

Electronically Filed
Supreme Court
SCPW-24-0000464
30-OCT-2025
09:27 PM
Dkt. 76 MEMO

SCPW-24-0000464

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

PUBLIC FIRST LAW CENTER,

Petitioner,

vs.

THE HONORABLE MATTHEW J. VIOLA,
Senior Judge of the Family Court of the First
Circuit, State of Hawai‘i

Respondent Judge,

and

THE DEPARTMENT OF HUMAN
SERVICES, STATE OF HAWAI‘I; NICOLE
CUMMINGS, in her capacity as guardian ad
litem for interested minor children and person
representative of the estate of Isabella P. Kalua
formerly known as Ariel Sellers; LEHUA
KALUA; ISAAC KALUA III; STEPHEN
LANE in his capacity as court appointed
special master; DEAN NAGAMINE, ESQ., in
his capacity as guardian ad litem for interested
minor children; ARLENE A. HARADA-
BROWN in her capacity as guardian ad litem
for interested minor children; MELANIE
JOSEPH also known as MELANIE SELLERS;
ADAM SELLERS; and, COURT APPOINTED
SPECIAL ADVOCATES PROGRAM,

ORIGINAL PROCEEDING

(CASE NOS. 1FFM-24-0000018,
1FFM-24-0000019, FC-S 18-00280,
FC-A 21-2-6010)

RESPONDENT COURT APPOINTED
SPECIAL ADVOCATES PROGRAM’S
OBJECTIONS TO THE DISCLOSURE
OF INFORMATION IDENTIFIED IN
THE REDACTED CASE RECORDS

(Caption continued on the next page)

Respondents.

**RESPONDENT COURT APPOINTED SPECIAL
ADVOCATES PROGRAM'S OBJECTIONS TO THE DISCLOSURE OF
INFORMATION IDENTIFIED IN THE REDACTED CASE RECORDS**

DECLARATION OF EMILY D. KAUWE

EXHIBITS "1" – "16"

CERTIFICATE OF SERVICE

ANNE E. LOPEZ 7609
Attorney General of Hawai'i

CRAIG Y. IHA 7919
CHASE S.L. SUZUMOTO 10813
Deputy Attorneys General
Department of the Attorney
General, State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Telephone: (808) 587-2978
Facsimile: (808) 586-1372
Email: craig.y.iha@hawaii.gov
 chase.suzumoto@hawaii.gov

Attorneys for Respondent
COURT APPOINTED SPECIAL
ADVOCATES PROGRAM

**RESPONDENT COURT APPOINTED SPECIAL
ADVOCATES PROGRAM'S OBJECTIONS TO THE DISCLOSURE OF
INFORMATION IDENTIFIED IN THE REDACTED CASE RECORDS**

I. INTRODUCTION

This Court's September 30, 2025 decision invited objections to the disclosure of specific information identified in the redacted case records. SCPW-24-0000464 dkt. 41 at PDF 22.

These objections must (1) identify the legal or factual basis for the objection; and (2) identify the applicable volume and PDF page number to which the party refers.

CASA requests that the names and signatures of its volunteer court-appointed special advocate and staff social worker be redacted because revealing their identities would jeopardize the workers' privacy by publicly tying them to this high-profile, emotionally charged case. This would also frustrate the family court's ability to appoint qualified court-appointed special advocates that are essential to fulfilling the mandate of HRS § 587A-16 – to protect and promote the needs and best interests of Hawaii's neglected and abused children. Public exposure of these workers risks discouraging participation in the CASA program by compromising the expected confidentiality and safety that enables the volunteer court-appointed special advocates and staff social workers to advocate for these children freely and independently.

Redaction is appropriate under the September 30, 2025 decision because there is no legitimate purpose or good cause to release the workers' names and signatures – as particular and limited pieces of information – that could jeopardize their privacy and impair CASA's ability to perform its mission. Disclosing the volunteer court-appointed special advocate's and staff social worker's personal identity is unnecessary for the public to evaluate the adequacy of the CASA program's response to Ariel's neglect and abuse, and the determination that the Kaluas, at that time, were the appropriate resource caregivers and ultimately adoptive parents.

