

TESTIMONY OF DAMIEN A. ELEFANTE
TO THE SENATE COMMITTEE ON LABOR CULTURE AND THE ARTS

FRIDAY, MAY 15, 2020
1:00 PM CONFERENCE ROOM 229

TESTIMONY ON GOVERNOR'S MESSAGE NO. 751
RELATING TO GUBERNATORIAL NOMINEE DAMIEN A. ELEFANTE
FOR CHAIRPERSON OF THE LABOR AND INDUSTRIAL RELATIONS APPEAL BOARD

Dear Chair Taniguchi, Vice Chair Ihara, and Members of the Committee:

Thank you for the opportunity to testify before you today regarding my nomination to serve as the Chairperson of the Labor and Industrial Relations Appeal Board. I am honored to be Governor David Ige's nominee to serve on this Board for the people of Hawaii.

The Labor Industrial Relations Appeal Board (LIRAB) serves an important role and is responsible for providing prompt, just, and fair adjudication of workers' compensation, elevator, and boiler appeals. But the most important responsibility as a member of LIRAB is the ability to apply the law fairly make reasonable decisions based on the facts. As one member of a three-member board, I will be faced with making crucial decisions every day that directly impact individuals, whether during trial, settlement, motion, or proceedings that the Board preside over.

My experience as an attorney, deputy director, trustee, and arbitrator provide a valuable and exceptional foundation to manage and contribute to the Board.

As an attorney and legal arbitrator, I will exercise and refine my judicial aptitude and legal comprehension to discharge the responsibilities of LIRAB as a quasi-judicial agency. I started as a law clerk at the Intermediate Court of Appeals reviewing cases and drafting legal briefs and through the years my legal experience expanded to becoming the primary attorney arguing, managing, and litigating cases before all levels in the federal and state courts. My trial record is impeccable; I prevailed in all appellate cases before the Supreme Court of Hawaii where I was the primary attorney. I have also sat as a legal arbitrator for cases. For every case, I reviewed the legal arguments of both sides, the facts, and the evidence to determine and ensure that any settlement or ligation action was fair and reasonable.

My experience as a deputy director and trustee have fostered my management and administrative abilities. In these positions, I have gained a heightened understanding of administering and managing a large number of employees, especially the challenges that face a state department, the areas for improvement, and the opportunities that can be implemented to make operations and people more efficient and public-friendly. I understand that any achievements are enabled and enhanced through the efforts of a

leader who encourages teamwork, accountability, and collaboration to a shared vision and goal. As a leader, I value the idea of hard work and spending time to understand the operations and administration. I lead by example. My previous work experience included a variety of positions that helped me to understand the value of employees and treating them with dignity and respect. I believe that transparency and open communication is necessary to obtaining information crucial to making decisions and improving accessibility and efficiency. Maintaining open lines of communications and a healthy dialogue for all stakeholders are not only vital to obtaining support and feedback, but also creates and maintains an overall harmonious and robust workforce environment.

Throughout my career, I have thrived working with individuals and business entities across a broad spectrum. I will continue to apply and enhance key traits that I believe are necessary and important tools for analysis and decision-making, integrity (honest and strong moral principles), empathy (able to relate to the feelings of another), and perseverance (persistence in doing something despite difficulty or delay in achieving success).

A goal that I would hope to accomplish during my term is to implement and utilize technology and software to improve efficiency and accessibility for the practitioners, public, and the Board. I understand that technology-driven initiatives are currently being implemented, such as a document scanning system to digitize paper case files and a multi-year modernization project to automate the State's workers' compensation system. I hope to build on these initiatives, by establishing an electronic filing appeal system for the parties, video conferencing, and virtual hearings.

Another goal is to focus on making decisions that are fair and impartial yet prioritize clearing the backlog of cases that has built up during the past few weeks because of COVID-19.

Finally, I hope to efficiently and successfully manage LIRAB resources and employees to provide excellent service to the people who appear before the Board.

In closing, I believe my background, experience, and strengths provide me with strong qualifications to serve as the Chairperson for LIRAB. I am grateful that Governor Ige nominated me for the position and pledge to make him and the people of Hawaii proud by contributing and furthering the important and necessary work of LIRAB.

