

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

CASE NO(S). 18-CU-10-370,
19-CE-10-923

DANIEL EDWARD PARKER,

ORDER NO. 3465

Complainant,

SECOND AMENDED PRETRIAL
ORDER AND NOTICES;

and

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

(1) NOTICE TO RESPONDENT(S)
OF PROHIBITED PRACTICE
COMPLAINT;
(2) NOTICE REGARDING
PROTECTION OF SOCIAL
SECURITY NUMBERS AND
PERSONAL INFORMATION;
(3) **2nd. AMENDED** NOTICE OF
PREHEARING CONFERENCE;
(4) **2nd. AMENDED** NOTICE OF
PRETRIAL CONFERENCE;
(5) **2nd. AMENDED** NOTICE OF
HEARING ON THE MERITS; AND
(6) **2nd. AMENDED** SCHEDULE
OF HEARINGS, CONFERENCES,
AND DEADLINES.

Respondents.

SECOND AMENDED PRETRIAL ORDER AND NOTICES;
(1) NOTICE TO RESPONDENT(S) OF PROHIBITED PRACTICE
COMPLAINT; (2) NOTICE REGARDING PROTECTION OF SOCIAL
SECURITY NUMBERS AND PERSONAL INFORMATION; (3) **2nd. AMENDED**
NOTICE OF PREHEARING CONFERENCE; (4) **2nd. AMENDED** NOTICE OF PRETRIAL
CONFERENCE; (5) **2nd. AMENDED** NOTICE OF HEARING ON THE MERITS;
AND (6) **2nd. AMENDED** SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES.

PRETRIAL ORDER AND NOTICES

THE PARTIES ARE HEREBY NOTIFIED AND ORDERED TO COMPLY WITH THIS SECOND AMENDED PRETRIAL ORDER AND NOTICES. The Hawaii Labor Relations Board (Board) may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this Second Amended Pretrial Order and Notices where the parties or attorneys have not shown good cause for failure to comply, or a good faith attempt to comply.

Hereafter, this document shall control the course of proceedings and may not be amended except by the Board, or by a written request by a party with written consent of the parties (stipulation) and approved by the Board, 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. As part of the Board's paperless goal, any party may file any document electronically with File & ServeXpress or in person at 830 Punchbowl Street, Room 434, Honolulu, Hawaii, 96813. Questions regarding the Board's electronic filing system should be directed to the Board's staff at (808) 586-8616.

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

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

(1) NOTICE TO RESPONDENT(S) OF A PROHIBITED PRACTICE COMPLAINT

The attached second amended prohibited practice complaint (Complaint) was filed with the Board by the above-named Complainant on, February 21, 2019.

PURSUANT TO HAWAII REVISED STATUTES (HRS) § 377-9(b) AND HAWAII ADMINISTRATIVE RULE (HAR) § 12-42-42: NOTICE IS HEREBY GIVEN TO RESPONDENT(S) that the above-named COMPLAINANT(S) filed a prohibited practice Complaint with the Board, a copy of which is attached, alleging that you have engaged in or are engaging in prohibited practices in violation of HRS Chapter 89.

YOU ARE DIRECTED to file a written answer to the complaint within ten (10) days after service of the complaint. One copy of the answer shall be served on each party, and the original with certificate of service on all parties shall be filed with the Board no later than 4:30 p.m. on the tenth day after service of the complaint. If you fail to timely file and serve an answer, such failure shall constitute an admission of the material facts alleged in the complaint and a waiver of hearing. (HAR § 12-42-45(g))

(2) NOTICE 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 Hawaii Court Records Rules, as amended.

If a party submits a document, which 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.

(3) SECOND AMENDED NOTICE OF PREHEARING CONFERENCE

PURSUANT TO HRS § 89-5(i)(4) and (i)(5), and HAR § 12-42-47:

NOTICE IS HEREBY GIVEN that the Board will conduct a Prehearing Conference on the date listed below and in the Schedule of Deadlines and Hearing Dates (Schedule) herein.

DATE AND TIME: Thursday, March 7, 2019 at 9:00 a.m.

LOCATION: Hawaii Labor Relations Board Hearing Room
830 Punchbowl Street - Room 434
Honolulu, Hawaii 96813

The parties shall file a Prehearing Statement which addresses the foregoing matters with the Board on the date listed in the Schedule set forth below. Complainant's alleged violations are contained in the attached Complaint. All parties shall appear at the Prehearing Conference at the date and time designated. The purpose of the Prehearing Conference is to clarify the issues, if any, and to the extent possible, reach an agreement on facts, matters or procedures which will facilitate and expedite the hearing or adjudication of the issues presented, and to establish deadlines for prehearing briefing, to identify witnesses, file applications for the issuance of subpoenas, exchange witness and exhibit lists and file proposed exhibits, and such other matters as may raise.

