

SCWC-13-0000806

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IN THE SUPREME COURT OF THE STATE OF HAWAII

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DIANE CERVELLI and TAKEO BUFFORD,

Respondents/Plaintiffs-Appellees,

vs.

ALOHA BED & BREAKFAST, a Hawai'i sole proprietorship,  
Petitioner/Defendant-Appellant,

and

WILLIAM D. HOSHIJO, as Executive Director of the Hawai'i Civil Rights Commission,  
Respondent/Intervenor-Appellee.

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To the Intermediate Court of Appeals of the State of Hawai'i  
(No. CAAP-13-0000806, Nakamura, C.J., Fujise and Reifurth, J.J.)  
(Civil No. 11-1-3103-12, First Circuit Court, Judge Nacino, Presiding)

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**ADDENDUM TO APPLICATION FOR WRIT OF CERTIORARI, filed May 18, 2018**  
**DECLARATION OF SHAWN A. LUIZ**  
**APPENDIX "D"**  
**CERTIFICATE OF SERVICE**

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Shawn A. Luiz (6855)  
1132 Bishop Street, Suite 1520  
Honolulu, HI 96813  
Tel: (808) 538-0500; Fax: (808) 538-0600  
Email: attorneyluiz@gmail.com

James Hochberg (3686)  
700 Bishop Street, Suite 2100  
Honolulu, HI 96813  
Email: jim@jameshochberglaw.com

David A. Cortman (*pro hac vice*)\*  
Rory T. Gray (*pro hac vice*)\*  
ALLIANCE DEFENDING FREEDOM  
1000 Hurricane Shoals Rd. Suite D-1100  
Lawrenceville, GA 30043  
Tel: (770) 339-0774; Fax: (770) 339-6744  
Email: dcortman@ADFlegal.org  
Email: rgray@ADFlegal.org  
Tel: (808) 256-7382; Fax: (808) 538-3075  
\* *pro hac vice* admission pending

*Counsel for Petitioner/Defendant-Appellant*

**ADDENDUM TO APPLICATION FOR A WRIT OF CERTIORARI**

COMES NOW Petitioner/Defendant-Appellant ALOHA BED & BREAKFAST, by and through counsel of record, SHAWN A. LUIZ and JAMES HOCHBERG and hereby amends page 6 of the APPLICATION FOR A WRIT OF CERTIORARI, filed May 21, 2018, and hereby submits newly referenced (APPENDIX “D”) omitted from the APPLICATION FOR A WRIT OF CERTIORARI, filed May 21, 2018.

Dated: Honolulu, Hawai‘i, May 21, 2018.

/s/ SHAWN A. LUIZ  
SHAWN A. LUIZ  
JAMES HOCHBERG  
Attorneys for Petitioner/Defendant-Appellant  
ALOHA BED & BREAKFAST

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To the Intermediate Court of Appeals of the State of Hawai'i  
(No. CAAP-13-0000806, Nakamura, C.J., Fujise and Reifurth, J.J.)  
(Civil No. 11-1-3103-12, First Circuit Court, Judge Nacino, Presiding)

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DECLARATION OF SHAWN A. LUIZ

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1. I am an attorney licensed to practice law in the State of Hawai'i, and I am local counsel in this matter for Defendant ALOHA BED AND BREAKFAST; I provide this Declaration from my own personal knowledge.

2. The Writ of Certiorari in this matter was filed on May 18, 2018.

3. Appendix "D" was omitted. A true and correct copy of Appendix "D" is attached hereto as Appendix "D".

4. The second to last sentence on the carry-over paragraph from page 5 onto page 6 is amended to read as follows:

"If Young – a licensed real estate agent – cited the Mrs. Murphy exemption and believed, in good faith, that her conduct was lawful (ROA PDF at 987, 988 and 990, see Appendix D), no ordinary citizen would know that HRS § 489-3 applied instead."

I, SHAWN A. LUIZ, do declare under perjury of law that the foregoing is true and correct.

Dated: Honolulu, Hawai'i, May 21, 2018.

