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STATE OF HAWAII
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Dkt. 598 MOT

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI'I

ISAAC WILLIAM CHOY,

vs.

STATE OF HAWAI'I, HAWAI'I TOURISM AUTHORITY; et al.,

Defendants.

CIVIL NO. 1CCV-25-967 (TRT)

NONPARTY PUBLIC FIRST LAW CENTER'S MOTION TO UNSEAL COURT RECORDS; MEMORANDUM OF LAW IN SUPPORT OF MOTION; and NOTICE OF MOTION

TRIAL DATE: September 9, 2026

JUDGE: Hon. Taryn R. Tomasa

NONPARTY PUBLIC FIRST LAW CENTER'S MOTION TO UNSEAL COURT RECORDS

Pursuant to the constitutional right of access provided by the First Amendment to the U.S. Constitution; article I, section 4 of the Hawai'i Constitution; the common law right of access; and Hawai'i Court Records Rule (HCRR) 10.10, Nonparty Public First Law Center (Public First) respectfully moves to unseal docket entries 313 and 317.

DATED: Honolulu, Hawai'i, October 9, 2026

ROBERT BRIAN BLACK
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI'I

ISAAC WILLIAM CHOY, vs. STATE OF HAWAI'I, HAWAI'I TOURISM AUTHORITY; et al., Defendants.	CIVIL NO. 1CCV-25-967 (TRT) MEMORANDUM OF LAW IN SUPPORT OF MOTION

MEMORANDUM OF LAW IN SUPPORT OF MOTION

Public First moves for public access to exhibits submitted in support of motions for summary judgment filed August 10, 2026 (Dkt. 313, 317), by Defendants State of Hawai'i, Hawai'i Tourism Authority (HTA), Caroline Anderson (Anderson), and Brooke Wilson (Wilson). Dkt. 311 and 315.[1] Defendants improperly used HCRR 9.1 to unilaterally seal the exhibits without following the procedural or substantive standards for sealing.

Public First respectfully requests that the Court unseal Dkt. 313 and 317.

I. Factual Background

Plaintiff Isaac William Choy (Choy) asserted several claims against Defendants arising from an investigation into allegations of workplace discrimination and harassment concerning Choy. Dkt. 77. On August 10, 2026, Defendants filed two motions for summary judgment. Dkt. 308, 309. In support, they filed two exhibits under seal without first seeking leave of the Court. Dkt. 311, 315; *see also* Dkt. 118 at 3-4 (stipulated protective order) ("No document may be filed under seal merely because it harms a government agency's reputation or reveals potential wrongdoing.").[2] One exhibit is an excerpted transcript of Choy's deposition testimony. Dkt. 311 at 2; Dkt. 315 at 2. The other exhibit is an "Investigation Report." *Id.*

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[1] Public First has conventionally filed this motion because, if added as an electronic filer to the case, it would have electronic access to the sealed documents. HCRR 10.4.

[2] Pinpoint citations to "Dkt." reference the page of the corresponding PDF.

This Court granted in part and denied in part Defendants' summary judgment motions. Dkt. 384. A jury trial concluded in September with an award of over $500,000 for Choy on the claims against individual defendants.

II. Legal Standards

The public has constitutional rights to access judicial proceedings and records, including records filed in civil cases. *Grube v. Trader*, 142 Hawai'i 412, 422, 420 P.3d 343, 353 (2018); *accord Oahu Publc'ns, Inc. v. Ahn*, 133 Hawai'i 482, 493 & n.14, 496 & n.18, 507, 331 P.3d 460, 471 & n.14, 474 & n.18, 485 (2014); *Estate of Campbell*, 106 Hawai'i 453, 462-63, 106 P.3d 1096, 1105-06 (2005) (observing that the public generally has the right "to inspect and copy public records and documents, including judicial records"); *Roy v. Gov't Emp. Ins. Co.*, 152 Hawai'i 225, 233, 524 P.3d 1249, 1257 (App. 2023) ("The supreme court and this court have indicated that these procedural and substantive prerequisites for sealing court documents should be applied in at least some, if not all, civil proceedings."); *see also Civil Beat Law Ctr. for the Pub. Interest, Inc. v. Maile*, 117 F.4th 1200, 1208 (9th Cir. 2024) ("In the decades since the Supreme Court first articulated the experience and logic test, we have concluded that the presumptive First Amendment right of public access attaches broadly to criminal and civil proceedings.").

