

THOMAS YAMACHIKA 3504

TAX FOUNDATION OF HAWAII
126 Queen Street, Suite 304
Honolulu, Hawaii 96813
Telephone: (808) 536-4587
Facsimile: (808) 536-4588
E-mail: tfh@tfhawaii.org

Electronically Filed
FIRST CIRCUIT
1CSP-21-0000278
02-NOV-2021
02:55 PM
Dkt. 51 MER

Movant

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LESLIE H. KONDO, in his official
capacity as AUDITOR; OFFICE OF THE
AUDITOR, STATE OF HAWAII

Petitioners,

vs.

INVESTIGATIVE COMMITTEE, HOUSE
OF REPRESENTATIVES, STATE OF
HAWAII, THE THIRTY-FIRST
LEGISLATURE; JOHN DOE
DEFENDANTS 1 TO 10; JANE DOE
DEFENDANTS 1-10; DOE
GOVERNMENTAL ENTITIES 1-10,

Respondents.

CASE NO. 1CSP-21-0000278

REPLY MEMORANDUM IN SUPPORT
OF MOTION FOR LEAVE TO FILE
AMICUS CURIAE MEMORANDUM and
CERTIFICATE OF SERVICE

NON-HEARING MOTION
JUDGE: Hon. Lisa W. Cataldo
TRIAL: No trial date set

**REPLY MEMORANDUM IN SUPPORT OF MOTION
FOR LEAVE TO FILE AMICUS CURIAE MEMORANDUM**

The Tax Foundation of Hawaii (Foundation), an entity which the Supreme Court of Hawaii has recognized as “a governmental financial accountability watchdog,”¹ sought leave to file an *amicus curiae* memorandum

¹ Tax Foundation of Hawaii v. State, 439 P.3d 127, 155 (Haw. 2019).

because the Foundation is dedicated to tax related issues and thought it might add to the discussion by explaining the underpinnings of the qualified privilege protecting tax return information. The Foundation's *amicus* briefs and memoranda have been accepted in several Circuit Court cases,² as well as in the Hawai'i appellate courts.³

There is nothing sinister in the timing of the Foundation's motion for leave. The Foundation's internal processes require its Executive Committee to review a proposed filing before it is submitted to the court system, and such review requires at least a few days. It just so happened that the Foundation was ready to file its motion a few hours after the Investigative Committee filed its opposition memorandum.

The Foundation believes that there is no prejudice to the parties. If the Investigative Committee is correct in saying that the Foundation's motion merely parrots the Petitioners' arguments and adds nothing to the Petitioners' motion and memoranda already on file, then there can be no prejudice to the Investigative Committee because it has already responded in detail to the Petitioners' papers. If after reviewing the proposed memorandum the Court

² In re Office of Information Practices Opinion Letter No. F19-05, S.P. No. 19-1-0191 DEO (order granting motion for leave filed Sept. 3, 2019); Walden v. Hi'ilei Aloha LLC, S.P. No. 18-1-0301 JPC (order granting motion for leave filed Jan. 29, 2019); City & County of Honolulu v. Ige, Civil No. 18-1-1326-08 JPC (order granting motion for leave filed Sept. 11, 2018); Fritz v. State of Hawai'i Department of Taxation, Civil No. 16-1-2120-11 JHA (order granting motion for leave filed Aug. 17, 2017).

³ League of Women Voters of Honolulu v. State, No. CAAP-19-0000372 (Haw. Ct. App., order granting motion for leave filed Oct. 11, 2019); Ocean Resort Villas Vacation Owners Association v. County of Maui, No. CAAP-18-0000578 (Haw. Ct. App., order granting motion for leave filed Jan. 16, 2019); In re Kaheawa Wind Power, LLC v. County of Maui, No. SCAP-17-0000816 (Haw., order granting motion for leave filed Nov. 19, 2018); City & County of Honolulu v. State of Hawai'i, No. SCPW-18-0000733 (Haw., order granting motion for leave filed Oct. 4, 2018); In re Priceline.com, Inc., No. SCAP-17-0000367 (Haw., order granting motion for leave filed Nov. 7, 2017).

concludes that it does add value, the Court certainly can give the parties the opportunity to address those points if the Court grants the motion.

For these reasons, the Foundation respectfully requests that its Motion be granted.

DATED: Honolulu, Hawaii, November 2, 2021.

/s/ Thomas Yamachika

THOMAS YAMACHIKA
Attorney for Movant
TAX FOUNDATION OF HAWAII

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LESLIE H. KONDO, in his official
capacity as AUDITOR; OFFICE OF THE
AUDITOR, STATE OF HAWAII

Petitioners,

vs.

INVESTIGATIVE COMMITTEE, HOUSE
OF REPRESENTATIVES, STATE OF
HAWAII, THE THIRTY-FIRST
LEGISLATURE; JOHN DOE
DEFENDANTS 1 TO 10; JANE DOE
DEFENDANTS 1-10; DOE
GOVERNMENTAL ENTITIES 1-10,

Respondents.

CASE NO. 1CSP-21-0000278

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the
foregoing document will be served on counsel through JEFS on the date hereof.

DATED: Honolulu, Hawaii, November 2, 2021.

/s/ Thomas Yamachika

THOMAS YAMACHIKA
Attorney for Movant TAX FOUNDATION
OF HAWAII