

STATE OF HAWAII

HAWAII LABOR RELATIONS BOARD

In the Matter of

JOSEPH H. CAMPOS II, Ph.D,

Complainant,

and

UNIVERSITY OF HAWAII  
PROFESSIONAL ASSEMBLY,

Respondent.

CASE NO(S). 19-CU-07-374

ORDER NO. 3533

PRETRIAL ORDER AND NOTICES;

- (1) NOTICE TO RESPONDENT(S) OF PROHIBITED PRACTICE COMPLAINT;
- (2) NOTICE OF FILING REQUIREMENTS;
- (3) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS;
- (4) NOTICE OF PREHEARING CONFERENCE;
- (5) NOTICE OF PRETRIAL CONFERENCE;
- (6) NOTICE OF HEARING ON THE MERITS; AND
- (7) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES

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## **PRETRIAL ORDER AND NOTICES**

THE PARTIES ARE HEREBY NOTIFIED AND ORDERED TO COMPLY WITH THIS PRETRIAL ORDER AND NOTICES. The Hawai'i Labor Relations Board (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 TO RESPONDENT(S) OF A PROHIBITED PRACTICE COMPLAINT**

The attached prohibited practice complaint (Complaint) was filed with the Board by the above-named Complainant(s) on: **July 1, 2019**.

PURSUANT TO HAWAI'I REVISED STATUTES (HRS) § 377-9(b) AND HAWAI'I ADMINISTRATIVE RULES (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 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/hlrp/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.

## **(3) 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.

**(4) 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) in this document.

DATE AND TIME: Thursday, July 16, 2019 at 10:00 a.m.

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

The purpose of the Prehearing Conference is to clarify the issues, if any; to the extent possible, to reach an agreement on facts, matters, or procedures that will facilitate and expedite the hearing or adjudication of the issues presented; to establish deadlines for prehearing briefing; to identify witnesses and file applications for the issuance of subpoenas; and for such other matters as may be raised.

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

**(5) 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: Thursday, August 1, 2019 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 on or before July 9, 2019, 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.

## **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.

## **(6) 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: Thursday, August 8, 2019 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.

**(7) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES**

<b><u>DATES AND DEADLINES</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>
<u>Prehearing Conference</u>	7/16/19	10:00 a.m.
<u>Dispositive Motion Deadline</u>	7/22/19	
<u>Response to Dispositive Motion Deadline</u>	7/29/19	
<u>Pretrial Statement; Exchange of Exhibits; Subpoena Deadline</u>	7/25/19	
<u>Pretrial Conference and Hearing on Dispositive Motions</u>	8/1/19	9:00 a.m.
<u>Hearing on the Merits</u>	8/8/19	9:00 a.m.

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

DATED: Honolulu, Hawai‘i, \_\_\_\_\_ July 3, 2019 \_\_\_\_\_.

HAWAI‘I LABOR RELATIONS BOARD



MARCUS R. OSHIRO, Chair



SESNITA A.D. MOEPONO, Member





N. MUSTO, Member

Enclosure: PROHIBITED PRACTICE COMPLAINT

Copies sent to:

Joseph H. Campos, II, Ph.D., SRL  
University of Hawaii Professional Assembly

CAMPOS v. UHPA  
CASE NO. 19-CU-07-374  
PRETRIAL ORDER AND NOTICES  
ORDER NO. 3533



**EFiled: Jul 01 2019 02:36PM HAST**  
**Transaction ID 63499026**  
**Case No. 19-CU-07-374**

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

**FORM HLRB-4**  
**PROHIBITED PRACTICE COMPLAINT**

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INSTRUCTIONS. Submit the original<sup>1</sup> of this Complaint to the Hawaii Labor Relations Board, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

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1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Hawaii Revised Statutes Sections 89-13 and 89-14 and its Administrative Rules, to determine whether there has been any violation of the Hawaii Revised Statutes, Chapter 89.

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2. COMPLAINANT Please select one that describes the Complainant:

Public Employee       Public Employer       Public Union (public employee organization)

a. Name, address and telephone number.

Joseph H. Campos II, Ph.D.  
2202 Wilder Avenue  
Honolulu, Hawaii 96822

808-722-1460

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b. Name, address, e-mail address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

n/a

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<sup>1</sup> Notwithstanding Board rule 12-42-42(b), the Board only requires the original of the complaint.

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3. RESPONDENT Please select one that describes the Respondent:

- Public Employee       Public Employer       Public Union (public employee organization)

a. Name, address and telephone number.