The applicable volumes and PDF page numbers of the records that CASA requests to be redacted are as follows (CASA's proposed redactions are marked in red to differentiate from this Court's redactions):

- SCPW-24-0000464 Dkt. 43 at Vol. 1 - 0073, 0075, 0166, 0168, 0196, 0199, 0202, 0205, 0208, 211, 0214, 0216, 0218, 0219, 0221, 0224, 0227, 0230, 0242, 0246, 0257, 0258, 0261, 0293, and 0299-0301 (Exhibits "1" – "5").
- SCPW-24-0000464 Dkt. 45 at Vol. 2 - 0001, 0005, 0008, 0044, 0045, 0046, 0055, 0067, 0068, 0069, and 0073 (Exhibit "6").
- SCPW-24-0000464 Dkt. 47 at Vol. 3 - 0077, 0078, 0079, 0080, 0081, 0082, 0090, 0094, 0095, 0097, and 0101 (Exhibit "7").
- SCPW-24-0000464 Dkt. 49 at Vol. 4 - 0085, 0086, 0087, and 0097 (Exhibits "8" – "9").
- SCPW-24-0000464 Dkt. 51 at Vol. 5 - 0070, 0072, 0076, and 0078 (Exhibits "10" – "11").
- SCPW-24-0000464 Dkt. 53 at Vol. 6 - 0040, 0050, 0051, 0052, 0062, 0065, 0068, 0069, and 0074 (Exhibit "12").
- SCPW-24-0000464 Dkt. 55 at Vol. 7 - 0004, 0007, 0008, 0009, 0010, 0017, 0021, and 0022 (Exhibit "13").
- SCPW-24-0000464 Dkt. 57 at PDF 5, 37, 42, and 144 (Exhibits "14" – "16").

II. STATEMENT OF RELEVANT FACTS

The family court is required to appoint a guardian ad litem ("GAL") to serve throughout the pendency of the Child Protective Act ("CPA") proceeding, to protect and promote the interest of the child. HRS §§ 587A-4, 587A-16(a). While the court can appoint "any person" as

a GAL, both federal and state law provide for a court-appointed special advocate to this position. *See, e.g.*, HRS § 587A-4; HRS § 587A-3.1(b)(3); 34 U.S.C. § 20321(1); 34 U.S.C. § 20322.

A “court-appointed special advocate” is a trained volunteer supervised by the CASA program, who may be appointed to serve as an officer of the court as a GAL. HRS § 587A-4. In this capacity, they are in contact with the children to which they are appointed to represent,¹ the CASA social worker, DHS, the parents (adoptive and natural), relatives, therapists, doctors and teachers (among others).² *See* HRS § 587A-16(c)((1), (4); SCPW-24-0000464 dkt. 32 at PDF 36 in ¶5, 39 in ¶5. They also review all records pertaining to the child, including any records, notes and electronic recordings. HRS § 587A-16(c)(2); *see* SCPW-24-0000464 dkt. 32 at PDF 36 in ¶5, 39 in ¶5. The court-appointed special advocates use all the gathered information to advocate for the best interest of neglected and abused children, primarily through submitting a written report and recommendation before any hearings in the case (or in six-month intervals). HRS § 587A-16(c)(5). The court must notify the special advocate of all hearings and proceedings involving the child to ensure their best interests are protected. HRS § 587A-16(c)(3). Since the court-appointed special advocate remains involved in the case until its conclusion, the children are provided with a consistent figure to advocate for their best interest.

The CASA program, which is funded through the Judiciary, employs 8 salaried social workers. Declaration of Emily D. Kauwe in ¶4. These CASA social workers, under the CASA

¹ A child involved in a CPA proceedings is entitled “[t]o have regular in-person contact with [their] court appointed guardian ad litem [and] court appointed special advocate[.]” HRS § 587A-3.1.

