

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

In the Matter of )  
 )  
PROCEEDINGS BEFORE THE )  
LABOR AND INDUSTRIAL )  
RELATIONS APPEALS BOARD. )  
\_\_\_\_\_ )

Jun 29 2021, 10:25 am

**FILED**<sup>LL</sup>

Labor and Industrial Relations  
Appeals Board

ADMINISTRATIVE ORDER 2021-01

WHEREAS, certain provisions in the LAB Rules address the filing and service of documents while a case is pending before the Labor and Industrial Relations Appeals Board.

WHEREAS, Section 12-47-13, LAB Rules states that "[a] facsimile shall not be allowed as a substitute for an original, where an original document is required."

WHEREAS, Section 12-47-18, LAB Rules states that the chief clerk of the Board "shall serve all decisions, orders, notices, and other documents issued by the board, together with any other documents that the board is required by law to serve" and may "effect service by placing a copy of the document in the attorney's jacket at the board" or "shall be served personally or, unless otherwise provided by law, by first class mail."

WHEREAS, Section 91-12, HRS states that that a certified copy of a decision and order be delivered or mailed.

WHEREAS, Section 91-9(d), HRS allows for the modification or waiver of any procedure in a contested case by stipulation of the parties.

WHEREAS, during the COVID-19 pandemic emergency, the Board permitted documents up to 50 pages to be sent to the Board via email attachment and fax, in addition to USPS mail, but required documents in excess of 50 pages to be mailed to the Board for filing.

WHEREAS, during the COVID-19 pandemic emergency, the Board also served letters, memos, notices, orders, decisions and orders, stipulations, and settlement agreements via email attachment.

WHEREAS, the Board anticipated that transmission of documents via email attachment and fax would be provisional and be discontinued by July 31, 2021.

WHEREAS, parties who sent documents to the Board via email attachment and who were served documents by the Board via email attachment expressed that email was the preferred method to exchange documents because email was more efficient, convenient, secure, reliable, and economical than USPS mail.

WHEREAS, Chapter 489E, HRS permits the submission of an electronic record if a law requires a record to be in writing, permits an electronic signature if a signature is required, and also permits a governmental agency to determine whether, and the extent to which, it will send and accept electronic records and electronic signatures.

WHEREAS, during the COVID-19 pandemic emergency, the Board implemented its use of the Microsoft Teams application to conduct conferences, hearings, and trials, which permitted workers' compensation appeals to proceed, remotely, with minimal interruption.

WHEREAS, invitations to Microsoft Teams meetings are also sent to email addresses.

WHEREAS, during the COVID-19 pandemic emergency, the Board also re-evaluated and suspended the practice of requiring multiple copies of stipulations and settlement agreements in pending workers' compensation appeals, which also proved to be an efficient, convenient, and economical modification.

NOW THEREFORE, THE BOARD HEREBY ORDERS the following:

NO FAXING

1. As of August 1, 2021, whether or not the COVID-19 pandemic emergency continues to exist in Hawaii, and consistent with Section 12-47-13, LAB Rules, the Board will no longer receive or file documents sent via fax.

EMAILING – GENERAL

2. From and after August 1, 2021, and whether or not the COVID-19 pandemic emergency continues to exist in Hawaii, the Board will accept the following documents, if sent to [dlir.appealsboard@hawaii.gov](mailto:dlir.appealsboard@hawaii.gov) as an email attachment:

- a. Confidential settlement letters;
- b. Documents transmitted for filing; and
- c. Stipulations/Settlement Agreements transmitted for consideration by the Board.

3. Beyond July 31, 2021, and whether or not the COVID-19 emergency continues to exist in Hawaii, the Board will continue to send and serve documents via email attachment, including decisions and orders, to those persons identified in paragraph 4 below.

4. The Board will consider the following persons to have agreed to the use of email to send documents to and receive documents from the Board:

- a. Persons who provide their email addresses to the Board; or
- b. Persons who send any communication to the Board via email; or
- c. Persons who send documents to the Board via email; or
- d. Persons who agree (verbally or in writing) that the Board may use email.

5. Any of the foregoing people may inform the Board that they want to discontinue or opt out of using email to exchange documents with the Board by informing the Board of this preference in writing. Any future use of email by that person to the Board will be considered the person's agreement to reinstate use of email to transmit and receive documents.

6. For email attachments submitted for filing, the Board will affix a stamp noting that the document has been "FILED" with the date of filing and send a reply email with a file-stamped attachment of the document to the person filing the document, as soon as practicable.

