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**Electronically Filed**  
**FIRST CIRCUIT**  
**1CCV-24-0000108**  
**24-JAN-2024**  
**01:24 PM**  
**Dkt. 18 ORDG**

Attorneys for Plaintiff  
STATE OF HAWAI'I

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAI'I,

Plaintiff,

vs.

RICHARD A. PALMER AND JOANN V.  
PALMER, JOHN AND JANE DOES 1 –  
10,

Defendants.

CIVIL NO. 1CCV-24-0000108  
(Environmental Court)

ORDER GRANTING PLAINTIFF'S  
AMENDED MOTION FOR TEMPORARY  
RESTRAINING ORDER FILED JANUARY  
23, 2024 [Dkt. 8]

JUDGE: Hon. Jeffrey P. Crabtree

**ORDER GRANTING TEMPORARY RESTRAINING ORDER**

The Court having considered Plaintiff's Amended Motion for Temporary Restraining Order filed January 23, 2024 ("Motion"), the memorandum, declarations, and exhibits filed in support of the motion, finds and concludes that:

1. There is a sufficient likelihood that Plaintiff may prevail on the merits;
2. The public interest supports granting the temporary restraining order;

3. The Plaintiff would be irreparably harmed if the motion is not granted.

Hawai`i Rules of Civil Procedure (“HRCP”) Rule 65(b)(2) provides that:

A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

HRCP 65(b)(2).

This Court finds that the risk of irreparable harm to the shoreline, which is under Plaintiff's jurisdiction, from the alleged construction activities and the State's efforts to serve Defendants with the Certified Complaint and Summons and notice of the Motion for Temporary Restraining Order justify granting the temporary restraining order without written or oral notice to the Defendants. The risk of irreparable harm to the shoreline includes but is not limited to restricting the beach system, the public's use and enjoyment of the beach, and impounding of beach sand supplies affecting the natural movement of sand along the beach littoral cell.

Pursuant to HRCP 65(b)(2), Defendants may appear and move this Court for dissolution or modification of the temporary restraining order on two days' notice.

Once the temporary restraining order is entered by this Court, this case will be reassigned to the 9<sup>th</sup> Division, Honorable Lisa W. Cataldo, Judge Presiding, due to the current Presiding Judge's retirement from the bench at the end of the month.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Amended Motion for Temporary Restraining Order filed January 23, 2024 [Dkt. 8] is GRANTED as follows:

Defendants will stop all construction activities on the seawall through February 3, 2024.

**This order is in effect immediately upon its filing. /s/Jeffrey.P.Crabtree**

DATED: Honolulu, Hawaii, January 24, 2024.

/s/ Jeffrey P. Crabtree



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JUDGE OF THE ABOVE-ENTITLED COURT

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*State of Hawai'i v. Palmer*, Civ. No 1CCV-24-0000108, ORDER GRANTING PLAINTIFF'S AMENDED MOTION FOR TEMPORARY RESTRAINING ORDER [Dkt. 8]