² That some people might already know the workers’ identities does not justify releasing their names and risking broad publication. Media outlets could, by their choosing, not intentionally publish the workers’ names – but that is not assured. Nor would anything prevent others from independently seeking copies of the records.

program manager's supervision, are tasked with the following (among other things): supervise and remain the main point of contact for the 122 active court-appointed special advocates; ensure that each child assigned to the CASA program are being seen (face-to-face if on island) minimally every month; attend any and all meetings and hearings with the family court in CPA proceedings; review the court-appointed special advocates' contacts, reports and recommendations to ensure timely submission to the family court; and recruit and train new court-appointed special advocates. *Id.* at ¶5; *see also id.* at ¶¶6-8. While there are other child advocacy organizations, the CASA program is the only program in which its volunteers are trained by experienced and knowledgeable social workers and are appointed by the family court to advocate for a child's best interest. *Id.* at 9.

III. ARGUMENT

A. The Redactions are Appropriate Under this Court's Decision Because Releasing the CASA Volunteer's and Social Worker's Names and Signatures Are Not Necessary for the Public to Evaluate the CASA Program's Response to Ariel's Abuse and Neglect

This Court held that there is a "legitimate purpose" to disclose information from the CPA proceeding under HRS § 587-40, and, in turn, "good cause" to disclose information from the adoption proceeding under HRS § 578-15, where a foster child is missing, has suffered a near fatality, been critically injured, or has died. SCPW-24-464 Dkt. 41 at PDF 14, 21. This Court, in exercising its supervisory powers, filed initial, redacted versions of the records to give the family court clarity on "the standard governing the disclosure of confidential case records from CPA and adoption proceedings where a child is missing, has suffered a near fatality, been critically injured, or has died and the public requests access to the case records for information." SCPW-24-464 Dkt. 41 at PDF 22. The redactions, this Court noted, "are geared toward the precise circumstances of this case" – namely, to educate and inform the public as to "the

response of agencies and the family court to problems of child abuse and neglect” and “as to how and why the Kaluas were deemed appropriate resources caregivers and ultimately adoptive parents.” *Id.* at PDF 12, 22.

CASA asks this Court to redact the names and signatures of its volunteer court-appointed special advocate and staff social worker because this information is not necessary to inform and educate the public about the program’s response to Ariel’s abuse and neglect. Instead, the disclosure of the volunteer court-appointed special advocate’s and staff social worker’s titles alone are sufficient for the public to identify their respective roles in these proceedings and why they determined the Kaluas, at that time, to be appropriate resource caregivers and ultimately adoptive parents. Even without the CASA volunteer court-appointed special advocate’s and staff social worker’s names and signatures, the redacted records would enhance public understanding, enable the public to engage in meaningful discourse, and allow for analysis of the CASA program’s practices and processes in these proceedings.

B. The Disclosure of the CASA Volunteer’s and Social Worker’s Names and Signatures in the Subject Court Records Would Frustrate the Family Court’s Ability to Appoint Qualified Volunteers that are Essential to Fulfilling the Mandate of HRS § 587A-16

Redaction is also appropriate under this Court’s decision because there is no legitimate purpose or good cause to risk the volunteer court-appointed special advocate’s and staff social workers’ privacy or impair the CASA program’s ability to recruit volunteers and staff through the disclosure of their names and signatures in the subject court records. CASA is mindful that the names of government workers are generally available to the public. But the social workers in this case are personally tied to a high-profile, emotionally charged case involving the tragic death of an adopted child.

The family court is required to appoint a GAL to serve throughout the CPA proceedings, to protect and promote the interests of the child. HRS §§ 587A-4, 587A-16(a). The court-appointed special advocate is a trained volunteer supervised by the CASA social worker and program director. HRS § 587A-4; *see also* Kauwe Decl. at ¶¶3, 5. The CASA volunteer is appointed by the presiding family court judge in these proceedings as the voice and advocate of neglected and abused children in Hawai‘i.

