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STATE OF HAWAII and
NEIL ABERCROMBIE, in his
official capacity as Hawaii Governor

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

CHRISTOPHER BAKER,

Plaintiff,

vs.

LOUIS KEALOHA, as an individual and
in his official capacity as Honolulu Chief
of Police; STATE OF HAWAII;
CITY AND COUNTY OF
HONOLULU; HONOLULU POLICE
DEPARTMENT; NEIL
ABERCROMBIE, in his official capacity
as Hawaii Governor,

Defendants.

CIVIL NO. 11-00528 ACK-KSC

DEFENDANTS STATE OF
HAWAII AND NEIL
ABERCROMBIE'S, in his official
capacity as Hawaii Governor,
ANSWER TO COMPLAINT FOR
DEPRIVATION OF CIVIL
RIGHTS, DECLARATORY AND
FOR INJUNCTIVE RELIEF, AND
PRELIMINARY INJUNCTION;
CERTIFICATE OF SERVICE

DEFENDANTS STATE OF HAWAII AND NEIL ABERCROMBIE'S,
in his official capacity as Hawaii Governor, ANSWER TO COMPLAINT FOR
DEPRIVATION OF CIVIL RIGHTS, DECLARATORY AND FOR
INJUNCTIVE RELIEF, AND PRELIMINARY INJUNCTION

Defendants State of Hawaii and Neil Abercrombie, in his official capacity as Hawaii Governor (collectively "Defendants"), by and through their attorneys, David M. Louie, Attorney General of Hawaii, and Caron M. Inagaki and Kendall J. Moser, Deputy Attorneys General, answer Plaintiff's Complaint for Deprivation of Civil Rights, Declaratory and for Injunctive Relief, and Preliminary Injunction ("Complaint"), filed on August 30, 2011, as follows:

FIRST DEFENSE:

The Complaint fails to state any claim upon which relief can be granted against Defendants.

SECOND DEFENSE:

a. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 14, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 91, 105, 119, 120, 121, 122, 135, 136, 137, and 150 of the Complaint.

b. For its answer to paragraph 10 of the Complaint, the State of Hawaii admits that it is a governmental entity, and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 10 of the Complaint.

c. For his answer to paragraph 13 of the Complaint, Neil Abercrombie admits that he is the Governor of the State of Hawaii, and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 13 of the Complaint.

d. Defendants deny the allegations in paragraphs 15, 80, 81, 82, 83, 85, 86, 87, 88, 89, 92, 93, 94, 95, 96, 97, 99, 100, 101, 102, 103, 106, 107, 108, 109, 110, 111, 113, 114, 115, 116, 117, 123, 124, 125, 126, 127, 129, 130, 131, 132, 133, 138, 139, 140, 141, 142, 144, 145, 146, 147, 148, 151, 152, 153, 154, 155, 157, 158, 159, 160, 161, 163, 164, and 165 of the Complaint.

e. For their answer to paragraph 17 of the Complaint, Defendants admit that this court has jurisdiction over this matter.

f. Defendants admit the allegations in paragraph 18 of the Complaint.

g. For their answers to paragraphs 76, 84, 90, 98, 104, 112, 118, 128, 134, 143, 149, 156, and 162 of the Complaint, Defendants reallege their answers to the paragraphs realleged in those paragraphs.

h. Defendants deny each and every other allegation of the Complaint not heretofore admitted, controverted, and/or specifically denied.

THIRD DEFENSE:

Plaintiff's claims are barred by the doctrine of sovereign immunity.

FOURTH DEFENSE:

Under the Eleventh Amendment to the Constitution of the United States, Defendants are immune from suit in federal court on Plaintiff's claims.

FIFTH DEFENSE:

Plaintiff's claims against Governor Abercrombie are barred by the doctrine of qualified immunity.

SIXTH DEFENSE:

Governor Abercrombie did not personally participate in or cause the deprivations complained of.

SEVENTH DEFENSE:

Defendants cannot be held liable on any claim based on acts or omissions in the performance of or failure to perform a discretionary act or duty.

EIGHTH DEFENSE:

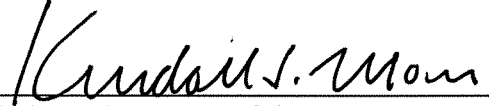
Based on the allegations in the Complaint, Defendants cannot formulate all of their defenses at this time, and reserve the right to amend their answer to include additional affirmative defenses if and when discovery justifies the same.

WHEREFORE, Defendants request that the Complaint be dismissed with prejudice and that they be awarded their reasonable attorney's fees and costs and such other relief as this Court deems appropriate.

DATED: Honolulu, Hawaii, September 21, 2011.

STATE OF HAWAII

DAVID M. LOUIE
Attorney General
State of Hawaii


KENDALL J. MOSER
Deputy Attorney General

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