

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO,

Complainant,

and

LINDA LINGLE, Governor, State of Hawaii;
MARIE LADERTA, Director, Department of
Human Resources Development, State of
Hawaii; MUFU HANNEMANN, Mayor, City
and County of Honolulu; CHARMAINE
TAVARES, Mayor, County of Maui;
BERNARD P. CARVALHO, Jr., Mayor,
County of Kauai; WILLIAM KENOI, Mayor,
County of Hawaii; THOMAS KELLER,
Administrative Director, The Judiciary, State of
Hawaii; and THOMAS M. DRISKILL, Jr.,
President and Chief Executive Officer, Hawaii
Health Systems Corporation,

Respondents.

CASE NOS.: CE-01-717a
CE-10-717b

ORDER NO. 2666

ORDER DENYING RESPONDENTS'
MOTION TO CONTINUE HEARING
DATE FROM DECEMBER 2, 2009 TO
DECEMBER 9, 2009 OR AT ANYTIME
THEREAFTER, FILED ON
NOVEMBER 16, 2009

ORDER DENYING RESPONDENTS' MOTION TO CONTINUE
HEARING DATE FROM DECEMBER 2, 2009 TO DECEMBER 9, 2009
OR AT ANYTIME THEREAFTER, FILED ON NOVEMBER 16, 2009

On November 16, 2009, Respondents LINDA LINGLE, Governor, State of Hawaii; MARIE LADERTA, Director, Department of Human Resources Development, State of Hawaii; and THOMAS R. KELLER, Administrative Director of the Courts, The Judiciary, State of Hawaii; and THOMAS M. DRISKILL, Jr., President and Chief Executive Officer, Hawaii Health Systems Corporation (collectively State Respondents), by and through their counsel, filed a motion to continue the hearing in this case presently scheduled on December 2, 2009 at 8:30 a.m. with the Hawaii Labor Relations Board (Board). State Respondents' counsel states, *inter alia*, in her Declaration, dated November 16, 2009, in support of the motion, that the Board identified several issues for consideration in its Order No. 2661, Findings of Fact, Conclusions of Law, and Order Granting County Respondents' Motions to Dismiss and/or for Summary Judgment or Partial Summary Judgment; Denying UPW's Motion for Interlocutory Relief Against State of Hawaii and for Summary Judgment Against All Respondents; and Denying State Respondents' Motion to Dismiss or in the

Alternative Motion for Summary Judgment; and Notice of Hearing; that Georgina Kawamura (Kawamura), Director of Finance for the State of Hawaii would answer those issues; that Ms. Kawamura will be out of town on December 2, 2009 and would return the following week on December 7 or 8, 2009; she requested a continuance due to the unavailability of the State's primary witness; opposing counsel objected to her request because there are witnesses other than Ms. Kawamura; that she believes most of the issues the Board is concerned about will be answered by Ms. Kawamura and starting the hearing by calling witnesses who may be able to address only collateral matters is counterproductive; and that a continuance of one week will not prejudice Complainant.

On November 23, 2009, Complainant UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW or Union) filed a Memorandum in Opposition to Motion to Continue Filed on November 16, 2009 and an Application for Issuance of Subpoena Duces Tecum for James Williams (Williams) with the Board. Complainant opposed the motion to reschedule the hearing contending that a continuance would prejudice the right of the Union to call Mr. Williams, the chief executive of the Employer-Union Health Benefits Trust Fund who is retiring soon and may not be available to testify after December 2, 2009 and that the Union, as Complainant, has the right to start first in the presentation of witnesses. Complainant's counsel also states in an Affidavit, dated November 21, 2009, that he has a conflict in his schedule due to an arbitration scheduled from December 7 through December 16, 2009 where another opposing counsel declined to change the dates, and the UPW is not opposed to continuing the hearing dates so long as Union is not prejudiced by the unavailability of Mr. Williams and the right of the Complainant to call witnesses before the Respondents present their witnesses.

After reviewing the record and the arguments submitted, the Board agrees with Complainant that it has the burden of going forward with its case in the manner it determines and that it may be prejudiced by the rescheduling of the hearing in this matter. Accordingly, the Board hereby denies the instant motion to continue the hearing date in this matter.

DATED: Honolulu, Hawaii, November 25, 2009.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SARAH R. HIRAKAMI, Member

Copies sent to:
Herbert R. Takahashi, Esq.
Maria Cook, Deputy Attorney General