

ORIGINAL

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

DEC 24 2013

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SUE BEITIA, CLERK

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PRO SE

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

C. KAUI JOCHANAN AMSTERDAM  
1415 PENSACOLA ST. # 12  
HONOLULU, HAWAII 96822  
NATIVE HAWAIIAN, BENEFICIARY

Plaintiff

VS.

GOVERNOR NEIL ABERCROMBIE, INDIVIDUALLY  
AND GOVERNOR OF THE STATE OF HAWAII,  
SENATOR AND INDIVIDUALLY CLAYTON HEE,  
REPRESENTATIVE AND INDIVIDUALLY JOSEPH  
SOUKI, SENATOR AND INDIVIDUALLY DONNA  
MERCADO KIM, AND REPRESENTATIVE AND  
INDIVIDUALLY KARL RHOADS.  
STATE CAPITOL  
415 S. BERETANIA ST.  
HONOLULU, HAWAII 96813

Defendants

CIVIL NO. CV13 00649SOM  
KSC

AMENDED COMPLAINT;  
PLAINTIFF'S MOTION FOR  
JUDGEMENT TO ENJOIN  
HAWAII MARRIAGE EQUALIT  
ACT OF 2013, 11/13/2013

AMENDED COMPLAINT

I. INTRODUCTION

The Plaintiff C. Kauai Jochanan Amsterdam, a Native Hawaiian Beneficiary of the Native Hawaiian Trust Fund established by the Hawaii Admission Act of 1959, a descendant of a full-blooded, Ali Kalakaua line, President of three Native Hawaiian humanitarian or ganizations, officer of The Interim Government of The Kingdom of

Hawaii, and leader in the Native Hawaiian and Jewish communities, respectfully comes before the Honorable United States District Court for the District of Hawaii and requests to enjoin a recently enacted state law called the Hawaii Marriage Equality Act of 2013 that allows same-sex couples to marry as violative of (1) the Laws or Acts and associated situations of the special, unique and political relationship and status between the U.S. Federal and Hawaii State governments and the Native Hawaiian or Kanaka Maoli People of which the Plaintiff is an active responsible part and with such a special relationship and status evidenced by the inclusion of Native Hawaiians in numerous Acts of Congress such includes the Hawaii Admission Act of 1959, (2) the Laws or Acts and associated situations of the unique, aboriginal, political status of Native Hawaiians, who have unrelinquished claims of sovereignty, who according to the Constitution and Statutes of the State of Hawaii and the Native Hawaiian Education Act of 1994 have the unique right "to practice and perpetuate their Culture, Religious Customs, Beliefs, Practices, and Languages", who, according to the American Indian Religious Freedom Act of 1978 (AIRFA), have a political status comparable to that of Native Americans and the Act is "to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians", and according to The

Apology Bill, United States Public Law 103-150, which states:

"Whereas, the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land", which links the diverse facets of Native Hawaiians, who link their Land, Culture, Beliefs, Values, and Religion with their Health and Well-being, and (3) the Laws or Acts and cases on point and associated situations of the unique and Special Relations between the US Federal and Hawaii State governments and the Native Hawaiian People, the unique and political Status of Native Hawaiians, and the Principle or Right of Equal Protection as demonstrated by the U.S. Supreme Court's ruling that States can support or not support an Act as the Hawaii Marriage Equality Act of 2013 and cases on point of Morton v. Mancari, Delaware Tribal Business Committee v. Weeks, and United States v. John demonstrate that the Special Relationship and Status factors can take precedent over Equal Protection and the Court can use discretion.

Thus, Native Hawaiians have a right within their Special Relationship with the U.S. Federal and Hawaii State governments and their Special Status to express and preserve their Culture, Values, Religious Customs, and such as represented in the Hawaii Motto that "the Life of the Land is Perpetuated in Righteousness". and with such a right to overrule a claim of violation of Equal Protection. In this case, same-sex sexual relations of same-sex couples violate the cultural moral values of Righteousness of

Native Hawaiians and the Hawaii Marriage Equality Act of 2013, which authorizes such prohibited behavior expressed by Hawaii's Motto, can be enjoined by Native Hawaiian's right to do so over the objections and claim of violation of Equal Protection by advocates of same-sex marriage and associated state law. Being a member of a disadvantaged entity, Native Hawaiians, the Plaintiff brings forth the request and right as previously elaborated. Just as the Superferry was terminated for not having completed important responsibilities here in Hawaii the same situation exists presently in Hawaii with the State government not having completed important responsibilities with Native Hawaiians with whom the State has a Special Relationship for which the Plaintiff, who is in this Special Relationship, is exercising his spiritual, moral, temporal, and legal right.

