

LAW OFFICE OF CARL M. VARADY  
CARL M. VARADY 4873-0  
Pauahi Tower, Suite 1730  
1003 Bishop Street  
Honolulu, Hawai'i 96813  
Telephone: (808) 523-8447  
E-mail: [carl@varadylaw.com](mailto:carl@varadylaw.com)

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GRANDE LAW OFFICES  
THOMAS R. GRANDE 3954-0  
41-859 Kalaniana'ole Highway, #271  
Waimānalo, Hawai'i 96795  
Mobile: (808) 271-7500 Tel:(808) 521-7500  
Email: [tgrande@grandelawoffices.com](mailto:tgrande@grandelawoffices.com)  
ATTORNEYS FOR PLAINTIFFS

HOLLY T. SHIKADA 4017  
Attorney General, State of Hawai'i  
CRAIG Y. IHA 7919  
KATIE L. LAMBERT 8358  
DAVID D. DAY 9427  
RYAN K. KANAKA'OLE 9613  
Deputy Attorneys General  
425 Queen Street  
Honolulu, Hawai'i 96813  
Telephone: (808) 586-1500

FARM BENEDICT SUGIHARA  
A Limited Liability Law Partnership LLP  
LINDA LEE K. FARM 4514  
[lfarm@fbslawyers.com](mailto:lfarm@fbslawyers.com)  
DONNA H. KALAMA 6051  
[dkalama@fbslawyers.com](mailto:dkalama@fbslawyers.com)  
Special Deputy Attorneys General  
Bishop Street Tower, Suite 1601  
700 Bishop Street  
Honolulu, Hawaii 96813  
Telephone: (808) 451-3180

ATTORNEYS FOR STATE DEFENDANTS

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
STATE OF HAWAI'I

LEONA KALIMA, DIANE BONER,  
RAYNETTE NALANI AH CHONG,  
special administrator of the estate of JOSEPH  
CHING, deceased, CAROLINE BRIGHT,  
DONNA KUEHU, and JAMES  
AKIONA, et al.,

Plaintiffs,

vs.

STATE OF HAWAI'I, STATE OF HAWAI'I  
DEPARTMENT OF HAWAIIAN HOME  
LANDS; et al.,

Defendants.

CIVIL NO. 99-4771-12 LWC  
(Class Action)

**STIPULATION TO AMEND TIMETABLE  
OF EVENTS CONTAINED IN EXHIBIT 4  
TO JUNE 9, 2022, ORDER GRANTING  
PLAINTIFFS' MOTION FOR: (1)  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT [DKT. 1496]  
AND ORDER; EXHIBITS 1 & 2**  
POST-TRIAL PROCEEDINGS JUDGE:  
HON. LISA W. CATALDO

SETTLEMENT JUDGE: HON. GARY W.B.  
CHANG

**STIPULATION TO AMEND TIMETABLE OF EVENTS CONTAINED IN EXHIBIT 4 TO  
JUNE 9, 2022, ORDER GRANTING PLAINTIFFS' MOTION FOR: (1) PRELIMINARY  
APPROVAL OF CLASS ACTION SETTLEMENT [DKT. 1496] AND ORDER**

Pursuant to Cir. Ct. R. 19, Plaintiffs, through their Counsel, Carl M. Varady and Thomas R. Grande, and Defendants, through their Counsel, Attorney General Holly T. Shikada, Deputy Attorney General Craig Y. Iha, and Special Deputy Attorneys General Linda Lee K. Farm and Donna H. Kalama, hereby stipulate:

WHEREAS, the parties have entered into a settlement intended to achieve a full and final resolution on a class-wide basis of all claims that have been asserted and could have been asserted in this matter (the "Settlement") and have executed a Settlement Agreement to effectuate those terms (the "Agreement");

