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THE CITY AND COUNTY OF HONOLULU and  
WAYNE YOSHIOKA, in his official capacity as  
Director of the City and County of Honolulu  
Department of Transportation Services

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

HONOLULUTRAFFIC.COM; CLIFF  
SLATER; BENJAMIN J. CAYETANO;  
WALTER HEEN; HAWAII'S  
THOUSAND FRIENDS; THE SMALL  
BUSINESS HAWAII  
ENTREPRENEURIAL EDUCATION  
FOUNDATION; RANDALL W. ROTH;  
and DR. MICHAEL UECHI,

Plaintiffs,

vs.

FEDERAL TRANSIT  
ADMINISTRATION; LESLIE ROGERS,  
in his official capacity as Federal Transit  
Administration Regional Administrator;  
PETER M. ROGOFF, in his official  
capacity as Federal Transit Administration  
Administrator; UNITED STATES  
DEPARTMENT OF  
TRANSPORTATION; RAY LAHOOD, in  
his official capacity as Secretary of  
Transportation; THE CITY AND  
COUNTY OF HONOLULU; WAYNE  
YOSHIOKA, in his official capacity as  
Director of the City and County of  
Honolulu, Department of Transportation,

Defendants.

Civil No: 11-00307 AWT

**RULE 16 SCHEDULING ORDER**

(Presiding: The Honorable A. Wallace  
Tashima, United States Circuit Judge  
Sitting by Designation)

Date Action Filed: May 12, 2011  
Trial Date: None Set

**RULE 16 SCHEDULING ORDER**

Pursuant to Fed. R. Civ. P. 16 and LR 16.2, a scheduling conference was held on November 30, 2011, before the Honorable A. Wallace Tashima, Senior Judge of the United States Court of Appeals for the Ninth Circuit, sitting by designation. Appearing at the conference were Harry Yee, Esq., for Defendants Federal Transit Administration, Leslie Rogers, Peter M. Rogoff, United States Department of Transportation, and Ray LaHood, Secretary of Transportation (“Federal Defendants”); Robert D. Thornton, Esq., John P. Manaut, Esq., Don S. Kitaoka, Esq., Gary Y. Takeuchi, Esq. for Defendants the City and County of Honolulu and Wayne Yoshioka (“City and County Defendants”); and Nicholas C. Yost, Esq., Matthew Adams, Esq. and Michael Green, Esq., for Plaintiffs.

Pursuant to Fed. R. Civ. P. 16(e) and LR 16.3, the Court enters this scheduling conference order:

1. This case is exempt from initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(B)(i).
2. Plaintiffs shall have until (a) January 2, 2012 or (b) fifteen (15) days after the Court rules on Defendants’ Motion for Partial Judgment on the Pleadings, whichever event occurs later, to file any motion to amend their complaint and/or to add any additional parties to the lawsuit.

3. Any proposed intervenors shall have until (a) January 2, 2012 or (b) fifteen (15) days after the Court rules on the Defendants' Motion for Judgment on the Pleadings, whichever event occurs later, to move to intervene in the lawsuit.

4. Defendants shall have until (a) January 12, 2012 or (b) ten (10) days after Plaintiffs file any motion to amend their complaint and/or to add any additional parties to the lawsuit, whichever event occurs later, to request that Plaintiffs present necessary affidavits evidencing that Plaintiffs (including any proposed Plaintiffs) satisfy standing requirements to support Plaintiffs' motion for summary judgment. Plaintiffs shall present such affidavits to Defendants not later than ten (10) days after Defendants' request. Upon receipt of these affidavits, the Parties shall cooperate to complete discovery regarding standing and other jurisdictional matters within thirty (30) days of the service on Defendants of such standing affidavits.

5. Defendants shall provide Plaintiffs with a draft index of the administrative record by January 20, 2012. The Parties shall make a good faith effort to meet and confer to resolve any differences of opinion regarding the contents of the record prior to the production of the final version of the administrative record by February 24, 2012.

