

04-15044 Docket

Page 1 of 14

[Court Home](#)     
 [Case Search](#)     
 [Orders/Judgments](#)     
 [Billing History](#)     
 XML   
 TXT   
 Logout   
 Help

**General Docket**  
**United States Court of Appeals for the Ninth Circuit**

<b>Court of Appeals Docket #:</b> 04-15044 <b>Nature of Suit:</b> 3440 Other Civil Rights Doe, et al v. Kamehameha Schools, et al <b>Appeal From:</b> US District Court for Hawaii, Honolulu	<b>Docketed:</b> 01/12/2004 <b>Termed:</b> 12/05/2006
<b>Case Type Information:</b> 1) civil 2) private 3) null	
<b>Originating Court Information:</b> <b>District:</b> 0975-1 : CV-03-00316-ACK <b>Trial Judge:</b> Alan C. Kay, U.S. District Judge <b>Date Filed:</b> 06/25/2003 <b>Date Order/Judgment:</b> 12/22/2003 <b>Date NOA Filed:</b> 12/30/2003	
<b>Prior Cases:</b> None	
<b>Current Cases:</b> None	

JOHN DOE, a minor, by his mother and next friend, Jane Doe nfr Jane Doe Plaintiff - Appellant	John W. Goemans, Esq., Attorney Direct: 808/887-1199 [COR LD NTC Retained] P.O. Box 2849 Kamuela, HI 96743-0000
JOSEPHINE H. JOSEPHINE HELELANI PUAHI RABAGO Intervenor - -	Eric Grant, Esq., Attorney Direct: 916-388-0833 Fax: 916-691-3261 [COR LD NTC Retained] ATTORNEY AT LAW Suite 101 8001 Folsom Boulevard Sacramento, CA 95826-0000
v.	

**EXHIBIT 6**

<https://ecf.ca9.uscourts.gov/cmecf/servlet/TransportRoom>

KAMEHAMEHA SCHOOLS/BERNICE  
PAUAHI BISHOP ESTATE  
Defendant - Appellee

Emmett B. Lewis, Esq.  
Direct: 202/626-6090  
[COR LD NTC Retained]  
MILLER & CHEVALIER, CHARTERED  
Suite 900  
Metropolitan Square  
655 15th Street NW  
Washington, DC 20005-0000

David Schulmeister, Esq., Attorney  
[COR LD NTC Retained]  
CADES, SCHUTTE, FLEMING AND WRIGHT  
Suite 1200  
1000 Bishop Street  
Honolulu, HI 96813-4216

Kathleen M. Sullivan, Esq.  
Direct: 415/725-9875  
[COR LD NTC Retained]  
STANFORD LAW SCHOOL LEGAL CLINICS  
Crown Quadrangle  
559 Nathan Abbott Wy.  
Stanford, CA 94305-8610

CONSTANCE LAU, in her capacity as Trustee of  
the Kamehameha Schools/Bernice Pauahi Bishop  
Estate

Defendant - Appellee

Jay L. Carlson, Esq., Attorney  
Direct: 202/626-6090  
[COR LD Retained]  
MILLER & CHEVALIER, CHARTERED  
Suite 900  
Metropolitan Square  
655 15th Street NW  
Washington, DC 20005-0000

Emmett B. Lewis, Esq.  
Direct: 202/626-6090  
[COR LD NTC Retained]  
(see above)

Crystal K. Rose, Esq., Attorney  
Direct: (808)523-9000  
[COR LD NTC Retained]  
BAYS, DEEVER, HIATT, LUNG & ROSE  
16th Floor  
1099 Alakea Street  
Honolulu, HI 96813-0000

David Schulmeister, Esq., Attorney  
[COR LD NTC Retained]  
(see above)

Kathleen M. Sullivan, Esq.

NAINOA THOMPSON, in his capacity as  
Trustee of the Kamehameha Schools/Bernice  
Pauahi Bishop Estate  
Defendant - Appellee

Direct: 415/725-9875  
[COR LD NTC Retained]  
(see above)

Jay L. Carlson, Esq., Attorney  
Direct: 202/626-6090  
[COR LD Retained]  
(see above)

Emmett B. Lewis, Esq.  
Direct: 202/626-6090  
[COR LD NTC Retained]  
(see above)

Crystal K. Rose, Esq., Attorney  
Direct: (808)523-9000  
[COR LD NTC Retained]  
(see above)

David Schulmeister, Esq., Attorney  
[COR LD NTC Retained]  
(see above)

Kathleen M. Sullivan, Esq.  
Direct: 415/725-9875  
[COR LD NTC Retained]  
(see above)

