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Transaction ID 58611949
Case No. CE-07-874

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY; KEVIN
BENNETT, Associate Professor of Biology,
Department of Biology, University of
Hawaii; and KATHLEEN COLE, Associate
Professor of Biology, Department of
Biology, University of Hawaii,

Complainants,

and

KRISTIN KUMASHIRO, Interim Dean of
Natural Sciences, University of Hawaii; and
BOARD OF REGENTS, UNIVERSITY OF
HAWAII,

Respondents.

CASE NO. CE-07-874

ORDER NO. 3150

ORDER GRANTING LEAVE TO FILE
SUPPLEMENTAL BRIEFS

ORDER GRANTING LEAVE TO FILE SUPPLEMENTAL BRIEFS

On January 15, 2016, Respondents KRISTIN KUMASHIRO and BOARD OF REGENTS OF THE UNIVERSITY OF HAWAII's (Respondents) filed with the Hawaii Labor Relations Board (Board) a Motion to Dismiss Prohibited Practice Complaint and/or for Summary Judgment filed on January 15, 2016, with attached Memorandum in Support of Motion to Dismiss Prohibited Practice Complaint and/or for Summary Judgment,

Declaration of Kristin Kumashiro with attached Exhibit A, Declaration of Mary Hoffman with attached Exhibits B through H, Declaration of Brian Taylor with attached Exhibit I and Declaration of Sarah J. Hirakami with attached Exhibit J through R, portions of which were corrected by University Respondents' Errata to Motion to Dismiss Prohibited Practice Complaint and/or for Summary Judgment with attached corrected Exhibit J filed on January 19, 2016 (collectively, the University Motion). At the joint request of Complainants UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY, KEVIN BENNETT AND KATHLEEN COLE (Complainants), a briefing schedule for, and a continued hearing date on the University Motion was adopted by the Board pursuant to the Notice of Further Revised Scheduled filed on January 19, 2016 (Notice). Pursuant to the Notice, on January 25, 2016, Complainant UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY filed its Memorandum in Opposition to University Respondents' Motion to Dismiss Prohibited Practice Complaint and/or for Summary Judgment Filed on January 15, 2016 with the attached Declaration of Kevin Bennett, Declaration of Kathleen Cole and Declaration of James Kardash, as corrected by University of Hawaii Professional Assembly's Errata to Declaration of Kevin Bennett, Kathleen Cole and James Kardash filed on January 29, 2016 (collectively, UHPA Opposition). Subsequently, Complainant UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY filed (1) on January 29, 2016 its Supplemental Citations to Propositions in its Memorandum of Opposition to University Respondents' Motion to Dismiss Prohibited Practice Complaint and/or for Summary Judgment and (2) on February 1, 2016, a second Declaration of Mary Hoffman with

attached Exhibit S. On February 1, 2016, Respondents filed their Reply Memorandum to UHPA's Memorandum in Opposition to University Respondents' Motion to Dismiss Prohibited Practice Complaint and/or for Summary Judgment with the attached Supplemental Declaration of Kristin Kumashiro and Mary Hoffman with attached Exhibits S and T. On February 4, 2016, a hearing was held on the University Motion. The hearing was closed and the Board took the matter under advisement.

On February 19, 2016, Complainant's counsel requested (by e-mail addressed to the Board's Executive Officer) that the parties be allowed to submit to the Board supplemental briefs because (1) "this is a matter of first impression, with large consequences", (2) "some of the germane arguments and doctrines were explored in off-record discussion, and therefore do not appear of record," and (3) "some of the questions on the record developed areas worth further exploration." Complainants cite to Hawaii Administrative Rules (HAR) Rule 12-42-8(g)(17)(C) for their proposition that supplemental briefing should be allowed. Respondents' counsel advised the Board (by e-mail addressed to the Board's Executive Officer) that "I will defer to the Board members as to whether they believe further briefing is warranted or helpful to their consideration of the case."

Upon reviewing both counsels' e-mails, and reviewing HAR Rule 12-42-8(g)(17)(C),

IT IS HEREBY ORDERED THAT the Board will allow supplemental briefs to be filed in accordance with the following:

1. Complainants shall file their supplemental brief (which should be succinct and without repetition of prior legal and factual arguments) by close of business (4:30 p.m.) on February 29, 2016.
2. Respondents may file a responsive supplemental brief (which should be succinct and without repeating prior legal and factual arguments) by close of business (4:30 p.m.) on March 7, 2016.
3. No further submissions will be allowed without the specific order of the Board.

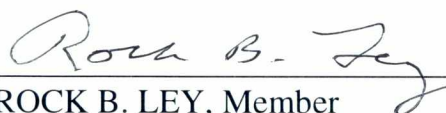
DATED: Honolulu, Hawaii, February 22, 2016.

HAWAII LABOR RELATIONS BOARD




KERRY M. KOMATSUBARA, Chair


SESNITA A.D. MOEPONO, Member


ROCK B. LEY, Member

Copies to: Sarah Hirakami, Associate General Counsel & T. Anthony Gill, Esq.