

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

BARBARA F. CAMBRA,)	CASE NO.: AB 2019-194(M)
)	
Claimant-Appellee,)	DCD No.: 7-89-00554
)	D/A: December 27, 1988
vs.)	
)	
MAUI PINEAPPLE CO., LTD.,)	
)	
Employer-Appellee,)	
)	
and)	
)	
JOHN MULLEN & CO., INC.,)	
)	
Insurance Carrier-)	
Appellee.)	
)	
BARBARA F. CAMBRA,)	CASE NO.: AB 2019-194(M)
)	
Claimant-Appellee,)	DCD NO.: 7-00-02932
)	D/A: July 13, 1999
vs.)	
)	
SEABURY HALL,)	
)	
Employer-Appellant,)	
)	
and)	
)	
HAWAII INSURANCE GUARANTY)	
ASSOCIATION,)	
)	
Insurance Carrier-)	
Appellant.)	

Jul 24 2025, 10:42 am

FILED_{akw}

Labor and Industrial Relations
Appeals Board

ORDER DENYING SEABURY HALL'S
MOTION FOR EXTENSION OF TIME AND
REQUEST FOR APPROVAL OF ATTORNEY'S FEE

This workers' compensation case is before the Labor and Industrial
Relations Appeals Board on appeal by Employer SEABURY HALL and

Insurance Carrier HAWAII INSURANCE GUARANTY ASSOCIATION (collectively, “SEABURY HALL”) from the August 23, 2019 Decision Supplemental to Award Dated 11/16/1989 of the Director of Labor and Industrial Relations.

On June 13, 2025, SEABURY HALL, by and through its counsel, Brian G. S. Choy, Esq. (“Attorney Choy”), filed a Request for Approval of Attorney’s Fee (“fee request”). Attached to this fee request was a statement itemizing services performed by Attorney Choy and his office, dated June 8, 2025 (“itemized statement”).¹

On June 20, 2025, the Board issued an Order Denying Without Prejudice Request for Approval of Attorney’s Fee.

On June 20, 2025, SEABURY HALL filed a Motion for Extension of Time to File an Amended Request for Approval of Attorney’s Fee (“motion”).

On June 23, 2025, the Board issued a Notice of Non-Hearing Motion.

On July 2, 2025, Employer MAUI PINEAPPLE CO., LTD. and Insurance Carrier JOHN MULLEN & CO., INC. (collectively, “MAUI PINEAPPLE”) filed an Opposition to SEABURY HALL’s motion.

On July 11, 2025, SEABURY HALL filed a reply to MAUI PINEAPPLE’s opposition.

FINDINGS OF FACT

¹ An identical copy of this itemized statement was filed with the Board on June 12, 2025, without a Request for Approval of Attorney’s Fee. Attorney Choy’s June 12, 2025 and June 13, 2025 submissions are collectively referred to as Attorney Choy’s “fee request.”

1. On August 23, 2019, the Director of Labor and Industrial Relations issued a Decision Supplemental to Award Dated 11/16/1989 (“August 23, 2019 Supplemental Decision”), determining that the Director does not have jurisdiction over SEABURY HALL’s counsel’s June 5, 2003 Request for Attorney’s Fee filed in Case No. AB 2001-369(M), DCD Case No. 7-00-02932, as said request appeared to relate to matters on appeal before the Board.

2. On September 3, 2019, SEABURY HALL appealed the Director’s August 23, 2019 Supplemental Decision to the Board. Said appeal is designated as Case No. AB 2019-194(M), herein.

3. MAUI PINEAPPLE did not appeal the Director’s August 23, 2019 Supplemental Decision to the Board and therefore, is not considered to be the “appellant” for purposes of Case No. AB 2019-194(M), herein.

4. On May 13, 2025, the Board issued a Decision and Order in Case No. 2019-194(M). In relevant part, the Board determined that MAUI PINEAPPLE was liable for SEABURY HALL’s attorney’s fees and costs in Case No. AB 2001-369(M) which is not the appeal, herein. To this extent, the Board approved a sum of \$7,300.67 for the attorney’s fees and costs of SEABURY HALL in Case No. 2001-369(M), pursuant to Attorney Choy’s June 5, 2003 request for attorney’s fee. Said approved sum was to be made payable to SEABURY HALL by MAUI PINEAPPLE.

