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23 KAMEHAMEHA SCHOOLS/BERNICE PAUAAHI
24 BISHOP ESTATE; J. DOUGLAS ING, NAINOA
25 THOMPSON, DIANE J. PLOTTS, ROBERT K.U. KIHUNE,
26 and CORBETT A.K. KALAMA, in their capacities
27 as Trustees of the Kamehameha Schools/Bernice Pauahi Bishop Estate

28 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERIC GRANT,

Plaintiff,

v.

KAMEHAMEHA SCHOOLS/BERNICE PAUAAHI
BISHOP ESTATE; et al.,

Defendants.

And Related Cross and Counterclaims.

CASE NO. 2:08-cv-00672-FCD-KJM

NOTICE OF MOTION AND KAMEHAMEHA
SCHOOLS DEFENDANTS' AND CROSS-
CLAIM DEFENDANTS' MOTION TO
DISMISS

Date: October 31, 2008

Time: 10:00 a.m.

Courtroom: 2

Before: Hon. Frank C. Damrell, Jr.

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NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants and Cross-Claim Defendants KAMEHAMEHA SCHOOLS/BERNICE PAUahi BISHOP ESTATE; J. DOUGLAS ING, NAINOA THOMPSON, DIANE J. PLOTTS, ROBERT K.U. KIHUNE, and CORBETT A.K KALAMA, in their capacities as Trustees of the Kamehameha Schools/ Bernice Pauahi Bishop Estate (collectively “KS”), acting by and through counsel, will and hereby move this Court for an order dismissing this action or, in the alternative, all claims for relief asserted against KS in Plaintiff’s Complaint for Declaratory Relief (“Complaint”) and John and Jane Doe’s Cross-Claim for Temporary Restraining Order; Preliminary Injunction; and Permanent Injunction; and for Declaratory Relief; and Counter-Claim for Indemnity. This Motion shall be brought for hearing before the Honorable Frank C. Damrell, United States District Court, Eastern District of California, in Sacramento, California, on October 31, 2008, at 10:00 o’clock a.m.

DATED: July 9, 2008

ALSTON HUNT FLOYD & ING

BINGHAM McCUTCHEN LLP

By: /s/ Paul Alston

PAUL ALSTON

CLYDE J. WADSWORTH

Attorneys for Defendants and Cross-Claim Defendants KAMEHAMEHA SCHOOLS/BERNICE PAUahi BISHOP ESTATE; J. DOUGLAS ING, NAINOA THOMPSON, DIANE J. PLOTTS, ROBERT K.U. KIHUNE, and CORBETT A.K. KALAMA, in their capacities as Trustees of the Kamehameha Schools/Bernice Pauahi Bishop Estate

1 **THE KAMEHAMEHA SCHOOLS DEFENDANTS AND**
2 **CROSS-CLAIM DEFENDANTS' MOTION TO DISMISS**

3 Defendants and Cross-Claim Defendants KAMEHAMEHA SCHOOLS/BERNICE PAUAAHI
4 BISHOP ESTATE; J. DOUGLAS ING, NAINOA THOMPSON, DIANE J. PLOTTS, ROBERT K.U.
5 KIHUNE, and CORBETT A.K KALAMA, in their capacities as Trustees of the Kamehameha Schools/
6 Bernice Pauahi Bishop Estate (collectively the "KS"), by this motion respectfully move this Court for an
7 order dismissing with prejudice the Complaint against KS, as well as the Cross-claim filed by Jane and
8 John Doe.

9 This Motion is brought pursuant to Rule 12(b)(1) and (2) of the Federal Rules of Civil Procedure
10 on the grounds that (1) this Court lacks subject matter jurisdiction over this action because when the
11 parties are properly re-aligned, there is no diversity jurisdiction under 28 U.S.C. § 1332; (2)
12 alternatively, this Court lacks personal jurisdiction over KS and all claims asserted against it must be
13 dismissed; and (3) alternatively, even if there are otherwise no jurisdictional defects, the Court should
14 exercise its discretion to decline its jurisdiction and dismiss this action because Plaintiff has no proper
15 basis for seeking relief under the Declaratory Judgment Act (28 U.S.C. § 2201).

16 This Motion is based on the memorandum of points and authorities, declarations and exhibits in
17 support of this Motion, the Appendix and attached exhibits, the Request for Judicial Notice and attached
18 exhibits, the Notice of Manual Filing and attached exhibits, the Motion to File Under Seal and attached
19 exhibits to be filed in support of this Motion to Dismiss, the pleadings, records and papers on file in this
20 action, the arguments of counsel and any other matters properly before this Court.

21 DATED: July 9, 2008

ALSTON HUNT FLOYD & ING

BINGHAM McCUTCHEN LLP

By: /s/ Paul Alston

PAUL ALSTON

CLYDE J. WADSWORTH

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