



350 Ward Avenue, #106-8
Honolulu, Hawaii 96814

November 25, 2025

Mr. Todd Takayama (Hand Delivery)
President & CEO
First Insurance Company of Hawaii
1100 Ward Avenue
Honolulu, Hawai'i 96814

and

Group Compliance Office (Via FedEx)
Tokio Marine Holdings, Inc.
2-1-1 Marunouchi
Chiyoda-ku, Tokyo 100-8050
Japan

Re: Conduct of Staff Counsel Randall Y. Kaya — False Accusation of Illegal Conduct During Deposition (Walsh v. MMI Realty Services Inc., 1CCV-0000003)

Dear Sirs and Madams:

We are the *pro se* plaintiffs in the above-referenced civil case, in which your in-house Staff Counsel, **Mr. Randall Y. Kaya**, represents MMI Realty Services Inc. We write to bring to your attention a serious concern regarding Mr. Kaya's conduct during the certified deposition of Kahala Mall General Manager Esmeralda Paeste on November 12, 2025.

Before describing the incident, we note the following for context:

As self-represented litigants, we are legally required to comply with the Hawai'i Rules of Civil Procedure, the Hawai'i Rules of Evidence, and the Hawai'i Rules of Professional Conduct as if we were attorneys. We take this obligation seriously and have made substantial efforts to ensure our conduct is fully compliant with the law.

We therefore have every reason to expect that opposing counsel—particularly a salaried Staff Counsel attorney representing a major insurer—will adhere to the same rules and demonstrate the same respect for accuracy and professionalism.

1. FALSE ACCUSATION OF ILLEGAL CONDUCT – TRANSCRIPT CITATION

During the deposition, in the presence of the witness, the General Manager of Kahala Mall, and the certified court reporter, Mr. Kaya stated:

22 Q. But they're not for broadcast. They
23 weren't shown on television.
24 MR. KAYA: Actually, you posted them
25 on a website so you are in violation of the law.

ESMERALDA PAESTE, on 11/12/2025
MARJORIE J. WALSH, et al., vs MMI REALTY SERVICES INC.

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1 MR. WALSH: Okay. Well, that's not
2 what we're here for.
3 MR. KAYA: I agree, but --
4 BY MR. WALSH:
5 Q. But you've not seen these videos?
6 (Video played; not transcribed.)

Excerpt from certified deposition transcript of Esmeralda Paeste (taken Nov. 12, 2025)

This was not presented as a legal argument or hypothetical; it was asserted as a fact.

His statement is both false and legally unfounded.

2. THE VIDEOS WERE FULLY LAWFUL – NO STATUTE PROHIBITS THEM

The videos at issue were:

- Recorded from a fixed GoPro in publicly accessible areas of Kahala Mall's parking lot;
- Taken in locations where no person has any reasonable expectation of privacy, and where filming is entirely lawful;

- Created to document pedestrian circulation paths, a key component of ADA compliance analysis;
- Not intrusive, not focused on individuals, and not involving audio capture;
- Uploaded to YouTube solely because defense counsel and/or the arbitrator were unable to view the original files due to their size;
- Not monetized, not posted for public dissemination, and used solely for litigation purposes.

YouTube Analytics Confirm Minimal Dissemination

As of November 2025, the three full-length, unedited videos—each between one and two hours long and posted in May 2025—have been viewed a combined total of only 23 times. These were the complete raw recordings showing a public parking lot outside Whole Foods. There is no evidence of any public distribution, widespread viewing, or any use beyond litigation.

	Kahala Mall Feb 5 2025 FINAL Viewing parking lot in front of Whole Foods to analyze pedestrian traffic patterns	Public	None	May 3, 2025 Published	8	0
	Kahala Mall Feb 3 2025 FINAL Viewing parking lot in front of Whole Foods to analyze pedestrian traffic patterns	Public	None	May 2, 2025 Published	3	0
	Kahala Mall Jan 3 2025 FINAL Viewing parking lot in front of Whole Foods to analyze pedestrian traffic patterns	Public	None	May 2, 2025 Published	12	0

YouTube Analytics showing only 23 total views of the three full-length videos (uploaded May 2025).

This data further confirms that the videos were not used in any manner that could conceivably violate any privacy law, wiretap law, or recording statute, nor could they reasonably be characterized as “illegal.”

Mall Rules

We also note that Kahala Mall’s own publicly posted “Rules of Behavior,” displayed at mall entrances (photograph attached), list fourteen prohibited activities. These include tobacco use, disruptive conduct, abusive language, loitering, misuse of power outlets, solicitation, and other safety-related issues. **Photography and video recording do not appear anywhere on this list of prohibited activities.** Because the Mall affirmatively informs visitors of expected conduct through its posted rules, and because photographing or recording public areas is not restricted, our filming of the publicly accessible parking lot was not contrary to any Mall policy, let alone any law. This further confirms the legitimacy of our conduct and underscores the inaccuracy of Mr. Kaya’s assertion.

