

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

TODD YUKUTAKE and DAVID KIKUKAWA
Plaintiffs-Appellees,

v.

ANNE LOPEZ, in her official capacity as the
Attorney General of the State of Hawaii
Defendant-Appellant.

No. 21-16756

**PLAINTIFFS-APPELLEES' OPPOSITION TO
DEFENDANT'S MOTION FOR SUPPLEMENTAL BRIEFING**

Plaintiffs-Appellees TODD YUKUTAKE and DAVID KIKUKAWA (“Plaintiffs”) file their opposition to Defendant Anne Lopez’s (“Hawaii”) Motion for Supplemental Briefing. *See* DktEntry 130.

There is no need for additional briefing in this case. Hawaii argues that because “state and federal courts have issued many decisions” that it somehow necessitates further briefing. *See* Motion at 2. But this argument would mean that briefing would never be completed as state and federal courts issue opinions every day.

Hawaii states that the parties “have filed 23 letters” of supplemental authority, (Mot. at 2), but that only means that the parties have already provided the appropriate authorities to this Court. Nowhere does Hawaii state that there are new authorities that need to be brought to the attention of this Court, or that the analysis has changed in any way, or that it is somehow prevented from filing another supplemental authority.

Additionally, the parties have briefed a number of these “many decisions” in the Petition for En Banc Rehearing (DktEntry 114) and Plaintiffs’ Opposition to En Banc Rehearing (DktEntry 119).

This case has already been briefed, argued, and the panel issued a well-reasoned opinion. Additional briefing is a financial hardship on Plaintiffs in this, a contingency case. Plaintiffs are not a state with a seemingly unlimited financial litigation budget. For example, after this Court granted en banc rehearing, Plaintiffs were ordered to file an additional 18 copies of their briefs. *See* July 28, 2025 Order. Printing and delivering those briefs were invoiced at \$2,643.10, to undersigned counsel. *See* Invoice, attached as Exhibit 1.

Ordering additional briefing will be an additional expense to Plaintiffs, on top of preparing and attending another en banc oral argument. Hawaii provided no legitimate reason for additional briefing and Plaintiffs object to filing yet another brief. If Hawaii wants to bring authorities to this Court’s attention, it can file another supplemental authority pursuant to Rule 28(j). *See* Mot. at 2 (listing supplemental authority filings).

Respectfully submitted, this the 11th of August, 2025.

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing complies with the type-volume, typeface, and type-style requirements of Federal Rule of Appellate Procedure 27 because it contains 330 words and was prepared using Microsoft Word 365 in Garamond 14-point font, a proportionally spaced typeface.

/s/ Stephen D. Stamboulieh
Stephen D. Stamboulieh

CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2025 I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I also hereby certify that the participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Stephen D. Stamboulieh
Stephen D. Stamboulieh