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

17 UNITED STATES DISTRICT COURT  
18 EASTERN DISTRICT OF CALIFORNIA

19 ERIC GRANT,

20 Plaintiff,

21 v.

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

26 Defendants.

27 And Related Cross and Counterclaims.  
28

No. 08-00672 FCD-KJM

REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF THE KAMEHAMEHA  
SCHOOLS DEFENDANTS AND CROSS-  
CLAIM DEFENDANTS' MOTION TO  
DISMISS; EXHIBITS 1-3, 6, 10-16, AND  
18

Date: October 31, 2008

Time: 10:00 a.m.

Courtroom: 2

Before: Hon. Frank C. Damrell, Jr.

1 Pursuant to Federal Rule of Evidence 201, Defendants and Cross-Claim  
2 Defendants Kamehameha Schools/Bernice Pauahi Bishop Estate and J. Douglas Ing, Nainoa  
3 Thompson, Diane J. Plotts, Robert K.U. Kihune, and Corbett A.K. Kalama, in their capacities as  
4 Trustees of the Kamehameha Schools/Bernice Pauahi Bishop Estate (collectively “KS”),  
5 respectfully request that the Court take judicial notice of the existence of the following court  
6 filings, order, docket reports, news articles and video newsclips in support of its Motion To  
7 Dismiss:

- 8 • Plaintiff John Doe’s Complaint for Declaratory Relief, Injunctive Relief,  
9 and Damages; Summons, Demand for Jury Trial in the United States  
10 District Court, District of Hawaii (“USDC Hawaii”) lawsuit entitled *John*  
11 *Doe v. Kamehameha Schools/Bernice Pauahi Bishop Estate, et al.*; Civil  
12 No. 03-00316 ACK-LEK, filed June 25, 2003. A true and correct copy of  
13 this document is attached hereto as Exhibit 1.
- 14 • USDC Hawaii’s Docket Sheet of *John Doe v. Kamehameha*  
15 *Schools/Bernice Pauahi Bishop Estate, et al.*; Civil No. 03-00316 ACK-  
16 LEK. A true and correct copy of this document is attached hereto as  
17 Exhibit 2.
- 18 • Application of Kathleen M. Sullivan to Appear Pro Hac Vice; Consent of  
19 David Schulmeister; Declaration of Kathleen M. Sullivan; Order  
20 Permitting Kathleen M. Sullivan to Appear Pro Hac Vice; Certificate of  
21 Service in the USDC Hawaii lawsuit entitled *John Doe v. Kamehameha*  
22 *Schools/Bernice Pauahi Bishop Estate, et al.*; Civil No. 03-00316 ACK-  
23 LEK, filed September 22, 2003. A true and correct copy of this document  
24 is attached hereto as Exhibit 3.
- 25 • General Docket of the United States Court of Appeals for the Ninth  
26 Circuit concerning the USDC Hawaii lawsuit entitled *John Doe v.*  
27 *Kamehameha Schools/Bernice Pauahi Bishop Estate, et al.*; Civil No. 03-  
28 00316 ACK-LEK. A true and correct copy of this document is attached  
hereto as Exhibit 6.
- A website article from Honolulu, Hawai`i based newspaper, The Honolulu  
Advertiser, downloaded from the hawaii.com website entitled:  
*Kamehameha Schools Settled Lawsuit for \$7M* by Jim Dooley, dated  
February 2, 2008. A true and correct copy of this document is attached  
hereto as Exhibit 10.
- A website article downloaded from the starbulletin.com website article  
entitled: *Amount of Settlement Raises Critical Concern* by Robert Shikina,  
dated February 9, 2008. A true and correct copy of this document is  
attached hereto as Exhibit 11.