DIANE J. PLOTTS, in her capacity as Trustee of  
the Kamehameha Schools/Bernice Pauahi Bishop  
Estate  
Defendant - Appellee

Jay L. Carlson, Esq., Attorney  
Direct: 202/626-6090  
[COR LD Retained]  
(see above)

Emmett B. Lewis, Esq.  
Direct: 202/626-6090  
[COR LD NTC Retained]  
(see above)

Crystal K. Rose, Esq., Attorney  
Direct: (808)523-9000  
[COR LD NTC Retained]  
(see above)

David Schulmeister, Esq., Attorney  
[COR LD NTC Retained]  
(see above)

Kathleen M. Sullivan, Esq.  
Direct: 415/725-9875  
[COR LD NTC Retained]  
(see above)

ROBERT K.U. KIHUNE, in his capacity as  
Trustee of the Kamehameha Schools/Bernice  
Pauahi Bishop Estate  
Defendant - Appellee

Jay L. Carlson, Esq., Attorney  
Direct: 202/626-6090  
[COR LD Retained]  
(see above)

Emmett B. Lewis, Esq.  
Direct: 202/626-6090  
[COR LD NTC Retained]  
(see above)

Crystal K. Rose, Esq., Attorney  
Direct: (808)523-9000  
[COR LD NTC Retained]  
(see above)

David Schulmeister, Esq., Attorney  
[COR LD NTC Retained]  
(see above)

Kathleen M. Sullivan, Esq.  
Direct: 415/725-9875  
[COR LD NTC Retained]  
(see above)

J. DOUGLAS ING, in his capacity as Trustee of  
the Kamehameha Schools/Bernice Pauahi Bishop  
Estate  
Defendant - Appellee

Jay L. Carlson, Esq., Attorney  
Direct: 202/626-6090  
[COR LD Retained]  
(see above)

Emmett B. Lewis, Esq.  
Direct: 202/626-6090  
[COR LD NTC Retained]  
(see above)

Crystal K. Rose, Esq., Attorney  
Direct: (808)523-9000  
[COR LD NTC Retained]  
(see above)

David Schulmeister, Esq., Attorney  
[COR LD NTC Retained]  
(see above)

Kathleen M. Sullivan, Esq.  
Direct: 415/725-9875  
[COR LD NTC Retained]  
(see above)

STATE OF HAWAII

Charleen M. Aina, Esq., Deputy Attorney General

Amicus - Amicus Curiae

Direct: 808/586-1255  
Fax: 808  
[COR LD NTC Dep State Atty Gen]  
AGHI - OFFICE OF THE HAWAII ATTORNEY  
GENERAL  
425 Queen St.  
Honolulu, HI 96813-0000

Mark J. Bennett, Esq., Attorney  
[COR LD NTC State Atty General]  
AGHI - OFFICE OF THE HAWAII ATTORNEY  
GENERAL  
425 Queen St.  
Honolulu, HI 96813-0000

KAMEHAMEHA SCHOOLS ASSOCIATION  
OF TEACHERS AND PARENTS  
Amicus Curiae

Patrick M.K. Richardson, Esq., Attorney  
Direct: 650/377-4890  
Fax: 650/377-4895  
[COR LD NTC Retained]  
MCCRACKEN BYERS & HAESLOOP LLP  
1920 Leslie St.  
San Mateo, CA 94403-0000

KAMEHAMEHA SCHOOLS FACULTY  
ASSOCIATION  
Amicus Curiae

Patrick M.K. Richardson, Esq., Attorney  
Direct: 650/377-4890  
[COR LD NTC Retained]  
(see above)

NA KUMU O KAMEHAMEHA  
Amicus Curiae

Patrick M.K. Richardson, Esq., Attorney  
Direct: 650/377-4890  
[COR LD NTC Retained]  
(see above)

KAMEHAMEHA SCHOOLS ALUMNI  
ASSOCIATION-BOARD OF PRESIDENTS  
Amicus Curiae

Patrick M.K. Richardson, Esq., Attorney  
Direct: 650/377-4890  
[COR LD NTC Retained]  
(see above)

KAMEHAMEHA SCHOOLS ALUMNI  
ASSOCIATION-OAHU REGION  
Amicus Curiae

Patrick M.K. Richardson, Esq., Attorney  
Direct: 650/377-4890  
[COR LD NTC Retained]  
(see above)

NA PUA A KE ALI'I PAUAHI, INC.  
Amicus Curiae

Patrick M.K. Richardson, Esq., Attorney  
Direct: 650/377-4890  
[COR LD NTC Retained]  
(see above)

JOHN DOE, a minor, by his mother and next friend, Jane Doe nfr Jane Doe,

Plaintiff - Appellant

and

JOSEPHINE H. JOSEPHINE HELELANI PUAHI RABAGO,

Intervenor

v.

