

DEPARTMENT OF THE ATTORNEY GENERAL

DAVID Y. IGE
GOVERNOR

DOUGLAS S. CHIN
ATTORNEY GENERAL

For Immediate Release
July 13, 2016

News Release 2016-44

**ATTORNEY GENERAL SUES DA KINE BAIL BONDS AND SAFETY NATIONAL
CASUALTY CORPORATION TO ENFORCE JUDGMENTS**

HONOLULU – Attorney General Doug Chin announced today that his office has filed petitions to enforce judgments against Da Kine Bail Bonds, Inc. (Da Kine) and Safety National Casualty Corporation (Safety) for forfeited bail bonds those companies failed to pay to the State of Hawaii (State).

Da Kine owes the State thirty-five thousand five hundred dollars (\$35,500) from 21 separate criminal cases. Duane “Dog” Chapman is the president and director of Da Kine. Safety is the surety that is obligated to pay if Da Kine defaults.

Attorney General Doug Chin said “Bail bond companies promise to pay us when their clients skip court. Simply put, if they don’t pay we have to hunt down that money.”

Bail is a financial arrangement that a bail bonding agency makes on behalf of a criminal defendant. A bail bonding agency works with the court to have a defendant released from jail pending trial in exchange for money or collateral. This collateral can be in the form of cash, assets, or a bond. The bail agency is then responsible for ensuring that the defendant arrives in court on the day of trial. If the defendant does not appear in court, the court may forfeit the bond and the entire bail amount must be paid to the court by the bail bonding agency.

Today’s action against Da Kine and Safety resulted from a joint effort by the State Judiciary and the Department of the Attorney General to sue various bail bond companies in Hawaii for non-payment of forfeiture of bail bonds. Other bail bond companies are also being reviewed. Of the bail bond companies that the Judiciary and Attorney General have looked into, seven paid the Judiciary approximately seven-hundred thousand dollars (\$700,000) upon receiving notice. Those companies are not subject to today’s action.

Petitions filed with the Circuit Court, Family Court, and District Court are attached. A hearing date of August 17, 2016 has been set by the Circuit Court. Hearing dates for the Family Court and District Court have not yet been determined.

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For more information, contact:

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Attorneys for State of Hawaii Judiciary

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2016 JUL 12 PM 4:13

F. OTAKE
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII JUDICIARY, BY AND
THROUGH ITS ATTORNEY GENERAL,
DOUGLAS S. CHIN

PETITIONER,

vs.

DA KINE BAIL BONDS, INC. AND SAFETY
NATIONAL CASUALTY CORPORATION,

RESPONDENTS.

S.P. NO. 16 - 1 - 0247 RAN
(OTHER CIVIL ACTION)

STATE OF HAWAII JUDICIARY'S
PETITION FOR AN ORDER TO
CONSOLIDATE DA KINE BAIL BONDS,
INC. AND SAFETY NATIONAL
CASUALTY CORPORATION BAIL
BOND FORFEITURE JUDGMENTS INTO
A SINGLE CIVIL CASE;
MEMORANDUM IN SUPPORT;
DECLARATION OF LYNN INAFUKU;
DECLARATION OF COUNSEL;
EXHIBITS "1" - "11"; NOTICE OF
HEARING OF MOTION; CERTIFICATE
OF SERVICE

Hearing: AUG 17 2016
Date:
Time: 9:00 a.m.
Judge: Rhonda A. Nishimura

F. OTAKE
CLERK

2016 JUL 12 PM 2:48

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

STATE OF HAWAII JUDICIARY'S PETITION FOR AN ORDER TO
CONSOLIDATE DA KINE BAIL BONDS, INC. AND SAFETY NATIONAL CASUALTY
CORPORATION BAIL BOND FORFEITURE JUDGMENTS INTO A SINGLE CIVIL CASE

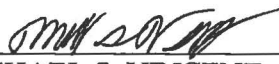
TO THE JUDGE OF THE ABOVE-ENTITLED COURT:

Comes now the STATE OF HAWAII JUDICIARY (hereafter "Judiciary"), by and through its attorneys, Douglas S. Chin, Attorney General, Michael S. Vincent, Steve A. Bumanglag, Dean A. Soma, and Lyle T. Leonard, Deputy Attorneys General, and hereby respectfully petitions this Honorable Court for an Order to Consolidate Da Kine Bail Bonds, Inc. and Safety National Casualty Corporation bail bond forfeitures into a single civil case.

This Motion is brought pursuant to Rule 3 of the Rules of the Circuit Court of the State of Hawaii and Rule 42(a) of the Hawaii Rules of Civil Procedure, and is based upon the authorities contained in the attached Memorandum in Support of Motion and such evidence and argument as may be adduced at the hearing to be held on this Petition.

DATED: Honolulu, Hawaii, JUL 12 2016.

DOUGLAS S. CHIN
Attorney General of Hawaii



MICHAEL S. VINCENT
STEVE A. BUMANGLAG
DEAN A. SOMA
LYLE T. LEONARD

Attorneys for
State of Hawaii Judiciary

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII JUDICIARY, BY AND
THROUGH ITS ATTORNEY GENERAL,
DOUGLAS S. CHIN

PETITIONER,

vs.

DA KINE BAIL BONDS, INC. AND SAFETY
NATIONAL CASUALTY CORPORATION,

RESPONDENTS.

