IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

JANE MOTHER,) CIVIL NO. 00-00446 DAE/LEK
Plaintiff, vs.	DECLARATION OF REGINALD K. T. YEE
STATE OF HAWAI'I, CHERYL LIPPMAN, and SHARON MANNER in their individual capacities,))))
Defendants.)))

DECLARATION OF REGINALD K. T. YEE

- I, REGINALD K.T. YEE, do hereby declare as follows:
- 1. I am an attorney duly licensed to practice law in the State of Hawaii and am a deputy attorney general assigned to represent the State of Hawaii in the above-referenced case. I have reviewed the records and files and make the following statements upon information and belief.
- 2. On February 2, 2006, Defendant State filed a bill of costs seeking costs in the amount of \$27,349.93.
- 3. Plaintiff filed her objections entitled Plaintiff Objections to Defendant State of Hawaii's Bill of costs [filed February 2, 2006], on March 3, 2006.

- 4. Plaintiff's objections to Defendant State's bill of cost, argued that to the effect "costs are not available as a matter of law" and other reasons why the Defendant State was not entitled to its costs.
- 5. Defendant State respectfully requests that it be allowed to file a reply memorandum addressing the points raised by the Plaintiff.
- 6. Defendant State respectfully requests that a hearing on the issue of the bill of costs be allowed and that the State be allowed to respond accordingly.
- 7. Up until most recently, Defendant State and Plaintiff have been engaged in discussions to forego the State's bill of costs in favor of the Plaintiff not filing an appeal.
- 8. Defendant State believes that it is entitled to its costs as Bruce v. City of Gainesville, Ga., 177 F.3d 949 (11th Cir. 1999) had set forth a three part test:

In determining whether case is "frivolous," for purposes of awarding attorney fees [costs] to prevailing defendant, courts consider, as general guidelines: (1) whether plaintiff established a prima facie case, (2) whether defendant offered to settle, and (3) whether trial court dismissed case prior to trial or held full-blown trial on the merits. [Word Bracketed Mine.]

I declare under penalty of perjury that the foregoing is true to the best of my knowledge and ability.

DATED: Honolulu, Hawaii, March 6, 2006.

REGINÁD K. T. YEE