

FILED

DEC 19 2007

FOR PUBLICATION
UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

VIRGIL E. DAY; MEL
HOOMANAWANUI; JOSIAH L.
HOOHULI; PATRICK L.
KAHAWAIOLAA; SAMUEL L.
KEALOHA, JR.,

Plaintiffs - Appellants,

v.

HAUNANI APOLIONA, individually and
in her official capacity as Chairperson and
Trustee of the Office of Hawaiian affairs;
ROWENA AKANA; DANTE
CARPENTER; DONALD CATALUNA;
LINDA KEAWE'EHU DELA CRUZ;
COLETTE Y. PI'UPI MACHADO; BOYD
P. MOSSMAN; OSWALD K. STENDER;
JOHN D. WAIHEE, IV, Trustees of the
Office of Hawaiian Affairs of the State of
Hawaii, sued in their official capacities for
declaratory and prospective injunctive
relief; sued in individual capacities for
damages; CLAYTON HEE; CHARLES
OTA, Former Trustees of the Office of
Hawaiian Affairs of the State of Hawaii,
sued in their individual capacities for
damages,

Defendants - Appellees.

No. 06-16625

D.C. No. CV-05-00649-SOM
District of Hawaii,
Honolulu

ORDER

Before: THOMPSON, BERZON, and TALLMAN, Circuit Judges.

The opinion is amended to remove the words “*sua sponte*” on page six of the slip opinion (page 9431).