S.P. NO. **16 - 1 - 0247**
(OTHER CIVIL ACTION)

MEMORANDUM IN SUPPORT

MEMORANDUM IN SUPPORT

INTRODUCTION

This Petition is being made to consolidate Da Kine Bail Bonds, Inc. (hereafter "Da Kine") and Safety National Casualty Corporation (hereafter "Safety National") bail bond forfeitures into a single civil case. The bail bonds in these cases were issued by Da Kine and are insured by Safety National. The bail bond forfeitures were ordered in criminal cases in the First Circuit, District Court, Circuit Court and Family Court. Bail bond forfeitures are civil judgments, and the criminal courts usually do not calendar post-judgment civil proceedings. Therefore, this petition is being made for judicial economy and to consolidate the bail bond forfeitures within the jurisdiction of a civil court that usually calendars post-judgment civil proceedings. The relevant facts for each bail bond forfeiture judgment are provided below.

BAIL BOND FORFEITURES

Case No. CR 10-1-1877

Mark Dwayne Debarge II (hereinafter "Debarge") was charged with Assault in the Third Degree and Harassment in violation of HRS §§707-712 and 711-1106 in Case No. CR 10-1-1877 (hereinafter "Case No. CR 10-1-1877"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the Circuit Court of the First Circuit, State of Hawaii on December 10, 2010 for Case No. CR 10-1-1877 in the amount of \$1,000.00 for criminal defendant Debarge. Debarge failed to appear at trial on May 31, 2011, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the Circuit Court of the First Circuit, State of Hawaii on June 3, 2011 in the amount of \$1,000.00. (See Exhibit "1"). Da Kine was served with notice of the Judgment and Order of Forfeiture of Bail Bond on June 8, 2011. (See Exhibit "2"). Safety National was served with notice of the Judgment and Order of Forfeiture of Bail Bond on July 19, 2011. (See Exhibit "3"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Bail Bond forfeiture was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond filed on June 3, 2011 became final.

Case No. CR 11-1-0254

Mark Debarge II (hereinafter "Debarge") was charged with Criminal Trespass in the First Degree and Harassment in violation of HRS §§708-813 and 711-1106 in Case No. CR 11-1-0254 (hereinafter "Case No. CR 11-1-0254 Pursuant to a power of attorney issued by Safety National,

Da Kine filed a bail bond in the Circuit Court of the First Circuit, State of Hawaii on February 24, 2011 in Case No. CR 11-1-0254 in the amount of \$2,000.00 for criminal defendant Debarge. Debarge failed to appear at trial on May 31, 2011, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the Circuit Court of the First Circuit, State of Hawaii on June 3, 2011 in the amount of \$2,000.00. (See Exhibit "4"). Da Kine was served with notice of the Judgment and Order of Forfeiture of Bail Bond on June 8, 2011. (See Exhibit "5"). Safety National was served with notice of the Judgment and Order of Forfeiture of Bail Bond on July 19, 2011. (See Exhibit "6"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Bail Bond forfeiture was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond filed on June 3, 2011 became final.

FURTHER NOTICE

Notice was provided to Duane Lee Chapman I at Da Kine Bail Bonds on October 15, 2013 of the outstanding bail forfeiture judgments. (See Exhibit "7"). Request for payment was sent to Duane Lee Chapman I at Da Kine Bail Bonds on June 19, 2014 of the outstanding bail forfeiture judgments. (See Exhibit "8"). Notice was provided to Jeffrey W. Otto at Safety National Casualty Corporation on February 19, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "9"). Notice was provided to Rainy Robinson at Da Kine Bail Bonds on March 15, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "10"). Notice was provided to Jeffrey W. Otto at Safety National Casualty Corporation on March 15, 2016 of the

outstanding bail forfeiture judgments. (See Exhibit “11”). To date Da Kine and/or Safety National have not paid on the outstanding bail forfeiture judgments.

DISCUSSION

Bail Bond Forfeitures

Bail bond forfeitures are controlled by HRS §804-51, which provides in relevant part:

“Whenever the court, in any criminal cause, forfeits any bond or recognizance given in a criminal cause, the court shall immediately enter up judgment in favor of the State ... and shall cause execution to issue thereon immediately after the expiration of thirty days from the date that notice is given ... to the surety ... unless, before the expiration of thirty days from the date that notice is given to the surety, ... a motion ... showing good cause why execution should not issue upon the judgment, is filed with the court ... If the motion or application, after a hearing thereon, is overruled, execution shall forthwith issue and shall not be stayed unless the order overruling the motion or application is appealed from as in the case of a final judgment.”

As the Court stated in State v. Vaimili, 131 Hawaii 9, 18, 313 P.3d 698,705 (2013), “HRS § 804–51 plainly requires the court to issue a judgment immediately once the court forfeits any bond. The surety is then given thirty days to move to stay the execution of that judgment. If the motion to stay is denied, execution shall forthwith issue.” (internal quotation marks and citation omitted). See also, State v. Camara, 81 Hawaii 325, 916 P.2d 1225 (1996). In the above-mentioned cases, the courts issued a Judgment and Order of Forfeiture of Bail Bond. In cases of CR 10-1-1877 and CR 11-1-0254 above-mentioned neither Da Kine nor Safety National filed a motion to set aside the Judgment and Order for Forfeiture of Bail Bond within the thirty day period after notice was received. Hence, execution of the bail bonds in said cases was issued forthwith. However, Da Kine and Safety National failed to remit payment of said forfeited bonds in violation of HRS §804-51.

All of the bonds executed by Safety National and Da Kine above total \$3,000.00. The above-entitled Judgments and Orders of Forfeiture of Bail Bond have not been set aside by the

court or by appeal. The Judiciary has performed all the conditions on the bonds but no part of the bonds has been satisfied or paid.

