

LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

STATE OF HAWAII

KENNETH W. MCHENRY,)	CASE NO. AB 92-028(WH)
)	DCD No.: 9-89-01972
Claimant-Appellee,)	9-91-00794
Deceased,)	
)	D/A: August 30, 1987
vs.)	March 6, 1989
)	
KAISER PERMANENTE DBA HAWAII)	
PERMANENTE MEDICAL GROUP,)	Oct 02 2025, 10:58 am
)	FILED SM
Employer-Appellant,)	Labor and Industrial Relations
Self-Insured.)	Appeals Board
)	
)	
)	
)	

NOTICE OF STATUS CONFERENCE

On December 19, 1991, the Director of Labor and Industrial Relations issued a Decision in Disability Compensation Division ("DCD") Case Nos. 9-89-01972 and 9-91-00794 regarding claims filed by Claimant KENNETH W. MCHENRY, who, at the time, was represented by Lowell K.Y. Chun-Hoon, Esq.

On January 2, 1992, Employer KAISER PERMANENTE DBA HAWAII PERMANENTE MEDICAL GROUP appealed the Director's December 19, 1991 Decision to the Labor and Industrial Relations Appeals Board, and said appeal was designated as Case No. AB 92-028(WH).

In response to Employer's January 10, 1992 Motion for Stay of Payments and Benefits, on February 25, 1992, the Board issued an Order Granting Motion for Stay of Payments and Benefits.

A trial in this appeal was scheduled before the Board for November 18, 1992 at 10:30 a.m. However, on November 10, 1992, attorney for Employer informed the Board that a trial was not necessary because the parties had agreed to a settlement, in principle.

Between November 1992 and 2000, for a period of almost eight (8) years, it appears that Employer and Claimant KENNETH W. MCHENRY agreed

to settle this matter, but a settlement document was not executed by the parties and submitted to the Board.

On July 13, 2000, the Board issued an Order Suspending All LAB Trials.

The following year, the Board Chair, on July 25, 2001, inquired of the attorney for Claimant KENNETH W. MCHENRY as to the status of the settlement in this case. Not having received a response, the Board Chair inquired again on August 14, 2001. No responses from Claimant KENNETH W. MCHENRY's attorney appear in the record.

Approximately 2 years later, on June 10, 2003, the Board issued a Notice of Status Conference for a conference scheduled for June 26, 2003.

On July 29, 2003, the Board entered a Stipulation for Remand, wherein Employer and Claimant KENNETH W. MCHENRY agreed to temporarily remand this matter to the Director. The stipulation did not identify the issues to be determined by the Director on remand.

Two and a half years later, or on February 16, 2006, the DCD returned this matter to the Board. The DCD explained that the parties had not requested a hearing before the Director and had not identified any issue to be heard by the Director.

On April 30, 2007, the Board entered a second Stipulation for Remand wherein Employer and Claimant KENNETH W. MCHENRY agreed to temporarily remand this matter to the Director. The stipulation did not identify the issues to be determined by the Director on remand.

Claimant KENNETH W. MCHENRY died on September 18, 2020.¹

On February 24, 2023, Employer forwarded to the Board a settlement agreement for the Board's review.

Between April 30, 2007 and February 24, 2023, the Director did not take any action in this matter. It appears that the parties did not request a hearing before the Director and had not identified any issue to be heard by the Director. Upon receipt of the settlement agreement and upon becoming aware of Claimant KENNETH W. MCHENRY's death, the Board requested that the

¹ The Board was not informed of the death of Claimant KENNETH W. MCHENRY until February 24, 2023 when Employer forwarded a settlement document for the Board's review. Attached to that settlement document is a "Certificate of Death" issued by the Utah County Health Department, dated September 21, 2020.

Director return this matter to the Board's jurisdiction.

On September 22, 2025, the Director returned jurisdiction of this matter to the Board.

It has been more than 33 years since Employer appealed the Director's December 19, 1991 Decision which is the subject of the appeal, herein; almost 33 years since Employer and Claimant KENNETH W. MCHENRY represented that a settlement agreement had been reached; more than 18 years since this matter was last temporarily remanded to the Director; more than 5 years since Claimant KENNETH W. MCHENRY passed away; and to date, there is no resolution of the above-referenced appeal.

