

AMERICAN CIVIL LIBERTIES UNION  
OF HAWAI'I FOUNDATION

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UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

DARIA FAND,

Plaintiff,

v.

CITY AND COUNTY OF HONOLULU;  
JEREMY HARRIS, in his official capacity as  
Mayor of the City and County of Honolulu; and  
PETER RADULOVIC in his official capacity as  
Coordinator of the Mayor's Office on Culture  
and the Arts.

Defendants.

Civ. No. CV01-00541 DAE BMK  
(Injunctions)

STIPULATION FOR DISMISSAL WITH  
PREJUDICE AND ORDER

## STIPULATION AND ORDER

Plaintiff Daria Fand and Defendants City and County of Honolulu, Jeremy Harris, and Peter Radulovic hereby agree as follows:

1. The City shall display Ms. Fand's art piece, "Last of the Believers," for a sixteen-day period during March, April or May with the exact date to be agreed upon by the parties, in the main inside courtyard area of Honolulu Hale on the wall to the left of grand staircase leading up to the second floor.
2. The City shall remove and shall not enforce the portion of paragraph eleven of the "Terms and Conditions" contained in the Mayor's Office of Culture and the Arts "Exhibit Application Form" which reads, "MOCA reserves the right to reject entries that do not meet its guidelines for free public viewing," until such time as the City has adopted express guidelines and a coherent City policy for displaying art at Honolulu Hale which do not allow for the unfettered exercise of content-based discrimination by City officials.
3. The City shall make a payment of \$5,000 in attorney's fees and costs to the American Civil Liberties Union of Hawaii Foundation by April 1, 2002.
4. This Stipulation shall, upon approval by the Court, operate as an Order of the Court. If the Court fails to approve this Stipulation, it shall be null and void and the parties shall be restored to the status quo ante and the litigation shall proceed.
5. This Stipulation is not an adjudication upon the merits of the litigation. Neither the execution of this Stipulation nor anything contained in this Stipulation nor any actions taken or to be taken by the City hereunder shall be construed or considered as admissions of liability or any issues of law or fact on the part of the City, but are undertaken in the spirit of compromise.

6. The parties agree that this case shall be dismissed with prejudice except that the Court shall have continuing jurisdiction for the purpose of enabling either of the parties to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the modification, construction or carrying out of this Stipulation and for the enforcement of compliance therewith.

DATED: Honolulu, Hawaii, \_\_\_\_\_.

\_\_\_\_\_  
BRENT T. WHITE  
ACLU of Hawaii Foundation  
Attorney for Plaintiff

DAVID Z. ARAKAWA  
Corporation Counsel

By \_\_\_\_\_  
GREGORY J. SWARTZ  
Deputy Corporation Counsel  
Attorneys for Defendants

APPROVED AND SO ORDERED:

\_\_\_\_\_  
Judge of the above-entitled Court