5. On July 11, 2025, SEABURY HALL, in its reply memorandum confirmed that MAUI PINEAPPLE paid SEABURY HALL the

amount of \$7,300.67 in attorney's fees and costs, per the May 13, 2025 Decision and Order of the Board. The Board credits this statement by SEABURY HALL.

6. The Board's May 13, 2025 Decision and Order did not award any compensation or benefits to Claimant BARBARA F. CAMBRA, pursuant to Chapter 386, Hawaii Revised Statutes ("HRS").

7. Ten (10) days after May 13, 2025 is Friday, May 23, 2025.

8. For purposes of this appeal, herein, attorneys seeking approval of fees pursuant to Section 386-94, HRS must have filed with the Board a request for approval of attorney's fees on or before the close of business Friday, May 23, 2025 which is ten (10) calendar days after the Board issued its May 13, 2025 Decision and Order.

9. On June 12, 2025, Attorney Choy, counsel for SEABURY HALL, filed an itemized billing statement, dated June 8, 2025, describing the legal services he and his office performed, as well as costs incurred, in Case No. AB 2019-194(M), from February 19, 2020 through May 15, 2025 ("itemized statement"). A Request for Approval of Attorney's Fee was not attached to this itemized statement.

10. On June 13, 2025, Attorney Choy, on behalf of SEABURY HALL, submitted a Request for Approval of Attorney's Fee, dated June 12, 2025, along with a copy of the itemized statement previously filed with the Board on June 12, 2025. Attorney Choy's June 12, 2025 and June 13, 2025 submissions to the Board are collectively referred to as his "fee request."

11. Attorney Choy's/SEABURY HALL's fee request is deemed to have been filed with the Board on June 13, 2025.

12. By way of the June 13, 2025 fee request, Attorney Choy requested the Board's approval of hourly rates of \$175.00 and \$145.00 and fees and costs totaling \$15,384.52 (\$14,359.50² in fees, taxes of \$676.40, plus costs of \$348.40).³

13. By way of this fee request, Attorney Choy identified MAUI PINEAPPLE as the party responsible for payment of his requested attorney's fees and costs.

14. Attorney Choy and SEABURY HALL's June 13, 2025 fee request was filed after May 23, 2025.

15. The June 13, 2025 fee request was filed 31 days after the Board's May 13, 2025 Decision and Order and 21 days after any request for approval of attorney's fee was due to the Board.

16. Attorney Choy and SEABURY HALL's June 13, 2025 fee request was untimely submitted to and filed with the Board.

17. On June 20, 2025, the Board issued an Order Denying Without Prejudice Request for Approval of Attorney's Fee. Therein, the Board allowed SEABURY HALL ten (10) calendar days in which to either: (1) file a copy of Attorney Choy's fee request which bears a file-stamp that confirms that

² While the fee request contains a notation stating "Atty #1 - \$175.00 Atty #2 - \$145.00," Attorney did not specify the number of hours that each attorney billed at the stated hourly rates.

³ The fee request also states that it was served on "Maui Pineapple/JM," but does not provide the date on which service was made.

the Board received said fee request on or before May 23, 2025 with confirmation as to the date upon which MAUI PINEAPPLE was served with said fee request; or (2) file a motion for enlargement of time, pursuant to Sections 12-47-32 and 12-47-35, Board Rules of Practice and Procedure (“LAB Rules”), Hawaii Administrative Rules (“HAR”).

18. In response to the Board’s June 20, 2025 order, on June 20, 2025, SEABURY HALL timely filed a Motion for Extension of Time to File an Amended Request for Approval of Attorney’s Fee (“motion”).

19. In support of SEABURY HALL’s motion, SEABURY HALL requested that a 10-day extension of time be granted to permit SEABURY HALL “to recover all attorney’s fees and costs resulting from Maui Pineapple’s unsuccessful appeals as authorized by HRS §§ 386-93(b) and 386-94.” See page 3 of the Memorandum in Support of SEABURY HALL’s motion.

20. Ten days from May 23, 2025 (the date upon which any request for approval of attorney’s fee was due) is Monday, June 2, 2025.

21. Accordingly, SEABURY HALL’s motion requests until Monday, June 2, 2025 to file its request for approval of attorney’s fees.

22. In relevant part and in support of its motion, SEABURY HALL argued that the 10-day extension of time “would not prejudice Maui Pineapple.” See page 3 of the Memorandum in Support of SEABURY HALL’s motion.