Thank you for providing me with this tremendous opportunity.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI
DIRECTOR

LEONARD HOSHIJO
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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Email: dlir.director@hawaii.gov

May 15, 2020

To: The Honorable Brian T. Taniguchi, Chair,
The Honorable Les Ihara, Jr., Vice Chair, and
Members of the Senate Committee on Labor, Culture, and the Arts

Date: Friday, May 15, 2020

Time: 1:00 p.m.

Place: Conference Room 229, State Capitol

From: Scott T. Murakami, Director
Department of Labor and Industrial Relations (DLIR)

**Re: G.M. No. 751 Submitting for consideration and confirmation as the Chairperson
of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee,
DAMIEN ELEFANTE**

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

My name is Scott T. Murakami, and I am the Director of the Department of Labor and Industrial Relations. I am testifying in strong support of Governor's Message 751, Gubernatorial Nominee, Damien Elefante, as the Chairperson of the Labor and Industrial Relations Appeals Board (LIRAB).

Mr. Elefante has demonstrated that he has the leadership and experience to lead the LIRAB. I have had the opportunity to work with Mr. Elefante during his service as the Deputy Director of the Department of Taxation where he has showed dedication and knowledge as well as a measured approach when addressing the difficult matters before him. In addition, Mr. Elefante has been a strong partner and supporter in assisting the DLIR's unemployment processing center at the Hawaii Convention Center. Mr. Elefante's executive leadership experience as well as his legal knowledge in administrative laws demonstrate that he is thoroughly qualified to serve as the LIRAB Chairperson.

I urge you to confirm Mr. Elefante to serve as the Chairperson of the LIRAB so that he may continue to provide leadership and service to the public.

Thank you very much for the opportunity to testify in strong support of Mr. Elefante.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON LABOR, CULTURE, AND THE ARTS

**MAY 15, 2020
1:00 P.M.
CONFERENCE ROOM 229**

**GOVERNOR'S MESSAGE NO. 751
SUBMITTING FOR CONSIDERATION AND CONFIRMATION, AS CHAIRPERSON OF
THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD, DAMIEN
ELEFANTE, FOR A TERM TO EXPIRE 06-30-2030.**

Chairperson Taniguchi and Members of the Committee:

Thank you for the opportunity to testify on GM 751, Submitting for consideration and confirmation as Chairperson of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee, DAMIEN ELEFANTE, for a term to expire 06-30-2030. The Department supports this measure.

Mr. Elefante has extensive experience in State government roles at the Department of Taxation, the Office of the Attorney General and the EUTF. His considerable experience will make him a valuable addition as Chairperson of the Labor and Industrial Relations Appeals Board.

Thank you for the opportunity to submit testimony in support of Damien Elefante, GM 751.



DAVID Y. IGE
GOVERNOR



KENNETH S. HARA
MAJOR GENERAL
ADJUTANT GENERAL

STEPHEN F. LOGAN
COLONEL
DEPUTY ADJUTANT GENERAL

STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE ADJUTANT GENERAL
3949 DIAMOND HEAD ROAD
HONOLULU, HAWAII 96816-4495

Testimony of
Colonel Stephen F. Logan
Acting Adjutant General, State of Hawai'i
Before the

SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
May 15, 2020
1:00 p.m., Conference Room 229

In consideration of
Governor's Message 751
Submitted for consideration and confirmation as the Chairperson of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee, Damien A. Elefante

Chair Taniguchi, Vice Chair Ihara, and committee members:

I respectfully request your support in confirming the appointment of Mr. Damien Elefante to serve as the Chairperson of the Labor and Industrial Relations Appeals Board.

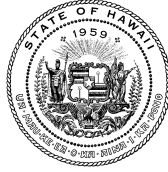
Mr. Elefante has held several leadership positions including but not limited to that of Deputy Director and Compliance Coordinator, Department of Taxation, Deputy Director, Department of the Attorney General Tax Division, as well as private legal practice postings. These key positions afford Mr. Elefante a keen insight and experienced perspective on matters relating to the state and our community.

