

STATE OF HAWAI'I

HAWAI'I LABOR RELATIONS BOARD

In the Matter of

KENDERSON CASPILLO,

Complainant,

and

DEPARTMENT OF TRANSPORTATION,
State of Hawai'i; and UNITED PUBLIC
WORKERS, AFSCME, LOCAL 646, AFL-
CIO,

Respondents.

CASE NO(S). 17-CE-01-899
17-CU-01-355

ORDER NO. 3562

AMENDED PRETRIAL ORDER AND
NOTICES;

- (1) NOTICE OF FILING
REQUIREMENTS;
- (2) NOTICE OF APPEARANCE AND
ACCESSIBILITY OR
ACCOMMODATIONS;
- (3) NOTICE OF PRETRIAL
CONFERENCE;
- (4) NOTICE OF HEARING ON THE
MERITS; AND
- (5) SCHEDULE OF HEARINGS,
CONFERENCES, AND
DEADLINES

AMENDED PRETRIAL ORDER AND NOTICES;

- (1) NOTICE OF FILING REQUIREMENTS;
- (2) NOTICE OF APPEARANCE AND ACCESSIBILITY OR
ACCOMMODATIONS; (3) NOTICE OF PRETRIAL CONFERENCE;
- (4) NOTICE OF HEARING ON THE MERITS; AND
- (5) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES

On August 29, 2019, the Hawai'i Labor Relations Board (Board) held a hearing on Complainant Kenderson Caspillo's Motion to Continue Hearing on the Merits (Motion to Continue), filed by Complainant KENDERSON CASPILLO (Complainant or Caspillo) on August 20, 2019.

At the August 29, 2019 hearing, the Board granted Complainant's Motion to Continue and set forth certain dates and deadlines and stated that the Board would issue those dates and deadlines in a written order upon confirmation of locations for the hearings.

Accordingly, the Board issues the following pretrial order, which supplements the information in the Notice to Respondents of Prohibited Practice Complaint previously issued in this case on August 1, 2017, and includes dates which supersede the dates contained in Order No. 3502, Pre-Trial Order and Notices and other provisions:

AMENDED PRETRIAL ORDER AND NOTICES

THE PARTIES ARE HEREBY NOTIFIED AND ORDERED TO COMPLY WITH THIS PRETRIAL ORDER AND NOTICES. The Board may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this Pretrial Order and Notice if the parties or attorneys have not shown good cause for failure to comply or a good faith effort to comply.

This document shall control the course of proceedings and may not be amended except by the Board through an Order or Notice, by a written request by a party with written consent of all the parties (stipulation), or by an order granting a motion filed with the Board. The use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

(1) NOTICE OF FILING REQUIREMENTS

1) Electronic Filing:

The Board provides to all parties and encourages the use of an electronic filing service through File & ServeXpress. There is no charge to the parties for use of this electronic filing service.

To register, a party is required to complete and submit the Board Agreement to E-File (Form HLRB-25), as amended, which is available at <http://labor.hawaii.gov/hlrb/forms/>.

Questions regarding the Board's electronic filing system should be directed to the Board's staff at (808) 586-8616.

2) Filing in Person or by Mail

A party may mail or file in person an original of any document at the Board's office at 830 Punchbowl Street, Room 434, Honolulu, Hawai'i, 96813. The Board's office is open on the weekdays (excluding state holidays) between 7:45 a.m. to 4:30 p.m.; the office may occasionally be closed from 12:00 p.m. to 1:00 p.m. The date of receipt by the Board shall be deemed the date of filing.

3) Filing Requirements Regarding Protection of Social Security Numbers and Personal Information

Before a party files or submits any pleading, correspondence, or other document (Documents) to the Board, whether electronically or manually, the party shall make certain that all social security numbers and personal information are redacted or encrypted. "Personal information" shall include social security numbers, home addresses, dates of birth, bank account numbers, medical and health records, and any other information in which a person has a significant privacy interest. To the extent any personal information is relevant to the Board's consideration of this case, the submitting party shall submit the confidential information by means of a Confidential Information Form that substantially conforms to Form 2 of the Hawai'i Court Records Rules, as amended.

If a party submits a document that requires redaction of a page(s), the party shall by motion request permission from the Board to withdraw and replace the original document, in its entirety, with a redacted copy of such document, pursuant to HAR § 12-42-8(g)(11), "The Board may permit withdrawal of original documents upon submission of properly authenticated copies to replace such document."

The Board may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this provision where the parties or attorneys have not shown good cause for failure to comply or a good faith attempt to comply.

(2) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS

All parties have the right to appear in person and to be represented by counsel or any other authorized person in all Board proceedings. 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, including language access, please call the Board at (808) 586-8616, at least seven (7) days prior to a Board proceeding.

The parties should be aware that the Board is in a secured State of Hawai'i building and that any party, representative, counsel, or other person attending a proceeding will need to present a government-issued identification for entry.

(3) NOTICE OF PRETRIAL CONFERENCE

PURSUANT TO HRS §§ 89-5(i)(4) and (i)(5), and 377-9:

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

DATE AND TIME: Tuesday, January 7, 2020 at 9:00 a.m.

