

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of

CHAD VINCENT MEDEIROS,

Complainant,

and

ROBERT F. WESTERMAN, Fire Chief, Fire Department, County of Kauai; DALE SHIMOMURA, Business Agent, Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO and HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO,

Respondents.

CASE NOS.: CE-03-812  
CU-03-319

ORDER NO. 2867

ORDER GRANTING RESPONDENT DALE SHIMOMURA AND HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO's MOTION FOR PARTICULARIZATION OF COMPLAINT, FILED ON NOVEMBER 26, 2012 AND COUNTY OF KAUAI RESPONDENT'S MOTION FOR PARTICULARIZATION OF THE COMPLAINT, FILED ON NOVEMBER 28, 2012

ORDER GRANTING RESPONDENT DALE SHIMOMURA AND  
HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152,  
AFL-CIO's MOTION FOR PARTICULARIZATION OF COMPLAINT, FILED ON  
NOVEMBER 26, 2012 AND COUNTY OF KAUAI RESPONDENT'S MOTION FOR  
PARTICULARIZATION OF THE COMPLAINT, FILED ON NOVEMBER 28, 2012

On November 19, 2012, Complainant CHAD VINCENT MEDEIROS (Complainant or Medeiros), *pro se*, filed a Prohibited Practice Complaint (Complaint) with the Hawaii Labor Relations Board (Board) against the above-named Respondents.

On November 26, 2012, Respondents DALE SHIMOMURA, Business Agent, Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO and HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (collectively HGEA), by and through their counsel, filed a Motion for Particularization of Complaint with the Board. HGEA alleges, *inter alia*, that the Complaint alleged that Complainant has "evidence of bad Faith Towards my union Representative Dale Shimomura and my Employer/Boss Chief Robert F. Westerman of Total Miss Representation and Breach of Contract" and Medeiros referred to a meeting on October 17, 2012 where disturbing comments were made. HGEA contends that the allegations in the Complaint are so vague and indefinite that Respondents cannot reasonably be required to frame an answer thereto and that Complainant failed to allege facts indicating which subsections of Hawaii Revised Statutes (HRS) § 89-13 HGEA allegedly violated and how HGEA those subsections. HGEA requested that Complainant

be ordered to describe with specificity when and how HGEA acted in bad faith, when and how they engaged in misrepresentation, and when and how they committed a breach of contract and a prohibited practice. HGEA also argued that if Complainant's allegations against all of the Respondents, including Respondent Westerman are different, Complainant should be ordered to specify which allegations pertain to HGEA but not Westerman and which allegations pertain to Westerman.

On November 28, 2012, ROBERT F. WESTERMAN, Fire Chief, Fire Department, County of Kauai (Westerman or Kauai County), by and through his counsel, filed a Motion for Particularization of the Complaint with the Board. Westerman alleges that the Complaint fails to allege how Kauai County has or engaged in a prohibited practice and fails to specify in detail any particular alleged violation, including any subsection of HRS § 89-13, alleged to have been violated. Further, the Complaint fails to provide a complete statement of facts supporting the Complaint, including specific facts as to names, dates, times and places involved in the alleged improper acts. As such, Kauai County is unable to sufficiently answer the Complaint.

Pursuant to Hawaii Administrative Rules (HAR) § 12-42-42(b), a prohibited practice complaint shall be prepared on a form furnished by the Board. The Board's form requires a complainant to specify in detail the particular alleged violation, including the subsection or subsections of HRS § 89-13 alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper. HAR § 12-42-45(b) provides that if the charge is believed by a respondent to be so vague and indefinite that the respondent cannot reasonably be required to frame an answer thereto, such respondent may, within five days after service of the complaint, file with the Board a motion for particularization of the complaint, requesting that the complainant file a statement supplying specific information.

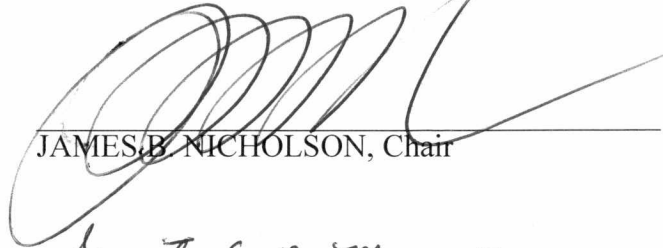
After reviewing the Complaint filed in this case, the Board agrees with Respondents HGEA and Kauai County that the Complaint fails to specifically allege how each Respondent violated HRS § 89-13 and fails to provide a complete statement of facts supporting the Complaint. Accordingly, the Board hereby orders Complainant to file with the Board a particularized statement of his Complaint, identifying the specific actions which the HGEA and Kauai County took which violated the specific subsection(s) of HRS § 89-13. The Particularization shall include a complete statement of the facts supporting the Complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.

The original plus five copies of the Particularization, with certificate of service on all parties, must be filed with the Board within five days after service of this Order. If Complainant fails to timely file and serve the Particularization, the Board shall dismiss the Complaint.

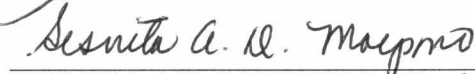
Within five days after service of the Particularization, Respondents shall file with the Board the original plus five copies of their answer, with certificate of service on all parties. Failure of Respondents to timely file and serve an answer may constitute an admission of the material facts alleged in the Complaint, and a waiver of a hearing.

DATED: Honolulu, Hawaii, November 30, 2012.

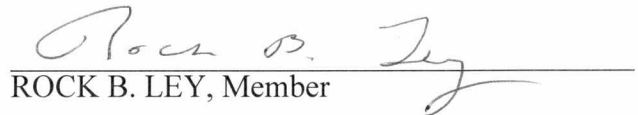
HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SESNITA A.D. MOEPONO, Member



ROCK B. LEY, Member

Copies sent to:

Chad Vincent Medeiros  
Debra A. Kagawa, Esq.  
Mauna Kea Trask, Deputy County Attorney