Mr. Elefante holds a Bachelor of Arts degree in Political Science from the University of Hawaii at Manoa, and Juris Doctor from Syracuse University College of Law in Syracuse, New York. He has served in a variety of private practice positions, and as an Intermediate Court of Appeals Judicial law Clerk, which make him ideally suited and enable him to have his finger on the pulse of our state's labor community.

I'm confident that Mr. Damien A. Elefante will enable and empower the Labor and Industrial Relations Appeals Board to lead our recovery in this time of pandemic crisis and beyond, and help build a better home for our keiki, kupuna, and all the residents of Hawai'i.

Mahalo for your consideration.

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY
OF
AUDREY HIDANO, DEPUTY COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE ON LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
ON
FRIDAY, MAY 15, 2020, 1:00 PM
CONFERENCE ROOM 229, STATE CAPITOL

G.M.751

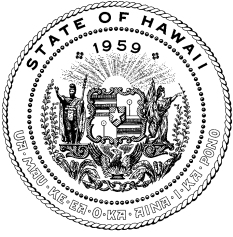
SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS CHAIRPERSON OF THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD, GUBERNATORIAL NOMINEE, **DAMIEN ELEFANTE**, FOR A TERM TO EXPIRE 06-30-2030.

Chair Taniguchi, Vice Chair Ihara, and members of the Committee, thank you for the opportunity to submit testimony on G.M. 751. I strongly support the nomination of **MR. DAMIEN ELEFANTE** to the position of Chairperson of the Labor and Industrial Relations Appeals Board.

I have known Mr. Damien Elefante since August 2016 when he was appointed to be the Deputy Director of the Department of Taxation. Mr. Elefante has hands-on experience in the legal field. I've experienced his organizational skills during projects with him and he is a very dedicated individual. He is compliance oriented and has experience in litigation.

Mr. Elefante will be an asset to the Labor and Industrial Relations Appeals Board and to the State of Hawaii.

Thank you for the opportunity to submit testimony on this matter.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

235 South Beretania Street, 5TH Floor, Honolulu, HI 96813 | energy.hawaii.gov

DAVID Y. IGE
GOVERNOR

SCOTT J. GLENN
CHIEF ENERGY OFFICER

(808) 587-3807

Testimony of
SCOTT J. GLENN, Chief Energy Officer

before the
SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
Friday, May 15, 2020
1:00 PM
State Capitol, Conference Room 229

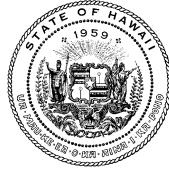
In SUPPORT of
GOVERNOR'S MESSAGE 751, DAMIEN ELEFANTE
As Chairperson of the Labor and Industrial Relations Appeals Board
(Written Testimony Only)

Chair Taniguchi, Vice Chair Ihara, and Members of the Committee. I am writing in support of the appointment of Mr. Damien Elefante to serve as Chairperson of the Labor and Industrial Relations Appeals Board.

Mr. Elefante has served admirably and capably in his current capacity as Deputy Director of the Department of Taxation. His extensive experience as an arbitrator and compliance coordinator will serve him well as the Labor and Industrial Relations Appeals Board reviews complex labor issues. He is a person of integrity and will uphold his responsibility to be fair and impartial in the exercise of his responsibility as demonstrated in his fiduciary capacity with the Hawaii Employer-Union Health Benefits Trust Fund.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



CURT T. OTAGURO
COMPTROLLER
AUDREY HIDANO
DEPUTY COMPTROLLER

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
CURT T. OTAGURO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT AND TOURISM

MAY 15, 2020, 1:00 P.M.
CONFERENCE ROOM 229, STATE CAPITOL

G.M. 751
SUBMITTING FOR YOUR CONSIDERATION AND CONFIRMATION AS CHAIRPERSON
OF THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD, GUBERNATORIAL
NOMINEE, DAMIEN ELEFANTE, FOR A TERM TO EXPIRE 06-30-2030.

Chair Taniguchi, Vice Chair Ihara, and Members of the Committee, thank you for the opportunity to submit testimony on G.M. 751. I support the nomination of Mr. Damien Elefante as Chairperson of the Labor and Industrial Relations Appeals Board.

