

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VIRGIL E. DAY; MEL)	APP. NO. 08-16668
HOOMANAWANUI; JOSIAH L.)	
HOOHULI; PATRICK L.)	CIVIL NO. 05-00649 SOM BMK
KAHAWAIOLAA; and SAMUEL L.)	
KEALOHA,)	STATE OF HAWAI'I'S NOTICE OF
)	INTENT NOT TO FILE ANSWERING
Plaintiffs/Appellees,)	BRIEF
)	
vs.)	EXHIBIT "A"
)	
HAUNANI APOLIONA,)	CERTIFICATE OF SERVICE
individually and in her)	
official capacity as)	
Chairperson and Trustee of)	
the Office of Hawaiian)	
Affairs; ROWENA AKANA; DANTE)	
CARPENTER; DONALD CATALUNA;)	
LINDA KEAWE`EHU DELA CRUZ;)	
COLLETTE Y. PI`IPI`I)	
MACHADO; BOYD P. MOSSMAN;)	
OSWARD STENDER; and JOHN D.)	
WAIHE`E IV, individually and)	
in their official capacities)	
as Trustees of the Office of)	
Hawaiian Affairs; and)	
CLAYTON HEE and CHARLES OTA,)	
individually,)	
)	
Defendants/Appellants.)	

MARK J. BENNETT
Attorney General of Hawai`i
WILLIAM J. WYNHOFF
Deputy Attorney General
Department of the Attorney
General, State of Hawai`i
465 King Street, Suite 300
Honolulu, Hawai`i 96813
Telephone: (808) 587-2993
Fax: (808) 587-2999
E-mail: bill.j.wynhoff@hawaii.gov

Attorneys for State of Hawai`i

STATE OF HAWAI'I'S NOTICE OF INTENT NOT TO FILE ANSWERING BRIEF

The State of Hawai'i hereby gives notice that it will not file an answering brief in this appeal.

The State's brief or response is due on December 15, 2008, as evidenced by Exhibit "A" attached hereto.

DATED: Honolulu, Hawai'i, December 11, 2008.

/s/ William J. Wynhoff
William J. Wynhoff
Deputy Attorney General
Attorney for State of Hawai'i

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2008, I electronically filed the foregoing with Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

WALTER R. SCHOETTLE, ESQ.
P.O. Box 596
Honolulu, Hawai'i 96809-0596

Attorney for Plaintiffs

LISA W. CATALDO, ESQ.
McCorrison Miller Mukai MacKinnon LLP
Five Waterfront Plaza, 4th Floor
500 Ala Moana Boulevard
Honolulu, Hawai'i 96813

Attorney for Defendants Current Trustees of
the Office of Hawaiian Affairs

H. WILLIAM BURGESS
2299C Round Top Drive
Honolulu, Hawai'i 96822

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, for delivery within 3 calendar days, to the following non-CM/ECF participants:

CHARLEEN M. AINA
Deputy Attorney General, State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813

Attorney for Defendants Former Trustees of
the Office of Hawaiian Affairs Clayton Hee and
Charles Ota

DATED: Honolulu, Hawai'i, December 11, 2008.

/s/ William J. Wynhoff
William J. Wynhoff
Deputy Attorney General
Attorney for State of Hawai'i