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- A website article downloaded from the starbulletin.com website entitled: *\$7M An Attorney Involved in a Challenge to Kamehameha Schools' Hawaiian-Only Policy Reveals the Amount of a Settlement* by Ken Kobayashi, dated February 9, 2008. A true and correct copy of this document is attached hereto as Exhibit 12.
- A website news article downloaded from the KPUA.net website, entitled: *Attorney Gets Jail for Revealing Kamehameha Settlement Amount* by Associated Press, dated April 25, 2008. A true and correct copy of this document is attached hereto as Exhibit 13.
- A newsclip from the newscast on the Honolulu, Hawai`i-based television station KGMB, aired February 8, 2008 at 5 p.m. A true and correct copy of this video segment will be manually filed separately on a DVD as Exhibit 13a.
- A newsclip from the newscast on the Honolulu, Hawai`i-based television station KGMB, aired February 8, 2008 at 6 p.m. A true and correct copy of this video segment will be manually filed separately on a DVD as Exhibit 13b.
- A newsclip from the newscast on the Honolulu, Hawai`i-based television station KITV, aired February 8, 2008 at 6 p.m. A true and correct copy of this video segment will be manually filed separately on a DVD as Exhibit 13c.
- A newsclip from the newscast on the Honolulu, Hawai`i-based television station KGMB, aired February 8, 2008, at 10 p.m. A true and correct copy of this video segment will be manually filed separately on a DVD marked as Exhibit 13d.
- A newsclip from the newscast on the Honolulu, Hawai`i-based television station KITV, aired February 8, 2008 at 10 p.m.. A true and correct copy of this video segment will be manually filed separately on a DVD as Exhibit 13e.
- A compilation of various news articles concerning the Kamehameha Schools settlement with the Does. A true and correct copy of this document is attached hereto as Exhibit 14.
- Plaintiff Eric Grant's Amended Complaint for Breach of Settlement Agreement, Declaratory Relief, Breach of Written Fee Agreement, and Quantum Meruit in the United States District Court, Eastern District of California lawsuit entitled *Grant v. John Doe and Jane Doe*; No. CV 2:07-CV-01087-GEB-EFB, dated July 7, 2007. A true and correct copy of this document is attached hereto as Exhibit 15.

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- Plaintiff Eric Grant’s Complaint for Declaratory Relief and for Quantum Meruit in the Superior Court of the State of California, in and for the County of Sacramento lawsuit entitled *Grant v. John Goemans, et al.*; No. 07AS04172, filed September 11, 2007. A true and correct copy of this document is attached hereto as Exhibit 16.
  - Order on Amended Order to Show Cause Re: Contempt, filed in the Superior Court of the State of California, in and for the County of Sacramento lawsuit entitled *Grant v. John Goemans, et al.*; No. 07AS04172, dated May 14, 2008. A true and correct copy of this document is attached hereto as Exhibit 18.

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**DISCUSSION**

11 The Court may take judicial notice of court filings in earlier related proceedings

12 in other tribunals which have a “direct relation to the matters at issue.” *United States v. S. Cal.*

13 *Edison Co.*, 300 F. Supp. 2d 964, 974 (E.D. Cal. 2004) (judicial notice can be taken of the

14 existence of matters of public record, of filings or representations having been made). The Court

15 may take judicial notice of documents filed and orders or decisions entered in any federal or state

16 court. *See Holder v. Holder*, 305 F.3d 854, 866 (9th Cir. 2002); *Harris v. Florida Elections*

17 *Comm’s*, 235 F.3d 578, 579 (11th Cir. 2000); *United States v. Warneke*, 199 F.3d 906, 909 n.1

18 (7th Cir. 1999). The Court may take judicial notice of such documents “not for the truth of the

19 facts recited therein, but for the existence of the opinion, which is not subject to reasonable

20 dispute over its authenticity.” *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir.

21 2001)(quotation and citation omitted). Therefore, this Court may appropriately take judicial

22 notice of the court filings, docket sheets and order designated above as Exhibits 1-3, 6, 15, 16

and 18.

23 The Court may take judicial notice of news articles and/or television news clips regarding

24 the subject in litigation. *See Gafoor v. I.N.S.* 231 F.3d 645 (9th Cir. 2000) (judicial notice of

25 recent events in Fiji reported in news articles used as evidence relevant to an issue in dispute).

26 *See Heliotrope Gen., Inc. v. Ford Motor Co.*, 189 F. 3d 971 (9th Cir. 1999) (judicial notice taken

27 that information in news articles was available in the public realm). Therefore, this Court may

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