

CADES SCHUTTE  
A Limited Liability Law Partnership

JEFFREY S. PORTNOY 1211-0

[jportnoy@caedes.com](mailto:jportnoy@caedes.com)

TRISHA L. NISHIMOTO 9388-0

[tnishimoto@caedes.com](mailto:tnishimoto@caedes.com)

Cades Schutte Building  
1000 Bishop Street, Suite 1200  
Honolulu, HI 96813-4212  
Telephone: (808) 521-9200  
Fax: (808) 521-9210  
Email: [jportnoy@caedes.com](mailto:jportnoy@caedes.com)

Attorney for Defendants  
S. LAWRENCE SCHLESINGER, MD, FACS;  
PHOENIX GROUP, LLC dba THE BREAST  
IMPLANT CENTER OF HAWAII and MOMMY  
MAKEOVER INSTITUTE OF HAWAII

**Electronically Filed**  
**FIRST CIRCUIT**  
**1CCV-19-0002164**  
**08-JAN-2024**  
**01:27 PM**  
**Dkt. 41 MEO**

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

M.K.,

Plaintiff,

v.

S. LAWRENCE SCHLESINGER, MD, FACS,  
et al.,

Defendant.

CIVIL NO. 1CCV-19-0002164 GWBC  
(Other Non-Vehicle Tort)

**DEFENDANT S. LAWRENCE  
SCHLESINGER, MD, FACS; PHOENIX  
GROUP, LLC dba THE BREAST  
IMPLANT CENTER OF HAWAII and  
MOMMY MAKEOVER INSTITUTE  
OF HAWAII'S MEMORANDUM IN  
OPPOSITION TO CIVIL BEAT LAW  
CENTER FOR THE PUBLIC  
INTEREST'S MOTION FOR  
RECONSIDERATION OF IT'S  
MOTION TO UNSEAL; CERTIFICATE  
OF SERVICE**

NON HEARING MOTION  
The Honorable Gary W.B. Chang

---

**DEFENDANTS S. LAWRENCE SCHLESINGER, MD, FACS; PHOENIX GROUP, LLC  
dba THE BREAST IMPLANT CENTER OF HAWAII and MOMMY MAKEOVER  
INSTITUTE OF HAWAII’S MEMORANDUM IN OPPOSITION TO CIVIL BEAT LAW  
CENTER FOR THE PUBLIC INTEREST’S MOTION FOR RECONSIDERATION OF  
IT’S MOTION TO UNSEAL**

---

Defendants S. LAWRENCE SCHLESINGER, MD, FACS; PHOENIX GROUP, LLC dba THE BREAST IMPLANT CENTER OF HAWAII and MOMMY MAKEOVER INSTITUTE OF HAWAII (“Defendants”), by and through their attorneys, Cades Schutte LLP, hereby submits this Memorandum in Opposition to Civil Beat Law Center for the Public Interest’s Motion for Reconsideration of It’s Motion to Unseal, filed December 18, 2023 as follows.

Defendants strongly object to the subject Motion on the basis that this Court, back in December of 2019, after holding a conference with counsel for the parties in Civil No. 1CCV-19-0002164, reviewing the Complaint and related pleadings, including a Stipulation to Seal all Filings and the Release, Indemnity and Mutual Non-Disclosure Agreement, correctly ordered the case sealed to protect the .privacy of the parties.

A copy of the Stipulation and a redacted portion of the Release are attached hereto and made a part hereof.

At a minimum, this court should order an oral hearing on the Motion for Reconsideration, and if granted, a subsequent hearing is required on the Motion to Unseal pursuant to State vs. Ahn, 133 Hawaii 482 (2014) and its progeny, as well as a Hawaii R. Elec. Filings and Service 8.1 and HRCF Rule 9.1(a).

DATED: Honolulu, Hawaii, January 8, 2024.

CADES SCHUTTE  
A Limited Liability Law Partnership

*/s/ Jeffrey S. Portnoy*

---

JEFFREY S. PORTNOY  
TRISHA L. NISHIMOTO

Attorney for Defendants  
S. LAWRENCE SCHLESINGER, MD, FACS;  
PHOENIX GROUP, LLC dba THE BREAST  
IMPLANT CENTER OF HAWAII and MOMMY  
MAKEOVER INSTITUTE OF HAWAII

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
STATE OF HAWAII

M.K.,

Plaintiff,

v.

