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No. SCPW-25-419

IN THE SUPREME COURT OF THE STATE OF HAWAII

PUBLIC FIRST LAW CENTER,

Petitioner,

vs.

THE HONORABLE KEVIN T.  
MORIKONE, Tax Appeal Court Judge,

Respondent.

ORIGINAL PROCEEDING  
NO. 1CTX-21-1613

TAX APPEAL COURT, STATE OF  
HAWAII

The Honorable Kevin T. Morikone, Tax  
Appeal Court, State of Hawai'i

DECLARATION OF RICHARD P.  
MCCLELLAN, III

DECLARATION OF RICHARD P. MCCLELLAN, III

1. I am a member of the public. I am not a party nor do I represent a party in this case or in *In re Booking.com B.V.*, No. 1CTX-21-1613. I make this declaration based on personal knowledge.
2. I am a licensed member of the Hawaii bar with an active tax practice.
3. Because of my area of practice, I am professionally interested in the interaction of the Department of Taxation's administrative rules on economic nexus and sourcing of activities. Answering the question "where" an activity occurs ("used and consumed") for general excise tax purposes, while obvious for certain activities, is far less obvious for others.

4. Based on that interest, I attended two of the hearings in *In re Booking.com B.V.* to better understand the Department's position because of its significance to the tax practitioner community.

5. On March 18, 2024, I attended my first hearing in the case.

6. At the March 18 hearing, counsel for Booking.com asked the Honorable Gary Chang that I be excluded from the courtroom. Judge Chang denied the request.

7. On May 6, 2024, I attended my second hearing in the case. There was no request to exclude me from the courtroom at the second hearing.

I, RICHARD P. MCCLELLAN, III, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, June 25, 2025

  
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RICHARD P. MCCLELLAN, III