

No. 12-16258

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CHRISTOPHER BAKER,

*Plaintiff-Appellant,*

v.

LOUIS KEALOHA, ET AL.,

*Defendant-Appellee.*

DECLARATION OF  
CURTIS E. SHERWOOD

DECLARATION OF CURTIS E. SHERWOOD

I, CURTIS E. SHERWOOD, upon my oath and as an officer of this Court, do hereby swear, under penalty of law, that the following information is true and correct to the best of my knowledge and belief:

1. I am an attorney licensed to practice law in all of the courts of the State of Hawaii, the United States District Court for the District of Hawaii, the Ninth Circuit Court of Appeals and the United States Supreme Court. I am a member in good standing of all of the aforementioned courts.

2. I am a Deputy Corporation Counsel for the City and County of Honolulu and represent Defendant-Appellees LOUIS KEALOHA and the CITY AND COUNTY OF HONOLULU (hereinafter "City Parties") in this action.

3. I have personal knowledge of and am competent to make this Declaration concerning the matters set forth below.

4. The City Parties are considering filing a Petition for Rehearing En Banc or a Petition for Panel Rehearing with respect to the panel's Memorandum Opinion issued on March 20, 2014.

5. Pursuant to Federal Rules of Appellate Procedure 35(c) and 40(a)(1), the deadline for filing such a petition is April 3, 2014.

6. I have been the attorney of record for the City Parties in this appeal responsible for writing the briefs, and therefore have the depth of familiarity with this action and the issues on this appeal not possessed by others in my office.

7. On behalf of the City Parties, I am requesting an extension of fourteen (14) days to file the petition, and respectfully submit that good causes exists for the requested extension, for the following reasons:

- a. The Opinion raises constitutional issues of grave import and potentially far-reaching consequences for my clients and the State of Hawaii that warrant rehearing en banc.
- b. Given the gravity of the issues raised by the Opinion, it is vital that I have the opportunity to have a thorough discussion with my clients and other interested parties about the Opinion and my clients' options, and to brief the petition any petition for hearing.

- c. I am a Captain in the Hawaii National Guard and have been ordered to temporary duty for training from March 27 through March 31.
- d. A true and correct copy of my orders, which were issued March 24, 2014, is attached hereto as Exhibit "A."
- c. During such period, I will be attending a Defense Counsel 201 Course in Philadelphia, Pennsylvania. The DC 201 Course is an intensive trial-skills related type course and will involve substantial preparation and participation time. It will also require me to travel from Honolulu, Hawaii to Philadelphia, Pennsylvania and back.
- d. I have had numerous conflicting and unavoidable commitments in other cases since March 20, 2014.
- e. In addition, March 26, 2014 is a state and county holiday. Given the afore-mentioned circumstances, I will be unable to communicate with my clients and the State of Hawaii during a substantial portion of the time currently allocated for the City Parties to submit their petition.

11. Given all of these these factors, I do not believe that the current amount of time given will be sufficient for Defendant-Appellees to file either a Petition for Panel Rehearing or a Petition for Rehearing En Banc and ask that the deadline be extended to April 17th.

12. Pursuant to Circuit Advisory Committee Note (5) to Rule 27-1, on March 21, 2014, I contacted Plaintiff-Appellant's lead attorney, Mr. Richard Holcomb and inquired as to whether he would object to this motion. Mr. Holcomb responded via email, stating that he would.

I, CURTIS E. SHERWOOD, DO DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawaii, March 27, 2014.

/s/ Curtis E. Sherwood  
CURTIS E. SHERWOOD

No. 12-16258

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CHRISTOPHER BAKER,

*Plaintiff-Appellant,*

v.

LOUIS KEALOHA, ET AL.,

*Defendant-Appellee.*

DECLARATION OF  
CURTIS E. SHERWOOD

DECLARATION OF CURTIS E. SHERWOOD

I, CURTIS E. SHERWOOD, upon my oath and as an officer of this Court, do hereby swear, under penalty of law, that the following information is true and correct to the best of my knowledge and belief:

1. I am an attorney licensed to practice law in all of the courts of the State of Hawaii, the United States District Court for the District of Hawaii, the Ninth Circuit Court of Appeals and the United States Supreme Court. I am a member in good standing of all of the aforementioned courts.

2. I am a Deputy Corporation Counsel for the City and County of Honolulu and represent Defendant-Appellees LOUIS KEALOHA and the CITY AND COUNTY OF HONOLULU (hereinafter "City Parties") in this action.

3. I have personal knowledge of and am competent to make this Declaration concerning the matters set forth below.

4. The City Parties are considering filing a Petition for Rehearing En Banc or a Petition for Panel Rehearing with respect to the panel's Memorandum Opinion issued on March 20, 2014.

