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Attorneys for Plaintiff
DIANNE KAWASHIMA, Individually and
on Behalf of All Those Similarly Situated

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

DIANNE KAWASHIMA, individually and on
behalf of others similarly situated,

Plaintiff,

vs.

STATE OF HAWAII, DEPARTMENT OF
EDUCATION; PATRICIA HAMAMOTO, in
her official capacity as Superintendent of
Schools; DARWIN CHING, MARY
COCHRAN, MAGGIE COX, BREENE
HARIMOTO, CEC HEFTEL, LEI AHU ISA,
KAREN KNUDSEN, DENISE
MATSUMOTO, SHIRLEY A. ROBINSON,
LAURA THIELEN, GARRETT TOGUCHI,
HERBERT WATANABE, and RANDALL
YEE, in their official capacity as members of
the STATE OF HAWAII, BOARD OF

CIVIL NO. 06-1-0244-02 (ECN)
(Class Action)

**PLAINTIFFS' MOTION FOR: (1)
SUMMARY JUDGMENT
ESTABLISHING AMOUNT OF
PLAINTIFFS' ENTITLEMENT TO
HOURLY WAGES AND (2) INTEREST
THEREON; MEMORANDUM IN
SUPPORT OF MOTION;
DECLARATION OF NANI LINDSEY;
EXHIBIT A; NOTICE OF HEARING and
CERTIFICATE OF SERVICE**

Hearing Date: March 4th 2015
Hearing Time: 10:00 am
Hearing Judge:
The Honorable Edwin C. Nacino
No Trial Date Set.

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2015 JAN 27 AM 11:37

J. KUBO
CLERK

EDUCATION; DOE DEFENDANTS 1 10,

Defendants.

**PLAINTIFFS' MOTION FOR: (1) SUMMARY JUDGMENT ESTABLISHING
AMOUNT OF PLAINTIFFS' ENTITLEMENT TO HOURLY WAGES AND (2)
INTEREST THEREON**

Plaintiffs hereby seek an order establishing their amount of their entitlement to hourly wages and interest thereon, pursuant to the Court's prior orders which established the Defendants' liability for these sums because there is no dispute regarding the amounts owed, as calculated by Plaintiffs' expert. .

This Motion is made pursuant to Hawai'i Rules of Civil Procedure Rules 7 and 56, and is based on the records and proceedings of this matter, and the attached Memorandum, Declaration, exhibit, and all other evidence and arguments presented at or before the hearing on this Motion.

DATED: Honolulu, Hawai'i, January 23, 2015.



PAUL ALSTON
ERIC G. FERRER
ZACH DIIONNO
MURRAY T. S. LEWIS

Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

DIANNE KAWASHIMA, individually and on behalf of others similarly situated,

Plaintiff,

vs.

STATE OF HAWAII, DEPARTMENT OF EDUCATION; PATRICIA HAMAMOTO, in her official capacity as Superintendent of Schools; DARWIN CHING, MARY COCHRAN, MAGGIE COX, BREENE HARIMOTO, CEC HEFTEL, LEI AHU ISA, KAREN KNUDSEN, DENISE MATSUMOTO, SHIRLEY A. ROBINSON, LAURA THIELEN, GARRETT TOGUCHI, HERBERT WATANABE, and RANDALL YEE, in their official capacity as members of the STATE OF HAWAII, BOARD OF EDUCATION; DOE DEFENDANTS 1 10,

Defendants.

CIVIL NO. 06-1-0244-02 (ECN)
(Class Action)

MEMORANDUM IN SUPPORT OF MOTION

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

Plaintiffs seek to have the Court confirm the amounts owed to class members for hourly wages and interest. After exhaustive work, Plaintiffs' expert (in collaboration with Defendants' expert) has calculated the precise amounts owed to each class member under this Court's prior rulings. The Defendants have no contrary evidence. Therefore, summary judgment should be entered in Plaintiffs' favor for the amounts calculated by Plaintiffs' expert.

II. ARGUMENT

As explained in the attached Declaration of Nani Lindsey, the precise amount owed to each class member for interest and/or hourly wages has now been calculated. These

calculations are the product of hundreds of hours of analysis which Ms. Lindsey performed in consultation with the State's expert, Stan Wachi. After much debate and discussion, Ms. Lindsey arrived at figures—drawn from the DOE's original payroll records—that reflect 100% of the unpaid back wages and 100% of the interest due thereon under H.R.S. § 103-10.