23. Also in relevant part and in support of its motion, SEABURY HALL argued that its fee request was “reasonable and proper,” maintaining

that it did not overreach or ask for excessive attorney's fees and costs.

24. SEABURY HALL attached to its motion a copy of Attorney Choy's June 13, 2025 fee request.

25. SEABURY HALL's motion did not include a declaration or affidavit in support of its motion.

26. Not having specified whether its motion was a hearing or non-hearing motion, on June 23, 2025, the Board issued a Notice of Non-Hearing Motion. In relevant part, the Board notified the parties that SEABURY HALL's June 20, 2025 motion was designated as a non-hearing motion. Parties were afforded 14 days, or until Monday, July 7, 2025 to request a hearing on this motion and/or to file a joinder or opposition to this motion.

27. Neither party requested a hearing on SEABURY HALL's June 20, 2025 motion.

28. On July 2, 2025, MAUI PINEAPPLE timely filed a Memorandum in Opposition to SEABURY HALL's motion.

29. On July 11, 2025 SEABURY HALL timely filed a reply to MAUI PINEAPPLE's July 2, 2025 Memorandum in Opposition.

30. SEABURY HALL did not provide a reason, cause, or explanation as to why its June 13, 2025 fee request was untimely filed.

31. SEABURY HALL did not argue or demonstrate that its untimely filing of its June 13, 2025 fee request was the result of excusable neglect.

32. The record is devoid of any evidence that Attorney Choy/

SEABURY HALL's untimely filing of the June 13, 2025 fee request was the result of excusable neglect.

33. The June 13, 2025 fee request, as submitted by Attorney Choy on behalf of SEABURY HALL against MAUI PINEAPPLE is denied.

34. SEABURY HALL is not entitled to an assessment of its attorneys' fees and costs against MAUI PINEAPPLE, for legal services performed by the attorneys for SEABURY HALL whilst this matter was on appeal, herein, in Case No. AB 2019-194(M).

ANALYSIS/DISCUSSION

Section 12-47-55 of the HAR, LAB Rules states:

Within ten calendar days following the filing of a final decision and order, or upon the filing of a stipulation and settlement agreement with respect to an appeal compromised pursuant to section 386-78, HRS, **attorneys seeking approval of fees pursuant to section 386-94, HRS shall file with the board a request for approval of attorney's fees** setting forth the various activities performed together with the time expended by the attorney in each activity. **The request shall be served on those parties against whom the fees are to be assessed.** Any party objecting to approval of a request may file a written objection thereto no later than ten calendar days following service. No request for approval of attorney's fees or agreement to pay attorney's fees shall be valid until approved by the board.

(emphasis added).

Accordingly, it is undisputed that any request for approval of attorney's fee in this case should have been received by the Board on or before

Friday, May 23, 2025.

Section 12-47-35, LAB Rules allows the Board to permit an enlargement of time for attorneys to file their request for approval of fees. If a motion for enlargement of time is made to the Board after the expiration of the deadline in question, § 12-47-35(a)(2), LAB Rules provides, in relevant part, as follows:

(a) When any act is required or allowed to be done at or within a specified time, the board for good cause shown may at any time:

* * * *

(2) Upon motion made after the expiration of the specified period, permit the act to be done **where the failure to act was the result of excusable neglect**; but it may not extend the time for taking any action on jurisdictional matters or where any order expressly provides that no enlargement of shall be granted.

In the instant case, Attorney Choy, on behalf of SEABURY HALL, filed his fee request with the Board on June 13, 2025, which is 31 days after the Board's issuance of its Decision and Order in this case and is therefore, 21 days late. That is, Attorney Choy/SEABURY HALL's fee request was submitted to the Board more than 10 calendar days after the Board issued its Decision and Order in this matter. The lateness of Attorney Choy/SEABURY HALL's fee request is undisputed in this case.

Not having requested an enlargement of time, either before or after May 23, 2025, to submit his fee request, the Board, by way its June 20, 2025

order, allowed Attorney Choy/SEABURY HALL until June 30, 2025 to file a motion to enlarge time to submit their fee request beyond the May 23, 2025 deadline.

On June 20, 2025, SEABURY HALL timely filed its motion requesting an extension of time by which to file its fee request, which is the subject of this order, herein.