5. Pursuant to Federal Rules of Appellate Procedure 35(c) and 40(a)(1), the deadline for filing such a petition is April 3, 2014.

6. I have been the attorney of record for the City Parties in this appeal responsible for writing the briefs, and therefore have the depth of familiarity with this action and the issues on this appeal not possessed by others in my office.

7. On behalf of the City Parties, I am requesting an extension of fourteen (14) days to file the petition, and respectfully submit that good causes exists for the requested extension, for the following reasons:

- a. The Opinion raises constitutional issues of grave import and potentially far-reaching consequences for my clients and the State of Hawaii that warrant rehearing en banc.
- b. Given the gravity of the issues raised by the Opinion, it is vital that I have the opportunity to have a thorough discussion with my clients and other interested parties about the Opinion and my clients' options, and to brief the petition any petition for hearing.

- c. I am a Captain in the Hawaii National Guard and have been ordered to temporary duty for training from March 27 through March 31.
- d. A true and correct copy of my orders, which were issued March 24, 2014, is attached hereto as Exhibit "A."
- c. During such period, I will be attending a Defense Counsel 201 Course in Philadelphia, Pennsylvania. The DC 201 Course is an intensive trial-skills related type course and will involve substantial preparation and participation time. It will also require me to travel from Honolulu, Hawaii to Philadelphia, Pennsylvania and back.
- d. I have had numerous conflicting and unavoidable commitments in other cases since March 20, 2014.
- e. In addition, March 26, 2014 is a state and county holiday. Given the afore-mentioned circumstances, I will be unable to communicate with my clients and the State of Hawaii during a substantial portion of the time currently allocated for the City Parties to submit their petition.

11. Given all of these these factors, I do not believe that the current amount of time given will be sufficient for Defendant-Appellees to file either a Petition for Panel Rehearing or a Petition for Rehearing En Banc and ask that the deadline be extended to April 17th.

12. Pursuant to Circuit Advisory Committee Note (5) to Rule 27-1, on March 21, 2014, I contacted Plaintiff-Appellant's lead attorney, Mr. Richard Holcomb and inquired as to whether he would object to this motion. Mr. Holcomb responded via email, stating that he would.

I, CURTIS E. SHERWOOD, DO DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawaii, March 27, 2014.

/s/ Curtis E. Sherwood  
CURTIS E. SHERWOOD



No. 12-16258

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CHRISTOPHER BAKER,

*Plaintiff-Appellant,*

v.

LOUIS KEALOHA, ET AL.,

*Defendant-Appellee.*

DECLARATION OF  
CURTIS E. SHERWOOD

DECLARATION OF CURTIS E. SHERWOOD

I, CURTIS E. SHERWOOD, upon my oath and as an officer of this Court, do hereby swear, under penalty of law, that the following information is true and correct to the best of my knowledge and belief:

1. I am an attorney licensed to practice law in all of the courts of the State of Hawaii, the United States District Court for the District of Hawaii, the Ninth Circuit Court of Appeals and the United States Supreme Court. I am a member in good standing of all of the aforementioned courts.

2. I am a Deputy Corporation Counsel for the City and County of Honolulu and represent Defendant-Appellees LOUIS KEALOHA and the CITY AND COUNTY OF HONOLULU (hereinafter "City Parties") in this action.

3. I have personal knowledge of and am competent to make this Declaration concerning the matters set forth below.

4. The City Parties are considering filing a Petition for Rehearing En Banc or a Petition for Panel Rehearing with respect to the panel's Memorandum Opinion issued on March 20, 2014.

5. Pursuant to Federal Rules of Appellate Procedure 35(c) and 40(a)(1), the deadline for filing such a petition is April 3, 2014.

6. I have been the attorney of record for the City Parties in this appeal responsible for writing the briefs, and therefore have the depth of familiarity with this action and the issues on this appeal not possessed by others in my office.

7. On behalf of the City Parties, I am requesting an extension of fourteen (14) days to file the petition, and respectfully submit that good causes exists for the requested extension, for the following reasons:

- a. The Opinion raises constitutional issues of grave import and potentially far-reaching consequences for my clients and the State of Hawaii that warrant rehearing en banc.
- b. Given the gravity of the issues raised by the Opinion, it is vital that I have the opportunity to have a thorough discussion with my clients and other interested parties about the Opinion and my clients' options, and to brief the petition any petition for hearing.

