



# Hawaii Labor Relations Board



*Brian K. Nakamura, Chair*

*Chester C. Kunitake, Member*

*Kathleen Racuya-Markrich, Member*





## **I. INTRODUCTION**

Pursuant to Hawaii Revised Statutes (HRS) § 89-5(a), the Hawaii Labor Relations Board (HLRB or Board) presents its annual report to the Governor describing its activities for fiscal year 2002 – 2003 (FY 2003) and reflecting the status of the Board on June 30, 2003.

## **II. MISSION STATEMENT**

The mission of the Board is to enforce and protect the rights of employees and unions to organize and bargain collectively in balance with the employer's rights to manage operations as provided by HRS Chapters 89 and 377 by fairly and efficiently resolving labor disputes brought before it. The Board is committed to promote the harmonious and cooperative relations between the parties.

In 2002, the Board also acquired jurisdiction to conduct de novo hearings on contests from citations issued by the Director of the Department of Labor and Industrial Relations (DLIR) through the Hawaii Occupational Health and Safety (HIOSH) Division and appeals from HIOSH's findings in discrimination complaints involving retaliation for reporting safety and health violations. The Board's mission pursuant to HRS Chapter 396 is to ensure the right of workers to a safe and healthful work environment and encourage employer and employee efforts to reduce injury and disease arising out of employment.

## **III. OVERVIEW**

### **Governing Constitutional Provisions and Statutes**

Private employees in the State of Hawaii have a constitutional right to organize. Article XIII, Section 1 of the State Constitution, provides that, "Persons in private employment shall have the right to organize for the purpose of collective bargaining." The Hawaii Employment Relations Act (HERA) was enacted in 1945 and codified as HRS Chapter 377 to permit employees who are not subject to the Railway Labor Act or the National Labor Relations Act to participate in collective bargaining. The Hawaii Employment Relations Board (HERB) was created to administer the provisions of the HERA.

Similarly, in 1968, the State Constitution was amended to afford public employees in the State of Hawaii the right to organize for the purpose of collective bargaining. Article XIII, Section 2 of the State Constitution, provides that, "Persons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law." In 1970, the Legislature enacted Act 171, Session Laws of Hawaii, which was subsequently codified as HRS Chapter 89, Collective Bargaining in Public Employment, to encourage joint decision-making in administering government. The Act created the Hawaii Public Employment Relations Board (HPERB) to administer the provisions of HRS Chapter 89. In 1985, the Legislature abolished the HERB and transferred its functions to the HPERB and renamed it the Hawaii Labor Relations Board (HLRB). Effective January 1, 1986, the HLRB began administration of the provisions for both HRS Chapters 89 and 377.

Thereafter, in 2002, the Legislature enacted Act 104, Session Laws of Hawaii, which empowered the Board to conduct de novo hearings in reviewing contests from citations or orders of the Director of Labor and Industrial Relations involving occupational health and safety pursuant to HRS § 396-11.<sup>5</sup>

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<sup>5</sup>Prior to 2002, the Labor and Industrial Appeals Board of the DLIR (LIRAB) heard contests filed under HRS § 396-11.

## **Functions**

The Board is an agency within the DLIR for administrative and budgetary purposes. The Board exercises quasi-judicial powers with jurisdiction over disputes over collective bargaining in the public sector arising under HRS Chapter 89 and in the private sector, under HRS Chapter 377. Accordingly, the primary duties of its members are to hear and decide contested cases involving prohibited or unfair labor practice complaints and to render declaratory rulings on questions submitted. These cases typically involve an employer or union's failure to bargain in good faith, an employer or union's interference with an employee's right to participate in or refrain from bargaining activities, or a union's failure to fairly represent its members in the negotiation of agreements or the pursuit of grievances. The Board also conducts union representation elections, supervises the impasse procedures in public employment, and issues declaratory rulings to clarify the applicability of governing statutes and its rules. In addition, the Board also resolves disputes involving bargaining unit designations and determines the appropriateness of dues refunds for nonmembers.

In the public sector, the Board has jurisdiction over state and county employees, judiciary employees, public school teachers, faculty of the University of Hawaii and community college system, employees of the Hawaii Health Systems Corporation, and charter school employees.

In the private sector, the Board similarly conducts representation elections and resolves unfair labor practice complaints. The Board has jurisdiction over primarily agricultural employees and employers and those private employees and employers who are not subject to the jurisdiction of the National Labor Relations Board. Typically, the employees are members of unions or are involved with organizing activities.

In addition, the Board decides contests and appeals of decisions rendered by the Director of Labor and Industrial Relations, State of Hawaii, through HIOSH under HRS Chapter 396. These cases are typically employer contests of citations and penalties issued and appeals in discrimination cases involving retaliation against employees for reporting safety and health violations.

## **Board Members**

The Board is composed of three members, one of whom is representative of management, one who is representative of labor and the third member, the Chair, who represents the public. Each member is appointed by the governor and confirmed by the Senate for six-year terms. Because cumulative experience and continuity in office are essential to the proper administration of HRS Chapter 89, the two-term appointment limit in HRS § 26-34 is not applicable, and members can continue in office as long as efficiency is demonstrated. The Board is composed of the following members:

**BRIAN K. NAKAMURA**, Chair, appointed July 1, 2000; \$77,964 annual salary. Mr. Nakamura was an attorney in private practice who previously served for two years as general counsel for the Hawaii State Campaign Spending Commission and chief counsel for the Senate Judiciary Committee in 1997. From 1993 to 1996, he was the Executive Officer at the UH Hawaii Natural Energy Institute and prior to that time, served as chief of staff and legal officer in the Lieutenant Governor's Office. Mr. Nakamura also served as U.S. Senator Daniel Inouye's chief of staff and legal officer in his state office and chief of staff and legal officer in the U.S. Senate Sergeant-At-Arms Office, Washington, D.C., as well as legal counsel and legislative assistant to Senator Inouye in Washington, D.C.

