

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

UNITED STATES DISTRICT COURT

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

ORIGINAL

for the

District of

Division

OCT 13 2020

at / o'clock and 32 min. P M
MICHELLE RYNNE, CLERK *cr*

CALVIN CHRISTOPHER GRIFFIN

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

STATE OF HAWAII

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No. CV20-00298KJM

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☐ Yes ☒ No

RESPONSE TO:

DOCUMENT 22 FILED 09/28/20

ORDER (1) GRANTING MOTION TO DISMISS WITH
LEAVE TO AMEND.

AMENDED COMPLAINT,

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	CALVIN CHRISTOPHER GRIFFIN
Street Address	1154 FORT STREET MALL SUITE 410
City and County	HONOLULU
State and Zip Code	HAWAII 96813
Telephone Number	808 545-1301
E-mail Address	calvingriffin@rocketmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 1 (Rev. 12/16) Complaint for a Civil Case

Defendant No. 1

Name	STATE OF HAWAII
Job or Title <i>(if known)</i>	ATTORNEY GENERAL
Street Address	425 QUEEN ST.
City and County	HONOLULU
State and Zip Code	HI 96813
Telephone Number	808 586-1494
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☒ Federal question

☐ Diversity of citizenship

Are you bringing this suit against _____ Federal Officials (a Bivens claim)

 X State or Local Officials (a section 1983 claim)

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

H.R 3295-4 Section II (G), H.R 3295-4 Section II (H)

Ballot Collection Procedures and Chain of Custody as outlined in The Cybersecurity and Infrastructure Security Agency (CISA), National Risk Management Center (NRMCC)

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* _____, is a citizen of the
State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated
under the laws of the State of *(name)* _____,
and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* _____, is a citizen of
the State of *(name)* _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.
Or is incorporated under the laws of *(foreign nation)* _____, and has its principal place of business in *(name)* _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

As a non-partisan candidate for the 1st Congressional District, I am requesting a Preliminary injunction to delay the implementation of the "Mail in" program that the State of Hawaii is instituting in the upcoming Primary and General elections. Shortcomings in this voting process as presently proposed will cause irreparable damage by underrating the confidence voters have in this Constitutional rights that Americans cherish so dearly and so many have made the ultimate sacrifice for.

Additionally, it puts non-traditional political entities at a disadvantage due to the possibility of "ballot harvesting" and other similar practices that have been reported in other locations around the country where this voting process has been put in place. The following are a few examples that I feel are justification for this request.

Chain of Custody:

From the information provided by the Elections Office, when the ballots which are official government documents are mailed out through the USPS there is no way to ascertain if the ballot was actually received by the intended voter since there is no requirement for a signature upon receipt. Essentially this important document is subject to interception by unauthorized person(s) or simply disregarded as "junk mail".

Disabled and visually impaired Voters: Individuals with vision problems may have great difficulty in exercising their voting rights since the ballots are not in braille, and if they are assisted then ballot secrecy becomes into play. Individuals with limited physical motor skills that affect the ability to provide a legal signature may also be presented from participating in the voting process; if they are assisted again the issue of ballot secrecy or manipulation needs to be addressed. Non compliant with H.R 3295-4, Section II (G)

Limited Polling Stations:

Initially when it was announced to the voters that "mail-in" voting would be implemented, voters would be assured that there would still be voting stations available for those who wanted to vote in the traditional way. Later it was announced that the voting stations could be limited, on Oahu only two locations. Decreasing the number of voting stations MAY be in violation of federal guidelines which determine the number of locations that should be available to voters. Many voters who are not confident in the new voting process and want to vote in the traditional way may also have their voting rights denied because there may be limited forms of transportation for them to access the designated voting sites. Non compliant with H.R 3295-4 Section II, (H)

Lack of Voter Input:

The legislators took it upon themselves to make this monumental decision to implement "mail-in" voting without adequately allowing voters to express their opinions about this issue which even if not illegal, is against the spirit of one free voting system which we claim to be so proud of.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

1. Verification of Ballot receipt to designated voter by USPS delivery personnel.
 2. Increase polling stations to accommodate voters who prefer to vote in person.
 3. Enhanced protocols for individuals with disabilities to ensure ballot secrecy
 4. Full compliance with Ballot Collection Procedures and Chain of Custody as outlined in The Cybersecurity and Infrastructure Security Agency (CISA), National Risk Management Center (NRMC)
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V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

