

SUMMONS ISSUED 10328

~~FILED~~
~~ENDORSED~~

07 SEP 11 PM 4:16
LEGAL PROCESS #9

1 JAMES J. BANKS (SBN 119525)
2 BANKS & WATSON
3 Hall of Justice Building
4 813 6th Street, Suite 400
5 Sacramento, CA 95814-2403
6 (916) 325-1000
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8 Attorneys for Plaintiff
9 ERIC GRANT

CIVIL DIVISION
0115 - 000216725
09/13/2007 11:02:51 AM
07AS04172 - Fee PAID: \$320.00
\$320.00 - Civil New Filing -
Superior Court

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SACRAMENTO

11 ERIC GRANT,
12 Plaintiff,
13 v.
14 JOHN GOEMANS, and ROES 1 through 10,
15 inclusive,
16 Defendants.

Case No.: 07AS04172
COMPLAINT FOR DECLARATORY RELIEF
AND FOR QUANTUM MERUIT

17
18 Plaintiff ERIC GRANT (hereinafter "Plaintiff" or "Mr. Grant") alleges against defendants and
19 each of them as follows:

20 1. Mr. Grant is, and at all times mentioned in this complaint was, an individual, resident of
21 the state of California, licensed and admitted to practice law by the State of California and doing
22 business in Sacramento, Sacramento County, California.

23 2. Mr. Grant is informed and believes and thereon alleges that defendant JOHN GOEMANS
24 (hereinafter "Defendant" or "Mr. Goemans") is, and at all times herein mentioned in this complaint was,
25 an individual licensed and admitted to practice law by the State of Hawaii, and that Mr. Goemans is, and
26 at some substantial portion of the times herein mentioned in this complaint was, a resident of the State of
27 California.

28 {00035039.DOC; 1}

COMPLAINT FOR DECLARATORY RELIEF AND FOR QUANTUM MERUIT

EXHIBIT 16

1 3. This action is filed to ascertain the Defendants' rights, if any, and the extent of any such
2 rights, to fees for professional legal services provided to persons referred to hereinafter as Jane Doe and
3 John Doe which legal services were substantially performed in the state of California.

4 4. The true names and capacities, whether individual, corporate, or otherwise, of the
5 Defendants named herein as ROES 1 through 10, inclusive, are unknown to Mr. Grant, who therefore
6 sues said Defendants under fictitious names. Mr. Grant is informed and believes, and based on that
7 information and belief alleges, that each of the Defendants designated herein as a "ROE" Defendant is
8 responsible in some manner for the events and circumstances described herein, and caused damage to
9 him as alleged herein. Mr. Grant will seek leave to amend this complaint to allege their true names and
10 capacities when ascertained.

11 5. Mr. Grant is informed and believes and based on that information and belief alleges, that
12 at all times mentioned herein, each Defendant was the agent, servant, and/or employee of each of the
13 other remaining Defendants, and in doing the things alleged herein, was acting within the course and
14 scope of said agency, service, and/or employment to the other Defendants.

15 6. The contingent fee agreement underlying this litigation was made in Sacramento County,
16 and contains a provision fixing venue at Sacramento, California.

17 7. As set forth below with more particularity, in or about 2003, Mr. Grant and
18 Mr. Goemans, as co-counsel, and subsequently only Mr. Grant, represented plaintiffs John Doe and Jane
19 Doe, a minor child and his mother, in federal civil rights litigation initiated in the United States District
20 Court for the District of Hawaii. The plaintiffs were designated John Doe and Jane Doe because that
21 litigation was extremely controversial and involved a danger of invasion of privacy, retaliation and
22 physical or mental harm to such a degree that the District Court permitted the plaintiffs to litigate that
23 case using fictitious names. Additionally, the settlement agreement resolving this federal civil rights
24 litigation required all parties and counsel to maintain the confidentiality of the identities of John Doe and
25 Jane Doe. The obligation to maintain that confidentiality is subject to exceptions, one of which may
26 apply here. Nevertheless, out of an abundance of caution, Mr. Grant refers to these individuals here
27 using fictitious names.