1. **Attorney Choy/SEABURY HALL's failure to submit a timely request for approval of attorney's fee was not the result of excusable neglect, and therefore, SEABURY HALL's motion and fee request are denied.**

Section 12-47-35(a)(2), LAB Rules permits the Board to extend the deadline by which attorneys must file their request for approval of attorney's fee provided that the attorney's "failure to act was the result of **excusable neglect**" (emphasis added).

In opposing SEABURY HALL's motion to enlarge the time by which Attorney Choy/SEABURY HALL may file their fee request, MAUI PINEAPPLE argues that Attorney Choy/SEABURY HALL failed to demonstrate "excusable neglect," citing Enos v. Pacific Transfer & Warehouse, Inc., 80 Haw. 345, 910 P.2d 116 (1996). MAUI PINEAPPLE averred that, under Enos, only plausible misconstruction of the rule, not mere ignorance of the law rises to "excusable neglect." MAUI PINEAPPLE also pointed out that SEABURY HALL failed to identify the cause of its delay in filing the fee request.

SEABURY HALL maintains that MAUI PINEAPPLE's reliance on Enos is misplaced because Enos pertains to a former, now amended version of Hawaii Rules of Appellate Procedure ("HRAP") Rule 4(a). Citing Eckard Brandes,

Inc. v. DLIR, 146 Haw. 354, 463 P.3d 1011 (2020), SEABURY HALL argues that, pursuant to Eckard, “excusable neglect” is a less stringent standard and that the Board should consider the equities in favor of SEABURY HALL.

In Enos, the Hawaii Supreme Court addressed the issue of whether a trial court abused its discretion in allowing an otherwise late appeal, by the trial court’s granting of a HRAP Rule 4(a)(5)⁴ motion. Enos did not specifically address the application of LAB Rule § 12-47-35(a)(2) but addressed a situation where a late filing deprived the appellate court of jurisdiction (which is not the case, here). The Enos Court explained “the distinction between ‘good cause’ and ‘excusable neglect’. . .” Enos, 80 Haw. at 350, 910 P.2d at 121. In doing so, the Enos Court stated that “excusable neglect” applies in “extraordinary cases” and requires “something more poignant than the lesser test of good cause.” Enos, 80 Haw. at 351, 910 P.2d at 122 (citations omitted). Citing State of Oregon v. Champion Int’l Corp., 680 F.2d 1300, 1301 (9th Cir. 1982), the Court noted that “[i]nadvertence or mistake of counsel does not constitute excusable neglect,” Enos, 80 Haw. at 350, 910 P.2d at 121. The Court further explained that “only ‘plausible misconstruction, but not mere ignorance, of the law or rules’ rises to the level of excusable neglect.” Enos, 80 Haw. at 353, 910 P.2d at 124 (citations omitted). Similarly, “inadvertence, ignorance of the rules, or mistakes construing the rules,” is not recognized as excusable neglect. Enos,

⁴ Per the Court, HRAP Rule 4(a)(5) provided, in relevant part, “[t]he court or agency appealed from, upon a showing of excusable neglect or good cause, may extend the time for filing a notice of appeal[.]” Enos, 80 Haw. at 349-350, 910 P.2d at 120-121.

80 Haw. at 354, 910 P.2d at 125. In this respect, the Enos Court focused on whether or not the missed deadline was within the movant's control. Enos, 80 Haw. at 352, 910 P.2d at 123.

After the 1996 Enos opinion, the Court re-examined "excusable neglect" in Eckard Brandes (2020). As with the Enos Court, the Eckard Brandes Court acknowledged that "good cause" differs from "excusable neglect." Eckard Brandes, 463 P.3d at 1019-1021. With respect to the latter, the Eckard Brandes Court determined, however, that "there is no need for courts to determine whether or not the reason for missing the deadline was within the movant's control." Eckard Brandes, 463 P.3d at 1021. The Eckard Brandes Court articulated that "whether 'excusable neglect' exists is 'at the bottom an equitable' decision; it is necessary to first determine whether there is 'neglect,' and, if so, whether the 'neglect' is 'excusable.'" Id. (citations omitted). The Eckard Brandes Court agreed with the Enos Court of its adoption of an "equitable standard" as follows:

. . . "excusable neglect" is to be construed pursuant to its plain language: "neglect" that is "excusable," which, "involve[s] a broad, equitable, inquiry" "taking into account all relevant circumstances surrounding the party's omission."