Mr. Nakamura graduated from the University of Hawaii with a Bachelor of Arts degree from the College of Arts and Sciences in political science, a teaching certificate in secondary education from the College of Education, and a Juris Doctor degree from the William S. Richardson School of Law.

**CHESTER C. KUNITAKE**, Member, appointed February 20, 1997; \$74,065.92 annual salary. Mr. Kunitake was the Public Policy Officer of the Hawaii Government Employees Association and worked for the union for over 26 years. Mr. Kunitake graduated from the University of Hawaii with a degree in business administration. Mr. Kunitake serves as the labor representative to the Board.

**KATHLEEN RACUYA-MARKRICH**, Member, appointed July 1, 2000; \$74,065.92 annual salary. Ms. Racuya-Markrich served as press secretary to Governor Benjamin Cayetano for six years and previously served for seven years as a Deputy Attorney General in the Employment Law Division of the State Department of the Attorney General representing the public employer and specializing in employment litigation for seven years. Ms. Racuya-Markrich graduated from the William S. Richardson School of Law with a Juris Doctor degree and also with a Bachelor of Science in Foreign Service from Georgetown University, School of Foreign Service. Prior to law school, Ms. Racuya-Markrich worked in Washington, D.C. as a staff aide/secretary to the Administrative Assistant for U.S. Senator Spark Matsunaga and an immigration caseworker. Ms. Racuya-Markrich is the management representative to the Board.

### **Board Staff**

Pursuant to HRS § 89-5(a), the Board may appoint the members of its staff. The legal clerk is in the civil service system and excluded from collective bargaining. Other staff members are exempt from civil service and excluded from collective bargaining. The staff is composed of the following:

Valri Lei Kunimoto, Executive Officer, \$79,999 annual salary. The executive officer is legal counsel to the Board, represents the Board in the courts, and performs such legal and administrative duties as may be delegated by the Board Chair. Her administrative duties may include supervising the other staff members and editing Board publications and decisions.

Sau Lan Leung, Legal Clerk, \$31,200 annual salary. The Legal Clerk performs a variety of clerical tasks; types Board decisions, orders, notices and legislative documents; prepares and files court documents, including pleadings, records on appeals, and briefs; and maintains the Board's library.

## **IV. DATA ON THE PUBLIC SECTOR BARGAINING UNITS**

The collective bargaining law for public employees divides all State and county employees covered by Chapter 89, HRS, into 13 units based upon occupational and compensation plan groupings. These bargaining units, described in HRS §89-6(a), are as follows:

- (1) Non-supervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Non-supervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same pay schedule, including part-time employees working less than twenty hours a week who are equal to one-half of a full-time equivalent;
- (6) Educational officers and other personnel of the department of education under the same pay schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) Institutional, health and correctional workers;

- (11) Firefighters;
- (12) Police officers; and
- (13) Professional and scientific employees, who cannot be included in any of the other bargaining units.

It is customary to refer to the bargaining units by the numbers used in HRS § 89-6(a). For example, the unit consisting of firefighters is referred to as Unit 11.

**Exclusive Representatives**

All 13 public employee collective bargaining units have selected employee organizations to serve as their exclusive representatives. Throughout the remainder of this report, the following abbreviations will be used to refer to the respective exclusive representatives (or unions):

- HFFA Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO
- HGEA Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO
- HSTA Hawaii State Teachers Association
- SHOPO State of Hawaii Organization of Police Officers
- UHPA University of Hawaii Professional Assembly (NEA-AAUP)
- UPW United Public Workers, AFSCME, Local 646, AFL-CIO

**Number of Employees in Units**

The following table indicates, for each bargaining unit, the number of employees who are included in the unit, the union and the date that the union was initially selected and certified as the exclusive representative.

<b>0Unit</b>	<b>No. of Employees<sup>6</sup></b>	<b>Exclusive Representative</b>	<b>Date of Initial Certification</b>
01	8,749	UPW	10/20/71
02	843	HGEA	10/20/71
03	14,031	HGEA	04/03/72
04	845	HGEA	05/03/72
05	12,854	HSTA	05/21/71
06	856	HGEA	06/10/71
07	3,359	UHPA	11/01/74
08	1,469	HGEA	01/26/73
09	1,538	HGEA	07/10/79
10	2,992	UPW	02/11/72
11	1,767	HFFA	02/04/72
12	2,613	SHOPO	07/14/72
13	7,404	HGEA	05/03/72

## V. CASES BEFORE THE BOARD DURING FY 2003

### Code Used to Designate Cases

#### Public Sector

Each public sector petition filed with this Board is assigned a case number designated by a three-part code. The first part indicates the type of proceeding; the second part indicates the number of the bargaining unit referred in the petition; and the third part indicates the chronological number in the series for that type of case.

For example, “Case No. CE-05-03” is interpreted as follows:

CE indicates the case is a prohibited practice complaint against an employer;  
05 indicates the case concerns Unit 05; and  
03 indicates this is the third case filed in the CE series.

The following code letters represent the types of cases:

<u>Code Letters</u>	<u>Type of Case</u>
R	Representation
RD	Decertification
RA	Clarification or Amendment of Appropriate Bargaining Unit
CE	Prohibited Practice Complaint Against an Employer
CEE	Prohibited Practice Complaint Against an Employee
CU	Prohibited Practice Complaint Against an Exclusive Representative
I	Impasse
DR	Declaratory Ruling
PD	Review of Refunds
PE	Petition for Enforcement of Board Order
RM	Rulemaking

#### Private Sector

Each private sector petition filed with this Board is assigned a case number designated by a three-part code. The first part indicates the year in which the case was filed; the second part indicates the chronological number for cases filed within the year; and the third part indicates the type of case.