1 8. On or about June 17, 2003, Mr. Grant entered into a written Attorney-Client Engagement
2 Agreement with Jane Doe pursuant to which Jane Doe engaged Mr. Grant and Mr. Grant's law firm,
3 Sweeney & Grant LLP, to represent her in connection with an anticipated lawsuit as next friend for her
4 child, John Doe, against Kamehameha Schools/Bishop Estate ("KSBE") in the United States District
5 Court for the District of Hawaii. The law firm of Sweeney & Grant subsequently assigned its rights in
6 and to the fee agreement referenced above to Mr. Grant. The purpose of the anticipated lawsuit was to
7 seek a declaration from the United States District Court that KSBE's self-described preference for
8 student applicants of native Hawaiian ancestry constituted discrimination on the basis of race in
9 violation of federal civil rights statutes. The anticipated lawsuit would also seek injunctions ordering
10 KSBE to admit applicants to Kamehameha Schools without regard to their race or ancestry and in
11 particular to admit John Doe to a KSBE campus. Finally, the anticipated lawsuit would seek money
12 damages from KSBE. Mr. Grant proceeded to file the litigation against KSBE on the Does' behalf,
13 which litigation is hereinafter referred to as the *Doe v. Kamehameha Schools* litigation.

14 9. From approximately June, 2003 to May, 2007 defendant Goemans was putative co-
15 counsel with Mr. Grant in representing John Doe and Jane Doe in the *Doe v. Kamehameha Schools*
16 litigation.

17 10. Mr. Grant is informed and believes and based on such information and belief alleges, that
18 Defendant Goemans does not have and has never had any written fee agreement with John Doe or Jane
19 Doe for his retention or for professional services rendered on their behalf in the *Doe v. Kamehameha*
20 *Schools* litigation.

21 11. On or about May 11, 2007, the parties in the *Doe v. Kamehameha Schools* litigation
22 entered into a settlement and general release agreement. Paragraph 7 of the settlement and general
23 release provides that the amount of the settlement and the true names and addresses or any other
24 information identifying John Doe and Jane Doe or their family is and would remain confidential, save
25 and except "when necessary to effectuate the purposes and benefits of the settlement agreement and
26 general release," pursuant to court order, or when necessary to obtain tax, accounting, legal or other
27 professional advice. Although Mr. Grant believes that this complaint is filed to effectuate the purposes
28 and benefits of the settlement agreement and may thus be subject to that exception to the confidentiality

1 provision, out of an abundance of caution, he will continue to keep the amount of the settlement and the
2 identities of John and Jane Does confidential until this Court rules on the applicability of the
3 confidentiality provision in this litigation.

4 12. The *Doe v. Kamehameha Schools* litigation settlement included the payment of monetary
5 damages to the plaintiffs therein and the Kamehameha Schools defendant-trustees funded the settlement.

6 13. Thereafter, a dispute arose between Mr. Grant and John Doe and Jane Doe over the
7 amount of attorneys' fees which Mr. Grant was owed under the fee agreement with the Does.

8 14. In late May 2007, Mr. Grant and John Doe and Jane Doe settled the fee dispute, agreeing
9 that the attorneys' fee to be paid to Mr. Grant would be 40% of the settlement proceeds from the *Doe v.*
10 *Kamehameha Schools* litigation. Thereafter Jane Doe and John Doe repudiated the settlement.

11 15. In June 2007, Mr. Grant initiated litigation against Jane Doe and John Doe in the United
12 States District Court for the Eastern District of California, styled *Eric Grant v. John Doe and Jane Doe*,
13 Case No. 2:07-CV-01087-GEB-EFB to among other things enforce the settlement described in
14 paragraph 14. In early September of 2007, Mr. Grant and John Doe and Jane Doe entered into a written
15 settlement agreement resolving their dispute over the payment to Mr. Grant of the disputed attorneys'
16 fees. The settlement agreement also confirms that the attorneys' fee to be paid to Mr. Grant would be
17 40% of the settlement proceeds from the *Doe v. Kamehameha Schools* litigation.

18 16. Defendant Goemans has made demands on Mr. Grant and/or Jane Doe and/or John Doe
19 for fees he claims are due him for professional legal services allegedly provided to the Doe plaintiffs in
20 the *Doe v. Kamehameha Schools* litigation. Mr. Grant and the Does assert that at most Mr. Goermans
21 has a quantum meruit claim as to the attorneys' fee agreed to in the settlement described in paragraph 15
22 above.

23 FIRST CAUSE OF ACTION

24 (Declaratory Relief)

25 17. Mr. Grant repeats and incorporates by this reference as though set forth at length herein
26 each of the allegations contained in paragraphs 1 through 16, inclusive.

27 18. Mr. Grant is informed and believes and based on such information and belief alleges, that
28 Mr. Goemans has threatened to initiate litigation against Jane Doe and/or John Doe for attorneys' fees

1 he claims he is entitled to recover from them for professional legal services he allegedly provided on
2 their behalf in the *Doe v. Kamehameha Schools* litigation.

3 19. Mr. Grant is informed and believes and based on such information and belief alleges, that
4 Mr. Goemans has made these demands on Jane Doe and/or John Doe in spite of having actual
5 knowledge of the settlement and payment of fees as described in paragraph 15 above.