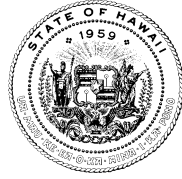
Mr. Elefante has led the Department of Labor and Industrial Relations (DLIR) as Deputy Director since August 2016. He also served as the compliance coordinator for DLIR. In addition, Mr. Elefante has served as a Deputy Attorney General for the Department of the Attorney General from 2001 to 2015.

He is a dedicated public servant who will bring valuable experience and integrity to the Labor and Industrial Relations Appeals Board. Mr. Elefante has a proven track record of leadership with the State. I am confident that he will be an asset to the State in this new leadership role.

Thank you for the opportunity to testify on this matter.

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR., CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON LABOR, CULTURE, AND THE ARTS
HEARING ON MAY 15, 2020 AT 1:00 PM IN CR 229

IN SUPPORT OF

GM751

for consideration and confirmation as Chairperson of the Labor and Industrial Relations
Appeals Board,
Gubernatorial Nominee, **DAMIEN A. ELEFANTE**,
for a term to expire 06-30-2030

May 15, 2020

Aloha Chair Taniguchi, Vice Chair Ihara, and members of the Committee:

Thank you for the opportunity to provide this testimony in support of Governor Ige's nomination of Damien A. Elefante as Chairperson of the Labor and Industrial Relations Appeals Board (LIRAB).

Mr. Elefante's background as Deputy Attorney General, Tax Division; current experience as Deputy Director, Department of Taxation (DoTax); and current Employer Trustee, Hawaii Employer-Union Health Benefits Trust Fund (EUTF), make him highly qualified for this appointment. He has the ability and capacity to manage multiple responsibilities and will serve the public well.

We respectfully ask your committee to advise and consent to this nomination, and we thank you for your consideration of our testimony.

DAVID Y. IGE
GOVERNOR



KENNETH S. HARA
MAJOR GENERAL
ADJUTANT GENERAL

STEPHEN F. LOGAN
COLONEL
DEPUTY ADJUTANT GENERAL

STATE OF HAWAII
DEPARTMENT OF DEFENSE
OFFICE OF THE ADJUTANT GENERAL
3949 DIAMOND HEAD ROAD
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TESTIMONY ON GOVERNOR'S MESSAGE NO. 751
RELATING TO GUBERNATORIAL NOMINEE
DAMIEN A. ELEFANTE

PRESENTATION TO
THE COMMITTEE ON LABOR, CULTURE AND THE ARTS

BY

MAJOR GENERAL KENNETH S. HARA
ADJUTANT GENERAL,
DIRECTOR OF THE HAWAII EMERGENCY MANAGEMENT AGENCY,
AND HOMELAND SECURITY ADVISOR

15 MAY 2020

Chair Brian Taniguchi, Vice-Chair Les Ihara, Jr. and Members of the Committee.

I respectfully request your **SUPPORT** in confirming the appointment of Gubernatorial Nominee Mr. Damien A. Elefante to serve as the Chairperson of the Labor and Industrial Relations Appeals Board.

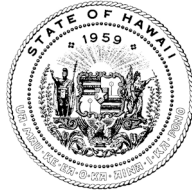
Mr. Elefante's service and experience in the public and private sectors over the past 20 years has been exceptional. He has been an effective partner at the cabinet level and has clearly demonstrated the capacity, expertise and leadership to serve at the most senior levels of our State.

His previous experience and leadership as the Deputy Director, Compliance Coordinator and Deputy Attorney General for the Department of Taxation, as well his service as the Employer Trustee for the Union Health Benefits Trust Fund, Arbitrator for the Court Annexed Arbitration Program and as an attorney in private practice give him a broad and unique understanding of law. I know he will be a fair, competent and experienced Chair for the Labor and Industrial Relations Appeals Board.

Mr. Elefante's wealth of experience and expertise with State employees and in State government will continue to add valued leadership and knowledge to move the state forward.

Thank you for your consideration and this opportunity in allowing me to testify on Governor's Message 751 in SUPPORT of Damien Elefante.