For example, “Case No. 03-1(RD)” is interpreted as follows:

03 indicates the case has been filed in 2003;  
1 indicates this is the first case filed in 2003; and  
(RD) indicates the case is a decertification case.

The following code letters represent the types of cases:

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<sup>6</sup>These figures are from HLRB Informational Bulletin No. 41, dated April 3, 2003, as amended August 21, 2003, which was compiled from data supplied by the public employers. These figures are current as of December 31, 2002.

<u>Code Letters</u>	<u>Type of Case</u>
R	Representation
RD	Decertification
RA	Determination of Collective Bargaining Unit
CE	Unfair Labor Practice of Employer
CEE	Unfair Labor Practice of Employee
CU	Unfair Labor Practice of Exclusive Representative
DR	Declaratory Ruling

### Occupational Safety and Health

Each contest filed with the Board is assigned a two-part case number. The number following OSAB<sup>7</sup> or OSH<sup>8</sup> designation indicates the year in which the case was filed; the second part indicates the chronological number for cases filed within the year.

For example, “Case No. OSH 2003-1” is interpreted as follows:

03 indicates the case has been filed in 2003; and  
1 indicates this is the first case filed in 2003.

### Case Statistics

The following represents the cases filed and pending before the Board in FY 2003:

<b>Type of Case</b>	<b>Pending 6/30/02</b>	<b>Filed</b>	<b>Closed</b>	<b>Pending 6/30/03</b>
<b>Public Sector</b>				
Prohibited Practice against Employer	11	33	24	20
Prohibited Practice against Union	10	19	23	6
Impasse	0	13	1	12
Declaratory Ruling	1	1	0	2
Investigation	1	0	0	1
<b>Private Sector</b>				
Representation	0	1	1	0
Decertification	0	1	1	0
Unfair Labor Practice against Employer	0	1	0	1
Unfair Labor Practice against Union	0	1	1	0
<b>Type of Case</b>	<b>Pending 6/30/02</b>	<b>Filed</b>	<b>Closed</b>	<b>Pending 6/30/03</b>
<b>HIOSH Appeals</b>				
Citation	18	12	15	15
Discrimination	1	4	2	3
<b>Total</b>	<b>42</b>	<b>86</b>	<b>68</b>	<b>60</b>

<sup>7</sup> Occupational Safety Appeals Board, which is the designation assigned previously by LIRAB.

<sup>8</sup> Occupational Safety and Health, which is the designation assigned by the Board in 2003.



A total of 86 cases (66 public sector, 4 private sector, and 16 HIOSH cases) were filed with the Board during the past fiscal year. The Board closed 68 cases as described in Appendix A. One measure of the Board's efficiency is whether the case was disposed of within 30 days of submission. During FY 2003, the Board closed 44 of the 68 cases or 64.7% of the cases within 30 days. These cases vary in complexity; some involving issues affecting one employee and others affecting the rights of a large number of employees. Some petitions filed did not result in formal Board decisions because they were either withdrawn by the petitioners or the cases were settled by the parties at some point in the proceedings with the Board's approval. Motions filed with the Board are not counted as separate filings and are disposed of by Order rather than Decision.

### **Cases Closed During FY 2003**

The chart in Appendix A provides information on the cases closed by the Board during FY 2003.

### **Cases Pending on June 30, 2003**

The chart in Appendix B provides information on the cases pending before the Board on June 30, 2003.

### **Cases on Appeal in the Courts in FY 2003**

The chart in Appendix C provides information on the cases in the courts.

## **VI. PUBLICATIONS**

1. HLRB Decisions: The Board, working with the Industrial Relations Center (IRC), University of Hawaii, publishes the Board's decisions in loose-leaf binders for sale on a subscription basis. Thus far Volume 1, containing Decision Nos. 1 through 85 covering the years 1971-77; Volume 2, containing Decision Nos. 86 through 155 covering the years 1978-81; Volume 3, containing Decision Nos. 156 through 209 covering the years 1982-85; Volume 4, containing Decision Nos. 210 through 311 covering the years 1986-90; Volume 5, containing Decision Nos. 312 through 393 covering the years 1991-97; and Volume 6 containing Decision Nos. 394 to 430, have been issued.

The Board also distributes copies of its decisions as they are rendered to the respective parties in interest, the State agencies as required by HRS § 93-3, the IRC, and the Center for Labor Education and Research.

2. Informational Bulletin: Each year the Board issues an Informational Bulletin which provides, by employing jurisdictions, the number of public employees in each of the 13 collective bargaining units established by HRS § 89-6(a). The figures are compiled from data supplied by the public employers.

3. Website: The DLIR is establishing an updated website in early 2004 which will include the Board's rules and forms. The Board is hopeful to have its decisions on its website in the next fiscal year.

## VII. CONCLUSION

During the past legislative session, the Legislature amended HRS § 89-11 to permit the bargaining units represented by the HGEA to pursue their impasses to final and binding arbitration. (See, Act 6, 2003 Session Laws of Hawaii, Special Session). The HGEA previously had the right to arbitrate its impasses but it was abolished in 2002. The HGEA presently has six impasses pending before the Board which may proceed to arbitration under Act 6. In other legislation affecting the Board, the Legislature enacted a provision for voluntary mediation before administrative agencies. While the Board encourages the settlement of disputes before it and offers its services to the parties to assist in settlement conferences, Act 76, 2003 Session Laws of Hawaii, provides a vehicle for the parties to retain the services of a third party to assist in the resolution of the disputes before the Board.

