

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

HAWAII GOVERNMENT EMPLOYEES
ASSOCIATION, AFSCME, LOCAL 152,
AFL-CIO,

Complainant,

and

SUZANNE CASE, Chair/Director,
Department of Land and Natural Resources,
State of Hawai'i; LINO MAKAKAU,
Hawai'i Island Branch Chief, Division of
Conservation and Resources Enforcement,
Department of Land and Natural Resources,
State of Hawai'i,

Respondents.

CASE NO(S). 19-CE-14-924

ORDER NO. 3657

ORDER GRANTING
COMPLAINANT'S MOTION TO
AMEND AND COMPLAINANT'S
MOTION TO RESET HEARING ON
THE MERITS; NOTICE OF PRETRIAL
CONFERENCE AND HEARING ON
THE MERITS

ORDER GRANTING COMPLAINANT'S MOTION TO AMEND AND
COMPLAINANT'S MOTION TO RESET HEARING ON THE MERITS

On February 13, 2019, Complainant HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) filed a prohibited practice complaint (Complaint) with the Hawai'i Labor Relations Board (Board) against Respondents SUZANNE CASE, Chair/Director, Department of Land and Natural Resources, State of Hawai'i; LINO MAKAKAU, Hawai'i Island Branch Chief, Division of Conservation and Resources Enforcement, Department of Land and Natural Resources, State of Hawai'i (collectively, Respondents).

The Board issued Order No. 3462, Pretrial Order and Notices, which, among other things, set forth certain a Pretrial Conference date and hearing on the merit (HOM) dates and deadlines. The Board amended Order No. 3462 on October 10, 2019, November 20, 2019, January 3, 2020,

January 24, 2020, March 2, 2020, March 19, 2020, and on June 24, 2020 with new dates and deadlines. The June 24, 2020 set a Pretrial Conference for July 28, 2020 and HOM for August 4-6, 2020.

On July 24, 2020, HGEA filed a Motion to Amend the Complaint to correct the name of one of the Respondents, namely “Lino Makakau” whose name should have been written as “Lino **Kamakau**.” In the Motion to Amend, among other things, HGEA represents that Respondents’ counsel has no objection to the amendment.

On September 15, 2020, HGEA filed a Motion to Reset the Hearing on the Merits (Motion to Reset) based on the parties’ failure to settle this case. Respondents’ counsel filed a Statement of No Opposition on September 21, 2020.

Based on the above, the Board:

1. GRANTS the Motion to Amend;
2. Orders HGEA to file the amended prohibited practice complaint by 4:30 pm on September 28, 2020; and
3. GRANTS HGEA’s Motion to Reset.

Accordingly, the Board issues the below notices.

NOTICE OF PRETRIAL CONFERENCE

PURSUANT TO HAWAI‘I REVISED STATUTES (HRS) §§ 89-5(i)(4) and (i)(5), and 377-9:

NOTICE IS GIVEN that the Board will conduct a Pretrial Conference on the date listed below and in the Schedule in this document.

DATE AND TIME: Monday, October 12, 2020 at 9:00 a.m.

LOCATION: Remote Zoom Meeting

All parties have the right to be represented by counsel or any other authorized person. All parties are required to either appear or have their representative, counsel, or authorized person appear at the Prehearing Conference **videographically via Zoom**. The Board will provide the relevant call in information to all parties.

Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai‘i Labor Relations

Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

1) Updated Pretrial Statements, Exhibit, and Witness Lists

Both the Complainant(s) and the Respondent(s) must file an updated Pretrial Statement on or by **October 5, 2020 at 4:30 pm**. The updated Pretrial Statement must include a Statement of Issues in the Pretrial Statement. The issues must be framed in a way that substantially conforms with the following:

Whether Respondents committed a prohibited practice under HRS § 89-13() () by (way in which Respondents alleged committed prohibited practice).

The parties are not required to file witness lists or exhibit lists and their corresponding exhibits with the updated pretrial statement. The parties may file witness lists or exhibit lists *only if* the lists are being updated from the previously submitted witness and exhibit lists. If a party files updated witness or exhibit lists, the lists must conform to the requirements set forth in Order No. 3462, as amended.

If a party submits an updated version of the witness and/or or exhibit lists, the Board further requires that any previously submitted exhibit and witness lists, including, but not limited to the submission of any proposed exhibits, be withdrawn prior to the submission of the updated exhibit list, or witness list.

2) Pretrial Conference

At the pretrial conference, the Parties shall be prepared to discuss, raise, and present their position regarding the presentation of the anticipated evidence (witnesses, exhibits) to be introduced at the Hearing on the Merits (HOM), including but not limited to any stipulations, evidentiary issues, objections, or confidentiality issues that require protection from public disclosure and the narrow tailoring of methods to protect that information (e.g. sealing or redaction).

NOTICE OF HEARING ON THE MERITS

NOTICE IS GIVEN, pursuant to HRS §§ 377-9, 89-5(i)(3), (4), (5), and 89-14, and Hawai'i Administrative Rules (HAR) §§ 12-42-46 and 12-42-49 that the Board will conduct an HOM on the instant Complaint at the place, time, and date listed. The purpose of the HOM is to receive evidence and arguments on whether Respondent(s) committed prohibited practices as alleged by Complainant(s).

DATE AND TIME: Monday, October 19, 2020 at 9:00 a.m.
Tuesday, October 20, 2020 at 1:00 p.m.
Wednesday, October 21, 2020 at 9:00 a.m.

LOCATION: Remote Zoom Meeting

All parties have the right to appear at the Hearing on the Merits and to be represented by counsel or any other authorized person. **All parties, representatives, and witnesses must appear videographically at the hearing on the merits.**

Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

DATED: Honolulu, Hawai'i, _____ September 22, 2020 .

HAWAI'I LABOR RELATIONS BOARD



Markus R. Oshiro

MARKUS R. OSHIRO, Chair

Sesnita A. D. Moepono

SESNITA A.D. MOEPONO, Member

J.N. Musto

J.N. MUSTO, Member

Copies sent to:

Stacy Moniz, HGEA
James Halvorson, Deputy Attorney General