

## First Amended Complaint: Petition for Declaratory Judgment

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6 In the United States District Court  
 7 for the District of Hawaii

8 Gary Arthur Cordery, pro se

9 Petitioner

10 V.

11 David Yutaka Ige, individually and in his  
 12 official capacity as Governor of the State of  
 13 Hawaii, Joshua Booth Green, individually  
 14 and in his official capacity as Lieutenant  
 15 Governor and de facto Governor of the  
 State of Hawaii; Sylvia Jung Luke,  
 individually and her official capacity as de  
 facto Lieutenant Governor of the State of  
 Hawaii; and Mark E. Recktenwald,  
 individually and his official capacity as  
 Supreme Court Justice for the State of  
 Hawaii; Holly T. Shikada, individually and in  
 her official capacity as former Attorney  
 General for the State of Hawaii; Anne E.  
 Lopez, individually and in her official  
 capacity as current Attorney General for the  
 State of Hawaii; Reese R. Nakamura,  
 individually and in his official capacity as  
 Deputy Attorney General for the State of  
 Hawaii, et al.

Respondents

Case No. 1:22-cv-00528-JMS-KJM

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Exhibit (1): Gary A. Cordery Candidate  
 Nomination Papers of 1 March, 2022

Exhibit (2): SCEC-22-0000734 Cordery v.  
 Ige et al of 15 December, 2022

Exhibit (3): SCEC-22-000504 Cordery v.  
 Office of Elections of 22 August, 2022

Exhibit (4): CV22-00439-HG-KJM Cordery  
 v. Hawaii Supreme Court of 6 October,  
 2022

Exhibit (5): USCA: 22-16970 Cordery v.  
 Hawaii Supreme Court of 17 February,  
 2023

Exhibit (6): SCEC-22-0000703 Cushnie v.  
 Nago of 22 November, 2022

Exhibit (7): Exhibit (7): Cushnie Petition  
 for Redress to Hawaii House of  
 Representatives of 19 January, 2023

Exhibit (8): 1:22-CV-00460, Martin v. Nago  
 of 26 October, 2022

16 INTRODUCTION

17 I, Gary Arthur Cordery, pro se, in propria persona, acting as a private attorney  
 18 general, and on behalf of the People of Hawaii (Petitioners) hereby bring this First  
 19 Amended Complaint to request this honorable Court provide a Declaratory

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Judgement without monetary relief to terminate an emergency controversy arising within this Court's jurisdiction, and for the preservation of government as founded on by the authority of the People.

Petitioner avers that the Respondents are engaged in activities that give rise to violations of the Constitution of the United States of America, Preamble, Article IV Section 3, the 1st Amendment, the 9th Amendment, the 14<sup>th</sup> Amendment, 42 U.S. Code 1983, 42 U.S. Code 1985, and 42 U.S. Code 1986, and that this deliberate pattern of misconduct may constitute violations of Title 6 and Title 18 of the U.S. Code, and among others.

Petitioner avers that this is a case arising under the Constitution of the United States of America and the laws of the United States.

Petitioner avers that this controversy exists between the citizens of the de jure state of Hawaii and the de facto state officials who have **occupied** the executive branch and presented themselves as lawfully elected officials, and with those public officials who participated in the scheme, amid extreme violations of the Constitution of the United States of America, and contrary to state and federal laws.

*Occupy. To take or enter upon possession of; to hold possession of; to hold or keep for use; to do business in; to take or hold possession. (See Blacks Law 6<sup>th</sup> Edition).*

This is not a civil action about the timing of the gubernatorial inauguration.

This is a civil action regarding the obligations of public officials in upholding their promissory oath to support and defend the Constitution of the United States of America and the Constitution of the State of Hawaii, and as codified in federal law.

Respondents fraudulently misrepresented the gubernatorial candidates as being lawfully elected public officials at a time wherein the election was being lawfully challenged in state and federal courts – making it a “**contested election**” and preventing it from being lawfully certified in accordance with State statutory laws.

*Contested Election. An election is contested whenever an objection is formally urged against it which, if found to be true in fact, would invalidate it. This is true both as to objections founded upon some constitutional provision and to such as are based on statutes. (See Blacks Law 6<sup>th</sup> Edition).*

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52 Pursuant to the Constitution of the State of Hawaii, the Respondents had a legal  
53 duty to uphold their public oath and the laws of the State of Hawaii during a  
54 transfer of political power to fill the vacancy in the Governor's office while election  
55 results were being contested.

56 Petitioner acknowledges that although it may have seemed proper for the  
57 Respondent (Green) to fill the vacancy of the Governor during a succession of  
58 executive leadership, and while the federal and state courts adjudicated the claims  
59 for a contested election, this was not what was presented to the People during the  
60 public inauguration.

61 Instead, on Monday, 5 December 2022, Respondent (Ige) oversaw this proceeding  
62 wherein Respondents (Green, and Luke) were presented to the People during a  
63 public inauguration ceremony as lawfully elected public officials, affirming their  
64 positions through public oath, and before the election was lawfully certified.

65 Respondent (Recktenwald) knowingly administered a promissory oath to  
66 candidates who were not lawfully elected pursuant to state law.

67 This inauguration effected a transfer of political power to de facto executive  
68 leaders that has effectively denied the People their right to redress their grievance  
69 regarding a contested election, and has circumvented due process of law.

70 Installation of de facto executive leadership as lawfully elected public officials  
71 has denied the People a Republican Form of Government as guaranteed by the  
72 Constitution of the United States Article IV Section 4.

73 Petitioners aver that the Respondents intentionally violated the laws of the State  
74 of Hawaii during this transfer of power, in advising, overseeing, and administering  
75 this transfer, and in accepting appointments in the executive branch of government  
76 - in violation of their public oaths, and in conflict with the Constitution of the  
77 United States of America, the Constitution of the State of Hawaii, and State of  
78 Hawaii and Federal laws.

79 This fraudulent display was capstone to a historical pattern of misconduct that  
80 includes an unconstitutional ballot, suppressed election observer reports, and the  
81 reliance on the use of electronic voting systems without following state statutory  
82 audit procedures, in violation of the Constitution of the State of Hawaii and Hawaii  
83 State law.





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115 Petitioner entered his candidacy agreement under a contract with the state that  
116 presumed an election that would be conducted in accordance with the Constitution  
117 of the State of Hawaii and statutory laws. (See Exhibit (1): Gary A. Cordery  
118 Candidate Nomination Papers of 1 March, 2022).

119 Petitioner identified maladministration of the Hawaii 2022 Primary Election  
120 wherein an unconstitutional ballot was used in the administration of the primary  
121 election. (See Exhibit (2): SCEC-22-0000734 Cordery v. Ige et al of 15 December,  
122 2022).