WHEREAS, on June 9, 2022, the Court entered its Order Granting Plaintiffs' Motion for: (1) Preliminary Approval of Class Action Settlement; (2) Certification of Settlement Class; (3) Decertification of Subclasses 1-4 and 6; (4) Appointment of Class Representatives and Appointment of Class Counsel; (5) Appointment of Settlement Special Master; (6) Appointment of Claims Administrator; (7) Approval of Plan of Notice and Scheduling of Fairness Hearing (the "Preliminary Approval Order")[Dkt. 1496];

WHEREAS, the Preliminary Approval Order includes a proposed Settlement Claims Administration Plan with a timetable for notice, communication, and outreach services (Exhibit 1 at 4-5)(the "Proposed Timetable");

WHEREAS, the parties have consulted with the Court on August 2, 2022, in a status conference regarding the need to obtain accurate data regarding class members' lease award dates, and the Defendants have agreed to provide Plaintiffs with additional and the most accurate

data available for class members' lease award dates to facilitate analysis of settlement distribution among class members;

WHEREAS, on August 17, 2022, Defendants provided Plaintiffs with additional data available for 835 class members' lease award dates;

WHEREAS, on August 25, 2022, the parties again conferred, and Defendants have agreed to provide Plaintiffs with further additional data available for class members' lease award dates, including a review and revision of the 1,916 lease dates previously provided on July 7, 2022, as well as a further review and revision of the data available for 835 class members' lease award dates produced on August 17, 2022;

WHEREAS, Defendants currently estimate that the review will not be completed before September 2, 2022, and may take until mid-September to complete;

WHEREAS, the Proposed Timetable identified September 1, 2022, for confirmation of settlement payment beginning and end dates, with end dates determined by lease award dates, if any;

WHEREAS, the Proposed Timetable identified October 1, 2022, as the date for submission of the distribution plan for the Court's approval based on the calculations that would be made using the lease award data;

WHEREAS, the parties are working to obtain and use the most accurate lease award date data for purposes of analyzing and proposing a fair and reasonable distribution plan to the Court and the class members, and seek to do so incorporating the most accurate lease award data provided by Defendants from their review of DHHL's records, cross-checking that data with the data Class Counsel have previously identified in discovery;

WHEREAS, Defendants will produce updates to the lease award data by mid-September

so that the parties will have by that date, to the best of their knowledge, the most accurate lease award data currently available which will enable Class Counsel to cross-check the updated data against the data they already have;

WHEREAS, the parties agree that additional time is necessary to analyze that lease award data, incorporate the data into the Claims Administrator's claims database, model various scenarios for claims distribution, and propose a fair and reasonable plan of distribution to the Court after full review;

WHEREAS, the parties agree that the dates for class members to notify the Claims Administrator of any corrections to their application and lease award dates (if any) and the date to opt out of the Settlement Class should be the same for purposes of coherence and consistency, rather than two weeks apart as is now the case (which was the result of a transpositional error); and,

WHEREAS, the instant stipulation was submitted to the Special Master for review, comment, and approval prior to its submission to the Court;

NOW THEREFORE, the parties agree that the Proposed Timetable will be modified as follows as set forth in Exhibit 2 hereto:

| Action  | Original Date     | New Date                 |
|---|-------------------|--------------------------|
| Confirmation of payment start dates; confirmation of end dates (ref. lease award dates) | September 1, 2022 | <b>October 1, 2022</b>   |
| Submission to the Court of distribution plan for review and approval                    | October 1, 2022   | <b>November 1, 2022</b>  |
| Deadline for class members to submit corrections regarding application and award dates  | December 1, 2022  | <b>December 15, 2022</b> |

[SIGNATURES ON FOLLOWING PAGE]

DATED: Honolulu, Hawai'i, September 1, 2022.

