

No. _____

**In The
Supreme Court Of The United States**

PRINCESS AZIZI KUULEI KAIAMA, ALIIAIMOKU
32ND MO'I AND ASSIGN HEIRS OF HOUSE OF AUAUA
OF MOANA OF NAHINU NOBLE HEIR TO AHUPUA'A
PRIVATE LANDS,

Petitioner,

v.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF HAWAII and ATC MAKENA, LLC
(and other related Real Parties in Interest),

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether the Native Hawaiian citizens of the Kingdom of Hawaii are entitled to remove a land title dispute from State court to federal court on the basis of federal question jurisdiction when the dispute amounts to, in essence, an international dispute between the laws of the United States government (and any State established thereunder, including, but not limited to, Hawaii) and the laws of the Kingdom of Hawaii.

Whether the United States District Court for the District of Hawaii erred in entering an order to remand the case back to the Supreme Court of Hawaii. The District Court Judge's reasoning for remanding the case back to the State court was due to his determination that Petitioner failed to adequately establish the basis for removal of the action to federal court by not identifying, among other things, the legal support for federal question jurisdiction as the basis justifying removal of the action to federal court.

Whether the Ninth Circuit erred in summarily dismissing Petitioner's Writ of Mandamus challenging the United States District Court for the District of Hawaii's Order remanding the case back to the Supreme Court of Hawaii. The Ninth Circuit's panel of Judges determined that Petitioner had not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus, pursuant to *In re Mersho*, 6 F.4th 891, 897 (9th Cir. 2021).

PARTIES TO THE PROCEEDINGS

Petitioner Princess Azizi Kuulei Kaiama, stated more formally as, Princess Azizi Kuulei Kaiama, (Ali’iaimoku 32nd Mo’i and Assign Heirs of House of Kauaua of Moana of Nahinu Noble Heir to Ahupua’a Private Lands) (hereinafter, “Princess Azizi”) was the *pro se* Defendant in the United States District Court for the District of Hawaii who was seeking removal of the State court case then before the Supreme Court of Hawaii to the United States District Court, and was the *pro se* Petitioner in the United States Court of Appeals for the Ninth Circuit seeking mandamus.

The United States District Court for the District of Hawaii was a Respondent in the Writ of Mandamus action to the United States Court of Appeals for the Ninth Circuit.

ATC Makena, LLC, Big Beach Ohana, LLC, Big Beach Estate, DISCOVERYLAND, Mike Meldman, George Clooney, the State of Hawaii, the County of Maui, and Construction companies including, Goodfellows, Dorvin Leis, Todd Boyd Construction, Ulupalakua Ranch, Alpha, Piilani Pono Road Association, Sam S. Hironaka Trust, the Subdivision Deal Doc. No. A-52770256, DLNR, BLNR, HHL, OHA, MECO, Hawaiian Telephone, and Dowling Real Estate were all Plaintiffs in the United States District Court for the District of Hawaii, and were Respondents/Real Parties in Interest in the Writ of Mandamus action to the United States Court of Appeals for the Ninth Circuit.

RELATED PROCEEDINGS

ATC Makena, LLC, et al. v. Kaiama (Supreme Court of Hawaii)(Civil Action No. SCWC-21-0000550)(Case that granted a Writ of Certiorari in State Court, but was then removed to Federal Court).

ATC Makena, LLC, et al. v. Kaiama (D.Haw. June 24, 2025)(Civil Action No. 1:25-cv-00236-MWJS-WRP)(Order remanding the action back to Supreme Court of the State of Hawaii).

Hawaiian Kingdom Monarch Government Heir to Allodial Title; Princess Azizi Kuulei Kaiama, Ali'iaimoku 32nd Mo'I and Assign Heirs of House of Kauaua of Moana of Nahinu Noble Heir to Ahupua'a Private Lands v. United States District Court for the District of Hawaii, et al. (9th Cir. September 30, 2025)(Case No. 25-5152)(Order denying Petition for Writ of Mandamus).

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PETITION FOR WRIT OF CERTIORARI

Petitioner seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The opinion of the court of appeals, App. 1, is unreported but can be found at Appeal No. 25-5152. The opinion of the district court, App. 3, is reported at 2025 WL 1747927, 2025 U.S. Dist. LEXIS 119887 (D.Haw. June 24, 2025).

JURISDICTION

The judgment of the court of appeals was entered on September 30, 2025. This petition is timely filed on December 29, 2025. Petitioner invokes this Court's jurisdiction under 28 U.S.C. 1254(1).

