



NATIVE HAWAIIAN LEGAL CORPORATION

Serving Hawai'i since 1974

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WHAT A QUIET TITLE LAWSUIT IS

I. HOW A LAWSUIT BEGINS - Two Ways

1. With a Complaint

- a. Will be delivered to the Defendant either by mail or in person.
- b. Defendant has 20 days from date of receipt for the Answer with the Court.

2. With a Legal Notice

- a. The newspaper will indicate a date the individual must go to court.
- b. The Judge will take down the person's name on the court date and require the Defendant to file an Answer 20 days from the Court date.

IF THE ANSWER IS NOT FILED WITHIN TWENTY DAYS, THE PERSON FILING THE LAWSUIT (PLAINTIFF) CAN MOVE THE COURT FOR AN ORDER FOR ENTRY OF DEFAULT. This means anyone named on the Default Order is barred from making claims to the land which is the subject of the lawsuit.

II. NEXT STAGE: DISCOVERY

1. Request for Answers to Written Interrogatories.
2. Request for Answers Upon Written Deposition.
3. Request for Production of Documents.
4. Request for Admissions.

III. MOTIONS

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Anytime any party (Plaintiff or Defendant) wishes the Court to take any kind of action in their favor, they must do so by making a Motion. This Motion must be backed up by detailed legal research, and can be as many as 60 pages in length, depending upon which Court the Motion is brought.

IV. TRIAL ON THE MERIT

IN A QUIET TITLE LAWSUIT, THERE ARE THREE TYPES OF RESEARCH WHICH MUST BE DONE:

1. Title (Conveyance or Transfer History)

All land titles in Hawai`i can be traced to some point in history when the Government, or the King, granted the land to an individual.

When you do a title search, you must trace every instance where a transaction occurred which affected that particular piece of land. Every year must be accounted for. If there are any gaps in time, the title is not complete. Some examples of title documents are Warranty Deeds, Quitclaim Deeds, Mortgages, Leases, Transfer Certificates of Title (Land Court System).

2. Genealogy Research

If there are gaps in conveyance, or title history, they may have filled by genealogy. In other words, title can transfer by inheritance.

When you do genealogy research, you must trace the family linearly (in a straight inheritance line), accounting for every year from your ancestor who got the land to the individual living today who is claiming the land.

3. Legal Research

There are many points of law which a lawsuit will deal with.

Procedural (Proper Legal Procedure)

Examples of this are whether or not you file your Answer on time. It has nothing to do with whether or not you own the land, but whether you meet court deadlines. This is a legal procedural concern.

Substantive (Points of Law which deal with the merit of the case)

Whenever an attorney, on behalf of his client, wants the court to take a certain action, he must make a Motion to the Court. This motion must be supported by a legal memorandum setting out the legal reasons why the Court should do as the attorney wants it to. This supporting memorandum requires legal research which covers both procedural and substantive aspects.