Consolidation of Cases


Rule 42(a) of the Rules of the Circuit Court of the State of Hawaii (hereinafter "RCC") allows for consolidation of cases involving common questions of law or fact. The decision to consolidate is within the discretion of the court taking into account judicial economy, convenience of the parties, and likelihood that the same witnesses will testify in both cases. 9 Wright and Miller, Federal Practice and Procedure 2382 (West 1995). "One of the primary objectives of consolidation is to prevent separate actions from producing conflicting results." International Paving Systems, Inc. v. Van-Tulco, Inc., 806 F.Supp. 17, 22 (E.D.N.Y. 1992).

These cases all present the same issues, witnesses and parties in interest. It simply makes no sense, in terms of judicial economy or convenience to parties and witnesses, to resolve the claims separately in different cases.

CONCLUSION

WHEREFORE, THE JUDICIARY respectfully requests that this Court grants this Petition for an Order to Consolidate Da Kine Bail Bond, Inc. and Safety National Casualty Corporation Bail Bond Forfeiture Judgments into a Single Civil Case:

DATED: Honolulu, Hawaii, JUL 12 2016.


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IN THE DISTRICT COURT OF THE FIRST CIRCUIT

HONOLULU DIVISION

STATE OF HAWAII

STATE OF HAWAII JUDICIARY, BY AND
THROUGH ITS ATTORNEY GENERAL,
DOUGLAS S. CHIN

PETITIONER,

vs.

DA KINE BAIL BONDS, INC. AND SAFETY
NATIONAL CASUALTY CORPORATION,

RESPONDENTS.

CIVIL NO.
(SPECIAL PROCEEDING)

STATE OF HAWAII JUDICIARY'S
PETITION FOR AN ORDER TO
CONSOLIDATE DA KINE BAIL BONDS,
INC. AND SAFETY NATIONAL
CASUALTY CORPORATION BAIL
BOND FORFEITURE JUDGMENTS INTO
A SINGLE CIVIL CASE;
MEMORANDUM IN SUPPORT;
DECLARATION OF LYNN INAFUKU;
DECLARATION OF COUNSEL;
EXHIBITS "1"- "34"; NOTICE OF
HEARING OF MOTION; CERTIFICATE
OF SERVICE

Hearing:

Date: _____

Time: _____

Judge: _____

STATE OF HAWAII JUDICIARY'S PETITION FOR AN ORDER TO
CONSOLIDATE DA KINE BAIL BONDS, INC. AND SAFETY NATIONAL CASUALTY
CORPORATION BAIL BOND FORFEITURE JUDGMENTS INTO A SINGLE CIVIL CASE


TO THE JUDGE OF THE ABOVE-ENTITLED COURT:

Comes now the STATE OF HAWAII JUDICIARY (hereinafter "Judiciary"), by and through its attorneys, Douglas S. Chin, Attorney General, Michael S. Vincent, Steve A. Bumanglag, Dean A. Soma, and Lyle T. Leonard, Deputy Attorneys General, and hereby respectfully petitions this Honorable Court for an Order to Consolidate Da Kine Bail Bonds, Inc. and Safety National Casualty Corporation bail bond forfeitures into a single civil case.

This Motion is brought pursuant to Rules 1 (Classification of Proceedings) and 3 (Form of Pleadings and Motions) of the Rules of the District Court of the State of Hawaii and Rule 42(a) (Consolidation; Separate Trials) of the District Court Rules of Civil Procedure, and is based upon the authorities contained in the attached Memorandum in Support of Motion and such evidence and argument as may be adduced at the hearing to be held on this Petition.

DATED: Honolulu, Hawaii, JUL 12 2016.

DOUGLAS S. CHIN
Attorney General of Hawaii



MICHAEL S. VINCENT
STEVE A. BUMANGLAG
DEAN A. SOMA
LYLE T. LEONARD

Attorneys for
STATE OF HAWAII JUDICIARY

IN THE DISTRICT COURT OF THE FIRST CIRCUIT

HONOLULU DIVISION

STATE OF HAWAII

STATE OF HAWAII JUDICIARY, BY AND
THROUGH ITS ATTORNEY GENERAL,
DOUGLAS S. CHIN

PETITIONER,

VS.

DA KINE BAIL BONDS, INC. AND SAFETY
NATIONAL CASUALTY CORPORATION,

RESPONDENTS.

CIVIL NO.
(SPECIAL PROCEEDING)

MEMORANDUM IN SUPPORT

MEMORANDUM IN SUPPORT

INTRODUCTION

This Petition is being made pursuant to Rules 1 and 3 of the Rules of the District Courts of the State of Hawaii as a Special Proceeding and Rule 42(a) of the District Court Rules of Civil Procedure to consolidate Da Kine Bail Bonds, Inc. (hereinafter "Da Kine") and Safety National Casualty Corporation (hereinafter "Safety National") bail bond forfeitures into a single civil case. The bail bonds in these cases were issued by Da Kine and are insured by Safety National. The bail bond forfeitures were ordered in criminal cases in the First Circuit, District Court, Circuit Court and Family Court. Bail bond forfeitures are civil judgments, and the criminal courts usually do not calendar post-judgment civil proceedings. Therefore, this petition is being made for judicial economy and to consolidate the bail bond forfeitures within the jurisdiction of

a civil court that usually calendars post-judgment civil proceedings. The relevant facts for each bail bond forfeiture judgment are provided below.

BAIL BOND FORFEITURES

Case No. CONA8

Frank K. Chin (hereinafter "Chin") was charged with Assault in the Third Degree in violation of Hawaii Revised Statutes (hereinafter "HRS") §707-712 in Case No. CONA8 (hereinafter Case No. CONA8"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on January 9, 2008 for Case No. CONA8 in the amount of \$1,000.00 for criminal defendant Chin. Chin failed to appear for his arraignment and plea on February 19, 2008, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on April 10, 2008 in the amount of \$1,000.00. (See Exhibit "1"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond in Case No. CONA8 on April 6, 2009. (See Exhibit "2"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on April 10, 2008, became final.