University of Hawaii Professional Assembly  
1017 Palm Drive  
Honolulu, Hawaii 96814  
(808) 593-2157

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

Board of Directors and/or Kristeen Hanselman, Executive Director  
University of Hawaii Professional Assembly  
1017 Palm Drive  
Honolulu, Hawaii 96814  
(808) 593-2157

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4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

UHPA - Bargaining Unit 7

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5. ALLEGATIONS

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of the Hawaii Revised Statutes, Section 89-13. (Specify in detail the particular alleged violation, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

The actions of the University of Hawaii Professional Assembly (UHPA), as stipulated in part 6 below, are in violation of HRS § 89-13-b Prohibited practices; evidence of bad faith via the following sections: § 89-13-b 4 (referencing §HRS 89.8 breach of the Union's Duty of Fair Representation (DFR) to represent the interests of all employees without discrimination or status of membership) and § 89-13-b 5 in the UHPA's violation of the terms of the collective bargaining agreement (CBA).

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6. Provide a clear and concise statement of any other relevant facts.

On or about December 6, 2017, I spoke with Mr. Christian Fern, Associate Executive Director of the University of Hawaii Professional Assembly (UHPA). During this conversation I was informed that there were no other recourses I could pursue within the parameters of the CBA and I would have to rely on external (HCRC and EEOC) complaints filed. This was an erroneous statement as I had not filed a grievance addressing violations of the CBA. Mr. Fern's comments sabotaged, frustrated, hampered, impaired, and/or interfered with my being able to exercise my rights under the CBA and constituted a breach of my rights in the CBA and a breach of UHPA's DFR.

During this December 2017 conversation, Mr. Fern also revealed that UHPA was well aware of the problems existent within the Office of Student Affairs (OSA) under the Interim Vice Chancellor for Students, Dr. Lori Ideta, Ed.D. UHPA's non-action in ensuring a positive and safe working environment was a breach of the CBA. By the time of this conversation in December 2017, UHPA had been made aware of issues with UHSM that constituted a hostile work environment by three union members. Three UHPA members out of eight UHPA members that work in clinic property constitute 37.5% of the membership for that department. UHPA knew or should have known of the problems faced by union members and UHPA's refusal to abide by, or enforce, the CBA sabotaged, frustrated, hampered, impaired, and/or interfered with my rights under the CBA and constituted a breach of UHPA's DFR.

On or about March 5, 2018, I had a conversation with Mr. Fern regarding continued retaliation and taking away of my supervisory capacity. Mr. Fern informed me that I had exhausted all possible routes for remedies according to UHPA policies and CBA. I was also told that UHPA would not represent me in any further actions as I would be filing a law suit against the University of Hawaii (UH) and UHPA would become a party to the Law suit. Mr. Fern's comments sabotaged, frustrated, hampered, impaired, and/or interfered with my being able to exercise my rights under the CBA and constituted a breach of my CBA rights and a breach of UHPA's DFR.

On or about April 20, 2018, I e-mailed Mr. Fern with a subject line of "URGENT – Questions as to what part of UHPA contract is violated". In this e-mail I asked for information on what articles could be considered violated by UH's retaliation and refusal to investigate complaints. I also wrote to Mr. Fern that I needed the information no later than April 23, 2018, to be within the time stipulation to file a grievance. Mr. Fern never replied to this e-mail. Mr. Fern's non-response sabotaged, frustrated, hampered, impaired, and/or interfered with my being able to exercise my rights under the CBA to file a grievance and constituted a breach of my rights and a breach of UHPA's DFR.

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6. Provide a clear and concise statement of any other relevant facts -Continued.

On or about April 30, 2018, I filed a complaint against UH Administration for continued retaliatory actions in violation of the UH Executive Policy Workplace Violence Procedure 9.210 and a **grievance** for violation of several articles of the 2017-2021 BOR/UHPA Collective Bargaining Agreement.

On or about May 1, 2018, I notified Ms. Kris Hanselman, UHPA Executive Director, via e-mail of my filing a grievance with UH. In this e-mail I stated that "I look forward to a quick response and guidance moving forward with the grievance of multiple articles in the UHPA/BOR 2017-2021 (and 2015-2017) Contract." On May 11, 2018, UHPA refused to represent me on this grievance based on erroneous assumptions. UHPA's refusal to represent me was a breach of UHPA's DFR. On or about June 8, 2018, I filed a complaint with the Hawaii Labor Relations Board, which was served the next week, a Pre-hearing Conference was held on June 22, 2018.

On June 27, 2018, after the HLRB Pre-hearing conference, I received a letter from UHPA informing me that the request for arbitration would be deliberated and acted upon by the UHPA Board of Directors at the August 25, 2018, meeting. This letter also conveyed that UHPA requested an extension of the deadline from UH President Lassner and further communication with UH would ensue after the Board of Directors meeting. Finally, this letter informed me that I would be notified of the UHPA Board of Directors decision. This goes in direct opposition to UHPA previous stance that they would not represent me on the grievance. This was a perfunctory performance.

