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Pangelinan: Plebiscite not a racial issue

By Zita Y. Taitano
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THE class action lawsuit filed in District Court claiming that the plebiscite to decide Guam's future relationship with the U.S. discriminates against non-native inhabitants is a mischaracterization and misstates the issue of race, said Sen. Ben Pangelinan, who has long been pushing for a political status plebiscite.

"The identification of the native inhabitants of Guam group was done by the U.S. Congress, and it says this is a group of people who were afforded a status based on an act of Congress which they had no say in," Pangelinan said.

"It's definitely not on point," the senator said, referring to the lawsuit.

"I'm calling upon U.S. Attorney Alicia Limtiaco and Attorney General Lenny Rapadas to defend the rights of Guam," he added.

With regard to the plebiscite, Pangelinan said "the right to self-determination is a right of every human being."

As for the claim that the

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Plebiscite lawsuit filed



Mun Su Park, a local attorney of the Law Offices of Park and Associates, talks to the media after filing a lawsuit alleging discrimination in the planned political status plebiscite. David Castro / For Variety

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A LAWSUIT has been filed in District Court against the Guam Election Commission (GEC), members of the GEC board and Attorney General Lenny Rapadas, alleging discrimination against individuals who are not "native inhabitants of Guam," preventing

them from voting on the decolonization plebiscite that would determine the island's future relationship with the U.S.

The complaint was filed on behalf of the plaintiff, Arnold "Dave" Davis, by local attorney Mun Su Park, of the Law Offices of Park and Associates; J. Christian Adams, of the Election Law Center PLLC in Alexandria, Va.; and Michael E.

Rosman, of the Center for Individual Rights in Washington D.C.

Named in the lawsuit are GEC board members Alice M. Taijeron, Martha C. Ruth, Joseph F. Mesa, Johnny P. Taitano, Donald I. Weakley, and former member Joshua F. Tenorio.

The lawsuit was filed after Davis, a retired U.S. Air Force officer who

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PERSONAL FINANCE CENTER

You're First in All We Do

GICC faces nearly \$33K in fines for workplace hazards

By Geraldine Castillo
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Variety News Staff

THE Guam International Country Club (GICC) was cited recently by the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) for 17 alleged workplace safety violations, creating proposed fines totaling \$32,900.

According to a press release from U.S. DOL's Office of Public Affairs, the violations were found during an inspection at the club's maintenance shop in Dededo.

Among the serious safety violations are failing to: provide training for employees working with hazardous materials; provide appropriate personal protective equipment for eyes and face; provide required forklift training and ensure the forklift had a functioning seatbelt; in addition to multiple electrical



The Guam International Country Club in Dededo was cited yesterday by the Occupational Safety and Health Administration for a number of safety violations in their maintenance shop. David Castro / For Variety

hazards, including the workers' ability that death or serious have known," the press release

exposure to live electrical parts. physical harm could result stated.

"A serious violation occurs from a hazard about which "Employees must be

when there is substantial prob- the employer knew or should protected against safety

hazards in the workplace, not just because it is the right thing to do, but because it is the law," stated Ken Nishiyama Atha, OSHA's regional administrator in San Francisco. "Workplace safety is critical. OSHA will remain focused on being proactive, especially when workers' safety and health are at stake."

The press release also stated the employer has 15 business days from receipt of its citations and proposed penalties to comply, meet with OSHA's area director, or contest the findings with the independent Occupational Safety and Health Review Commission.

To obtain compliance assistance, file a complaint or report workplace hospitalizations, fatalities or situations posing imminent danger to workers, call OSHA's toll-free hotline at 800-321-OSHA (6742) or the agency's Honolulu Area Office in Hawaii at 808-541-2680.

Plebiscite...

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has lived on Guam since 1977 and voted in many of the island's general elections, applied to register for the plebiscite but was not allowed to sign up because he didn't meet the definition of "native inhabitant of Guam."

Davis informed the U.S. Department of Justice in 2009 that "Guam's discriminatory voting laws facially violate the Voting Rights of 1965 (among other statutes)."

Although a news release from the Center for Individual Rights stated the Department of Justice declined to investigate and did not explain its refusal to enforce federal law in Guam, thus forcing Davis to file the lawsuit in order to protect his right to vote.

