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COMMERCE AND INDUSTRY INSURANCE COMPANY

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

CEDRIC K. KAHUE,

Plaintiff,

v.

PACIFIC ENVIRONMENTAL  
CORPORATION and JOHN DOES 1-  
20; MARY DOES 1-20; DOE  
PARTNERSHIPS 1-20; DOE  
ASSOCIATES 1-20; DOE  
GOVERNMENTAL AGENCIES 1-20;  
and OTHER ENTITIES 1-20, *In  
Personam*, and the

M/V PENCO 1, and M/V PENCO 2,  
and their engines, equipment, tackle,  
stores, furnishings, cargo and freight,  
and DOE VESSELS 1-20, *In Rem*,

Defendants.

COMMERCE AND INDUSTRY  
INSURANCE COMPANY,

Intervenor.

CIVIL NO. **10-cv-00001-LEK-KSC**

**ORDER GRANTING  
INTERVENOR’S REQUEST TO  
POSTPONE PARTICIPATION AT  
TRIAL UNTIL AN AWARD HAS  
BEEN MADE AND THE EXTENT  
OF INTERVENOR’S LIEN MAY  
BE DETERMINED**

Having considered the Intervenor's Request To Postpone Participation At Trial Until An Award Has Been Made And The Extent Of Intervenor's Lien May Be Determined, and good cause appearing therefor:

IT IS ORDERED that:

1. The intervenor may be excused from participation at trial, although it will be bound by the Court's rulings on matters that arise *prior to* an award, and during any part of the trial from which the intervenor has requested the Court excuse its presence.
2. The intervenor's agreement to be bound without objection to the Court's rulings does *not* apply if the intervenor is called upon to produce a witness to testify during the liability phase of trial (which the intervenor has agreed to do if the plaintiff and defendants are unable to stipulate to the amount of the lien), at which point the intervenor may fully represent its witness during the witness's testimony.
3. The intervenor's agreement to be bound also does not apply to limit or enlarge any rights that arise *after* an award has been made.

DATED: Honolulu, Hawaii, March 29, 2012.



/s/ Leslie E. Kobayashi  
Leslie E. Kobayashi  
United States District Judge