

[Petitioner’s Lawyer, Esq. (Bar No. \_\_\_\_)  
Lawyer’s Firm  
Street Address  
City, State Zip  
Phone  
Facsimile  
Email]

*Attorney[s] for Plaintiff*

IN THE CIRCUIT COURT OF THE [CIRCUIT NUMBER] CIRCUIT  
STATE OF HAWAII

[Journalist’s Name],	)	Civil No. _____
	)	(Other Civil Case: Uniform Information
	)	Practices Act)
	)	
Plaintiff,	)	
	)	<b>COMPLAINT FOR DECLARATORY</b>
vs.	)	<b>AND INJUNCTIVE RELIEF AND TO</b>
	)	<b>COMPEL DISCLOSURE OF</b>
[Agency Name],	)	<b>GOVERNMENT RECORDS;</b>
	)	<b>SUMMONS</b>
	)	
Defendant.	)	
_____	)	

**COMPLAINT**

Plaintiff [Journalist’s Name], by and through [his/her] undersigned counsel, files this complaint for declaratory, injunctive, and other relief against Defendant [Agency Name] for violations of the Uniform Information Practices Act (“UIPA”), Hawai’i Revised Statutes (“HRS”), Chapter 92F, and its implementing administrative rules, Hawai’i Administrative Rules (“HAR”), Chapter 2-71. Plaintiff alleges as follows:

## **INTRODUCTION**

1. Plaintiff requested access to government records maintained by Defendant relating to [summary description of records were requested]. Defendant, however, denied Plaintiff's request in its entirety [or denied Plaintiff's request as to [summary description of what was denied]]. [If applicable: Plaintiff thereafter appealed Defendant's action to the Hawai'i Office of Information Practice, which ruled [describe ruling]]. Defendant has no justification for denying Plaintiff access to the requested records, and is acting in violation of the Uniform Information Practices Act and its implementing regulations. Plaintiff therefore brings this action for declaratory and injunctive relief to compel disclosure of the improperly-withheld documents.

## **PARTIES**

2. Plaintiff [Student's Name] is a journalist, and was [title] of the student newspaper at [college or university], [newspaper name], during most of the events at issue in this action. Plaintiff is a "person" within the meaning of HRS §§92F-3, 92F-11(b) and 92F-15(a).

3. Defendant [Agency Name] is [describe nature of agency, and why it maintains the documents sought]. Defendant is an "agency" within the meaning of HRS §§92F-3, 92F-11(b) and 92F-15, and is the custodian of the records at issue in this action.

## **JURISDICTION AND VENUE**

4. This action is brought pursuant to HRS §92F-15.

5. This Court has jurisdiction over this action pursuant to HRS §92F-15(e) because it is the circuit court for the judicial circuit in which [Plaintiff's request for the records was made, *or* the requested records are maintained, *or* Defendant's headquarters are located].

6. Venue is proper in this judicial circuit pursuant to (a) HRS §92F-15(e) because it is the judicial circuit in which [Plaintiff's request for the records was made, *or* the requested

records are maintained, *or* Defendant’s headquarters are located], and (b) HRS §603-36(5) because [the claims for relief in this action arose in this circuit, *or* Defendant is domiciled in this circuit].

7. Pursuant to HRS §92F-15.3, Plaintiff [mailed or hand-delivered] notice of this lawsuit, including a copy of this Complaint, to the Hawai’i Office of Information Practice on [date].

### FACTS

8. On [date], Plaintiff [mailed, e-mailed, hand-delivered, or other method] a written Request for Access to Government Records (hereinafter, “Request”) to [name of agency’s director, officer or employee], [title] of Defendant [Agency Name], pursuant to the UIPA. The Request asked Defendant to make available for inspection and copying [description of the requested records]. A true and correct copy of Plaintiff’s Request is attached hereto as Exhibit A.

9. Plaintiff’s Request was a “formal request” within the meaning of HAR §2-71-2.

10. The records requested in Plaintiff’s Request are “government records” within the meaning of HRS §92F-3.

11. By [letter, e-mail, other method] dated [date], [Agency employee name] responded to Plaintiff on behalf of Defendant. [Describe Defendant’s response, including what records were withheld and what reasons were given for withholding the records]. A true and correct copy of Defendant’s response (hereinafter “Response”) is attached hereto as **Exhibit B**.

12. [Use additional space to describe any further communications regarding the Request in chronological order, including description of communications related to a partial production by the Agency].

13. *[If applicable:* Defendant has not stated [or has not sufficiently stated] the specific records or parts of the records that it is refusing to disclose, or the specific legal authorities that purportedly support its nondisclosure, as required by HAR §2-71-14(b)(1).]

14. *[If applicable:* On [Date], Plaintiff filed with the Office of Information Practices an administrative appeal of Defendant’s denial of access to the government records Plaintiff had requested [*or, if it was a partial denial,* describe generally what records were withheld]. A true and correct copy of Plaintiff’s administrative appeal is attached hereto as Exhibit C.]