CASE NO. WSTA4

John Custodio, Jr. (hereinafter "Custodio") was charged with Criminal Trespass in the First Degree in violation of HRS §708-813 in Case No. WSTA4 (hereinafter "Case No. WSTA4"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on August 3, 2005 for Case No. WSTA4 in the amount of \$2,000.00 for criminal defendant Custodio. Custodio failed to appear for his arraignment, plea, and trial on August 16, 2005, so the court issued an oral order forfeiting the \$2,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on August 17, 2005 in the amount of \$2,000.00. (See Exhibit "3"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on August 26, 2005. (See Exhibit "4"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on August 17, 2005, became final.

CITATION NOS. 000140812 et al.

Emelio S. Faatea (hereinafter "Faatea") was charged with Driving after License Suspended or Revoked; Operating a Vehicle under the Influence of an Intoxicant; Turning to Proceed in Opposite Direction; Giving False Information; Driving on Roadway Landed for Traffic; Driving after License Suspended or Revoked; Criminal Contempt of Court; and Driving

under Influence of Intoxicating Liquor in violation of HRS §§291E-62(a)(1) and (a)(2), 291E-61(a)(1), 291C-82, 287-44(c), 291E-49, 291-4.5, 710-1077, and 291-4 in Citation Nos. 05414832, 05414757, 00440199, 01408314, 01408313, 00140812, 01408327, 00X16685, 97261206, 05414781, 1408328, 01408330, and 01408331 (hereinafter "Citation Nos. 000140812 *et al.*"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on October 10, 2005 for Citation Nos. 000140812 *et al.* in the amount of \$1,500.00 for criminal defendant Faatea. Faatea failed to appear at the arraignment, plea, and trial on December 23, 2005, so the court issued an oral order forfeiting the \$1,500.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on January 10, 2006 in the amount of \$1,500.00. (See Exhibit "5"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on December 28, 2005. (See Exhibit "6"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on January 10, 2006, became final.

CASE NO. CONA10

Eugene Macedo Fulks (hereinafter "Fulks") was charged with Criminal Property Damage in the Third Degree in violation of HRS §708-822 in Case No. CONA10 (hereinafter "Case No. CONA10"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail

bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on June 14, 2004 for Case No. CONA10 in the amount of \$1,000.00 for criminal defendant Fulks. Fulks failed to appear at the arraignment and plea on July 28, 2004, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on August 3, 2004 in the amount of \$1,000.00. (See Exhibit "7"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond in Case No. CONA10 on August 30, 2004. (See Exhibit "8"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on August 3, 2004, became final.

CASE NO. CONA36

Eugene Macedo Fulks (hereinafter "Fulks") was charged with Reckless Endangering in the Second Degree in violation of HRS §707-714 in Case No. CONA36 (hereinafter "Case No. CONA36"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on June 14, 2004 for Case No. CONA36 in the amount of \$1,000.00 for criminal defendant Fulks. Fulks failed to appear at the arraignment and plea on July 28, 2004, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on August 3, 2004 in the

amount of \$1,000.00. (See Exhibit "9"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on August 30, 2004. (See Exhibit "10"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on August 3, 2004, became final.

CASE NO. CONA24

Peter M. Jensen (hereinafter "Jensen") was charged with Terroristic Threatening in the Second Degree in violation of HRS §707-717(1) in Case No. CONA24 (hereinafter "Case No. CONA24"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on December 7, 2009 for Case No. CONA24 in the amount of \$2,000.00 for criminal defendant Jensen. Jensen failed to appear at the arraignment and plea on December 30, 2009, so the court issued an oral order forfeiting the \$2,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on January 11, 2010 in the amount of \$2,000.00. (see Exhibit "11"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on January 22, 2010. (See Exhibit "12"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the

judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on January 11, 2010, became final.

Case No. WSAA1

Lambert A.H. Kaleikini, Jr. (hereinafter "Kaleikini") was charged with Assault in the Third Degree in violation of HRS §707-712 in Case No. WSAA1 (hereinafter "Case No. WSAA1"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on March 24, 2008 for Case No. WSAA1 in the amount of \$2,000.00 for criminal defendant Kaleikini. Kaleikini failed to appear at the arraignment and plea on April 11, 2008, so the court issued an oral order forfeiting the \$2,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on April 21, 2008 in the amount of \$2,000.00. (See Exhibit "13"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on April 15, 2008. (See Exhibit "14"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on April 21, 2008, became final.

CASE NO. TRA25

Toi Albert Nafoa (hereinafter "Nafoa") was charged with Criminal Contempt of Court in violation of HRS §710-1077 in Case No. TRA25 (hereinafter "Case No. TRA25"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on or about January 14, 2004 for Case No. TRA25 in the amount of \$500.00 for criminal defendant Nafoa. Nafoa failed to appear at the arraignment, plea, and trial on June 9, 2005, so the court issued an oral order forfeiting the \$500.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on June 28, 2004 in the amount of \$500.00. (See Exhibit "15"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on July 12, 2004. (See Exhibit "16"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Da Kine filed a Motion to Set Aside Judgment and Order of Forfeiture of Bail Bonds on August 11, 2004. Da Kine's Motion to Set Aside Judgment and Order of Forfeiture of Bail Bonds was denied on March 4, 2005. Therefore, the Judgment and Order of Bail Bond Forefeiture, filed on June 28, 2004, became final.