123 Petitioners' election complaint regarding the unconstitutional ballot was still  
124 actively being adjudicated in the Hawaii Supreme Court on the day that the  
125 primary election was presented as certified, and in violation of Hawaii statutory  
126 law. Six other election complaints were also within time for appeal when the  
127 primary election was presented as certified, and in violation of statutory law.

128 Petitioners right to redress grievances and right to due process as protected by  
129 the Constitution was violated through unlawful certification of the primary election  
130 while seven election contests brought forward by the People were still actively being  
131 adjudicated.

132 Petitioner as a candidate was denied the conduct of an accurate primary election  
133 conducted pursuant to the Constitution of the State of Hawaii and state statutory  
134 laws.

135 Petitioner as a candidate suffered concrete injury through loss of time, loss of  
136 business, and loss of finances in the administration of his candidacy.

137 Petitioners' injuries were inflicted through breach of contract, violation of laws  
138 and violation of public oath by public officials in upholding the provisions of the  
139 state's Constitutional charter, state statutory laws, and in protecting the right of  
140 suffrage.

141 Petitioner as a citizen of the United States, a resident of Hawaii, and a  
142 registered voter in the State of Hawaii was denied the right of suffrage through the  
143 maladministration of both a primary and general election that were not conducted  
144 pursuant to the Constitution of the State of Hawaii and state statutory laws.

145 Petitioner is one of many of the People of the citizen, resident, voter class who  
146 were also denied the fundamental right of suffrage to elect their public officials in a

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147 republican form of government through an accurate election process as prescribed  
148 by law, and as guaranteed by the Constitution of the United States of America.

149 Petitioner right to redress grievances as one of many of the People of this class  
150 was violated through unlawful certification of the general election while four  
151 election contests brought forward by the People were still actively being  
152 adjudicated.

153 Petitioner is one of many People of this class who were injured by unlawfully  
154 elected public officials during a public inauguration ceremony wherein a de facto  
155 Governor and Lieutenant Governor were presented as lawfully elected, and before  
156 the election was certified in accordance with state law.

157 Petitioner is one of many People of this class who were injured by public officials  
158 who oversaw the administration of a public promissory oath while knowingly  
159 violating the Constitution and state law.

160 Petitioners' injuries as one of many People of this class continue to be inflicted  
161 through the unlawful leadership and policy decisions of de facto executive public  
162 officials operating under color-of-law that are not representative of the public trust  
163 and a republican form of government.

164 Petitioners' injuries as one of many People of this class are being advanced by an  
165 Attorney General who is acting in violation of public promissory oath and is acting  
166 to protect de facto public officials instead of prosecuting offenders of state laws.

167 Petitioners' injuries as one of many People of this class are being advanced by a  
168 de facto Governor and Lieutenant Governor who are acting in violation of their  
169 public promissory oath and are employing political power that is not representative  
170 of the People and a republican form of government.

171 Petitioner avers that these harms are not "generalized grievances" and that the  
172 denial of life, liberty, and property through the maladministration of an election  
173 that ignores the Constitution, violates laws, and destroys our republican form of  
174 government are of the utmost concern to state and national security.

175 Petitioners pleading for prospective relief through declaratory judgement will  
176 solve this controversy.

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JURISDICTION

Petitioner pleads federal jurisdiction, pursuant to Article III Section 2 which extends jurisdiction to cases arising under the Constitution of the United States of America.

In addition, the Petitioner is pleading that the Court has original jurisdiction for civil actions arising under the Constitution pursuant to 28 U.S. Code § 1331, and to redress the deprivation of any right, privilege or immunity secured by the Constitution pursuant to 28 U.S. Code § 1343.

Petitioner has brought this petition to the attention of this Court pursuant to the Federal Rules of Civil Procedure Rule 57 and more specifically 28 U.S. Code 2201, for prospective relief in creation of a remedy.

Petitioner requests the Court take judicial notice of 28 U.S. Code 2201(a) which provides “In a case of actual controversy within its jurisdiction...any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

Petitioner avers that the Petitioner is an “interested party seeking such declaration” and there is a justiciable controversy.

Petitioner respectfully requests the Court take judicial notice and include by reference all appropriate constitutional clauses, state and federal statutes, relevant case law, and uncontested facts, whether referenced or cited in this pleading or from the outside, and which form the basis of the term "deprivation of rights" and “civil rights” as related to lawful procedure, or as necessary to establish any element which may be in question.

Petitioner respectfully requests the Court take judicial notice of all properly judicially noticeable facts having probative value necessary for adjust adjudication, especially within the pleadings referenced and included herein.

STATEMENT OF FUNDAMENTALS

The Constitution of the State of Hawaii is the organic and fundamental law for the establishment of government for the People in this State. There is no higher authority than the Constitution, other than man - who created it, and God the

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creator – who created man. All authority comes from the People, and all laws are subservient to the Constitution.

*Principium est potissima pars cujusque rei. The beginning is the most powerful part of each thing.*

“All political power of this State is inherent in the People and the responsibility for the exercise thereof rests with the People. All government is founded on this authority.” (See Constitution of the State of Hawaii Article I Section I).

*State. A People permanently occupying a fixed territory bound together by common-law habits and custom into one body politic exercising, through the medium of an organized government, independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into international relations with other communities of the globe. (See Blacks Law 4th Edition).*

“All persons are free by nature and are equal in their inherent and inalienable rights. Among these rights are the enjoyment of life, liberty and the pursuit of happiness, and the acquiring and possessing of property. These rights cannot endure unless the People recognize their corresponding obligations and responsibilities.” (See Constitution of the State of Hawaii Article I Section II).

These sections are forefront in the written Constitution of the State of Hawaii as they acknowledge the foundation and fundamental law for the establishment of the government, wherein the “political power” of government is inherent in the People and founded on the authority of the People.

*Fundamental Law. The law which determines the constitution of government in a state, and prescribes and regulates the manner of its exercise; the organic law of a state; the constitution. (See Blacks Law 4th Edition).*

Since the States inception, the Constitution of the State of Hawaii has been chartered to guarantee a republican form of government that is not repugnant to the principles of the Constitution of the United States nor the Declaration of Independence. (See Public Law 86-3 Section 3).

*Republican Government. A government in the republican form; a government of the People; a government by representatives chosen by the People. (See Blacks Law 4th Edition).*



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The republican form of government is further acknowledged in Constitutional affirmation wherein “We reaffirm our belief in a government of the People, by the People and for the People, and with an understanding and compassionate heart toward all the Peoples of the earth, do hereby ordain and establish this Constitution of the State of Hawaii.” (See Constitution of the State of Hawaii Preamble).

Through the authority of the People, political power is created, and entrusted to the government, through mutual understanding, for the creation of laws to regulate and employ the force of the community for the public good, and to protect the life, liberty, and property of the People.

