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Attorneys for Defendant Sheri Jean Tanaka

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

Case No. CR-22-00048-TMB-WRP

**DEFENDANT SHERI J.
TANAKA'S MOTION TO SEVER
TRIAL FROM CO-DEFENDANTS;
EXHIBIT 1; CERTIFICATE OF
SERVICE**

Judge: Hon. Timothy M. Burgess
Trial Date: February 27, 2024

[REDACTED]

**[EXPEDITED CONSIDERATION
REQUESTED]**

Defendant Sheri Jean Tanaka brings this Motion to Sever her trial in this matter from that of her co-defendants (“Motion”). She respectfully submits that severing her trial is required under the circumstances and existing case law. As discussed more fully below, the factors used by federal courts to evaluate such requests weigh strongly in favor of severance. [REDACTED]

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ARGUMENT

Federal Rule of Criminal Procedure 14 provides that if a defendant or the government would be prejudiced by joinder of the defendants in a single trial, the District Court may “sever the defendants’ trials, or provide any other relief that justice requires.” Fed. R. Crim. P. 14(a). The court must balance the interests of judicial economy against the risk of prejudice when deciding whether to grant a motion to sever. *Zafiro v. United States*, 506 U.S. 534, 539 (1993). Severance is appropriate “if there is a serious risk that a joint trial would compromise a specific trial right of one of the defendants, or prevent

the jury from making a reliable judgement about guilt or innocence.” *Id.* at 539. The test for deciding to sever is “whether joinder is so manifestly prejudicial that it outweighs the dominant concern with judicial economy and compels the exercise of the court's discretion” *United States v. Kenny*, 645 F.2d 1232, 1435 (9th Cir. 1981).

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DATED: February 5, 2024

Respectfully submitted,

HOLMES, ATHEY,
COWAN & MERMELSTEIN LLP

By: /s/ Mark Mermelstein
MARK MERMELSTEIN

Attorneys for Defendant
Sheri Jean Tanaka

EXHIBIT 1

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document will be served on the following counsel at their last known addresses by the CM/ECF system on the date indicated below.

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