CASE NO. GRTA1

Nancy Marie Nugent (hereinafter "Nugent") was charged with Street Solicitation of Prostitution in violation of HRS §712-1207(1) in Case No. GRTA1 (hereinafter "Case No. GRTA1"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on August 8, 2007

for Case No. GRTA1 in the amount of \$2,000.00 for criminal defendant Nugent. Nugent failed to appear at trial on September 20, 2007, so the court issued an oral order forfeiting the \$2,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on September 24, 2007 in the amount of \$2,000.00. (See Exhibit "17"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on October 4, 2007. (See Exhibit "18"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on September 24, 2007, became final.

CASE NO. APA9

Darcie N. Oguma (hereinafter "Oguma") was charged with Criminal Contempt of Court in violation of HRS §710-1077 in Case No. APA9 (hereinafter "Case No. APA9"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on July 26, 2004 for Case No. APA9 in the amount of \$1,000.00 for criminal defendant Oguma. Oguma failed to appear at the arraignment and plea on August 2, 2004, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on August 3, 2004 in the amount of \$1,000.00. (See Exhibit "19"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served

with notice of the Judgment and Order of Forfeiture of Bail Bond on August 30, 2004. (See Exhibit "20"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on August 3, 2004, became final.

CASE NO. WSTA5

Glenn Quelnan (hereinafter "Quelnan") was charged with Prostitution in violation of HRS §712-1200 in Case No. WSTA5 (hereinafter "Case No. WSTA5"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on June 14, 2004 for Case No. WSTA5 in the amount of \$1,000.00 for criminal defendant Quelnan. Quelnan failed to appear for trial on September 15, 2004, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on September 16, 2004 in the amount of \$1,000.00. (See Exhibit "21"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond in Case No. WSTA5 on September 29, 2004. (See Exhibit "22"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Da Kine

filed a Motion to Set Aside Judgment and Order of Forfeiture of Bail Bonds on October 29, 2004. Da Kine's Motion to Set Aside Judgment and Order of Forfeiture of Bail Bonds was denied on February 22, 2005. Therefore, the Judgment and Order of Bail Bond Forefeiture, filed on September 16, 2004, became final.

CASE NO. 1DTA-09-00161

Vincent Rojas (hereinafter "Rojas") was charged with Operating a Vehicle After License and Privilege Have Been Suspended or Revoked for Operating a Vehicle Under the Influence of an Intoxicant in violation of HRS 291E-62(a)(1), (a)(2), and/or (b)(1) in Case No. 1DTA-09-00161 (hereinafter "Case No. 1DTA-09-00161"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on January 7, 2009 for Case No. 1DTA-09-00161 in the amount of \$1,000.00 for criminal defendant Rojas. Rojas failed to appear at the arraignment, plea, and trial on May 13, 2009, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on May 20, 2009 in the amount of \$1,000.00. (See Exhibit "23"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on June 1, 2009. (See Exhibit "24"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment.

Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on May 20, 2009, became final.

CASE NO. 1P109-13111/TRA26

Jansen K. Tripp (hereinafter "Tripp") was charged with Promoting A Detrimental Drug In The Third Degree in violation of HRS §712-1249 in Case No. 1P109-13111/TRA26 (hereinafter "Case No. 1P109-13111/TRA26"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on March 10, 2010 for Case No. 1P109-13111/TRA26 in the amount of \$2,000.00 for criminal defendant Tripp. Tripp failed to appear at the arraignment, plea, and trial on June 4, 2010, so the court issued an oral order forfeiting the \$2,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on June 14, 2010 in the amount of \$2,000.00. (See Exhibit "25"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on June 14, 2010. (See Exhibit "26"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on June 14, 2010, became final.

CASE NO. BWC1

Jessica A. Uli (hereinafter "Uli") was charged with Prostitution in violation of HRS §712-1200 in Case No. BWC1 (hereinafter "Case No. BWC1"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on June 1, 2009 for Case No. BWC1 in the amount of \$1,000.00 for criminal defendant Uli. Uli failed to appear at the arraignment and plea on June 29, 2009, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on July 13, 2009 in the amount of \$1,000.00. (See Exhibit "27"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond in Case No. BWC1 on July 2, 2009. (See Exhibit "28"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on July 13, 2009, became final.

Case No. BWC2

Jessica A. Uli (hereinafter "Uli") was charged with Prostitution in violation of HRS §712-1200 in Case No BWC2 (hereinafter "Case No. BWC2"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the District Court of the First Circuit, Honolulu Division, State of Hawaii on June 1, 2009 for Case No. BWC2 in the amount of

\$500.00 for criminal defendant Uli. Uli failed to appear at the arraignment and plea on June 29, 2009, so the court issued an oral order forfeiting the \$500.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on July 13, 2009 in the amount of \$500.00. (See Exhibit "29"). Da Kine and Safety National (through its attorney in-fact, Da Kine), were served with notice of the Judgment and Order of Forfeiture of Bail Bond on July 2, 2009. (See Exhibit "28"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment, pursuant to HRS §804-51, within thirty days from the date that notice of the bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond, filed on July 13, 2009, became final.

FURTHER NOTICE

Notice was provided to Duane Lee Chapman I at Da Kine Bail Bonds on October 15, 2013 of the outstanding bail forfeiture judgments. (See Exhibit "30"). Request for payment was sent to Duane Lee Chapman I at Da Kine Bail Bonds on June 19, 2014 of the outstanding bail forfeiture judgments. (See Exhibit "31"). Notice was provided to Jeffrey W. Otto at Safety National on February 19, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "32"). Notice was provided to Rainy Robinson at Da Kine Bail Bonds on March 15, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "33"). Notice was provided to Jeffrey W. Otto at Safety National on March 15, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "34"). To date Da Kine and/or Safety National have not paid on the outstanding bail forfeiture judgments.

