton and Lisa Yamauchi Kaauwai's Motion to Intervene as Intervenors. Defendant RY-4, Inc. will be instead be filing a Statement of No Position. Therefore, Movants' Leslie Hamilton and Lisa Yamauchi Kaauwai's Motion to Intervene as Intervenors set for 11:00 7/1/03, LEK is Vacated. All parties notified by phone. re [24-1] (Ct Rptr :) JUDGE Mag Judge Leslie E. Kobayashi (gab) (Entered: 06/30/2003)
06/30/2003	34	plaintiff Equal Employment Opportunity commission's statement of no opposition to Leslie Hamilton and Lisa Yamauchi Kaauwai's motion to intervene as intervenors [24-1] and certificate of service (gab) (Entered: 07/01/2003)
07/02/2003	35	WITHDRAWAL OF Opposition by defendant RY-4, defendant Hawaiian Pacific Res, defendant Roy Yamaguchi Enterp to Leslie Hamilton and Lisa Yamauchi Kaauwai's motion to intervene as intervenors and statement of no position on motion to intervene as intervenors; certificate of service (gab) (Entered: 07/02/2003)
07/03/2003	36	Withdrawal and Substitution of counsel and order by Magistrate Kobayashi; ATTORNEY SUBSTITUTION: terminating attorney Jeffrey S. Harris for Hawaiian Pacific Res, attorney Terrence M. Lee for Hawaiian Pacific Res and substituting attorney Richard F. Nakamura, Phillip S. Uesato (gab) (Entered: 07/07/2003)
07/08/2003	37	ORDER by Mag Judge Leslie E. Kobayashi granting Leslie Hamiltona nd Lisa Yamauchi Kaauwai's motion to intervene as intervenors [24-1] (cc: all counsel) (gab) (Entered: 07/10/2003)
07/10/2003	38	EP : Status Conference Re: Discovery Prior to Mediation held. Formal Responses to Rule 34 Requests are to be complied with: Plaintiff by 7/11/03, Defendants by 7/15/03. Defendants' Responses are as to all Documents except for Request Nos. 14, 17, 18, 19 and 20. Documents are to produced by Defendants for inspection by Plaintiff and Plaintiff-Intervenors at EEOC's Honolulu Office. Parties are to meet and confer regarding the excluded documents after conclusion of the mediation. Deadline for Motions to Join/Add Parties and to Amend Pleadings is extended to 10/6/03. (Ct Rptr : C6 no record) JUDGE Mag Judge Leslie E. Kobayashi (gab) (Entered: 07/14/2003)
07/10/2003	39	INTERVENOR'S COMPLAINT by intervenor Leslie Hamilton, intervenor Lisa Yamauchi Kaauwai; demand for jury trial; summons (gab) (Entered: 07/14/2003)

07/17/2003	40	CERTIFICATE of service by intervenor Cynthia Cummings, intervenor Leslie Hamilton, intervenor Lisa Yamauchi Kaauwai (gab) (Entered: 07/18/2003)
08/06/2003	41	MEMORANDUM by Plaintiff intervenor Cynthia Cummings in opposition to Defendants RY-4, Inc., dba Roy's Restaurant Group; Hawaii Pacific Restaurant Group; Roy Yamaguchi Enterprises, Inc.'s motion to dismiss plaintiff intervenor's state claims; [26-1]; declaration of Susan L. Marshall; exhibits 1-3; certificate of service (gab) (Entered: 08/07/2003)
08/11/2003	42	WAIVER OF SERVICE OF SUMMONS by defendant RY-4, defendant Hawaiian Pacific Res, defendant Roy Yamaguchi Enterp on 7/24/03, defendant understands that a judgment may be entered if an answer or motion under Rule 12 is not served within 60 days after 7/2/03 or within 90 days if the request was sent outside the United States (gab) (Entered: 08/11/2003)
08/14/2003	43	JOINDER by defendant RY-4, defendant Hawaiian Pacific Res in Defendant Roy Yamaguchi Enterprises, Inc.'s reply memorandum in support of motion to dismiss plaintiff intervenor's state claims; [26-1]; certificate of service (gab) (Entered: 08/18/2003)
08/14/2003	44	REPLY Memorandum by defendant Roy Yamaguchi Enterprises in Support of motion to dismiss plaintiff intervenor's state claims [26-1]; certificate of service (gab) (Entered: 08/18/2003)
08/14/2003	45	JOINDER by plaintiff Equal Employment Opportunity Commission to plaintiff intervenors' memorandum in opposition to defendants' motion to dismiss plaintiff intervenor's state claims; [26-1]; and certificate of service (gab) (Entered: 08/18/2003)
08/22/2003	46	EO : Defendants RY-4, Inc., dba Roy's Poipu Bar and Grill, Hawaiian Pacific Restaurant Group, Roy Yamaguchi Enterprises, Inc.'s Motion to Dismiss Plaintiff-Intervenor's State Claims from 08/25/2003 11:15:00 AM to 09/29/2003 10:30:00 AM before SOM. All parties notified by mediator Michael Nauyokas. (Ct Rptr :) JUDGE Judge Susan O. Mollway (gab) (Entered: 08/25/2003)
09/19/2003	47	EO : Defendants' Motion to Dismiss Plaintiff-Intervenor's State Claims is withdrawn without prejudice per Jeffrey Harris. The motion may be reinstated upon movant's obtaining of a new hearing date and filing of an amended notice of hearing no later than the dispositive motions cutoff. If an amended notice of hearing is filed, the motion itself and all memos, declarations, exhibits, etc. already on file in support of and in opposition to the motion will be considered by the court without the need for refiling. No new briefing on the motion will be allowed without leave of court. (Ct Rptr :) JUDGE Judge Susan O. Mollway (gab) (Entered: 09/19/2003)
10/23/2003	48	NOTICE by plaintiff of Change of address (gab) (Entered: 10/23/2003)
11/19/2003	49	EO :Settlement Conference set for 11/19/2003 02:00:00 PM before LEK is Vacated. Wilfredo Tungol to notify all parties. settlement/status conference vacated before Mag Judge Leslie E. Kobayashi (Ct Rptr :) JUDGE Mag Judge Leslie E. Kobayashi (fe) (Entered: 11/19/2003)
11/19/2003	50	CONSENT DECREE by Judge Susan O. Mollway (cc: all counsel) - submitted on behalf of plaintiff - this consent decree shall terminate 3 yrs from the date of

		entry by the court, unless EEOC petitions this court for an extension of the decree because of non-compliance by deft & court grants the petition; the action shall be dismissed with prejudice as to HPRG, RYE and RHI upon compliance w/ requirements for Section IV, monetary relief of this consent decree (fe) Modified on 05/04/2004 (Entered: 11/20/2003)
11/20/2003	51	CERTIFICATE of service by plaintiff (fe) (Entered: 11/20/2003)
11/26/2003	52	STIPULATION to dismiss all claims made by plaintiff-intervenors Cynthia Rodrigues, Leslie Vito and Lisa Kaauwai in their complaint in intervention and amended complaint in intervention with prejudice and ORDER by Judge Susan O. Mollway : dismissing (fe) (Entered: 11/28/2003)
12/04/2003	53	SUBMISSION by plaintiff Equal Employment Opp of original signature(s) to Consent Decree (gab) (Entered: 12/05/2003)

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