

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

SURVIVORS OF JAMES P. TEMBLOR,)	CASE NO.: AB 2013-115
)	DCD No.: 2-10-10913
)	
Claimant-Appellant,)	
)	D/A: June 10, 2010
vs.)	
)	
MIKE MITCHELL CONSULTING,)	
)	
)	Jul 05 2024, 10:30 am
Employer-Appellee, Delinquent,)	FILED SM
)	Labor and Industrial Relations
and)	Appeals Board
)	
SPECIAL COMPENSATION FUND,)	
)	
Appellee.)	

ORDER GRANTING FOURTH MOTION TO EXTEND TIME

On June 10, 2010, Decedent JAMES P. TEMBLOR sustained a fatal injury to the head.

On August 27, 2012, Claimant SURVIVORS OF JAMES P. TEMBLOR, by and through THERESA TEMBLOR, the surviving spouse of Decedent, appealed the Director's August 23, 2012 Decision to the Labor and Industrial Relations Appeals Board ("Board").

On June 19, 2013, Lowell K.Y. Chun-Hoon, Esq. entered an appearance as counsel for Claimant.

On August 26, 2014, THERESA TEMBLOR, by and through her attorney, Lowell K.Y. Chun-Hoon, Esq., filed an Offer of Proof, confirming that

THERESA TEMBLOR was the only dependent survivor of Decedent JAMES P. TEMBLOR.

On November 9, 2015, the Board entered a Decision and Order in the above-entitled appeal.

On December 9, 2015, Claimant filed a Motion to Reconsider and/or Reopen the Board's November 9, 2015 Decision and Order.

On May 24, 2016, the Board entered an order denying Claimant's request for reconsideration and granted, in part, Claimant's request to reopen the record. Discovery deadlines were reset and trial was scheduled for December 7, 2016 at 9:00 a.m.

This matter proceeded to trial on December 7, 2016. Pursuant to a Sixteenth Stipulation Continuing Filing of Post Trial Briefs, filed on January 3, 2023, the deadline for the filing of post-trial briefs was continued to June 29, 2023.

On January 10, 2023, Lowell K.Y. Chun-Hoon, Esq., attorney for Claimant, provided the Board with a copy of the obituary of THERESA TEMBLOR, confirming that THERESA TEMBLOR died on January 26, 2019.

On June 29, 2023, the Board issued an Order Holding Case in Abeyance and Notice of Intention to Dismiss where the Board set deadlines relating to a court-appointed personal representative or special administrator of Claimant's estate (the Estate of THERESA TEMBLOR).

On October 25, 2023, the SPECIAL COMPENSATION FUND ("SCF") filed a Motion to Extend Time for Appointment and Appearance of Special

Administrator or Personal Representative, and to Extend Deadlines for Special Compensation Fund and Employer Appellee to Report Appointment of Special Administrator or Personal Representative, to Notify Special Administrator or Personal Representative of the Appeal and Order Holding Case in Abeyance and of December 26, 2023 Deadline to Enter an Appearance, Indicate Whether Estate Will Continue Appeal and to File a Declaration of Compliance and Identify Special Administrator or Personal Representative (“Motion to Extend Time”). The SCF’s Motion attached a Declaration of Lowell K. Y. Chun-Hoon (“Declaration”) and a Notice of Non-Hearing Motion. According to the Declaration, despite numerous attempts a personal representative had not yet been approved by the Probate Court, and therefore, Mr. Chun-Hoon requested an additional 60 days to obtain approval from the Probate Court of a Personal Representative.

On November 16, 2023, the Board granted the SCF’s Motion to Extend Time.

On December 26, 2023, the SCF filed a Second Non-Hearing Motion to Extend Time for Appointment and Appearance of Special Administrator or Personal Representative, and to Extend Deadlines for Special Compensation Fund and Employer Appellee to Report Appointment of Special Administrator or Personal Representative, to Notify Special Administrator or Personal Representative of the Appeal and Order Holding Case in Abeyance and of January 16, 2024 Deadline to Enter an Appearance, Indicate Whether Estate Will Continue Appeal and to File a Declaration of Compliance and Identify

Special Administrator or Personal Representative (“Second Motion to Extend Time”). The SCF’s Second Motion attached a Declaration of Lowell K. Y. Chun-Hoon (“Declaration”) and a Notice of Non-Hearing Motion. According to the Declaration, despite numerous attempts a personal representative has not yet been approved by the Probate Court, and therefore, Mr. Chun-Hoon requested an additional 90 days to obtain approval from the Probate Court of a Personal Representative.

On January 11, 2024, the Board granted the SCF’s Second Motion to Extend Time.

On March 25, 2024, the SCF filed a Third Non-Hearing Motion to Extend Time for Appointment and Appearance of Special Administrator or Personal Representative, and to Extend Deadlines for Special Compensation Fund and Employer Appellee to Report Appointment of Special Administrator or Personal Representative, to Notify Special Administrator or Personal Representative of the Appeal and Order Holding Case in Abeyance and of March 27, 2024 Deadline to Enter an Appearance, Indicate Whether Estate Will Continue Appeal and to File a Declaration of Compliance and Identify Special Administrator or Personal Representative (“Third Motion to Extend Time”), requesting an additional 90 days to comply with the Board’s Order Holding Case in Abeyance and Notice of Intention to Dismiss. The SCF’s Third Motion attached a Declaration of Lowell K. Y. Chun-Hoon (“Declaration”) and a Notice of Non-Hearing Motion. According to the Declaration, despite numerous attempts a personal representative has not yet been approved by the Probate

Court.