DISCUSSION

Bail Bond Forfeitures

Bail bond forfeitures are controlled by HRS §804-51, which provides in relevant part:

“Whenever the court, in any criminal cause, forfeits any bond or recognizance given in a criminal cause, the court shall immediately enter up judgment in favor of the State ... and shall cause execution to issue thereon immediately after the expiration of thirty days from the date that notice is given ... to the surety ... unless, before the expiration of thirty days from the date that notice is given to the surety, ... a motion ... showing good cause why execution should not issue upon the judgment, is filed with the court ... If the motion or application, after a hearing thereon, is overruled, execution shall forthwith issue and shall not be stayed unless the order overruling the motion or application is appealed from as in the case of a final judgment.”

As the Court stated in State v. Vaimili, 131 Hawaii 9, 18, 313 P.3d 698,705 (2013),

“HRS § 804–51 plainly requires the court to issue a judgment immediately once the court forfeits any bond. The surety is then given thirty days to move to stay the execution of that judgment. If the motion to stay is denied, execution shall forthwith issue.” (internal quotation marks and citation omitted). See also, State v. Camara, 81 Hawaii 325, 916 P.2d 1225 (1996). In the above-mentioned cases, the courts issued a Judgment and Order of Forfeiture of Bail Bond. In cases of Citation Nos. 00014080112 et al., Case Nos. CONA8, WSTA4, CONA10, CONA36, CONA24, WSAA1, GRTA1, APA9, 1DTA-09-00161, 1P109-13111/TRA26, BWC1, and BWC2 above-mentioned neither Da Kine nor Safety National filed a motion to set aside the Judgment and Order for Forfeiture of Bail Bond within the thirty-day period after notice was received. Hence, execution of the bail bonds in said cases was issued forthwith. However, Da Kine and Safety National failed to remit payment of said forfeited bonds in violation of HRS §804-51.

In the above-mentioned cases, Case Nos. TRA25 and WSTA5, Da Kine filed a timely motion to set aside the Judgment and Order for Forfeiture of Bail Bond. In both cases, however, the motion was denied by the respective courts. HRS §804-51 requires that “[o]nce a motion to

set aside is denied, the surety may appeal such denial as in the case of a final judgment.” State v. Camara, 81 Hawaii 325, 329, 916 P.2d 1225, 1320 (1996) (internal quotations omitted.) “An appeal, however, must be timely in order to be valid. The Supreme Court has held that, in an appeal from a ruling in a bail bond forfeiture proceeding, HRAP [Rule] 4(a), as opposed to HRAP [Rule] 4(b), applies because forfeiture of a bond is a civil proceeding. Thus, the rules governing civil proceedings control this case. When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order. HRAP Rule 4(a)(1)... The failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that the parties cannot waive and the appellate courts cannot disregard in the exercise of judicial discretion.” (internal quotation marks and citations omitted). In Case Nos. TRA25 and WSTA5, Da Kine did not appeal the orders denying the motions to set aside judgments and orders for forfeiture of bail bonds. Therefore, execution of the judgments and orders for forfeiture of bail bonds should have been issued. However, Da Kine and Safety National failed to remit payment of said forfeited bonds in violation of HRS §804-51.

All of the bonds executed by Safety National and Da Kine above total \$19,500.00. The above-entitled Judgments and Orders of Forfeiture of Bail Bond have not been set aside by the court or by appeal. The Judiciary has performed all the conditions on the bonds but no part of the bonds has been satisfied or paid.

Consolidation of Cases

Rule 42(a) of the Hawaii Family Court Rules (hereinafter “HFCR”) allows for consolidation of cases involving common questions of law or fact. The decision to consolidate is within the discretion of the court taking into account judicial economy, convenience of the parties, and likelihood that the same witnesses will testify in both cases. 9 Wright and Miller,

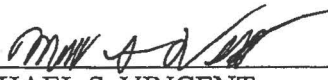
Federal Practice and Procedure 2382 (West 1995). "One of the primary objectives of consolidation is to prevent separate actions from producing conflicting results." International Paving Systems, Inc. v. Van-Tulco, Inc., 806 F.Supp. 17, 22 (E.D.N.Y. 1992).

These cases all present the same issues, witnesses and parties in interest. It simply makes no sense, in terms of judicial economy or convenience to parties and witnesses, to resolve the claims separately in different cases.

CONCLUSION

WHEREFORE, THE JUDICIARY respectfully requests that this Court grants this Petition for an Order to Consolidate Da Kine Bail Bonds, Inc. and Safety National Casualty Corporation Bail Bond Forfeiture Judgments into a single civil case:

DATED: Honolulu, Hawaii, JUL 12 2016.



MICHAEL S. VINCENT
STEVE A. BUMANGLAG
DEAN A. SOMA
LYLE T. LEONARD
Deputy Attorneys General

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Attorneys for State of Hawaii Judiciary

IN THE FAMILY COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII JUDICIARY, BY AND
THROUGH ITS ATTORNEY GENERAL,
DOUGLAS S. CHIN

PETITIONER,

vs.

DA KINE BAIL BONDS, INC. AND SAFETY
NATIONAL CASUALTY CORPORATION,

RESPONDENTS.

FC-M NO.