Id. (citations omitted). The Court firmly stated that "whether 'excusable neglect' exists should lie largely in the discretion of the court." Id.

In this respect, it appears that the Eckard Brandes Court relaxed the Enos "excusable neglect" standard to the extent that "excusable neglect" is not limited to "only" those situations which involve "plausible misconstruction"

of the law or rules. Further, the analysis of whether “excusable neglect” exists does not begin with determining whether the reason for missing the deadline was within the movant’s control.

That being said, the Court, in 2021, reiterated the “excusable neglect” standard it articulated in Eckard Brandes, while simultaneously indicating the soundness of its holding in Enos. In Wilmington Savings Fund Society v. Ryan, 148 Haw. 515, 479 P.3d 133 (2021), the Court confirmed that, just as it held in Enos, “counsel’s failure to read and comply with the plain language of applicable procedural rules. . . cannot constitute ‘excusable neglect.’” Wilmington Savings, 148 Haw. at 529-530, 479 P.3d at 147-148 (citation omitted).

Consistent with Enos, Eckard Brandes, and Wilmington Savings, our analysis begins with the reason(s) SEABURY HALL missed the deadline to timely file its fee request. For without understanding SEABURY HALL’s reason(s) for the delay, this Board cannot ascertain whether SEABURY HALL’s negligence was “excusable.”

SEABURY HALL’s motion and Memorandum in Support are silent in this regard. SEABURY HALL offers no explanation as to why its fee request was filed late.

Instead, in relevant part and in support of its motion, SEABURY HALL argued that the extension of time “would not prejudice Maui Pineapple.” See page 3 of the Memorandum in Support of SEABURY HALL’s motion. SEABURY HALL also argued that its fee request was “reasonable and proper,”

maintaining that it did not overreach or ask for excessive attorney's fees and costs. Id. SEABURY HALL maintained that it was entitled "to recover all attorney's fees and costs resulting from Maui Pineapple's unsuccessful appeals as authorized by HRS §§ 386-93(b) and 386-94." Id.

For purposes of determining whether the Board may grant an enlargement of time for SEABURY HALL to submit its fee request beyond the deadline of May 23, 2025, the first relevant question is whether or not SEABURY HALL has demonstrated "neglect" in failing to timely file its fee request. The issues of whether or not an extension of time to submit a fee request would prejudice MAUI PINEAPPLE, whether or not SEABURY HALL's fee request was "reasonable and proper," and whether SEABURY HALL is entitled to recover its attorney's fees and costs against MAUI PINEAPPLE do not come into play without first knowing the reason, cause, circumstances, or nature of the neglect giving rise to SEABURY HALL's untimely filing of its fee request.

Because SEABURY HALL did not offer any reason for its delay in filing its fee request, the Board cannot find that the delay was due to "excusable neglect." Not having demonstrated that its June 13, 2025 fee request was filed beyond the deadline of May 23, 2025 as a result of "excusable neglect," the Board denies SEABURY HALL's June 20, 2025 motion requesting an extension of time in which to file its fee request. Having denied SEABURY HALL's June 20, 2025 motion, the Board denies Attorney Choy/SEABURY HALL's June 13, 2025 fee request.

2. **Even assuming *arguendo* that the Board found that SEABURY HALL's untimely filing of its fee request was due to excusable neglect and granted SEABURY HALL's motion herein, SEABURY HALL's June 13, 2025 fee request would still be denied as untimely.**

Even assuming *arguendo* that the Board found that SEABURY HALL's untimely filing of its fee request was due to excusable neglect and even assuming *arguendo* that the Board had granted SEABURY HALL's motion herein, SEABURY HALL's June 13, 2025 fee request would still be untimely. This is because SEABURY HALL's motion requests a "10-day extension of time." See page 3 of the Memorandum in Support of SEABURY HALL's motion; see also page 2 of SEABURY HALL's motion (" . . . SEABURY HALL. . . respectfully request[s] the entry of an order extending the time to file an Amended Request for Approval of Attorney's Fee. . . for ten days. . .") Ten days after the original fee request deadline of May 23, 2025 is Monday, June 2, 2025.