/s/ Donna H. Kalama

HOLLY T. SHIKADA  
Attorney General  
CRAIG Y. IHA  
Deputy Attorney General and  
LINDA LEE K. FARM  
DONNA H. KALAMA  
Special Deputy Attorneys General

ATTORNEYS FOR DEFENDANTS

/s/ Carl M. Varady

CARL M. VARADY  
THOMAS R. GRANDE  
  
CLASS COUNSEL

APPROVED AND SO ORDERED:

/s/ Lisa W. Cataldo



\_\_\_\_\_  
JUDGE OF THE ABOVE-ENTITLED COURT

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***Kalima et al., v. State of Hawai'i et al.*, Civil No. 99-4771-12 LWC, STIPULATION TO AMEND TIMETABLE OF EVENTS CONTAINED IN EXHIBIT 4 TO JUNE 9, 2022, ORDER GRANTING PLAINTIFFS' MOTION FOR: (1) PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT [DKT. 1496] AND ORDER; EXHIBITS 1 & 2**

## **SETTLEMENT CLAIMS ADMINISTRATION PLAN**

This Settlement Claims Administration Plan describes, generally, the work to be conducted by the Claims Administrator and proposed timeline for that work. The Plan has two parts: (1) General Duties and (2) Timetable: Notice, Communication and Outreach Services

### **PART I: GENERAL DUTIES**

#### **I. COMMUNICATION WITH CLASS MEMBERS - ONGOING**

1. Maintain and update the website, <https://www.kalima-lawsuit.com> ~~www.Kalima-Lawsuit.com~~, provided by class counsel.
2. Coordinate responses to class member contacts:
  - a. Establish an email contact information system on ~~www.Kalima-Lawsuit.com~~ <https://www.kalima-lawsuit.com> for submission of updated contact information and successor information for heirs and successors of deceased class members.
  - b. Establish an automated toll-free number to distribute recorded messages and -record updated contact information and successor information. Use a Hawai'i resident to record recorded messages.
  - c. Call Center Services
  - d. Subcontract Community Outreach Services
  - d. Establish a Hawai'i post office box with appropriate mail forwarding.

#### **II. COMPILE SETTLEMENT CLASS LIST – ONGOING**

Compile and maintain the class list, including:

- a. Organize, update, and maintain class list;
- b. Compile and periodically update class member addresses and contact information;
- c. Determine which class members are deceased and update the class list to reflect that fact;
- d. Identify successors to deceased class members through telephone/email contact, and update the class list accordingly; and,
- e. Determine which class members cannot be found, provide methods for contacting missing class members, and update the class list accordingly.

## **EXHIBIT 4 [REVISED POST-HEARING]**

### **EXHIBIT 1 TO STIPULATION TO AMEND TIMETABLE**

**III. COMPILE INDIVIDUAL SUCCESSOR INFORMATION – ONGOING**

1. Record individual successor, devisee, and heir information (children), including name, age, date of birth, address, email, telephone contact information, and relationship to class member; whether there is a will or trust; and name and contact information for executor, if any.
2. Research individual successor, devisee, and heir information through a search of newspaper obituaries and other sources, where such information is unavailable from Defendants.
3. Compile individual successor, devisee, and heir information into a specified format for use in probate court and other related proceedings.

**IV. COMPILE AND MAINTAIN INDIVIDUAL CLAIMS DOCUMENTS - ONGOING**

1. Compile and maintain the following electronic PDF files for each class member, in searchable electronic format (all documents provided will be in searchable PDF format), for access by counsel and the Court. This process has been completed for the most part and the State of Hawai'i has used a bar code system that can be used to organize and hyperlink documents. The files include:
  - a. Hawaiian Claims Office (HCO) claim forms;
  - b. HCO individual claims files, including investigative reports and HCO Panel Decisions;
  - c. DHHL beneficiary files; and
  - d. Other electronic records to be provided.
2. Establish a cloud-based system for access to electronic files and documents by counsel, class members, and the Court.