S. LAWRENCE SCHLESINGER, MD, FACS,  
et al.,

Defendant.

CIVIL NO. 1CCV-19-0002164 GWBC  
(Other Non-Vehicle Tort)

**CERTIFICATE OF SERVICE**

**[RE: DEFENDANTS S. LAWRENCE SCHLESINGER, MD, FACS; PHOENIX GROUP, LLC dba THE BREAST IMPLANT CENTER OF HAWAII and MOMMY MAKEOVER INSTITUTE OF HAWAII'S MEMORANDUM IN OPPOSITION TO CIVIL BEAT LAW CENTER FOR THE PUBLIC INTEREST'S MOTION FOR RECONSIDERATION OF IT'S MOTION TO UNSEAL]**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document was served on the following via the Hawaii Court's Judicial Electronic Filing and Service system (JEFS) on the date indicated below:

Robert Brian Black, Esq.  
Gillian Schefer Kim, Esq.  
CIVIL BEAT LAW CENTER FOR THE  
PUBLIC INTEREST  
700 Bishop Street, Ste. 1701  
Honolulu, HI 96813

Attorneys for Movant Civil Beat Law Center  
For the Public Interest

James J. Bickerton, Esq.  
Stephen M. Tannenbaum, Esq.  
BICKERTON LAW GROUP LLLP  
745 Fort Street, Ste. 801  
Honolulu, HI 96813

Attorneys for Plaintiff

DATED: Honolulu, Hawaii, January 8, 2024.

CADES SCHUTTE  
A Limited Liability Law Partnership

/s/ Jeffrey S. Portnoy

JEFFREY S. PORTNOY  
TRISHA L. NISHIMOTO

Attorney for Defendants  
S. LAWRENCE SCHLESINGER, MD,  
FACS; PHOENIX GROUP, LLC dba  
THE BREAST IMPLANT CENTER OF  
HAWAII and MOMMY MAKEOVER  
INSTITUTE OF HAWAII

8422389.v1

Electronically Filed  
FIRST CIRCUIT  
1CCV-19-0002164  
10-DEC-2019  
04:04 PM

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
STATE OF HAWAII

M.K.,

Plaintiff,

vs.

S. LAWRENCE SCHLESINGER, M.D.,  
FACS; PHOENIX GROUP, LLC dba THE  
BREAST IMPLANT CENTER OF HAWAII  
and MOMMY MAKEOVER INSTITUTE OF  
HAWAII; JOHN DOES 1-10; JANE DOES 1-  
10; DOE PARTNERSHIPS 1-10; and DOE  
CORPORATIONS 1-10,

Defendants.

CIV. NO. 1CCV-19-0002164 GWBC  
Other Non-Vehicle Tort)

SPECIAL APPEARANCE OF COUNSEL FOR  
DEFENDANTS S. LAWRENCE  
SCHLESINGER, M.D., FACS; PHOENIX  
GROUP, LLC dba THE BREAST IMPLANT  
CENTER OF HAWAII and MOMMY  
MAKEOVER INSTITUTE OF HAWAII;  
STIPULATION TO SEAL ALL FILINGS; and  
NOTICE OF DISMISSAL

JUDGE: HONORABLE GARY W. B. CHANG

SPECIAL APPEARANCE OF COUNSEL FOR DEFENDANTS S. LAWRENCE  
SCHLESINGER, M.D., FACS; PHOENIX GROUP, LLC dba THE BREAST  
IMPLANT CENTER OF HAWAII and MOMMY MAKEOVER INSTITUTE OF HAWAII;  
STIPULATION TO SEAL ALL FILINGS; and NOTICE OF DISMISSAL

EXHIBIT "A"

PLEASE NOTE CHANGES

**BICKERTON LAW GROUP, LLLP**  
A LIMITED LIABILITY LAW PARTNERSHIP

JAMES J. BICKERTON 3085  
STEPHEN M. TANNENBAUM 8937  
Topa Financial Center, Fort Street Tower  
745 Fort Street, Suite 801  
Honolulu, Hawai'i 96813  
Telephone: (808) 599-3811  
Facsimile: (808) 694-3090  
Email: [bickerton@bsds.com](mailto:bickerton@bsds.com); [tannenbaum@bsds.com](mailto:tannenbaum@bsds.com)