By statute, the CASA volunteers are required to: (1) “[h]ave access to the child”; (2) “[h]ave the authority to inspect and receive copies of any records, notes, and electronic recordings concerning the child . . . that are relevant to the [CPA] proceedings”; (3) “[b]e given notice of all hearings and proceedings involving the child” and appear at these hearings to “protect the best interests of the child”; (4) “[m]ake fact-to-face contact with the child . . . at least every three months”; (5) report to the court and all parties in writing at six-month intervals, or as ordered by the court, regarding [their] actions taken to ensure the child’s . . . best interest, and recommend how the court should proceed in the best interest of the child”; and (6) “[i]nform the court of the child’s opinions and requests.” HRS § 587A-16(c); *see also* Kauwe Decl. in ¶¶5-7. Compliance with this statute is no easy feat. That is the reason the CASA program, which is placed within and funded by the Judiciary, has 122 active volunteers and 8 social workers on staff in the First Circuit alone. SCPW-24-0000464 dkt. 32 at PDF 33 in ¶4; Kauwe Decl. in ¶¶4-5.

The initial redacted records filed by this Court include the names and signatures of the appointed CASA volunteer and the CASA social worker assigned to supervise the volunteer. *See* Citations to the redacted records in the “Introduction” section above. Their names and signatures are included in their reports and recommendations submitted to the family court under

HRS § 587A-16(c)(5); and various documents evidencing their mandatory appearance at various hearings before the family court under HRS § 587A-16(c)(3). These, along with the CPA and adoption proceeding records in their entirety, are, and were expected to be, confidential. SCPW-24-464 Dkt. 41 at PDF 3 (citing HRS §§ 587A-25(b), 578-15); *see also* SCPW-24-464 Dkt. 41 at PDF 13 (citing *State v. Rogan*, 156 Hawai‘i 233, 245, 573 P.3d 616, 628 (2025) (“[T]here are historical and value-driven reasons why courts allow family court sealing.”)); SCPW-24-464 Dkt. 41 at PDF 17 (noting that *Kema* – as binding precedent since 1999 -- limited the legitimate purposes for disclosure of CPA records to only those that further the best interests of the child).

For the volunteer court-appointed special advocates and staff social workers to be effective, they must feel comfortable giving the family court judges candid observations of the child’s situation, the adoptive home, adoptive parents, and other factors regarding the best interest of the children. Two long-time volunteers attested in CASA’s Answer to the Petition that, if the subject court records are disclosed, they will no longer be willing to work as a volunteer for the CASA program due to their “vulnerab[ility] to negative public retaliation” given “how fast information can spread over the internet and through social media.” SCPW-24-464 Dkt. 41 at PDF 37 in ¶7, 40 in ¶7. As a result, the abused and neglected children in Hawai‘i, following the impending exodus of CASA volunteers and social workers, will be deprived of their guardian ad litem and CASA social workers – both of which advocate for their best interest through these often-difficult proceedings. SCPW-24-464 Dkt. 41 at PDF 34 in ¶8. Thus, the very individuals the CASA program seeks to protect will now become the unintended victims of this Court’s release of the redacted court records in its current form.

Disclosure of the redacted court records, in its current form, will have a chilling effect on:

- (1) current CASA volunteers – who write and submit their reports and recommendations to the

family court under HRS § 587A-16(c)(5); and (2) current CASA social workers – who review and approve all HRS § 587A-16(c)(5) reports and recommendations submitted to the family court; and (3) any future prospects for these positions. *See, e.g.*, SCPW-24-0000464 dkt. 32 at PDF 37 in ¶7; SCPW-24-0000464 dkt. 32 at PDF 40 in ¶7. This chilling effect, in turn, could deprive the family court judges in the First Circuit of 122 active CASA volunteers and 8 active social workers, all of whom assist the family court judges in ensuring compliance with the mandates of HRS § 587A-16 and that the voices of Hawaii’s abused and neglected children are heard in these proceedings. While the family court judges could certainly appoint individuals outside the CASA program as GALs in these proceedings, these individuals will likely lack the supervision, training, and expertise possessed by the CASA volunteers and social workers.³

IV. CONCLUSION

For the foregoing reasons, CASA requests that this Court grant its requests to redact the CASA volunteer’s and social worker’s names and signatures from the CPA and adoption proceeding records.