DAVID Y. IGE
GOVERNOR



DOUGLAS MURDOCK
CHIEF INFORMATION
OFFICER

OFFICE OF ENTERPRISE TECHNOLOGY SERVICES

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Testimony of
DOUGLAS MURDOCK
Chief Information Officer
Enterprise Technology Services

Before the

SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS
Friday, May 15, 2020

GOVERNOR'S MESSAGE No. 751
Gubernatorial Nominee Damien A. Elefante

Dear Chair Taniguchi, Vice Chair Ihara, and members of the committee:

I am submitting testimony in strong support of confirming the nomination of Damien A. Elefante as Chairperson of the Labor and Industrial Relations Appeals Board. Mr. Elefante is currently the deputy director of the Department of Taxation, a position he has held since 2016. Previously, he was the department's compliance coordinator. Mr. Elefante has also served as deputy attorney general for the tax division, where his primary responsibilities included the management of tax, bankruptcy, collections, refunds, foreclosures, and other cases.

Mr. Elefante has demonstrated commitment and dedication to his position as deputy director. His knowledge and experience in the administration and management of the Department of Taxation make him a great leader for the state.

Thank you for this opportunity to provide testimony in support of the nominee.

DAVID Y. IGE
GOVERNOR
JOSH GREEN M.D.
LT. GOVERNOR



RONA M. SUZUKI
DIRECTOR OF TAXATION
DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Brian T. Taniguchi, Chair;
The Honorable Les Ihara, Vice Chair;
and Members of the Senate Committee on Labor, Culture and the Arts

From: Rona M. Suzuki, Director
Department of Taxation

Re: **STRONG SUPPORT of GM 751**
Date: Friday, May 15, 2020
Time: 1:00 P.M.
Place: Conference Room 229, State Capitol

The Department of Taxation (Department) strongly supports GM 501 and the confirmation of Damien Elefante as the Chairperson of the Labor and Industrial Relations Appeals Board (LIRAB).

Mr. Elefante has been serving as the Department of Taxation's Deputy Director since August 2016. Prior to this, he served as our Compliance Coordinator and Deputy Attorney General.

I have personally worked with Mr. Elefante since July 2017, when I was first engaged with the Tax System Modernization project. In that time, he has demonstrated his commitment to consistent, fair, and efficient administration of laws and commitment to the success of the team. I am confident that he will be successful in this new role with LIRAB.

Thank you for the opportunity to testify in support of GM 501 and the confirmation of Damien Elefante as the Chairperson of the Labor and Industrial Relations Appeals Board.

GM-751

Submitted on: 5/11/2020 12:04:02 PM

Testimony for LCA on 5/15/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Derek Chow	Testifying for DOT Harbors Division	Support	No

Comments:

Governor's Message No. 751 submitting for consideration and confirmation as Chairperson of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee, DAMIEN ELEFANTE, for a term to expire 06-30-2030.

Department of Transportation, Harbors Division SUPPORTS the nomination of Damien Elefante as Chairperson of the Labor and Industrial Relations Appeals Board.

Thank you for the opportunity to provide testimony.

Testimony of Ku'uhaku Park
On Behalf of Matson
Support GM751
Before the Committee on Labor, Culture, and the Arts
May 15, 2020

Dear Chair Taniguchi, Vice Chair Ihara, and Members of the Committee,

Matson supports GM751, which nominates Damien Elefante to serve as the Chair the Labor and Industrial Relations Appeals Board. Mr. Elefante is an outstanding attorney with extensive experience in adjudicating labor and public employment issues. We have worked with Mr. Elefante on very complex and technical tax issues and have always found him to be open, fair, and transparent. We believe he will execute his duties as Chair with fairness and competence.

Thank you for considering our testimony in support.

TESTIMONY OF JO ANN UCHIDA TAKEUCHI
TO THE SENATE COMMITTEE ON
LABOR, CULTURE AND THE ARTS

Friday May 15, 2020, 1:00 PM
Conf Room 229

G.M. 751

**Testimony in support of Governor's Message No. 751
Submitting for consideration and confirmation as Chairperson of the Labor and
Industrial Relations Appeals Board, Gubernatorial Nominee, DAMIEN ELEFANTE,
for a term to expire at noon on 06-30-2030**

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR
TO THE HONORABLE LES IHARA, JR., VICE CHAIR
AND MEMBERS OF THE COMMITTEE:

I am writing to express my **strong support** of the appointment of DAMIEN ELEFANTE to serve as the Chairperson of the Labor and Industrial Relations Appeals Board, for a term to expire on June 30, 2030. My name is Jo Ann Uchida Takeuchi and I am submitting this supporting testimony in my personal capacity.