**V. CREATE AND MAINTAIN INDIVIDUAL CLAIMS DATABASE – SEPTEMBER 1, 2022**

Integrate and maintain a central data file for each class member, to be derived from existing claims documents, excel files, and databases to be provided by class counsel. The central data file will use unique numeric identifiers assigned by Class Counsel and/or social security numbers used by the State of Hawai'i cross-checked for accuracy.

**VI. CONFIRMATION OF INDIVIDUAL START AND END DATES – NOT LATER THAN SEPTEMBER 1, 2022**

**EXHIBIT 4 [REVISED POST-HEARING]**

**EXHIBIT 1 TO STIPULATION TO AMEND TIMETABLE**

Confirm and correct individual payment start and end dates, identified by class counsel by a search of Investigative Reports and Panel Decisions in PDF searchable format.

**VII. COMPUTATION OF SETTLEMENT PAYMENTS – NOT LATER THAN JANUARY 15, 2022**

Compute individual payments by applying Fair Market Rental Value formulas for each type of lease application, residential, agricultural, and pastoral, to compute total payment

**VIII. NOTICE OF SETTLEMENT PAYMENT – NOT LATER THAN FEBRUARY 15, 2023**

1. Mail and/or email individual notices of settlement payments showing (a) the basis of the payment (application and award date, if any), (b) the amount of the payment, (c) the date and time of the Final Approval hearing, and (d) objection procedures. The estimated number of mailings to living class members is 1500. There are 967 known deceased class members. Mail or other means of communication must occur with their known successors, devisees, or heirs.
2. Mail and/or email individual notices to deceased class members' heirs, devisees, representatives or administrators explaining (a) the basis of the settlement payment (application and award date, if any), (b) the amount of the payment, (c) the date and time of the Final Approval hearing, and (d) objection procedures. The estimated number of mailings to class members' heirs, ~~devisees,~~ ~~representatives~~ representatives, and administrators is 7500.
3. Publish and provide Notice of Final Approval Hearing as follows:
  - a. Mailed Notice to All Class Members with notice of right to object;
  - b. Post the notice on ~~www.Kalima-Lawsuit.com~~ <https://www.kalima-lawsuit.com>; and
  - c. Suggest and implement other claims notification procedures as required.

**IX. OBJECTION DEADLINE – ~~FEBRUARY~~ MARCH 15, 2023**

**X. FINAL APPROVAL HEARING – APRIL 14, 2023**

**XI. MISCELLANEOUS**

1. Process and submit any opt-out notices – **December 15, 2022 Deadline.**

**EXHIBIT 4 [REVISED POST-HEARING]**

**EXHIBIT 1 TO STIPULATION TO AMEND TIMETABLE**



2. Prepare periodic and final reports to the Court.

**PART II: TIMETABLE: NOTICE, COMMUNICATION AND OUTREACH SERVICES**

**April 27, 2022 – April 14, 2023**

| DATE                     | ACTIVITY  |
|--------------------------|---|
| April 27, 2022 & Ongoing | <p>TELEPHONE UPDATE SYSTEM ESTABLISHED</p> <ol style="list-style-type: none"> <li>1) Recorded Message - Case Status               <ol style="list-style-type: none"> <li>a) Update Class Member addresses</li> <li>b) Identify Deceased Class Member Representative &amp; obtain contact information</li> </ol> </li> <li>2) Call Back Confirmation/Follow-up by Telephone Representatives as Needed</li> </ol>   |
| June 6, 2022             | <p>Motion for Preliminary Approval; Certification of Settlement Class; Decertification of Subclasses; Appointment of Class Counsel and Class Representatives; Appointment of Special Master and Claims Administrator; Approval of Plan of Notice and Claims Administration Plan</p>   |
| July 1, 2022             | <p>-Reassign <del>www.Kalima-Lawsuit.com</del><a href="https://www.kalima-lawsuit.com">https://www.kalima-lawsuit.com</a> to Claims Administrator:</p> <ol style="list-style-type: none"> <li>1. Redirect email notifications to Epiq <a href="#">Class Action &amp; Claims Solutions, Inc.</a>;<br/>[email notifications to identify class members; address update &amp; identification of deceased representative and children; general questions]</li> <li>2. Change telephone message &amp; redirect telephone messages to Epiq <a href="#">Class Action &amp; Claims Solutions, Inc.</a>;<br/>[telephone notifications to identify class members; address update &amp; identification of deceased representative and children; general questions]</li> </ol> |