KAMEHAMEHA SCHOOLS/BERNICE PAUAHI BISHOP ESTATE; CONSTANCE LAU, in her capacity as Trustee of the Kamehameha Schools/Bernice Pauahi Bishop Estate; NAINOA THOMPSON, in his capacity as Trustee of the Kamehameha Schools/Bernice Pauahi Bishop Estate; DIANE J. PLOTTS, in her capacity as Trustee of the Kamehameha Schools/Bernice Pauahi Bishop Estate; ROBERT K.U. KIHUNE, in his capacity as Trustee of the Kamehameha Schools/Bernice Pauahi Bishop Estate; J. DOUGLAS ING, in his capacity as Trustee of the Kamehameha Schools/Bernice Pauahi Bishop Estate,

Defendants - Appellees

STATE OF HAWAII,

Amicus - Amicus Curiae

KAMEHAMEHA SCHOOLS ASSOCIATION OF TEACHERS AND PARENTS; KAMEHAMEHA SCHOOLS FACULTY ASSOCIATION; NA KUMU O KAMEHAMEHA; KAMEHAMEHA SCHOOLS ALUMNI ASSOCIATION-BOARD OF PRESIDENTS; KAMEHAMEHA SCHOOLS ALUMNI ASSOCIATION-OAHU REGION; NA PUA A KE ALII PAUAHI, INC.,

Amici Curiae

- 01/12/2004 1 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): NO. setting schedule as follows: appellant's designation of RT is due 1/9/04; appellee's designation of RT is due 1/20/04; appellant shall order transcript by 1/29/04; court reporter shall file transcript in DC by 3/1/04; certificate of record shall be filed by 3/8/04 ; appellant's opening brief is due 4/16/04; appellees' brief is due 5/17/04; appellants' reply brief is due 6/1/04. [04-15044]
- 01/12/2004 3 Filed attorney for Appellant Civil Appeals Docketing Statement served on 12/29/03 (to CONFATT) [04-15044] [04-15044]
- 01/21/2004 6 Received Appellant John Doe notice of designation of reporter's transcript. [04-15044]
- 01/28/2004 8 Filed order CONFATT (epm) ....A settlement assessment conf will be held by telephone on 3/2/04 at 2pm PST...The br sch remains in effect. [04-15044]
- 02/10/2004 9 Rec'd notice of law firm name change from Eric Grant for Appellant John Doe dated 2/16/04. Sweeney & Grant changed to: SWEENEY DAVIDAN GREENE & GRANT LLP. Computers [04-15044]

- 02/20/2004 10 Rec'd notice of change of address from Kathleen M Sullivan dated 1/29/04. 559 Nathan Abbott Way Stanford, CA 94305-8610. [04-15044]
- 03/04/2004 11 Filed order CONFATT (DEL) The ct has determined that this appeal will not be selected for inclusion in the mediation program... [04-15044]
- 03/19/2004 12 Filed certificate of record on appeal RT filed in DC 12/19/03 [04-15044]
- 04/19/2004 13 Filed original and 15 copies Appellant John Doe opening brief ( Informal: no) 40 pages and five excerpts of record in 1vol; served on 4/16/04 [04-15044]
- 05/18/2004 14 Filed original and 15 copies aples 50 pages brief, 2 Exc. vols: ; served on 5/17/04 [04-15044]
- 05/21/2004 19 Filed motion of Kamehameha Teachers, Kamehameha Faculty, Na Kumu O Kamehameha, Kamehameha Alumni Pre, Kamehameha Alumni Oa, Na Pua a Ke Ali'i become amicus curiae and deputy clerk order :(Deputy Clerk: cag) Mtn for leave to file brief as amici, the proposed brief, and any related filings shall be referred for dispo to the pnl that considers the merits of the case. Any further mtns for leave to file a friend of the ct brief shalla be handled in the same fashion. order to become amicus [5069651-1] ( Motion recvd 5/18/04) [04-15044]
- 05/21/2004 22 Filed original (w/consent) and 15 copies Kamehameha Teachers, Kamehameha Faculty, Na Kumu O Kamehameha, Kamehameha Alumni Pre, Kamehameha Alumni Oa, Na Pua a Ke Ali'i's brief of 22 pages ;served on 5/21/04 [04-15044]
- 06/03/2004 24 Filed original and 15 copies John Doe reply brief, (Informal: no ) 22 pages; served on 6/1/04 [04-15044]
- 06/09/2004 26 Filed motion and deputy clerk order :(Deputy Clerk: cag) Aplts mtn to expedite calendaring of this appeal is granted. This appeal shall be calendared as soon as practicable. ( recvd 6/3/04) [04-15044]
- 06/14/2004 27 Received aples response opposing motion to expedite appeal [5085416-1] served on 6/10/04 NAN/PROMO [04-15044]
- 06/14/2004 29 Filed Kamehameha Schools, Constance Lau, Nainoa Thompson, Diane J. Plotts, Robert K.U. Kihune and J. Douglas Ing's motion for reconsideration of order entered 06/09/04 regarding appellant's motion to expedite hearing, served on 6/14/04 [5100018] (PROMO)
- 06/17/2004 30 Filed Appellant John Doe's response opposing appellee's motion for reconsideration of order granting appellant's motion to expedite hearing [5100018-1] served on 6/15/04 (PROMO) [04-15044]
- 06/24/2004 31 Filed order (Deputy Clerk: cag) Appellees' opposed motion for reconsideration of the clerk's 06/09/04 order is GRANTED. Calendaring of this appeal shall not be expedited. [5100018-1] [04-15044]
- 08/09/2004 33 Rec'd notice of change of address from Eric Grant, counsel for Appellant John Doe dated 08/05/04. (new address: 8001 Folsom Boulevard, Suite 101, Sacramento, CA 95826) (CASEFILE)
- 08/16/2004 34 Filed aplts motion to reconsider order of the Clerk of Court respecting expedited hearing, served on 8/13/04 WIP/PROMO [04-15044]