*Potentia non est nisi ad bonum. Power is not conferred but for the (public) good.*

The Constitution is the charter which forms the trust agreement wherein the grantors and beneficiaries of government - who are the People, the citizens of the State, bestow the responsibility on public officials - who are elected by the People - to act as trustees in upholding this fundamental trust agreement.

*Charter. An instrument emanating from the sovereign power, in the nature of a grant...and assuring...certain rights, liberties, or powers. (See Blacks Law 4th Edition).*

A fair and accurate election pursuant to the Constitution is fundamental in creating and empowering this representative government through the democratic process.

*Election. The act of choosing or selecting one or more from a greater number of persons, things, courses, or rights. (See Blacks Law 9th Edition).*

From this State Constitution, the legislative power is vested in the two houses of the legislature, the judiciary power is vested in the snpreme court, appellate, circuit and district courts, and others as established by the legislature, and the executive power is vested in the governor of the State. (See Constitution of the State of Hawaii Article III, V, and VI).

In the execution of this executive power, the Governor, following election, is bound by a public ~~promissory~~ **oath** to support and defend the Constitution of the United States, and the Constitution of the State of Hawaii...and faithfully discharge these duties to the best of their ability. The lieutenant governor and chief justice are also bound by this same oath. (See Constitution of the State of Hawaii Article XVI, Section 4).



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274 *Promissory Oath. Oaths which bind the party to observe a certain course of*  
 275 *conduct, or to fulfill certain duties, in the future, or to demean himself thereafter in*  
 276 *a stated manner with reference to specified objects or obligations; such, for example,*  
 277 *as the oath taken by a high executive officer, a legislator, a judge...* (See *Blacks*  
 278 *Law 4th Edition*).

279 The Constitution of the United States of America also requires these State  
 280 executive and judicial officers be bound by oath or affirmation to support the  
 281 Constitution of the United States of America. (See Constitution of the United  
 282 States of America Article VI Section 3, and 4 U.S. Code 101).

283 This promissory oath is the cornerstone in the transfer of responsibility, from the  
 284 People, and through the election process, to our public officials, and in bestowing  
 285 the responsibility for protection of the Constitutional trust on behalf of the grantors  
 286 and beneficiaries of government - the People.

287 The ceremonial “swearing in” of our public officers is the capstone formality for  
 288 this transfer and the public attestation for these public officers to be conscientiously  
 289 bound in faithful protection of this trust.

290 Once this transfer of responsibility occurs, the Governor bears the added  
 291 responsibility for the faithful execution of the laws of the State. (See Constitution of  
 292 the State of Hawaii Article V, Section V).

293 And if there were ever a devolution of executive power from governor to the  
 294 lieutenant governor, the lieutenant governor also bears this same responsibility.  
 295 (See Constitution of the State of Hawaii Article V, Section IV).

296 In addition to the provisions of the Constitution, using these powers, actions of  
 297 the government through the legislature create **statutory laws** that expand the  
 298 Constitutional agreement, define responsibilities for public officers, and are used to  
 299 codify the will of the People through the legislative process.

300 *Statutory Law. Law deriving its force from express legislative enactment. (See*  
 301 *Stephen's Commentaries on English Law 40).*

302 “The[se] laws are obligatory upon all persons and property within the  
 303 jurisdiction of the State.” (See HRS § 1-4).

304 The Constitution, and as further defined in statutes, specifies the detailed  
 305 process for the conduct of fair and honest elections that are accurate – “against any



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and all questions.” (See Constitution of the State of Hawaii Article II, and Hawaii Revised Statutes Chapters 11 and 16).

Since the transition from the Territory of Hawaii into becoming the State of Hawaii, there has been a prescribed process for the transfer of government power that has been dependent on an election process of the People. During the birth of the State, the People were posed with questions regarding statehood, admission into the Union, and the election of public officers for the State executive and federal legislative positions. At the conclusion of this first State governmental election, the return of legal votes cast was ~~certified~~ by the Secretary of Hawaii, to the Governor, who further certified and submitted to the President of the United States. (See Public Law 86-3 Section 7(b) and 7(c)).

*Certify. To testify in writing; to make known or establish as a fact. (See Blacks Law 4th Edition).*

Upon certification by the President, the State of Hawaii was deemed admitted into the Union and the first elected public officers were empowered in the State of Hawaii. (See Proclamation 3309—Admission of the State of Hawaii into the Union).

Certification of elections has been fundamental in ensuring the orderly transfer of the political power of the People, and in the democratic process of elections since the inception of the State of Hawaii.

The current election certification process is defined and specified in Hawaii Revised Statutes HRS § 11-155 Certification of results of election, and HRS § 11-156 Certificate of election and certificate of results, form. (See HRS § 11-155 and 11-156).

And further in the statutes on Gubernatorial transition wherein an orderly transfer of executive power is to occur at the expiration of the term of office of the governor and the ~~inauguration~~ of the new governor, and to assure continuity in the conduct of the affairs of the State. (See HRS § 30-1)

*Inauguration. The act of installing or inducting into office with formal ceremonies, as the coronation of a sovereign, the inauguration of a president or governor, or the consecration of a prelate. (See Blacks Law 9th Edition).*

Foremost, Hawaii Revised Statute HRS § 30-2 requires that the “Governor-elect” be ascertained by the chief election officer following the general election. (See HRS § 30-2).



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339 *Ascertain. To fix; to render certain or definite; to estimate and determine; to*  
340 *clear of doubt or obscurity. (See Blacks Law 9th Edition)*

341 Pursuant to HRS § 11-156 a “Certificate of Election” shall be delivered after the  
342 time for bringing an election contest, and if there is an election contest, only after a  
343 final determination in the contest has been made and the time for appeal has  
344 expired. (See HRS § 11-156)

345 The statutes for certification acknowledge that during the election process there  
346 may be election complaints presented by the People in their right to redress the  
347 government for grievances and in establishing the elements for a **contested election**.

348 *Contested Election. An election is contested whenever an objection is formally*  
349 *urged against it which, if found to be true in fact, would invalidate it. This is true*  
350 *both as to objections founded upon some constitutional provision and to such as are*  
351 *based on statutes. (See Blacks Law 6th Edition).*

352 Subsequently, “Contested elections shall be determined by a court of competent  
353 jurisdiction in such manner as shall be provided by law.” (See Constitution of the  
354 State of Hawaii Article I Section 10).

355 The People shall be afforded due process of law in presenting a redress for  
356 grievances, and shall not be “disfranchised, or deprived of any of the rights or  
357 privileges secured to other citizens, unless by the law of the land.” This redress of  
358 grievances in elections, or otherwise, is a necessary safeguard in ensuring the  
359 balance of political power in our republican form of government. (See Constitution  
360 of the State of Hawaii Article I Section 4, Section 5, and Section 8).

361 Thus, in the event of a contested election, a “governor-elect” cannot be  
362 ascertained and a “Certificate of Election” shall not be delivered until the grievance  
363 is resolved by a court of competent jurisdiction. (See Constitution of the State of  
364 Hawaii Article I Section 10, HRS § 11-156 and HRS § 30-2).

