

Michael J. Green (HI Bar No. 4451)
841 Bishop Street, Suite 2201
Honolulu, HI 96813
Telephone: 808-521-3336
Facsimile: 808-566-0347
Email: michaeljgreen@hawaii.rr.com

Nicholas C. Yost (CA Bar No. 35297)
Matthew G. Adams (CA Bar No. 229021)
Admitted pro hac vice
SNR Denton US LLP
525 Market Street, 26th Floor
San Francisco, CA 94105
Telephone: 415-882-5000
Facsimile: 415-882-0300
Email: nicholas.yost@snrdenton.com
matthew.adams@snrdenton.com

Attorneys for Plaintiffs

**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; DR.
MICHAEL UECHI; and THE
OUTDOOR CIRCLE,

Plaintiffs,

v.

FEDERAL TRANSIT
ADMINISTRATION; LESLIE
ROGERS, in his official capacity
as Federal Transit Administration
Regional Administrator; PETER

Case No. 11-00307 AWT

**DECLARATION OF
DAVID KIMO FRANKEL
IN SUPPORT OF
PLAINTIFFS' REQUEST
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

Hon. A. Wallace Tashima

Action Filed: May 12, 2011

Trial Date: None Set

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.

and

FAITH ACTION FOR COMMUNITY EQUITY; THE PACIFIC RESOURCE PARTNERSHIP; MELVIN UESATO

Intervenor Defendants.

I, David Kimo Frankel, declare as follows:

1. I am an attorney with the Native Hawaiian Legal Corporation, counsel for the Plaintiff in *Kaleikini v. Yoshioka*, Hawaii Supreme Court Case Number SCAP-11-0000611.

2. On August 24, 2012 the Hawaii Supreme Court issued an opinion in the *Kaleikini* case. Among other things, the Hawaii Supreme Court ruled that the City and County of Honolulu (“City”) violated state law by approving the Honolulu High-Capacity Transit Project (the “Project”) without first completing Archaeological Inventory Surveys (“AISs”) for the entire Project


route.

3. On September 27, 2012 the Hawaii Supreme Court denied the City's motion to reconsider the Court's August 24 decision. The Court's August 24 decision is now final.

4. Since the Hawaii Supreme Court's denial of reconsideration, I have had discussions with counsel for the City regarding the City's plans for implementing the Project. Although the parties have not reached an agreement on that topic, my understanding is that the City has suspended construction. However, the City has not agreed to suspend further purchases of supplies or to suspend the process of acquiring property for the Project. My understanding is that the City plans to continue ordering construction supplies and acquiring property for the Project.

I declare, under penalty of perjury that the foregoing is true and correct.

Executed Nov 30, 2012
at Honolulu, Hawaii



David Kimo Frankel