"[T]here is a strong presumption that court proceedings and the records thereof shall be open to the public." *Grube*, 142 Hawai'i at 428, 420 P.3d at 359. The proponent of sealing has the burden to overcome this presumption of access. *Oregonian Publ'g Co. v. U.S. Dist. Court*, 920 F.2d 1462, 1467 (9th Cir. 1990).

To meet its burden, the proponent of secrecy must provide an adequate basis for this Court to find: (1) the closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, this compelling interest would be harmed; and (3) there are no alternatives to closure that would adequately protect the compelling interest. *Grube*, 142 Hawai'i at 424-426, 420 P.3d at 355-357; *Ahn*, 133 Hawai'i at 507, 331 P.3d at 485 (burden must be met with specific facts; trial court may not rely on "generalized concerns").

"To qualify as compelling, the interest must be of such gravity as to overcome the strong presumption in favor of openness. . . . [T]he asserted interest must be of such

consequence as to outweigh both the right of access of individual members of the public and the general benefits to public administration afforded by open trials." *Grube*, 142 Hawai'i 425-26, 420 P.3d at 356-57. If a compelling interest exists, "a court must find that disclosure is sufficiently likely to result in irreparable damage to the identified compelling interest." *Ahn*, 133 Hawai'i at 507, 331 P.3d at 485. "It is not enough that damage could possibly result from disclosure, nor even that there is a 'reasonable likelihood' that the compelling interest will be impeded; there must be a 'substantial probability' that disclosure will harm the asserted interest." *Grube*, 142 Hawai'i at 426, 420 P.3d at 357. The harm "must be irreparable in nature." *Id.*

If there is a compelling interest that would be irreparably harmed by disclosure, redaction is an adequate alternative to concealing an entire document from the public. *Ahn*, 133 Hawai`i at 507-08, 331 P.3d at 485-86; *accord Oahu Public'ns Inc. v. Takase*, 139 Hawai'i 236, 246-47, 386 P.3d 873, 883-84 (2016). "[S]imply preserving the comfort or official reputations of the parties is not sufficient justification [for closure]." *Grube*, 142 Hawai'i at 425, 420 P.3d at 356.

To justify sealing, this Court must make "specific findings" regarding each element of the substantive standards. *Ahn*, 133 Hawai'i at 507, 331 P.3d at 485; *Grube*, 142 Hawai'i at 424-25, 420 P.3d at 355-56. In rejecting a trial court's bare reference to generic concerns, the Hawai`i Supreme Court emphasized the need for facts and evidence:

> The trial court may not rely on generalized concerns, but must indicate facts demonstrating compelling interest justifying the continued sealing of the documents. Additionally, the court must specifically explain the necessary connection between unsealing the transcript and the infliction of irreparable damage resulting to the compelling interest.

Grube, 142 Hawai'i at 424-25, 420 P.3d at 355-56. "In the absence of such details, there is nothing by which the court could have determined that the asserted interest was of sufficient gravity to displace the strong presumption in favor of openness." *Id.* at 426, 420 P.3d at 357.

