

ORIGINAL

1ST CIRCUIT COURT
STATE OF HAWAII
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2008 AUG 12 PM 3:01

J. KUBO
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in his capacity as Chief Election Officer,
Office of Elections, State of Hawai'i

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

WILLES LEE, IN HIS CAPACITY
AS CHAIRMAN OF THE HAWAI'I
REPUBLICAN PARTY,

Plaintiff,

vs.

KEVIN CRONIN, IN HIS
CAPACITY AS CHIEF ELECTION
OFFICER FOR THE STATE OF
HAWAI'I; STATE OF HAWAI'I
OFFICE OF ELECTIONS,

Defendant.

CIVIL NO. 08-1-1609-09 BIA

DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT; MEMORANDUM IN SUPPORT
OF MOTION; DECLARATION OF LORI
TOMCZYK; EXHIBITS "A" - "D";
NOTICE OF MOTION; CERTIFICATE OF
SERVICE

DATE: SEP - 2 2008 *shh*
TIME: 10:30 a.m
JUDGE: BERT I. AYASE

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant KEVIN CRONIN, Chief Election Officer, State of
Hawai'i, by and through his counsel, Mark J. Bennett, Attorney
General of Hawai'i and his undersigned deputy attorneys general,

21st DIVISION

AUG 12 2008

RECEIVED

files this motion for summary judgment pursuant to Hawai'i Revised Statutes ("Haw. Rev. Stat.") section 12-8(h) and Rule 56 of the Hawai'i Rules of Civil Procedure.

This motion is supported by the memorandum of law, the declaration of Lori Tomczyk, and the records and files in this case.

DATED: Honolulu, Hawai'i August 12, 2008.

MARK J. BENNETT
Attorney General
State of Hawai'i

By Russell A. Suzuki
RUSSELL A. SUZUKI
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
Kevin B. Cronin, Chief Election
Officer, Office of Elections,
State of Hawai'i

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

WILLES LEE, IN HIS CAPACITY
AS CHAIRMAN OF THE HAWAI'I
REPUBLICAN PARTY,

Plaintiff,

vs.

KEVIN CRONIN, IN HIS
CAPACITY AS CHIEF ELECTION
OFFICER FOR THE STATE OF
HAWAI'I; STATE OF HAWAI'I
OFFICE OF ELECTIONS,

Defendant.

CIVIL NO. 08-1-1609-09 BIA

MEMORANUM IN SUPPORT OF MOTION

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

This is a complaint filed by the Republican Party of Hawai'i challenging the candidacy of Mr. Isaac W. Choy for the State House of Representative seat for District 24. Mr. Choy was named by the Democratic Party of Hawai'i to fill the vacancy caused by the withdrawal of Representative Kirk Caldwell, who withdrew his nomination in order to file nomination papers for a seat on the Honolulu City Council. The Republican Party seeks the removal of Mr. Isaac W. Choy's name on the ballot based upon its belief that Mr. Caldwell's withdrawal occurred on Tuesday, July 22, 2008 through the telephone call made by the City Clerk,

Ms. Denise DeCosta, informing the Office of Elections that Mr. Caldwell would be withdrawing his nomination papers for his candidacy for the District 24, State House of Representatives seat. At issue is whether the City Clerk can act as the agent for a candidate and cause a withdrawal of a candidate's nomination papers by telephone.

Defendant asserts that a candidate's withdrawal must be submitted in writing and that the City Clerk did not and cannot act as an agent for a candidate and cause a withdrawal of a candidate's nomination papers by a telephone call.

Notwithstanding the issues raised above, this controversy has been rendered moot by the subsequent circuit court disqualification of Chrystn K.A. Eads as a candidate for the 24th District. See Exhibit "A", and the subsequent naming by the Democratic Party of Hawai'i of Isaac W. Choy as the party's candidate for the District 24 seat. Therefore, regardless of whether there is a cloud to Mr. Choy's nomination resulting from Kirk Caldwell's withdrawal, Mr. Choy rightfully is a candidate for the 24th District through his nomination by the Democratic Party of Hawai'i on Saturday, August 9, 2008.

II. STANDARD OF REVIEW

Haw. Rev. Stat. § 12-8(h) provides that the "circuit court shall hear the complaint in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and

shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide the objection presented in the complaint, and a certified copy of the judgment shall forthwith be served on the chief election officer or the clerk, as the case may be."

