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WILLIAM D. HOSHIJO, Executive Director

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI'I

DIANE CERVELLI and TAEKO BUFFORD,

Plaintiffs, and

WILLIAM D. HOSHIJO, as Executive
Director of the Hawai'i Civil Rights
Commission,

Plaintiff-Intervenor,

vs.

ALOHA BED & BREAKFAST, a Hawai'i
sole proprietorship,

Defendant.

CIVIL NO. 11-1-3103-12 ECN
(Other Civil Action)

**ORDER GRANTING PLAINTIFFS'
AND PLAINTIFF-INTERVENOR'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
DENYING DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

HEARING MOTION

JUDGE: Edwin C. Nacino
HEARING DATE: Mar. 28, 2013
HEARING TIME: 9:00 a.m.
TRIAL: Nov. 4, 2013

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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F. OTAKE
CLERK

**ORDER GRANTING PLAINTIFFS' AND PLAINTIFF-INTERVENOR'S MOTION FOR
PARTIAL SUMMARY JUDGMENT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Pending before the Court are two motions. First, on February 13, 2013, Plaintiffs Diane Cervelli and Taeko Bufford and Plaintiff-Intervenor William D. Hoshijo as Executive Director of the Hawai'i Civil Rights Commission (collectively, "Plaintiffs") filed a Motion for Partial Summary Judgment. Defendant Aloha Bed & Breakfast ("Defendant") filed its opposition on March 19, 2013. Plaintiffs filed a reply on March 22, 2013. Second, on February 20, 2013, Defendant filed a Motion for Summary Judgment. Plaintiffs filed their opposition on March 19, 2013. Defendant filed a reply on March 22, 2013.

The Court held a hearing on both Plaintiffs' and Defendant's motions on March 28, 2013, at which Peter Renn, Jay Handlin, and Lindsay McAneeley appeared for Plaintiffs Diane Cervelli and Taeko Bufford, Robin Wurtzel appeared for Plaintiff-Intervenor, and Joseph La Rue, Shawn Luiz, and James Hochberg appeared for Defendant.

Having considered the pleadings in this matter, all papers filed in support of and in opposition to the motions, and the argument presented by counsel at the hearing on the motions, the Court finds that there is no genuine dispute of material fact that Defendant violated Hawai'i Revised Statutes ("HRS") § 489-3. Pursuant to HRS § 489-7.5 and Hawai'i Rule of Civil Procedure 65(d), the Court also finds that injunctive relief is appropriate. Defendant is governed by Chapter 489, HRS, not Chapter 515, HRS, and Defendant constitutes a place of public accommodation under HRS § 489-2, because its goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the general public as customers, clients, or visitors. Defendant also constitutes "[a]n inn, hotel,

motel, or other establishment that provides lodging to transient guests” and “[a] facility providing services relating to travel or transportation.” HRS § 489-2. Defendant violated HRS § 489-3 by discriminating against Plaintiffs Diane Cervelli and Taeko Bufford on the basis of their sexual orientation as lesbians.

Accordingly, the Court hereby ORDERS as follows:

1. Plaintiffs’ motion for partial summary judgment with regard to liability and declaratory and injunctive relief is hereby GRANTED in full. Defendant Aloha Bed & Breakfast, a Hawai‘i sole proprietorship of Phyllis Young, and its officers, agents, servants, employees, attorneys, and those in active concert or participation with them who receive actual notice of this order by personal service or otherwise, are hereby prohibited from engaging in any practices that operate to discriminate against same-sex couples as customers of Aloha Bed & Breakfast; and

2. Defendant’s motion for summary judgment is DENIED as moot.

DATED: Honolulu, Hawai‘i, APR 11 2013.

EDWIN C. NACINO



JUDGE OF THE ABOVE ENTITLED COURT

APPROVED AS TO FORM:



JAMES HOCHBERG
SHAWN LUIZ
JOSEPH LA RUE
JOSEPH INFRANCO
HOLLY CARMICHAEL
Attorneys for Defendant

Diane Cervelli and Taeko Bufford v. Aloha Bed & Breakfast; In the Circuit Court of the First Circuit, State of Hawaii, Civil No. 11-1-3103-12 (ECN); Order Granting Plaintiffs’ and Plaintiff-Intervenor’s Motion for Partial Summary Judgment and Denying Defendant’s Motion for Summary Judgment