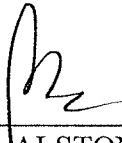
These are not settlement figures. They are, instead, the entire amount of the wages owed under the Court's prior rulings. There is no reason for treating these figures as the product of a compromise, for they are not. Rather, they represent the full extent of the Defendants' obligations.

The Defendants will offer no contrary figures or otherwise dispute these amounts (although they reserve their right to appeal). Summary judgment on damages should be entered forthwith.

III. CONCLUSION

Plaintiffs respectfully request that Court grant summary judgment in favor of the class members for the amounts reflected in Ms. Lindsey's declaration and the database appended thereto.

DATED: Honolulu, Hawai'i, January 23, 2015.



PAUL ALSTON
ERIC G. FERRER
ZACH D'IONNO
MURRAY T. S. LEWIS
Attorneys for Plaintiff

DECLARATION OF NANI LINDSEY

I, Nani Lindsey, declare as follows:

1. I make this in support of the efforts to determine the back wages owed by the Department of Education to its part-time teachers and employees.
2. I was retained in late 2011 by Paul Alston to determine the amounts owed by the Department of Education ("DOE") to its substitute teachers and part-time employees.
3. I was supplied computer payroll records maintained by the DOE. I have carefully reviewed those records under computerized analysis that is more effective than manual analysis.
4. My background qualifies me to conduct this analysis because, as my resume (Exhibit "A") shows, I have worked with complex databases for over 35 years. Based upon those experiences, among others, I have been hired by government agencies in Hawai'i to study many complex analytical problems involving computerized databases. I am familiar with similar computer systems and software used by the DOE for its payroll.
5. Since 2012, I have conducted my analysis in consultation with Stan Wachi, a CPA hired by the DOE to assess the same data and determine the amount of damages owed by the DOE. To date, I have devoted over 600 hours to this work.
6. I have used computerized database analyses of the DOE's payroll records (which show each pay period during the relevant years) to determine:
 - a. The back wages owed to persons who are members of the certified class in the so-called *Kawashima* case who worked only in hourly-paid part-time positions for the DOE from February 2004 to June 12, 2012 ("GROUP A").

- b. The back wages owed to substitute teachers members of the certified class in the so-called *Garner* and *Klitternick* cases who also worked for the DOE as part-time employees in hourly-paid positions during the period between November 8, 2000 and June 12, 2012 for their hourly work ("GROUP B").
 - c. The interest owed substitute teachers on account of the underpayment of per diem wages at the rate specified by law (the prime rate plus two percent, beginning 30 days after each miscalculated payroll check, according to the Plaintiffs' lawyers) ("GROUP C").
 - d. The interest owed to GROUP A and GROUP B at the same statutory rate.
7. I have conferred and compared analyses with Mr. Wachi for each of groups identified above.
8. Based upon my analyses of the payroll records, I have determined that the amounts owed to each of the groups described above (inclusive of the employee's share of Social Security and Medicare taxes) are:
 - a. Wages to GROUP A: (*Kawashima*--hourly wages only) from February 20, 2004 to June 12, 2012: \$24,026,329.52
 - b. Wages to GROUP B (*Garner*-hourly wages only) from November 8, 2000 to June 12, 2012: \$6,789,175.21
 - c. Interest to GROUP A through December 31, 2014 (and continuing at the per diem rate of \$3,455.84, based upon the current prime rate plus 2%): \$8,990,458.68.
 - d. Interest to GROUP B though December 31, 2014 (and continuing at the per diem rate of \$976.53, based upon the current prime rate plus 2%): \$4,039,539.17.
 - e. Interest to GROUP C (*Garner*—per diem only) through May 31, 2013: \$9,367,881.43
9. Totaling these amounts, each group is owed the following:
 - a. GROUP A (8(a) plus 8(c) wages plus interest): \$33,016,788.20.

b. GROUP B (8(b) plus 8(d) wages plus interest): \$10,828,714.38

c. GROUP C (8(e); interest only): \$9,367,881.43

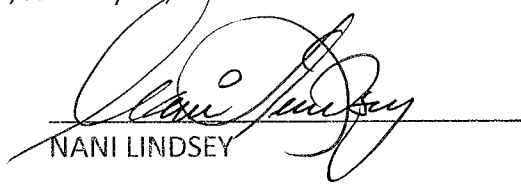
10. The payroll records provided by the DOE contain sufficient information to permit me to precisely calculate the amount owed (with or without the offsets) to each class member in each group. Attached as Exhibit "B", which is submitted under seal for the Court's inspection pursuant to the Parties' Stipulated Protective Order Regarding Confidential Material, is a CD containing the backpay and interest calculations for each class member in these class actions. This CD shows the calculations of wages for all class members in the pending class actions; this analysis was based directly upon the payroll records provided by the DOE and represented by the DOE to be complete and accurate. I analyzed the data and calculated the amounts owed by using commonly accepted analytical methods.