9 OCT 2020

Signature of Plaintiff

Calvin Griffin

Printed Name of Plaintiff

CALVIN CHRISTOPHER GRIFFIN**B. For Attorneys**

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

This document is one in a series created as part of the Cybersecurity and Infrastructure Security Agency (CISA) Elections Infrastructure Government Coordinating Council and Sector Coordinating Council's Joint COVID Working Group. These documents provide guidance for state, local, tribal, and territorial election officials on how to administer and secure election infrastructure in light of the COVID-19 epidemic.

Ballot Drop Box

Overview

A ballot drop box provides a secure and convenient means for voters to return their mail ballot. A drop box is a secure, locked structure operated by election officials where voters may deliver their ballots from the time they receive them in the mail up to the time polls close on Election Day. Ballot drop boxes can be staffed or unstaffed, temporary or permanent.

Unstaffed drop boxes are typically available 24 hours a day and permanently anchored in place. Staffed drop boxes are typically available during regular business hours and monitored by trained workers during those hours.

Whether you are standing up a temporary vote-by-mail program statewide or locally, or you plan to develop a permanent program of voting primarily by mail, there are a few things to know and consider when planning for the use of ballot drop boxes.

General Considerations

Why do you need ballot drop-off locations when you are paying for return postage?

Some voters prefer to deliver their mail ballots to a drop box rather than sending them back through the mail. These voters may be motivated by lack of trust in the postal process, fear that their ballot could be tampered with, or concern that their signature will be exposed. Voters may also be concerned about meeting the postmark deadline and ensuring that their ballot is returned in time to be counted.

Ballot drop boxes and drop-off locations allow voters to deliver their ballots in person. More importantly, the availability of ballot drop boxes and drop-off locations ensures that even voters who wait until the last minute to vote or who receive their requested ballot in the mail at the last minute will be able to return their ballots in time to be counted. 1|Page

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Many of these last-minute voters drop their ballot off at a voting location (which may not be allowed by state law). Setting up ballot drop boxes and educating voters to use them mitigates a number of COVID-19-related risks associated with in-person voting. It also minimizes the number of people that will need to access voting locations, thereby providing more space for those who are engaged in in-person voting.

How many ballot drop boxes will you need?

At a minimum, you should have a drop box at your main county or city office building. Voters generally know the locations of these buildings and are already accustomed to voting or doing business there. Some other best practices include:

- ☐ Have one drop box for every 15,000–20,000 registered voters.
- ☐ Consider adding more drop boxes to areas where there may be communities with historically low vote by mail usage.
- ☐ Use demographic data and analysis to determine whether there should be a different formula for rural and urban locations (i.e., 1 for every 15,000 residents may be every mile in an urban area, but every 50 miles in a rural area).

To get a better idea of how many voters use ballot drop boxes when voting by mail is the primary method of voting, look at the **Ballot Drop Box Usage** chart put together by the Washington Secretary of State. It shows ballot drop box use as a percentage of total ballots returned for Washington state, where voting by mail has been the primary method of voting for over a decade.

Timeline: The number of drop boxes and their locations should be finalized in time to be included in the instructions with your mail ballot packet—typically 80 days before the election.

Where should ballot drop boxes be located?

Ballot drop boxes should be placed in convenient, accessible locations, including places close to public transportation routes, near or on college campuses, and public buildings, such as libraries and community centers familiar to voters and easy to find. If there is time, getting input from citizens and community groups is recommended.

All drop box locations should be evaluated for:

- ☐ Security
- ☐ Lighting (well-lit 24 hours a day)
- ☐ High visibility
- ☐ Security cameras (more on cameras in the *Security Considerations* section below)
- ☐ Accessibility
- ☐ Voter convenience

☐ Parking or drive-through options 2|Page

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There are tools that can help you evaluate locations for drop boxes. The **U.S. Census Bureau Interactive Workforce Map** is a tool that can help you visualize where residents of your jurisdiction work or live to help you see where drop boxes might be particularly useful. Also, the Federal Emergency Management Agency (FEMA) is offering free enterprise-level access to **ESRI geospatial mapping software** for all state, local, territorial, and tribal governments for 6 months.

