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UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, Plaintiff, vs. DISCOVERING HIDDEN HAWAII TOURS, INC. d/b/a DISCOVER HAWAII TOURS, HAWAII TOURS AND TRANSPORTATION INC., BIG KAHUNA LUAU, INC., and Does 1-5 Inclusive, Defendants.	Case No.: **COMPLAINT—Title VII** • **Sexual Harassment** • **Retaliation** • **Constructive Discharge** **(42 U.S.C. §§2000e, et seq.)** **JURY TRIAL DEMAND**

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 ("Title VII") to correct unlawful employment practices on the basis of sex and retaliation and to provide appropriate relief to Dean Calibraro ("Charging Party") and a class of similarly aggrieved individuals who were adversely affected by such practices. As set forth with greater particularity in paragraphs 19 to 22 of this Complaint, Plaintiff United States Equal Employment Opportunity Commission ("Plaintiff" or "Commission") asserts that Defendants Discovering Hidden Hawaii Tours, Inc. d/b/a Discover Hawaii Tours, Hawaii Tours and Transportation Inc., Big Kahuna Luau, Inc., and Does 1-5 (collectively referred to herein as "Defendants"), subjected Charging Party and a class of similarly aggrieved individuals to sexual harassment because of sex (male), retaliation for opposing unlawful employment practices, and constructive discharge in violation of Title VII. Defendants further engaged in a pattern or practice of sexual harassment based on sex (male) in violation of Title VII.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345.

2. This action is authorized and instituted pursuant to § 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3), ("Title VII") and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).

3. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Hawaii.

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PARTIES

1. Plaintiff, the U.S. Equal Employment Opportunity Commission ("Plaintiff" or the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and is expressly authorized to bring this action by § 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

2. At all relevant times, Defendant Discovering Hidden Hawaii Tours, Inc. d/b/a Discover Hawaii Tours has been a corporation doing business in the State of Hawaii, and has continuously had at least fifteen (15) employees.

3. At all relevant times, Defendant Discovering Hidden Hawaii Tours, Inc. d/b/a Discover Hawaii Tours has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-1 (b), (g), and (h).

4. At all relevant times, Defendant Hawaii Tours and Transportation Inc. has been a corporation doing business in the State of Hawaii, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Hawaii Tours and Transportation Inc. has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-1 (b), (g), and (h).

6. At all relevant times, Defendant Big Kahuna Luau, Inc. has been a corporation doing business in the State of Hawaii, and has continuously had at least fifteen (15) employees.

7. At all relevant times, Defendant Big Kahuna Luau, Inc. has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-1 (b), (g), and (h).

8. Leo Malagon was the sole partner, president, treasurer, and director of Discovering Hidden Hawaii Tours, Inc. ("DHT").

9. Hawaii Tours and Transportation Inc.'s sole function was to lease and operate vehicles used by DHT in their tours. Leo Malagon controlled the operations of Hawaii Tours and Transportation Inc., including the authority to hire/fire employees. Hawaii Tours and Transportation Inc. is currently owned by Danielle Diamond, Leo Malagon's spouse.

10. Hawaii Tours and Transportation Inc. is the registered agent for service of Big Kahuna Luau, Inc. Leo Malagon managed the luau event operated by Big Kahuna Luau, Inc., including supervision of work by employees and third party vendors.

11. All of the acts and failures to act alleged herein were duly performed by and attributable to all Defendants, each acting as a successor, agent, alter ego, employee, indirect employer, joint employer, integrated enterprise and/or or under the direction and control of the others, except as specifically alleged otherwise. Said acts and failures to act were within the scope of such agency and/or employment, and each Defendant participated in, approved and/or ratified the unlawful acts and omissions by the other Defendants complained of herein. Whenever and wherever reference is made in this Complaint to any act by a Defendant or Defendants, such allegations and reference shall also be deemed to mean the acts and failures to act of each Defendant acting individually, jointly, and/or severally.