**EXHIBIT 4 [REVISED POST-HEARING]**

**EXHIBIT 1 TO STIPULATION TO AMEND TIMETABLE**

|                               |   |
|-------------------------------|---|
|                               | <p>3. Change text for Instructions to (a) living class members and (b) deceased class members (proposed revisions to be provided), and</p> <p>4) Post class list</p>  |
| July 1, 2022                  | PUBLICATION NOTICE  |
| July 1, 2022                  | <p>MAILED CLASS NOTICE #1</p> <p>Focus - update contact information; deceased representative; notice of claims excluded from settlement and right to opt out.</p>   |
| July 11, 2022 – July 31, 2022 | <p>COMMUNITY OUTREACH -- Sovereign Council of Hawaiian Homestead Associations.</p> <p>Live person at each homestead site – 1 day per week over 2-3 week period</p> <p>Focus – update contact information; deceased representative</p> |
| September 1, 2022             | CONFIRMATION OF <del>PAYMENT START</del> <del>APPLICATION</del> DATES; CONFIRMATION OF <del>LEASE AWARD</del> <del>END</del> DATES  |
| October 1, 2022               | Submission to COURT of distribution plan for review and APPROVAL  |
| November 1, 2022              | <p>MAILED NOTICE #2</p> <p>FOCUS – DISTRIBUTION PLAN, <del>PAYMENT START AND</del><del>END</del><del>APPLICATION &amp; AWARD</del> DATES – 45 DAYS TO CORRECT, AND OPT OUT PROCESS</p>  |
| December 1, 2022              | DEADLINE TO CORRECT PAYMENT START AND END DATE  |
| December 15, 2022             | COURT APPROVAL OF PROBATE PLAN  |
| December 15, 2022             | DEADLINE TO OPT OUT   |
| January 15, 2023 <del>2</del> | COMPLETE COMPUTATION OF PAYMENT   |

## EXHIBIT 4 [REVISED POST-HEARING]

### EXHIBIT 1 TO STIPULATION TO AMEND TIMETABLE

|                                 |   |
|---------------------------------|---|
|                                 |   |
| February 15, 2023 <del>32</del> | MAILED CLASS NOTICE #3 - NOTICE OF <u>SETTLEMENT PAYMENT AMOUNT-AWARD</u> & ATTORNEYS FEES REQUEST; NOTICE OF FINAL APPROVAL HEARING; NOTICE OF RIGHT TO OBJECT |
| March 15, 2023                  | DEADLINE TO OBJECT  |
| April 14, 2023                  | FINAL APPROVAL HEARING (FAIRNESS HEARING)   |
| May 15, 2023                    | DISTRIBUTION OF SETTLEMENT PAYMENTS IF NO APPEALS ARE FILED AND SETTLEMENT HAS "FINAL APPROVAL"   |

## EXHIBIT 4 [REVISED POST-HEARING]

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|                               |  |
|-------------------------------|--|
|                               | 4) Post class list   |
| July 1, 2022                  | PUBLICATION NOTICE   |
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| January 15, 2023              | COMPLETE COMPUTATION OF PAYMENT  |
| February 15, 2023             |  |



|                |  |
|----------------|--|
|                | MAILED CLASS NOTICE #3 - NOTICE OF SETTLEMENT PAYMENT AMOUNT & ATTORNEYS FEES REQUEST; NOTICE OF FINAL APPROVAL HEARING; NOTICE OF RIGHT TO OBJECT |
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