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**Transaction ID 61633127**  
**Case No. 17-CU-10-357, 17-CE-10-906**

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

JONATHAN TAUM,

Complainant,

and

UNITED PUBLIC WORKERS, AFSCME,  
LOCAL 646, AFL-CIO; and DEPARTMENT  
OF PUBLIC SAFETY, State of Hawaii,

Respondents.

CASE NOS.: 17-CU-10-357

17-CE-10-906

ORDER NO. 3319

ORDER GRANTING COMPLAINANT'S  
MOTION TO ISSUE SUPOENA DUCES  
TECUM AND TAKE DEPOSITIONS ON  
WRITTEN INTERROGATORIES, AND  
GRANTING IN PART AND DENYING IN  
PART COMPLAINANT JONATHAN  
TAUM'S MOTION FOR LEAVE TO TAKE  
DEPOSITIONS UPON ORAL  
EXAMINATION

ORDER GRANTING COMPLAINANT'S MOTION TO ISSUE SUPOENA DUCES  
TECUM AND TAKE DEPOSITIONS ON WRITTEN INTERROGATORIES,  
AND GRANTING IN PART AND DENYING IN PART COMPLAINANT JONATHAN  
TAUM'S MOTION FOR LEAVE TO TAKE DEPOSITIONS UPON ORAL EXAMINATION

On January 16, 2018, the UNITED PUBLIC WORKERS, AFSCME, LOCAL 646, AFL-CIO (UPW, Union) filed Union Respondent's Motion for Summary Judgment and accompanying memorandum, declaration, and exhibits (collectively Motion for Summary Judgment); and on January 17, 2018, filed an erratum to the Motion for Summary Judgment to make minor corrections with the Hawaii Labor Relations Board (Board).

On January 23, 2018, JONATHAN TAUM, Complainant (Complainant) filed Complainant's Memorandum in Opposition to Union Respondent's Motion for Summary Judgment Filed on January 16, 2018, and accompanying declarations (collectively Opposition). In his declaration attached to the Opposition, Complainant's counsel made the following request:

3. Pursuant to Rule 56(f), HRCivP, the Complainant seeks further discovery on the issue of whether the Employer: (a) Had finished its investigation at the time of the Complainant's termination; (b) whether the State wrongfully relied on evidence collected post-termination in support of the Complainant's termination; and (c) what specific evidence the Complainant [sic] relied on as it related to the Complainant.

4. Pursuant to Rule 56(f), HRCivP, the Complainant seeks further discovery on the issue of whether the Union: (a) the recommendation to Mr. Nakanelua from Ms. Kamakeeaina to file the demand for arbitration on the Complainant's behalf;

(b) Mr. Nakanelua's prejudice and bias against the Complainant; (c) Discussions between Mr. Nakanelua and Ms. Companiano that led to the decision to abandon the Complainant's arbitration; and (d) What evidence did Ms. Companiano have that led her to persuade the Complainant to resign or abandon the Complainant's arbitration.

On January 26, 2018, the Board issued Order No. 3318. The Board's order continued the UPW's Motion for Summary Judgment and permitted the discovery requested in the declaration of Complainant's counsel attached to Complainant's Opposition, stating in part:

The scope of Complainant's discovery shall be limited to those issues articulated in paragraphs 3 and 4 of the Declaration of Ted H.S. Hong attached to Complainant's Opposition to the UPW's Motion for Summary Judgment.

Hawaii Administrative Rules (HAR) § 12-42-8(g)(6)(A) states:

(6) Discovery, depositions, and interrogatories:

(A) Upon written application and for good cause shown, the board may permit the parties to take deposition upon oral examination or written interrogatories in the manner prescribed under the Hawaii Rules of Civil Procedure.

On January 29, 2018, the Complainant filed Complaint's Motion to Issue Subpoena Duces Tecum and Take Depositions on Written Interrogatories.

On January 30, 2018, the Complainant filed Complainant Jonathan Taum's Motion for Leave to take Depositions Upon Oral Examination.

The Board deems the foregoing Motions as written applications under HAR § 12-42-8(g)(6)(A) and orders as follows.

#### ORDER

- A. The Board GRANTS Complaint's Motion to Issue Subpoena Duces Tecum and Take Depositions on Written Interrogatories filed on January 29, 2018, for good cause shown.
- B. The Board GRANTS in part and DENIES in part, Complainant Jonathan Taum's Motion for Leave to take Depositions Upon Oral Examination, filed on January 30, 2018.
  1. The Board grants the Motion for Leave to Take Depositions Upon Oral Examination for the following witnesses:
    - a. Alton Nosaka (Nosaka)

- b. Daniel K. Paleka, Jr. (Paleka, Jr.)
- c. Anthony "Ricky" Ho (Ho)
- d. Wendy Campaniano.

The scope of the depositions of Nosaka; Paleka, Jr., and Ho shall be limited to the allegation of Mr. Nakanelua's prejudice or bias against Complainant.

- 2. The Board denies the Motion for Leave to Take Depositions Upon Oral Examination, as such request goes beyond the scope of Board Order No. 3318, for the following witnesses:
  - a. Lt. Randy Waltjen
  - b. Sgt. Stafford Uemura
  - c. Marte Martinez
  - d. Jason Tagloa

DATED: Honolulu, Hawaii, \_\_\_\_\_, 2018.  
HAWAII LABOR RELATIONS BOARD



MARCUS R. OSHIRO, Chair



SESNITA A.D. MOEPONO, Member



J N. MUSTO, Member

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Case Nos. 17-CU-10-357, 17-CE-10-906 – Taum v. UPW and PSD – Order Granting Complainant's Motion to Issue Subpoena Duces Tecum and Take Depositions on Written Interrogatories, and Granting in Part and Denying in Part Complainant Jonathan Taum's Motion for Leave to Take Depositions Upon Oral Examinations.

Order No. 3319