

STATE OF HAWAI‘I
HAWAI‘I LABOR RELATIONS BOARD

In the Matter of

JANET WEISS,

Complainant(s),

and

HAWAII STATE TEACHERS
ASSOCIATION,

Respondent(s).

CASE NO(S). 22-CU-05-390

ORDER NO. 3888

PRETRIAL CONFERENCE MINUTE
ORDER

In the Matter of

JANET WEISS,

Complainant(s),

and

JANETTE SNELLING, Honoka‘a-
Kealakehe-Kohala-Konawaena Complex
Area Superintendent, Department of
Education, State of Hawai‘i,

Respondent(s).

CASE NO(S). 22-CE-05-970

PRETRIAL CONFERENCE MINUTE ORDER

1. Introduction and Statement of Issues

The Hawai‘i Labor Relations Board (Board) held a pretrial conference in this case on September 2, 2022.

At the pretrial conference, among other things, the Board reiterated that this part of the consolidated case involves hearing argument only on the issue of whether Respondent HAWAII STATE TEACHERS ASSOCIATION (HSTA or Union) breached its duty of fair representation owed to Complainant JANET WEISS (Complainant or Ms. Weiss).

2. Exhibits and Judicial Notice

The Board provided the parties with a brief overview of the status of the exhibits in this case.

The Board took judicial notice of the following Board decisions and orders:

D&O No.	Case Number	Date
Decision No. 420	Case No. CU-05-164	March 9, 2001
Decision No. 425	Case No. CU-05-452	August 1, 2001
Order No. 3031	Case No. CU-05-321	November 12, 2014

The Board also took judicial notice of the calendar for the year 2017.

Further, the Board noted that two Board Exhibits have been entered into evidence:

Exhibit No.	Description
Board Exhibit 1	CBA for BU 5, from July 1, 2017-June 30, 2021
Board Exhibit 2	CBA for BU 5, from July 1, 2013-June 30, 2017

Because Board Exhibit 2 was not numbered consecutively, the Board staff adjusted the bates stamps for the document. The Board will provide the parties with an electronic copy of the corrected bates stamped document to the parties for their records and usage.

Upon the Board’s closer review, certain exhibits have been duplicated, including one exhibit that has already been entered into the record. Therefore, the Board found that Complainant’s proposed exhibits B, F, G, I, J, K, and M would not be permitted to be used at the hearing on the merits (HOM) because they are duplicative of other exhibits or judicially noticed documents.

Further, the Board substituted certain HSTA exhibits for Complainant exhibits already entered into the record because they appear to be clearer copies of the same document. Because these exhibits have been entered into the record as Complainant exhibits, the Board will use that designation; however, the Board will reference the copy of the document provided by HSTA. The Board made the following substitutions:

HSTA Exhibit.	Complainant Exhibit
R-11	N
R-23	XX

Based on the record, the Board found that the following Complainant exhibits have been entered into the record:

Exhibit No.	Description
C	Email from Ms. Weiss to Ray Camacho, dated July 31, 2017
D	Email from Ms. Weiss to Ray Camacho, dated Nov. 8, 2017
N	Email from Ray Camacho to Ms. Weiss, dated Sept. 13, 2019
Q	Email from Ray Camacho to Ms. Weiss, dated May 4, 2017
R	Email from Ray Camacho to Ms. Weiss, dated May 4, 2017
U	Email from Ray Camacho to Ms. Weiss, dated July 10, 2017
BB	Email from Ray Camacho to Ms. Weiss, dated Feb. 13, 2018
II	Email from Ms. Weiss to Ray Camacho, dated Aug. 18, 2017
JJ	Email from Jaime Cunnane to Ms. Weiss, dated Feb. 28, 2019
LL	Email from Ray Camacho to Ms. Weiss, dated May 10, 2019
MM	Email from Ray Camacho to Ms. Weiss, dated June 12, 2019
UU	Email from Ray Camacho to Ms. Weiss, dated Mar. 15, 2022
VV	Email from Ray Camacho to Ms. Weiss, dated Mar. 29 (no year)
WW	Email from Ray Camacho to Ms. Weiss, dated Apr. 5 (no year)
XX	Email from Ray Camacho to Ms. Weiss, dated Apr. 8 (no year)
YY	Email from Ray Camacho to Ms. Weiss, dated Apr. 21 (no year)
ZZ	Email from Ray Camacho to Ms. Weiss, dated May 20 (no year)
CCC	Letter from Ray Camacho to Ms. Weiss, dated April 8, 2022

