

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD  
Princess Keelikolani Building, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813  
HLRB-13 PETITION FOR INTERVENTION

Case No. CE-05-781

File the original and five copies of this Petition, with certificate of service on all parties attached, by U.S. Mail or in person, with the Hawaii Labor Relations Board, Princess Keelikolani Building, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

1. The Petitioner alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed under its proper authority pursuant to Hawaii Revised Statutes Chapters 89 or 377, and its Administrative Rules and grant the Petitioner named herein permission to intervene and become a party in the proceeding at hand.

2. Petitioner

(a) Name, address and telephone number.

University of Hawaii Professional Assembly  
1017 Palm Drive  
Honolulu, HI 96814

(b) Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

Gill, Zukeran, & Sgan  
Thomas Anthony Gill  
707 Richards Street, Suite 100  
Honolulu, HI 96813  
(808) 523-6777 ext. 1  
tgill@gzsattorneys.com

3. Specify the nature of Petitioner's statutory or other right in the subject proceeding.

H.R.S. §89-14 provides that prevention of prohibited practices shall be as in H.R.S. §377-9.

H.R.S. §377-9 states that "Any other person claiming interest in the dispute or controversy, as an employer, an employee or their representative, shall be made a party upon proof of the interest."

UHPA's interest is stated below.

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HAWAII LABOR RELATIONS BOARD

I hereby certify that a copy

hereof was mailed on

8/4/2011 to Mike Okamoto - James Peterson

Attorney for HSTA + St of HI (Rev. 10/05)  
BDE

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## 4. Specify the nature and extent of Petitioner's interest in said proceeding.

The decision on this matter may determine whether, and, if so, how, an employer may unilaterally implement an Employer's "last, best, final" offer under 89-11(d) (units able to strike and not subject to interest arbitration). UHPA is one of only three bargaining units as to which this doctrine may be applicable. UHPA seeks to ensure its statutory right to strike is not diminished by any decision that may be rendered herein, and that any decision does not upset the balance of rights contemplated in the statute.

## 5. State the effect of any decision in the proceeding on Petitioner's interest.

The University of Hawaii, in 2010, attempted unilateral implementation in Unit 7. The parties reached an agreement on a new contract before any court or arbitral test of the UH's right to do so, mooting the issue. The Unit 7 situation is eminently capable of repetition. Any decision reached in this case will likely form a blueprint for the same tactic in 2015 at expiration of the current Unit 7 contract. UHPA is therefore interested in the outcome of this case.

## 6. Specify any other means available whereby the Petitioner's interest may be protected.

There are no other immediate means available for protection while HSTA's prohibited practice charge is before the Board.

## 7. State the extent to which Petitioner's interest may be represented by the existing parties.

The Complaint, Answer, and motions documents available so far do not address the interconnection between implementation of a final offer and the right to strike, and therefore, so far, UHPA's interest is not represented.

## 8. State the extent to which Petitioner's participation can assist in the development of a sound record.

UHPA desires to submit briefings on points of law, without interfering with the trial of specific factual matters.

## 9. State the extent to which Petitioner's participation will broaden the issues or delay the proceeding.

UHPA does not expect to call witnesses, but does expect to attend hearings and submit briefings on points of law. We note that outside counsel for the State in this matter was also outside counsel for the University in 2010, which suggests the State's theory now will be consistent with the University's theory then, and in the future. Whatever delay UHPA's participation in this hearing may cause, will be balanced by a minimization of the next hearing, to the extent the issues are clarified now.

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## 10. State the extent to which Petitioner's interest in the proceeding differs from that of the general public.

The general public's interest in the proceeding is that Chapter 89 be administered in a way that most effectively encourages good-faith bargaining and voluntary agreement between bargaining parties, in hope of avoiding labor unrest, so that the work of government may proceed collaboratively. UHPA's interest is generally the same, but differs in that UHPA places emphasis on the detailed mechanics of the impasse resolution process, so that the system of law does not create perverse incentives against collaboration and compromise; UHPA also believes the law should not force unions to a tragic choice between vindicating statutory rights at the price of loss of bargaining leverage, or maintaining bargaining leverage at the price of abandoning statutory rights.

## 11. Explain how the Petitioner's intervention would serve the public interest.

Confusion over rights and litigation in Unit 7 in the future, with attendant expense and burden on the Board, will be avoided by clarification of the law now.

## 12. Provide a clear and concise statement of any other relevant facts.

N/A

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STATE OF HAWAII )  
CITY AND COUNTY OF ) ss.

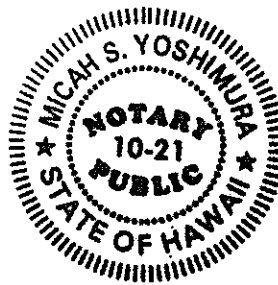
N.P.G. Linda M. Aragon, being first duly sworn on oath, deposes and says: that she is the  
Petitioner above named, ~~for~~ she representative, and that she has read the above Petition  
consisting of this and 3 additional page(s), and is familiar with the facts alleged therein, which facts  
she knows to be true, except as to those matters alleged on information and belief, which matters  
she believes to be true.

Linda M. Aragon  
(Signature)

Attorney for Intervention  
(Title)

Subscribed and sworn to before me  
this 4th day of August, 2011.

Chel S. Yoshimura  
Notary Public, First Circuit  
State of Hawaii



My Commission expires: 2/7/2014



Doc Date: Not Dated # Pages: 4  
Name: Micah S. Yoshimura 1st Circuit  
Doc. Description: State of Hawaii  
PETITION for Intervention  
Chel S. Yoshimura AUG 04 2011  
Signature Date  
NOTARY CERTIFICATION