In a COVID-19 environment, creative solutions may be required. Consider:

- ☐ Collocating a ballot drop box with drop boxes set up for taxes and public utilities.
- ☐ Partnering with businesses or locations that have already implemented social distancing practices, such as grocery stores and banks.

A great example of using existing spaces comes from **Madison, Wisconsin**. The city's libraries were shut down owing to COVID-19. The City Clerk's office decided to capitalize on locations that were already secure and located in places familiar to city residents. Working in partnership with the library, they used the book drops from three of the city's public libraries and turned them into temporary ballot drop boxes. If you choose to do something similar, be sure to ask questions about the library's security to ensure ballots dropped off at library locations remain secure at all times.

Timeline: The locations of drop boxes should be finalized in time to be included in the instructions with your mail ballot packet—typically 80 days before the election.

Who can collect and drop off a mailed ballot on behalf of a voter?

Voters who are unable to return a ballot in person or get it to a postal facility in time for it to be counted may, depending on state

law, may be able to entrust the voted ballot to someone else to help them deliver it—an agent or designee. Note that, as of March 30, 2020:

- Twenty-seven states permit an absentee ballot to be returned by a designated agent, which can be a family member, attorney, or care provider.
- Nine states permit an absentee ballot to be returned by the voter's family member.
- One state specifies that an absentee ballot can only be returned in person or by mail.
- Thirteen states do not expressly address this issue.

Some states that allow a designated agent to return a voted ballot on behalf of the voter restrict the number of ballots that can be deposited by that person at one time in a drop box.

If you are considering the use of ballot drop boxes, you should review your existing laws and requirements and determine whether emergency changes may be necessary. A full list of state practices can be found at the National Conference of State Legislators (NCSL) website listed in the *Additional Resources* section.

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What equipment and supplies are needed for ballot drop boxes?

Whether you are collecting ballots just from a USPS facility, ballot drop boxes, or both, you will need ballot drop box collection teams. Ideally, these are bipartisan teams (poll workers or temporary workers) hired to drive a collection route and pick up ballots on a regular basis. Each of these teams will need:

- ☐ Vehicle such as a van or SUV where the seats can be laid flat (county owned or rented)
- ☐ Radio or cell phone
- ☐ Secure ballot collection bag/box
- ☐ Security seals
- ☐ Chain of custody procedures/forms
- ☐ Personal protective equipment (e.g. disposable, sterile gloves), as appropriate and in accordance to current CDC guidance

Timeline: Reservations should be made as soon as possible if you plan to rent vehicles, radios, or cell phones—no later than 35 days before the election.

Outlined below is a list of the typical items you will need to rent or buy, depending on the type of drop box or drop-off location you are installing.

STAFFED – INDOOR TEMPORARY BALLOT DROP BOX When demand for a ballot drop box is low, a temporary ballot box located inside is a good solution. These boxes should be constructed of durable material and include a key or combination lock as well as a way to securely fasten the box to prevent it from being moved or tampered with. This type of box looks similar to the example pictured here. In addition to purchasing or renting the **ballot box**, you will need:

- ☐ Padlock and keys (if not included)
- ☐ Bike chain or some other way to fasten the box to prevent it from being removed (if not staffed)

❑ Security seals

Timeline: Depending on the lead time required by the manufacturer, boxes may need to be ordered 3 months in advance—90 days before the election.

OUTDOOR, TEMPORARY DRIVE-THROUGH DROP OFF A drive-through drop-off location is an easy way to keep traffic flowing when demand for a ballot drop box is at its peak, especially on Election Day. This drive-through is typically set up in a parking lot or a street depending on the location.

The team staffing the site accepts ballots from voters as they pull through, depositing them directly into a ballot box. For voters who prefer placing the ballot directly into the box

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themselves, the portable ballot box is brought to the car window. In addition to the supplies listed below, you will need a bipartisan team of at least two to three to support the drop-off site.