CONSTITUTIONAL PROVISIONS AND COURT RULES INVOLVED

Article III, Section 2, Clause of the United States Constitution

Treaty of Friendship, Commerce, and Navigation Between the United States and the Sandwich Islands (Hawaii) (December 23, 1826)

Treaty of Friendship, Commerce, and Navigation and Extradition (December 20, 1849)

Treaty of Reciprocity (January 30, 1875)

Reciprocity Convention (December 6, 1884)

Joint Resolution of 1897 (“Newlands Resolution”)

The Organic Act

The Hawaiian Homes Commission Act, 1920

The Hawaiian State Admission Act

The Hawaiian Home Lands Trust Act

Joint Resolution to Acknowledge the 100th
Anniversary of the January 17, 1893
Overthrow of the Kingdom of Hawaii, Public
Law 103-150; 107 Stat. 1510 (“Apology
Resolution”)

The Hawaiian Homes Lands Recovery Act, 1995

42 U.S.C. §1983

STATEMENT

The concept of private ownership of property did not initially exist in Hawaii. The Kings were the sovereign owners of all of the land which was, in turn, controlled by the ali`i nui, or high chiefs, and tended or farmed by the kanaka, or commoners. This system of land use and control that initially existed in Hawaii would best be described as a feudal system.

The land was divided into geographical areas with the divisions intended so that the controlling ali`i nui and related kanaka had access to a broad spectrum of resources. These land divisions stretched from the ocean to the mountain. Kanaka occupied land as tenants and only with the continued approval of the ali`i. When an ali`i died, the land he supervised reverted to the king. The largest land unit within the island was the moku, the large wedge shaped divisions of land which stretched from the mountain to the ocean. Each moku was divided into narrower strips often running from the mountains to the sea. These divisions were called ahupua`a.

In 1778, Captain Cook reached the Hawaiian Islands and, not long after, missionaries and businessmen followed. With them, eventually came the ways of the western world and ideas of trade consistent with a market economy. Under the influence of the western civilization, concepts of private property would soon begin to emerge.

In the 1790's, though, Kamehameha the Great conquered all of the islands, except Kauai, and brought them under his rule. For the first time, Hawaii was united and ruled by a single king. Then,

in 1810, King Kamehameha I united the Hawaiian Islands into one kingdom to form a unified monarchical government known as the Kingdom of Hawaii. King Kamehameha I died in 1819, and his heir (his eldest son Liholiho) became King Kamehameha II.

King Kamehameha III (named Kauikeaouli, the second son of King Kamehameha I), who reigned from 1825 to 1854, promulgated a Declaration of Rights that protected "the persons of all the people; together with their lands, their building lots, and all their property." The 1839 Declaration of Rights guaranteed, among other things, that people's lands would not be taken from them.

The 1839 Declaration also served as the preamble to the 1840 Constitution, which created a legislative body comprising both a "House of Nobles" and a representative body. The Constitution made it clear that people had an interest in land greater than that of the bounty and produce of the land. In 1845, the Land Commission was created in Hawaii by Kamehameha III to award land claims. However, it was not able to do so because the feudal system of land tenure still existed and individuals did not hold title to land. Consequently, the Great Mahele (great land division) culminated in 1848.

In a process that took several months, the land was divided into three classifications. Of the approximate four million acres in Hawaii, the king reserved one million acres for himself and his family. These were called crown lands. Of the remaining three million acres, approximately half were designated as Government Lands and the other half

was given to the ali`i and konohiki, who were the heads of ahupua`a's land divisions, and these lands became known as Konohiki Lands. The record of the distribution of lands in the three classifications was set forth in the Mahele Book. The Great Mahele is the single most important event in the history of land title in Hawaii. It essentially abolished the feudal system and gave rise to an allodial system of land tenure. Private ownership of most of the property in Hawaii began with the Great Mahele.

Under the Great Māhele, the King, chiefs, and land agents agreed in separate bilateral compacts to accept certain allotted areas of the kingdom as their own while quitclaiming all interests in the others' assigned portions. These agreements were recorded in the Māhele Book. The Māhele created three categories of all land in the Kingdom of Hawai`i: (1) Crown lands, for the occupant of the throne; (2) Konohiki Lands for the notable chiefs and those who provided service to the Kingdom; and (3) Government lands, to be used in support of public initiatives and as a means of providing land to those who did not acquire land in the initial Māhele. The Hawaiian Government divided the lands as follows: approximately 1.6 million acres to the Ali'i, or Chiefs, 1.5 million acres to the government of Hawaii ("Government Lands"), and 1 million acres reserved to the King and his successors ("Crown Lands"). Although each category of landowner held land independently, their holdings remained subject to the rights of native tenants living on the land.

From 1826 to 1893, the United States recognized the Kingdom of Hawaii as an independent, sovereign nation and even engaged in diplomatic

relations with the Hawaiian monarchs. The United States extended complete diplomatic recognition to the Hawaiian government, and beginning in 1826, entered into four treaties or conventions with Hawai'i covering friendship, commerce, and navigation. More than twenty nations entered into treaties recognizing the Kingdom of Hawaii as a sovereign nation during the 19th century.¹

On January 17, 1893, a group of American sugar planters led by Sanford Dole staged a coup against Queen Lili'uokalani with the support of American troops and help from John Stevens, the U.S. Minister to the Hawaiian Kingdom. On February 1, 1893, Minister John Stevens recognized the new government on his own authority, with Dole the proclaimed president of what was referred to as the Republic of Hawaii. By the end of 1893, President Grover Cleveland completed investigations that found an unlawful overthrow of the government of an independent and sovereign State, also recognizing that the U.S troops committed an act of war against the Kingdom of Hawaii when U.S. troops invaded Hawaii's shores on January 16, 1893. President Cleveland sent a new U.S. minister to Hawaii to restore Queen Lili'uokalani to the throne but was