WELCOME TO KAHALA MALL

FOR THE SAFETY AND COMFORT OF ALL VISITORS, WE ASK FOR
YOUR COOPERATION IN COMPLYING WITH
THE MALL'S RULES OF BEHAVIOR

THE FOLLOWING ACTIVITIES ARE PROHIBITED ON KAHALA MALL
PREMISES:

1. All forms of tobacco use in the mall
2. Consumption of alcoholic beverages
3. Disorderly or disruptive conduct, including but not limited to, running, shouting, horseplay, bike-riding, roller-blading, skateboarding
4. Use of loud or obscene language, clothing or gestures
5. Abusive language, aggressive and threatening behavior, physical assault, sexual harassment
6. Property damage, bird feeding, littering
7. All illegal activities, illegal drugs and any weapons or firearms
8. Loitering: blocking storefronts, exits, stairways, escalators or any part of the mall facilities
9. Use of power outlets, extended use of mall seating without permission from Kahala Mall Management
10. Standing, sitting or walking in large groups which inconvenience or disturb others
11. Playing radios or any musical instruments that are not part of a program approved by Kahala Mall Management
12. Solicitation of any kind or distribution of literature without permission from Kahala Mall Management
13. Walking in the mall without a shirt or footwear
14. Pets, except service animals for the disabled

FAILURE TO COMPLY WILL RESULT IN YOUR IMMEDIATE REMOVAL
FROM KAHALA MALL.



KAHALA MALL

Kahala Mall's publicly posted "Rules of Behavior," which do not prohibit photography or video recording.

3. DEFAMATION PER SE AND ETHICAL DUTIES

Accusing a party of unlawful conduct in a formal legal proceeding—especially when the accusation is false—constitutes defamation per se under Hawai'i law. It imputes illegal behavior, dishonesty, and disregard for legal obligations.

Additionally, the Hawai'i Rules of Professional Conduct prohibit:

Rule 4.1: False statements of law or fact;

Rule 4.4: Conduct intended to burden or embarrass opposing parties;

Rule 8.4(c): Misrepresentation;

Rule 8.4(d): Conduct prejudicial to the administration of justice.

As a Staff Counsel attorney, Mr. Kaya does not work for a private law firm whose revenue derives from legal fees. He is an employee of First Insurance, paid by premiums collected from policyholders, and supervised by your corporate structure. His conduct therefore reflects directly on First Insurance's ethical and professional standards, and by extension on Tokio Marine.

Such accusations, made without factual or legal basis, are inconsistent with the obligations imposed on attorneys who are officers of the court.

4. LITIGATION IMPACT – ATTEMPT TO UNDERMINE ADMISSABLE EVIDENCE

The purpose of the videos is evidentiary: they show how the public, including disabled individuals, actually move through the relevant part of the parking lot. This is central to ADA compliance.

Mr. Kaya's accusation appears intended to:

- Intimidate us into abandoning this evidence;
- Create the false impression that relying on these videos is "illegal";
- Lay a foundation for frivolous objections to admissibility.

This behavior undermines the fairness of the litigation and inhibits productive settlement discussion. At no point during the deposition did Mr. Kaya cite any statute, rule, or case supporting his accusation, nor has he done so at any time since.

To be clear:

We expect Mr. Kaya to cease all unfounded allegations relating to the videos and to refrain from raising frivolous objections to their legality or admissibility.

5. REQUEST FOR CORRECTIVE ACTION

We respectfully request:

A written correction or retraction acknowledging that no law prohibits the filming or use of the referenced videos.

Confirmation that no further unfounded accusations of illegality will be made.

Assurance that frivolous objections relating to the legality or admissibility of the videos will not be raised.

Review by First Insurance leadership and Tokio Marine Global Compliance as to whether Mr. Kaya's conduct comports with expected standards of accuracy, professionalism, and ethical practice.

This is not a request for damages. It is a request for accuracy, integrity, and professional accountability.

6. NOTICE OF SEPARATE FILING

A copy of this letter is being provided to Mr. Kaya for transparency.

We are not submitting this letter to the judge, except to the minimal extent needed to explain impediments to settlement.

7. CONCLUSION

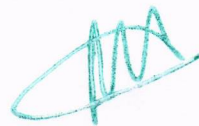
We have made every effort to comply fully with the legal and ethical obligations imposed on litigants—obligations we understand apply to us just as they apply to licensed attorneys. We trust that First Insurance and Tokio Marine will address this matter with the seriousness appropriate for organizations of your stature.

Thank you for your attention to this matter. We look forward to your response.

Sincerely,



Craig W. Walsh
Plaintiff *Pro Se*



Marjorie J. Walsh
Plaintiff *Pro Se*