Therefore, Complainant’s exhibits, both proposed and already in evidence, are as follows:

Exhibit No.	Description	Bates Stamp	In Evidence
A	HSTA Vision Statement	001	No
B	<i>Not Used (Duplicative of Judicially Noticed Item)</i>		
C	Doc. Dated July 31, 2017, Weiss to Ray	003	Yes
D	Doc. Dated Nov. 8, 2017, Weiss to Ray	004	Yes
E	Doc. Dated Mar. 27, 2018, Eshelman to Weiss	005	No
F	<i>Not Used (Duplicative of AA)</i>		
G	<i>Not Used (Duplicative of FF)</i>		
H	Doc. Dated Jan. 12, 2019, Camacho to Weiss & Maia	009	No
I	<i>Not Used (Duplicative of GG)</i>		
J	<i>Not Used (Duplicative of HH)</i>		
K	<i>Not Used (Duplicative of II)</i>		
L	Doc. Titled “Settlement Negotiation LOG with Arb Data”	015-019	No
M	<i>Not Used (Duplicative of JJ)</i>		
N	Doc. Dated Sep. 13, 2019, Camacho to Weiss	021	Yes
O	Doc. Dated Dec. 5, 2019, Camacho to Weiss	022-024	No
P	Doc. Dated Marc. 18, 2020, Weiss to Ray, et al.	025-026	No
Q	Doc. Dated May 4, 2017, Camacho to Weiss	027	Yes
R	Doc. Dated May 4, 2017, Camacho to Weiss	028	Yes
S	Doc. Dated May 18, 2017, Camacho to Weiss	029	No
T	Doc. Dated June 5, 2017, Camacho to Weiss	030	No
U	Doc. Dated Jul. 10, 2017, Camacho to Weiss	031	Yes
V	Doc. Dated Jul. 14, 2017, Camacho to Weiss	032	No
W	Doc. Dated Jul. 25, 2017, Camacho to Weiss	033	No
X	Doc. Dated Aug. 30, 2017, Camacho to Weiss	034	No
Y	Doc. Dated Oct. 4, 2017, Camacho to Weiss	035	No
Z	Doc. Dated Nov. 16, 2017, Camacho to Weiss	036	No

Exhibit No.	Description	Bates Stamp	In Evidence
AA	Doc. Dated Dec. 21, 2017, Camacho to Weiss	037	No
BB	Doc. Dated Feb. 13, 2018, Camacho to Weiss	038	Yes
CC	Doc. Dated Feb. 15, 2018, Camacho to Weiss	039	No
DD	Doc. Dated Feb. 23, 2018, Camacho to Weiss	040	No
EE	Doc. Dated Mar. 2, 2018, Camacho to Weiss	041	No
FF	Doc. Dated Jan. 11, 2019, Camacho to Weiss, Maia	042-043	No
GG	Doc. Undated, Titled "Various Settlement Offers"	044	No
HH	Doc. Undated, Beginning with "Camacho, Ray...FOR THE RECORD"	045-046	No
II	Doc. Dated Aug. 18, 2017, Weiss to Camacho	047-048	Yes
JJ	Doc. Dated Feb. 28, 2019, Cunnane to Weiss, Ray	049	Yes
KK	Doc. Dated Apr. 9, 2019, Camacho to Weiss	050	No
LL	Doc. Dated May 10, 2019, Camacho to Weiss	051	Yes
MM	Doc. Dated Jun. 12, 2019, Camacho to Weiss	052	Yes
NN	Doc. Dated Jul. 2, 2019, Park to Weiss	053	No
OO	Doc. Dated Jul. 29, 2019, Camacho to Weiss	054	No
PP	Doc. Dated Dec. 5, 2019, Camacho to Weiss	055	No
QQ	Doc. Dated Mar. 9, 2020, Camacho to Weiss	056	No
RR	Doc. Dated May 11, 2020, Camacho to Weiss	057-058	No
SS	Doc. Dated Jun. 5, 2020, Weiss to Ray, Andrea	059	No
TT	Doc. Dated Mar. 12, 2022, Weiss to HTSB	060	No
UU	Doc. Dated Mar. 15, Camacho to Weiss	061	Yes
VV	Doc. Dated Mar. 29, Camacho to Weiss	062	Yes
WW	Doc. Dated Apr. 8, Camacho to Weiss	063	Yes
XX	Doc. Dated Apr. 8, Camacho to Weiss	064	Yes
YY	Doc. Dated Apr. 21, Camacho to Weiss	065	Yes
ZZ	Doc. Dated May 20, Camacho to Weiss	066	Yes
AAA	"Feb 2017 Students sending Messages"	067-071	No
BBB	Disability Parking Placard	072	No
CCC	Letter Dated Apr. 8, 2022, Camacho to Weiss	073	Yes

At the prior HOM, Complainant Exhibits A, T, and AAA were referenced but not moved into evidence.