- 09/09/2004 36 Filed John Doe additional citations, served on 9/7/04 RECORDS FOR MERITS PANEL [04-15044]
- 09/10/2004 37 Filed order (Appellate Commissioner) Aplt's opposed late mtn for recon of the clks denial of expedition of this appeal is granted to the following extent. This case shall be calendared for 11/04 in Hawai'i. (PROMO) [04-15044]
- 09/13/2004 38 CALENDARED: HONOLULU Nov 4 2004 900 am Courtroom 6th Flr [04-15044]
- 09/14/2004 40 Filed aple's response to aplt's addl citations, served on 9/13/04 PANEL [04-15044]
- 10/27/2004 42 Filed order (Deputy Clerk: cc)K-HNL, KITV-4, FOX2, Hawaii's News Channel & University of Hawaii, applied to videotape for later broadcast the case captioned above, scheduled to be heard in Honolulu, Hawaii, on Thursday, November 4, 2004. A majority of the judges on the panel have voted to deny the application. K-HN, KITV-4, FOX2, Hawaii's News Channel and University of Hawaii's request to videotape is DENIED. (Faxed/Phoned Csls & Media.) [04-15044]
- 10/28/2004 43 Filed order (Deputy Clerk: cc) Associated Press, Honolulu and Honolulu Star-Bulletin applied to photograph with still camera the case captioned above, scheduled to be heard in Honolulu, Hawaii, on Thursday, November 4, 2004. A majority of the judges on the panel have voted to deny the application. Associated Press and Honolulu Star-Bulletin's request to photograph is DENIED. (Faxed to Media/Csls) [04-15044]
- 11/04/2004 45 ARGUED AND SUBMITTED TO Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE [04-15044]
- 05/09/2005 47 Received Eric Grant for Appellant John Doe letter dated 5/4/05 re: status of decision. PANEL [04-15044]
- 05/12/2005 48 Received Kathleen M Sullivan for aple's J. Douglas Ing, Robert K.U. Kihune, Diane J. Plotts, Nainoa Thompson, Constance Lau, Kamehameha Schools letter dated 5/11/05 re: response to pl'tfs ltr to ct regarding decision in appeal. PANEL [04-15044]
- 06/20/2005 50 Filed John Doe additional citations, served on 6/17/05 PANEL [04-15044]
- 06/24/2005 51 Received Kathleen M Sullivan for aple's letter dated 6/23/05 re: response to aplt's addl cites. PANEL [04-15044]
- 07/07/2005 52 Received Eric Grant for Appellant John Doe letter dated 7/4/05 re: status of decision. PANEL [04-15044]
- 08/02/2005 55 FILED OPINION: AFFIRMED IN PART, REVERSED IN PART ( Terminated on the Merits after Oral Hearing; Affirmed (in part) and Reversed (in part); Written, Signed, Published. Robert R. BEEZER; Susan P. GRABER, dissenting; Jay S. BYBEE, author. ) FILED AND ENTERED JUDGMENT. [04-15044]
- 08/02/2005 56 Filed aplt's mtn for injunction pending appeal. [04-15044] served on 8/1/05 PANEL [04-15044]
- 08/04/2005 57 Rcvd aplt's statement respecting mootness of mtn for inj pending appeal. PANEL