365 Petitioner avers that pursuant to the Constitution of the State of Hawaii and  
366 statutory law, the inauguration of unelected public officials cannot lawfully occur  
367 prior to certification of the election.

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STATEMENT OF FACTS

On Monday, 5 December 2022, an inauguration ceremony was held for the transition of the State of Hawaii government executive leadership at the Blaisdell Arena in Honolulu, Hawaii.

Reportedly, more than 700 witnesses were in attendance.

Respondent (Ige) was in attendance and oversaw the proceeding.

Respondent (Recktenwald) publicly administered the public oaths of office.

Respondent (Green) was sworn in as attested to in public oath as Governor for the State of Hawaii.

Respondent (Luke) was sworn in as attested to in public oath as Lieutenant Governor for the State of Hawaii.

Respondents (Green and Luke) verbally attested to this public oath with their right hand raised and their left hand on a bible.

Respondent (Green) was congratulated by Respondent (Recktenwald) as “Governor Green” and presented to the public as the “9th Governor of the State of Hawaii - Josh Green.”

Respondent (Luke) was congratulated by Respondent (Recktenwald) as “Lieutenant Governor” and presented to the public as “Lieutenant Governor for the State of Hawaii – Sylvia Luke.”

(See Video “Josh Green becomes Hawaii’s 9th Governor” KHON2 News <https://www.youtube.com/watch?v=53gr5AzGPw8>)

On the date of the gubernatorial inauguration, the People had four active grievances contesting the election which were pending adjudication in the Hawaii Supreme Court and the United States District Court District of Hawaii.

In the conduct of the election, Hawaii statutory laws prescribe the certification process for an election wherein a “Certificate of Election” shall be delivered only after the time for bringing an election contest, and if there is an election contest, only after a final determination in the contest has been made and the time for an appeal has expired. (See HRS § 11-156).

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Petitioner maintains that on the date of the gubernatorial inauguration, the election had not been certified by the Office of Elections Chief Elections Officer pursuant to HRS § 11-155 and HRS § 11-156.

Petitioner maintains that as of the date of this filing, the 2022 Hawaii Election has not been certified in accordance with state statutes.

Petitioner maintains that as of the date of this filing, the 2022 Election remains a contested election.

#### HISTORY OF REDRESS OF GRIEVANCES

Petitioner avers that through the series of transactions which culminated in the instant complaint, the same unbroken pattern of acts, errors and omissions was manifested by the Respondents against the Petitioner in the primary and general elections, with broad failures to follow Constitutional and statutory procedure and which culminated in the unlawful inauguration.

In *Cordery v. Office of Elections*, the Petitioner averred that the 2022 Primary Ballot design violated The Constitution of the State of Hawaii, Article II Section 4 wherein "...no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election." The first instruction on the ballot was "YOU must select ONE political preference below." The state statute further specifies this restriction and that if the ballot is marked contrary to this statute, the ballot "shall not be counted," and that no unconstitutional ballot should have been counted in the primary election - which would have overturned the election results. (See Exhibit (3): SCEC-22-000504 *Cordery v. Office of Elections*, Docket 1)

This grievance was brought to the attention of the Hawaii Supreme Court (HSC) through an election complaint that was adjudicated in a decision wherein this dispositive fact regarding the constitutional restriction was presented as prima facia evidence by the Petitioner, but was kept extrinsic from the judiciary's judgement. Petitioner was denied redress and due process by HSC through denial of joinder, denial of motion for proof of official record, and denials of multiple requests for oral hearing and for this grievance to be heard from the People. (See Exhibit (3): SCEC-22-000504 *Cordery v. Office of Elections*, Docket 18, 20, 22, 24 and 26)

Meaningful hearings were not held, and multiple efforts by the Petitioner to meet and confer were also denied. Petitioners' motions for judicial notice of facts



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were never acknowledged. Petitioner was denied due diligence in satisfying the burden of proof.

The state claimed that “at no time did Respondent violate the statutory ballot and voting requirements” although the Court withheld the dispositive fact, failed to acknowledge the fact as a fact-in-evidence, and kept the fact extrinsic from their findings of fact and conclusions of law. (See Exhibit (3): SCEC-22-000504 *Cordery v. Office of Elections*, Docket 10, page 2)

Petitioner averred that the prima-facia evidence of this dispositive fact (unconstitutional ballot) was avoided with intention. Statements were repeatedly made, and avoided with intention, and therefore should be subject to a conclusive presumption.

In Petitioners request for declaratory judgement regarding this dispositive fact in U.S. District Court, Hawaii (USDCH), the state presented that “At most, Petitioner’s arguments are speculative in nature because there is no supporting evidence that Petitioner was entitled to have an alleged “dispositive fact” admitted into evidence or that the Supreme Court of Hawai‘i’s denial of his request for oral argument impacted his due process.” (See Exhibit (4): CV22-00439-HG-KJM *Cordery v Hawaii Supreme Court et al*, Document 10-1, page 160)

Petitioner's request to identify the conditions of an “entitlement” to have an uncontested fact admitted as evidence went unanswered by the Respondents and HSC.

The Respondent (Shikada, and Nakamura) alleged that “Refusal to admit...a “dispositive fact”...[was] judicial in nature.” (See Exhibit (4): CV22-00439-HG-KJM *Cordery v Hawaii Supreme Court et al*, Document 10-1 page 169). Petitioner objected noting that "When a judge acts intentionally and knowingly to deprive a person of his constitutional rights he exercises no discretion or individual judgment; he acts no longer as a judge, but as a 'minister' of his own prejudices." (Ref: *Pierson v. Ray*, 386 U.S. 547 at 568 (1967)).

Petitioners petition to USDCH for declaratory judgement without relief regarding HSC withholding of this dispositive fact as a fact in evidence was dismissed with prejudice. Petitioners motion for recusal, motion to reconsider, and motion to leave to amend were further denied in a minute order by USDCH. (See Exhibit (4): CV22-00439-HG-KJM *Cordery v Hawaii Supreme Court et al*, Document 15 page 228)



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Petitioner has filed an appeal in the U.S. Court of Appeals, 9<sup>th</sup> Circuit. (See Exhibit (5): USCA: 22-16970 *Cordery v Hawaii Supreme Court et al*)

In the conduct of the election, Hawaii statutory laws prescribe the certification process for an election wherein a “Certificate of Election” shall be delivered after the time for bringing an election contest, and if there is an election contest, only after a final determination in the contest has been made and the time for appeal has expired.” (See CV22-00528-JMS-KJM *Cordery v Ige*, Docket 1, page 10)

At the time of the gubernatorial inauguration there were four cases pending regarding the contested general election, and the election had not been certified.

