

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

In the Matter of

FRANCINE K. GUZMAN,

Complainant,

and

HONOLULU POLICE DEPARTMENT, City  
and County of Honolulu; and HAWAII  
GOVERNMENT EMPLOYEES  
ASSOCIATION, AFSCME, LOCAL 152,  
AFL-CIO,

Respondents.

CASE NOS. 19-CE-03-925  
19-CU-03-371

ORDER NO. 3817

ORDER SETTING DEADLINE FOR  
RESPONSE TO MOTIONS FOR  
DIRECTED VERDICT

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The Hawai'i Labor Relations Board (Board) began the hearing on the merits (HOM) in this case on November 30, 2021. Complainant FRANCINE K. GUZMAN (Ms. Guzman), self-represented litigant, presented her case-in-chief and rested her case.

After Ms. Guzman rested her case, Respondent HAWAII GOVERNMENT EMPLOYEES ASSOCIATION, AFSCME, LOCAL 152, AFL-CIO (HGEA) orally moved for a directed verdict or, in the alternative, judgment on the pleadings. Specifically, HGEA argued that Ms. Guzman had not met her burden of proof as to the case against HGEA.

Respondent HONOLULU POLICE DEPARTMENT, City and County of Honolulu (HPD, and collectively with HGEA, Respondents) joined in HGEA's oral motion and made its own motion for directed verdict, arguing that Ms. Guzman had not met her burden of proof as to the case against HPD.

Ms. Guzman did not orally respond to the motions for directed verdict, and the Board took the motions under advisement.

## 1. Motion for Directed Verdict

Although the Board's administrative rules do not specifically provide for motions for directed verdict, the Board has considered these types of motions under Hawai'i Administrative Rules (HAR) § 12-42-8(g)(3), the Board's rules for motions.

Motions for directed verdicts are made after the non-moving party—in this case, Ms. Guzman—has been fully heard on the issue. See Kamaka v. Goodsill Anderson Quinn & Stifel, 117 Hawai'i 92, 102 n. 14, 176 P.3d 91, 101 n.14 (2008). By making these motions, Respondents argue that Ms. Guzman has completed presenting all of her evidence, rested her case, and has failed to meet her required burden of proof.

Under Hawai'i Revised Statutes (HRS) § 91-10(5) and HAR § 12-42-8(g)(16), the complainant—in this case, Ms. Guzman—has the burden or obligation to prove that her allegations are more likely than not (also known as by a preponderance of the evidence). She is required to produce enough evidence and to support that evidence with arguments in applying the relevant legal principles. Mamuad v. Nakanelua, Board Case No. CU-10-331, Order No. 3337F, \*25 (May 7, 2018) (Mamuad) (<https://labor.hawaii.gov/hlrp/files/2019/01/HLRB-Order-3337F.pdf>).

Therefore, in moving for directed verdicts, Respondents argue that Ms. Guzman has failed to produce enough evidence and/or to support that evidence with arguments applying the relevant legal principles. The Board previously laid out its understanding of the issues raised in this case and the relevant legal principles surrounding those issues in Order No. 3485A2.

## 2. Responses to Motions

HAR § 12-42-8(g)(3)(C)(iii) provides parties with five days to file a response to written motions made outside of a hearing. Although the motions for directed verdict were made during the HOM, the Board will provide Ms. Guzman with five days to file a written response to HGEA and HPD's oral motions.

Accordingly, any response Ms. Guzman wishes to submit regarding the motions for directed verdict must be filed with the Board on or by **December 8, 2021 at 4:30 p.m.**

After receipt of any such response, the Board will consider the record on the motions for directed verdict to be closed and will issue its decision on the motions after further deliberations. No reply briefs will be accepted or considered.

DATED: Honolulu, Hawai'i, \_\_\_\_\_ December 1, 2021 \_\_\_\_\_.

HAWAI'I LABOR RELATIONS BOARD

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MARCUS R. OSHIRO, Chair

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SESNITA A.D. MOEONO, Member

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J N. MUSTO, Member

Copies Sent to:

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