- c. I am a Captain in the Hawaii National Guard and have been ordered to temporary duty for training from March 27 through March 31.
- d. A true and correct copy of my orders, which were issued March 24, 2014, is attached hereto as Exhibit "A."
- c. During such period, I will be attending a Defense Counsel 201 Course in Philadelphia, Pennsylvania. The DC 201 Course is an intensive trial-skills related type course and will involve substantial preparation and participation time. It will also require me to travel from Honolulu, Hawaii to Philadelphia, Pennsylvania and back.
- d. I have had numerous conflicting and unavoidable commitments in other cases since March 20, 2014.
- e. In addition, March 26, 2014 is a state and county holiday. Given the afore-mentioned circumstances, I will be unable to communicate with my clients and the State of Hawaii during a substantial portion of the time currently allocated for the City Parties to submit their petition.

11. Given all of these these factors, I do not believe that the current amount of time given will be sufficient for Defendant-Appellees to file either a Petition for Panel Rehearing or a Petition for Rehearing En Banc and ask that the deadline be extended to April 17th.

12. Pursuant to Circuit Advisory Committee Note (5) to Rule 27-1, on March 21, 2014, I contacted Plaintiff-Appellant's lead attorney, Mr. Richard Holcomb and inquired as to whether he would object to this motion. Mr. Holcomb responded via email, stating that he would.

I, CURTIS E. SHERWOOD, DO DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawaii, March 27, 2014.

/s/ Curtis E. Sherwood  
CURTIS E. SHERWOOD

No. 12-16258

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CHRISTOPHER BAKER,

*Plaintiff-Appellant,*

v.

LOUIS KEALOHA, ET AL.,

*Defendant-Appellee.*

DECLARATION OF  
CURTIS E. SHERWOOD

DECLARATION OF CURTIS E. SHERWOOD

I, CURTIS E. SHERWOOD, upon my oath and as an officer of this Court, do hereby swear, under penalty of law, that the following information is true and correct to the best of my knowledge and belief:

1. I am an attorney licensed to practice law in all of the courts of the State of Hawaii, the United States District Court for the District of Hawaii, the Ninth Circuit Court of Appeals and the United States Supreme Court. I am a member in good standing of all of the aforementioned courts.

2. I am a Deputy Corporation Counsel for the City and County of Honolulu and represent Defendant-Appellees LOUIS KEALOHA and the CITY AND COUNTY OF HONOLULU (hereinafter "City Parties") in this action.

3. I have personal knowledge of and am competent to make this Declaration concerning the matters set forth below.

4. The City Parties are considering filing a Petition for Rehearing En Banc or a Petition for Panel Rehearing with respect to the panel's Memorandum Opinion issued on March 20, 2014.

5. Pursuant to Federal Rules of Appellate Procedure 35(c) and 40(a)(1), the deadline for filing such a petition is April 3, 2014.

6. I have been the attorney of record for the City Parties in this appeal responsible for writing the briefs, and therefore have the depth of familiarity with this action and the issues on this appeal not possessed by others in my office.

7. On behalf of the City Parties, I am requesting an extension of fourteen (14) days to file the petition, and respectfully submit that good causes exists for the requested extension, for the following reasons:

- a. The Opinion raises constitutional issues of grave import and potentially far-reaching consequences for my clients and the State of Hawaii that warrant rehearing en banc.
- b. Given the gravity of the issues raised by the Opinion, it is vital that I have the opportunity to have a thorough discussion with my clients and other interested parties about the Opinion and my clients' options, and to brief the petition any petition for hearing.

- c. I am a Captain in the Hawaii National Guard and have been ordered to temporary duty for training from March 27 through March 31.
- d. A true and correct copy of my orders, which were issued March 24, 2014, is attached hereto as Exhibit "A."
- c. During such period, I will be attending a Defense Counsel 201 Course in Philadelphia, Pennsylvania. The DC 201 Course is an intensive trial-skills related type course and will involve substantial preparation and participation time. It will also require me to travel from Honolulu, Hawaii to Philadelphia, Pennsylvania and back.
- d. I have had numerous conflicting and unavoidable commitments in other cases since March 20, 2014.
- e. In addition, March 26, 2014 is a state and county holiday. Given the afore-mentioned circumstances, I will be unable to communicate with my clients and the State of Hawaii during a substantial portion of the time currently allocated for the City Parties to submit their petition.

11. Given all of these these factors, I do not believe that the current amount of time given will be sufficient for Defendant-Appellees to file either a Petition for Panel Rehearing or a Petition for Rehearing En Banc and ask that the deadline be extended to April 17th.

12. Pursuant to Circuit Advisory Committee Note (5) to Rule 27-1, on March 21, 2014, I contacted Plaintiff-Appellant's lead attorney, Mr. Richard Holcomb and inquired as to whether he would object to this motion. Mr. Holcomb responded via email, stating that he would.

I, CURTIS E. SHERWOOD, DO DECLARE UNDER PENALTY OF LAW THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: Honolulu, Hawaii, March 27, 2014.

/s/ Curtis E. Sherwood  
CURTIS E. SHERWOOD