

1 Bingham McCutchen LLP
CHARLENE S. SHIMADA (SBN 91407)
2 JOHN D. PERNICK (SBN 155468)
ROBERT BRUNDAGE (SBN 159890)
3 charlene.shimada@bingham.com
john.pernick@bingham.com
4 robert.brundage@bingham.com
Three Embarcadero Center
5 San Francisco, CA 94111-4067
Telephone: 415.393.2000
6 Facsimile: 415.393.2286

7 Alston Hunt Floyd & Ing
PAUL ALSTON (Admitted Pro Hac Vice)
8 CLYDE J. WADSWORTH (SBN 118928)
palston@ahfi.com
9 cwadsworth@ahfi.com
American Savings Bank Tower, 18th Floor
10 1001 Bishop Street
Honolulu, HI 96813
11 Telephone: 808.524.1800
Facsimile: 808.524.4591

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.

No. 08-00672 FCD-KJM

PROPOSED ORDER GRANTING
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.

1
2 PROPOSED ORDER GRANTING KAMEHAMEHA SCHOOLS
3 DEFENDANTS' AND CROSS-CLAIM DEFENDANTS' MOTION TO DISMISS

4 James Banks, counsel for Plaintiff/Counter-Claim Defendant Eric Grant; Jerry Stein,
5 counsel for Defendant/Counter- and Cross-Claim Plaintiffs John and Jane Doe (together, “the
6 Does”); and Paul Alston and Charlene S. Shimada, counsel for Defendants and Cross-Claim
7 Defendants Kamehameha Schools/Bernice Pauahi Bishop Estate and J. Douglas Ing, Nainoa
8 Thompson, Diane J. Plotts, Robert K.U. Kihune, and Corbett A.K. Kalama, in their capacities as
9 Trustees of the Kamehameha Schools/Bernice Pauahi Bishop Estate (collectively, “Kamehameha
10 Schools”) came before the Court for hearing on October 31, 2008.

11 The Court has carefully considered Kamehameha Schools’ Motion to Dismiss, the
12 memoranda, supporting papers and arguments of counsel and the record of this case. Good
13 cause appearing,

14 IT IS HEREBY ORDERED that

- 15 1. Kamehameha Schools’ Motion to Dismiss is hereby GRANTED. The
16 Court lack subject matter jurisdiction over this action because when the
17 parties are properly aligned, as required, there is not complete diversity of
18 citizenship.
- 19 2. Further, even if realignment were not required, there would be no personal
20 jurisdiction over Kamehameha Schools with respect to either the
21 complaint or the cross-claim.
- 22 3. Further, even if subject matter jurisdiction and personal jurisdiction were
23 present, Plaintiff’s claim for declaratory relief is not proper under 28
24 U.S.C. § 2201, and the Court declines to exercise jurisdiction over this
25 declaratory judgment action and the resulting cross-claim.
- 26 4. For the foregoing reasons, Plaintiff’s Complaint and the Doe Defendants’
27 Cross-claim against Kamehameha Schools are hereby dismissed.

1 IT IS SO ORDERED.

2
3 DATED: October __, 2008

By: _____
HON. FRANK C. DAMRELL, JR.
United States District Judge

4
5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28