STATE OF HAWAII JUDICIARY'S
PETITION FOR AN ORDER TO
CONSOLIDATE DA KINE BAIL BONDS,
INC. AND SAFETY NATIONAL
CASUALTY CORPORATION BAIL
BOND FORFEITURE JUDGMENTS INTO
A SINGLE CIVIL CASE;
MEMORANDUM IN SUPPORT;
DECLARATION OF LYNN INAFUKU;
DECLARATION OF COUNSEL;
EXHIBITS "1" - "14"; NOTICE OF
HEARING OF MOTION; CERTIFICATE
OF SERVICE

Hearing:

Date: _____

Time: _____

Judge: _____

STATE OF HAWAII JUDICIARY'S PETITION FOR AN ORDER TO
CONSOLIDATE DA KINE BAIL BONDS, INC. AND SAFETY NATIONAL CASUALTY
CORPORATION BAIL BOND FORFEITURE JUDGMENTS INTO A SINGLE CIVIL CASE

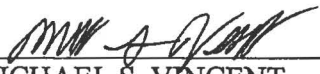
TO THE JUDGE OF THE ABOVE-ENTITLED COURT:

Comes now the STATE OF HAWAII JUDICIARY (hereafter "Judiciary"), by and through its attorneys, Douglas S. Chin, Attorney General, Michael S. Vincent, Steve A. Bumanglag, Dean A. Soma, and Lyle T. Leonard, Deputy Attorneys General, and hereby respectfully petitions this Honorable Court for an Order to Consolidate Da Kine Bail Bonds, Inc. and Safety National Casualty Corporation bail bond forfeitures into a single civil case.

This Motion is brought pursuant to Rules 7 and 42(a) of the Hawaii Family Court Rules, and is based upon the authorities contained in the attached Memorandum in Support of Motion and such evidence and argument as may be adduced at the hearing to be held on this Petition.

DATED: Honolulu, Hawaii, JUL 12 2016.

DOUGLAS S. CHIN
Attorney General of Hawaii



MICHAEL S. VINCENT
STEVE A. BUMANGLAG
DEAN A. SOMA
LYLE T. LEONARD

Attorneys for
State of Hawaii Judiciary

IN THE FAMILY COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII JUDICIARY, BY AND
THROUGH ITS ATTORNEY GENERAL,
DOUGLAS S. CHIN

PETITIONER,

vs.

DA KINE BAIL BONDS, INC. AND SAFETY
NATIONAL CASUALTY CORPORATION,

RESPONDENTS.

FC-M NO.

MEMORANDUM IN SUPPORT

MEMORANDUM IN SUPPORT

INTRODUCTION

This Petition is being made to consolidate Da Kine Bail Bonds, Inc. (hereafter "Da Kine") and Safety National Casualty Corporation (hereafter "Safety National") bail bond forfeitures into a single civil case. The bail bonds in these cases were issued by Da Kine and are insured by Safety National. The bail bond forfeitures were ordered in criminal cases in the First Circuit, District Court, Circuit Court and Family Court. Bail bond forfeitures are civil judgments, and the criminal courts usually do not calendar post-judgment civil proceedings. Therefore, this petition is being made for judicial economy and to consolidate the bail bond forfeitures within the jurisdiction of a civil court that usually calendars post-judgment civil proceedings. The relevant facts for each bail bond forfeiture judgment are provided below.

BAIL BOND FORFEITURES

CASE NO. FC-CR 10-1-1604

Dustin Menor Dimaya (hereinafter "Dimaya") was charged with Abuse of Family or Household Members in violation of Hawaii Revised Statutes (hereafter "HRS") §709-906 in Case No. FC-CR 10-1-1604 (hereinafter "Case No. FC-CR 10-1-1604"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the in the Family Court of the First Circuit, State of Hawaii on November 24, 2010 for Case No. FC-CR 10-1-1604 in the amount of \$11,000.00 for criminal defendant Dimaya. Dimaya failed to appear at the hearing on Motion For Revocation Of Probation, Resentencing on December 1, 2010, so the court issued an oral order forfeiting the \$11,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the Family Court of the First Circuit, State of Hawaii on December 2, 2010 in the amount of \$11,000.00. (See Exhibit "1"). Da Kine was served with notice of the Judgment and Order of Forfeiture of Bail Bond on December 8, 2010. (See Exhibit "2"). Safety National was served with notice of the Judgment and Order of Forfeiture of Bail Bond on February 7, 2011. (See Exhibit "3"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment pursuant to HRS §804-51 within thirty days from the date of that notice of bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond filed on December 2, 2010 became final.

CASE NO. FC-CR 10-1-1329

Terri-Ann Pemberton (hereinafter "Pemberton") was charged with Violation of a Temporary Restraining Order in violation of HRS §586-004 in Case No. FC-CR 10-1-1329 (hereinafter Case No. FC-CR 10-1-1329"). Pursuant to a power of attorney issued by Safety

National, Da Kine filed a bail bond in the in the Family Court of the First Circuit, State of Hawaii on March 29, 2010 for Case No. FC-CR 10-1-1329 in the amount of \$1,000.00 for criminal defendant Pemberton. Pemberton failed to appear at trial on August 16, 2010, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond was filed in the Family Court of the First Circuit, State of Hawaii on September 10, 2010 in the amount of \$1,000.00. (See Exhibit "4"). Da Kine was served with notice of the Judgment and Order of Forfeiture of Bail Bond on September 16, 2010. (See Exhibit "5"). Safety National was served with notice of the Judgment and Order of Forfeiture of Bail Bond on November 3, 2010. (See Exhibit "6"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment pursuant to HRS §804-51 within thirty days from the date of that notice of bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond filed on September 10, 2010 became final.