Summary judgment is appropriate where the moving party demonstrates that there are no genuine issues of material fact and it is entitled to judgment as a matter of law. Rule 56, Hawaii Rules of Civil Procedure ("HRCP"); Reed v. City and County of Honolulu, 76 Haw. 219, 873 P.2d 98 (1994), citing Kaneohe Bay Cruises, Inc. v. Hirata, 75 Haw. 250, 258, 861 P.2d 1, 6 (1993). "A fact is material if proof of that fact would have the effect of establishing or refuting one of the essential elements of a cause of action or defense asserted by the parties." Hulsman v. Hemmeter Development Corp., 65 Haw. 58, 61, 647 P.2d 713, 716 (1982).

A party moving for summary judgment under Rule 56, HRCP "need not support his motion with affidavits or similar materials that negate his opponent's claims, but need only point out . . . there is an absence of evidence to support his opponent's claims." First Hawaiian Bank v. Weeks, 70 Haw. 392, 396, 772 P.2d 1187, 1190 (1989), citing Celotex Corp. v.

Cadrett, 477 U.S. 317, 323, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986).

"Bare allegations or factually unsupported conclusions are insufficient to raise a genuine issue of material fact." Housing Finance and Development Corp. v. Castle, 79 Haw. 64, 91, 898 P.2d 576, 603 (1995). See also, Reed, 76 Haw. at 225, 873 P.2d at 104. A party opposing a motion for summary judgment cannot discharge its burden by alleging conclusions, nor is it entitled to trial on the basis of hope that it can produce some evidence at that time. Henderson v. Professional Coatings Corp., 72 Haw. 387, 819 P.2d 84 (1991).

A matter is moot where events subsequent to judgment of trial court have so affected relations between the parties that two conditions for justiciability relevant on appeal, adverse interest and effective remedy, have been compromised. Wong v. Board of Regents, 62 Haw. 391, 616 P.2d 201 (1980).

III. ARGUMENT

A. Kirk Caldwell Withdrew His Nomination Papers On July 23, 2008, Not July 22, 2008

At the time when nomination papers are issued, a copy of the 2008 Candidate's Manual is given to each potential candidate with instructions to read the manual. At page 31 of the manual is a section entitled "Withdrawal of Candidates," which states as follows:

Candidates who have filed nomination papers may withdraw their candidacy.

For any reason

Candidates may withdraw for any reason not later than the day immediately following the deadline to file nomination papers. To withdraw, the candidate must submit a written notice to the Chief Election Officer (candidate for federal and state offices) or to the appropriate City/County Clerk (candidate for county office. See pages 1-7 for filing deadlines (Section 11-117, HRS).

Pursuant to the directive of the chief election officer as contained in the candidate's manual, withdrawals must be received in writing in order to be effective. Mr. Caldwell's written withdrawal was not received by the Office of Elections until Wednesday, July 23, 2008.

As the City Clerk, Ms. Denise DeCosta could not act as an agent for a candidate filing nomination papers. Under the County Charter the City Clerk is empowered to "[c]onduct all elections held within the city and perform voter registration functions pursuant to this charter or the laws of the state." See Section 3-301-2(d) of the Honolulu City Charter. The Charter does not authorize the Clerk to act as an agent for a candidate. Ms. DeCosta did not act as Mr. Caldwell's agent and only informed the Office of Elections that Mr. Caldwell would be bringing his withdrawal letter to the Office of Elections at the State Office Tower because he would be filing nomination papers

with the City Clerk to run for a position on the City Council. Mr. Caldwell did not speak directly or personally to any official at the Office of Elections on July 22, 2008. The Declaration of Lori Tomczyk confirms that the 2008 Candidate's Manual was provided to each candidate upon issuance of nomination papers with instructions to read the manual. Lori Tomczyk's Declaration confirms that the withdrawal letter from Mr. Caldwell was not received by the Office of Elections until Wednesday, July 23, 2008, and only after a call was made to Mr. Caldwell to remind him of the need to submit his letter of withdrawal.

Based upon the facts of the case and the provision of the Candidate's Manual that requires written notification of withdrawal, the Office of Elections determined that Mr. Caldwell withdrew his nomination papers on July 23, 2008, not on July 22, 2008. Accordingly, the Democratic Party of Hawai'i timely named Mr. Isaac W. Choy to fill the vacancy caused by Mr. Caldwell's withdrawal.