III. HCRR 9 does not authorize blanket sealing of evidence.

HCRR prohibits the public filing of "personal information." HCRR 9.1(a). That term is expressly limited to "social security numbers, dates of birth (except for traffic citations), names of minor children, bank or investment account numbers, and social service reports." HCRR 2.19. Moreover, HCRR 2.19 contemplates *some* public disclosure of personal information:

> To the extent a social security or account number is required in an accessible document, the last 4 digits may be displayed, provided that no more than half of the social security or account digits are disclosed. To the extent a birthdate is required in an accessible document, the birth year may be displayed. Except as provided in Rule 9.1, to the extent the name of a minor is required in an accessible document, the initials of the minor may be displayed.

Id. Only when "a complete social security number, account number, birthdate, or name of a minor child is required for adjudication of a case" is a sealed filing under HCRR 9.1 cover appropriate. *Id.*

Defendants obviously exceeded the scope of automatic sealing contemplated by HCRR 2.19 and 9.1. Defendants have not identified any "personal information" warranting protection. Dkt. 311, 315. Nor could it be that *everything* in the sealed exhibits is "personal information" under the rules. That is plainly not the case. *E.g.*, Dkt. 309 at 12-14 (quoting from the deposition transcript) and 11-17 (quoting from the investigation report).

IV. Defendants did not meet their burden to seal judicial records.

First, the law plainly requires a motion and judicial findings *before* a judicial record may be sealed. *E.g.*, *Ahn*, 133 Hawai'i at 507, 331 P.3d at 485; *Grube*, 142 Hawai'i at 424-25, 420 P.3d at 355-56. And this Court specifically directed the parties to seek leave to file purportedly confidential documents under seal. Dkt 118 at 3-4 ("To the extent any Party seeks to file confidential documents under seal, the moving Party must first obtain leave of the Court and bears the burden of overcoming the presumption in favor of public access to Court records."). Defendants did not do that. Dkt. 311, 315.

Second, generic concerns and conclusory statements are not sufficient to seal judicial records. *Grube*, 142 Hawai'i at 424-25, 420 P.3d at 355-56; *Ahn*, 133 Hawai'i at

505, 331 P.3d at 483 ("While these reasons are indisputable in the generic sense, they do not as stated provide sufficient justification for a closure of a court proceeding."); *accord Roy v. GEICO*, 152 Hawai'i at 342, 524 P.3d at 1267 (rejecting "[c]onclusory claims" as a basis for sealing). Defendants did not even offer that much. Dkt. 311, 315.

Third, the proponent of sealing must provide evidence of a "substantial probability" that a compelling interest—assuming one exists—would be "irreparably harmed" in the absence of closure. *Grube*, 142 Hawai'i at 424, 420 P.3d at 355. Defendants provided no such evidence. Dkt. 311, 315.

Fourth, the proponent of sealing must establish that there are *no* alternatives to closure that would adequately protect the compelling interest. *E.g., Ahn*, 133 Hawai'i at 505, 331 P.3d at 483 (requiring specific facts demonstrating reasonable alternatives to closure cannot adequately protect the defendant's fair trial rights). Defendants once again failed to do so. Dkt. 311, 315.

V. Conclusion

For the foregoing reasons, Public First respectfully requests that this Court unseal docket entries 313 and 317.

DATED: Honolulu, Hawai'i, October 9, 2026

ROBERT BRIAN BLACK
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI'I

ISAAC WILLIAM CHOY, vs. STATE OF HAWAI'I, HAWAI'I TOURISM AUTHORITY; et al., Defendants.	CIVIL NO. 1CCV-25-967 (TRT) NOTICE OF MOTION

NOTICE OF MOTION

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NOTICE IS HEREBY GIVEN that the undersigned has filed with the above-entitled court the attached motion to unseal. Any response to said motion must be filed and served no later than **10 days** after notice by the Clerk pursuant to Hawai'i Court Records Rules 10.10. Pursuant to Rule 6(e) of the Hawai'i Rules of Civil Procedure, if the motion is served by mail, any response to said motion must be filed and served no later than 12 days after notice by the Clerk.

DATED: Honolulu, Hawai'i, October 9, 2026

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