

NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Notice is hereby given that The Moms on a Mission (MOM) Hui (The MOM Hui), Moloka‘i Mahi‘ai (Moloka‘i Farmers), Gerry Ross, and Center for Food Safety (CFS), (collectively, Proposed Intervenors) hereby respectfully move to intervene as of right on behalf of Defendant in the above-titled action pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 24.

Alternatively, Proposed Intervenors seek permissive intervention under Rule 24(b)(2) to protect their personal interests, and their members’ vital interests in, the enactment of Maui County’s voter initiative, entitled “A Bill Placing a Moratorium on the Cultivation of Genetically Modified Organisms” (the GE Initiative or Initiative), a voter initiative that provides the County’s residents and environment greater protection from the risk of transgenic contamination and from potential pesticide drift and contamination associated with genetically engineered crops, which was passed into law by the November 4, 2014 election. *See* Compl., Ex. A, ECF No. 1-1.

Proposed Intervenors and their members supported the Initiative, and actively participated in the election process to ensure its passage. Proposed Intervenors include mothers on Moloka‘i and residents of Maui who are directly affected by the cultivation of genetically engineered crops and pesticide

applications near their homes; farmers and beekeepers whose businesses are impacted by the toxic chemicals used in the cultivation and testing of genetically engineered crops; and a public interest group that is the national leader on the issues of agricultural biotechnology and pesticides. Proposed Intervenors thus have significant protectable interests related to the GE Initiative that have already been injured by Plaintiffs' legal action, and may be further impaired by the case's outcome.

This Motion is based upon this Notice of Motion and Motion to Intervene, the Memorandum in Support thereof, the Declarations of Ashley Lukens, Mercy Ritte, Hōalake'eamekawai'ola Davis, Autumn Ness, Gerry Ross, and William Micah Waipahe Buchanan, the Proposed Order, the Proposed Answer pursuant to Rule 24(c), and all pleadings and papers filed in this action, and upon such other matters the Court may entertain. *See* Fed. R. Civ. P. 24(c).

DATED: Honolulu, Hawai'i, November 21, 2014.

Respectfully submitted,

/s/ Paul H. Achitoff
PAUL H. ACHITOFF ((#5279)
EARTHJUSTICE
850 Richards Street, Suite 400
Honolulu, Hawai'i 96813
Telephone No.: (808) 599-2436
Fax No.: (808) 521-6841
Email: achitoff@earthjustice.org

GEORGE A. KIMBRELL (*Pro Hac Vice pending*)
SYLVIA SHIH-YAU WU (*Pro Hac Vice pending*)
Center for Food Safety
303 Sacramento St., 2nd Floor
San Francisco, California 94111
T: (415) 826-2770 / F: (415) 826-0507
Emails: gkimbrell@centerforfoodsafety.org
swu@centerforfoodsafety.org

Counsel for Proposed Intervenor-Defendants