12. Plaintiff is ignorant of the true names and capacities of each Defendant sued as Does 1 through 5, inclusively, and therefore Plaintiff sues said defendant(s) by fictitious names. Plaintiff reserves the right to amend the complaint to name each Doe defendant individually or collectively as they become known. Plaintiff alleges that each Doe defendant was in some manner responsible

for the acts and omissions alleged herein and Plaintiff will amend the complaint to allege such responsibility when the same shall have been ascertained by Plaintiff.

STATEMENT OF CLAIMS

13. More than thirty days prior to the institution of this lawsuit, Charging Party filed a charge of discrimination with the Commission alleging violations of Title VII by Defendants.

14. On August 3, 2016, the Commission issued to Defendants a Letter of Determination finding reasonable cause to believe that Defendants had violated Title VII by subjecting Charging Party and a class of similarly situated individuals to sexual harassment, harassment based on their sex (male), constructive discharge, and retaliation. The Commission further invited Defendants to join with the Commission in informal methods of conciliation to endeavor to eliminate the discriminatory practices and provide appropriate relief.

15. The Commission engaged in communications with Defendants to provide Defendants the opportunity to remedy the discriminatory practices described in the Letter of Determination.

16. The Commission was unable to secure through informal methods of conciliation, including but not limited to an in-person conciliation conference, from Defendants a conciliation agreement acceptable to the Commission.

17. On September 26, 2016, the Commission issued to Defendants a Notice of Failure of Conciliation.

18. All conditions precedent to the institution of this lawsuit have been fulfilled.

19. Since at least 2006, Defendants have engaged in unlawful employment practices in violation of §§ 703(a)(1) and 704 of Title VII, 42 U.S.C. §§ 2000e-2(a)(1) by subjecting the Charging Party and a class of aggrieved individuals to harassment on the basis of their sex (male). The unlawful

employment practices include but are not limited to:

a. Charging Party worked for Defendant Discovering Hidden Hawaii Tours, Inc. as Vice President of Sales and Marketing. From May 2015 to August 2015, Defendants' owner, director, agent and/or alter ego Leo Malagon III ("Malagon") subjected Charging Party to regular and repeated sexual harassment, including but not limited to comments about performing oral sex on men, soliciting Charging Party to participate in a "threesome" with Malagon, implying that sexual favors would ensure Charging Party's performance bonus, and unwanted touching of Charging Party's thigh. Such conduct was unwelcome by Charging Party. When Charging Party complained to Defendants' human resource personnel, Defendants failed to take corrective action. Soon after Charging Party's complaint, Malagon threatened to fire him and withhold his bonuses. As a result of the harassment and retaliation, Charging Party was forced to resign in August 2015.

b. Claimant 1 is a male who worked for Defendant Discovering Hidden Hawaii Tours, Inc. in 2010 as a social media marketing and reservations manager. In October 2010, Malagon subjected Claimant 1 to unwelcome sexual harassment, including but not limited to showing Claimant 1 a picture of Malagon's erect penis, asking Claimant 1 how big his penis was, comments about oral and anal sex, asking if he had ever had sex with a male, and asking Claimant 1 to lunch the next day. Claimant 1 complained to his supervisor that Malagon's conduct made him uncomfortable. His supervisor's response was to ask Claimant 1 how big his penis was and the supervisor then suggested that Claimant 1 go to lunch with Malagon, implying that his continued employment was contingent on Claimant 1's acquiescence to sexual contact. Claimant 1 agreed to go to lunch, but Malagon instead took Claimant 1 to his apartment. At the apartment, Claimant 1complied with Malagon's request for oral sex. Later that day, Claimant 1

communicated to Malagon that the incident was "not ok," and the next day, he complained to his supervisor, called a hotline number to report the incident and at the hotline's staff's recommendation, went to the hospital for assessment. Defendants failed to take corrective action in response to Claimant 1's complaints; rather, after Malagon became aware of Claimant 1's complaint, Defendants took retaliatory action against Claimant 1 by issuing him a poor performance review around two months after his complaint. As a result of the harassment, Claimant 1 resigned from Defendants' employment.