2. BACKGROUND

First, according to the Native Hawaiian Education Act of 1994, there is a special political relationship between the U.S. Federal government and the Native Hawaiian People and is evidenced by the inclusion of Native Hawaiian in numerous Congressional Acts which include the Native American Act of 1974 (42 U.S.C. 2991 et seq.), the American Indian Religious Freedom Act (42 U.S.C. 1996), the National Museum of the American Indian Act (20 U.S.C. 80q et seq.), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Native American Languages Act (25 U.S.C. 2901 et seq.), the American

Indian, Alaskan Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.), the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), and the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.). Other Acts include the Native Hawaiian Health Care Improvement Act of 1992, the Rehabilitation Act of 1973, the Native American Programs Act of 1974, the Development Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Disadvantaged Minority Health Improvement Act of 1990, the Indian Health Care Amendments of 1988, and the the Hawaiian Homes Commission Act, 1920.

Second, Native Hawaiians have a unique and political Status which enables them "to protect and preserve their inherent right of freedom to believe, express and exercise their Religious Customs, Beliefs, Practices, and Language(s)" as presented in the Native Hawaiian Education Act of 1994 and the American Indian Religious Freedom Act of 1978 (AIRFA).

Third, the factors of their Special Relationship(s) and unique Status, provide Hawaiians a unique impact or priority of exercising their rights and being able to overcome claims by others that their right of Equal Protection is being violated. Such associated cases on point include *Morton v. Mancari*, *Delaware Tribal Business Committee v. Weeks*, and *United States v. John*.

Fourth, being Native Hawaiian as previously explained, the Plaintiff has a right to use the factors of his Status of being a Native Hawaiian and Special Relationship in practice of his religious, cultural moral value of Righteousness as repre-

sented in Hawaii's Motto of "Ua Mau Ke Ea O Ka Aina I Ka Pono/ the Life of the Land is Perpetuated in Righteousness". The seriousness of the Plaintiff's religious, cultural moral value of Righteousness is acknowledged in the Apology Bill, United States Public Law 103-150, "Whereas, the health and well-being of the Native Hawaiian People is intrinsically tied to their deep feelings and attachment to the land". Such seriousness is further evident in light of the Motto originating with a Hawaiian Queen and formalized by King Kamehameha III. On the other hand, the Hawaii Marriage Equality Act of 2013, authorizes same-sex sexual relations, which is contrary to and undermines Hawaii's Motto and the religious, cultural moral values of the Plaintiff and the majority of Native Hawaiians as evidenced by the majority of Native Hawaiians who testified against the same-sex marriage Act. The Defendants did not seriously consider, acknowledge, or address Native Hawaiians and their religious, cultural moral values of Righteousnes. Any attempt was one-sided and prejudicial as seen in their dismissal of the majority of Native Hawaiians. Comparing this case with that of the Civil Rights of Rosa Parks, the issue(s) of the Plaintiff and Native Hawaiian People before the Defendants was not even considered, but rather dismissed. Therefore, like Rosa Parks, the Plaintiff and the Native Hawaiian People were kept disadvantaged and violated rather than having rights advanced. Accordingly, the Plaintiff's current action is to stop such irresponsibility of the Defendants and support the

Plaintiff and Native Hawaiian People's right to express, preserve, and practice religious, cultural moral values rather than to have them undermined, weakened, and eliminated, which is what is happening with same-sex marriage Act. Same-sex sexual relations are viewed as a desecration of the land and as such weakens and destroys the health and well-being of the land, the Native Hawaiian People, the population-at-large, and the Plaintiff. Such injury is redressed by an injunction of the same-sex marriage Act

