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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

OCT 22 2009

at 1 o'clock and 37 min M.
SUE BEITIA, CLERK

Attorney for Plaintiffs
OKLEVUEHA NATIVE AMERICAN CHURCH OF HAWAII, INC.
MICHAEL REX "RAGING BEAR" MOONEY

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

OKLEVUEHA NATIVE)	Civil No. 09-00336 SOM BMK
AMERICAN CHURCH OF)	
HAWAII, INC.; MICHAEL REX)	SCHEDULING CONFERENCE
"RAGING BEAR" MOONEY,)	STATEMENT;
)	CERTIFICATE OF SERVICE
Plaintiffs,)	
)	
vs.)	
)	
ERIC H. HOLDER, JR., as U.S.)	
Attorney General; MICHELE)	
LEONHART, as Acting)	
Administrator of the U.S. Drug)	
Enforcement Administration;)	
EDWARD H. KUBO, JR., as U.S.)	
Attorney for the District of Hawaii,)	Conference: October 29, 2009 @ 10
)	
Defendants.)	Honorable: Barry M. Kurren

SCHEDULING CONFERENCE STATEMENT

Comes now Plaintiffs, by and through their undersigned attorney, and

hereby present their Scheduling Conference Statement, pursuant to Local Rule 16.2(b), as follows:

1. **Nature of the Case** – At issue is the United States' duty, pursuant to the American Indian Religious Freedom Act, to protect and preserve for Plaintiffs their inherent right of freedom to believe, express, and exercise their traditional religious use and possession of their sacred herb Cannabis, and their freedom to worship through ceremonies and traditional rites.

It is accepted knowledge that humans have used Entheogens for religious purposes wherever they have occurred in nature from pre-history until the present day. Many religions (specifically including The Native American Church, the Union of the Vines [União do Vegetal] and the Santo Daime religion) were created because of, and exist purely for the consumption of, these Entheogenic plants. Plaintiffs will prove by credible and undisputed sources that the herb, known as *Rosa Maria* amongst certain North American Indian tribes, and referred to as Cannabis by Plaintiffs, has been traditionally consumed as sacrament and for therapeutic needs by Native American peoples. Cannabis was particularly consumed in times of shortage of these tribes' primary sacrament/great-medicine of choice –

Peyote, or more specifically, *Lophophora Williamsii*.

Plaintiffs consume Cannabis for religious rite. Plaintiffs will prove that Plaintiffs have recently had their Cannabis seized by US Federal authorities, and that the Defendants have refused to return, and still will not return, the seized Cannabis to Plaintiffs absent a court order. Defendants have wholly refused to allow the Plaintiffs to possess any Cannabis whatsoever, for zero purposes whatsoever, be it religious or even Hawaii State-licensed therapeutic use. The Defendants in this case have not, do not, and will not allow Plaintiffs to possess or consume Cannabis for any purposes. Defendants instead currently consider Plaintiffs' Cannabis use and possession to be criminally prohibited. Plaintiff Mooney and the members of The NAC thus live in fear of arrest and imprisonment rather than live with the knowledge that their hard-fought rights are secure.

Plaintiffs desire the same protections for their use and possession of Cannabis as they currently have in place against Defendants for their sacramental use and possession of Peyote. Plaintiffs are more than willing to agree to reasonable regulations, restrictions, terms, conditions and/or controls that the Defendants might reasonably request to address any effects

or other negative issues the Defendants are likely to espouse concerning the Plaintiffs' right to possess and consume Cannabis. Currently, Plaintiffs legally possess and consume Peyote (a Schedule 1 substance) with terms and conditions, and, currently, other Entheogen-based churches legally import and distribute other Schedule 1 substances, likewise with terms and conditions.

2. **Jurisdiction** is proper pursuant to 28 USC §1331 because the action arises under the laws and Constitution of the United States of America. Furthermore, this Court is authorized to grant declaratory relief by the Declaratory Judgment Act, 28 USC §§2201, 2202. This Court is authorized to grant preliminary and permanent relief under Federal Rule of Civil Procedure 65. VENUE is proper (and required to be in Hawaii) under 28 USC § 1391(e) and §1402(a)(1). The controversy is ripe and the issues are not moot.

3. A **Jury Trial** has not been demanded.

4. Plaintiffs agree with the **Disclosure** timing proposed by Defendants in their Supplemental Report.

5. No **Discovery** has been completed nor started.
6. There are no **Special Procedures** to address at this time.
7. Counsel is not aware of any **Related Case** in any other court.
8. Counsel will most assuredly have **Additional Matters** to address once counsel has actually received a substantive pleading or Answer from Defendants.

DATED: Honolulu, Hawaii; October 22, 2009



MICHAEL A. GLENN, ESQ.
Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

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Enforcement Administration;)
EDWARD H. KUBO, JR., as U.S.)
Attorney for the District of Hawaii,)
)
Defendants.)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this date he delivered by US Mail
a filed copy of this Scheduling Conference Statement to the Defendants at:

James C. Luh, Trial Attorney
United States Department of Justice
20 Massachusetts Ave. NW
Washington, DC 20530

Derrick K. Watson, A.U.S.A.
300 Ala Moana Blvd. 6-100
Honolulu, Hawaii 96850

DATED: Honolulu, Hawaii, October 22, 2009



MICHAEL A. GLENN / Attorney for Plaintiffs