/s/ SHAWN A. LUIZ

SHAWN A. LUIZ

JAMES HOCHBERG

Attorneys for Petitioner/Defendant-Appellant

ALOHA BED & BREAKFAST

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CAAP-13-0000806

IN THE INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAII

DIANE CERVELLI and	)	CIVIL NO. 11-1-3103
TAEKO BUFFORD,	)	
	)	APPEAL FROM THE
Plaintiffs-Appellees,	)	1) ORDER GRANTING THE PARTIES'
	)	STIPULATED APPLICATION FOR
vs.	)	APPEAL FROM INTERLOCUTORY
	)	ORDER, filed herein on May 9, 2013
ALOHA BED & BREAKFAST,	)	
a Hawaii sole proprietorship,	)	2) ORDER GRANTING PLAINTIFFS'
	)	AND PLAINTIFF-INTERVENOR'S
Defendant-Appellant,	)	MOTION FOR PARTIAL SUMMARY
	)	JUDGMENT FOR DECLARATORY
and	)	AND INJUNCTIVE RELIEF AND
	)	DENYING DEFENDANT'S MOTION
WILLIAM D. HOSHIJO, as Executive	)	FOR SUMMARY JUDGMENT,
Director of the Hawaii Civil Rights	)	filed herein on April 15, 2013
Commission,	)	
	)	
Plaintiff-Intervenor-	)	FIRST CIRCUIT COURT
Appellee.	)	
	)	HONORABLE EDWIN C. NACINO
	)	Judge

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**RECORD ON APPEAL**

CARLSMITH BALL LLP

JAY S. HANDLIN (8661)  
LINDSAY N. MCANEELEY (8810)  
1001 Bishop Street, Suite 2200  
Honolulu, Hawaii 96813  
Telephone: (808) 523-2500

Attorneys for Plaintiffs-Appellees  
DIANE CERVELLI and TAEKO BUFFORD

SHAWN A. LUIZ (6855)  
1132 Bishop Street, Suite 1520  
Honolulu, Hawaii 96813  
Telephone: (808) 538-0500

and

JAMES HOCHBERG (3686)  
745 Fort Street Mall, Suite 1201  
Honolulu, Hawaii 96813  
Telephone: (808) 534-1514

Attorneys for Defendant-Appellant  
ALOHA BED & BREAKFAST, a Hawaii  
sole proprietorship

ROBIN WURTZEL (5385)  
Hawaii Civil Rights Commission  
830 Punchbowl Street, Room 411  
Honolulu, Hawaii 96813  
Telephone: (808) 586-8636

Attorney for Plaintiff-Intervenor-Appellee  
WILLIAM D. HOSHIJO, as Executive Director  
of the Hawaii Civil Rights Commission

I N D E X

(To Record on Appeal

-

DIANE CERVELLI and  
TAEKO BUFFORD,  
Plaintiffs-Appellees,

versus

ALOHA BED & BREAKFAST,  
a sole proprietorship,  
Defendant-Appellant,

and

WILLIAM D. HOSHIJO, as  
Executive Director of the Hawaii  
Civil Rights Commission,  
Plaintiff-Intervenor-Appellee.)

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## TO RECORD ON APPEAL

The original imaged record in Civil case no. 11-1-3103, First Circuit, State of Hawaii, herein, contains all scanned images of the original documents (except where noted) entered of record in said matter.

### Of Note:

1. The HAIS Case Summary contains the: 1) minutes; 2) dockets; and links to non-confidential documents of record from this appealed case.
2. The "Court Appearance Summary," as referenced in the HADJIS Case Summary, contains the minutes of the record.
3. The "Document Summary," as referenced in the HADJIS Case Summary, contains the docket of the record.
4. This document was scanned in .PDF format and optical character recognition (OCR) technology was applied. OCR search and find accuracy may be based upon scanning and OCR software available to the Clerk's Office at time of scanning.

13:15 1 to the effect of we want to rent the rooms -- the king  
13:15 2 bedroom for such-and-such a dates.

13:15 3 And I responded, I am not going to rent to you.

13:15 4 And she said, is it because we're lesbians?

13:15 5 And I said, yes.

13:15 6 And she said, well, I have just recorded this  
13:16 7 conversation.

13:16 8 Q. Anything else?

13:16 9 A. I told her that I believed that I had the right  
13:16 10 to choose who could stay in our home because we rent  
13:16 11 fewer than three or four bedrooms, and that according --  
13:16 12 I knew that there was a law that allowed me to choose  
13:16 13 who could come into our home because we live in the  
13:16 14 house.

13:16 15 Q. Anything else?

13:16 16 A. I think that was all on that particular phone  
13:16 17 call. There could be more. I don't remember it at this  
13:16 18 time.

13:16 19 Q. Did Ms. Bufford express to you her belief that  
13:16 20 you were violating the law?

13:16 21 A. I'm not sure if she did in that conversation.