¹ Those four treaties were as follows: (1) Treaty of Friendship, Commerce, and Navigation Between the United States and the Sandwich Islands (Hawaii) (December 23, 1826); (2) Treaty of Friendship, Commerce, and Navigation and Extradition (December 20, 1849); (3) Treaty of Reciprocity (January 30, 1875); and (4) Reciprocity Convention (December 6, 1884), "which was an extension of the 1875 Treaty of Reciprocity". See *also* Apology Resolution, *supra* note I, 107 Stat. at 1510-11 (discussing Kingdom of Hawai'i treaties and their breach during the 1893 overthrow).

unwilling to overthrow the Republic of Hawaii when Dole refused to step aside.

By 1897, newly elected President William McKinley and representatives of the Republic of Hawaii signed a treaty of annexation, which was submitted to the United States Senate for approval. It was rejected. Undaunted, annexation proponents in Congress enacted a Joint Resolution (the "Newlands Resolution") by a simple majority vote, annexing the Hawaiian Islands as a territory of the United States without following customary constitutional treaty procedure. Under the Newlands Resolution, the Republic of Hawaii purported to cede sovereignty of the islands and convey title to approximately 1,800,000 acres of the Government and Crown Lands to the United States. Congress subsequently defined these lands, together with lands later acquired by the State and subject to some exceptions, as "public lands."

Although the Newlands Resolution asserted United States ownership of Hawaiian public lands, it also subjected the public lands to a special trust. In the Newlands Resolution, the United States accepted the cession of the 1.8 million acres from the Republic subject to a proviso that "all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States...shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purpose." The United States Attorney General interpreted this language in 1899, concluding that "[t]he effect of this clause is to subject the public lands in Hawaii to a special trust, limiting the revenue from or proceeds of the same to

the uses of the inhabitants of the Hawaiian Islands for educational or other public purposes."

The Organic Act, which "established the Territory of Hawaii, asserted United States control over the ceded lands, and put those lands 'in the possession, use, and control of the government of the Territory of Hawaii...until otherwise provided for by Congress.'" The Organic Act, like the Newlands Resolution, recognized the trust status of the ceded lands and provided that: "All funds arising from the [Territory's] sale or lease or other disposal of such lands shall be...applied to such uses and purposes for the benefit of the inhabitants of the Territory of Hawaii as are consistent with the joint resolution of annexation."

In 1921, Congress enacted the Hawaiian Homes Commission Act, 1920 (HHCA) to provide a homesteading program for native Hawaiians, placing approximately 203,500 acres of land (known as the Hawaiian Home Lands) into the Hawaiian Home Lands Trust. While the Hawaiian Home Lands are part of the ceded lands, they are not considered "public lands" as that term is defined under both federal and state law.

The United States Department of the Interior was deeply involved in the congressional proceedings on statehood. Acting Secretary Oscar L. Chapman made several recommendations regarding the Hawaiian Home Lands and proposed an amendment to the statehood bill, H.R. 49, that required the new state to adopt the HHCA as a law. The amendment was meant to ensure that "the safeguards...intended to be afforded the native Hawaiians for whose benefit

the [HHCA] was enacted by the Congress would be enforceable..." Acting Secretary Chapman proposed that the provision requiring Hawaii to adopt the HHCA as a law "be recast into a compact by the State to carry out the purposes of the [HHCA] in such a manner as to prohibit the obligation thus assumed by the State being altered in substantive particulars without the consent of the United States."

The Secretary's proposal was incorporated into the bill, and Hawaii became the fiftieth state in the Union in 1959 pursuant to the Hawaii State Admission Act. In addition to the trust responsibilities attached to the Hawaiian Home Lands, the act also attached trust responsibilities to the State's administration of all the ceded lands.

The Hawaiian Home Lands Trust is a federal law framework implemented through state law and subject to oversight by the United States. For example, Congress reserved the right to amend or repeal provisions of the HHCA, and the State must obtain United States consent for "any amendments to the act that may alter the qualifications or diminish the benefits of the program to its beneficiaries." The Secretary of the Interior also must "approve any land exchanges involving Hawaiian Home Lands." Over time, Congress has confirmed this unique legal framework as well as the ongoing responsibilities of the United States concerning the State's administration of the Trust.

Section 4 of the Admission Act required the new State to adopt the HHCA as a provision of the State Constitution and established a compact between the

State and the federal government concerning the Hawaiian Home Lands Trust.

In Section 5(b) of the Admission Act, Congress transferred to the State the United States' title to the public lands and the Hawaiian Home Lands, while retaining title to lands "set aside pursuant to law for the use of the United States." In Section 5(f) of the Admission Act, Congress mandated that the transferred lands, including both the public lands and the Hawaiian Home Lands, "together with the proceeds from the sale or other disposition of any such lands and income therefrom, shall be held by said State as a public trust" for five specific purposes.

