

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. CE-03-414
)	
LESLIE S. WACHI,)	ORDER NO. 1691
)	
Complainant,)	ORDER GRANTING, IN PART,
)	AND DENYING, IN PART,
and)	RESPONDENT'S MOTION TO DIS-
)	MISS COMPLAINT; NOTICE OF
JEFFREY BEARMAN, District)	HEARING
Manager, Division of Boating and)	
Ocean Recreation, Department of)	
Land and Natural Resources,)	
State of Hawaii,)	
)	
Respondent.)	

ORDER GRANTING, IN PART, AND DENYING, IN PART,
RESPONDENT'S MOTION TO DISMISS COMPLAINT; NOTICE OF HEARING

On November 30, 1998, the Hawaii Labor Relations Board (Board) conducted a hearing, by conference call, on Respondent's Motion to Dismiss filed with the Board on October 27, 1998. Both parties had full opportunity to present arguments to the Board. Based upon a review of the record and considering the arguments presented, the Board hereby grants Respondent's motion to dismiss, in part, and denies the motion, in part.

In its motion, Respondent contends that the instant complaint should be dismissed because the central allegations of this complaint involve alleged disciplinary actions taken against Complainant LESLIE S. WACHI (WACHI) which should have been pursued through the grievance procedure. Respondent contends that since WACHI failed to process any grievance concerning the allegations in the instant complaint, the complaint should be dismissed.

In his response to the Board, WACHI contends that there is a pending grievance regarding the relocation of WACHI's office, as well as charges of alleged harassment and threats of termination being pursued through the contractual grievance procedure. Accordingly, the Board will defer the resolution of the contractual disputes to the contractual grievance process and hereby dismisses the complaint insofar as it raises allegations of the office relocation and other matters considered during the grievance process.

However, WACHI also alleges that Respondent procured a petition for his removal in retaliation against him for exercising his rights under Chapter 89, Hawaii Revised Statutes (HRS). As this matter involves the violation of Chapter 89, HRS, and is properly within the Board's jurisdiction, the Board will conduct a hearing on this limited issue.

YOU ARE HEREBY NOTIFIED that the Board will conduct a hearing, pursuant to §§ 89-5(b)(4) and 89-14, HRS, and Administrative Rules §§ 12-42-49 and 12-42-8(g) on February 11, 1999 at 9:30 a.m. in the Liquor Control Office, Hilo Lagoon Center, Department of Liquor Control, 101 Aupuni Street, Suite 230, Hilo, Hawaii. The purpose of the hearing is to receive evidence and arguments on the limited issue of whether Respondent procured a petition for Complainant's removal in retaliation for the exercise of his rights under Chapter 89, HRS, as alleged by Complainant.

The parties shall submit to the Board four copies of all exhibits identified and offered into the record. Additional copies for opposing counsel shall also be provided.

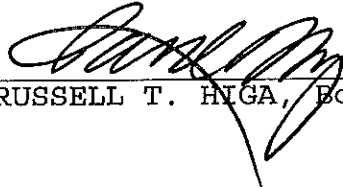
Auxiliary aids and services are available upon request, call Mrs. Kato at 586-8610, (808) 586-8847 (TTY), or 1-888-569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodation.

DATED: Honolulu, Hawaii, January 15, 1999.

HAWAII LABOR RELATIONS BOARD



BERT M. TOMASU, Chairperson



RUSSELL T. HIGA, Board Member

Copies sent to:

Leslie S. Wachi
Kris N. Nakagawa, Deputy Attorney General
Joyce Najita, IRC