As Deputy Director at the Department of Commerce and Consumer Affairs, I have worked with DAMIEN ELEFANTE over the past four years in his capacity as Deputy Director of the Department of Taxation. Mr. Elefante has a strong and diverse background in administrative law and adjudicative procedure and is an effective department leader and supervisor. He is extremely intelligent, thoughtful, friendly, gracious and personable and is an individual who has the judicial temperament, experience, ability and wisdom to effectively serve the people of the state as the Chairperson of the Labor and Industrial Relations Appeals Board.

I respectfully request that you recommend advise and consent of the nomination of DAMIEN ELEFANTE as Chairperson of the Labor and Industrial Relations Appeals Board.

Thank you for the opportunity to testify in support of GM 751.

GM-751

Submitted on: 5/13/2020 3:32:26 PM

Testimony for LCA on 5/15/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Marie Laderta	Individual	Support	No

Comments:

Chair Taniguchi and Members of the Committee: I am a member of the Labor and Industrial Relations Appeals Board. While previously serving in the capacity of Deputy Director of Taxation, I had the privilege and opportunity to work with Damien Elefante on litigation and policy matters when Mr. Elefante was a Deputy Attorney General. Mr. Elefante provided sound advice and counsel, strong support, guidance, and leadership to the Department. I have known Mr. Elefante for 17 years. Mr. Elefante is a collaborative leader and manager who is committed to serving the public. I respectfully urge your committee to confirm Damien Elefante as Chairperson to the Labor and Industrial Relations Appeals Board.

Sincerely,

Marie Laderta, Member of the Labor and Industrial Relations Appeals Board

Statement of
LEO R. ASUNCION

before the

SENATE COMMITTEE ON LABOR, CULTURE AND THE ARTS

Friday, May 15, 2020

1:00 PM

State Capitol, Conference Room 229

in consideration of

Governor's Message (GM) 751

Chair Taniguchi, Vice Chair Ihara, and Members of the Senate Committee on Labor, Culture and the Arts:

I strongly support the nomination of Mr. Damien Elefante to serve as Chairperson of Labor and Industrial Relations Appeals Board.

Mr. Elefante has the experience and knowledge to lead an important board of the State. With experience as a trustee of the Hawaii Employer – Union Health Benefits Trust Fund, Deputy Director of the Department of Taxation, Arbitrator with the Court Annexed Arbitration Program, and as an Attorney in the public and private sector, I am certain that he will apply that experience and knowledge to the position, and will do so with diligence, integrity, and competence.

I respectfully encourage the Committee to advise and consent to the nomination of Mr. Damien Elefante as Chairperson of the Labor and Industrial Relations Appeals Board.

Thank you for the opportunity to provide testimony on GM 751.

Laurel A. Johnston

PO Box 240774
Honolulu HI 96824

May 14, 2020

TO: Sen. Brian Taniguchi, Chair
Sen. Les Ihara, Jr., Vice Chair
Committee on Labor, Culture & the Arts

RE: G.M. No. 751 - Damien Elefante
Nomination as Chairperson
Hawaii Labor & Industrial Relations Appeals Board

Testimony in SUPPORT

Aloha Chair Taniguchi, Vice Chair Ihara, and Committee Members:

Please accept this testimony in strong support of Mr. Elefante's nomination for the position of Chairperson, Hawaii Labor & Industrial Relations Appeals Board.

I have known Mr. Elefante since the mid-1990's when I was working as committee staff at the Hawaii Senate and he served as a Hawaii Senate Intern, prior to his attendance in law school. When I met Mr. Elefante, he indicated his desire to use his law degree in serving his home state of Hawaii. Upon his graduation from law school, he returned to Hawaii, passed the Hawaii bar, and began his public service as a Deputy Attorney General with the Department of the Attorney General. Mr. Elefante has been serving as Deputy Director with the Department of Taxation, a position he has held since 2016.