One of the purposes is "the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended...." Section 5(f) provides: "The lands granted to the State of Hawaii...together with the proceeds from the sale or other disposition of any such lands and the income therefrom, shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use. Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, *and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States.*"

Among the Department's most significant responsibilities is administering the Hawaiian Home Lands Trust in conjunction with the State of Hawaii for the benefit of native Hawaiians. The Home Lands Trust was established to protect Native Hawaiian interests by providing a land base and opportunities for homesteading. As Congress recognized in the Apology Resolution, "the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land".

In addition to its Hawaiian Home Lands Trust responsibility, the Department has an ongoing political relationship with Native Hawaiians manifested in hundreds of federal statutes and administrative programs. This government-to-government relationship supports establishment of a Native Hawaiian government with status akin to federally recognized tribes in the other states.

Congress held joint hearings in Hawaii in 1989 on the administration of the Hawaiian Home Lands. In the years that followed, Congress took decisive action, both with respect to the Hawaiian Home Lands and the interests of the larger Native Hawaiian Community. The 1993 Apology Resolution was enacted by Congress and signed by President Clinton in recognition of the 100-year anniversary of the overthrow of the Kingdom of Hawaii. The Apology Resolution "endorsed the official view of the Federal Government: the United States' officers were wrongly involved in the overthrow of a legitimate and independent government in Hawaii and the deprivation of the rights of Native Hawaiians to self-determination." Congress also expressed support for

the reconciliation efforts between the Native Hawaiian people and the United States.

In the thirty years following the 1993 Apology Resolution, Congress enacted more than 100 statutes protecting and advancing Native Hawaiian interests. These included the Hawaiian Home Lands Recovery Act, which Congress passed in 1995 in response to challenges with Home Lands administration. In the Recovery Act, Congress clarified the respective roles of the Secretary and the State regarding amendments to the HHCA. The Recovery Act also settled certain claims the State had asserted against the federal government for mismanagement of the Trust lands. The Secretary has a lead role in implementing both parts of the Recovery Act.

The Secretary and the Department of Hawaiian Home Lands executed a Memorandum of Agreement in 1998 to implement the exchange provisions of the Recovery Act. The exchange process has been substantially implemented. These efforts towards reconciliation were paralleled by the efforts of individual native Hawaiian beneficiaries and beneficiary groups to secure their rights through federal and state courts. Litigation to enforce the trust responsibility embodied in the Hawaiian Home Lands Trust may be brought by individuals under 42 U.S.C. §1983, and directly against the State by the United States in federal court.² "While the management and

² *Keaukaha-Panaewa Cmty. Ass'n v. Hawaiian Homes Comm'n*, 739 F.2d 1467, 1472 (9th Cir. 1984); *Day v. Apo'iona*, 496 F.3d 1027, 1031 (9th Cir. 2007)(citing and discussing *Keaukaha Panaewa Cmty. Ass'n v. Hawaiian Homes Comm'n*, 588 F.2d 1216 (9th Cir. 1979); *Price v. Akaka*, 3 F.3d 1220 (9th Cir. 1993); *Keaukaha*, 739 F.2d 1467)).

disposition of the home lands was given over to the state of Hawaii with the incorporation of the Commission Act into the state constitution, the trust obligation is rooted in federal law, and power to enforce that obligation is contained in federal law." The Ninth Circuit would later explain, "we have established the broad contours of Native Hawaiians' right to sue for breach of the state's §5(f) trust obligations and held that §5(f)...does create a right enforceable via 42 U.S.C. §1983."

Along with its actions regarding the Home Lands, Congress has legislated to preserve and protect Native Hawaiian interests in more than 250 separate instances since 1910 on a wide range of substantive policy areas. Congress was deeply attentive to matters relating to the Territory of Hawaii, including when it enacted the Native American Programs Act of 1974, the first of many statutes that would explicitly extend to the Native Hawaiians many of "the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities..." Congress has identified Native Hawaiians as "a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago," with whom the United States has a "special trust relationship."

Additionally, federal agencies manage programs and deliver services to Native Hawaiians in much the same way they do for American Indians and Alaska Natives, consistent with congressional mandates and Executive directives. The Department

of the Interior is at the forefront of the relationship between the United States and the Native Hawaiian Community because of its long history with Hawaii and congressional directives that the Department "effectuate and implement the special legal relationship" and "continue the process of reconciliation" with the Native Hawaiian Community. The Office of Native Hawaiian Relations (ONHR), formally established by Congress in 2004, discharges certain of the Secretary's responsibilities related to Native Hawaiians and serves as a conduit for the Department's field activities in Hawaii, including those affecting Native Hawaiian resources, rights, and lands.

Today, title to all land in Hawaii can be traced back to one of the three original land divisions created by the Great Mahele, whether the title to the land is recorded in the regular system, land court, or in both systems (dual system land).

It is widely acknowledged that "the laws passed by the Kingdom of Hawaii protected the traditional rights of the common people to use the lands." Some of these laws remain in effect today. For example, Hawaii Revised Statutes section 7-1, "a statute initially passed in 1851 and continued in [Hawaii's] law since that time without substantial modification" protects gathering rights as well as rights to access land and water. In Article 12, Section 7 of the Constitution of the State of Hawaii: "The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778...."