Having filed its fee request on June 13, 2025, even assuming *arguendo* that the Board granted SEABURY HALL an enlargement of time to file its fee request by June 2, 2025, Attorney Choy/SEABURY HALL's filing of the fee request still renders it untimely.

To the extent that SEABURY HALL intended to request an enlargement of time to June 30, 2025 to submit a request for approval of attorney's fees, as the Board acknowledges that elsewhere in its motion, SEABURY HALL refers to the date of "June 30, 2025" as a requested deadline, such a request is nonsensical. This is because the requested extension to submit a belated fee request to June 30, 2025 is only 10 days after SEABURY

HALL's June 20, 2025 motion. Notably, SEABURY HALL did not designate its motion as a hearing motion with a hearing date that occurs before June 30, 2025. Not having requested a hearing on its motion and not having provided notice of a hearing on its motion, SEABURY HALL's June 20, 2025 motion was considered to be a non-hearing motion. According to the Board's practice, opposing parties have, at least 14 days, from the notice of a non-hearing motion to request a hearing on the motion and/or to join or oppose said motion. That is, requesting the Board to issue an order extending a deadline within 10 days of the filing of a (non-hearing) motion is nonsensical because such a request and the issuance of an order consistent with the request would not allow the other involved parties due process – that is, the other parties would not have the requisite time to request a hearing on said motion and/or respond to said motion.

3. **Even assuming *arguendo* that the Board granted SEABURY HALL's June 20, 2025 motion, herein, Attorney Choy/SEABURY HALL's fee request must be denied in accordance with the remedy sought by SEABURY HALL in its June 20, 2025 motion.**

Even assuming *arguendo* that the Board granted SEABURY HALL's June 20, 2025 motion, herein, Attorney Choy/SEABURY HALL's fee request must be denied in accordance with the remedy sought by SEABURY HALL in its June 20, 2025 motion. This is because SEABURY HALL's Memorandum in Support of its June 20, 2025 motion specifically states that SEABURY HALL "should be entitled to recover all attorney's fees and costs resulting from **Maui Pineapple's unsuccessful appeals** as authorized by HRS §§ 386-93(b) and 386-94" (emphasis added). See page 3 of the Memorandum in Support of

SEABURY HALL's motion.

It is observed that SEABURY HALL, by way of Attorney Choy's June 13, 2025 fee request, sought the Board's approval of its attorneys' fees and costs incurred during the pendency of the appeal, herein, in Case No. 2019-194(M), from February 19, 2020 through May 15, 2025. However, the appeal, herein, arises from SEABURY HALL's appeal of the Director's August 23, 2019 Supplemental Decision, not as a result of an appeal by MAUI PINEAPPLE. To be clear, in this instance, MAUI PINEAPPLE did not appeal the Director's August 23, 2019 Supplemental Decision and is therefore designated as the "Appellee" in this case.

Accordingly, none of the attorneys' fees and costs incurred by SEABURY HALL during the pendency of the appeal herein could have resulted from an appeal by MAUI PINEAPPLE. Therefore, the relief requested by SEABURY HALL is nonsensical. On this basis, the June 13, 2025 fee request must be denied.

4. SEABURY HALL's fee request must be denied on its merits.

Even assuming *arguendo* that SEABURY HALL, in its June 20, 2025 motion requested that the Board hold MAUI PINEAPPLE liable for SEABURY HALL's approved attorneys' fees and costs during the pendency of SEABURY HALL's appeal, herein, and even assuming *arguendo* that the Board granted an enlargement of time for SEABURY HALL to submit its fee request on June 13, 2025, SEABURY HALL's fee request must be denied because MAUI PINEAPPLE is not liable for SEABURY HALL's attorneys' fees and costs

incurred whilst this matter was pending before the Board in Case No. 2019-194(M).

SEABURY HALL relies upon §§ 386-94 and 386-93(b), HRS in arguing that it is entitled to recover from MAUI PINEAPPLE its attorney's fees and costs incurred during the pendency of this appeal. Section 386-94, HRS gives the Board authority to approve attorney's fees and costs, stating that "[c]laims for services shall not be valid unless approved by the director or, if an appeal is had, by the appellate board or court deciding the appeal."

With respect to whether an employer is liable for attorney's fees and costs, where there is more than one employer involved in an appeal, § 386-93(b), HRS states, in relevant part:

(b) . . . provided that if an employer or an insurance carrier, other than the employer who appealed, is held liable for **compensation**, the costs of the proceedings of the appellate board . . . , together with reasonable attorney's fees, shall be assessed against the party held liable for the **compensation**.

