



**EFiled: Jan 18 2019 02:04PM HAST  
Transaction ID 62881125  
Case No. 18-CU-10-367**

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

CURT TOKUNAGA,

Complainant,

and

UNITED PUBLIC WORKERS;  
DAYTON NAKANELUA, State Director,  
UPW; MELANIE SAITO, Maui Division  
Director, UPW; JULIE MIYAGAWA,  
Business Agent, UPW,

Respondents.

CASE NO. 18-CU-10-367

ORDER GRANTING RESPONDENT  
UNITED PUBLIC WORKERS'  
MOTION FOR PARTICULARIZATION  
OF THE COMPLAINT

ORDER NO. 3444

**ORDER GRANTING RESPONDENT UNITED PUBLIC  
WORKERS' MOTION FOR PARTICULARIZATION OF THE COMPLAINT**

On October 18, 2018, Complainant CURT TOKUNAGA, self-represented litigant (SRL) (Complainant or Mr. Tokunaga), filed a prohibited practice complaint (Complaint) with the Hawai'i Labor Relations Board (Board) against Respondents UNITED PUBLIC WORKERS (UPW); DAYTON NAKANELUA, State Director, UPW (Mr. Nakanelua); MELANIE SAITO, Maui Division Director, UPW (Ms. Saito); and JULIE MIYAGAWA, Business Agent, UPW (Ms. Miyagawa) (collectively, Respondents).

On January 10, 2019, Respondents filed RESPONDENT UNITED PUBLIC WORKERS' MOTION FOR PARTICULARIZATION OF THE COMPLAINT (Motion for Particularization) with the Board. Respondents argue, among other things, that the complaint filed by the Complainant is vague because the facts in the complaint are not enough to support any particular allegation, violation of Hawai'i Revised Statutes (HRS) Chapter 89, or any other applicable statute.

In its Motion for Particularization, UPW states that they believe that Mr. Tokunaga's allegations are based on three breaches of the duty of fair representation as follows:

1. That UPW breached its fiduciary duty by failing to pursue hazard and shortage pay;
2. That UPW failed to timely pursue fire and safety grievances against Mr. Tokunaga's employer, the Department of Public Safety, State of Hawai'i; and
3. That UPW failed to discuss grievance proceedings with Mr. Tokunaga.

UPW's Motion for Particularization asks the Board to order Mr. Tokunaga to provide specific information regarding the following:

1. To verify whether or not the Union has correctly identified the allegations in the Complaint to entail three counts of a breach of duty of fair representation as listed above.
2. If the Union has not correctly identified the three counts of [a] breach of the duty of fair representation as the basis of the complaint, what other basis or cause of action is alleged.
3. To identify the particular "timelines" to which Complainant refers in the Complaint that the Union has not followed up on.
4. To identify the specific circumstances whereby Complainant alleges that "shortage pay [was] taken away." [and]
5. [To] [c]larify the meaning of the particular phrase, "still short raises equal to somewhat was taken away."

After reviewing the Complaint and considering the arguments raised, the Board agrees that the Complaint is vague and confusing because the Complaint does not specifically identify what allegations are being brought and because the Complaint does not specify the particular facts or timelines for each alleged violation. The Complaint is further unclear as to how the list of dates and attachments refers to any specific allegation. The Board therefore directs Mr. Tokunaga to file a particularization with the Board that specifies:

- 1) Whether the Complaint is alleging the three breaches of the duty of fair representation identified by UPW;
- 2) Citation to the specific statutory provisions of the Hawai'i Revised Statutes (HRS), Chapter 89 allegedly violated by Respondents;
- 3) The specific dates when the referenced sections of HRS Chapter 89 were allegedly violated by the Respondents;

- 4) The specific circumstances where “shortage pay [was] taken away” if it pertains to any alleged violation; and
- 5) The meaning of the phrase “still short raises equal to somewhat was taken away.”

This particularization must be filed with the Board on or by January 28, 2019 at 4:30 p.m.

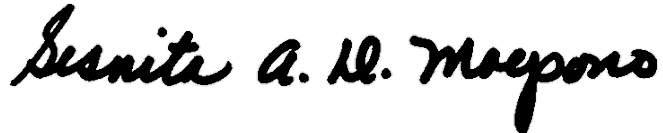
DATED: Honolulu, Hawai‘i, January 18, 2019.

HAWAI‘I LABOR RELATIONS BOARD



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MARCUS R. OSHIRO, Chair



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SESNITA A.D. MOEPONO, Member



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J N. MUSTO, Member



Copies sent to:  
Curt Tokunaga, SRL  
Lowell K.Y. Chun-Hoon, Esq.