c. Claimant 2 is a male who worked for Defendants from February 2012 through May 2013 as an internet marketer and sales manager. Malagon subjected Claimant 2 to unwelcome sexual harassment during his job interview. Claimant 2 applied and was interviewed for a position in internet marketing. During his hours long interview process, Malagon took Claimant 2 for dinner and drinks and then back to the office. While at the office, Malagon directed Claimant 2 to masturbate in front of Malagon and showed Claimant 2 pornography. Malagon also grabbed Claimant 2's penis. Claimant 2 was subsequently offered employment with Defendants.

d. Claimant 3 is a male who worked for Defendant Discovering Hidden Hawaii Tours, Inc. as a bartender from about May 2015 through about July 2015. Malagon subjected Claimant 3 to unwelcome sexual harassment including, but not limited to, on multiple occasions showing Claimant 3 pictures of Malagon and others having sex with Malagon's wife, and making sexual comments including that Malagon's wife loved "big cocks" and asking claimant 3 whether he had a "big cock." At least in part as a result of the harassment, Claimant 3 resigned from Defendants' employment.

e. Claimant 4 is a male who worked for Defendants as a bartender between July 2015 and August 2015. Malagon subjected Claimant 4 to unwelcome

sexual comments during the recruitment of Claimant 4 for employment with Defendants and continued to make comments of a sexual nature during his employment. These comments included but were not limited to asking what "sexual stuff" Claimant 4 was into, and talking about sex parties and orgies.

f. Malagon subjected other male employees to sexual harassment. Malagon regularly recruited and hired young males, often from his gym, for a variety of jobs (such as bartender, tour guide and social media/marketing). During the interview and/or after hire, Malagon subjected them to sexual harassment, including but not limited to the following unwelcome conduct: showing male employees videos and pictures of a sexual nature, making sexual comments and innuendos about penises, asking employees to see their penises, propositioning male employees to engage in sexual conduct at the office and at his home, offering to promote male employees if the male employees showed Malagon their penises, fondling male employees' penises, offering to perform fellatio on male employees, and unwanted physical touching of male employees.

20. The conduct described in Paragraph 19 resulted in the constructive discharge of male employees who were forced to resign because of the harassment.

21. Malagon's treatment of Charging Party and Claimants 1 through 4 is illustrative of a pattern or practice of sexual harassment dating from at least 2006 through the present.

22. Defendant failed to take corrective action in response to complaints by male employees. In response to complaints of sexual harassment, Defendant took retaliatory action against employees, including but not limited to denying Charging Party a bonus and threatening his termination, and issuing Claimant 1 a poor performance review in violation of Section 704 of Title VII, 42 U.S.C. § 2000e-3.

23. The effect of the practices complained as described in paragraphs 19-22 has been to deprive Charging Party and a class of similarly aggrieved

individuals of equal employment opportunities and otherwise adversely affects their status as employees because of their sex (male).

24. The effect of the practices complained of in paragraphs 19-22 above has been to deprive Charging Party and a class of similarly aggrieved individuals of equal employment opportunities and otherwise adversely affects their status as employees because of their engagement in protected activities in opposition to unlawful employment practices.

25. The unlawful employment practices complained of in paragraphs 19-22 above were intentional and caused Charging Party and a class of aggrieved individuals to suffer emotional distress.

26. The unlawful employment practices complained of in paragraphs 19-22 above were done with malice or with reckless indifference to the federally protected rights of Charging Party and a class of aggrieved individuals.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendants, their officers, successors, assigns, and all persons in active concert or participation with each of them, from engaging in sexual harassment, retaliation, and any other employment practice which discriminates on the basis of sex;

B. Order Defendants to institute and carry out policies, practices, and programs to ensure that they would not engage in further unlawful employment practices in violation of §§ 703(a)(1) and 704 of Title VII;