I have recently interacted with Mr. Elefante, as we both serve on the Hawaii Employer Union Health Benefits Trust Fund. In addition to his law degree, Mr. Elefante has a calm and thoughtful demeanor, which are important traits in serving as a Chairperson and an administrator. Finally, he is an example of a Hawaii-born success story and, most importantly to his nomination, has kept his commitment to return to Hawaii and work in public service.

Mahalo for your consideration and I urge your positive vote for Mr. Elefante.

The Honorable Brian T. Taniguchi, Chair
The Honorable Les Ihara Jr., Vice Chair
Hawai'i State Senate Committee Labor, Tourism and Arts
415 South Beretania Street, Honolulu, HI 96813

May 14, 2020

**GM 751: Confirmation of Mr. Damien Elefante as
Chair of the Labor Industrial Relations Appeals Board**

Dear Chair Taniguchi, Vice Chair Ihara Jr., and Committee Members:

My name is Brandon Elefante and I am in **strong support** to appoint Mr. Damien Elefante as Chair of the Labor and Industrial Relations Appeals Board. I submit this testimony in my personal capacity as an individual. I have witnessed Mr. Elefante show strong credentials both on a personal and professional level in a leadership role. He is more than capable to lead and serve as chair. As a longtime resident of O'ahu, Mr. Elefante also went on to graduate from Kailua High School, the University of Hawai'i, and Syracuse Law School. Since returning home from law school, he has made a positive impact working in the public sector. He served as a former law clerk for the late Judge Burns, has experience in the private sector, worked in the State Attorney General's Office for over a decade, served as an employee at the Department of Taxation, and currently as the Deputy Director of the Tax Department. He successfully obtained and established case precedents and law in favor of the State concerning the imposition of taxes on the business income of national corporations in Hawaii. Most notably, he is regarded with a high level of integrity, commitment, and is dedicated to serve the people of Hawai'i. In all the years I have known Deputy Director Elefante, I have found him to always be fair and reasonable in his judgments. He is a leader and continues to dedicate his life to public service for our state.

In closing, I admire how he still manages to find a balance between his family and professional life as a husband and loving father. He will be a valuable asset to this board and I ask this committee for its favorable support of **GM 751** to select Mr. Elefante to serve as Chair of the Labor and Industrial Relations Appeals Board. Thank you and please take care and stay safe.

Very truly yours,

/s/ Brandon Elefante

BRANDON ELEFANTE
brandon@brandonelefante.com



STATE OF HAWAII ORGANIZATION OF POLICE OFFICERS

" A Police Organization for Police Officers Only "
Founded 1971

May 15, 2020

FAX: 808-586-6461

The Honorable Brian Taniguchi, Chair
The Honorable Les Ihara, Jr., Vice-Chair
Senate Committee on Labor, Culture and the Arts
Hawaii State Capitol, Rooms 219, 220
415 S. Beretania Street
Honolulu, Hawaii 96813

**Re: GM NO. 751: Appointment of Damien Elefante as
Chair of the Labor & Industrial Relations Appeals Board**

Dear Chair Taniguchi, Vice-Chair Ihara and Honorable Committee Members:

With no disrespect intended toward the nominee, I write this letter in strong opposition to the nomination of Damien Elefante as Chairperson of the Labor & Industrial Relations Appeals Board ("LAB").

I am the President of the State of Hawaii Organization of Police Officers ("SHOPO"), which is the public-sector union that represents our county police officers serving throughout the State of Hawaii. As a police union, we pay special attention to the appointments to the LAB because many of our officers and their families appear before the Board for injuries they have suffered in the line of duty, including fatal injuries sustained in the line of duty. Our officers suffer many types of injuries given the circumstances of our daily duties and the volatile and violent situations our officers encounter every day on the job. As you know, we lost two (2) of our officers earlier this year when they were shot and killed while heroically responding to a call at Diamond Head.

Our review and evaluation of a person applying for a position on the LAB is based on several factors, including but not limited to legal knowledge and experience. We use our evaluations to determine whether we will support, oppose or remain neutral on a particular nominee. We take our evaluations and recommendations seriously, as we know that the position we take on a nominee could impact that person's chances for confirmation.