B. The Republican Party's Challenge Has Been
Rendered Moot By the Disqualification of
Chrystn K.A. Eads And the Nomination of
Isaac W. Choy By The Democratic Party

The Republican Party of Hawai'i's challenge to Mr. Isaac W. Choy's candidacy has been rendered moot by the recent circuit court disqualification of Chrystn K.A. Eads on August 7, 2008 as

a candidate for the District 24, State House of Representative seat and the subsequent naming of Isaac W. Choy as the Democratic Party's candidate for that office. Chrystyn K.A. Eads was disqualified by the circuit court pursuant to Haw. Rev. Stat. § 12-8 on August 7, 2008. Under Haw. Rev. Stat. § 11-118, the Democratic Party of Hawai'i had three days following the disqualification to name its candidate and did so by naming Isaac W. Choy, again, as the Party's candidate by letter that was timely received and filed at the Office of Elections on August 9, 2008.

IV. CONCLUSION

For the reasons stated herein, Defendant requests that its motion be granted, that the court issue findings of fact and law, and enter judgment dismissing Plaintiff's complaint with prejudice.

DATED: Honolulu, Hawai'i, August 12, 2008.

MARK J. BENNETT
Attorney General
State of Hawai'i

By Russell A. Suzuki
RUSSELL A. SUZUKI
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
Kevin B. Cronin, Chief Election
Officer, Office of Elections,
State of Hawai'i

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

WILLES LEE, IN HIS CAPACITY AS) CIVIL NO. 08-1-1609-09 BIA
CHAIRMAN OF THE HAWAI'I)
REPUBLICAN PARTY,)
Plaintiff,)
vs.)
KEVIN CRONIN, IN HIS CAPACITY)
AS CHIEF ELECTION OFFICER FOR)
THE STATE OF HAWAI'I; STATE)
OF HAWAI'I OFFICE OF ELECTIONS,)
Defendant.)

DECLARATION OF LORI TOMCZYK

My name is LORI TOMCZYK and I declare upon information and belief as follows:

1. I am the Ballot Operations Section Head of the Office of Elections of the State of Hawai'i.
2. I am familiar with the events that occurred on July 22 and 23, 2008 regarding the nomination papers filed by Kirk Caldwell for the State House of Representatives seat for District 24 and am competent to testify on those matters.
3. On or about June 3, 2008, Kirk Caldwell filed his nomination papers for the State House of Representatives seat for District 24.

4. At the time when nomination papers are issued, a copy of the 2008 Candidate's Manual is given to each potential candidate with instructions to read the manual.

5. At page 31 of the manual is a section entitled "Withdrawal of Candidates," which states as follows:

Candidates who have filed nomination papers may withdraw their candidacy.

For any reason

Candidates may withdraw for any reason not later than the day immediately following the deadline to file nomination papers. To withdraw, the candidate must submit a written notice to the Chief Election Officer (candidate for federal and state offices) or to the appropriate City/County Clerk (candidate for county office. See pages 1-7 for filing deadlines (Section 11-117, HRS).

6. In the afternoon on Tuesday, July 22, 2008, between 4 p.m. and 4:30 p.m., I received a telephone call from Ms. Denise DeCosta, City Clerk, City and County of Honolulu, informing me that Kirk Caldwell would be filing nomination papers with her office and would be withdrawing his candidacy for State office.

7. Ms. DeCosta informed me that Mr. Caldwell would be bringing his withdrawal letter over to the Office of Elections' office at the State Office Tower.

8. Following the telephone call from Ms. DeCosta, I expected Mr. Caldwell to arrive momentarily to submit his

withdrawal letter and checked to see whether he had come in with his withdrawal letter.

9. Based upon the telephone call from Ms. DeCosta, in anticipation of Mr. Caldwell bringing over his withdrawal letter, I entered a "W", indicating a withdrawal on the Office of Election's daily report.

10. In the rush of candidates' filing before the 4:30 p.m. deadline on July 22, 2008, I did not remember to confirm whether Mr. Caldwell's withdrawal letter had been delivered.

11. On Wednesday, July 23, 2008, I checked again to see whether Mr. Caldwell had submitted his withdrawal letter and determined that he had not yet done so.

12. I then called Mr. Caldwell to remind him that the withdrawal letter needed to be filed with the Office of Elections.

13. Following the reminder to Mr. Caldwell, a withdrawal letter was faxed to the Office of Elections and the original letter was then delivered and file stamped on July 23, 2008.