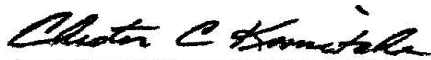
During this past year, the cases before the Board continued to present complex legal and procedural issues concerning the interpretation of HRS Chapters 89, 377, and 396. The Board members attempted to meet this challenge by applying their collective judgment in rendering fair decisions in promoting the policies underlying these statutes. The Board continues to endeavor to strike a balance between the employees' right to collectively bargain and participate in decisions affecting their rights and working conditions and the employer's right to manage its operations. In reviewing the case activity for this fiscal year, the Board believes it has continued to meet its goals of fairly administering the provisions of HRS Chapters 89 and 377, credibly and objectively resolving labor-management disputes, promoting good faith and harmony in labor relations. With respect to the HIOSH contests, the Board conducted de novo hearings on the contests of citations and decisions in discrimination cases and endeavors to provide a forum for the fair and efficient adjudication of safety and health contests.

As for its short-term goals, the Board intends to promulgate procedural rules governing HIOSH appeals under Chapter 396 as well as refining its current rules governing proceedings filed under Chapters 89 and 377.

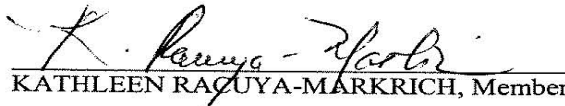
Respectfully submitted,



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BRIAN K. NAKAMURA, Chair



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CHESTER C. KUNITAKE, Member



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KATHLEEN RAQUYA-MARKRICH, Member

Dated: November 3, 2003  
Honolulu, Hawaii  
(revised 12/22/03)

## Appendix A - Cases Closed FY2003

Case No.	Parties	Concerns	Disposition	Date
CE-10-501	Albert G. Moniz v. Ted Sakai	Termination without just cause; failure to provide reasons for termination; failure to properly investigate	Dismissed for lack of jurisdiction - untimely and failure to exhaust contractual remedies. Order No. 2102.	07/31/02
CU-01-189 CE-01-493	Helen L. Gabriel v. UPW and Dept. of Parks and Recreation, County of Hawaii	Duty of fair representation (DFR) and non-selection	Granted UPW's motion for summary judgment and dismissed County. Order No. 2105.	08/08/02
OSAB 2002-29	DLIR and Macy's West, Inc.	Citation	Approved Stipulation and Settlement Agreement. Order No. 5.	08/14/02
OSAB 2002-30	Katherine Bergamasco v. Na Hale Holo, Inc. and DLIR	Discrimination	Withdrawn. Order No. 7.	08/21/02
OSAB 2001-09	DLIR and Goodfellow Bros., Inc.	Citation	Approved Stipulation and Settlement Agreement. Order No. 8.	08/22/02
CE-05-482 CE-05-483 CU-05-190(A&B)	John Mussack and Michael Harano, et al.	Written and oral reprimand; DFR	Dismissed - untimely; no breach of DFR. Dec. No. 436.	08/23/02
CE-05-505	John Mussack and Lea Albert	Falsification of information and reprisal for participating in grievance process	Withdrawn. Order No. 2107.	08/26/02
CE-05-506	John Mussack and Lanelle Hibbs	Retaliation	Withdrawn. Order No. 2108.	08/26/02
OSAB 2002-15	DLIR v. Rainbow Rehabilitation Services, Inc.	Citation	Affirmed Citation. Dec. No. 1.	09/06/02
CE-10-503 CU-10-201	Bert Sam Fong v. Ted Sakai, et al. and UPW	Assignment of overtime to supervisors; DFR	Granted UPW's motion for summary judgment and dismissed State. Order No. 2113.	09/12/02
CU-03-183	Lewis W. Poe v. HGEA	Denial of access to Memoranda of Agreement	Dismissed. Dec. No. 437.	09/13/02
OSAB 2002-17	DLIR v. Hawaii Concrete Products, Inc.	Citation	Approved Stipulation and Settlement Agreement. Order No. 12.	09/18/02
CE-05-496	HSTA v. Benjamin J. Cayetano and BOE	Refusal to implement non-disputed portions of contract	Withdrawn. Order No. 2117.	09/23/02
CE-10-513	Alvin M. Ikemoto v. Ted Sakai	Denial of promotion	Dismissed - no jurisdiction over movement to excluded position. Order No. 2121.	10/03/02
CU-05-206 CE-05-512	Alexander M. Cyran v. HSTA and BOE	DFR; Denial of sabbatical leave at charter school	Withdrawn. Order No. 2122.	10/04/02

## Appendix A - Cases Closed FY2003

Case No.	Parties	Concerns	Disposition	Date
OSAB 2002-16	Kay Miura v. Pacific Ohana Hostel, et al.	Discrimination	Reversed. Dec. No. 2.	10/04/02
CU-10-184	Deborah Taylor, et al. v. Eddie Espiritu, et al.	Selection of posts violated contract	Granted UPW's motion for summary judgment - no DFR. Order No. 2126.	10/21/02
OSAB 2002-18 OSAB 2002-20	DLIR v. Vet's Termite Control	Citation	Withdrawn. Order No. 15 .	10/21/02
OSAB 2002-21	DLIR v. H&W Foods Acquisition Corp. dba Palama Meat Co.	Citation	Approved Stipulation and Settlement Agreement. Order No. 16.	10/21/02
CE-10-514 CU-10-207	Kevin D. Flores and PSD, et al. and UPW, et al.	Termination; DFR	Dismissed for lack of prosecution. Order No. 2128.	10/24/02
CU-03-203	Lewis W. Poe v. HGEA	DFR - no response to request for status of grievances	Breach of DFR. Dec. No. 438.	10/24/02
02-1(RD)	Dorothy K. Quintua and ILWU and Coffees of Hawaii, Inc.	Decertification	ILWU decertified. Order No. 2129.	10/25/02
OSAB 2001-41	DLIR v. Swanson Steel Company, Inc.	Citation	Affirmed Citation. Dec. No. 3.	11/06/02
CU-10-205	Vincent Walker v. UPW, et al.	DFR - failure to file grievance	Granted UPW's motion for summary judgment no DFR. Order No. 2131.	11/13/02
OSAB 2002-31	DLIR v. Four Seasons Resort Hualalai	Citation	Approved Stipulation and Settlement Agreement. Order No. 20.	11/14/02
CE-10-504	UPW v. Ted Sakai	Retention of derogatory files	Stipulation and Order. Order No. 2135.	12/05/02
CE-10-510	Vincent Walker v. Benjamin J. Cayetano, et al.	Termination	Dismissed - failure to exhaust contractual remedies. Order No. 2137.	12/10/02
CE-10-516	Nena B. Pattugalan v. DOH and DHRD	Reduction in force	Dismissed - failure to exhaust contractual remedies. Order No. 2136.	12/10/02
CE-01-519	UPW v. Benjamin J. Cayetano, et al.	Circumventing arbitration procedure and harassment	Withdrawn. Order No. 2141.	12/20/02
CU-03-208	Lewis W. Poe v. HGEA	Failure to include date of execution of Memorandum of Agreement and inclusion of invalid provision	Granted HGEA's motion for summary judgment. Order No. 2144.	01/07/03
CU-03-209	Connie L. Almeida and Bob Doi, et al.	DFR - failure to file grievance over discrimination/hostile work environment	Withdrawn. Order No. 2146.	01/08/03
CU-03-148 CU-03-174 (Remand)	Lewis W. Poe v. HGEA	DFR - failure to file grievance over rest periods	Dismissed - no contractual or statutory violation. Dec. No. 439.	01/13/03

