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Attorneys for Defendants
CITY AND COUNTY OF
HONOLULU AND DAMIEN DESA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

PATRICK ANDREW WIELAND,
Plaintiff,

vs.

CITY AND COUNTY OF
HONOLULU; ARTHUR LOGAN,
Chief of Police of the Honolulu Police
Department, in his official capacity
only; DAMIEN DESA, Individually
and in his official capacity; DOE
POLICE OFFICERS 1-15.

Defendants.

Civil No. 24-00215-DKW-RT

**DEFENDANTS CITY AND
COUNTY OF HONOLULU AND
DAMIEN DESA'S MOTION FOR
LEAVE TO FILE UNDER SEAL
EXHIBITS A & I TO (1)
DEFENDANT DAMIEN DESA'S
MOTION FOR SUMMARY
JUDGMENT [ECF. 51]; (2)
DEFENDANT CITY AND COUNTY
OF HONOLULU'S MOTION FOR
SUMMARY JUDGMENT [ECF. 52];
MEMORANDUM IN SUPPORT OF
MOTION;**

(case caption continued on next page)

**DECLARATION OF COUNSEL;
PROPOSED ORDER GRANTING
DEFENDANTS CITY AND
COUNTY OF HONOLULU AND
DAMIEN DESA'S AMENDED
MOTION FOR LEAVE TO FILE
UNDER SEAL EXHIBITS A & I (1)
DEFENDANT DAMIEN DESA'S
MOTION FOR SUMMARY
JUDGMENT [ECF. 51]; (2)
DEFENDANT CITY AND COUNTY
OF HONOLULU'S MOTION FOR
SUMMARY JUDGMENT [ECF. 52];
CERTIFICATE OF SERVICE**

Judge: Hon. Derrick K. Watson
Trial Date: October 10, 2025

**DEFENDANTS CITY AND COUNTY OF HONOLULU AND DAMIEN
DESA'S AMENDED MOTION FOR LEAVE TO FILE UNDER SEAL
EXHIBITS A & I TO (1) DEFENDANT DAMIEN DESA'S MOTION FOR
SUMMARY JUDGMENT [ECF. 51] (2) DEFENDANT CITY AND COUNTY
OF HONOLULU'S MOTION FOR SUMMARY JUDGMENT [ECF. 52]**

Defendants City and County of Honolulu ("City") and Damien Desa
(collectively, "Defendants") hereby file their amended motion for leave to file
Exhibits "A" and "I" to their Motions for Summary Judgment [ECF Nos. 51, 52]
("Motion") *under seal* pursuant to L.R. 5.2. A proposed form of order is attached.

After further consideration, the City hereby withdraws its "Confidential"
designation of Exhibits "B"- "D" and "F"- "H" to the Motions. Plaintiff was
notified, in writing, of the City's withdrawal of such designations on June 25,

2025. Exhibits “B”-“D” and “F”-“H” to the Motions will be filed concurrently with the instant motion.

DATED: Honolulu, Hawai‘i, June 27, 2025.

DANA M. O. VIOLA
Corporation Counsel

/s/ Kourtney H. Wong
KOURTNEY H. WONG
SHEENA M. CRAIL
Deputies Corporation Counsel

Attorneys for Defendants
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**MEMORANDUM IN SUPPORT OF
MOTION**

MEMORANDUM IN SUPPORT OF MOTION

Defendants CITY AND COUNTY OF HONOLULU (“City”) and DAMIEN DESA (collectively, “Defendants”) move to file under seal: (1) body-worn camera footage video depicting the incident at issue involving Plaintiff PATRICK ANDREW WIELAND (“Plaintiff”) (**Exhibit A**), and (2) the Manual of Procedure

of Honolulu Police Department's ("HPD") Criminal Investigation Division for Extraditions (**Exhibit I**). **Exhibits A and I** to (1) Defendant Damien Desa's Motion for Summary Judgment, filed herein on June 6, 2025 [ECF No. 51]; and (2) Defendant City and County of Honolulu's Motion for Summary Judgment, filed herein on June 6, 2025 [ECF No. 52] (collectively, the "Motions for Summary Judgment") are confidential and protected by a Stipulated Protective Order, and must be filed under seal. Exhibits "A" and "I" must also be filed under seal because it is not feasible to file a redacted version of either exhibit in the public record.