1) *HRP v. Nago*, in 1<sup>st</sup> Circuit Court Hawaii: 1CCV-22-0001499 filed 28 November, 2022.

2) *Cushnie v. Nago*, in the Hawaii Supreme Court: SCEC-22-0000703 filed 22 November, 2022.

3) *Dicks v. Nago*, in the Hawaii Supreme Court: SCEC-22-0000711 filed 28 November, 2022.

4) *Martin v. Nago*, in the U.S. District Court for the District of Hawaii: 1:22-CV-000460-WRP-DKW filed 26 October, 2022.

In *Dicks v. Nago* the Petitioner Dicks averred that the Respondent had certified the primary election prior to the adjudication of all election complaints and prior to the time for appeal had expired. State statute requires that the Certificate of Election “shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired.” Regardless of the requirements of the statutory law, Respondent did provide a statement as to the tabulation of the votes received prior to the adjudication of all election complaints, but never “certified” the primary election in accordance with the statutory law.

In *Cushnie v. Nago*, the Petitioner Cushnie averred that the Respondent was not conducting post-election pre-certification audits in either the primary or general elections as required by state statute. The statutory requirement specifies that as a condition of using electronic voting systems, an audit is required that compares a random sample of not less than ten percent of precincts, to ensure that the hand tallies of the votes on the paper ballots is equal to the electronic tallies generated by the voting system – in order to ensure the accuracy of the voting system. The violation of this statutory requirement was verified by multiple election observers. Petitioners request for relief was a declaratory judgment of the statute as an



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affirmative statute and to direct compliance with the statutory audit requirements. Petitioners “sole purpose of the relief requested was that the elections be verified as accurate through all audits as intended by the legislature.” (See Exhibit (6): SCEC-22-0000703 *Cushnie v. Nago*, Docket 1)

In the opposition rebuttal the Respondents admitted to conducting audits using scanned digital images in lieu of the paper ballots in violation of the affirmative statute, and had used administrative rules to redefine system names to negate audit requirements in their entirety – then claiming that the audits were then “not required by law.” (See Exhibit (6): SCEC-22-0000703 *Cushnie v. Nago*, Docket 10, page 11)

Further, in an agency newsletter to the public following the election the Respondent published that “audits are mandated by Hawaii election law and allows officials to confirm that electronic tallies are equal to the manual tallies of votes.” This misrepresentation to the public implied compliance with statutory audit requirements despite the Respondents admission that they do not follow this statutory law. (See Exhibit (6): SCEC-22-0000703 *Cushnie v. Nago*, Docket 16, Exhibit A)

Petitioner (Cushnie) maintained that “failure to perform an accurate post-election pre-certification audit is an error that could cause a difference in the election results, and that the accuracy of the general election is questionable and indeterminate.”

Petitioner (Cushnie) has petitioned the Honse of Representatives for further declaration and enforcement of this affirmative statute, and which has to date gone unanswered. Subsequently, Respondents attempted to advance a piece of legislation through House Bill 132 and Senate Bill 180 to rewrite the statnte and remove this basic safeguard of audit protection in state elections when using electronic voting systems. (See Exhibit (7): Cushnie Petition for Redress to Hawaii Honse of Representatives).

Despite Respondents admission of violation of the statutory audit requirements, the Hawaii Supreme Court dismissed the complaint without a hearing. Petitioner (Cushnie’s) three motions for oral argument, motion for reconsideration, and motion to leave to amend were all denied. (See Exhibit (6): SCEC-22-0000703 *Cushnie v. Nago*, Docket 26 and 33)



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533 In *Martin v. Nago*, the Petitioner brought an action for prospective declaratory  
534 relief for an "ongoing campaign of suppression" of observer reports of irregularities,  
535 vulnerabilities, state and vendor misconduct, and details of a failed attempt by the  
536 Respondents to have Petitioner (Martin) falsely arrested in order to discredit his  
537 activities as a whistleblower. (See Exhibit (8): 1:22-CV-00460, *Martin v Nago*,  
538 Document 1)

539 Petitioner (Martin's) complaint lays out an unbroken pattern of suppression  
540 which is supported by eyewitness affidavits which support not only Petitioners'  
541 claims, but corroborate other allegations and actions which are referenced in this  
542 complaint. For this reason, the Petitioner requests the Court to include by  
543 reference the affidavits and reports submitted by witnesses associated with *Martin*  
544 *v Nago*, and to take judicial notice of the substance and nature of the allegations  
545 having probative value to the instant matter, the fact that gross improprieties  
546 occurred in that series of transactions, and that the petition was never adjudicated  
547 on merits.

548 Importantly, prior to the questionable outcome of *Martin v Nago*, for which an  
549 appeal is now pending, Petitioner (Martin) sought to add the Attorneys General as a  
550 party to the suit after the responses of the Attorney General's revealed them to be  
551 engaged in a substantial conflict of interest, and exposed their own involvement as  
552 indispensable parties to the ongoing campaign of suppression and obfuscation of  
553 observer reports. Also, at issue was whether or not the Attorneys General activities  
554 were actually defending a legitimate state interest; it seems implausible given their  
555 direct involvement in the cover up of the material allegations of Petitioner  
556 (Martin's) petition, and given their role in repeatedly attempting to prevent the  
557 court's in several cases from reaching merits on undisputed facts. Here, the very  
558 same sort of conflict of interest has emerged, and highlights the relevance of  
559 provisions in 42 USC 1988, and whether the state institutions are currently  
560 "adapted to the purpose" for the vindication of civil and constitutional rights of the  
561 People.

562 When these supporting facts and related cases are considered together, it raises  
563 the inescapable conclusion that the Respondents have not approached the assertion  
564 of state privileges with clean hands, but rather are abusing their lawful authority to  
565 cover up criminal activity and to protect other responsible parties.

566 Petitioner avers that this pattern of misconduct is self-evident and unbroken.

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568 STATEMENT OF COMPLAINT

## 569 CAUSE OF ACTION ONE

570 Respondents violated their promissory oath of office and failed to support and  
 571 defend the Constitution of the United States of America.

572 Pursuant to the Constitution of the United States of America “[A]ll executive and  
 573 Officers,... both of the United States and of the several States, shall be bound by  
 574 Oath or Affirmation and wherein, “Every...executive and judicial officer of a State,  
 575 shall, before he proceeds to execute the duties of his office, take an oath in the  
 576 following form, to wit: “I, A B, do solemnly swear that I will ~~support~~ the  
 577 Constitution of the United States.”” See Constitution of the United States of  
 578 America Article VI Section 3, and 4 U.S. Code 101.

579 “Support means to vindicate; to maintain; to defend; to uphold by aid or  
 580 countenance. ” United States v. Schulze, 253 F. 377, 379 (S.D. Cal. 1918)

581 The Constitution of the United States of America guarantees each State a  
 582 “Republican Form of Government, and shall protect each of them against invasion.”  
 583 (See Constitution of the United States of America Article VI Section 3).