14. The entry of Mr. Caldwell's withdrawal in anticipation of the receipt of his withdrawal letter was a mistake and did not correctly reflect the date of his withdrawal which occurred on July 23, 2008.

15. I did not speak to Mr. Caldwell on July 22, 2008.

16. On August 7, 2008, the circuit court of the first circuit issued its Stipulation of Findings of Fact and Conclusions of Law and Judgment and Order disqualifying Chrystn K.A. Eads as a candidate for District 24, State House of Representatives. A true and correct copy of the order is attached hereto as Exhibit "A".

17. On August 7, 2008 Kevin Cronin wrote to the Democratic Party of Hawai'i to inform the party of the disqualification of Chrystn K.A. Eads and that a candidate to fill the vacancy caused by the disqualification must be submitted no later than the third day following the vacancy, which was Sunday, August 10, 2008. A true and correct copy of the letter of August 7, 2008 from Kevin B. Cronin to Brian Schatz is attached hereto as Exhibit "B".

18. On Saturday, August 9, 2008, the Democratic Party hand-delivered to the Office of Elections, the Democratic Party of Hawai'i's nomination of Isaac W. Choy to fill the vacancy in District 24 caused by the disqualification of Chrystn K.A. Eads. A true and correct copy of the letter of August 9, 2008 from Brian Schatz and Isaac W. Choy to Kevin B. Cronin is attached hereto as Exhibit "C".

19. Attached hereto is Exhibit "D" which is a true and correct copy of the cover of the 2008 Candidate's Manual that is

issued by the Office of Elections to each candidate and page 31 of the manual which covers the withdrawal of candidates.

I, LORI TOMCZYK, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawaii, August 12, 2008.


LORI TOMCZYK

MARK J. BENNETT 2672
Attorney General of Hawai'i

2008 AUG -7 PM 3:06

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Honolulu, Hawai'i 96813
Tel. No.: (808) 586-0618
Facsimile No.: (808) 586-1372
Russell.A.Suzuki@hawaii.gov

F. OTAKE
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
OF THE STATE OF HAWAII

KEVIN B. CRONIN, Chief Election
Officer, State of Hawaii,

S.P. NO. 08-1-0296 (GWBC)

Plaintiff,

~~STIPULATION FOR ENTRY OF
FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND ENTRY
OF JUDGMENT DISQUALIFYING
CHRYSTN K.A. EADS AS
A CANDIDATE FOR STATE HOUSE
OF REPRESENTATIVES,
DISTRICT 24, AND
ORDER~~

GWBC
GWBC
GWBC
GWBC
GWBC
GWBC
GWBC

vs.

CHRYSTN K.A. EADS, Democratic
Candidate, District 24, State
House of Representatives,

Defendant.

~~STIPULATION FOR ENTRY OF FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND ENTRY
OF JUDGMENT DISQUALIFYING CHRYSTN K.A. EADS AS
A CANDIDATE FOR STATE HOUSE OF REPRESENTATIVES, DISTRICT 24~~

GWBC
GWBC
AND ORDER
GWBC
GWBC

Plaintiff KEVIN B. CRONIN, Chief Election Officer, State of
Hawai'i and Defendant CHRYSTN K.A. EADS, hereby stipulate that
the circuit court may issue the following findings of fact and
conclusions of law and entry of judgment as follows:

FINDINGS OF FACT:

1. Plaintiff is the Chief Election Officer for the State
of Hawai'i.

PLEASE NOTE CHANGES

2. Defendant CHRYSTN K.A. EADS, resides at 2738 Manoa Road, Honolulu, Hawai'i, City and County of Honolulu, State of Hawai'i which is in the State House of Representatives, 24th District.

3. Defendant CHRYSTN K.A. EADS filed nomination papers to be a candidate for the State House of Representatives, 24th District with the Office of Elections on July 22, 2008.

4. The initial nomination papers of Defendant CHRYSTN K.A. EADS were received and filed by the Office of Elections not later than 4:30 p.m. on July 22, 2008. After 4:30 p.m. on July 22, 2008, Ms. EADS submitted the required signatures of registered voters to the Office of Elections. At that time, she paid the required filing fee and was given a receipt.

5. On July 25, 2008, the Chief Election Officer notified Ms. EADS that she was disqualified as a candidate for the State House of Representatives, 24th District on the basis that the signatures of registered voters had not been submitted by 4:30 p.m. on July 22, 2008.

