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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. 1CCV-22-0000735

DEFENDANT DEPARTMENT OF PUBLIC
SAFETY'S ANSWER TO COMPLAINT FILED
ON JUNE 24, 2022; CERTIFICATE OF SERVICE

Honorable John M. Tonaki

No Trial Date Set

DEFENDANT DEPARTMENT OF PUBLIC SAFETY'S ANSWER TO
COMPLAINT FILED ON JUNE 24, 2022

Defendant Department of Public Safety, State of Hawai'i (DPS) answers Plaintiff's
complaint, filed June 24, 2022, as follows:

1. DPS admits the allegations contained in paragraphs 2-4, 6-8, and 10-16 of the complaint.
2. DPS denies the allegations contained in paragraphs 18-20 of the complaint.

3. DPS admits the allegation in paragraph 5 that Anthony Chatman, Francis Alvarado, Zachary Granados, Tyndale Mobley, and Joseph Deguair, represented by Eric Seitz, filed a class action lawsuit against Max Otani, Director of the Department of Public Safety in his official capacity. However, Mr. Seitz initially filed that lawsuit in the Circuit Court of the First Circuit on April 28, 2021, under Civil No. 1CCV-21-0000541 with plaintiffs Brenon Nash, Robert Gibson, Chauncy Hata, Garth Coleman, Wayne J. Ancheta, Francisco Alvarado, Robert Walsh, Jonathan Carter, and Duane Bertlemann and naming as defendants the State of Hawaii, Department of Public Safety, David Y. Ige, Josh Green, Nolan Espinda, and Max Otani. Counsel for the Defendants removed the complaint to the United States District Court for the District of Hawaii on June 8, 2021, becoming Civil No. CV-21-00268 JAO-KJM. Mr. Seitz then filed a First Amended Complaint in federal court with the current plaintiffs, becoming Chatman et. al., v. Otani, et. al..

4. DPS denies the allegation in paragraph 9 that the AMP's "purpose" was "to provide non-binding, informed guidance and recommendations to aid DPS in its continuing effort to implement the PRP [Pandemic Response Plan], as well as evolving public health guidance that may require a change to DPS's COVID-19 response." The Settlement Agreement in Chatman stated that the AMP's "role is to provide non-binding, informed guidance and recommendations to aid DPS in its continuing effort to implement the PRP [Pandemic Response Plan], as well as evolving public health guidance that may require a change to DPS's COVID-19 response."

5. DPS is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 1 of the complaint and on that basis denies them.

6. DPS denies the allegations as written in paragraph 17 of the complaint and further states that the AMP reports may be withheld from disclosure under the deliberative process privilege. Disclosure of the AMP reports would also frustrate a legitimate government function.

WHEREFORE, DPS prays as follows:

- A. That the complaint be dismissed; and
- B. That the Court award such relief for DPS as it may deem just and proper.

DATED: Honolulu, Hawai‘i, July 18, 2022.

HOLLY T. SHIKADA
Attorney General
State of Hawai‘i

/s/ Lisa M. Itomura
LISA M. ITOMURA
CRAIG Y. IHA
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Attorneys for Defendant
DEPARTMENT OF PUBLIC SAFETY

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below a true and correct copy of the foregoing document was duly served via the State of Hawai'i Judiciary Electronic Filing and Service System to the following at the email address indicated below:

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Attorney for Plaintiff

DATED: Honolulu, Hawai'i, July 18, 2022.

HOLLY T. SHIKADA
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/s/ Lisa M. Itomura
LISA M. ITOMURA
Deputy Attorney General

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DEPARTMENT OF PUBLIC SAFETY