CASE NO. FC-CR 10-1-1450

Shanna Paina Williams (hereinafter "Williams") was charged with Abuse of Family or Household Member in violation of HRS §709-906 in Case No. FC-CR 10-1-1450 (hereinafter "Case No. FC-CR 10-1-1450"). Pursuant to a power of attorney issued by Safety National, Da Kine filed a bail bond in the in the Family Court of the First Circuit, State of Hawaii on April 26, 2010 in Case No. FC-CR 10-1-1450 in the amount of \$1,000.00 for criminal defendant Williams. Williams failed to appear at arraignment and plea on May 10, 2010, so the court issued an oral order forfeiting the \$1,000.00 bail bond. The Judgment and Order of Forfeiture of Bail Bond

was filed in the Family Court of the First Circuit, State of Hawaii on May 21, 2010 in the amount of \$1,000.00. (See Exhibit "7"). Da Kine was served with notice of the Judgment and Order of Forfeiture of Bail Bond on May 25, 2010. (See Exhibit "8"). Safety National was served with notice of the Judgment and Order of Forfeiture of Bail Bond on July 22, 2010. (See Exhibit "9"). Da Kine's and Safety National's only form of relief from the Judgment and Order of Forfeiture of Bail Bond was to file a motion or application showing good cause why execution should not issue upon the judgment pursuant to HRS §804-51 within thirty days from the date of that notice of bail bond forfeiture was received. Neither Da Kine nor Safety National filed a motion or application showing good cause why execution should not issue upon the judgment. Therefore, the Judgment and Order of Forfeiture of Bail Bond filed on May 21, 2010 became final.

FURTHER NOTICE

Notice was provided to Duane Lee Chapman I at Da Kine Bail Bonds on October 15, 2013 of the outstanding bail forfeiture judgments. (See Exhibit "10"). Request for payment was sent to Duane Lee Chapman I at Da Kine Bail Bonds on June 19, 2014 of the outstanding bail forfeiture judgments. (See Exhibit "11"). Notice was provided to Jeffrey W. Otto at Safety National Casualty Corporation on February 19, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "12"). Notice was provided to Rainy Robinson at Da Kine Bail Bonds on March 15, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "13"). Notice was provided to Jeffrey W. Otto at Safety National Casualty Corporation on March 15, 2016 of the outstanding bail forfeiture judgments. (See Exhibit "14"). To date Da Kine and/or Safety National have not paid on the outstanding bail forfeiture judgments.

DISCUSSION

Bail Bond Forfeitures

Bail bond forfeitures are controlled by HRS §804-51, which provides in relevant part:

“Whenever the court, in any criminal cause, forfeits any bond or recognizance given in a criminal cause, the court shall immediately enter up judgment in favor of the State ... and shall cause execution to issue thereon immediately after the expiration of thirty days from the date that notice is given ... to the surety ... unless, before the expiration of thirty days from the date that notice is given to the surety, ... a motion ... showing good cause why execution should not issue upon the judgment, is filed with the court ... If the motion or application, after a hearing thereon, is overruled, execution shall forthwith issue and shall not be stayed unless the order overruling the motion or application is appealed from as in the case of a final judgment.”

As the Court stated in State v. Vaimili, 131 Hawaii 9, 18, 313 P.3d 698,705 (2013),

“HRS § 804–51 plainly requires the court to issue a judgment immediately once the court forfeits any bond. The surety is then given thirty days to move to stay the execution of that judgment. If the motion to stay is denied, execution shall forthwith issue.” (internal quotation marks and citation omitted). See also, State v. Camara, 81 Hawaii 325, 916 P.2d 1225 (1996). In the above-mentioned cases, the courts issued a Judgment and Order of Forfeiture of Bail Bond. In cases of FC-CR 10-1-1604, FC-CR 10-1-1329, and FC-CR 10-1-1450 above-mentioned neither Da Kine nor Safety National filed a motion to set aside the Judgment and Order for Forfeiture of Bail Bond within the thirty-day period after notice was received. Hence, execution of the bail bonds in said cases was issued forthwith. However, Da Kine and Safety National failed to remit payment of said forfeited bonds in violation of HRS §804-51.

All of the bonds executed by Safety National and Da Kine above total \$13,000.00. The above-entitled Judgments and Orders of Forfeiture of Bail Bond have not been set aside by the court or by appeal. The Judiciary has performed all the conditions on the bonds but no part of the bonds has been satisfied or paid.

Consolidation of Cases

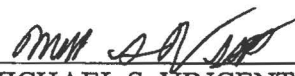
Rule 42(a) of the Hawaii Family Court Rules (hereinafter "HFCR") allows for consolidation of cases involving common questions of law or fact. The decision to consolidate is within the discretion of the court taking into account judicial economy, convenience of the parties, and likelihood that the same witnesses will testify in both cases. 9 Wright and Miller, Federal Practice and Procedure 2382 (West 1995). "One of the primary objectives of consolidation is to prevent separate actions from producing conflicting results." International Paving Systems, Inc. v. Van-Tulco, Inc., 806 F.Supp. 17, 22 (E.D.N.Y. 1992).

These cases all present the same issues, witnesses and parties in interest. It simply makes no sense, in terms of judicial economy or convenience to parties and witnesses, to resolve the claims separately in different cases.

CONCLUSION

WHEREFORE, THE JUDICIARY respectfully requests that this Court grants this Petition for an Order to Consolidate Da Kine Bail Bonds, Inc. and Safety National Casualty Corporation Bail Bond Forfeiture Judgments into a single civil case:

DATED: Honolulu, Hawaii, JUL 12 2016.



MICHAEL S. VINCENT
STEVE A. BUMANGLAG
DEAN A. SOMA
LYLE T. LEONARD
Deputy Attorneys General

Attorneys for
State of Hawaii Judiciary