If it should be determined that any of these Findings of Fact should have been set forth herein as Conclusions of Law, the Court so concludes as to such findings.

CONCLUSIONS OF LAW:

1. Ms. EADS' complete nomination papers were not filed by 4:30 p.m. on the sixtieth calendar day prior to the primary election, Tuesday, July 22, 2008, which violated HRS § 12-6.



STATE OF HAWAII
OFFICE OF ELECTIONS

102 LEHUA AVENUE
PEARL CITY, HAWAII 96782
www.hawaii.gov/elections

KEVIN B. CRONIN
CHIEF ELECTION OFFICER

August 7, 2008

Brian Schatz, Chairperson
Democratic Party of Hawai'i
1050 Ala Moana Blvd., Suite D-26
Honolulu, Hawai'i 96814

Dear Mr. Schatz:


Re: S.P. No. 08-1-0296 (GWBC); Order Disqualifying Chrystn K.A. Eads
As Candidate for State Representative, 24th District

Enclosed is a copy of the circuit court's disqualification of Chrystn K.A. Eads as a candidate for State House of Representatives, 24th District.

Pursuant to Hawai'i Revised Statutes ("HRS") § 11-118, this is to formally notify you of the vacancy caused by the disqualification. Under HRS § 11-118(b), the Democratic Party must submit a candidate to fill the vacancy no later than 4:30 p.m. on the third day after the vacancy occurs, which is Sunday, August 10, 2008.

Because August 10th is a Sunday, you may submit the name of the Party's candidate by email to: Kevin.Cronin@hawaii.gov.

Should you have questions, please call me at (808) 282-0587.

Sincerely,

Kevin B. Cronin

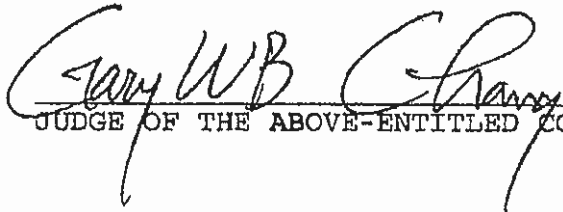
KBC:RS:er
OE-348-08

Enclosure

- c. Paul Alston, Esq. (via email)
Corianne Lau, Esq. (via email)

EXHIBIT "B"

IT IS SO ORDERED:


JUDGE OF THE ABOVE-ENTITLED COURT

AUG 07 2000

Cronin vs. Eads, S.P. No. 08-1-0296, First Circuit Court, STIPULATION FOR ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ENTRY OF JUDGMENT DISQUALIFYING CHRYSYN K.A. EADS AS A CANDIDATE FOR STATE HOUSE OF REPRESENTATIVES, DISTRICT 24; ORDER

2. Pursuant to HRS § 12-8(a), Defendant CHRYSTN K.A. EADS' nomination papers were presumed valid until objected to by the Chief Election Officer on July 25, 2008.

3. The Parties stipulate that Defendant CHRYSTN K.A. EADS is disqualified as a candidate for the State House of Representatives, District 24.

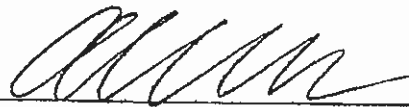
If it should be determined that any of these Conclusions of Law should have been set forth herein as Findings of Fact, the Court so concludes as to such conclusions.

JUDGMENT:

Based upon the above findings of fact and conclusions of law, judgment is hereby entered in favor of Plaintiff and against Defendant, disqualifying Defendant CHRYSTN K.A. EADS as a candidate for the State House of Representatives, District 24 seat. Entry of judgment resolves all claims of all parties and issues in this case. Each party is to bear his or her own

attorney's fees and costs. Any and all remaining claims, if any, are hereby dismissed with prejudice. *GWA*

DATED: Honolulu, Hawai'i, August 7, 2008.



PAUL ALSTON
CORIANNE W. LAU
Attorneys for CHRYSTN K.A. EADS



RUSSELL A. SUZUKI
Deputy Attorney General
Attorney for Plaintiff
Kevin B. Cronin



OFFICE OF ELECTIONS

'08 AUG -9 A9:06

August 9, 2008

Kevin B. Cronin
Office of Elections, State of Hawaii
802 Lehua Avenue
Pearl City, Hawaii 96782

re: Disqualification of Eads; Nomination for House District 24

Dear Mr. Cronin:

Your letter of the 7th enclosing the circuit court's disqualification of Chrystyn Eads was received by me on that day.