(emphasis added). Applying § 386-93(b), HRS to the facts of this case, if MAUI PINEAPPLE, as the employer who did not appeal, is held liable for compensation, the reasonable attorney's fees and costs shall be assessed against MAUI PINEAPPLE.

The next question is, then, whether MAUI PINEAPPLE was held liable for "compensation" by the Board as a result of the appeal, herein.

"Compensation" is defined by § 386-1, HRS as follows:

"Compensation" means all benefits

accorded by this chapter **to an employee or the employee's dependent** on account of work injury as defined in this section; it includes **medical and rehabilitation benefits, income and indemnity benefits** in cases of disability or death, and the allowance for **funeral and burial expenses**.

(emphasis added).

In this case, the Board did not award any benefits or compensation to Claimant, the injured employee. Rather, the Board's May 13, 2025 Decision and Order determined that MAUI PINEAPPLE was liable for certain attorney's fees and costs incurred by SEABURY HALL. For purposes of HRS § 386-1, SEABURY HALL cannot be said to be an "employee" or "employee's dependent," and attorney's fees and costs are not a "benefit." Therefore, no "compensation" was awarded by the Board.

Because no "compensation" was awarded by the Board, there is no basis under HRS § 386-93(b) to hold MAUI PINEAPPLE liable for any attorney's fees and costs incurred by SEABURY HALL during the pendency of this appeal.

CONCLUSIONS OF LAW

1. Pursuant to § 12-47-55, LAB Rules, the Request for Approval of Attorney's Fee, filed on June 13, 2025 by SEABURY HALL and Attorney Choy, and the Invoice entitled "CHOY LAW GROUP, LLC," filed on June 12, 2025, collectively referred to as "fee request," are determined to be untimely filed.

2. SEABURY HALL has not presented any evidence or argument to support a finding or conclusion that its untimely filing of Attorney

Choy's fee request was due to excusable neglect, as required by § 12-47-35(a)(2), LAB Rules, and therefore, the untimely filing of Attorney Choy's fee request is not excused.

3. SEABURY HALL's Motion for Extension of Time to File an Amended Request for Approval of Attorney's Fee, filed on June 20, 2025, is DENIED.

4. Pursuant to § 386-93(b), HRS, MAUI PINEAPPLE is not liable for the attorney's fees and costs incurred by SEABURY HALL during the pendency of this appeal.

5. The Request for Approval of Attorney's Fee, filed on June 13, 2025 by SEABURY HALL and Attorney Choy, and the Invoice entitled "CHOY LAW GROUP, LLC," filed on June 12, 2025, are DENIED.

ORDER

1. SEABURY HALL's Motion for Extension of Time to File an Amended Request for Approval of Attorney's Fee, filed on June 20, 2025, is DENIED.

2. The Request for Approval of Attorney's Fee, filed on June 13, 2025 by SEABURY HALL and Attorney Choy, and the Invoice entitled "CHOY LAW GROUP, LLC," filed on June 12, 2025, are DENIED.

If any part of this order should have been set forth as a Finding of Fact or Conclusion of Law, then it shall be deemed as such.

Jul 24 2025

Dated: Honolulu, Hawai'i,



DAMIEN A. ELEFANTE, Chair



MARIE C.L. LADERTA, Member



HARRY YEE, Member

Barbara F. Cambra v. Maui Pineapple Co., Ltd., et al.; AB 2019-194(M); Order Denying Seabury Hall's Motion for Extension of Time and Request for Approval of Attorney's Fee

Brian G. S. Choy, Esq.
For Employer/Insurance
Carrier-Appellant SEABURY HALL

Darlene Y.F. Itomura, Esq.
For Employer/Insurance Carrier-Appellee
MAUI PINEAPPLE CO., LTD.

A digital copy of the Board's order herein was also posted on the Board's website and will remain on the Board's website for at least 180 days from the date of filing.

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

Order mailed: Jul 24 2025

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 dlir.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

Barbara F. Cambra v. Maui Pineapple Co., Ltd., et al.; AB 2019-194(M); Order Denying Seabury Hall's Motion for Extension of Time and Request for Approval of Attorney's Fee

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

/s/ *H. Matanabe* for LIRAB