

Clarence Kukauakahi Ching, Petitioner  
64-823 Mamalahoa Hywy  
Kamuela HI 96743

BOARD OF LAND AND NATURAL RESOURCES  
STATE OF HAWAII

In the Matter of :	Case No: BLNR-CC-16-002
A Contested Care Hearing Re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope at the Mauna kea Science Reserve, Kaohe Mauka, Hamakua District, Island of Hawaii, TMK (3) 4-4-015:009	CLARENCE KUKAUAKAHI CHING'S MOTION IN OPPOSITION TO THE ADMISSION OF EXHIBITS C-41 AND C-42 IN TMT INTERNATIONAL OBSERVATORY, LLC'S SECOND SUPPLEMENT TO ITS MOTION TO ADMIT EXHIBITS AND WRITTEN DIRECT TESTIMONY INTO EVIDENCE, FILED JANUARY 23, 2017, THAT WAS FILED ON MARCH 9, 2017; CERTIFICATE OF SERVICE

CLARENCE KUKAUAKAHI CHINGS'S MOTION IN OPPOSITION TO THE ADMISSION OF EXHIBITS C041 AND C-42 IN TMT INTERNATIONAL OBSERVATORY, LLC'S SECOND SUPPLEMENT TO ITS MOTION TO ADMIT EXHIBITS AND WRITTEN DIRECT TESTIMONY INTO EVIDENCE, FILED JANUARY 23, 2017; THAT WAS FILED ON MARCH 9, 2017

Comes now, CLARENCE KUKAUAKAHI CHING, PRO SE, and moves to oppose the Admission of Exhibits C-41 and C-42 in TMT INTERNATIONAL OBSERVATORY, LLC'S SECOND SUPPLEMENT TO ITS MOTION TO ADMIT EXHIBITS AND WRITTEN TESTIMONY INTO EVIDENCE, FILED JANUARY 23, 2017, that was filed as Document Number 508 on March 9, 2017, for the following reasons:

As I told the "Full truth to the best of my knowledge" in response to questions posed to me by TIO's attorney Ross Shinyama in his cross-examination of me as a witness in the TMT Contested Case Hearing – in questions regarding the so-called Yees' cases (discussion following) that I was asked, and was sufficiently responded to by questions asked by attorney Dexter Kaiama on re-cross.

I note, however, what appears to be a possible conflict – that is whether I agreed to be the attorney for Mrs. Jamie Yee, That resulted in a finding that I committed legal malpractice.

As the following will attest, I was NOT impeached.

Received  
Office of Conservation and Coastal Lands  
Department of Land and Natural Resources  
State of Hawaii  
2017 March 16 2:36 pm

My recollection is that there were 2 involved cases – one for Mung Hong Yee’s disability case (that had nothing to do with Mrs. Yee’s accident) and the other for Janie Yee’s accident – 2 separate cases. My recollection is that I did accept Mr. Yee’s case – which was the reason for a \$500.00 retainer, and for which I did engage in research, etc., regarding his case. As for the disposition of that case, I do not have any recollection. On that regard, I will acquiesce to allegations. I did refund to Mr. Yee the unearned portion of HIS original retainer.

There is a possibility, however, that the Yees believed that Mr. Yee’s retainer also included Mrs. Yee’s retainer – but, there were 2 separate cases, at different times, and, if so, why would I return the balance of his fee if that were not the case? This possible conclusion becomes decidedly clearer when it is clear that there was NO Attorney-Client Agreement executed with and NO retainer received on Mrs. Yee’s case as I testified. Therefore, contrary to the allegations in Ms. Pavey’s civil suit, I reject the suggestion, and the subsequent legal finding, that I committed legal malpractice on Mrs. Yee’s case by NOT filing the alleged complaint.

Yes, I did fail to appear or to answer (I defaulted) (as the allegations distilled to a “She said, He said” kind of case) to Ms. Pavey’s case, as my responses to attorney’s questions in the record indicate. As a collateral argument – Why would I have advanced a court filing and sheriffs’ fees – if I had not received a retainer from which I would normally charge off such fees?

Therefore, I believe that Exhibits C-41 and C-42 – as far as my credibility is concerned, and relative to the substantive evidence of the contested case hearing, is not material and not relevant, and should NOT be admitted into evidence.

#### CONCLUSION

I was NOT impeached and EXHIBITS C-41 and C-42 should not be admitted into evidence as they are NOT material and NOT relevant to the substantive facts and evidence of the Contested Case Hearing.

Dated: Hilo, Hawaii, 3/16/2017

Clarence Kukauakahi Ching