"There's nothing subtle or indirect or even at all ambiguous about the plebiscite law. It seeks to empower fewer than 40 percent of our population to make a profoundly important political decision on a public matter that's properly and Constitutionally a right of all the people," Davis said.

Simple issue

He added the matter is a

pretty simple issue. "We're talking about the right to vote for every individual with regard to race [and] sexual preference, unless it's because of certain situations. Every U.S. citizen is entitled to vote under U.S. law," Davis said, citing the Organic Act and the U.S. Voting Rights Act. "All of these are ... very clear. That's not the way things are here," he said.

The lawsuit generally requests the court to ask the Guam Election Commission to cease and desist from denying voter registration to non-native inhabitants, which Davis said comprises more than 100,000 people on Guam.

"This is a class action lawsuit. All of those people are automatically parties to this lawsuit," Davis said, adding he's very confident about the case.

"I'm very confident; the law is clear," Davis stressed.

Meanwhile, the Variety caught up with Park yesterday morning after he filed the complaint in District Court. Park said the Guam law on the plebiscite is discriminatory against some Guam voters based on race and color.

"We believe the many

voters on Guam and many residents who call Guam home are excluded from the plebiscite concerning future relations with the U.S.; and only the native inhabitants of Guam can vote," he said.

Off-island firms

The off-island law firms handling the case said they simply want to ensure the laws of the U.S. are followed.

"We believe the Guam government and the officials who are part of the Guam government are obligated to follow the laws of the United States, which clearly prohibit treating residents differently solely on their race," said Terry Pell, president for the Center for Individual Rights.

"We're not trying to stop the plebiscite, but it should be open to all registered voters regardless of race. It's important that everyone should have an opportunity to vote," he added. "We are hoping the court will open it up regardless of race."

When asked why the governor, the lieutenant governor or the Legislature were not named in the lawsuit, Pell explained they are just asking for the courts to prohibit the enforcement of the law, they are not asking to change the law.

"We're asking the court to

declare the law unconstitutional and enjoin the officials from enforcing it," he said.

And while he understands that the Chamorro people consider themselves native inhabitants, he stressed this is not the basis of the lawsuit.

"The issue in the lawsuit is if the Guam government is allowed to restrict an election by race; and the answer to that question is clearly no," he said.

Pro bono

Pell also emphasized they are handling the case pro bono, because issues like this is the mission of the firm.

"We raise money from individual contributors. We organize lawsuits that we think have raised important Constitutional principles. Our clients don't pay anything. We represent them free of charge," he said.

Park is the only attorney who is being paid.

Pell further said they've been working on the case for at least six to 12 months, and that cases such as this could last from one to 10 years.

He added that Adams is their lead counsel and will be coming to Guam to assist Attorney Park when the case is scheduled for a hearing in District Court.

Issue...

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complaint is a class action suit, Pangelinan said this still has to be conferred upon by the court.

"The court has to agree to it and there are certain parameters that need to be followed," Pangelinan pointed out.

The complaint names the Guam Election Commission, members of the GEC board and AG Rapadas as the defendants. Not named are Gov. Eddie Baza Calvo, Lt. Gov. Ray Tenorio and the Guam Legislature, the latter of which Pangelinan said he's not sure why.

"I hope the AG defends this in cooperation with the U.S. Attorney to protect Guam's right to self-determination," he said.

Pangelinan also said Arnold "Dave" Davis, who filed the complaint, was not speaking for the majority of people on Guam.

"I just want to say Mr. Davis is one person. I know of many Koreans, Japanese and Chinese, and they tell me they support self-determination just as they support what is going on in their countries. I don't think Mr. Davis is speaking for the entire class if there is such one," Pangelinan said.

Meanwhile, Maria Pangelinan, Guam Election Commission executive director, expressed surprise with the lawsuit.

"We were not notified and I found out it was filed in District Court from the media," she said.

The matter is now being handled by the Guam Election Commission's new legal counsel Jeff Cook, of Cunliffe & Cook, who said he couldn't comment pending further review of the complaint and consultation with his client.

Rapadas also did not have any comment regarding the case.