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Attorneys for Plaintiffs, Individually
and on Behalf of All Those Similarly Situated
Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

DAVID GARNER; PATRICIA SMITH;
ANDREA CHRISTIE; ALLEN
KLITERNICK; KAREN SOUZA; JO
JENNIFER GOLDSMITH; and DAVID
HUDSON on behalf of themselves and
all others similarly situated,

Plaintiffs,

vs.

STATE OF HAWAII, DEPARTMENT
OF EDUCATION; JOHN DOES 1-5;
JOHN DOE CORPORATIONS 1-5;
ROE NON-PROFIT CORPORATIONS
1-5; AND ROE GOVERNMENTAL
AGENCIES 1-5,

Defendants.

Civil No. 03-1-000305 (KKS)
(Class Action)

(CONSOLIDATED CASE)

**ORDER GRANTING PLAINTIFFS'
MOTION FOR AWARD OF
ATTORNEY'S FEES AND
REIMBURSEMENT OF EXPENSES
UNDER THE COMMON BENEFIT
DOCTRINE, FILED OCTOBER 10,
2013**

Hearing

Date: November 15, 2013

Time: 10:00 a.m.

Judge: Honorable Karl K. Sakamoto

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED
2013 DEC -9 PM 2:51

F. OTAKE
CLERK

ALLAN KLITERNICK; DAVID
GARNER; JO JENNIFER
GOLDSMITH; and DAVID HUDSON,
individually and on behalf of all
others similarly situated,

Plaintiffs,

vs.

KATHRYN S. MATAYOSHI, in her
official capacity as Superintendent of
Schools; DONALD G. HORNER,
BRIAN J. DELIMA, WESLEY P. LO,
KEITH AMEMIYA, CHERYL
KA'UHANE LUPENI, KIMBERLY
GENNAULA HAGI, NANCY JO
YAMAKAWA BUDD, JIM D.
WILLIAMS, CHARLENE CUARESMA,
AND ANGELICA WAI SAM LAO, in
their official capacity as members of
the STATE OF HAWAII BOARD OF
EDUCATION; DEPARTMENT OF
EDUCATION,

Defendants.

CIVIL NO. 05-1-00031 (KKS)
(Class Action)

**ORDER GRANTING PLAINTIFFS' MOTION FOR AWARD OF ATTORNEY'S
FEES AND REIMBURSEMENT OF EXPENSES UNDER THE COMMON
BENEFIT DOCTRINE, FILED OCTOBER 10, 2013**

Plaintiffs David Garner, Patricia Smith, Andrea Christie, Allan Kliternick, Karen Souza, Jo Jennifer Goldsmith, and David Hudson (hereinafter, "Plaintiffs") filed a Motion for Award of Attorney's Fees and Reimbursement of Expenses under the Common Benefit Doctrine ("Motion") on October 10, 2013, which was heard by the Honorable Karl K. Sakamoto on November 15, 2013. Paul Alston, Eric G. Ferrer, Mei-Fei Kuo, and Murray T.S. Lewis appeared for Plaintiffs and Harvey E. Henderson appeared for Defendants.

The Court has carefully reviewed the Motion, the oral arguments of Counsel, and the record of this case. For good cause appearing, it is hereby ordered that the Motion is GRANTED as follows:

(1) Plaintiffs' counsel is awarded attorneys' fees under the common benefit doctrine in the amount of \$3,761,996.04, which is 25% of the total economic benefit to be paid to the Class Members under the "Settlement Agreement Regarding Class Action Damages and Distribution" entered into between the Parties' counsel on September 10, 2013, in the total amount of \$15,047,984.14;¹

(2) Plaintiffs' counsel is awarded a reimbursement of their expenses and costs incurred in these consolidated class actions in the amount of \$558,902.71, which were reasonably and necessarily incurred to pursue and protect the Class Members' interests; and

(3) Plaintiffs' counsel retain the right to seek an award of additional attorneys' fees and costs when the issues the Defendants plan to

¹ In Plaintiffs' errata to the Motion, which was filed on October 23, 2013, the corrected total amount of the economic benefit to the class members under the Partial Settlement Agreement was stated as \$15,047,833.50, which includes (1) the back pay for the per diem wage claims totaling \$13,978,479.80 (exclusive of amounts that would otherwise have been paid to those who opted-out of the Class) and (2) Social Security and Medicare tax payments made by the Defendants for the benefit of the Class Members (excluding those who opted-out of the Class) totaling \$1,069,353.70.

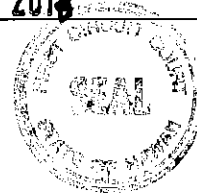
At the November 15, 2013 hearing, the Court granted Ms. Lavonne West's request to be reinstated as a class member. The per diem backpay due to Ms. West is \$139.93 and the corresponding Social Security and Medicare Taxes are \$10.71 for a total of \$150.64, which when added to the prior total in the errata is now \$15,047,984.14.

appeal are settled and/or finally decided in Plaintiffs' favor, however, any payment of the additional attorneys' fees and costs is deferred pending resolution of any related appeal; and

(4) Defendants' lack of opposition to the Motion will not be deemed a concession by Defendants that the fees and/or reimbursement are reasonable, that a percentage fee is applicable to Defendants with respect to any liability for fees, that the percentage requested is reasonable or appropriate, or that Defendants owe anything for attorneys' fees or costs.

DATED: Honolulu, Hawai'i, DEC 06 2013

KARL K. SAKAMOTO



KARL K. SAKAMOTO
JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

A handwritten signature in cursive script, appearing to read "Harvey E. Henderson".

HARVEY E. HENDERSON
WILLIAM J. WYNHOFF
Attorneys for Defendants

David Garner, et al. vs. State of Hawai'i, Department of Education; Civil No. 03-1-000305 KKS and 05-1-0031-01; (Consolidated Case); **ORDER GRANTING PLAINTIFFS' MOTION FOR AWARD OF ATTORNEY'S FEES AND REIMBURSEMENT OF EXPENSES UNDER THE COMMON BENEFIT DOCTRINE, FILED OCTOBER 10, 2013**