11. The analysis of the data was labor-intensive and time-consuming because there were numerous anomalies in the data. Through consultation with Mr. Wachi, the DOE, and the Attorney General's office, the database was finalized and, to the best of my professional judgment, it is complete and accurate.

12. In order to calculate the total benefit to the class members from the prosecution of the claims asserted against the State, the employer's share of FICA and Medicare taxes—totaling 6.2% and 1.45% of the back wages should be added to the numbers specified in Paragraph 8, above.

I declare the foregoing is true under penalty of perjury under the laws of the State of Hawai'i to the best of my knowledge and belief.

DATED: Honolulu, Hawai'i, January 21, 2015.


NANI LINDSEY

QUALIFICATIONS:

36 years in the computer industry.

President of Unique Computer Systems, Inc. a Hawaii Based Corporation (founded in 1980) and Manager of THE LANGE GROUP (dba). Current duties include design, development and implementation of mid-range to large scale database and application software for both the commercial market and Federal/State/Local government entities.

ACADEMIC BACKGROUND:

Graduated from The Kamehameha Schools,
B.S Information & Computer Science (Uof Hawaii),
M.S. Information & Computer Science (Uof Hawaii/Uof Oregon),
over 50% completion towards M.B.A. (Uof Hawaii).

THE LANGE GROUP's Affiliations:

Since 1993: IBM Business Partner - as an Authorized Application Specialist (AS), The Lange Group's specialty is concentrated on the RS/6000 product line; (since 2000) IBM Lotus Passport Advantage Partner with emphasis in Content Management (Imaging, e-commerce solutions)

Since 1994: HP Channel Partner - as an Independent Software Vendor (ISV), The Lange Group specialty is concentrated on the HP 9000 product line.

Since 1980: Wang Software Vendor - recognized by Wang Laboratories as an authorized software vendor whose primary territory is the state of Hawaii. The Lange Group worked very closely with the local Wang DSO (direct sales organization) and together was responsible for installing the majority of mid-range to large scale Wang computer systems in the state of Hawaii.

SPECIALIZED TRAINING by major Manufacturers:

LINUX	Red Hat / SUSE
IBM RS/6000	AIX/6000 Operating System AIX/6000 TCP/IP & Networking AIX/6000 System Administration
HP 9000	HP-UX System Administration for Multi-user Systems HP-UX Fundamentals of the UNIX System
INTEL	Microsoft Windows

TECHNICAL EXPERTISE:

Computers & Operating Systems:	MICROSOFT application integration, development & database tools IBM RS/6000 (AIX), Netware/6000 HP9000 (HP-UX), HP3000 (MPE), HP300 (AMIGO) MS-DOS, MS-Win9x, MS-NT, MS-XP, MS-Vista, Novell NetWare
Languages & Databases:	APPX, SPEED II, BASIC, POWER BUILDER, SQL, C, ACCESS, ORACLE, DB2, PROGRESS, PL/I, FORTRAN, dBASE IV, PASCAL, SNOBOL, ALGOL, LISP, ASSEMBLER

List of Recent Projects

OFFICE OF THE PROSECUTING ATTORNEY – COUNTY OF HAWAII

County of Hawaii

Hilo, Hawaii

Contact: Dale Ross

1st Deputy Prosecuting Attorney

Our involvement was to perform analysis on the existing manual workflow, then design and implement a working computerized system that will provide better tracking and management of the multitude of cases handled by the Hilo Prosecutor. Our tasks involved system analysis, design, development, implementation, testing, and training for the on-line HITs system which tracks all cases handled by the Hilo prosecuting attorneys and their support staff. Information regarding defendants, charges, events, notes, along with a multitude of management and operational reports such as the Victim Notification, Subpoena Generation, Complaints Generation & on-line filing, Automatic Disposition Letters, etc. Currently we are working with electronic transmission of pre Arrest/Charge xml data & HCPD documents to their Laserfiche Imaging System.

We have been engaged in various upgrades and enhancements to other agencies including consulting and development on the HIP - Horizontal Integration Project with Judiciary, integration with HCPD's new RMS, the Attorney General JJIS system and HCJDC's Arrest & Charged system integration.