LOCATION: Hawai'i Labor Relations Board Hearing Room
830 Punchbowl Street – Room 434
Honolulu, Hawai'i 96813

1) Pretrial Statement

Both the Complainant(s) and the Respondent(s) shall file a Pretrial Statement with the Board, as listed in the Schedule set forth below. The Pretrial Statement shall include the following:

1. Statement of Issues
2. Witness List

The witness lists shall include, in the interest of judicial economy, a brief but meaningful summary of the nature of the testimony expected, and the order in which the witnesses are expected to be called upon, subject to the witness' availability. The summary for each witness shall include sufficient information for the Board to determine whether the testimony will be irrelevant, immaterial, or unduly repetitious to any other witness testimony; see HRS § 91-10(1).

If a party intends to file a request for a subpoena for a witness, such request shall be concurrently filed with the Pretrial Statement, and a notation that a request is being made shall be listed in the witness list.

3. Exhibit List

The exhibit lists shall include copies of the proposed exhibits. The parties are encouraged to use the File & ServeXpress eFiling system to file the exhibits before or by 4:30 p.m. (HST) on the deadline day. A party's exhibits or Joint exhibits shall be combined and filed in a searchable portable document format (PDF) not exceeding 10 megabytes with each exhibit bookmarked and bates-stamped at the top right corner. Alternatively, a party may file exhibits in person or by mail to the Board; the date of receipt by the Board shall be deemed the date of filing.

If a party intends to file a request for a subpoena duces tecum for any of its exhibits, such request shall be concurrently filed with the Pretrial Statement, and a notation that a request is being made shall be listed in the exhibit list.

The Complainant shall identify its exhibits using alphabetical letters (A, B, C, D, etc.). Union Respondent(s) shall identify its exhibits using numerical designations preceded by U (e.g., U-1, U-2, U-3, etc.). Employer Respondent(s) shall identify its exhibits

using numerical designations preceded by E (e.g., E-1, E-2, E-3, etc.). In the event that there are multiple Union Respondents or Employer Respondents in a particular case, the Board shall specify the designation for each Respondent.

If there are any duplicative exhibits, the parties shall designate them as Joint Exhibits, the parties shall designate one party to file these exhibits, and the Exhibits shall be marked with numerical designations preceded by J (e.g., J-1, J-2, J-3, etc.).

Additionally, the Exclusive Representative, unless no Exclusive Representative is party to the case, in which case the Employer, must submit to the Board the full applicable collective bargaining agreement(s), including any Memoranda of Understanding, Memoranda of Agreement, or any other supplemental agreement that has any bearing on these proceedings. These documents shall be marked as Board Exhibit 1 or Board Exhibit 1a, 1b, 1c, etc.

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 Pretrial Statement.

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).

While all parties have the right to appear at the Pretrial Conference in person or telephonically and to be represented by counsel or any other authorized person, **all parties are required to either appear in person or have a representative appear in person.** 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.

(4) NOTICE OF THE HEARING ON THE MERITS

NOTICE IS HEREBY GIVEN, pursuant to HRS §§ 377-9, 89-5(i)(3), (4), (5), and 89-14, and 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 below and in the Schedule set forth below. 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: Tuesday, January 14, 2020 at 9:30 a.m.
Wednesday, January 15, 2020 at 9:00 a.m.
Thursday, January 16, 2020 at 9:00 a.m.
Friday, January 17, 2020 at 9:00 a.m.

LOCATION: Mayor’s Conference Room, M1
Mo’ikeha Building
4444 Rice Street
Līhu’e, Hawai‘i 96766

DATE AND TIME: Tuesday, January 21, 2020 at 9:00 a.m.
Wednesday, January 22, 2020 at 9:00 a.m.
Thursday, January 23, 2020 at 9:00 a.m.
Friday, January 24, 2020 at 9:00 a.m.

LOCATION: Hawai‘i Labor Relations Board Hearing Room
830 Punchbowl Street – Room 434
Honolulu, Hawai‘i 96813

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

(5) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES

<u>DATES AND DEADLINES</u>	<u>DATE</u>	<u>TIME</u>

<u>Dispositive Motion Deadline</u>	12/10/2019	
<u>Response to Dispositive Motion Deadline</u>	12/17/2019	
<u>Pretrial Statement; Exchange of Exhibits; Subpoena Deadline</u>	12/31/2019	

Pretrial Conference and Hearing on Dispositive Motions 1/7/20 9:00 a.m.

Hearing on the Merits 1/14/20 9:30 a.m.
1/15-17/20 9:00 a.m.
1/21-24/20 9:00 a.m.

All submissions shall be filed on or before 4:30 p.m. on the deadline date.

DATED: Honolulu, Hawai'i, September 23, 2019.

HAWAI'I LABOR RELATIONS BOARD



MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEPONO, Member

J.N. MUSTO, Member

Copies sent to:

Shawn Luis, Esq.

Lowell K.Y. Chun-Hoon, Esq.

Henry S. Kim, Deputy Attorney General