- 08/08/2005 58 Filed order ( Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE): The aplts mtn for inj pending appeal is denied w/o prejudice to renewal following any proceedings that may be conducted by the DC subsequent to the issuance of the mdt. [04-15044]
- 08/09/2005 59 Filed aplts mtn for immediate issuance of the mdt or in the alternative, renewed mtn for inj pending appeal. [04-15044] served on 8/9/05 PANEL [04-15044]
- 08/10/2005 63 Filed Kamehameha Schools, Constance Lau, Nainoa Thompson, Diane J. Plotts, Robert K.U. Kihune, J. Douglas Ing motion to extend time to file petition for rehearing for 7 days. served via fax on 8/11/05 (orig rcvd 8/12/05)
- 08/10/2005 64 Filed Appellant John Doe response to aple's motion for extension of time to file petition for en banc review; served on 8/10/05. (Panel) served on 8/10/05 (orig rcvd 8/11/05)
- 08/10/2005 69 Copy of letter received from Paul J. Watson addressed to Trustees: description of Kamehameha Schools. CASEFILE [04-15044]
- 08/11/2005 61 Filed order ( Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE): The aplts mtn for immediate issuance of the mdt, or in the alternative, renewed mtn for inj pending appeal, is hereby denied. [04-15044]
- 08/11/2005 62 Received aples response opposing appellant's motion for immediate issuance of the mdt served on 8/11/05 PANEL [04-15044]
- 08/12/2005 65 Filed order (Deputy Clerk: hh) The appellees' motion for an ext of time to file a petition for rehearing is GRANTED. [5529648-1] The petition is now due 8/23/05. [04-15044]
- 08/12/2005 67 Filed aples rpy to aplts response to appellee's motion to extend time to file a petition for rehearing [5529648-1] ; served on 8/12/05 PANEL [04-15044]
- 08/15/2005 68 Filed motion of Appellant and deputy clerk order :(Deputy Clerk: crw) granting motion to extend time to file petition for rehearing [5533540-1] petition for rehearing due 8/23/05; ( Motion recvd 8/15/05) [04-15044]
- 08/16/2005 108 Received interested non pty William Akama letter dated 8/11/05 re: support for petn for rhrg enbanc. PANEL [04-15044]
- 08/23/2005 70 [5541272] Filed original and 4 copies Appellant John Doe petition for rehearing, (PANEL) 5 p.pages, served on 8/22/05 [04-15044]
- 08/23/2005 71 Filed order (Deputy Clerk: gar) Aples late petition for rhrg en banc is ordered filed. [04-15044]
- 08/23/2005 72 [5541514] Filed original and 50 copies Appellee Kamehameha Schools, et al's petition for panel rehearing and petition for rehearing en banc 18 p.pages, served on 8/23/05 PANEL AND ALL ACTIVE JUDGES AND ANY INTERESTED SENIOR JUDGES [04-15044]
- 08/23/2005 73 (#1) Received amicus State of Hawaii's brief in 50 copies of 17 pages in support of aple's pet for rhrg en banc and support of affirmance; deficient: oversized;served on 8/22/05. Copies to PANEL with motion to file oversized brief. [04-15044]