13:16 22 Q. Okay.

13:16 23 A. She -- yeah.

13:17 24 Q. Were you concerned at any point during your  
13:17 25 conversations with Ms. Bufford, whether it was the first



13:18 1 Q. But at some point you did talk to Ms. Bufford  
13:18 2 again, correct?

13:18 3 A. Yes.

13:18 4 Q. So, between the first and the second phone call  
13:18 5 with Ms. Bufford, what did you do?

13:18 6 A. I called a friend who is a property manager and  
13:18 7 asked her to help me remember the name of the -- of the  
13:18 8 law that allowed me to choose which people could stay in  
13:18 9 the rooms in our home. And she told me that it was  
13:18 10 Mrs. Murphy's Law.

13:18 11 And I also called a friend, Danya, and asked if  
13:18 12 she would be willing to accept a reservation from these  
13:19 13 two women; and she said she would and she had the dates  
13:19 14 available.

13:19 15 So, I called Taeko back; and she did not answer.  
13:19 16 And then she returned my phone call later and said, did  
13:19 17 you call me?

13:19 18 And I said, yes, I did because I wanted to  
13:19 19 mention two things to you. I said, first, I remember  
13:19 20 the name of that law. It's Mrs. Murphy's Law. And  
13:19 21 secondly I have a friend, Danya, who has a very nice  
13:19 22 place, nicer than mine -- she's on the water, on the  
13:19 23 marina. And she has a private bath where we do not and  
13:19 24 she's willing to accept a reservation. She has  
13:19 25 availability.

13:24 1 A. Schiappa.

13:24 2 Q. Can you spell that?

13:24 3 A. S-C-H-I-A-P-P-A.

13:24 4 Q. You mentioned that you didn't look up the law  
13:24 5 that constituted the Mrs. Murphy's exemption; is that  
13:24 6 correct?

13:24 7 A. Right.

13:24 8 Q. Did you look up the Hawaii Public Accommodation  
13:24 9 Law at that time?

13:24 10 A. No.

13:24 11 Q. Were you aware that such a law existed at that  
13:24 12 time?

13:24 13 A. No.

13:24 14 Q. You were not aware that in Hawaii discrimination  
13:24 15 in public accommodation is prohibited?

13:24 16 A. I did not know that there was such a thing as  
13:24 17 public accommodation. And when -- I was shocked to see  
13:24 18 the discrimination complaint come in under that title  
13:25 19 because I thought of myself as being in real estate --  
13:25 20 renting real estate and not a public accommodation.

13:25 21 Q. So, at no time in the 20 years you operated Aloha  
13:25 22 Bed & Breakfast did you ever read the Hawaii Public  
13:25 23 Accommodation Law or take any steps to familiarize  
13:25 24 yourself with it; is that right?

13:25 25 A. That's correct.

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---

**CERTIFICATE OF SERVICE**

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The undersigned hereby certifies that on the date of filing, a copy of the “ADDENDUM TO APPLICATION FOR WRIT OF CERTIORARI, filed May 18, 2018; DECLARATION OF SHAWN A. LUIZ; APPENDIX “D”; and CERTIFICATE OF SERVICE” was served upon the following parties, in the manner indicated:

Lindsay N. McAneeley  
CARLSMITH BALL LLP  
ASB Tower, Suite 2200  
1001 Bishop Street  
Honolulu, Hawai`i 96813

*via JEFS and/or U.S. mail*

Attorneys for Plaintiffs  
DIANE CERVELLI and TAEKO BUFFORD

Peter C. Renn *(Courtesy copy to Pro Hac Vice Counsel)*  
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.  
3325 Wilshire Blvd., Suite 1300  
Los Angeles, California 90010  
Pro Hac Vice Counsel for Plaintiffs  
DIANE CERVELLI and TAEKO BUFFORD

Robin Wurtzel  
Shirley Naomi Garcia  
April L. Wilson-South  
HAWAI'I CIVIL RIGHTS COMMISSION  
830 Punchbowl Street, Room 411  
Honolulu, Hawai'i 96813

*via JEFs and/or U.S. mail*

Attorneys for Plaintiff-Intervenor  
WILLIAM D. HOSHIJO, Executive Director

Dated: Honolulu, Hawai'i, May 21, 2018.

/s/ SHAWN A. LUIZ  
SHAWN A. LUIZ  
JAMES HOCHBERG  
Attorneys for Petitioner/Defendant-Appellant  
ALOHA BED & BREAKFAST