Voters in the State of Hawaii approved this provision in 1978 to provide additional protection for Native Hawaiian traditional and customary rights.

Since there is no currently recognized governing entity, the government-to-government relationship is carried out directly with the Native Hawaiian people, and various organizations they have formed. Congress requires federal agencies to consult with Native Hawaiians under several federal statutes. Currently, the Department of the Interior and other federal agencies engage with the Native Hawaiian Community through Native Hawaiian organizations who serve as its informal representatives.³

³ See, e.g., the National Historic Preservation Act of 1966, 54 U.S.C. §302706; the Native American Graves Protection and Repatriation Act, 25 U.S.C. §§3002(c)(2), 3004(b)(1)(B). The Secretaries of Interior and Agriculture issued Order No. 3403 on fulfilling the trust responsibility in the management of federal lands and water and engage directly with Native Hawaiian organizations to address matters of mutual interest in the management of federal lands. Order No. 3403, Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters (Nov. 15, 2021). The Department of Defense established a consultation policy specific to Native Hawaiians in October 2011, which applies when proposing actions that may affect property or places of traditional religious and cultural importance or subsistence practices. See U.S. Department of Defense Instruction Number 4710.03: Consultation Policy with Native Hawaiian Organizations (2011). The National Park Service maintains "its special political and trust relationship with the Native Hawaiian community by interacting through Native Hawaiian organizations." See National Park Service Policy Memorandum 22-03, Fulfilling the National Park Service Trust Responsibility to Indian Tribes, Alaska Natives, and Native Hawaiians in the Stewardship of Federal Lands and Waters (Sept. 9, 2022).

On January 16, 2025, the Solicitor of the United States Department of the Interior, Robert T. Anderson, authored a memorandum, M-37083, entitled Trust Relationship between the United States and the Native Hawaiian Community, and Administration of the Hawaiian Home Lands. In that memorandum, Solicitor Anderson documented much of the foregoing history of Native Hawaiian land ownership issues and the Kingdom of Hawaii's relationship with the United States Government.

REASONS FOR GRANTING THE PETITION

I. Federal Question Jurisdiction exists for a dispute between a Native Hawaiian citizen and a third-party pertaining to a land title dispute

In an effort to be as succinct as possible, this Court in *Hawaii, et al. v. Office of Hawaiian Affairs, et al.*, 556 U.S. 163 (2009)(Justice Alito) made it abundantly clear that when addressing land title disputes and the possible acquisition and/or sale of ceded lands originally owned by Native Hawaiian citizens, that federal courts, like the U.S. Supreme Court, have federal jurisdiction to hear such disputes.

Justice Alito wrote that:

This Court has jurisdiction whenever “a state court decision fairly appears to rest primarily on federal law, or to be interwoven with the federal law, and when the adequacy and independence of any possible state law ground is not clear

from the face of the opinion.” *Michigan v. Long*, 463 U.S. 1032, 1040–1041 (1983).

He then added later in the opinion that:

The court noted that “[t]he primary question before this court on appeal is whether, in light of the Apology Resolution, this court should issue an injunction” against sale of the trust lands, *id.*, at 210, 177 P.3d, at 920, and it concluded, “[b]ased on a plain reading” of the Apology Resolution, that “Congress has clearly recognized that the native Hawaiian people have unrelinquished claims over the ceded lands,” *id.*, at 191, 177 P. 3d, at 901. Based on these and the remainder of the State Supreme Court’s 77 references to the Apology Resolution, we have no doubt that the decision below rested on federal law. We are therefore satisfied that this Court has jurisdiction. See 28 U.S.C. §1257.

Hawaii, et al. v. Office of Hawaiian Affairs, et al., 556 U.S. at 171-172.

Even though the defenses raised by the Petitioner below were not limited to the Apology Resolution of 1993, the application of federal law to this land title dispute between a Royal Hawaiian citizen and a third-party (whether it be the State of Hawaii or otherwise) still exists and still mandates the ability for Petitioner to be able to remove the case

from State court to federal court pursuant to 28 U.S.C. §1441 *et seq.* (hereinafter, “the Removal Statutes”).

II. A removal action pursuant to 28 U.S.C. §1441 *et seq.* requires either Federal Question Jurisdiction or Diversity Jurisdiction in support of the request for removal from State Court

The Federal Removal Statutes, in particular, 28 U.S.C. §1441(a), reads as follows:

(a) Generally. Except as otherwise expressly provided by Act of Congress, any civil action brought in the state court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

In addition, 28 U.S.C. §1441(d), reads as follows:

(d) Actions against foreign States. Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is

based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.

As provided by 28 U.S.C. §1441(a), where district courts of the United States have original jurisdiction, otherwise known as “federal question jurisdiction,” a matter may be removed by the defendant or defendants to the district court of the United States for the district and division embracing the place where such action is pending.