15. *[If applicable:* On [Date], the Office of Information Practices issued a [notice or decision] that [describe Office’s action on the appeal]. A true and correct copy of the Office of Information Practices’ [notice or decision] is attached hereto as Exhibit D.]

16. As of the date of this complaint, Defendant has refused to disclose to Plaintiff [describe what records are being withheld.]

**FIRST CLAIM FOR RELIEF**  
**Violation of HRS §92F-11**  
**(Failure to disclose government records)**

17. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

18. HRS §92F-11(a) provides that “[a]ll government records are open to public inspection unless access is restricted or closed by law.”

19. HRS §92F-11(b) provides that, “[e]xcept as provided in section 92F-13, each agency upon request by any person shall make government records available for inspection and copying during regular business hours.”

20. HRS §92F-15(a) provides that “[a] person aggrieved by a denial of access to a government record may bring an action against the agency at any time within two years after the

agency denial to compel disclosure.”

21. *If applicable:* In denying Plaintiff access to the requested records, Defendant asserted that [describe any exemption or rationale asserted]. [Describe briefly why that exemption or rationale is not applicable to the requested documents].

22. Defendant has denied Plaintiff access to government records which are required to be open to public inspection and are not protected from disclosure by law, in violation of HRS §92F-11.

**[If Applicable]**

**SECOND CLAIM FOR RELIEF  
Violation of HRS §92F-15(c) and HAR §2-71-14(b)  
(Failure to identify specific records being withheld)**

23. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

24. HRS §92F-15(c) provides that “[t]he agency has the burden of proof to establish justification of nondisclosure.”

25. HAR §2-71-14(b) provides that, “[w]hen the agency intends to deny access to all or part of the information in the requested record, the agency’s notice to the requester shall state:  
(1) The specific record or parts of the record that will not be disclosed . . . .”

26. Defendant has denied Plaintiff access to information in the government records [he or she] requested, but has not identified the specific records or parts of records that have been withheld, in violation of HAR §2-71-14(b).

**[If Applicable]**

**THIRD CLAIM FOR RELIEF  
Violation of HRS §92F-15(c) and HAR §§2-71-14(b & c)  
(Failure to justify non-disclosure of government records,**

27. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

28. HRS §92F-15(c) provides that “[t]he agency has the burden of proof to establish justification for nondisclosure.”

29. HAR §2-71-14(b) provides that, “[w]hen the agency intends to deny access to all or part of the information in the requested record, the agency’s notice to the requester shall state:  
...(2) The specific legal authorities under which the request for access is denied under section 92F-13, HRS, or other laws.”

30. HAR §2-71-14(c) further provides that, “[w]hen an agency is unable to disclose a record,” the agency must provide the reasons why it is unable to disclose the record.

31. Defendant has denied Plaintiff access to information in the government records [he or she] requested, but has not provide Plaintiff with the specific legal authorities or reasons that allegedly justify its action, in violation of HRS §92F-15(c) and HAR §2-71-14.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Court:

- A. Assume jurisdiction over this action;
- B. Issue a declaratory judgment that Defendant has violated HRS Chapter 92F and HAR Chapter 2-71 by:

- i Failing to provide Plaintiff access to government records;

- ii [If Applicable] Failing to identify the specific records or parts of the records that have been withheld from Plaintiff; and
  - iii [If Applicable] Failing to specify any legal authority or reason that supports its actions in denying Plaintiff access to government records;
- C. Issue an order compelling Defendant to grant Plaintiff access to all of the requested government records, and enjoining Defendant from further delaying Plaintiff's access to the requested records;
- D. Award Plaintiff [his or her] reasonable attorneys' fees, costs, and all other expenses reasonably incurred in the litigation; Retain jurisdiction over Defendant until such time as the Court is satisfied that Defendant's unlawful practices, acts and omissions complained of herein no longer exist and will not recur; and
- E. Order such other relief as this Court deems just and proper.

Dated: [Date]

Respectfully submitted,

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[Plaintiff's Attorney  
Plaintiff's Law Firm Name]  
*Attorneys for Plaintiff*

IN THE CIRCUIT COURT OF THE [CIRCUIT NUMBER] CIRCUIT  
STATE OF HAWAI'I

[Student Name], )  
 )  
 ) Civil No. \_\_\_\_\_  
 ) (Other Civil Case: Uniform Information  
 ) Practices Act)  
 )  
 )  
 ) Plaintiff, ) **SUMMONS**  
 vs. )  
 )  
 )  
 ) [Agency Name], )  
 )  
 )  
 ) Defendant. )  
 \_\_\_\_\_ )

**SUMMONS**

STATE OF HAWAI'I

TO: [Agency Name], STATE OF HAWAI'I

You are hereby summoned and required to file with the court and serve upon [Plaintiff's Attorney name], Plaintiff's attorney, whose address is [address], an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

DATED: [Location],[date]

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CLERK OF THE ABOVE ENTITLED COURT