**Electronically Filed**  
**FIRST CIRCUIT**  
**1CCV-19-0002164**  
**10-DEC-2019**  
**01:46 PM**

Attorneys for Plaintiff  
M. K.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

M. K.,	)	CIVIL NO. 1CCV-19-0002164 GWBC
	)	(Other Non-Vehicle Tort)
Plaintiff,	)	
	)	SPECIAL APPEARANCE OF COUNSEL FOR
vs.	)	DEFENDANTS S. LAWRENCE SCHLESINGER, M.D.,
	)	FACS; PHOENIX GROUP, LLC dba THE BREAST
S. LAWRENCE SCHLESINGER, M.D., FACS;	)	IMPLANT CENTER OF HAWAII and MOMMY
PHOENIX GROUP, LLC dba THE BREAST	)	MAKEOVER INSTITUTE OF HAWAII; STIPULATION
IMPLANT CENTER OF HAWAII and MOMMY	)	TO SEAL ALL FILINGS; and NOTICE OF DISMISSAL;
MAKEOVER INSTITUTE OF HAWAII; JOHN	)	CERTIFICATE OF SERVICE
DOES 1-10; JANE DOES 1-10; DOE	)	
PARTNERSHIPS 1-10; and DOE	)	
CORPORATIONS 1-10,	)	<b>NO TRIAL DATE SET</b>
	)	
Defendants.	)	
_____	)	

**SPECIAL APPEARANCE OF COUNSEL  
FOR DEFENDANTS S. LAWRENCE SCHLESINGER, M.D., FACS;  
PHOENIX GROUP, LLC dba THE BREAST IMPLANT CENTER OF HAWAII,  
and MOMMY MAKEOVER INSTITUTE OF HAWAII;  
STIPULATION TO SEAL ALL FILINGS and NOTICE OF DISMISSAL**

Trisha L. Nishimoto, Esq. attorney for Defendants S. LAWRENCE SCHLESINGER, M.D., FACS; PHOENIX GROUP, LLC dba THE BREAST IMPLANT CENTER OF HAWAII and MOMMY MAKEOVER INSTITUTE OF HAWAII hereby enters a special appearance for the purposes set forth herein and together with Steven Tannenbaum, Esq. attorney for Plaintiff M.K. hereby stipulates and agrees that all filings in the above-captioned matter shall be sealed, including but not limited to Docket Numbers *GWBC* (“Dkts.,” hereinafter) 1 - 24 consisting of the Complaint and Summons (Dkt.1), Payment Due to Court (Dkt.3), Demand for Jury Trial (Dkt. 5), Payment Due to Court (Dkt. 7), New Case Assignment (Dkt. 9), Notice of Incomplete Record (Dkt. 11), Summons (Dkt. 13), Civil Information Sheet (Dkt. 15), Ex-Parte Motions (Dkts 17 & 19), Payment (Dkt. 21), Order of Case Reassignment (Dkt.22), NOCD (Dkt.24), the instant filing titled “Special Appearance of Counsel for Defendants S. Lawrence Schlesinger, M.D., FACS; Phoenix Group, LLC dba the Breast Implant Center of Hawaii and Mommy Makeover Institute of Hawaii; Stipulation to Seal All Filings and Notice of Dismissal,” including any filed Order of this Stipulation and all Notices of Electronic Filing (Dkts. 2,4, 6, 8, 10, 12, 14, 16, 18, 20 and 23) including any and all Notices of Electronic Filing and Certificates of Service that are generated as associated with the instant filing and subsequent Order. This stipulation is signed on behalf of all identified parties.

Plaintiff, M.K., pursuant to the Hawai'i Rules of Civil Procedure, Rule 41(a)(1)(A), by and through her undersigned attorneys, BICKERTON LAW GROUP, LLLP, hereby voluntarily dismisses all claims in the above-captioned action against all defendants with prejudice.

Other than the herein submitted special appearance of Trisha L. Nishimoto, counsel for all



identified Defendants, no answers, motions to dismiss, or other pleadings have been filed by any defendants in response to the Complaint. Additionally, no trial date has been set.

