

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

LODGED

JAN 17 2014

3:41

JAN 21 2014
at 11 o'clock and 3 min. M.
SUE BEITIA, CLERK

CLERK, U.S. DISTRICT COURT
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HAWAII DEFENSE FOUNDATION,
CHRISTOPHER BAKER,
AND DEREK SCAMMON

Plaintiffs,

vs.

CITY AND COUNTY OF
HONOLULU;
ANDREW LUM, IN HIS PERSONAL
AND OFFICIAL CAPACITY;
JOHN DOES 1-10 IN THEIR
PERSONAL AND OFFICIAL
CAPACITIES.

Defendants.

CASE NO. CV 12-00469JMS-RLP

STIPULATION FOR DISMISSAL WITH
PREJUDICE AND ORDER

STIPULATION FOR DISMISSAL WITH PREJUDICE AND ORDER

WHEREAS, on or about June 15, 2011, the CITY AND COUNTY OF HONOLULU'S Honolulu Police Department ("HPD") created a Facebook page.

WHEREAS, in late January, 2012, certain postings made by Plaintiff's CHRISTOPHER BAKER ("Baker") and DEREK SCAMMON ("Scammon") were removed from that page and Baker and Scammon were subsequently prohibited from making further postings there;

WHEREAS, Plaintiff's HAWAII DEFENSE FOUNDATION, CHRISTOPHER BAKER and DEREK SCAMMON filed the instant action on August 21, 2012 asserting that their rights under the First Amendment of the U.S. Constitution had been violated and seeking declaratory and injunctive relief;

WHEREAS, after the filing of the instant complaint and after approval of Plaintiff's, HPD and CITY AND COUNTY OF HONOLULU changed their policies and procedures with regard to the administration of their Facebook pages.

WHEREAS, after the filing of the instant complaint, Baker and Scammon had their privileges to post on the HPD Facebook page restored;

WHEREAS, this Honorable Court subsequently determined the requests for preliminary injunctive relief, made by Plaintiff's, to be moot.

WHEREAS, the policies developed as a result of extended negotiations between the Plaintiff's and Defendants are still in place.

NOW, THEREFORE, the parties hereby agree as follows:

IT IS HEREBY STIPULATED AND AGREED by and between all of the parties currently remaining in this action, pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, that all claims herein shall be and are hereby dismissed with prejudice.

The trial in this matter was set for January 28, 2014.

All parties currently to this action have indicated their approval and have signed this stipulation. No other claims and/or parties remain. However, the parties acknowledge that Plaintiffs may bring a subsequent motion, pursuant to the rules, seeking attorneys' fees above and beyond the costs that are to be reimbursed as set forth above. Defendants CITY AND COUNTY OF HONOLULU and ANDREW LUM may contest Plaintiffs' entitlement to an award of attorneys' fees and the amount of fees sought. Upon presentation of invoices or receipts associated with this case, Defendants CITY AND COUNTY OF HONOLULU will reimburse Mr. Baker and/or the Hawaii Defense Foundation for the costs expended in this case. Any specific itemized costs that the City believes is not legitimately attributable to this case can be submitted to the Court.

DATED: Honolulu, Hawaii, January 17, 2014.

HOLCOMB LAW, LLLC

By: 

RICHARD L. HOLCOMB

BRIAN J. BRAZIER

Attorneys for Plaintiffs

HAWAII DEFENSE FOUNDATION,
CHRISTOPHER BAKER and DEREK
SCAMMON

DATED: Honolulu, Hawaii, January 17, 2014.

DONNA Y.L. LEONG

Corporation Counsel

By:  MATTHEW PYUN

for CURTIS E. SHERWOOD

Deputy Corporation Counsel

Attorney for Defendants

ANDREW LUM and the

CITY AND COUNTY OF HONOLULU

APPROVED AND SO ORDERED:


THE HONORABLE J. MICHAEL SEABRIGHT

Hawaii Defense Foundation, et al. v. City and County of Honolulu, et al., Civ.
No. 12-00469 JMS-RLP; Stipulation for Dismissal with Prejudice and Order