III. The United States District Court for the District of Hawaii and the United States Court of Appeals for the Ninth Circuit committed error in not allowing this matter to proceed in Federal Court

The United States District Court for the District of Hawaii, in its Order remanding the case back to State court, dated June 24, 2025, fails to comprehend the intent and the subject matter of the underlying State court litigation and assumes that the Complaint, as filed by the Petitioner’s adversaries, is nothing more than a State court trespass and nuisance case.

Petitioner, in her Response to the Order to Show Cause, filed as a *pro se* litigant, attempts to convey to the court that State courts do not have jurisdiction over this type of dispute as she is a Royal Native Hawaiian citizen who claims ownership of her lands dating back to King Kamehameha III and the mid-1800’s.

While Petitioner may have conveyed her arguments a little inartfully, the tenor of the argument should have been correctly deciphered by the United States District Court for the District of Hawaii. The court's failure to comprehend that federal question jurisdiction as the basis for removal was being asserted amounts to error by the United States District Court.⁴

Likewise, the United States Court of Appeals for the Ninth Circuit, in its Order dated September 30, 2025, summarily dismissing Petitioner's Writ of Mandamus filing, also amounts to error by the court. The Ninth Circuit's panel of Judges merely stated in its Order that "Petitioner had not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus, pursuant to *In re Mersho*, 6 F.4th 891, 897 (9th Cir. 2021)." In terms of the fact that the Petitioner was a *pro se* litigant at the time, and due to the content of the record from below, the Ninth Circuit should have permitted the Writ of Mandamus to proceed.

IV. The questions presented are important and this case is a good vehicle

The questions presented are extremely important to all Native Hawaiians, particularly those that hold "Crown Lands," as this issue deals with a long and suppressive history marked by non-Native

⁴ Petitioner acknowledges now, with the assistance of counsel, that the arguments based on Diversity Jurisdiction as a basis for removal of this action to federal court are not viable, and, therefore, Petitioner waives those arguments herein. The current argument in favor of a removal is the existence of federal question jurisdiction.

Hawaiians claiming as their own through the State of Hawaii and its governmental agencies the rightful property of Native Hawaiians. Through the development of its history, beginning as far back as the arrival of Captain Cook in Hawaii in 1778, the peoples of the Kingdom of Hawaii have sought, through one form or another, to preserve their lands for their own use. Even after the annexation of Hawaii in the 1890's and then Hawaii achieving statehood in 1959, the U.S. Government has stated that the Native Hawaiians have a legitimate and recognized property interest in their lands. Despite that clear and undeniable message in many federal treaties and statutes, non-Native Hawaiians continuously attempt to wrestle control, possession, and ownership of these lands from the Native Hawaiians, including the Royal Hawaiian Family and, in this case, Petitioner Princess Azizi Kuulei Kaiama.

These land title disputes, in the form of quieting title and partitioning title actions, will continue to occur in the State of Hawaii, until this Court holds once and for all that the Native Hawaiians who are able to properly trace their property rights back to King Kamehameha III and the Grand Mehele of 1845-1848 are the rightful owners of their respective lands and those claims cannot be repeatedly challenged in the State courts of Hawaii by way of these unethical title actions.

This case, in particular, is a good vehicle for this Court to accept as it involves a direct Royal Hawaiian Family member, Princess Azizi Kuulei Kaiama, who has a direct lineage and blood line back to King Kamehameha III. Furthermore, it is a case

where the Petitioner has documented her unbroken title to such lands in the appropriate Land Records Office in the State of Hawaii. Finally, this case involves high-powered celebrities on the other side, who are seeking to fraudulently claim an ownership right to these Crown Lands owned by Petitioner and her relatives.

CONCLUSION

The petition for a writ of certiorari should be granted. Alternatively, this Court should grant summary reversal of the decisions below and remand. *See Tolan v. Cotton*, 572 U.S. 650, 660 (2014).

Respectfully submitted,

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December 29, 2025

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1a

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 25-5152

Princess AZIZI KUULEI KAIAMA
Petitioner,

v.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII,
Respondent,

ATC MAKENA, LLC; et al.,
Real Parties in Interest

D.C. No. 1:25-cv-00236-MWJS-WRP
District of Hawaii, Honolulu

ORDER

Filed - SEP 30 2025 –
MOLLY C. DWYER,
CLERK U.S. COURT OF APPEALS

Before: R. NELSON, SUNG, and H.A. THOMAS,
Circuit Judges.

Petitioner has not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus. *See In re Mersho*, 6 F.4th 891, 897 (9th Cir. 2021) ("To determine whether a writ of mandamus should be granted, we weigh the five factors outlined in *Bauman v. United States District Court.*"; *Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977); *see also Demos v. U.S. Dist. Court*, 925 F.2d 1160, 1161 (9th Cir. 1991) ("[T]his court lacks jurisdiction to issue a writ of mandamus to a state court."). The petition is denied.

All pending motions are denied as moot.

No further filings will be entertained in this closed case.

DENIED.

3a

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

No. 25-00236 MWJS-WRP

ATC MAKENA, LLC; et al.,
Plaintiffs,

v.