## Appendix A - Cases Closed FY2003

Case No.	Parties	Concerns	Disposition	Date
OSAB 2002-32	DLIR v. Sunrise Construction, Inc.	Citation	Approved Stipulation and Settlement Agreement. Order No. 31.	01/21/03
CU-13-202	Susan Sugarman Free v. Kevin Mulligan et al.	DFR - failure to file grievance/arbitrate	Dismissed - failure to state a claim and filing more than one complaint on same controversy. Order No. 2150.	01/22/03
OSH 2003-1	DLIR v. Steven J. Berman, M.D., F.A.C.P.	Citation	Approved Stipulation and Settlement Agreement. Order No. 32.	01/23/03
CE-05-521	Richard Hunt v. Catherine Bratt, et al.	Non-selection	Dismissed - failure to exhaust contractual remedies and no jurisdiction over promotion to excluded position. Order No. 2153.	01/29/03
CU-10-212	Gordon K. Leslie v. Laurie Santiago, et al.	DFR - failure to file grievance over post/shift change	Dismissed - untimely. Order No. 2152.	01/29/03
CE-01-522	Michael K. Noguchi v. Brian Minaai, et al.	Failure to act on harassment complaints	Dismissed - untimely and failure to state a claim. Order No. 2154.	01/30/03
CU-03-213	Richard K. Condon v. Marvis Tauala, et al.	DFR	Withdrawn. Order No. 2164.	02/03/03
OSAB 2002-37	DLIR v. Raytheon Corporation	Citation	Approved Stipulation and Settlement Agreement. Order No. 34.	02/06/03
CE-01-500	UPW v. Frank J. Doyle, et al.	Repudiation of agreement to restore and expand refuse collection	Dismissed. Dec. No. 440.	02/11/03
CE-10-523	UPW and Ted Sakai, et al.	Failure to provide information to process grievance	Prohibited practice found - breach of contract and duty to bargain in good faith. Order No. 2177.	03/06/03
03-2R	ILWU and AOA of Kona by the Sea	Representation election	Withdrawn. Order No. 2182.	03/28/03
OSAB 2002-13	DLIR v. Oahu Express, Ltd.	Citation	Approved Stipulation and Settlement Agreement. Order No. 40.	04/03/03
OSAB 2002-33	DLIR v. Department of Transportation, Airports Division, Lihue Airport	Citation	Approved Stipulation and Settlement Agreement. Order No. 42.	04/09/03
OSAB 2002-12	DLIR v. Home Depot, Inc.	Citation	Approved Stipulation and Settlement Agreement. Order No. 43	04/22/03

## Appendix A - Cases Closed FY2003

Case No.	Parties	Concerns	Disposition	Date
03-1(CU)	Mark J. Valencia v. AFSCME	DFR - failure to file grievance/arbitrate	Withdrawn. Order No. 2185.	04/23/03
CU-03-211	Lewis W. Poe v. HGEA	Failure to notify of Supplemental Agreement	Dismissed. Dec. No. 441.	05/01/03
OSAB 2002-36	DLIR v. Costco Wholesale	Citation	Approved Stipulation and Settlement Agreement to Withdraw Citation and Notification of Penalty and Notice of Contest. Order No. 46.	05/22/03
CU-03-216 CE-03-525	Steve Eng v. HGEA and Hawaii State Public Library System, State of Hawaii	DFR; Derogatory information in personnel file and denial of access to information	Dismissed - lack of prosecution. Order No. 2189.	05/29/03
CE-03-517a CE-04-517b	HGEA v. Benjamin J. Cayetano, et al.	Intimidation and harassment of employees	Withdrawn. Order No. 2190.	06/05/03
CU-03-218	Richard Condon v. Marvis Tauala, et al.	DFR - denial of temporary assignment	Dismissed - failure to state a claim. Order No. 2191.	06/06/03
CU-10-215	DHS v. UPW	Request for fees in arbitration	Dismissed - failure to state a claim and mootness. Order No. 2192.	06/17/03
CE-01-527	UPW v. Kathleen Watanabe, et al.	Denial of holiday pay; repudiation of arbitration award	Dismissed. Order No. 2193.	06/19/03
I-09-91	HGEA v. Benjamin J. Cayetano, et al.	Arbitration award issued.	Dismissed. Order No. 2194.	06/20/03
CE-03-530	Philip Thorp v. The Judiciary, et al.	Non-selection	Dismissed. Order No. 2204.	06/25/03
CU-03-220	Lewis W. Poe v. HGEA	DFR - failure to file grievance on night differential	Breach of DFR. Dec. No. 442.	06/30/03
OSAB 2002-19	DLIR v. M. Dyer & Sons, Inc.	Citation	Approved Stipulation and Settlement Agreement. Order No. 52.	06/30/03