- ☐ Pop-up tent
- ☐ Table
- ☐ Chairs
- ☐ Ballot box
- ☐ Road signs
- ☐ Orange cones
- ☐ Flashlights
- ☐ High-visibility vests for workers
- ☐ Weather appropriate support— propane heater, rain gear, lanterns
- ☐ Personal protective equipment such as gloves, masks, and hand sanitizer, as appropriate and in accordance with current CDC guidance

Timeline: Most of these items can be purchased or rented locally. You will need some lead time to arrange for traffic signs and cones if they will be borrowed from law enforcement.

UNSTAFFED, 24-HOUR BALLOT DROP BOX In high-demand areas where votes are or will be cast primarily by mail, installing a permanent ballot drop box—one that can be accessed by voters 24/7—is a good solution. These boxes should be constructed of durable material such as steel and be permanently cemented into the ground. This type of **ballot drop box** typically costs about \$6,000 each. In addition to purchasing the 24-hour box you will need: Video surveillance camera

- ☐ Media storage device (for recorded video)
- ☐ Decal (branding and information)
- ☐ Extra keys for opening slot and access door
- ☐ Security seals

A good example of the security considerations associated with this type of box, pictured on the right, can be found in the **California Code of Regulations**. Timeline: Depending on the lead time required by the manufacturer, boxes may need to be ordered 4–6 months in advance—**about 150 days before the election**.

Election Night and Closing Boxes

You need to give special consideration to returning temporary ballot drop boxes and locking permanent drop boxes on election night. Organizing teams from other county or city departments is one way to accomplish this. Essentially, you need bipartisan teams to be at every ballot drop-off location precisely when polls close. Their responsibilities include:

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- ☐ Identifying the voter or car in line at the time polls close and ensuring they have the opportunity to deposit their ballots.
- ☐ Retrieving the temporary indoor boxes and returning them to the counting facility.
- ☐ Locking the drop slot on the 24-hour boxes and transferring ballots to a ballot transfer bag or box and returning them to the counting facility.
- ☐ Completing chain of custody forms.

Security Considerations

Ballot drop boxes must be secured and locked at all times. Only an election official or a designated ballot drop box collection team should have access to the keys and/or combination of the lock. In addition to locks, all drop boxes should be sealed with one or more tamper evident seals.

Ideally, unstaffed 24-hour drop boxes should be located in areas with good lighting and be monitored by video surveillance cameras. When this is not feasible, positioning the box close to a nearby camera is a good option. Also consider placing it in a high traffic area and inviting local law enforcement to make regular observations.

Try to place indoor drop boxes in locations where they can be monitored by a live person. When ballot boxes are unstaffed and not being monitored, the box should be securely fastened to a stationary surface or immovable object in a way that prevents moving or tampering.

Chain of Custody

- ☐ Chain of custody logs must be completed every time ballots are collected.

- ❑ All ballot collection boxes/bags should be numbered to ensure all boxes are returned at the end of the shift, day, and on election night.
- ❑ Team members should sign the log and record the date and time, security seal number at opening, and security seal number when the box is locked and sealed again.

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Safety

- ☐ For drive-through locations, coordinate a traffic plan with public safety officials.
- ☐ Consider colored vests for ballot collection teams.
- ☐ Provide a radio or cell phone so you can stay in contact with collection teams at all times.

Other Considerations

Start thinking about a ballot collection plan. This should include:

- ☐ Arranging with the USPS to designate a daily collection point for returned ballots and undelivered ballots.
- ☐ Hiring bipartisan teams with clean driving records (review your jurisdiction's requirements for driving as an employee).
- ☐ Determining the frequency of collection prior to Election Day.
- ☐ Determining the frequency of collection on Election Day.
- ☐ Ensuring you have collection teams assigned to be at each location when polls close on Election Day.
- ☐ Establishing best practices for transferring ballots back to the counting facility.
- ☐ Preparing driving routes and accompanying maps or directions.
- ☐ Determining how to keep collection teams and other staff safe in a COVID-19 environment.
- ☐ Reviewing your state laws regarding electioneering, campaigning, petition signature gathering, etc. at or near a ballot drop-off site.
- ☐ Developing a plan for helping voters find ballot drop-off locations. This can include a list of locations in the mail ballot packet as well as an online lookup tool with maps and directions. Two examples are **Lewis County, WA** (rural county) and **King County, WA** (large urban county).

Additional Resources