6. Defendants shall provide the Court and Plaintiffs with the administrative record in electronic format. After production of the administrative record, the Parties shall use best efforts to resolve any disagreements over the

completeness and adequacy of the administrative record. If, after the parties meet and confer regarding issues with the administrative record, the Parties cannot resolve their disagreements over the completeness and adequacy of the administrative record, or any proposal to admit extra-record evidence, the respective Party shall file an appropriate motion regarding the administrative record and/or extra-record evidence for resolution by the Court prior to Plaintiffs' filing of their motion for summary judgment.

7. The Parties agree that resolution of this matter by way of cross-motions for summary judgment is appropriate. Except as the administrative record may be augmented by order of the Court, the evidence in support of, and opposition to, the cross-motions for summary judgment shall be limited to the administrative record and any extra-record evidence admitted by order of the Court upon motion of any Party.

8. Defendants may seek early disposition of certain claims or to narrow claims by way of motions for summary adjudication. Any such motions shall be filed by March 5, 2012.

9. Plaintiffs shall file their opening motion for summary judgment and all supporting papers by April 6, 2012 (forty-two (42) days of the filing of the administrative record). Plaintiffs' brief in support of the motion shall be no more than sixty (60) pages (or 18,000 words).

10. The Federal Defendants and the City and County Defendants shall

separately file consolidated briefs in support of their cross-motions for summary judgment and in opposition to Plaintiffs' motion for summary judgment by May 18, 2012 (forty-two (42) days of the filing of Plaintiffs' motion for summary judgment). Defendants' briefs shall be limited to sixty (60) pages (or 18,000 words) each.

11. Plaintiffs shall file consolidated briefs in further support of their motion for summary judgment and in opposition to Defendants' cross-motion for summary judgment by June 8, 2012 (twenty-one (21) days from the date Defendants filed their motions). These briefs shall be limited to thirty-five (35) pages (or 10,500 words) each or a single brief no longer than seventy (70) pages (or 21,000 words).

12. The Federal Defendants and the City and County Defendants shall separately file reply briefs in support of their cross-motions by June 29, 2012 (twenty-one (21) days from the date Plaintiffs filed their briefs in response to Defendants' cross-motions for summary judgment). These briefs shall be limited to thirty-five pages (or 10,500 words) each.

13. The dates established in this Order are target dates that may be revised by the Court in the event that motions are filed by the parties regarding the contents of the administrative record, discovery, the introduction of extra-record evidence, and/or in the event that Plaintiffs seek preliminary injunctive relief or seek to amend their complaint.

14. Because this case will likely be resolved on cross-motions for summary judgment based on documents and facts that are provided within the administrative record, the requirement to file a separate statement of undisputed facts pursuant to Fed. R. Civ. P. 56 and a concise statement of facts pursuant to Local Rule 56.1 is waived for this case.

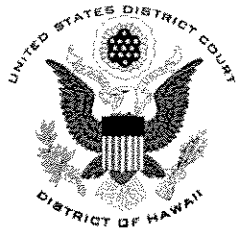
15. After the filing of the administrative record and prior to the filing of Plaintiffs' opening summary judgment brief, counsel for the parties shall discuss settlement possibilities with their respective clients, and shall use best efforts to pursue negotiations concerning settlement and/or the narrowing of issues if it appears that such negotiations may be worthwhile.

16. The Court shall set a hearing date on the cross-motions for summary judgment at the earliest date following the briefing on summary judgment motions. The Court presently contemplates setting the hearing on the motions for summary judgment on August 9, 10, 20 or 21, whichever date is most convenient for counsel, in Honolulu.

17. A status conference shall be held March 27, 2012 at 10:00 AM at the United States Court of Appeals, Richard H. Chambers Courthouse, located at 125 S. Grand Avenue, Pasadena, California, before the Honorable A. Wallace Tashima, United States Circuit Judge, sitting by designation. Counsel may, but are not required to file brief status reports which, if filed, shall be filed not later than March 20, 2012.

**IT IS SO ORDERED**

Dated *nunc pro tunc* December 30, 2011.



*/s/ A. Wallace Tashima*

A. Wallace Tashima  
United States Circuit Judge  
Sitting by Designation