## Appendix B - Cases Pending June 30, 2003

Case No.	Parties	Concerns	Status
CE-03-357a CE-10-357b CE-13-357c	UPW, et al. v. Benjamin J. Cayetano, et al.	Privatization of Hale Hauoli, Kauai	Pending decision.
CE-03-377	Lewis W. Poe v. James Takushi	Failure to provide information	Pending Supreme Court decision in related cases.
CE-01-378a CE-03-378b CE-10-378c CE-13-378d	UPW, et al. v. Benjamin J. Cayetano, et al.	Privatization of Hale Hauoli	Taken under advisement.
INV-01-02 INV-02-02 INV-03-02 INV-04-02 INV-05-02 INV-06-02 INV-07-02 INV-08-02 INV-09-02 INV-10-02 INV-11-02 INV-12-02 INV-13-03	Benjamin J. Cayetano, et al. v. UPW, et al.	Board investigation of bargaining unit exclusions	Pending; order to issue.
CE-13-488	HGEA v. Benjamin J. Cayetano, et al.	Failure to bargain over working conditions in Motor Vehicle Safety Office, DOT	Pending settlement.
DR-01-68a DR-02-68b CU-01-137a CU-02-137b (Remanded)	Benjamin J. Cayetano v. HGEA, et al.	Arbitration award involving temporary assignment out of the bargaining unit	Pending Supreme Court decision in related appeal.
OSAB 2002-23 OSAB 2002-24 OSAB 2002-25 OSAB 2002-26 OSAB 2002-27 OSAB 2002-28	Kiewit Pacific Company v. DLIR; A-1 A-lectrician, Inc. v. DLIR; Engineering Professional Services, Inc. v. DLIR; Rancho Santa Fe Technology-MCS, Inc. v. DLIR; Alaka'i Mchanical Corp. v. DLIR; A.O. Reed and Company v. DLIR	Citation	Pending trial.

## Appendix B - Cases Pending June 30, 2003

Case No.	Parties	Concerns	Status
I-11-90	HFFA and Benjamin J. Cayetano, et al.	Impasse	Arbitration award rendered; pending funding.
CE-01-508	UPW v. Cheryl Okuma-Sepe, et al.	Failure to select arbitrator	Pending decision.
CE-01-509	UPW v. Cheryl Okuma-Sepe, et al.	Failure to select arbitrator	Pending decision.
CE-01-511a CE-10-511b	UPW v. David Arakawa, et al.	Derogatory materials	Pending decision.
CE-01-515	UPW v. Glenn Okimoto, et al.	Refusal to bargain in good faith; breach of contract; interference with employee rights	Pending decision.
CE-03-518	HGEA v. Benjamin J. Cayetano, et al.	Refusal to pay mileage reimbursement to Cabral	Pending decision.
CU-12-210 CE-12-520	Richard Garcia Gonsales II v. SHOPO; Richard Garcia Gonsales II v. Jeremy Harris, et al.	DFR; refusal to reinstate	Pending decision.
OSAB 2004-34	DLIR v. Global Consultants & Coatings	Citation	Pending decision.
OSAB 2002-35	Craig Gomes v. Hawaiian Electric Co., et al	Discrimination	Pretrial motions
I-12-92	SHOPO and Linda Lingle, et al.	Impasse	In arbitration.
CU-03-214	Lewis W. Poe v. HGEA	DFR- Compensation for rest periods	Pending decision.
OSH 2003-2	Vernon Y. Yamada v. Four Seasons Resort, Hualalai, et al.	Discrimination	In trial.
DR-00-88	Hawaii County Civil Service Commission and Hawaii Civil Rights Commission	Jurisdiction over complaint of race discrimination	Pending decision.
I-07-93	UHPA	Impasse	Partial settlement; pending further negotiations.
I-01-94	UPW and Linda Lingle, et al.	Impasse	Contract extended to 06/30/04; either party can terminate extension no sooner than 1/1/04.
I-10-95	UPW and Linda Lingle, et al.	Impasse	Pending arbitration.



## Appendix B - Cases Pending June 30, 2003

Case No.	Parties	Concerns	Status
I-02-96	HGEA and Linda Lingle, et al.	Impasse	Contract extended to 06/30/04; either party can terminate extension no sooner than 1/1/04.
I-03-97	HGEA and Linda Lingle, et al.	Impasse	Contract extended to 06/30/04; either party can terminate extension no sooner than 1/1/04.
I-04-98	HGEA and Linda Lingle, et al.	Impasse	Contract extended to 06/30/04; either party can terminate extension no sooner than 1/1/04.
I-06-99	HGEA and Linda Lingle, et al.	Impasse	Contract extended to 06/30/04; either party can terminate extension no sooner than 1/1/04.
I-08-100	HGEA and Linda Lingle, et al.	Impasse	Contract extended to 06/30/04; either party can terminate extension no sooner than 1/1/04.
I-13-101	HGEA and Linda Lingle, et al.	Impasse	Contract extended to 06/30/04; either party can terminate extension no sooner than 1/1/04.
OSAB 2001-18 (Remand)	DLIR v. Maryl Pacific Constructors	Citation	Further findings to be made.
OSH 2003-3	DLIR v. Si-Nor, Inc.	Citation	Pretrial motions and discovery.
OSH 2003-4	Charles K. Ke-a v. Si-Nor, Inc.	Discrimination	Pretrial discovery.
I-05-102	HSTA and Linda Lingle, et al.	Impasse	Partial settlement through 06/30/05; reopener on cost issues.
CE-12-524	SHOPO v. Jeremy Harris, et al.	Refusal to bargain in good faith - subsidized vehicles	Pretrial motions.
CU-03-148	Lewis W. Poe	Request for damages	Pending.
CU-13-217	J. Tek Yoon v. HGEA and Parks and Recreation, City and County of Honolulu	DFR; suspension	Pretrial motions.
CE-13-526			
OSH 2003-5	DLIR v. Parks and Recreation, City and County of Honolulu	Citation	Pending discovery.