On August 21, 2018, I e-mailed the UHPA Board of Directors Executive members providing them documentation of the retaliation I had been subjected to by University of Hawaii Administration for their consideration during the deliberations at their August 25, 2018, Board meeting. I also sent them evidence of my December 2017 conversation with UHPA's Mr. Fern. No response was received by any Executive member of the UHPA Board of Directors or any UHPA representative.

UHPA did not inform me of any decision and on September 19, 2018, I e-mailed Ms. Hanselman requesting an update. No response was received. On October 2, 2018, I again e-mailed Ms. Hanselman, informing her of my second request for information on the status of the arbitration decision. Ms. Hanselman replied to this second request and informed me that the request for arbitration was "being held in abeyance pending receipt of a decision by the Hawaii Labor Relations Board on your complaint. Upon receipt of a decision UHPA will review the circumstances and determine the appropriate action to be pursued." UHPA's arbitrary delay sabotaged, frustrated, hampered, impaired, and/or interfered with my being able to exercise my rights under the CBA and constituted a breach of my rights and a breach of UHPA's DFR.

On or about January 10, 2019, I received a letter dated January 8, 2019 that stated UHPA's Board of Directors met and refused to take my complaint to arbitration citing erroneous rationales.

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6. Provide a clear and concise statement of any other relevant facts.

On or about January 30, 2019, I sent an e-mail to Ms. Hanselman asking for an appeal presentation and clarification on the erroneous assumptions in the letter dated January 8, 2019. I specifically asked two questions: "1) You stated that 'the grievance lacked merit due untimely claims that did not meet the requirements of the grievance procedure found in the collective bargaining agreement.' Please provide specific detail as to what aspects of the grievance were deemed untimely. 2) You stated 'other issues raised by you were not subject to the grievance procedure and enforcement under the collective bargaining agreement.' Please provide specific detail as to what issues were not subject to the grievance procedure."

UHPA replied on February 5, 2019 via letter. This letter stated "Your January 30th e-mail also requests the same information that has been fully briefed, argued, and adjudicated in litigation before the Hawaii Labor Relations Board..."

On or about March 30, 2019, I presented to the Executive Board, no questions were asked by the Board. On or about April 5, 2019, I received a letter that upheld the Board's refusal to take the grievance to arbitration. The letter stated specifically "the Executive Committee does not support the use of arbitration to resolve the issues of your work environment and mistreatment you alleged in your grievance." UHPA sabotaged, frustrated, hampered, impaired, and/or interfered with my being able to exercise my rights under the CBA and constituted a breach of my rights and a breach of UHPA's DFR.

The April 2019 letter also stated that "the Executive Committee acts to best represent the interests of all union members in upholding the integrity of the collective bargaining agreement. Your grievance does not advance the interests of either the members or the appropriate implementation of the contract." UHPA knew, or should have known, that 37.5% of UHPA members were subjected to a hostile work environment and UHPA's refusal to abide by, or enforce, the CBA sabotaged, frustrated, hampered, impaired, and/or interfered with my rights under the CBA and constituted a breach of UHPA's DFR.

There is no rational reason why the arbitration request should not be pursued. UHPA's decision is based on fallacies and is arbitrary, discriminatory, and in bad faith. As a result, the actions of UHPA are in violation of HRS §89-13-b Prohibited practices; evidence of bad faith via the following sections: §89-13-b 4 (referencing §HRS 89.8 breach of the Union's DFR to represent the interests of all employees without discrimination) and §89-13-b 5 in UHPA's violation of the terms of the CBA.

The remedy I am seeking is that the arbitration process be pursued.

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

**DECLARATION IN LIEU OF AFFIDAVIT**

(If the Complainant is self-represented, then the Complainant must sign this Declaration).

Please select one:

- the Complainant
- the Complainant's principle representative
- the person described below

I, Joseph H. Campos II, Ph.D.,  
do declare under penalty of law that the foregoing is true and correct.

Date: July 1, 2019

/s/ Joseph, Henry, Campos II

*The person signing above agrees that by signing his or her name in the above space with a "/s/ first, middle, last names" is deemed to be treated like an original signature.*

joecampos2@gmail.com

*Signor's email address*

If you are not the Complainant or listed as the principle representative in #2(b) and you are signing above, then please complete the contact information below.

Your address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your phone number: \_\_\_\_\_

Your relationship to the Complainant:

\_\_\_\_\_

If the Complainant or principal representative is registered with File and ServeXpress (FSX), then you may proceed to electronically file this complaint.

If the Complainant or the principal representative is not registered with FSX and would like to electronically file this complaint through FSX, then complete the Board Agreement to E-File, FORM HLRB-25. (Form HLRB-25 is on the HLRB Website at [labor.hawaii.gov/hlr/forms](http://labor.hawaii.gov/hlr/forms).) Email the completed form to the Board at [dlir.laborboard@hawaii.gov](mailto:dlir.laborboard@hawaii.gov).