6 20. Mr. Grant, John Doe and Jane Doe claim and contend that the attorneys' fees,
7 constituting 40% of the of the settlement proceeds from the *Doe v. Kamehameha Schools* litigation, paid
8 to Plaintiff Grant pursuant to the settlement described hereinabove is the full and total amount of
9 attorneys' fees owed to attorneys Grant and/or Goemans as a result of legal representation of the Does'
10 interests in the *Doe v. Kamehameha Schools* litigation. Mr. Grant has standing to assert the Does'
11 claims and contentions in this regard because John Doe and Jane Doe have assigned him the right to do
12 so.

13 21. An actual and justiciable controversy has arisen and now exists between the parties to this
14 litigation as to the total amount and payment source of attorneys' fees owed for the legal representation
15 of John Doe's and/or Jane Doe's interests in the *Doe v. Kamehameha Schools* litigation.

16 22. Mr. Grant desires a judicial declaration that Defendant Goemans' rights and entitlement
17 to attorneys' fees, if any, as compensation for legal services allegedly rendered on behalf of John Doe
18 and/or Jane Doe in the *Doe v. Kamehameha Schools* litigation is or will be payable solely from the 40%
19 of the settlement proceeds paid to Mr. Grant as a result of his settlement with John Doe and Jane Doe
20 and that Defendant Goemans cannot recover any additional fees from Jane Doe or John Doe for any
21 such professional services.

22 WHEREFORE, Plaintiff prays for judgment as set forth below.

23 **SECOND CAUSE OF ACTION**

24 (Quantum Meruit)

25 23. Mr. Grant repeats and incorporates by this reference as though set forth at length herein
26 each of the allegations contained in paragraphs 1 through 22, inclusive.

27 24. Mr. Grant is informed and believes and based on such information and belief alleges, that
28 Defendant Goemans claims and contends that he provided professional legal services to John Doe and

1 Jane Doe and/or incurred costs on their behalf and for their benefits in connection with the *Doe v.*
2 *Kamehameha Schools* litigation. Although Mr. Goemans has no written fee agreement with Jane Doe or
3 John Doe, he claims and contends that the alleged professional legal services rendered to them and/or
4 the costs incurred on their behalf were performed and provided at their specific requests and with the
5 promise that he would be paid the reasonable value of such services provided and costs incurred.

6 25. Mr. Goemans has demanded fully one-half of the 40% of the settlement proceeds from
7 the *Doe v. Kamehameha Schools* litigation previously paid to Plaintiff Grant as his fees and/or costs for
8 the professional legal services he claims he provided to John Doe and/or Jane Doe in the *Doe v.*
9 *Kamehameha Schools* litigation.

10 26. Mr. Grant claims and contends that Defendant Goemans' services were of little, if any,
11 benefit to John Doe and/or Jane Doe (or to Mr. Grant) in the *Doe v. Kamehameha Schools* litigation.

12 27. Mr. Grant further claims and contends that Defendant Goemans, in derogation of his
13 professional duties of loyalty and confidentiality, has engaged in misconduct in connection with his
14 putative representation of John Doe and/or Jane Joe, such that any monetary claim arising out of such
15 representation that might be asserted by Defendant Goemans against Mr. Grant and/or John Doe and/or
16 Jane Doe would be subject to a complete defense under the doctrine of unclean hands. Mr. Grant has
17 therefore refused to pay Defendant Goemans' fee demand. In addition to standing in his own right,
18 Mr. Grant has standing to assert that affirmative defense because John Doe and Jane Doe have assigned
19 to Mr. Grant their rights, title and interest in and to any claims or defenses arising from their fee
20 agreement by and between them and Mr. Grant.

21 28. An actual and justiciable controversy has arisen and now exists between the parties to this
22 litigation as to the amount, if any, of the attorneys' fees and/or costs to which Defendant Goemans is
23 entitled for his putative legal representation of John Doe's and/or Jane Doe's interests in the *Doe v.*
24 *Kamehameha Schools* litigation.