## Appendix B - Cases Pending June 30, 2003

Case No.	Parties	Concerns	Status
CE-11-528	HFFA v. Darryl Oliveira, County of Hawaii	Unilateral change in working conditions for EMTs and MICTs	Pending settlement.
CU-10-219 CE-10-529	Tui Isaia v. PSD and UPW	Compensation and DFR	Pending issuance of order.
CE-05-531	John Mussack v. Patricia Hamamoto and DOE	Termination	Pending issuance of order.
CE-01-532	UPW v. William Takaba, et al.	Contracting out of golf cart maintenance operations	Pending hearing on motions.
03-3(CE)	ILWU v. Del Monte Fresh Produce, Inc.	Refusal to provide information on downsizing	Hearings continuing.
CE-03-533a CE-04-533b CE-13-533c	HGEA v. DOE, Virginia Lowell, et al.	Unilateral change in work schedules	Pending hearing.
OSH 2003-6	DLIR and Hawaiian Dredging Construction Co.	Citation	Pending discovery.
CE-03-534a CE-13-534b	HGEA v. Linda Lingle, et al.	Delayed payment of wage increase	Pending prehearing conference.
CE-01-535 CU-01-221	David Rita v. Peter T. Young, et al.	Improper settlement of grievance; DFR	Pending hearing on motions.
CE-03-536	HGEA v. City and County Emergency Medical Services	Repudiation of settlement agreement	Pending notice of complaint.

## Appendix C - Court Cases in FY2003

Case No.	Parties	Concerns	Status
S. Ct. No. 21838 Civil No. 97-2960-12 Case Nos. CE-01-356a, et seq.	UPW, et al, v. HLRB, et al. and Benjamin J. Cayetano, et al.; Benjamin J. Cayetano, et al. v. Bert Tomasu, et al., and UPW, et al.	UPW and HGEA appealed Dec. No. 393 regarding the privatization of Hana Medical Center.	The First Circuit Court affirmed the Board's decision. The Hawaii Supreme Court affirmed the First Circuit Court in a memorandum opinion.
S. Ct. 23491 Civil No. 99-4200-1 Case No. CE-03-283	Lewis W. Poe v. HLRB and Benjamin J. Cayetano	Lewis W. Poe filed an appeal from Dec. No. 402 contesting Employer's untimely response to grievance. Board dismissed complaint because Complainant failed to exhaust contractual remedies and violation was de minimis.	The First Circuit Court affirmed the Board's decision. Lewis W. Poe filed an appeal with the Supreme Court. Briefing is completed and the matter has been taken under advisement.
S. Ct. No. 23535 Civil No. 99-4594-12 Case No. CE-03-300	Lewis W. Poe v. HLRB and Benjamin J. Cayetano	Lewis W. Poe filed an appeal from Order No. 1812 contesting Employer's denial of overtime. Board dismissed complaint for failure to exhaust contractual remedies.	The First Circuit Court affirmed Order No. 1812 and Lewis W. Poe appealed to the Supreme Court. Briefing is completed and the matter was taken under advisement.
S. Ct. No. 24073 Civil Nos. 00-01-1867- 06; 00-01-1868-06; 00- 01-2199-07; 00-01-2200- 07; 00-01-2349-07 Case Nos. CE-03-237; CE-03-445; CE-04-404; CE-03-416; CE-03-379	Lewis W. Poe v. HLRB and Benjamin J. Cayetano; et seq.	Lewis Poe filed appeals from Order Nos. 1866, 1864, 1885, 1883, 1882, respectively, where Board dismissed his complaints because he failed to exhaust his contractual remedies.	The First Circuit Court consolidated the appeals and affirmed the Board Orders. Lewis W. Poe appealed to the Supreme Court. Briefing is completed and the matter has been taken under advisement.
S. Ct. No. 24237 Civil No. 00-1-2134-07 Case Nos. DR-01-68a, DR-02-68b; CU-01- 137a, CU-02-137b	Benjamin J. Cayetano v. HGEA, et al., UPW and HLRB	HGEA filed an appeal from Order No. 1881 where Board dismissed petition and complaint as moot.	The First Circuit Court reversed the Board's Order. The UPW and the Board appealed the Court's order to the Supreme Court. Briefing is completed and the matter has been taken under advisement.