I. RELEVANT FACTUAL AND PROCEDURAL HISTORY

Exhibits "A" and "I" are materials that the City produced to the parties pursuant to the Stipulated Protective Order ("SPO") entered in this matter on September 3, 2024 [ECF No. 29]. The SPO explicitly prohibits the parties from publicly disclosing the documents produced by the City which have been marked as "Confidential":

1. Any party or non-party may designate as "confidential" (by stamping the relevant page or other otherwise set forth herein) any document or response to discovery which that party or non-party considers in good faith to contain information involving trade secrets, or confidential business or financial information, subject to protection under the Federal Rules of Civil Procedure or Hawai'i law ("Confidential Information").

[. . .]

6. No party or non-party shall file or submit for filing as part of the court record any documents under seal without first obtaining leave of court.

On June 7, 2025, Defendants filed their Motion for Leave to File Exhibits “A”-“D”, “F”-“I” to the Motions for Summary Judgment Under Seal [ECF No. 54] concurrently with the Motions (“Motion to Seal”). On June 12, 2025, the Court denied Defendants’ Motion to Seal *without prejudice* [ECF No. 56].

After further consideration, the City withdrew its “Confidential” designation of Exhibits “B”-“D” and “F”-“H” to the Motions. Plaintiff was notified, in writing, of the City’s withdrawal of such designations on June 25, 2025. Exhibits “B”-“D” and “F”-“H” to the Motions for Summary Judgment will be filed concurrently with the instant motion. Plaintiff has not opposed the “Confidential” designation of Exhibit “A” or “I”.

II. LEGAL STANDARD

“Unless a particular court record is one traditionally kept secret, a strong presumption in favor of access is the starting point.” *Wooden v. Comprehensive Health Mgmt.*, No. 20-00053 LEK-WRP, 2021 U.S. Dist. LEXIS 101889, at 1-2 (D. Haw. May 28, 2021). “A party seeking to seal a judicial record then bears the burden of overcoming this strong presumption by meeting the compelling reasons standard.” *Id.* (cleaned up). “That is, the party must articulate compelling reasons

supported by specific factual findings.” *Id.* The party seeking to file a record under seal must meet one of two standards:

Two standards generally govern motions to seal documents like the one at issue here. First, a “compelling reasons” standard applies to most judicial records. *See Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (holding that “[a] party seeking to seal a judicial record . . . bears the burden of . . . meeting the ‘compelling reasons’ standard”); *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135–36 (9th Cir. 2003). This standard derives from the common law right “to inspect and copy public records and documents, including judicial records and documents.” *Kamakana*, 447 F.3d at 1178 (citation and internal quotation marks omitted). To limit this common law right of access, a party seeking to seal judicial records must show that “compelling reasons supported by specific factual findings . . . outweigh the general history of access and the public policies favoring disclosure.” *Id.* at 1178–79 (internal quotation marks and citations omitted).

Second, a different standard applies to “private materials unearthed during discovery,” as such documents are not part of the judicial record. *Id.* at 1180. Rule 26(c) of the Federal Rules of Civil Procedure governs here, providing that a trial court may grant a protective order “to protect a part or person from annoyance, embarrassment, oppression, or undue burden or expense.”

The relevant standard for purposes of Rule 26(c) is whether “‘good cause’ exists to protect th[e] information from being disclosed to the public by balancing the needs for discovery against the need for confidentiality.” *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002). This “good cause” standard presents a lower burden for the party wishing to seal documents than the “compelling reasons” standard. The cognizable public interest in judicial records that underlies the “compelling reasons” standard does not exist for documents produced between private litigants. *See Kamakana*, 447 F.3d at 1180 (holding that “[d]ifferent interests are at stake with the right of access than with Rule 26(c)"); *Foltz*, 331 F.3d at 1134 (“When discovery material is filed with the court . . . its status changes.”).

Pintos v. Pac. Creditors Ass'n, 605 F.3d 665, 677-678 (9th Cir. 2010).

III. ARGUMENT

Exhibit “A”, the body camera video of HPD Officer Keith Taira shows him arriving on scene where another HPD officer had initiated a traffic stop of Plaintiff, and placing Plaintiff under arrest for an extradition warrant out of Florida. The recording depicts Officer Taira advising Plaintiff of the Florida extradition warrant and the specific criminal charge against him (i.e., “Criminal Mischief”). The recording also depicts other third-party officers who were not directly involved with Plaintiff’s arrest but present on-scene. This recording is relevant to “Count II” of the Complaint in which Plaintiff alleges that HPD failed to inform him of the nature and cause of the accusation against him in violation of his constitutional rights.