PRINCESS AZIZI KUULEI KAIAMA,
Aliiainmoku 32nd Mai and All Assign Heirs,
Defendant,

Civil No. 25-00236 MWJS-WRP

ORDER REMANDING ACTION

INTRODUCTION

On June 5, 2025, Princess Azizi Kuulei Kaiama filed a notice of removal of a state court case to this court.¹ ECF No. 1. That notice, however, did not state a basis for federal jurisdiction. And so, on June 12, 2025, the court ordered Kaiama to show cause why the case should not be remanded to state court. ECF No. 8. The court cautioned Kaiama that failure to identify a basis for federal jurisdiction would result in remand of this action. *See id.* at PageID.17-18. Kaiama filed a response on June 20, 2025, ECF No. 10, but her response does not adequately address the deficiencies identified in the court's prior order. The court therefore REMANDS this case to state court for lack of subject matter jurisdiction.

BACKGROUND

Although Kaiama has not supplied this court with the initial complaint filed in state court, the court may take judicial notice of that publicly filed document. *See* Complaint, *ATC Makena N Golf LLC v. Kaiama*, Civ. No. 2CCV-20-0000099 (Haw. Cir. Ct. Apr. 16, 2020). In the complaint, Plaintiffs allege that they are all limited liability companies doing business in Hawai'i and are the owners of record of a parcel

¹ Before removal to this court, the state case was pending before the Hawai'i Supreme Court, which accepted an application for writ of certiorari on May 21, 2025. *See ATC Makena N Golf LLC v. Kaiama*, Case No. SCWC-21-0000550 (May 21, 2025).

of real property on Maui. *Id.* They allege that Defendant Kaiama entered their property; they further allege that she "erected or placed structures upon," "moved a trailer onto," "dumped refuse upon," and "cleared and removed vegetation on," Plaintiffs' property without their permission. *Id.* Moreover, Plaintiffs allege that ATC Makena LLC "repeatedly notified and requested" that Kaiama remove herself, her property, and her refuse from the property, but those efforts failed. *Id.* Plaintiffs brought claims of trespass and nuisance, seeking injunctive relief, as well as monetary damages. *Id.*

In the notice of removal, Kaiama alleges that she owns the land that Plaintiffs claim as their own, and the state court has no jurisdiction over the land to "allow any Foreigner to claim ownership" or hold title. ECF No. 1, at PageID.4. Specifically, she contends that the case should be removed because "pre existing Hawaiian Kingdom Monarch Laws... override Foreign Laws," and she generally alleges that the "case arises under federal statute." *Id.* (emphasis omitted). She expands on these allegations in the response to this court's order to show cause, explaining that "Plaintiffs are not Hawaiian by blood or heir to the ruling chiefs of Hawaii royal/noble House" and therefore Plaintiffs "are Trespassing and want [to] Steal land." ECF No. 10, at PageID.19-20. Kaiama also states that her title to the property "survived annexation by Congress [in] 1898" and that title "can't have been abrogated ... unless terminated by acquisition under the Constitutional 'Takings' power with payment by full compensation." *Id.* at PageID.21. She further

alleges that Plaintiffs have engaged in criminal coercion under 42 U.S.C. §3617. *Id.* at PageID.25. In her notice of removal, Kaiama explains that she is seeking \$1 billion in compensation for a "lawsuit fee" for the underlying case that she "won" in 2020. *Id.* at PageID.24.

DISCUSSION

As explained in the court's order to show cause, *see* ECF No. 8, a federal statute-28 U.S.C. § 1441-permits a defendant, in certain circumstances, to remove a civil action brought in state court to federal district court. But federal removal "statutes are strictly construed, and a defendant seeking removal has the burden to establish that removal is proper and any doubt is resolved against removability." *Hawai'i ex rel. Louie v. HSBC Bank Nev., N.A.*, 761 F.3d 1027, 1034 (9th Cir. 2014) (cleaned up).

Moreover, district courts have an independent obligation to ensure that they have subject matter jurisdiction over each case before them. *See Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010). And "[i]f at any time before final judgment" it appears to a district court that it lacks subject matter jurisdiction, "the case shall be remanded" to state court. 28 U.S.C. §1447(c).

In this case, having met its obligation to examine whether subject matter jurisdiction exists, the court concludes that it does not.

1. To begin with, federal question

jurisdiction is not present. Federal question jurisdiction "exists only when a federal question is presented on the face of the plaintiff's properly pleaded complaint." *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987). Yet no such federal question appears on the face of the complaint here. The complaint does not rely on a violation of federal law or the federal Constitution. Instead, the claims rely purely on state law: the complaint alleges claims of trespass and nuisance.

In her removal papers, Kaiama generally references the Takings Clause and the federal statute for criminal coercion. But she has identified no federal questions that are presented in the complaint-and that pleading is the one that must establish the basis for federal question jurisdiction. See *Toumajian v. Frailey*, 135 F.3d 648, 653 (9th Cir. 1998) ("For removal to be appropriate, a federal question must appear on the face of the complaint."); see also *Takeda v. Nw. Nat'l Life Ins. Co.*, 765 F.2d 815, 822 (9th Cir. 1985) (explaining that a defendant's notice of removal cannot supply the federal question if it does not appear in the complaint).