- 08/23/2005 74 Filed Amicus State of Hawaii's motion to file oversized brief in support of aples' pet for rhrng en banc [04-15044] served on 8/22/05 [5541709] PANEL
- 08/25/2005 75 Filed order ( Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE, ): Aplt is directed to file a response to aple's pet for panel rhrng and pet for rhrng en banc, filed 8/23/05. The response shall not exceed 15 pages and shall be filed with the ct 21 days from the date of this order. 50 copies of the response shall be filed. PHONED [04-15044]
- 08/26/2005 109 (#13) Received Amicus Sam Monet's brief in 7 copies of 46 pages; deficient: oversize, needs mtn to file, insufficient no compliance stmt, needs green covers, servicenot dated; served on Notified aplt. [04-15044]
- 08/29/2005 76 Received Amicus State of Hawaii's supp to amicus brief in support of aples pfr/eb ,served on 8/26/05 MERITS PANEL [04-15044]
- 08/30/2005 77 (#2) Received Amicus Hawai'i Congressiona's brief in 50 copies of 10 pages; (amicus brief in support of pfr/eb) deficient: mtn to file pending w/PANEL ;served on 8/29/05
- 08/30/2005 80 (#3) Received Amicus Nat'l Assoc of Indep's brief in 50 copies of 10 pages; deficient: mtn to file pending w/panel; served on 8/29/05 [04-15044]
- 08/30/2005 81 Filed Amicus Nat'l Assoc of Indep's motion to file amicus brief in support of pfr/eb. [04-15044] served on 8/29/05 PANEL w/brief
- 08/30/2005 82 Filed Amicus Kamehameha Teachers, Amicus Kamehameha Faculty, Amicus Na Kumu O Kamehameha, Amicus Kamehameha Alumni Pre, Amicus Kamehameha Alumni Oa, Amicus Na Pua a Ke Ali'i's motion to file amicus brief in support of pet for rhrng en banc [04-15044] served on 8/30/05 [5547898] PANEL (with copies of brief)
- 08/30/2005 83 (#4) Received Amicus Kamehameha Teachers, Amicus Kamehameha Faculty, Amicus Na Kumu O Kamehameha, Amicus Kamehameha Alumni Pre, Amicus Kamehameha Alumni Oa, Amicus Na Pua a Ke Ali'i's brief in 50 copies of 10 pages; deficient: motion pending;served on 8/30/05 Copies to PANEL [04-15044]
- 08/30/2005 84 (#5) Received Amicus Native Hi Legal Corp's brief in 3 copies of 10 pages; in support of pet for rhrng; deficient: motion pending, lacks 47 copies;served on 8/29/05 Notified NOTE: Motion and brief in same document. PANEL [04-15044]
- 08/30/2005 85 Filed Appellant John Doe response opposing all amicus motions for leave to file briefs re pet for rhrng en banc [5547708-1] [5547898-1] served on 8/29/05 PANEL [04-15044]
- 08/30/2005 90 Filed Amicus Hawai'i Congressiona's motion to file amicus brief in support of pfr/eb. [04-15044] served on 8/29/05 PANEL
- 08/30/2005 91 (#6) Received Amicus 'Ilio'Ulaokalani Coa's brief in 50 copies of 10 pages; deficient: mtn to file on 8/29/05 [04-15044]
- 08/30/2005 92 Filed Amicus 'Ilio'Ulaokalani Coa's motion to file amicus brief in support of pfr/eb. [04-15044] served on 8/29/05 PANEL
- 08/30/2005 93 (#7) Received Amicus Mufi Hannemann, Amicus City and County of H's brief in 50 copies of 6 pages; deficient: mtn to file w/PANEL;served on 8/29/05 [04-

15044]

08/30/2005 94 Filed Amicus Mufi Hannemann, Amicus City and County of H's motion to file amicus brief in support of pfr/eb. [04-15044] served on 8/29/05 PANEL

08/30/2005 96 (#8) Received amici Japanese American Ci, Centro Legal De La, The Equal Justice So's brief in 50 copies of 11 pages deficient: no service, mtn to file pending ;served on Notified counsel. [04-15044]

08/30/2005 97 Received Amici Japanese American Ci, Centro Legal De La, The Equal Justice So's motion for leave to file brief of amici. [04-15044] ; served on (no service)

08/30/2005 98 (#9) Received amici The National Indian, Alaskan Federation's brief in 50 copies of 9 pages; deficient: mtn to file w/PANEL;served on 8/29/05 [04-15044]

08/30/2005 99 Filed Amici The National Indian, Alaskan Federation's motion for leave to file amici brief in support of pfr/eb. [04-15044] served on 8/29/05 PANEL

08/30/2005 100 (#10) Received Amicus 'Ahahui Ka'Ahumanu's et al brief in 50 copies of 10 pages; deficient: mtn to file w/PANEL; served 8/29/05 [04-15044]

08/30/2005 101 Filed Amicus 'Ahahui Ka'Ahumanu's et al motion for leave to file amicus brief. [04-15044] served on 8/29/05 PANEL

08/30/2005 104 Received Amicus Native Hi Legal Corp's satisfaction of (major) brief deficiency (47 addl briefs) [04-15044]

08/31/2005 87 Filed order (Deputy Clerk: gar) The order of 8/23/05 was issued in error, and is hereby vacated. Aples' petition was timely filed. [04-15044]

08/31/2005 88 (#11) Received Amicus Hawai'i Business's brief in 50 copies of 11 pages in support of petition for rhrg en banc; deficient: motion pending;served on 8/30/05 Copies to PANEL with to file. [04-15044]

08/31/2005 89 Filed Amicus Hawai'i Business's motion to become amicus curiae and file brief in support of pet for rhrg en banc [04-15044] served on 8/30/05 [5548484] PANEL

09/01/2005 105 (#12) Received Amicus Hawai'i Civil Rights's brief in 50 copies of 11 pages; deficient: mtn to file w/PANEL;served on 8/30/05 PANEL [04-15044]