584 In Ableman v. Booth Chief Justice Taney stated that “Every state legislator and  
 585 executive and judicial officer is solemnly committed by oath taken pursuant to Art.  
 586 VI, cl. 3, “to support this Constitution.”” And that this “requirement reflected the  
 587 framers' “anxiety to preserve it [the Constitution] in full force, in all its powers, and  
 588 to guard against resistance to or evasion of its authority, on the part of a State...”  
 589 Ableman v. Booth, 21 How. 506, 524.

590 Respondents denied the People a government in the republican form and a  
 591 government of the People when they side-stepped the lawful process for certification  
 592 of the election and as required by State law, and fraudulently presented those  
 593 public officials as lawfully elected, and in effect represented them as chosen by the  
 594 People.

595 “No state legislator or executive or judicial officer can war against the  
 596 Constitution without violating his solemn oath to support it. P. 18.” Cooper v.  
 597 Aaron, 358 U.S. 1, 3 (1958)



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Respondent (Ige, Recktenwald, Green, Luke, Lopez, and Nakamura) did violate their public oath of office in failing to support and defend the Constitution of the United States of America and guarantee for a Republican Form of Government.

Respondent (Green) did violate his public oath of office by willfully attesting to uphold the Constitution of the United States of America while knowingly violating the law.

Respondent (Luke) did violate her public oath of office by willfully attesting to uphold the Constitution of the United States of America while knowingly violating the law.

"No man in this country is so high that he is above the law. No officer of the law may set that law at defiance, with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it." "It is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives." *U.S. v. Lee, 106 U.S. 196 (1882)*

Petitioner avers that this flagrant mockery of the oath of office has undermined the public trust and confidence in the state government at a fundamental level that cannot go unchallenged.

Petitioners' injuries are manifest through de facto executive leaders' denial of life, liberty, and property through maladministration of the Constitutional public trust, and through actions that are not representative of the People and a republican form of government.

Petitioner has suffered concrete injury through loss of time, loss of business, and loss of finances during the administration of his candidacy through an election process that culminated with an unlawful inauguration and contempt for the public promissory oath of office.

As a candidate, the Petitioner was defrauded of the right to participate in a statutory compliant election process and through the breach of contract for the conduct of an election that was compliant with the Constitution for the State of Hawaii and statutory laws. (See Exhibit (1): Gary A. Cordery Candidate Nomination Papers of 1 March, 2022).



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Petitioner avers that the violation perpetrated through the unlawful inauguration and during the mockery of the promissory oath is the perfection of the breach which resulted in incalculable injuries to the Plaintiff and the People of Hawaii.

## CAUSE OF ACTION TWO

Pursuant to 42 U.S. Code § 1983 - Civil action for deprivation of rights “Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.” [underline for emphasis]

Respondents violated their promissory oath of office to support the Constitution of the United States of America, and in doing so violated the 1<sup>st</sup> Amendment, 9<sup>th</sup> Amendment, and 14<sup>th</sup> Amendment.

Pursuant to the 1<sup>st</sup> Amendment “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the People peaceably to assemble, and to petition the Government for a redress of grievances.” [underline for emphasis]

Pursuant to the 9<sup>th</sup> Amendment “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the People.” [underline for emphasis]

Pursuant to the 14<sup>th</sup> Amendment “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” [underline for emphasis]

On 5 December, 2022, the Hawaii General Election was a contested election and had two active cases pending in the Hawaii Supreme Court, one case pending in Hawaii 1st District Court, and one case pending in the United States District Court

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for the District of Hawaii. Due to these active election contests, and pursuant to Hawaii statutory law, the election could not and had not yet been certified.

On 5 December, 2022, the then current Governor for the State of Hawaii and the Supreme Court Justice for the Hawaii Supreme Court presided over an inauguration ceremony wherein a de facto Governor and Lieutenant Governor were presented as lawfully elected public officials, and sworn in as the de facto executive leadership, circumventing the People's right to redress and sidestepping due process of law.

Petitioner avers that a lawful election by the People is fundamental to the functioning of our republican form of government, and in ensuring the transfer of responsibilities to public officers beholden to protect the public trust, the Constitution, and in upholding the law.

Petitioner avers that there is a redress of grievances by the People regarding the accuracy of elections currently pending in the Hawaii House of Representatives and which remains unanswered.

Petitioner avers that certification of the election is a critical step in this transfer of power, as is specified in the Constitution of the State of Hawaii, and Hawaii Revised Statutes.

Petitioner avers that there is precedent for certification of elections prior to transfer of executive power since the inception of the State of Hawaii, and as presented in the Statement of Fundamentals.

Petitioner avers that the election certification process is codified in law, specifically in Hawaii Revised Statutes HRS § 11-155, HRS § 11-156, and HRS § 30-2.

Petitioner avers that the certification of election is a safeguard created by the People through the legislative process to ensure the fairness and accuracy of elections, against any and all questions.

Petitioner avers that the certification of election is a safeguard to protect the People's right to redress grievances, and to protect due process of law in the event of a contested election.

Petitioner avers that certification of the election pursuant to statute is required prior to the inauguration and the transfer of any political power, and that the

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certification as codified in state law was created through legislation pursuant to the will of the People.

Respondents (Ige, Recktenwald, Shikada, and Nakamura) further denied the People due process for redress of grievances when they conveniently sidestepped the safeguards of the State statutory law that is required for the certification of the election, and hypassed the lawful process necessary to bestow the confidence through an elective process of public representatives that had been chosen by the People.

Respondents (Ige, Recktenwald) used their positions in executive and judicial leadership during a public gubernatorial inauguration ceremony, wherein sworn promissory oaths were administered, to fraudulently present these candidates as lawfully elected public officials and install de facto executive leaders under the color of law.

Respondent (Ige, Lopez, Shikada, Nakamura) did violate their public oath of office by knowingly allowing an improper transition of executive leadership to occur without ensuring the certification of the election, sidestepping due process and equal protection of the law, and as required by law.

Petitioners' injuries are manifest by the actions of executive and judicial leadership who thwart the right to due process and deprive of liberty and freedom as protected and guaranteed by Constitution of the United States of America and the Constitution of the State of Hawaii.

*Constitutional Liberty or Freedom. Such freedom as is enjoyed by the citizens of a country or state under the protection of its constitution; the aggregate of those personal, civil, and political rights of the individual which are guaranteed by the constitution and secured against invasion by the government or any of its agencies. (See Blacks Law 4<sup>th</sup> Edition).*

Petitioner has suffered concrete injury through loss of time, loss of business, and loss of finances during the administration of his candidacy, based on contract, and that depended on due process and the protection of suffrage delivered through a certified election process and as codified in state law.