## Appendix C - Court Cases in FY2003

Case No.	Parties	Concerns	Status
S. Ct. No. 24313 Civil No. 00-1-3007-09 Case No. DR-03-67	Lewis W. Poe v. HLRB and HGEA	Lewis Poe filed an appeal from Order No. 1910 regarding inclusion of Alternative Work Schedules provision in the contract. The Board dismissed the petition for mootness.	The First Circuit Court affirmed Order No. 1910. The Supreme Court dismissed Lewis W. Poe's further appeal for lack of jurisdiction (8/1/02).
S. Ct. No. 24308 Civil No. 00-1-3200-10 Case Nos. CE-01-410a and CE-10-410b	UPW v. James H. Apana, Jr., et al. and HLRB, et al.	UPW appealed Order No. 1934 denying its motion to enforce regarding expungement of derogatory information.	The Circuit Court affirmed the Board's Order. The UPW appealed to the Supreme Court which issued a Summary Disposition Order affirming Circuit Court's Order Denying Appeal on 6/27/03.
S. Ct. No. 24415 Civil No. 00-1-3460-11 Case No. CE-10-267; consolidated with Civil No. 01-1-0161-01	UPW v. Benjamin J. Cayetano, et al. and HLRB, et al.	UPW appealed Order No. 1947 regarding its motion to enforce the Board's order regarding the Hawaii State Hospital pharmacy.	The First Circuit Court affirmed Order No. 1947 and UPW appealed to the Supreme Court. Briefing is completed and the matter has been taken under advisement.
Civil No. 01-1-0161-01 Case No. CE-10-267 consolidated with Civ. No. 00-1-3460-11	UPW v. Benjamin J. Cayetano, et al. and HLRB, et al.	UPW filed an appeal from the Board's Order No. 1979 denying attorney's fees in Case No. CE-10-267.	The First Circuit Court affirmed denial of attorney's fees.
S. Ct. 24519 S. P. No. 01-1-0250 SSM	HLRB v. Benjamin Cayetano, et al. and UPW	The Board filed a motion to enforce its orders in Case No. CE-10-267.	The First Circuit Court granted the Board's motion to enforce. The State appealed the Court's order to the Supreme Court.
S. Ct. 24476 Civil No. 00-1-3610-11 Case No. DR-03-81	Lewis W. Poe v. HLRB	Lewis W. Poe filed an appeal from Order No. 1913 interpreting the Board's rules to require a certificate of service on an application for subpoenas.	The First Circuit Court affirmed Order No. 1913 and dismissed appeal. The Intermediate Court of Appeals reversed Board Orders. The Board filed application for writ of certiorari with the Supreme Court which denied the Board's application (1/13/03).

## Appendix C - Court Cases in FY2003

Case No.	Parties	Concerns	Status
S. Ct. 24600 Civil No. 00-1-3725-12 Case No. CU-03-153	Lewis W. Poe v. HLRB and HGEA	Lewis W. Poe filed an appeal from Order No. 1951 dismissing as moot his complaint contending a memorandum of agreement was not properly ratified.	The First Circuit Court affirmed Order No. 1951 and Lewis W. Poe appealed to the Supreme Court. The Supreme Court issued a Summary Disposition Order affirming Order No. 1951 and Lewis W. Poe filed a motion for reconsideration which was denied by the Court (1/15/03).
Civil No. 01-1-1023-03 Case No. CE-11-459	HFFA v. Brian Nakamura, et al.	HFFA filed an appeal from Order No. 1990 dismissing its complaint alleging unilateral implementation of a cardio pulmonary stress test.	The First Circuit Court affirmed Order No. 1990 and dismissed appeal (8/20/02).
Civil No. 02-1-0519-02 Case No. DR-03-85	Lewis W. Poe v. HLRB	Lewis W. Poe filed an appeal from Order Nos. 2043 and 2054 denying the petition contending that the Board's List of Employee Organizations does not comply with HRS Section 89-17.	First Circuit Court affirmed Order Nos. 2043 and 2054, in part, and reversed in part, requiring the Board to include all memoranda of agreement on the list.
Civil No. 02-1-0059 Case No. DR-01-86	Maryanne Kusaka, et al. v. HLRB and UPW	Maryanne Kusaka and the Department of Water, County of Kauai filed an appeal from Order No. 2066.	Parties settled underlying dispute and stipulated to dismiss appeal.
S. Ct. 25442 Civil No. 02-1-0929-04 Case No. CE-01-465	UPW v. Jeremy Harris, et al. and HLRB, et al.	City and County of Honolulu appealed Decision No. 433 finding prohibited practice in transferring refuse workers.	First Circuit Court affirmed Dec. No. 435 and dismissed appeal. City and County appealed to the Supreme Court. Pending briefing.
Civil No. 02-1-0925-04 Case No. CU-03-186	Lewis W. Poe v. HLRB and HGEA	Lewis W. Poe filed an appeal from Order Nos. 2050 and 2069 dismissing the complaint alleging union wrongfully failed to respond to his request to inspect the collective bargaining agreement within a certain time frame.	First Circuit Court affirmed Board Order Nos. 2050 and 2069.

## Appendix C - Court Cases in FY2003

Case No.	Parties	Concerns	Status
Civil No. 02-1-1941-08 Case No. CU-03-188	Lewis W. Poe v. HLRB and HGEA	Lewis W. Poe filed an appeal from Dec. No. 435 and Order No. 2101 dismissing the complaint alleging union wrongfully failed to provide notices and bargaining proposals upon request.	First Circuit Court affirmed Dec. No. 435 and Order No. 2101.
Civil No. 02-1-2414-10 Case No. CU-03-183	Lewis W. Poe v. HLRB and HGEA	Lewis W. Poe filed an appeal from Dec. 437 dismissing his complaint alleging union wrongfully refused to provide him access to three memoranda of agreement scheduled for ratification vote.	Court reversed Dec. No. 437.
Civil No. 03-1-0299-02 Case No. CE-03-208	Lewis W. Poe v. HLRB and HGEA	Lewis W. Poe filed an appeal from Order No. 2144 granting summary judgment in favor of HGEA. Complainant contested the union's failure to include an execution date in the collective bargaining agreement and publication of invalid provision.	Briefing completed; pending oral argument.
Civil No. 03-1-0546-03 Case No. CE-01-500 consolidated with Civ. No. 03-1-0552-03	UPW v. Frank Doyle, et al. and HLRB, et al.	UPW filed appeal from Dec. No. 440 dismissing prohibited practice complaint alleging repudiation of agreement to expand refuse services.	Pending briefing.
Civil No. 03-1-0552-03 Case No. CE-01-500 consolidated with Civil No. 03-1-0546-03.	UPW v. Frank Doyle, et al. and HLRB, et al.	Frank Doyle, et al. filed appeal from Dec. No. 440.	Pending briefing.