ANIMAL QUARANTINE STATION

Department of Agriculture

Honolulu, Hawaii

Contact: Helene Okamura

DPSA – Computer Services Section

Our involvement is support and service to several mission critical on the Red Hat Linux operating system, including configuration of printers and remote stations. Our task involved writing customized scripts to handle backups and other system functions either automatically or on-demand. Program modifications for customized forms to facilitate printing to the new printers were made, as well as end-user training and systems administration training. Ongoing work involving new program enhancements and pet microchip database.

The current contract involves major upgrades to the existing Animal Quarantine Stations custom program QAR Quarantine Accounts Receivable and QOP Quarantine Operations Program to integrate pet microchip data as primary IDs. This involves electronic interfaces to Department of Defense & Kansas State University test results and various other databases within the application.

List of Recent Projects continued

TRAFFIC BRANCH

Department of Transportation

Kapolei, Hawaii

Contact: Alvin Takeshita

Division Head

Our involvement was to perform analysis on the existing manual workflow, determine requirements and specifications, then design and implement a working computerized system that will provide better tracking and management of the multitude of major accidents reported by the Honolulu Police Department as well as keep track of the survey data of our roads and highways. Our tasks involved system analysis, design, development, implementation, testing, and training for the on-line Traffic Accident Reporting System (TAR), Traffic Data Survey System (TSD) and the Traffic Data Management System (TDMS). The State of Hawaii is the official keeper of major accident information and required to defend the State in legal action taken in the Attorney Generals Office. The reports provided are used by both the Legislature as well as the Federal Highways Administration in making budget and spending decisions. The survey system provides linear and quantity "count" data analysis as well as historical information to the Department to help with traffic flow decisions and road usage.

We currently are working on enhancements on their the IBM RS/6000 to enable remote access to other agencies at the county level including HPD and neighbor island counties. Ongoing work currently involves new management reporting and consulting involving a new design of the state's Accident Report, integration of county PD's to DOT's system for automatic updates and database normalization, and custom report writer for electronic transfers.

HAWAIIAN HOME LANDS

State of Hawaii

Honolulu, Hawaii

Contact: Linda Inouye

DP Coordinator

Our current involvement is maintenance and support of their Red Hat Linux system, including operating system and APPX upgrades, configuration and provide System Administration training. We are also involved with consulting on their Linux system software and APPX mission critical applications to management. There are about 50 users online, and 2 developers. We are currently upgrading both their production and test servers operating system and other supporting application systems and scripts including custom applications for the various programs that they administer. Currently we are assisting in virtualization of their two main application servers.

EXHIBIT "B"

**FILED UNDER SEAL
PURSUANT TO STIPULATED
PROTECTIVE ORDER REGARDING
CONFIDENTIAL MATERIAL, FILED
3/3/2011**

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

DIANNE KAWASHIMA, individually and on behalf of others similarly situated,

Plaintiff,

vs.

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Defendants.

CIVIL NO. 06-1-0244-02 (ECN)
(Class Action)

**NOTICE OF HEARING and
CERTIFICATE OF SERVICE**

NOTICE OF HEARING

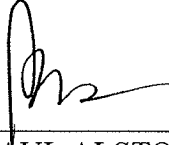
TO: HARVEY E. HENDERSON, JR., ESQ.
JAMES E. HALVORSON, ESQ.
WILLIAM J. WYNHOFF, ESQ.
Department of the Attorney General
State of Hawai'i
465 South King Street, Room 300
Honolulu, HI 96813

Attorneys for Defendant
STATE OF HAWAII,
DEPARTMENT OF EDUCATION

NOTICE IS HEREBY GIVEN that the above-identified Motion shall come on for hearing before the Honorable Edwin C. Nacino, Judge of the above-entitled Court, in his

courtroom in the Kaahumanu Hale, 777 Punchbowl Street, Honolulu, Hawai'i 96813, at _____
o'clock __.m. on _____, or as soon thereafter as counsel can be heard.

DATED: Honolulu, Hawai'i, January 23, 2015.



PAUL ALSTON
ERIC G. FERRER
ZACH DiONNO
MURRAY T. S. LEWIS
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date a true and correct copy of the foregoing document was duly served upon the following persons via hand-delivery to their last known addresses as follows:

HARVEY E. HENDERSON, JR., ESQ.
JAMES E. HALVORSON, ESQ.
WILLIAM J. WYNHOFF, ESQ.
Department of the Attorney General
State of Hawai`i
465 South King Street, Room 300
Honolulu, HI 96813

Attorneys for Defendant
STATE OF HAWAII,
DEPARTMENT OF EDUCATION

DATED: Honolulu, Hawai`i, January 23, 2015.



PAUL ALSTON
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Attorneys for Plaintiff