Fifth, the Plaintiff and the Native Hawaiian People were discriminated against by the Defendants because the same-sex marriage Act was ramroded through the legislative process without serious, fair, and due consideration given to the Plaintiff and Native Hawaiian People by the Defendants, who led the advance of the Act's passage. Being Native Hawaiian, the Plaintiff and the Native Hawaiian People were lumped into the overall, general population without regard for the important factors of Special Relationship and Unique Status given to the Plaintiff and Native Hawaiian People by the Defendants, who thereby violated their mandated responsibility to do so by Congressional Acts and they also violated the Plaintiff and Native Hawaiian People's rights. Like the Superferry, the Defendants mistakenly ramroded the same-sex marriage Act through the process without fair and due regard toward meeting associated responsibilities toward the Native Hawaiian Plaintiff and Native Hawaiian People. Indeed, the Defendants breached their responsibility toward the

Hawaii voting public, who in 1998 after their majority vote were led to believe the Hawaii government would uphold their majority vote for traditional marriage. The same-sex marriage Act and the Defendants should be held to the same responsibility and scrutiny as was the Superferry. To dismiss the Defendant's irresponsible dismissal of their responsibility to the Native Hawaiian Plaintiff and Native Hawaiian People in this matter of the same-sex marriage Act is a serious oversight and is referred to by Native Hawaiians as the "Second Overthrow", which refers to the 1893 conspiracy and overthrow by conspirators of the King of Hawaii. The Defendants violated the Equal Protection Rights of the Plaintiff and Native Hawaiian People because Culture, Belief, Expression, and Value of Righteousness are violated by exercise of the same-sex marriage Act and they have no alternative but to experience a weakening, undermining, and loss of their Values, Culture, etc. and will continue to do so. On the other hand, the supporters of the same-sex marriage Act by not being able to have the Act, can still go to another State which supports a same-sex marriage Act and, be married, and still live in Hawaii without a loss. Accordingly, the Plaintiff and Native Hawaiians are injured because same-sex sexual relation of those in same-sex marriage is a value that belies or runs counter to the values of the Plaintiff and Native Hawaiian's cultural moral values, is unfair, abusive, defamatory, and tarnishes the



standing, all or which are considered injurious according to the dictionary. Same-sex marriage promotes behavior, character, and conduct prohibited by the values and culture of the Plaintiff and Native Hawaiians. Such a prohibited value or action undermines or subverts insidiously, weakens, and wins by degrees, which is injurious. On the other hand, the Plaintiff's use of Special Relationship and Unique Status trumps the Defendant's and supporters of same-sex marriage claim of their being violated their Equal Protection rights and avoid the Plaintiff and Native Hawaiians needing to claim their Equal Protection Rights are violated. Thus, the Plaintiff and Native Hawaiians claim injury because the action and value of same-sex sexual relations afforded through the same-sex marriage Act violates Culture, Values, Practice, etc. of the Plaintiff and Native Hawaiians with injurious results or impact previously described with such injuries being concrete, particularized, actual, and imminent with such injury causally connected to the conduct of those who practice same-sex marriage, and such injury will be redressed by a favorable decision of enjoining the same-sex marriage Act. Likewise, with the Apology Bill clarifying that the health and well-being of the Native Hawaiian People being intrinsically tied to their deep feelings and attachment to the land", with such physical and mental health and well-being and deep feeling or emotional and psychological state tied or linked

to the land, and with the same-sex sexual relations of same-sex marriage viewed as a desecration of the land, then such desecration negatively impacts or injures the level of physical and mental health and well-being and emotional and psychological state of the Plaintiff and Native Hawaiians. Additionally, the Plaintiff and Native Hawaiian People's injury comes not only with the concern and worry over the desecration of the land by the prohibited behavior of same-sex marriage as exemplified in the converse presentation of Hawaii's Motto of "the death of the land is perpetuated in unrighteousness" which can include dangerous conditions such as tsunamies, hurricanes, earthquakes, foreign invasion, economic problems, etc. Thus, injury results from the great worry of what will happen, but also from the dangerous conditions resulting from unrighteous action of same-sex marriage. The Plaintiff has the support of several Hawaiian Kahus or religious leaders who hold the belief of such imminent injurious dangers will result from same-sex marriage in Hawaii. Thus, such emotional, psychological, and mental anxiety, stress, worry, and pre-occupation is how the Plaintiff is injured.