Please be advised that the Democratic Party of Hawaii hereby nominates Isaac W. Choy to fill the vacancy in House District 24 caused by the disqualification of candidate Eads.

The candidate's name should appear on the ballot as: Isaac W. Choy.

His address is: (res) 3313 Keahl Street 96822
(work) 2733 E. Manoa Road

His phone number is: (res) 988-8511
(work) 988-5757 x 11
(cell) 551-7140

By countersignature below, Mr. Choy acknowledges that he accepts the nomination of the party.

Very truly yours,

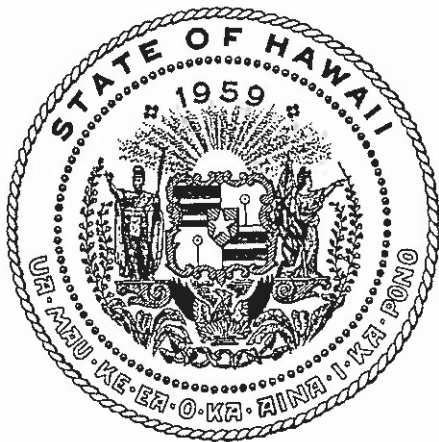
Brian Schatz
Chair, Democratic Party of Hawaii

Nomination accepted by:

Isaac W. Choy

EXHIBIT "C"

2008 Candidate's Manual



State of Hawai'i
Office of Elections
December 2007

EXHIBIT "D"

Oath of loyalty/affirmation

Each candidate must take and subscribe to a prescribed written Oath of Loyalty or Affirmation before a notary public or a public officer authorized by law to administer oaths (Section 12-7, HRS). The Oath of Loyalty or Affirmation is printed on the nomination papers and may be completed before or at the time of filing. Candidates must provide the notary public with an identification card containing the person's picture and signature (e.g., driver license or state I.D.) when the Oath of Loyalty or Affirmation is subscribed to before the notary public.

Withdrawal of Candidates

Candidates who have filed nomination papers may withdraw their candidacy:

For any reason

Candidates may withdraw for any reason not later than the day immediately following the deadline to file nomination papers. To withdraw, the candidate must submit a written notice to the Chief Election Officer (candidate for federal and state offices) or to the appropriate City/County Clerk (candidate for county office). See pages 1-7 for filing deadlines (Section 11-117, HRS).

For reasons of ill health

Candidates may withdraw for reasons of ill health not later than the 20th day prior to the election. To withdraw, the candidate must submit a written notice accompanied by a statement from a licensed physician indicating that such ill health may endanger the candidate's life. See pages 1-7 for filing deadlines (Section 11-117, HRS).

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

WILLES LEE, IN HIS CAPACITY
AS CHAIRMAN OF THE HAWAI'I
REPUBLICAN PARTY,

Plaintiff,

vs.

KEVIN CRONIN, IN HIS
CAPACITY AS CHIEF ELECTION
OFFICER FOR THE STATE OF
HAWAI'I; STATE OF HAWAI'I
OFFICE OF ELECTIONS,

Defendant.

CIVIL NO. 08-1-1609-09 BIA

NOTICE OF MOTION

NOTICE OF MOTION

TO: Terry E. Thomason, Esq.
18th floor, American Savings Bank Tower
1001 Bishop Street
Honolulu, Hawai'i 96813

Nelson B. Befitel, Esq.
Hawai'i Kai Corporate Plaza
6600 Kalaniana'ole Highway, Suite 200
Honolulu, Hawaii 96825

Attorneys for Plaintiff
Willes Lee

Please take notice that the Defendant's Motion for
Summary Judgment shall come on for hearing before the Honorable
Bert I. Ayabe , Judge of the above-entitled court,
in the assigned courtroom at 777 Punchbowl Street, Honolulu,

Hawai'i 96813, on the 2nd day of September, 2008, at 10:30
A. m., or as soon thereafter as counsel may be heard.

DATED: Honolulu, Hawaii, August 12, 2008.

Mark J. Bennett
Attorney General
State of Hawaii

Russell A. Suzuki

Robyn B. Chun
Russell A. Suzuki
Deputy Attorneys General

Attorneys for Defendant
Kevin Cronin, State of
Hawaii