25 29. Mr. Grant desires a judicial declaration as to the amount, if any, of the attorneys' fees
26 and/or costs to which Defendant Goemans is entitled for his putative legal representation of John Doe's
27 and/or Jane Doe's interests in the *Doe v. Kamehameha Schools* litigation.
28

1 WHEREFORE, Plaintiff prays for judgment as follows:

2 1. For a declaration by this Court that the attorneys' fees paid by John Doe and Jane Doe to
3 Mr. Grant, constituting 40% of the settlement proceeds from the *Doe v. Kamehameha Schools* litigation,
4 is the sum total of any and all attorneys' fees owed to Plaintiff Grant and/or Defendant Goemans as a
5 result of legal services provided by either attorney in the *Doe v. Kamehameha Schools* litigation;

6 2. For a declaration by this Court that the attorneys' fees and costs, if any, awarded to
7 Defendant Goemans in this action, under any theory, including but not limited to, quantum meruit or
8 unjust enrichment, shall be payable to him solely from the 40% of settlement proceeds from the *Doe v.*
9 *Kamehameha Schools* litigation, as paid by John Doe and Jane Doe following resolution of the fee
10 dispute between them and Mr. Grant and subject to the terms of the settlement agreement in *Eric Grant*
11 *v. John Doe and Jane Doe*, Case No. 2:07-CV-01087-GEB-EFB;

12 3. For a determination of the amount, if any, of the attorneys' fees and/or costs to which
13 Defendant Goemans is entitled for his putative legal representation of John Doe's and/or Jane Doe's
14 interests in the *Doe v. Kamehameha Schools* litigation;

15 4. For cost of suit incurred herein; and

16 5. For such other and further relief as the Court deems just and proper.

17
18 DATED: September 11, 2007

BANKS & WATSON

19
20
21 By: 

JAMES J. BANKS
Attorneys for Plaintiff ERIC GRANT

(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

JOHN GOEMANS, and ROES 1 through 10, inclusive,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
ENDORSED
07 SEP 11 PM 4:16
LEGAL PROCESS #9

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
ERIC GRANT

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

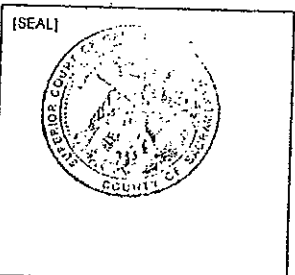
Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

CASE NUMBER:
(Número del Caso): 077504172

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
JAMES J. BANKS (SBN 119525)
BANKS & WATSON
813 Sixth Street, Suite 400
Sacramento, CA 95814
Tel: (916) 325-1000 Fax: (916) 325-1004

DATE: SEP 11
(Fecha) Clerk, by [Signature] Deputy
(Secretario) (Adjunto)



NOTICE TO THE PERSON SERVED: You are served
1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.80 (authorized person)
 other (specify):
4. by personal delivery on (date):

JAMES J. BANKS (SBN 119525)
BANKS & WATSON
813 Sixth Street, Suite 400
Sacramento, CA 95814

TELEPHONE NO.: (916) 325-1000 FAX NO.: (916) 325-1004
ATTORNEY FOR (Name): Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
STREET ADDRESS: 720 Ninth Street
MAILING ADDRESS:
CITY AND ZIP CODE: Sacramento, CA 95814
BRANCH NAME:

CASE NAME: ERIC GRANT v. JOHN GOEMANS and ROES 1
through 10, inclusive

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 07AS04172

JUDGE:
DEPT:

FILED
ENDORSED
07 SEP 11 PM 4:16
LEGAL PROCESS #9

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- Auto (22)
- Uninsured motorist (46)
- Other PI/DPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

- Asbestos (04)
- Product liability (24)
- Medical malpractice (45)
- Other PI/DPD/WD (23)

Non-PI/DPD/WD (Other) Tort

- Business tort/unfair business practice (07)
- Civil rights (08)
- Defamation (13)
- Fraud (16)
- Intellectual property (19)
- Professional negligence (25)
- Other non-PI/DPD/WD tort (35)

Employment

- Wrongful termination (36)
- Other employment (15)

Contract

- Breach of contract/warranty (06)
- Rule 3.740 collections (09)
- Other collections (09)
- Insurance coverage (18)
- Other contract (37)

Real Property

- Eminent domain/Inverse condemnation (14)
- Wrongful eviction (33)
- Other real property (26)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38)

Judicial Review

- Asset forfeiture (05)
- Petition re: arbitration award (11)
- Writ of mandate (02)
- Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

- Antitrust/Trade regulation (03)
- Construction defect (10)
- Mass tort (40)
- Securities litigation (28)
- Environmental/Toxic tort (30)
- Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- RICO (27)
- Other complaint (not specified above) (42)

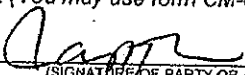
Miscellaneous Civil Petition

- Partnership and corporate governance (21)
- Other petition (not specified above) (43)

- 2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
a. Large number of separately represented parties d. Large number of witnesses
b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision
- 3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
- 4. Number of causes of action (specify): Two.
- 5. This case is is not a class action suit.
- 6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 11, 2007

JAMES J. BANKS (SBN 119525)
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.