C. Order Defendants to make Charging Party and a class of aggrieved individuals whole by providing compensation for past and future pecuniary losses, including appropriate back pay and front pay with prejudgment interest on any lost pay and benefits, in amounts to be determined at trial;

D. Order Defendants to make Charging Party and a class of aggrieved individuals whole by providing compensation for past and future non-pecuniary losses resulting from the unlawful employment practices complained of above, including emotional pain, suffering, inconvenience, mental anguish, humiliation and loss of enjoyment of life, in amounts to be determined at trial;

E. Order each Defendant to pay Charging Party and a class of aggrieved individuals punitive damages for its intentional, malicious, and reckless conduct described above in an amount to be determined at trial;

F. Award the Commission its costs of this action; and

G. Grant such further relief as the Court deems necessary and proper in the public interest.

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JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its Complaint.

Dated: February 15, 2017 Respectfully Submitted

JAMES LEE,
Acting General Counsel

GWENDOLYN YOUNG REAMS,
Associate General Counsel

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
131 "M" Street, N.E.
Washington, D.C. 20507

By: _____
ANNA Y. PARK,
Regional Attorney

SUE J. NOH,
Supervisory Trial Attorney

RUMDUOL VUONG,
Supervisory Trial Attorney

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Anna Y. Park, EEOC, 255 East Temple Street, Fourth Floor, Los Angeles, CA 90012, (213) 894-1083, aana.park@eeoc.gov

DEFENDANTS

DISCOVERING HIDDEN HAWAII TOURS, INC. d/b/a DISCOVER HAWAII TOURS, HAWAII TOURS AND TRANSPORTATION INC., BIG KAHUNA LUAU, INC., and Does 1-5 Inclusive

County of Residence of First Listed Defendant Honolulu
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ❒ 2 U.S. Government Defendant
- ❒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ☒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Remanded from Appellate Court ❒ 4 Reinstated or Reopened ❒ 5 Transferred from Another District *(specify)* ❒ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
42 U.S.C. §§2000e, et seq

Brief description of cause: by subjecting employees to sexual harassment, harassment based on their sex (male), constructive discharge, and retaliation.

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ❒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
02/15/2017

SIGNATURE OF ATTORNEY OF RECORD
/s/ Anna Y. Park

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

HID 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Hawaii

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Plaintiff

v.

DISCOVERING HIDDEN HAWAII TOURS, INC. d/b/a DISCOVER HAWAII TOURS, ET AL

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* BIG KAHUNA LUAU, INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Anna Y. Park
U.S. EEOC
255 East Temple Street, Fourth Floor
Los Angeles, CA 90012

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

HID 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Hawaii

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION *Plaintiff* v. DISCOVERING HIDDEN HAWAII TOURS, INC. d/b/a DISCOVER HAWAII TOURS, ET AL *Defendant*	)	Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* DISCOVERING HIDDEN HAWAII TOURS, INC. d/b/a DISCOVER HAWAII TOURS

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Anna Y. Park
U.S. EEOC
255 East Temple Street, Fourth Floor
Los Angeles, CA 90012

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset

HID 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Hawaii

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Plaintiff

v.

DISCOVERING HIDDEN HAWAII TOURS, INC. d/b/a DISCOVER HAWAII TOURS, ET AL

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* HAWAII TOURS AND TRANSPORTATION INC.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Anna Y. Park
U.S. EEOC
255 East Temple Street, Fourth Floor
Los Angeles, CA 90012

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

_____
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____ was received by me on *(date)* _____ .

❒ I personally served the summons on the individual at *(place)* _____ on *(date)* _____ ; or

❒ I left the summons at the individual's residence or usual place of abode with *(name)* _____ , a person of suitable age and discretion who resides there, on *(date)* _____ , and mailed a copy to the individual's last known address; or

❒ I served the summons on *(name of individual)* _____ , who is designated by law to accept service of process on behalf of *(name of organization)* _____ on *(date)* _____ ; or

❒ I returned the summons unexecuted because _____ ; or

❒ Other *(specify):*

.

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc:

Print Save As... Reset