For these reasons, Kaiama has not met her burden to show that the court has federal question jurisdiction over this action.

2. Nor does diversity jurisdiction exist. To establish subject matter jurisdiction on diversity grounds, a party must show that the amount in controversy exceeds \$75,000, exclusive of interest and costs, and that the controversy is between citizens of different states. 28 U.S.C. §1332.

Kaiama has not satisfied either of those requirements.

First, Kaiama has failed to establish that the amount in controversy is greater than \$75,000. To determine that amount, the court must look to the underlying pleading. *See Roehm v. Ford Motor Co.*, CASE NO. 18cv1278, 2018 WL 4520542, at *1 (S.D. Cal. Sept. 21, 2018) ("For removal cases, the amount in controversy is determined based upon the complaint at the time of removal."). While the underlying complaint in this case broadly requests special, general, and punitive damages for trespass and nuisance, it does not state a specific dollar amount. And when "it is unclear from the face of the complaint whether the amount in controversy exceeds \$75,000, the removing defendant bears the burden of establishing, by a preponderance of the evidence, that the amount in controversy exceeds the jurisdictional threshold." *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413,416 (9th Cir. 2018) (cleaned up). In her response to this court's order to show cause, Kaiama states that the amount of controversy is "1 billion" dollars. ECF No. 10, at PageID.24. But she does not identify how the claims in the complaint would support such a figure, and they do not appear to plausibly do so. *See Chavez*, 888 F.3d at 416 ("Conclusory allegations as to the amount in controversy are insufficient." (cleaned up)); *Moe v. GEICO Indem. Co.*, 73 F.4th 757, 761 (9th Cir. 2023) (noting that where "the complaint does not specify the damages sought, the defendant ordinarily may satisfy the amount-in-controversy requirement by making a *plausible* assertion of the amount at issue in its

notice of removal" (emphasis added)).

Second, diversity jurisdiction requires complete diversity, meaning that all plaintiffs must be citizens of different states than all defendants. *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 553 (2005). But Kaiama has not identified her citizenship or that of the several Plaintiffs. The only relevant allegations in the underlying complaint are that Kaiama is a resident of the state of Hawai'i and that the corporate entity Plaintiffs are LLCs authorized to do business in the state. See Complaint, *ATC Makena N Golf LLC*, Civ. No. 2CCV-20-0000099. These allegations are insufficient to establish the citizenship of any of the parties. See *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001) ("[T]he diversity jurisdiction statute, 28 U.S.C. §1332, speaks of citizenship, not of residency. To be a citizen of a state, a natural person must first be a citizen of the United States.... The natural person's state citizenship is then determined by her state of domicile, not her state of residence." (citation omitted)); *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) ("[A]n LLC is a citizen of every state of which its owners/members are citizens."). And although the court informed Kaiama that if she intends to rely on diversity jurisdiction, she must identify the citizenship of each party-and although the court gave Kaiama an opportunity to supply that information-her supplemental submission did not do so. On this record, the court cannot conclude that there is complete diversity of citizenship between the parties, as required for diversity jurisdiction.

In any event, even if Kaiama had been able to adequately allege complete diversity between the parties, she would have faced yet another barrier to removal. Under 28 U.S.C. §1441(b)(2), diversity jurisdiction is not an appropriate basis for removal where any defendant in the state court action "is a citizen of the State in which such action is brought." *See U.S. Bank Nat'l Ass'n v. Franco*, Civ. No. 16-00301, 2016 WL 5339680, at *4 (D.Haw. Sept. 1, 2016), *report and recommendation adopted*, Civ. No. 16-00301, 2016 WL 5329572 (D.Haw. Sept. 21, 2016). Accordingly, if Kaiama is in fact a citizen - rather than merely a resident - of Hawai'i, removal would be barred on the basis that she is a forum state defendant.

Based on the foregoing, the court concludes that it lacks subject matter jurisdiction and the case must therefore be remanded to state court. *See* 28 U.S.C. §1447(c). And because this order remanding for lack of subject matter jurisdiction "is not reviewable on appeal or otherwise," 28 U.S.C. §1447(d), it is not subject to reconsideration. *See Seedman v. U.S. Dist. Ct. for Cent. Dist. of Cal.*, 837 F.2d 413,414 (9th Cir. 1988) (concluding that once a district court certifies a remand order based on §1447(c), "it is divested of jurisdiction and can take no further action on the case").

CONCLUSION

The court REMANDS this case to the Supreme Court of the State of Hawai'i. The Clerk is directed to close this case and transmit a certified copy of this Order to the Supreme Court of the State of Hawai'i.

IT IS SO ORDERED.

DATED: June 24, 2025, at Honolulu, Hawai'i.



/s/ Micah W.J. Smith
Micah W.J. Smith
United States District Judge

Civil No. 25-00236 MWJS-WRP,
ATC Makena LLC, et al. v. Kaiama;
ORDER REMANDING ACTION