## CAUSE OF ACTION THREE

Pursuant to 42 U.S. Code 1985 - Conspiracy to Interfere with Civil Rights Section (3) Depriving persons of rights or privileges "If two or more persons in any



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State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws;" [underline for emphasis]

"The word ('conspire') is in common use and necessarily carries with it the idea of agreement, concurrence, and combination, and hence is not applicable to a single person or thing; and when one person is charged with conspiring with another, there are no words in the English language by which the idea of the action and co-operation of two minds could be more effectively conveyed, since one can not agree or conspire with another who does not agree and conspire with him. A conspiracy to do an act, as is so well stated in the language just quoted, is never the work of one person. And when an act is done as the result of a conspiracy, such act is in law never the act of one person." *Horton v. Johnson*, 192 Ga. 338, 351 (Ga. 1941)

Respondents violated 42 U.S. Code 1985(3) in "conspiring...for the purpose of depriving, either directly or indirectly, any person or class of persons the equal protection of the laws," and in "...preventing or hindering the constituted authorities of any State... from giving or securing to all persons within such State... the equal protection of the laws[.]" [underline for emphasis]

"The equal protection of the laws of a state is extended to persons within its jurisdiction, within the meaning of the constitutional requirement, when its courts are open to them on the same conditions as to others, with like rules of evidence and modes of procedure, for the security of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts; when they are subjected to no restrictions in the acquisition of property, the enjoyment of personal liberty, and the pursuit of happiness, which do not generally to affect others; when they are liable no other or greater burdens and charges than such as are laid upon others; and when no different or greater punishment is enforced against them for a violation of the laws." *State v. Montgomery*, 94 Me. 192, 47 A. 165.

On 5 December, 2022, the Respondents knowingly bypassed the lawful requirement for certification of the election and installed, through public inauguration ceremony and promissory oaths, de facto executive leaders as being lawfully elected by the People.



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Respondents (Ige and Recktenwald) failed to prevent this unlawful transfer of executive power by prioritizing and falsely installing de facto government leaders as lawfully elected while simultaneously sidestepping the People's rights for a lawful election through certification as required by state statute.

On 15 December, 2022 the Petitioner filed a request for Declaratory Judgment without relief in the Hawaii Supreme Court wherein the Petitioner averred that the Respondents had intentionally violated the laws of the State of Hawaii during this transfer of power, in overseeing and administering this transfer, and in accepting appointments in the executive branch of government – in violation of their public oaths, and in conflict with the Constitution and State laws. (See Exhibit (2): SCEC-22-0000734 Cordery v. Ige et al)

On 6 January, 2023 the Petitioner put forward a Motion for Interrogatories to determine whether the Attorney General for the State of Hawaii advised the Respondents (Ige, Green, Luke, and/or Recktenwald) to proceed with the Governor and Lieutenant Governor inaugurations on 5 December, 2022.

On 12 January, 2023 the Attorney General provided a Memorandum in Opposition of the Motion for Interrogatories, wherein the Respondents (Lopez, and Nakamura) endorsed a response stating that the Respondents were "clients" and refused to respond to interrogatories as this would "reveal privileged attorney-client communications." (See Exhibit (2): SCEC-22-0000734 Cordery v. Ige Docket 21)

Petitioner avers that the nature, timing, parties, and subject of the attorney-client communications makes the assertion of privilege dubious for the lawful transfer of executive power - unless the content of any work product would have implicated those Defendants who participated in a conspiracy for a transfer of executive power that was not lawful.

Respondents' assertion of privilege and refusal to openly disclose the governing permission on this issue offers further appearance of wrongdoing, the secrecy of which is repugnant to the very phrase "election", in a free society.

On 22 February, 2023, following an exchange of several motions and denial by the Court of two motions for interrogatories as moot, the Hawaii Supreme Court dismissed the Petitioners request for Declaratory Judgment citing the nullity rule, time barring the complaint, citing lack of original jurisdiction, and preserving the "integrity of the court" over any interest in hearing the merits of the controversy.

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797 Petitioner was denied equal protection of the laws when the Respondent (Lopez  
798 and Nakamura) furthered an attempt to shield and protect information that should  
799 be ethically and legally supportive of a lawful transfer of executive powers as  
800 determined through the conduct of a lawful election, and culminating with a lawful  
801 inauguration.

802 Respondent (Lopez and Nakamura) denied the Petitioner equal protection of the  
803 law in defending candidates as “clients,” influencing state authorities, and ignoring  
804 the will of the People in their petition for redress of grievances, and that runs  
805 counter to their responsibilities wherein “The attorney general shall be vigilant and  
806 active in detecting offenders against the laws of the State, and shall persecute the  
807 same with diligence.” (See HRS § 28-2).

808 Petitioner was denied equal protection of the laws when the Hawaii Supreme  
809 Court in their jurisprudence prioritized preserving the “integrity of the court” over  
810 any interest in hearing the merits of the controversy.

811 Petitioner avers that the conspiracy to effect the illegal inauguration negatively  
812 impacted the pending litigation, attempting to intimidate or influence the courts to  
813 preemptively adjudicate all pending litigation in favor of the apparent status quo,  
814 and prevented, hindered, or otherwise suppressed the rights of the litigants and  
815 affected parties, including the Petitioner, who were all attempting to uphold the law  
816 in an environment where the State was not properly adapted or interested in that  
817 purpose.

818 Petitioner avers that throughout the unbroken pattern of acts, errors, and  
819 omissions, it is manifestly apparent that the Respondents (Ige, Recktenwald,  
820 Shikada, Lopez, and Nakamura) have been working in concert, and have acted  
821 knowingly, intelligently, and with awareness of the impropriety and illegality of  
822 their actions, to subvert and supplant the rule of law.

823 “Due process of law and the equal protection of the laws are secured if the laws  
824 operate on all alike, and do not subject the individual to an arbitrary exercise of the  
825 powers of government.” *Duncan v. Missouri*, 152 U.S. 377, 382 (1894)

826 Petitioner has suffered concrete injury through loss of time, loss of business, and  
827 loss of finances during the administration of his candidacy that depended on equal  
828 protection of the law and through the conduct of an honest election process which  
829 culminated through a certified election as codified in state law.



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## CAUSE OF ACTION FOUR

Pursuant to 42 U.S. Code 1986 – Action for neglect to prevent, “Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action;...”

Respondents violated 42 U.S. Code 1986 wherein “having knowledge of any of the wrongs conspired to be done...and having the power to prevent or aid in preventing the commission of the same, neglects or refuses to do so...”

*Neglect. May mean to omit, fail, or forbear to do a thing that can be done, or that is required to be done, but it may also import an absence of care or attention in the doing or omission of a given act. And it may mean a designed refusal or unwillingness to perform one's duty. (See Blacks Law 4<sup>th</sup> Edition)*

Respondents (Lopez and Nakamura) neglected to prevent the unlawful inauguration of gubernatorial candidates as lawfully elected public officials through an election that had not yet been certified in accordance with state statute.