7. For email attachments that are specifically identified as a "CONFIDENTIAL SETTLEMENT LETTER," the Board will affix a stamp noting that the document has been "RECEIVED" with the date of receipt and send a reply email with a stamped attachment of the document to the person filing the document, as soon as practicable.

8. The Board will print the filed email attachments for inclusion in the paper file, and may do so in condensed format (2 or more images per sheet of paper).

9. Documents attached to emails received outside of the Board's regular business hours will be stamped with the date of the next working day of the Board. The date and time of receipt will be determined by the Board's "received" date and time on the email, not the sender's "sent" date and time.

10. From and after August 1, 2021, the Board will permit documents that exceed 50 pages to be transmitted by email attachment.

11. Documents may be transmitted for filing with the Board as follows, using only one of the following methods for any particular document:

a. Via email attachment, preferably secured and/or encrypted, to [dlir.appealsboard@hawaii.gov](mailto:dlir.appealsboard@hawaii.gov) (this is the Board's preferred method of filing)

b. Via First Class U.S. Mail, postage prepaid, addressed to:

Labor and Industrial Relations Appeals Board  
830 Punchbowl Street, #404  
Honolulu, Hawaii 96813

c. If feasible, via hand delivery to the Board's office.

12. Only the following are to be considered official communications from the Board:

a. Documents attached to an email from [dlir.appealsboard@hawaii.gov](mailto:dlir.appealsboard@hawaii.gov);

b. Documents sent from the Board by USPS mail; or

c. Documents placed by the Board in the attorney jackets at the Board's office.

13. Microsoft Teams meeting invitations from the Board will be sent from [dlir.appealsboard@hawaii.gov](mailto:dlir.appealsboard@hawaii.gov).

#### EMAILING – DOs and DON'Ts

14. Do not email any individual Board member or staff and do not include any Board member or staff on email communications among the parties/representatives. The Board will not reply to any such emails and the emails will not be considered, printed, or filed.

15. The Board will not consider, print, or file the text of the email transmitting the document for filing or submission. Transmittal coversheets, if any, should be included as part of the document attached to the email.

16. The Board prefers that any email and/or the attached documents sent be sent as secured or encrypted, but must not include settings that prevents, precludes, or inhibits the Board from opening, storing, or printing the email or attached document. If the Board cannot open, view, store, and print the email and attached document, the document cannot and will not be filed.

17. Submit a document to the Board by ONLY ONE method.

18. Unless specifically requested by the Board, do not submit a document by more than one method of transmission. Upon request by the Board, a party may be required to also submit a paper print of a document submitted by email.

19. The filing party is responsible for serving a copy of the file-stamped document to all parties. The Board will not return file-marked copies of documents submitted for filing via First Class U.S. Mail, unless the filing party provides a self-addressed, stamped (postage prepaid) envelope for return of any additional copies submitted.

20. If you encounter any difficulty viewing documents emailed from [dlir.appealsboard@hawaii.gov](mailto:dlir.appealsboard@hawaii.gov), contact the Board at (808) 586-8600 ext. 2. The Board's staff will assist you to view the document, but will not provide any advice or interpretation of the document.

#### STIPULATIONS/SETTLEMENT AGREEMENTS

21. The Board prefers that parties submit stipulations or settlement agreements for the Board's consideration by email attachment.

22. When submitting a paper stipulation or settlement agreement for consideration by the Board, submit only the original. No additional copies are necessary. The Board will email (or, if necessary, mail) certified copies of approved stipulations and settlement agreement to the parties.

23. A stipulation or settlement agreement approved and filed by the Board and included in the Board's paper files will be considered the original, regardless of whether the stipulation or settlement agreement contains wet (ink) or electronic signatures.

AMENDMENT/MODIFICATION

24. The Orders contained herein are subject to amendment or modification by the Board.

Dated: Honolulu, Hawaii,

Jun 29 2021



DAMIEN A. ELEFANTE, Chair



MELANIE S. MATSUI, Member



MARIE C.L. LADERTA, Member

LABOR APPEALS BOARD - 830 PUNCHBOWL ST, RM 404, HONOLULU, HI 96813 - (808)586-8600

If you require a language interpreter or if you require a reasonable accommodation for a disability, in accordance with the Americans with Disabilities Act or other applicable state and federal laws, please contact the Board at (808) 586-8600 at least ten (10) business days prior to your hearing or conference date.

Equal Opportunity Employer/Program  
Auxiliary aids and services are available  
upon request to individuals with disabilities.  
TDD/TTY Dial 711 then ask for (808) 586-8600

---

In the Matter of PROCEEDINGS BEFORE THE LABOR AND INDUSTRIAL  
RELATIONS APPEALS BOARD; Administrative Order 2021-001