³ These court records, although not governed by UIPA, could, by analogy, also be protected in a HRS chapter 92F context. Under UIPA, “[a]ll government records are open to public inspection unless access is restricted or closed by law.” HRS § 92F-11(a). There are, however, several exceptions. *See* HRS § 92F-13. The frustration-of-a-legitimate-government-function exception provides that an agency is not required to disclose “[g]overnment records that, by their nature, must be confidential in order for the government to avoid the frustration of a legitimate government function.” HRS § 92F-13(3). “The unambiguous meaning of this provision is that, to fall within its parameters, a record must be of such a nature that disclosure would impair the government’s ability to fulfill its proper duties.” *Peer News LLC v. City & Cnty. of Honolulu*, 143 Hawai‘i 472, 479, 431 P.3d 1245, 1252 (2018).

DATED: Honolulu, Hawaii, October 30, 2025.

STATE OF HAWAII

ANNE E. LOPEZ
Attorney General of Hawaii

/s/ Chase S.L. Suzumoto
CHASE S.L. SUZUMOTO
CRAIG Y. IHA
Deputy Attorneys General

Attorneys for Respondent
COURT APPOINTED SPECIAL
ADVOCATES PROGRAM

SCPW-24-0000464

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

PUBLIC FIRST LAW CENTER,

Petitioner,

vs.

THE HONORABLE MATTHEW J. VIOLA,
Senior Judge of the Family Court of the First
Circuit, State of Hawai'i

Respondent Judge,

and

THE DEPARTMENT OF HUMAN
SERVICES, STATE OF HAWAI'I; NICOLE
CUMMINGS, in her capacity as guardian ad
litem for interested minor children and person
representative of the estate of Isabella P. Kalua
formerly known as Ariel Sellers; LEHUA
KALUA; ISAAC KALUA III; STEPHEN
LANE in his capacity as court appointed
special master; DEAN NAGAMINE, ESQ., in
his capacity as guardian ad litem for interested
minor children; ARLENE A. HARADA-
BROWN in her capacity as guardian ad litem
for interested minor children; MELANIE
JOSEPH also known as MELANIE SELLERS;
ADAM SELLERS; and, COURT APPOINTED
SPECIAL ADVOCATES PROGRAM,

Respondents.

ORIGINAL PROCEEDING

(CASE NOS. 1FFM-24-0000018,
1FFM-24-0000019, FC-S 18-00280,
FC-A 21-2-6010)

DECLARATION OF EMILY D. KAUWE

DECLARATION OF EMILY D. KAUWE

I, EMILY D. KAUWE, under penalty of perjury, declare the following to be true and correct based on my personal knowledge:

1. I am the Court Appointed Special Advocates (CASA) Program Manager for the First Circuit of the State of Hawai'i.
2. I have been the First Circuit's CASA Program Manager since July 2022.
3. In this position, I manage the CASA Program social workers and volunteer court-appointed special advocates, along with other CASA program staff. I oversee all aspects of the Child Protective Act ("CPA") proceedings to which our social workers and court-appointed special advocates are assigned.
4. The CASA Program, which is funded by the Judiciary, employs 8 salary-based social workers for the First Circuit. All 8 of these social worker positions are currently filled.
5. These CASA social workers, under the CASA program manager's supervision, are tasked with the following (among other things): supervise and remain the main point of contact for the 122 active court-appointed special advocates; ensure that each child assigned to the CASA Program are being seen (face-to-face if on island) minimally every month, attend any and all meetings and hearings with the family court in CPA proceedings; review the court-appointed special advocates' contacts, reports and recommendations to ensure timely submission to the family court; and recruit and train new court-appointed special advocates.
6. The CASA social workers also help to ensure that the children to which the court-appointed special advocates are assigned are having their needs met and they are being advocated for throughout the pendency of the CPA proceedings.

7. The CASA social workers are valuable because they help to ensure that the court-appointed special advocates are seeing the “bigger picture” and helping them navigate the system during these proceedings as most of our volunteers do not have backgrounds in social work or working with children and families.

8. The CASA Program would not be able to operate without its social workers because the court-appointed special advocates need someone to be working with closely throughout the CPA proceedings for guidance, advice, confidence and to fill in when the court-appointed special advocates are unable to be present.

9. While there are other child advocacy organizations, the CASA Program is the only program in which its volunteer court-appointed special advocates are trained by experienced and knowledgeable social workers and are appointed by the family court to advocate for a child’s best interest.

