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Attorneys for Plaintiff
Civil Beat Law Center for the Public Interest

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

CIVIL BEAT LAW CENTER FOR THE
PUBLIC INTEREST, INC.,

Plaintiff,
vs.

DEPARTMENT OF PUBLIC SAFETY,

Defendant.

CIVIL NO. _____
(Other Civil Action)

COMPLAINT; SUMMONS
JUDGE: NONE
TRIAL DATE: NONE

COMPLAINT

Plaintiff Civil Beat Law Center for the Public Interest, Inc. (Law Center or Plaintiff), for its Complaint against Defendant Department of Public Safety (Department), alleges as follows:

PARTIES

1. Plaintiff Civil Beat Law Center for the Public Interest is a Hawai'i nonprofit organization.

2. Defendant Department of Public Safety is a “department” or “other instrumentality of state or county government,” within the definition of “Agency” under the Hawai`i Revised Statutes (HRS) § 92F-3, that is headquartered at 1177 Alakea Street, Honolulu, Hawai`i.

JURISDICTION AND VENUE

3. The court has jurisdiction over this action to compel disclosure of public records under the Uniform Information Practices Act (UIPA) pursuant to HRS §§ 92F-15(a) and 603-21.5(3).

4. Venue is proper in this court pursuant to HRS §§ 92F-15(e) and 603-36(5) for any one of the following: the request for records was made in this circuit; upon information and belief, the requested records are maintained in this circuit; the Defendant is headquartered in this circuit; the claim for relief arose in this circuit; and the Defendant is domiciled in this circuit.

FACTUAL BACKGROUND

5. On June 8, 2021, in a challenge to the conditions in Hawaii’s prisons and jails that contributed to multiple COVID-19 outbreaks, Anthony Chatman, Francis Alvarado, Zachary Granados, Tyndale Mobley, and Joseph Deguair, represented by Eric Seitz, filed a class action lawsuit in federal court against Max Otani, Director of the Department of Public Safety (PSD), in his official capacity, *Chatman et. al., v. Otani, et. al.*, Civil No. CV-21-00268 JAO-KJM.

6. On September 2, 2021, the *Chatman* parties executed a Settlement Agreement.

7. The *Chatman* Settlement Agreement required that “[a] five-person, independent Agreement Monitoring Panel” (AMP) be established and “operational within two (2) weeks of the signing of [the] Agreement”.

8. The AMP consisted of five people: “two people chosen by defendant who may be employed by [PSD], two people chosen by plaintiffs, and one person who does not currently work for [PSD], who has significant expertise or experience in the management of correctional systems, and is chosen by agreement of the parties.”

9. The purpose of the AMP was to “provide non-binding, informed guidance and recommendations to aid [PSD] in its continuing effort to implement the [Pandemic Response Plan], as well as evolving public health guidance that may require a change to [PSD’s] COVID-19 response.”

10. The AMP “provide[d] the defendant and counsel for the parties with reports describing the steps taken by [PSD] to implement its [Pandemic Response Plan] and/or the AMP’s guidance or recommendations focusing on [certain specified] areas”.

11. The AMP reports “address[ed] each facility’s efforts to follow the [Pandemic Response Plan] and identif[ied] areas needing improvement” but did not include “ultimate findings of fact or conclusions.”

12. The AMP produced six reports from October 1, 2021, to March 22, 2022.

13. HRS § 92F-11(a) provides: “All government records are open to public inspection unless access is restricted or closed by law.”

14. By e-mail dated March 17, 2022, the Law Center requested “all independent Agreement Monitoring Panel reports from September 2021 to March 2022,

created pursuant to the September 2, 2021 Settlement Agreement and General Release in *Chatman v. Otani*, No. 21-CV-268 JAO-KJM (D. Haw.)".

15. On March 31, 2022, PSD denied the request, stating only that "[t]he AMP reports are confidential and are also not discoverable."

16. On April 14, 2022, the Attorney General's office responded to provide "the basis of the Department of Public Safety's (PSD) denial of [the Law Center's] request for a copy of the reports" and stated that the *Chatman* Settlement Agreement "requires the AMP reports to be kept confidential."

17. On May 16, 2022, the Attorney General's office further claimed that the AMP reports are "protected from disclosure by the work product privilege."

18. The Defendant's stated reasons for nondisclosure do not justify withholding the requested reports.

19. The Defendant has denied the Law Center its right to access government records pursuant to UIPA.

20. The Law Center is entitled to an order directing Defendant to disclose the reports sought in its March 17, 2022 request.

DEMAND FOR RELIEF

Based on the foregoing, the Law Center respectfully requests that this court:

A. Give precedence, in accordance with HRS § 92F-15(f), to this case on the docket over all other cases, assign it for hearing and trial or for argument at the earliest practicable date, and expedite it in every way;

B. Enter an order directing Defendant to disclose the reports sought in the March 17, 2022 request for records;

C. Award the Law Center reasonable attorney's fees and all other expenses reasonably incurred in the litigation, pursuant to HRS § 92F-15(d); and

D. Grant such other and further relief as it deems reasonable and just.

DATED: Honolulu, Hawai`i, June 24, 2022

/s/ Robert Brian Black
ROBERT BRIAN BLACK
STEPHANIE FRISINGER
Attorneys for Plaintiff

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT		CASE NUMBER
PLAINTIFF CIVIL BEAT LAW CENTER FOR THE PUBLIC INTEREST	VS.	DEFENDANT(S) DEPARTMENT OF PUBLIC SAFETY	
PLAINTIFF'S NAME & ADDRESS, TEL. NO. Robert Brian Black Civil Beat Law Center for the Public Interest 700 Bishop Street, Suite 1701 Honolulu, HI 96813 (808) 531-4000			

TO THE ABOVE-NAMED DEFENDANT(S)

You are hereby summoned and required to file with the court and serve upon

Robert Brian Black

, plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.

A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEDIING PERSON OR PARTY.

The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: http://www.courts.state.hi.us	Effective Date of 28-Oct-2019 Signed by: /s/ Patsy Nakamoto Clerk, 1st Circuit, State of Hawai'i	
	In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on OAHU- Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402, at least ten (10) working days prior to your hearing or appointment date.	