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SCOTT NAGO, in his official capacity as
Chief Election Officer for the Hawaii Office of Elections

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

VINCENTE TOPASNA BORJA,
EDMUND FREDERICK
SCHROEDER, JR., RAVINDER
SINGH NAGI, PATRICIA ARROYO
RODRIGUEZ, LAURA CASTILLO
NAGI, and EQUALLY AMERICAN,

Plaintiffs,

vs.

SCOTT NAGO, in his official capacity
as Chief Election Officer for the
Hawaii Office of Elections,

GLEN TAKAHASHI, in his official
capacity as Clerk of the City and
County of Honolulu,

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CIVIL NO. 20-00433 JAO-RT

STATE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT FILED
ON NOVEMBER 22, 2021
[ECF #137] AND CROSS-MOTION
FOR SUMMARY JUDGMENT;
MEMORANDUM IN SUPPORT

Judge: Honorable Jill A. Otake

No Trial Date Set

UNITED STATES OF AMERICA,

LLOYD J. AUSTIN III, in his official
capacity as Secretary of Defense,

FEDERAL VOTING ASSISTANCE
PROGRAM, and

DAVID BEIRNE, in his official
capacity as Director of the Federal
Voting Assistance Program ,

Defendants.

STATE'S OPPOSITION TO PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT FILED ON NOVEMBER 22, 2021
[ECF #137] AND CROSS-MOTION FOR SUMMARY JUDGMENT

Defendant Scott Nago, in his official capacity as Chief Election Officer for the Hawaii Office of Elections ("State"), through the Attorney General, State of Hawai'i and her undersigned deputies, hereby moves this Honorable Court for an order denying Plaintiffs' Motion for Summary Judgment filed on November 22, 2021 [ECF #137], and granting summary judgment in favor of the State as to all of Plaintiffs' claims asserted against it. The State is entitled to summary judgment because Plaintiffs cannot establish beyond controversy every element of their equal protection claim.

This motion is made following two pre-filing telephone conferences of counsel pursuant to LR7.8 which took place on October 18, 2021 and October 20, 2021. Lead counsel for all the parties, including Plaintiffs' counsel Geoffrey M.

Wyatt, Zachary W. Martin, and Anthony “T.J.” Quan, State’s counsel Lori N. Tanigawa, Federal Defendants’ counsel Stephen M. Pezzi, and the City and County of Honolulu’s counsel Robert M. Kohn, participated in the telephone conferences, the total duration of which counsel estimates to be a minimum of 45 minutes. Although the parties were able to reach an agreement on jointly developing and submitting to the Court a Joint Stipulation for the Incorporation of Stipulated Facts Into the Record, the parties were unable to reach an agreement on the substantive issues despite good faith efforts to do so.

This motion is brought pursuant to Rules 7 and 56 of the Federal Rules of Civil Procedure, LR7.7 and LR56.1, and is based on the attached memorandum, declarations, records and files herein, State’s response to Plaintiffs’ Concise Statement of Facts, and State’s separate Concise Statement of Facts, and such further argument as may be made at a hearing on this motion.

DATED: Honolulu, Hawai‘i, December 22, 2021.

HOLLY T. SHIKADA
Attorney General

/s/ Lori N. Tanigawa
PATRICIA OHARA
LORI N. TANIGAWA
Deputy Attorneys General
Attorneys for Defendant
SCOTT NAGO, in his official capacity as
Chief Election Officer for the Hawaii Office
of Elections