

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DAVID BROWN,)	Civ. No. 07-00556 ACK-LEK
)	
Plaintiff,)	
)	
vs.)	
)	
STATE OF HAWAII, ET AL.,)	
)	
Defendants.)	
)	
_____)	

**ORDER GRANTING PLAINTIFF'S MOTION TO SHORTEN TIME AND DENYING HIS
MOTION TO STRIKE**

On June 15, 2009, Defendant Melanie Chinen, in her individual capacity, filed a motion for summary judgment accompanied by a concise statement of facts ("Original Concise Statement"). On June 16, 2009, the Court set a hearing on the motion for September 21, 2009.

On August 18, 2009, Chinen filed an amended concise statement of facts ("Amended Concise Statement") along with a certificate of compliance with Rule 56.1(d) of this Court's Local Rules of Practice and Procedure ("Local Rules"). In the certificate of compliance, Chinen's counsel explained that he submitted the Amended Concise Statement because he had overlooked the 1,500 word limitation set forth in Local Rule 56.1(d) in preparing the Original Concise Statement.

On August 28, 2009, Plaintiff filed a motion to strike Chinen's Original Concise Statement and her motion for summary

judgment. He also filed a motion to shorten time on the motion to strike. The same day, Chinen filed an opposition to the motion to shorten time. The opposition also addresses the motion to strike. On August 31, 2009, Plaintiff filed a reply.

Plaintiff maintains that the Original Concise Statement does not comply with Local Rule 56.1(d) because it contains 2,094 words. He asserts that this violation of the rules greatly prejudices him because he does not know whether to answer all of the factual assertions in the Original Concise Statement or just some of them. He therefore asks the Court to strike the Original Concise Statement. Plaintiff further contends that, because the Original Concise Statement is inextricably intertwined with Chinen's motion for summary judgment, the motion for summary judgement should also be stricken.

In his motion to shorten time, Plaintiff asks the Court to decide his motion to strike without a hearing pursuant to Local Rule 7.2(d) on or before September 2, 2009, because his opposition to Chinen's motion for summary judgment is due by September 3, 2009. The Court concludes that this matter is suitable for disposition without a hearing and on an expedited basis. The Court will therefore grant Plaintiff's motion to shorten time.

The Court will now address the motion to strike. Because the Amended Concise Statement supersedes the Original

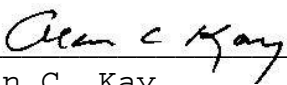
Concise Statement, the Court will deny Plaintiff's motion to strike the Original Concise Statement as moot. In addition, Plaintiff has not established that he has been prejudiced by the filing of the Amended Concise Statement. The Amended Concise Statement does not appear to alter the substance of the factual assertions set forth in the Original Concise Statement. Rather, it simply pares them down to comply with Local Rule 56.1(d)'s word limitation. Furthermore, the Amended Concise Statement was filed sixteen days before his opposition to the motion for summary judgment is due. Accordingly, the Court will deny Plaintiff's motion to strike the motion for summary judgment.

In light of the foregoing, the Court grants Plaintiff's motion to shorten time, but denies his motion to strike.

IT IS SO ORDERED.

Dated: Honolulu, Hawai'i, September 1, 2009.





Alan C. Kay
Sr. United States District Judge

Brown v. State of Hawai'i, Civ. No. 07-00556 ACK-LEK: Order Granting Plaintiff's Motion to Shorten Time and Denying His Motion to Strike