

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WALTER V. RODENHURST, III,	)	CIV. NO. 08-00396 SOM-LEK
# A0137543,	)	
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF'S
	)	MOTION FOR DEFAULT
vs.	)	
	)	
STATE OF HAWAII, et al.,	)	
	)	
Defendants.	)	
_____	)	

**ORDER DENYING PLAINTIFF'S MOTION FOR DEFAULT**

On January 28, 2008, Plaintiff filed a Motion for Default by State Defendants<sup>1</sup> and CCA Defendants<sup>2</sup> for Failure to File A Timely Responsive Pleading ("Motion"). (Doc. No. 129.) On December 1, 2008, CCA Defendants filed a Motion to Change Venue and for Stay, wherein they asserted the defense of improper venue pursuant to Rule 12(b) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P."). (Doc. No. 95.) That same day,

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<sup>1</sup>Plaintiff names the State of Hawaii, Kay Bauman, M.D., Kenneth Zienkiewicz, M.D., Frank J. Lopez, Clayton Frank, Wesley Mun, Doris Robinson, RD, Nolan Uehara, Eric Tanaka, Nathalie Kodama, David Saldana, M.D. Carmillo Santiago, Mary Tummenillo, John Ioane, Howard Komori, Burt Santiago, June Tavares, and Shari Kimoto as Defendants to this action (collectively "State Defendants").

<sup>2</sup>Plaintiff names D. Swenson, J. Bradley, B. Griego, Lee Ann Archuleta, V. Vantel, Keesling, Giang Phan, M.D., Patricia Sells, R.N., Muhammed Haleem, R.N., T. Thomas, Lane Blair, Anastacio Perez, Phyllis Hansen, R.N., Dianne Pierson, Diane Duffy, R.N. and Corrections Corporation of America as Defendants to this action (collectively "CCA Defendants").

State Defendants filed a Motion for Joinder of CCA Defendants' Motion to Change Venue and for Stay. (Doc. No. 96.) Pursuant to Rule 12(a)(4), the date on which the responsive pleading is due depends on the court's disposition of the motion served under Rule 12. The court has not yet disposed of CCA Defendants' Motion to Change Venue and for Stay. Thus, the date on which Defendants responsive pleading is due is unknown. Accordingly, Plaintiff's Motion is DENIED.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, February 10, 2009.



/S/ Leslie E. Kobayashi  
Leslie E. Kobayashi  
United States Magistrate Judge

*Rodenhurst v. State of Hawaii, et al.*, Civ. No. 08-00396 SOM;  
ORDER DENYING MOTION FOR DEFAULT; prose attorneys\Non-disp.  
Ords\HMG\2009\Rodenhurst 08-396 SOM (dny mot dflt)