09/01/2005 106 Filed Amicus Hawai'i Civil Rights's motion for leave to file a brief as amicus. [04-15044] served on 8/30/05 PANEL W/BRIEF

09/01/2005 107 Filed Amicus Nat'l Assoc of Indep reply to response to mtn for leave to file amici br;served on 8/31/05 PANEL [04-15044]

09/06/2005 123 Rcvd from Amicus Hawai'i Congressional Delegation substantive joinder to the Nat'l Assoc of Ind Schools reply in support of Nat'l Assoc of Ind Schools mtn for leave to file brief in support of pfr/eb. PANEL

09/06/2005 124 Received Amicus Japanese American Ci's satisfaction of (major) brief deficiency (proof of service of amici brief, svd 9/3/05; proof of service to file amici brief, svd 9/6/05) [04-15044]

09/06/2005 125 Filed Amicus Japanese American Ci's motion for leave to file brief of amici curiae. [04-15044] served on 9/6/05 PANEL W/BRIEF

09/08/2005 110 Filed order ( Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE): The mtn

of amici State of HI for leave to file an ovsz brief in support of def aples petn for pfr/eb is granted. The brief of amici State of HI is hereby ordered filed and circulated to the ct. [04-15044]

- 09/08/2005 111 Filed order ( Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE): The mtns of the following amici curiae to file briefs in support of def-aples petn for petn for rhrg en banc are hereby granted: Hawaii Congressional Delegation; Ahahui Kaahumanu et al Ilio'ulaokalani Coalition Mufi Hannemann et al National Indian Education Assoc et al Hawaii Civil Rights Comm Natl Assoc of Ind Schools Hawaii Business Roundtable et al Native Hawaiian Legal Corp, Native HI Bar Assoc, Haahuhiwa Kamehameha Schools Assoc et al The amici briefs are hereby ordered filed and circulated to the ct. [04-15044]
- 09/08/2005 112 Filed original and 50 copies State of Hawaii's brief of 17 pages ;served on 8/22/05 [04-15044]
- 09/08/2005 113 Filed original and 50 copies Kamehameha Teachers's brief of 10 pages ;served on 8/30/05 [04-15044]
- 09/08/2005 114 Filed original and 50 copies Nat'l Assoc of Indep's brief of 10 pages ;served on 8/29/05 [04-15044]
- 09/08/2005 115 Filed original and 50 copies Native Hi Legal Corp's brief of 10 pages ;served on 8/29/05 [04-15044]
- 09/08/2005 116 Filed original and 50 copies Hawai'i Congressiona's brief of 10 pages ;served on 8/29/05 [04-15044]
- 09/08/2005 117 Filed original and 50 copies 'Ilio'Ulaokalani Coa's brief of 10 pages ;served on 8/29/05 [04-15044]
- 09/08/2005 118 Filed original and 50 copies Mufi Hannemann's brief of 6 pages ;served on 8/29/05 [04-15044]
- 09/08/2005 119 Filed original and 50 copies The National Indian's brief of 9 pages ;served on 8/29/05 [04-15044]
- 09/08/2005 120 Filed original and 50 copies 'Ahahui Ka'Ahumanu's brief of 10 pages ;served on 8/29/05 [04-15044]
- 09/08/2005 121 Filed original and 50 copies Hawai'i Business's brief of 11 pages ;served on 8/30/05 [04-15044]
- 09/08/2005 122 Filed original and 50 copies Hawai'i Civil Rights's brief of 11 pages ;served on 8/30/05 [04-15044]
- 09/15/2005 126 Filed appls response to aples pfr/eb served on 9/14/05 PANEL/ACTIVE JUDGES/INTERESTED SENIOR JUDGES [04-15044]
- 09/15/2005 127 Filed order ( Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE): The Hawaii Congressional Delegation's substantive joinder to the Natl Assoc of Ind Scools reply in support of the Natl Assoc of Ind Schools mtn for leave to file an amicus brief in support of the petn for rhrg enbanc is hereby denied as moot. [04-15044]
- 09/15/2005 129 Filed order ( Robert R. BEEZER, Susan P. GRABER, Jay S. BYBEE): The mtn