With the filing of this Notice of Dismissal, no parties or claims remain, and the Clerk of the Court shall be directed to close the case and file following the sealing of the pleadings herein.

GWBC

DATED: Honolulu, Hawaii, December 10, 2019. .

/s/ Stephen M. Tannenbaum

---

JAMES J. BICKERTON  
STEPHEN M. TANNENBAUM  
Attorney for Plaintiff MARY KANEKO

DATED: Honolulu, Hawaii, December 10, 2019. .

/s/ Trisha L. Nishimoto

---

TRISHA L. NISHIMOTO  
Attorney for for Defendants  
S. LAWRENCE SCHLESINGER, M.D., FACS; PHOENIX  
GROUP, LLC dba THE BREAST IMPLANT CENTER OF HAWAII  
and MOMMY MAKEOVER INSTITUTE OF HAWAII

APPROVED AND SO ORDERED:

/s/ Gary W. B. Chang



---

HONORABLE GARY W.B. CHANG  
Judge of the above-entitled Court

---

Civil Number 1CCV-19-0002164 GWBC; M.K. vs. S. Lawrence Schlesinger, M.d., Facs; Phoenix Group, Llc Db a the Breast Implant Center of Hawaii and Mommy Makeover Institute of Hawaii, et. al., “**Special Appearance of Counsel for Defendants S. Lawrence Schlesinger, M.D., FACS; Phoenix Group, LLC Db a the Breast Implant Center of Hawaii and Mommy Makeover Institute of Hawaii; Stipulation to Seal All Filings; and Notice of Dismissal**”

**PLEASE NOTE CHANGES**

9. **MUTUAL NON-DISCLOSURE.**

a. **Confidentiality.** The Parties desire confidentiality of the allegations contained in the Complaint filed in Civil Number 1CCV-19-0002164 GWBC (the "Complaint") and the terms and conditions of the settlement. No portion of the financial consideration paid to Releasor is to obtain this confidentiality provision. The Parties seek to avoid publicity of the allegations contained in the Complaint, in addition to the terms and conditions of the settlement; and desire to maintain the confidential nature of the financial settlement.

The Parties understand that this Agreement is confidential. The Parties specifically warrant and affirm that they will not communicate, converse, or correspond, in any way or form, about the allegations contained in the Complaint, and the duties, rights, obligations and provisions contained in the Agreement to any person who is not a party to the Agreement.

Unless required to do so by valid order of a court or governmental agency of competent jurisdiction or in connection with a judicial proceeding in which Releasor or Releasees may be compelled to testify by subpoena or otherwise, Releasor and Releasees shall not discuss or divulge orally, in writing or otherwise to any third person or entity, any information concerning or relating to the Settlement Agreement, the complaint filed in Civil Number 1CCV-19-0002164 GWBC or any matters contained therein including but not limited to the facts or circumstances supporting any claim or defense.

The Parties will not respond to or in any way participate or contribute to any public discussion, notice or other publicity concerning or in any way relating to the Occurrences, the terms and conditions of this Agreement, or any and all facts or circumstances relating to the lawsuit or any claim or defense therein, except the Parties shall have the right to disclose the terms of the settlement including the amount paid

hereunder to their accountants, attorneys and/or financial advisors and to the extent necessary and required by law to appropriate state or federal governmental tax authorities.

b. **Notice.** The Parties agree to provide as much advance notice as is reasonably possible to each other of any court action or other proceeding that may assert a right to order the disclosure of materials and/or information encompassed by the non-disclosure provisions in this Agreement. Such notice shall be made through the Parties' respective attorneys whose contact information has been separately provided to the Parties.

c. **Liquidated Damages.** The Parties hereto agree that any Party violating the mutual non-disclosure provisions of this Agreement will be liable to the other Party for liquidated damages. The Parties hereto understand that any breach of the Confidentiality provisions herein will cause the other, non-breaching Party subject of the communication significant damage, the amount of which is difficult to ascertain. In the absence of conclusive evidence to the contrary, the Parties hereby agree that damages resulting from breach of this agreement shall be liquidated in the sum of FIFTY THOUSAND DOLLARS AND NO/100 (\$50,000.00).

The parties agree that any dispute as to the confidentiality provision in the Agreement will be determined through binding arbitration through or by Keith Hunter of Dispute Prevention & Resolution.