On April 11, 2024, the Board granted the SCF's Third Motion to Extend Time.

On June 18, 2024, the SCF filed a Fourth Non-Hearing Motion to Extend Time for Appointment and Appearance of Special Administrator or Personal Representative, and to Extend Deadlines for Special Compensation Fund and Employer Appellee to Report Appointment of Special Administrator or Personal Representative, to Notify Special Administrator or Personal Representative of the Appeal and Order Holding Case in Abeyance and of June 25, 2024 Deadline to Enter an Appearance, Indicate Whether Estate Will Continue Appeal and to File a Declaration of Compliance and Identify Special Administrator or Personal Representative ("Fourth Motion to Extend Time"), requesting an additional 90 days to comply with the Board's Order Holding Case in Abeyance and Notice of Intention to Dismiss. The SCF's Fourth Motion attached a Declaration of Lowell K. Y. Chun-Hoon ("Declaration") and a Notice of Non-Hearing Motion. According to the Declaration, despite numerous attempts a personal representative has not yet been approved by the Probate Court.

Having considered the SCF's Fourth Motion to Extend Time, and the Board being fully apprised in the premises,

IT IS HEREBY ORDERED that the Fourth Motion to Extend Time is GRANTED. The Board's Order Holding Case in Abeyance and Notice of Intention to Dismiss is AMENDED as follows:

The above-captioned appeal, including but not limited to the filing of post-trial briefs, be held in abeyance until **September 23, 2024**, pending the Board's receipt of a written appearance by a court-appointed personal representative or special administrator of Claimant's estate (the Estate of THERESA TEMBLOR). Such appearance is to be made on or before **September 23, 2024**. Extensions by the Board may be granted upon good cause shown or at the discretion of the Board.

If the Board does not receive any of the above-referenced, written appearances on or before **September 23, 2024** and no extension of this deadline is granted by the Board, IT IS HEREBY ORDERED that Employer MIKE MITCHELL CONSULTING and the SPECIAL COMPENSATION FUND will have until **October 30, 2024** to confirm, in writing, whether or not a special administrator or personal representative of Claimant's estate (the Estate of THERESA TEMBLOR) was appointed on or before **September 23, 2024**, and:

1. If a special administrator or personal representative of Claimant's estate was not appointed on or before **September 23, 2024** Employer and the SCF shall file a declaration with the Board that confirms this, on or before **October 30, 2024**.
2. If a special administrator or personal representative of Claimant's estate has been appointed, Employer and the SCF shall, on or before **October 30, 2024**:
 - a. Provide the special administrator or personal representative with written notice of the appeal herein, any and all Pretrial Orders pertaining to this appeal, and this Order Holding Case in Abeyance;
 - b. Give notice to the special administrator or personal representative that, on or before **November 25, 2024**, the special administrator or personal representative

must enter an appearance in this appeal and indicate whether the estate plans to continue the appeal with a substitute party or the appeal will be dismissed; and

- c. File a declaration with this Board that confirms compliance with this order and includes the identity and contact information of the special administrator or personal representative of Claimant's estate.

YOU ARE HEREBY NOTIFIED that this appeal may be dismissed after **September 23, 2024**, unless an appearance is made by either a court-appointed personal representative of Claimant's estate (the Estate of THERESA TEMBLOR) or a special administrator of Claimant's estate (the Estate of THERESA TEMBLOR). Extensions by the Board may be granted upon good cause shown or at the discretion of the Board.

Dated: Honolulu, Hawai'i,

Jul 05 2024



DAMIEN A. ELEFANTE, Chair



MARIE C.L. LADERTA, Member



HARRY YEE, Member

Survivors of James P. Temblor v. Mike Mitchell Consulting, et al.; AB 2013-115;
Order Granting Fourth Motion to Extend Time

Lowell K. Y. Chun-Hoon, Esq.
(Courtesy copy)

Mike Mitchell
For Delinquent Employer-Appellee

Nelson T. Higa, Esq.
For Special Compensation
Fund-Appellee

A certified copy of the foregoing was served upon the above-captioned parties or their legal representatives on the date of filing noted above.

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

If you need a language interpreter or if you need an auxiliary aid/service or other accommodation due to a disability, please contact the Board at (808) 586-8600 and/or dllr.appealsboard@hawaii.gov as soon as possible, preferably at least ten (10) business days prior to your hearing or conference date. Requests made as early as possible have a greater likelihood of being fulfilled. If a request is received after the reply date, the Board will try to obtain the interpreter, auxiliary aid/service, or accommodation, but the Board cannot guarantee that the request will be fulfilled.

Upon request, this notice is available in alternate/accessible formats such as large print, Braille, or electronic copy.

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

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This certifies that the foregoing is a
full, true, and correct copy of the
original on file in this office.

/s/ S. Macarayan for LIRAB