The Board will provide the parties with an electronic copy of the Complainant’s Exhibits for their usage.

Based on the record, the Board found that none of HSTA’s proposed exhibits had been referenced or used at the HOM. Therefore, based on the Board’s use of two of HSTA’s exhibits to replace Complainant’s Exhibits, the Board has re-numbered HSTA’s exhibits as follows:

Exhibit No.	Description	Bates Stamp	In Evidence
R-1	6/1/18 Email chain, including email from Chang to Camacho, and Petricevic	001-003	No
R-2	1/15/19 Email chain, including email from Camacho to Chang	004	No
R-3	1/23/19 Camacho letter to Ms. Weiss	005-008	No
R-4	4/24/19 Email chain, including email from Camacho to Tolentino	009-010	No
R-5	5/3/19 Email chain, including email from Camacho to Tolentino	011-012	No
R-6	5/10/19 Email chain, including email from Camacho to Tolentino	013-016	No
R-7	5/31/19 email chain, including email from Camacho to Tolentino	017-018	No
R-8	7/18/19 email chain, including email from Camacho to Hasegawa	019-022	No
R-9	7/26/19 email chain, including email from Camacho to Hasegawa	023	No
R-10	8/20/19 email from Camacho to Hasegawa	024	No
R-11	10/28/19 email chain, including email from Camacho to Weiss	025	No
R-12	12/15/19 email chain, including email from Camacho to Weiss	026	No
R-13	1/16/20 email chain, including email from Camacho to Lee	027	No
R-14	3/9/20 email chain, including email from Camacho to Lee	028-032	No

Exhibit No.	Description	Bates Stamp	In Evidence
R-15	3/9/20 email chain, including email from Camacho to Weiss	033	No
R-16	4/16/20 email chain, including email from Camacho to Lee	034-035	No
R-17	6/23/20 DOE Transmittal Memo re: Settlement Agreement	036	No
R-18	6/26/20 email from Camacho to Weiss	037	No
R-19	7/1/20 HSTA Transmittal Memo re settlement agreement	038	No
R-20	7/20/20 certified mail envelope	039	No
R-21	3/29/22 email chain, including email from Camacho to Lee	040-047	No
R-22	4/12/22 Executed settlement agreement	048-051	No
R-23	5/5/22 email chain, including email from Weiss to Camacho	052-053	No

The Board will provide the parties with an electronic copy of HSTA’s Exhibits for their usage.

Respondent JANETTE SNELLING, Honoka‘a-Kealakehe-Kohala-Konawaena Complex Area Superintendent, Department of Education, State of Hawai‘i (Ms. Snelling or Employer) represented to the Board that the Employer does not intend to submit any exhibits regarding the HSTA prong of the hybrid case.

Any proposed exhibit listed above may be used at the HOM, and, other than those exhibits already in the record, parties may object to the proposed exhibits being used at the HOM when offered. Any exhibit not entered into evidence when the Board closes the record will not be used by the Board to consider its final decision on the HSTA prong of this case.

3. Witnesses

Ms. Weiss informed the Board that she has two witnesses remaining for the HSTA prong of the case, Ray Camacho (Mr. Camacho) and herself. HSTA represented that it would make Mr. Camacho available via Zoom and would provide Mr. Camacho with the exhibits.

4. Further Proceedings

The Board is scheduled to continue the HOM on September 12 and 13, 2022 beginning at 9:00 a.m. on both days.

DATED: Honolulu, Hawai'i, September 2, 2022.

HAWAI'I LABOR RELATIONS BOARD

MARCUS R. OSHIRO, Chair

SESNITA A.D. MOEPONO, Member

J N. MUSTO, Member

Copies sent to:

Janet Weiss, Self-Represented Litigant

Keani Alapa, Esq.

James E. Halvorson, Deputy Attorney General