Respondents (Ige and Recktenwald) neglected to prevent the unlawful inauguration of gubernatorial candidates as lawfully elected public officials through an election that had not yet been certified in accordance with state statute.

Respondent (Recktenwald) did violate his public oath of office to uphold the Constitution of the United States of America as he knowingly administered a public oath without ensuring the certification of the election.

Petitioners' injuries are manifest through de facto executive leaders' denial of life, liberty, and property, and through their neglect and failure to protect the Constitutional public trust.

Petitioner has suffered concrete injury through loss of time, loss of business, and loss of finances during the administration of his candidacy through the neglect of executive and judicial leaders who failed to protect this Constitutional public trust and the laws of the state of Hawaii.

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REMEDY - REQUEST FOR DECLARATORY JUDGEMENT WITHOUT RELIEF

Petitioner pleads this Court for declaratory judgment without relief in determining that based on the totality of the evidence presented in the court filed documents, and those included by reference, that:

1) Respondent (Ige) did preside over the inauguration of Respondents (Green) as the lawfully elected Governor and Respondent (Luke) as the lawfully elected Lieutenant Governor for the State of Hawaii;

2) Respondent (Green) did attest in public oath to accepting the position of the lawfully elected Governor for the State of Hawaii;

3) Respondent (Green) was presented to the public as the lawfully elected Governor prior to certification of the election;

4) Respondent (Luke) did attest in public oath to accepting the position of the lawfully elected Lieutenant Governor for the State of Hawaii;

5) Respondent (Luke) was presented to the public as the lawfully elected Lieutenant Governor prior to certification of the election;

6) Respondent (Recktenwald) did administer the public oath to Respondent (Green) and Respondent (Luke) as lawfully elected public officials prior to certification of the election;

7) Respondent (Recktenwald) did administer the public oath during an inauguration in connection with the administration of the election;

8) Respondent (Ige, Recktenwald, Green, Luke, Lopez, and Nakamura) did violate their public oath of office in failing to support and defend the Constitution of the United States of America and the guarantee for a Republican Form of Government.

9) Respondent (Green) did violate his public oath of office by willfully attesting to uphold the Constitution of the United States of America while knowingly violating the law.

10) Respondent (Luke) did violate her public oath of office by willfully attesting to uphold the Constitution of the United States of America while knowingly violating the law.



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894 11) Respondent (Ige, Recktenwald, Shikada, and Nakamura) did violate their  
895 public oath of office by knowingly allowing an improper transition of executive  
896 leadership to occur without ensuring the certification of the election, sidestepping  
897 due process and equal protection of the law, as required by law, and in violation of  
898 42 U.S. Code 1983.

899 12) Respondents (Ige, Recktenwald, Shikada, and Nakamura) failed to prevent  
900 this unlawful transfer of executive power by prioritizing and falsely installing de  
901 facto government leaders as lawfully elected while simultaneously sidestepping the  
902 People's rights for a lawful election through certification as required by state  
903 statute, and in violation of 42 U.S. Code 1985(3).

904 13) Respondent (Shikada, Lopez, and Nakamura) denied the Petitioner equal  
905 protection of the law in defending candidates as "clients," influencing state  
906 authorities, and ignoring the will of the People in their petition for redress of  
907 grievances, and in violation of 42 U.S. Code 1985(3).

908 14) Respondents (Ige, Recktenwald, Shikada, and Nakamura) neglected to  
909 prevent the unlawful inauguration of gubernatorial candidates as lawfully elected  
910 public officials through an election that had not yet been certified in accordance  
911 with state statute, and in violation of 42 U.S. Code 1986.

912 15) Respondent (Recktenwald) did violate his public oath of office to uphold the  
913 Constitution of the United States of America as he knowingly administered a public  
914 oath without ensuring the certification of the election, and in violation of 42 U.S.  
915 Code 1986.

916 16) Respondents (Ige, Recktenwald, Shikada, and Nakamura), working in  
917 concert, installed Respondent (Green) and Respondent (Luke) as the election  
918 winners, conveniently sidestepping and negating any safeguard in the transfer of  
919 political power by fiat and defective process, and thereby denying the People their  
920 right to redress grievances regarding a contested election, and offering the  
921 appearance that a lawful election winner had been declared and inaugurated;

922 17) And that these facts give rise to standing for the Petitioner to bring a cause  
923 of action for violations of the Constitution for the United States of America, and  
924 pursuant to 42 U.S. Code 1983, 42 U.S. Code 1985(3), and 42 U.S. Code 1986.

925

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CONCLUSION

The People of Hawaii have just witnessed a most egregious violation of the public trust, wherein our most senior and trusted government public officials fraudulently oversaw and administered an inauguration of unlawfully elected de facto leaders in public display, mocking the People of Hawaii and the Constitutional trust they are sworn as trustees to support and defend.

When these supporting facts and related cases are considered together, it raises the inescapable conclusion that the Respondents are not safeguarding the political power as bestowed on them by the People, nor with clean hands, but rather are abusing their authority under color of law to defend and install executive leaders that are not representative of the People. This pattern of misconduct is self-evident and unbroken.

The Petitioner is seeking declaratory prospective relief in determining the facts upon which legal relations depend. This claim is not retrospective, and no coercive relief is being sought. The declaration sought would completely terminate the controversy which gave rise to this amended complaint, and would make clear the rights, duties, and responsibilities of the parties involved.

The declaration sought is in Petitioners practical interest, but it also wholly serves the public good and the People of Hawaii, and the State of Hawaii, in the interests of Justice to preserve the rule of law, and thus should be of compelling interest to the United States Judiciary.

Respondents (indisputably) acted knowingly in violation of State and Federal law. The Respondents knowingly inflicted injury on the State of Hawaii and her People, including Petitioner. The Respondents knowingly and intelligently worked in concert to cover up the misconduct, and attempted to unlawfully grant themselves effective impunity for what clearly appears to be a criminal conspiracy against the rights of Petitioner and the People, in order to defeat the rule of law for personal or financial gain.

The Petitioner respectfully pleads with this Court for the most basic and crucial of rights, in all sincerity and good faith.

The Petitioner respectfully requests that this Court allows this matter to be heard and resolved as expeditiously as possible, and makes all necessary inferences to arrive at a just conclusion.



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959 "It will be an evil day for American Liberty if the theory of a government outside  
960 supreme law finds lodgment in our constitutional jurisprudence. No higher duty  
961 rests upon this Court than to exert its full authority to prevent all violations of the  
962 principles of the Constitution." *Downs v. Bidwell*, 182 U.S. 244 (1901)

963 Petitioner prays for the Courts sound jurisprudence.

964 Petitioner reserves all rights, without prejudice.

965 Date: 1 May, 2023

City: Aiea, Hawaii

966 By: Gary Arthur Cordery

Signature: 

967