- of the Japanese American Citizens League et al for leave to file an amici brief in support of def aples petn for pnl rhrg enbanc is hereby granted. The amici brief is hereby ordered filed and circulated to the ct. [04-15044]
- 09/15/2005 130 Filed original and 50 copies Japanese American Ci's et al brief of 11 pages ;served on 9/3/05 PANEL/ACTIVE JUDGES/INTERESTED SENIOR JUDGES [04-15044]
- 02/01/2006 132 Received 28 form letters from non-pty interested persons asking the ct to side with the Kamehameha Schools. CASEFILE
- 02/06/2006 134 Received 20 letters dated 1/31/06 re: ltrs from non pty people in support of Kamehameha Schools. casefile. [04-15044]
- 02/10/2006 135 Received 67 form letters dated 2/7/06 from interested non-parties in support of the Kamehameha schools. casefile. [04-15044]
- 02/13/2006 136 Received 5 form letters dated 2/4/06 from non-pty interested people in support of Kamehameha schools. casefile [04-15044]
- 02/15/2006 137 Received 1 form letter dated 2/7/06 re: from non pty interested person re support for Kamehameha school. casefile. [04-15044]
- 02/22/2006 141 Filed order ( Mary M. SCHROEDER, ): Upon the vote of the majority of nonrecused regular active judges of this ct, it is ordered that this case be reheard by the en banc ct, pursuant to CR 35-3. The three judge pnl opn shall not be cited as precedent by or to this ct or any DC of the Ninth Circuit except to the extent adopted by the en banc ct. [04-15044]
- 03/16/2006 142 Filed order ( Mary M. SCHROEDER, ): The parties shall forward to the clk 30 copies of their original briefs and EOR within 7 days from the date of this order. [04-15044]
- 03/22/2006 143 Rcvd 30 copies each of aplts opening and reply brief and excerpts, aples answering brief and excerpts. Sent to en banc pnl. [04-15044]
- 04/06/2006 145 CALENDARED: SAN FRAN Jun 20 2006 1100 am Courtroom 1 [04-15044]
- 04/07/2006 146 Filed order ( Mary M. SCHROEDER, ): Oral argument in the above case shall be reheard en banc in SF, CA on Tuesday 6/20/06 at 11am. [04-15044]
- 06/16/2006 148 Filed order (Deputy Clerk: pi) KITV applied to videotape and audio-record for later broadcast the case captioned above, scheduled to be heard in San Francisco, on Tuesday, June 20, 2006. The majority of the En Banc Court has voted to grant the application. KITV's request to videotape and audio-record is GRANTED. (Faxed Csl/Media) [04-15044]
- 06/20/2006 149 Filed order (Deputy Clerk: CAC) Associated Press applied to photograph with still camera the case captioned above, scheduled to be heard in San Francisco, on Tuesday, June 20, 2006. The majority of the En Banc Court has voted to deny the application. Associated Press's request to photgraph is DENIED. (Phoned Media and Faxed Csl) [04-15044]
- 06/20/2006 150 ARGUED AND SUBMITTED TO Mary M. SCHROEDER, Harry PREGERSON, Stephen R. REINHARDT, Alex KOZINSKI, Diarmuid F. O'SCANNLAIN, Pamela A. RYMER, Andrew J. KLEINFELD, Susan P.

GRABER, William A. FLETCHER, Richard A. PAEZ, Marsha S. BERZON, Richard C. TALLMAN, Johnnie B. RAWLINSON, Jay S. BYBEE, CONSUELO M. CALLAHAN [04-15044]

- 07/07/2006 152 Rec'd notice of change of address from Patrick M.K. Richardson for amici Na Pua a Ke Ali'i, Kamehameha Alumni Oa, Kamehameha Alumni Pre, Na Kumu O Kamehameha, Kamehameha Faculty, Kamehameha Teachers dated 7/13/06. New: McCracken Byers & Haesloop 1920 Leslie St. San Mateo, CA 94403 650.377.4890 fax: 650.377.4895. [04-15044]
- 12/05/2006 155 FILED OPINION: AFFIRMED ( Terminated on the Merits after Oral Hearing; Affirmed; Written, Signed, Published. Heard en banc; Mary M. SCHROEDER; Harry PREGERSON; Stephen R. REINHARDT; Alex KOZINSKI, dissenting; Diarmuid F. O'SCANNLAIN; Pamela A. RYMER, dissenting; Andrew J. KLEINFELD, dissenting; Susan P. GRABER, author; William A. FLETCHER, concurring; Richard A. PAEZ; Marsha S. BERZON; Richard C. TALLMAN; Johnnie B. RAWLINSON; Jay S. BYBEE, dissenting; CONSUELO M. CALLAHAN. ) FILED AND ENTERED JUDGMENT. [04-15044]
- 12/27/2006 156 MANDATE ISSUED [04-15044]
- 03/12/2007 158 Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 06-1202 filed on 3/1/07. [04-15044]
- 05/21/2007 159 Received letter from the Supreme Court dated 5/11/07 re: stip to dismiss pet for writ of cert, and cert copy of order of dismissal. CASEFILE [04-15044]
- 06/22/2007 161 NO ORIGINAL RECORD