

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

STACY K. PAIO; DAYTON YOSHIDA;
ERNEST SUGUITAN; SAMUEL KAE0;
DONNELL ADAMS; LONNIE A. MERRITT;
MITSUO NAKAMOTO; ARDEN D.
COSTALES; WALLACE KAHAPEA; and
EMOSI MANAIA SEVAO,

Complainants,

and

UNITED PUBLIC WORKERS, AFSCME,
LOCAL 646, AFL-CIO,

Respondent.

CASE NO. 16-CU-10-344

ORDER NO. 3480

ORDER GRANTING RESPONDENT'S
MOTION TO EXTEND DEADLINE
FOR SUBMISSION OF POST
HEARING BRIEFS

In the Matter of

FERN KATHRYN WHEELESS,

Complainant,

and

UNITED PUBLIC WORKERS,
AFSCME, LOCAL 646, AFL-CIO,

Respondent.

CASE NO. 16-CU-10-345

**ORDER GRANTING RESPONDENT'S MOTION TO EXTEND
DEADLINE FOR THE SUBMISSION OF POST HEARING BRIEFS**

On March 15, 2019, the Hawai'i Labor Relations Board (Board) issued Minute Order Denying United Public Workers, AFSCME, Local 646, AFL-CIO's Motion for Board Ruling and Motions to Dismissing Complaint and Directing Parties to Submit Post-Hearing Briefs, which, among other things, directed that the parties file and serve on the opposing party simultaneous post-hearing briefs, no later than April 26, 2019 at 4:30 p.m.

On April 1, 2019, Respondent UNITED PUBLIC WORKERS, AFSCME, Local 646, AFL-CIO (UPW or Respondent) filed Respondent's Motion to Extend Deadline for the Submission of Post Hearing Briefs, which requested extending the deadline for filing of post hearing briefs from April 26, 2019 to May 24, 2019 (Motion to Extend). The Motion to Extend was supported by the Declaration of Herbert Takahashi, counsel for UPW, which declared that "my briefing and [trial] schedule precludes me from preparing a post hearing brief" because "[b]etween March 15, 2019 and May 20, 2019 I have approximately fifteen (15) motions and/or briefs to prepare and submit approximately 20 days of hearings presently scheduled. I am requesting continuances on some other briefs, deadlines, and hearings due to the overload."

Hawai'i Administrative Rules (HAR) § 12-42-8(g)(17)(D) provides that, "A request for extension within which to file a brief...shall be made in writing to the board at least three days before the expiration of the required time for filing, and shall be accompanied by an affidavit setting forth the grounds upon which it is based and indicating the position of the other parties with regard to such request."

HAR § 12-42-8(g)(3)(C)(iii) provides that "[a]nswering affidavits, if any, shall be served on all parties and the original...with certificate of service on all parties shall be filed with the board within five days after service of the motion papers, unless the board directs otherwise."

The five days required by HAR § 12-42-8(g)(3)(C)(iii) has elapsed without any response from Complainants STACY K. PAIO; DAYTON YOSHIDA; ERNEST SUGUITAN; SAMUEL KAE0; DONNELL ADAMS; LONNIE A. MERRITT; MITSUO NAKAMOTO; ARDEN D. COSTALES; WALLACE KAHAPEA; EMOSI MANAIA SEVAO and FERN KATHRYN WHEELESS (collectively Complainants) to the Motion to Extend.

Accordingly, despite UPW's technical failure to comply with HAR § 12-42-8(g)(17)(D) by failing to "indicat[e] the position of the other parties with regard to such request[.]" based on Complainants' failure to object within the five days required and for good cause shown, the Board, in its discretion, will grant the Motion to Extend. Both Complainants and Respondent shall file simultaneous post-hearing briefs by May 24, 2019 at 4:30 p.m.

Paio, et al. v. UPW; Wheelless v. UPW
Case No. 16-CU-10-344, 16-CU-10-345
Order Granting Respondent's Motion to Extend Deadline
for Submission of Post Hearing Briefs
Order No. 3480

DATED: Honolulu, Hawai'i, April 11, 2019.

HAWAI'I 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

Copies sent to:

Fern Kathryn Wheelless, Representative for Complainants
Herbert Takahashi, Esq.