DATED: Honolulu, Hawai‘i, October 30, 2025.



EMILY D. KAUWE

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

PUBLIC FIRST LAW CENTER,

Petitioner,

vs.

THE HONORABLE MATTHEW J. VIOLA,
Senior Judge of the Family Court of the First
Circuit, State of Hawai'i

Respondent Judge,

and

THE DEPARTMENT OF HUMAN
SERVICES, STATE OF HAWAI'I; NICOLE
CUMMINGS, in her capacity as guardian ad
litem for interested minor children and person
representative of the estate of Isabella P. Kalua
formerly known as Ariel Sellers; LEHUA
KALUA; ISAAC KALUA III; STEPHEN
LANE in his capacity as court appointed
special master; DEAN NAGAMINE, ESQ., in
his capacity as guardian ad litem for interested
minor children; ARLENE A. HARADA-
BROWN in her capacity as guardian ad litem
for interested minor children; MELANIE
JOSEPH also known as MELANIE SELLERS;
ADAM SELLERS; and, COURT APPOINTED
SPECIAL ADVOCATES PROGRAM,

Respondents.

ORIGINAL PROCEEDING

(CASE NOS. 1FFM-24-0000018,
1FFM-24-0000019, FC-S 18-00280,
FC-A 21-2-6010)

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on the date indicated below, a true and correct copy of the foregoing document was duly served upon the following parties through the US Mail, postage prepaid, or electronically by the Judiciary Electronic Filing System:

Robert Brian Black
Benjamin M. Creps
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813

brian@publicfirstlaw.org
ben@publicfirstlaw.org

Attorneys for Petitioner
PUBLIC FIRST LAW CENTER

Julio C. Herrera
Kurt J. Shimamoto
James W. Walther
Lynne M. Youmans
Deputy Attorneys General
Department of the Attorney General,
State of Hawai'i
465 South King Street, Room 200
Honolulu, Hawai'i 96813

julio.c.herrera@hawaii.gov
kurt.j.shimamoto@hawaii.gov
james.w.walther@hawaii.gov
lynne.m.youmans@hawaii.gov

Attorneys for Respondent
THE DEPARTMENT OF HUMAN SERVICES, STATE OF HAWAII

Francis T. O'Brien
820 Mililani Street, Suite 701
Honolulu, Hawai'i 96813

fobrien@lawctr.net

Attorney for Respondent
ISAAC KALUA III

Isaac Kalua III [Inmate #1042226]
Oahu Community Correctional Center
2199 Kamehameha Hwy.
Honolulu, Hawai'i 96819

U.S. Mail

Randall L.K.M Rosenberg
Ryan M. Kaufman
Rosenberg McKay Hoffman
737 Bishop Street, Suite 2350
Pacific Guardian Center, Mauka Tower
Honolulu, Hawai'i 96813

randall@rmhlawhawaii.com
ryan@rmhlawhawaii.com

Attorneys for Respondent Nicole Cummings, in her capacity as guardian ad litem for interested minor children and person representative of the estate of I.S.K. 2014 formerly known as [A.S.]

Nicole K. Cummings

nkcummings@gmail.com

Respondent NICOLE CUMMINGS, in her capacity as guardian ad litem for interested minor children and person representative of the estate of I.S.K. 2014 formerly known as [A.S.]

Dean T. Nagamine
P.O. Box 61756
Honolulu, Hawai'i 96839

Dner@aol.com

Respondent Dean Nagamine, Esq., in his capacity as guardian ad litem for interested minor children

Arlene Harada-Brown

aharadabrown@gmail.com

Respondent Arlene Harada-Brown, in her capacity as guardian ad litem for interested minor children

Brett Alan Ritter

baresq@outlook.com

DATED: Honolulu, Hawai‘i, October 30, 2025.

STATE OF HAWAII

ANNE E. LOPEZ
Attorney General of Hawaii

/s/ Chase S.L. Suzumoto
CHASE S.L. SUZUMOTO
CRAIG Y. IHA
Deputy Attorneys General

Attorneys for Respondent
COURT APPOINTED SPECIAL
ADVOCATES PROGRAM