Fifth, the Plaintiff is injured as an Educator. The Plaintiff received his Masters in Education at U.C.L.A. A Sex Education Program called Pono Choices is currently in the Hawaii Public School System. Among other things, the system teaches eleven

year olds about oral and anal sex and promotes and normalizes homosexual values and lifestyle. Because my cultural moral values of Righteousness consistent with the Hawaii Motto, are in opposition with the educational system and its values, I am unable to teach such a system or knowledge. Such preclusion limits my teaching and financial situation and is injurious to my financial stability. Likewise, I am subject to prosecution if I refuse to discuss the subject with my students. Such a situation has happened in Maine and other States which have accepted the same-sex marriage Act. Also being a health care provider, I know of the health problems such as cancer that can result from anal and oral sex. Accordingly, in such a situation, my cultural moral values of Righteousness, my knowledge of health and wellness, and my financial and professional well-being are in jeopardy and I am placed into an injurious situation due to the same-sex marriage act. With the Act being recently passed, the situation will get worse as exemplified in States, which have already accepted the Act.

Six, serving the Hawaiian community and members of my family, I see that over 45% of foster children are Native Hawaiian. This means that this percentage of families are dysfunctional. With the same-sex marriage eliminating an opposite gender parent, the family unit is further weakened and eroded. Michigan University research recently revealed that a lack of a male gender correlates with a rise in youth violence. Accordingly, a lack

of a father in a family would further erode a family and allow an increase in violence. Such a situation does nothing to improve a dysfunctional family of foster children. Likewise, same-sex marriage eliminates reproduction and growth in a family. Because my family and relatives are amongst problematic segment of society, I am injured by the same-sex marriage Act because it does nothing to improve the problems, but rather makes it worse. Native Hawaiians have the shortest lifespan, the highest unemployment, the highest incarceration, and the lowest education level. As exemplified with the family situation, same-sex marriage doesn't help such problematic situations and statistics, but rather keeps them the same or makes it worse.

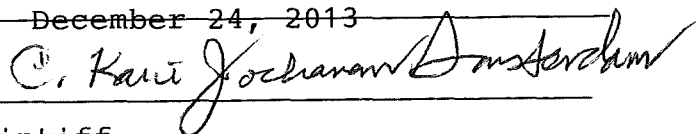
Seven, the Native Hawaiian History, Culture, Values, and Practice is rich and diverse. Historically, Native Hawaiians have enjoyed close or orthodox trends of religious, cultural moral values of Righteousness and also a drifting from such. Kanaka Maoli have a history and tradition of Ke Akua, Kane, Lono, and Ku, which is the ~~Godhead~~, which goes back even before 88 B.C., the City of Refuge, which goes back to the time of the City of Refuge found in Deuteronomy, the Kahuna, which parallels the the Cohen or Priest in the Holy Land, and finally, the visit of Lono as remembered in the Makahiki, which Hawaiians mistook Cap-Cook for being Lono, who was predicted to come as the Messiah amongst the Tribes of Israel. With the arrival of the Christian missionaries in 1820, it was natural for Native Hawaiians

to embrace Christianity. The Hawaii Motto, which was established during the reign of King Kamehameha III, was a formalization of our ancient traditional values, which includes that of Aloha. Since such Cultural Moral Values of Righteousness have such deep roots for Native Hawaiians, such values are manifested in the numerous and diverse areas and activities of life. Therefore, to undermine such values causes great displacement, disruption, and injury for Native Hawaiians and for the Plaintiff. Therefore, the Plaintiff requests consideration to stop further injury and problems for Native Hawaiians and the Plaintiff by enjoinderment of the same-sex marriage Act. To do so will help to alleviate injury and problems, but to do otherwise will invite greater injury and dangers.

3. CONCLUSION

Therefore, the Plaintiff expresses appreciation to the Honorable Court. Likewise, the Plaintiff asks consideration for a favorable outcome by considering the Special Relationship between the U.S. Federal and the Hawaii State governments, which allow advancing through the judicial system associated civil and human humans. To do so is an important opportunity and step to advance "reconciliation", which is an important aim of the Apology Bill. Mahalo to the Honorable Court, Happy Holiday, and Mahalo to G-d.

Dated: Honolulu, Hawaii, ~~December 24, 2013~~



Plaintiff  
Pro Se