Although it has been more than 5 years since Claimant KENNETH W. MCHENRY's death, to date, the record does not reflect that a Hawaii court-appointed personal representative or special administrator of Claimant KENNETH W. MCHENRY's Estate has appeared in this appeal.²

Although it has been more than 5 years since Claimant KENNETH W. MCHENRY's death, to date, the Board has not received written notice from Lowell K. Y. Chun-Hoon, Esq. that he is no longer representing Claimant KENNETH W. MCHENRY. As a general rule, the authority of counsel to proceed with a case is terminated upon the death of the party being represented. *Bagalay v. Lahaina Restoration Foundation*, 60 Haw. 125 (1978).

As a courtesy to Mr. Chun-Hoon, Claimant KENNETH W. MCHENRY's former attorney, a copy of this notice is being provided to him and Mr. Chun-Hoon is invited to participate in the following conference.

I. INTERACTIVE CONFERENCE TECHNOLOGY

All conferences and hearings, and the trial, in the above-referenced matter will be held by interactive conference technology. Refer to the Board's January 30, 2024 Administrative Order 2024-01 for information about in-person appearances and the use of interactive conference technology. (See <https://labor.hawaii.gov/lirab/files/2024/01/Administrative-Order-2024-01-filed-Jan-30-2024.pdf>.)

For each remote proceeding, the Board will email a calendar invitation with a hyperlink to the Microsoft Teams meeting, to the following at

² The Board understands from the settlement agreement previously submitted on February 24, 2023 that Claimant KENNETH W. MCHENRY's son, Kenneth Wayne McHenry, Jr., was named as a Successor Trustee of a Trust entitled "Ken & Betty McHenry Trust." However, a trustee does not have the authority to waive a decedent's rights and obligations.

the emails noted:

- a. To Lowell Chun-Hoon at Ichunhoon@knchlegal.com; and
- b. To Kenneth Goya at kenneth.goya@hawadvocate.com.

Contact the Board immediately if any of the foregoing emails is incorrect.

Any party who has not provided the Board with an email address will be conventionally served a copy of this notice. If you wish to receive an emailed calendar invitation, you must provide the Board with your email address at least two business days before the conference, hearing, or trial.

To ensure the privacy and propriety of the conference(s), hearing(s), and the trial before the Board, do not share or forward any electronic meeting invitations, conference telephone number, and/or conference ID numbers. If attendance by additional participants (such as witnesses) is necessary, please provide the Board with the email address(es) of the additional participants at least two business days before the conference, hearing, or trial.

II. STATUS CONFERENCE

The Labor and Industrial Relations Appeals Board will hold a status conference in the above-entitled case on **Wednesday, November 5, 2025 at 10:00 a.m., Hawaii Standard Time**, or as soon thereafter as the parties may be accommodated.

Contact the Board immediately if you do not receive the calendar invitation within one week of the date of this notice.

If the emailed calendar invitation with a hyperlink to the event is unavailable or unsuccessful, call (808) 829-4853 and enter conference ID number **470 673 466#**, on the date and at the time of the conference.

Please be prepared to discuss whether there exists a Hawaii court-appointed personal representative or special administrator for Claimant KENNETH W. MCHENRY's Estate, including but not limited to the existence of Letters of Administration confirming the same and the duration of the appointment.

III. FILING DOCUMENTS

Refer to the Board's June 14, 2024 Administrative Order 2024-02 for information about filing documents with the Board. (See <https://labor.hawaii.gov/lirab/files/2024/06/06-14-24-Administrative-Order-2024-02-CERTIFIED.pdf>.)

Dated: Honolulu, Hawai'i,

Oct 02 2025



DAMIEN A. ELEFANTE, Chair

A digital copy of this notice 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.

Kenneth W. McHenry, Deceased
For Claimant-Appellee,
Deceased

Kenneth T. Goya, Esq.
For Employer/Insurance
Carrier-Appellant

Lowell K.Y. Chun-Hoon, Esq.
Formerly, for Claimant-
Appellee, Deceased

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 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

Kenneth W. McHenry v. Kaiser Permanente dba Hawaii Permanente Medical Group, et al.; AB 92-028(WH); Notice of Status Conference

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