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FIRST CIRCUIT  
1CCV-23-0001045  
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
STATE OF HAWAII

MONICA I. EDER AND REDE S. EDER,  
Individually and in Their Representative Capacities  
and on Behalf of a Class and Subclasses of All  
Persons Similarly Situated,

Plaintiffs,

vs.

MAUI ELECTRIC COMPANY, LIMITED;  
HAWAIIAN ELECTRIC COMPANY, INC.;  
HAWAII ELECTRIC LIGHT COMPANY, INC.;  
HAWAIIAN ELECTRIC INDUSTRIES, INC.;  
DOES 1-10; DOE PARTNERSHIPS 1-10; DOE  
CORPORATIONS 1-10; DOE  
GOVERNMENTAL AGENCIES 1-10; and DOE  
ASSOCIATIONS 1-10,

Defendants.

CIVIL NO. 1CCV-23-0001045 JPC  
(PROPERTY DAMAGE/PERSONAL  
INJURY)

**INTERIM DISCOVERY ORDER**

**INTERIM DISCOVERY ORDER**

On August 17, 2023, counsel for the Plaintiffs and Defendants appeared in this Court initially to present argument on the *Ex Parte* Motion for Temporary Restraining Order that putative class representatives, Plaintiffs Monica I. Eder and Rede S. Eder (collectively, “Plaintiffs”), filed on August 17, 2023. Plaintiffs appeared by and through Counsel, Graham B. LippSmith, Esq. of LippSmith LLP. Defendants Hawaiian Electric Company (“HECO”); Maui



Electric Company, Limited (“MECO”); Hawaii Electric Light Company, Inc. (“HELCO”); and Hawaiian Electric Industries, Inc. (“HEI”) (collectively, “Defendants”) appeared by and through Counsel, Randall Whattoff, Esq. and Joachim P. Cox, Esq. of Cox Fricke LLP.

The Court has read and considered the memorandum, declaration, and exhibits Plaintiffs submitted and has heard argument of counsel. Having considered these submissions, the Court hereby enters this Interim Discovery Order, which is not and should not be construed as a Temporary Restraining Order. The parties have cooperated in discussing the particulars of this Order, and the Court emphasizes it is making no findings or conclusions of any wrongdoing at this time.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants shall comply with the following terms of this Interim Discovery Order:

- A. Defendants have represented that they have collected, removed, itemized, and stored in a secure warehouse certain Physical Evidence<sup>1</sup> from around the suspected Area of Origin<sup>2</sup> of the August 2023 Lahaina Fire for purposes of evidentiary preservation. For all such Physical Evidence, and any additional Physical Evidence that Defendants collect, remove, itemize, and store in such secure warehouse in the future for purposes of preservation, Defendants shall:
1. Preserve all such Physical Evidence in a manner reasonably calculated to preserve the condition of the Physical Evidence, including but not limited to, protecting the Physical Evidence from potentially harmful and/or destructive elements;
  2. Provide Plaintiffs with an itemized list of all such Physical Evidence, including, where possible, a description of the material and its location, as soon as practicable;
  3. Provide Plaintiffs, their counsel, experts, and investigators access to such Physical Evidence within a reasonable time that is mutually agreeable; and

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<sup>1</sup> For the purposes of this Order, the term “Physical Evidence” shall mean material that is the property of Defendants and that Defendants have collected for the purposes of preserving because of its potential relation to an ignition that may be related to August 2023 Lahaina Fire.

<sup>2</sup> For purposes of this Order, the term “suspected Area of Origin” is defined as set forth in Plaintiff’s moving papers, namely as (i.e., the area located on Lahainaluna Road between the Lahaina Bypass and the Sue D. Cooley Stadium). *See* Plaintiff’s August 14, 2023 letter (Ex. D to TRO Application) at 1; *see also* Plaintiffs’ Proposed Temporary Restraining order ¶¶2-3.

4. Refrain from destructive testing until the Parties are given reasonable notice of the proposed destructive testing protocol, a reasonable opportunity to comment on or object to the proposed destructive testing protocol, a reasonable opportunity to challenge any disputed destructive testing protocol before the Court, and a reasonable opportunity to observe the destructive testing.
- B. For Physical Evidence reasonably related to the origin of the Lahaina Fire that remains in situ on the date of this Order, including but not limited to power lines, electrical conductors, transformers, power poles, and other electrical facilities, Defendants shall provide Plaintiffs reasonable notice of any planned removal, movement, alteration, or destructive testing of such Physical Evidence. Defendants shall also provide Plaintiffs, their counsel, their experts, and their investigators a reasonable opportunity to attend, observe, and document any removal, movement, alteration, or destructive testing of such Physical Evidence.
  - C. This Order shall not supersede or take precedence over any public safety measures that any federal, state, local, and/or other government agency deems necessary. Nor shall anything in this order be interpreted to prevent or impede Defendants from (1) making repairs that they deem reasonably necessary for the supply of power or restoration or maintenance of the power system; or (2) taking other actions that they deem reasonably necessary for public safety.
  - D. To the extent Defendants need to remove damaged or downed electrical equipment outside the suspected area of origin, e.g., for safety reasons or to help restore power, Defendants may remove such equipment, but may not dispose of it until further court order. Such equipment shall be identified or tagged in some manner so as to identify where it was removed from, and when.

IT IS ALSO HEREBY ORDERED, ADJUDGED, AND DECREED that the Court has not considered or found any wrongdoing by any Defendant. All parties reserve their respective positions on Defendants' selection, alteration, handling of, removal, transportation, storage, and/or management of Physical Evidence prior to entry of this Order.

IT IS SO ORDERED.

Dated: August 18, 2023, 1:30 pm.

/s/ Jeffrey P. Crabtree



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HONORABLE JEFFREY P. CRABTREE

APPROVED AS TO FORM:

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GRAHAM B. LIPPSMITH  
MARYBETH LIPPSMITH  
JACLYN L. ANDERSON  
CELENE CHAN ANDREWS

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Limited, Hawaii Electric Light Company, Inc., and  
Hawaiian Electric Industries, Inc.*