All parties have the right to appear in person and to be represented by counsel or any other authorized person. However, the Board encourages the parties to have a representative, who is familiar with the dispute, appear at the Prehearing Conference. Parties may participate telephonically. Auxiliary aids and services are available upon request to parties and representatives with disabilities. For TTY, dial 711; then, ask for (808) 586-8616, the Hawaii Labor Relations Board. For any other reasonable accommodation, or to make arrangements to

appear telephonically where permitted by the Board, call the Board at (808) 586-8616 within seven (7) days prior to the conference.

(4) SECOND AMENDED 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 herein.

DATE AND TIME: Tuesday, March 26, 2019 at 9:00 a.m.
LOCATION: TBA

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 thereto, or confidentiality issues, which require protection from public disclosure and the narrow tailoring of methods to protect that information (e.g. sealing or redaction).

Auxiliary aids and services are available upon request to parties and representatives with disabilities. For TTY, dial 711; then, ask for (808) 586-8616, the Hawaii Labor Relations Board. For any other reasonable accommodation, or to make arrangements to appear telephonically where permitted by the Board, call the Board at (808) 586-8616 within 7 days prior to the conference.

(5) SECOND AMENDED NOTICE OF HEARING ON 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, 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, April 2, 2019 at 9:00 a.m.
LOCATION: TBA

SECOND AMENDED PRETRIAL ORDER AND NOTICES

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All parties have the right to appear in person and to be represented by counsel or any other authorized person in all Board proceedings. **A party, representative, or witness must appear in person at a 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 Hawaii Labor Relations Board. For any other reasonable accommodation call the Board at (808) 586-8616.

(6) 2nd. AMENDED SCHEDULE OF HEARINGS, CONFERENCES & DEADLINES

<u>DATES AND DEADLINES FOR</u>	<u>DATE</u>	<u>TIME</u>
<u>A Party Prehearing Statement</u>	03/05/2019	
<u>Prehearing Conference</u>	03/07/2019	9:00 am
<u>Dispositive Motions</u>	03/19/2019	
<u>Response to Dispositive Motions</u>	03/26/2019	
<u>Exchange of Witness Lists</u>	03/19/2019	

The witness lists shall include, in the interest of judicial economy, a brief but meaningful summary or general statement of the nature of the testimony expected, and the order in which the witnesses are expected to be called. The summary or general statement 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).

<u>Exchange of Exhibit Lists</u>	03/19/2019
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The full applicable collective bargaining agreement(s) shall be provided to the Board by the exclusive representative or employer and marked as Board Exhibit 1 or Board Exhibit 1a, 1b, 1c, etc. In identifying exhibits, Complainant shall use numerical designations 1-2-3-4, etc. to identify its exhibits and Respondent shall use alphabetical letters A-B-C-D, etc. to identify its exhibits. If there are more than one Respondent, then the Board shall specify the designation for each Respondent.

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(cont'd) DATES AND DEADLINES FOR

DATE

TIME

If the parties have agreed to submit proposed Joint Exhibits, then the Exhibits shall be marked with a J and then a number, i.e. J-1, etc.

Exchange and Filing of Proposed Exhibits

03/19/2019

The parties are encouraged to use the File & ServeXpress eFiling system to file their proposed exhibits before or by 4:30 p.m. (HST) on the deadline day. The exhibits shall be combined and filed in a searchable portable document format (PDF) not exceeding 10 megabytes with each exhibit bookmarked. If the single pdf file exceeds 10 megabytes, then each exhibit shall be filed in separate files not to exceed 10 megabytes. 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 there are Joint Exhibits, the parties shall designate one party to file these exhibits, who shall comply with the above requirements.

Pretrial Conference and Oral Arguments on Dispositive Motion(s), if any

03/26/2019

9:00 am

HEARING ON THE MERITS

04/02/2019

9:00 am

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

date. DATED: Honolulu, Hawaii, February 22, 2019.

HAWAII LABOR RELATIONS BOARD



Marcus R. Oshiro

MARCUS R. OSHIRO, CHAIR

Sesnita A. D. Moepono

SESNITA A. D. MOEPONO, MEMBER

J.N. Musto

J.N. MUSTO, MEMBER

SECOND AMENDED PRETRIAL ORDER AND NOTICES

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Copies sent to:

Richard B. Rost, Esq.

Herbert R. Takahashi, Esq.

James E. Halvorson, Deputy Attorney General