The need for transparency does not weigh as heavily in this case as it does in other cases involving “excessive use of force” claims, wrongful death cases, etc. Plaintiff is a public figure with a significant and passionate online following.¹

¹ Plaintiff testified under oath that, following his extradition arrest, he “was told by multiple officers that people were calling HPD constantly. Some of my fans from YouTube were calling HPD.” *Wieland Depo.* at 77:3-4.

The City's interest in shielding Officer Taira and other third-party officers from any possible negative effects of disclosure of the recording outweighs the public's interest in viewing the BWC footage of Plaintiff's arrest.

Exhibit "I" is a copy of the Manual of Procedure of Honolulu Police Department's ("HPD") Criminal Investigation Division for Extraditions, dated October 9, 2024 ("MOP"). The MOP is an intergovernmental policy which is not publicly available. This document is relevant to Plaintiff's *Monell* claim against the City (based on a failure-to-train/inadequate policy theory) and the City's defense against said claim.

HRS § 92F-13, sets forth exceptions to the general rule of disclosure, and in including "[g]overnment records which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy," as well as "[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(1) and (3).

The files sought to be filed under seal, Exhibits "A" and "I", include body-worn camera footage of Plaintiff's extradition arrest and HPD's interdepartmental policies and procedures, both of which implicate either invasion of personal privacy or potential frustration of a legitimate government function under HRS § 92F and should be exempt from disclosure.

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IV. CONCLUSION

The City requests that the Court grant its motion to file Exhibits “A” and “I” to their Motions for Summary Judgment under seal.

DATED: Honolulu, Hawai‘i, June 27, 2025.

DANA M.O. VIOLA
Corporation Counsel

/s/ Kourtney H. Wong
KOURTNEY H. WONG
SHEENA M. CRAIL
Deputies Corporation Counsel

Attorneys for Defendants
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Defendants.

Civil No. 24-00215-DKW-RT

DECLARATION OF COUNSEL

DECLARATION OF COUNSEL

I, KOURTNEY H. WONG, do declare upon personal knowledge and under penalty of law that the following is true and correct:

1. I am an attorney licensed to practice law in all of the courts of the State of Hawai‘i and the United States District Court for the District of Hawai‘i. I am a member in good standing of all of the aforementioned courts.

2. I am a Deputy Corporation Counsel for the City and County of Honolulu (“City”), and I represent the City and Honolulu Police Department Detective Damien Desa, (collectively, “Defendants”) in this matter.

3. Proposed **Exhibit A** is a true and correct copy of HPD Officer Keith

Taira's body-worn camera footage of Plaintiff PATRICK ANDREW WIELAND's ("Plaintiff") extradition arrest on October 11, 2022, produced by the City in discovery [C000083_Arrest].

4. Proposed **Exhibit I** is a true and correct copy of *MOP No. 200.12 – Criminal Investigation Division: Extradition, Fugitives*, dated October 9, 2024 [C000670- C000700], produced by the City in discovery.

5. The City produced the documents pursuant to the Stipulated Protective Order ("SPO") filed herein on September 3, 2024. As more fully explained at Dkt. 29, pp. 2, 5, this SPO prohibits the parties from disclosing or filing the documents produced by the City which have been designated as "Confidential" without first obtaining leave of court.

6. Defendants request leave to file Exhibits "A" and "I" under seal because they include body-worn camera footage of Plaintiff's extradition arrest and HPD's interdepartmental policies and procedures which implicate either invasion of personal privacy or potential frustration of a legitimate government function under HRS § 92F.

7. Defendants also request leave to file Exhibit "A" under seal because the interest in shielding Officer Taira and other third-party officers from any possible negative effects of disclosure of the recording outweighs the public's interest in viewing the BWC footage of Plaintiff's arrest.

8. After further consideration, the City has withdrawn its “Confidential” designation of Exhibits “B”-“D” and “F”-“H” to the Motions for Summary Judgment. Unredacted versions of these exhibits will be filed as publicly available documents.

9. Plaintiff was notified, in writing, of the City’s withdrawal of such designations on June 25, 2025.

10. During his deposition, Plaintiff testified that following his extradition arrest, he “was told by multiple officers that people were calling HPD constantly. Some of my fans from YouTube were calling HPD.”

I declare under penalty of perjury under the laws of the State of Hawai‘i that the foregoing is true and correct.

DATED: Honolulu, Hawai‘i, June 27, 2025.

/s/ Kourtney H. Wong
KOURTNEY H. WONG