Main Office & Honolulu Chapter Office
1717 Hoe Street
Honolulu, Hawaii 96819-3125
Tel: (808) 847-4676 "84 SHOPO"
www.shopohawaii.org Fax: (808) 841-4818

Hawaii Chapter Office
688 Kinooie Street, Room 220B
Hilo, Hawaii 96720-3877
Tel: (808) 934-8405
Fax: (808) 934-8210

Kauai Chapter Office
3176 Oihana Street, Suite 104, Lihue
Mailing Add: P. O. Box 1708
Lihue, Hawaii 96766-5708
Tel: (808) 246-8911

Maui Chapter Office
1887 Wili Pa Loop, Suite 2
Wailuku, Hawaii 96793-1253
Tel: (808) 242-6129
Fax: (808) 242-9519

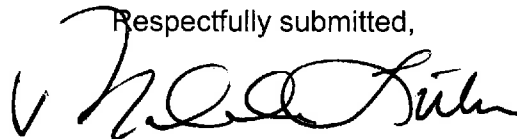
The Honorable Brian Taniguchi, Chair
The Honorable Les Ihara, Jr., Vice-Chair
Senate Committee on Labor, Culture and the Arts
May 15, 2020
Page 2

Re: GM NO. 751: Appointment of Damien Elefante as Chair of the Labor & Industrial Relations Appeals Board

As the largest public law enforcement labor organization in Hawaii, I respectfully voice our strong opposition to Mr. Elefante's nomination based on what appears to be a complete lack of experience in the area of workers' compensation. The LAB deals with complicated worker's compensation appeals and has a heavy case load that it must process expeditiously. Worker's compensation is a complex area of law that affects critical benefits that are required to be afforded to an injured worker including medical and wage benefits. Lacking the required knowledge and experience in this area of the law can lead to an erroneous decision that denies an injured worker vital benefits that can make or break the worker and his/her family. While Mr. Elefante without question has an impressive resume and educational background, his experience and expertise in his curriculum vitae is in the area of taxation, and not worker's compensation. The fact is his curriculum vitae does not refer to any legal background or experience in the area of worker's compensation. SHOPO believes that it would be inherently unfair to Mr. Elefante and the parties that come to the LAB to have their cases decided by someone who was learning on the job or for the first time about worker's compensation given the interests at stake in each case and the vast case law and technicalities involved. Given that this very important Board decides the health and welfare including the financial fate of an injured worker, we respectfully ask that a more qualified and experienced candidate be placed in this position.

We thank you for the opportunity to comment on this nominee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Malcolm Lutu", written in a cursive style.

MALCOLM LUTU
SHOPO President

DEREK R. KOBAYASHI

TOPA FINANCIAL CENTER
745 FORT STREET · SUITE 1500
HONOLULU, HAWAII 96813

TELEPHONE (808) 523-6060 · FAX (808) 523-6030
INTERNET: dkobayashi@sil-law.com

May 15, 2020

Via Email

Senator Brian T. Taniguchi and Committee Members
Committee on Labor, Culture and the Arts
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: Confirmation of Damien Elefante, Chairperson, Labor and Industrial Relations Appeals Board; Testimony IN SUPPORT

The Honorable Chair Brian Taniguchi and Honorable Committee Members:

I am writing to express my strong support for the appointment of Damien Elefante to the position of Chairperson, Labor and Industrial Relations Appeals Board (“LIRAB”).

I first met and came to know Mr. Elefante over 10 years when he was a Deputy Attorney General and in 2009 served as the President of the Young Lawyers Division (“YLD”) of the Hawai‘i State Bar Association. In this capacity, he was very active as a volunteer attorney and especially with overseeing the several *pro bono* and community service projects of the YLD.

Over the years, Mr. Elefante has continued his commitment towards service to the people of the State of Hawai‘i. In 2013 he volunteered and joined us as a member of Access to Justice Commission, Committee on Self-Representation and Unbundling. He is a regularly active committee member and is consistently supportive of committee initiatives directed towards facilitating access to justice for self-represented litigants, and also for the provision of discrete task, unbundled legal services as means of providing affordable legal services to those who might otherwise not be able to afford legal representation.

Mr. Elefante is diligent and always thoroughly prepared. He is fair, courteous and professional towards others, even those who may express a contrary viewpoint. Mr. Elefante has an even and pleasant demeanor that will serve him well as Chairperson and will be a valued asset to LIRAB.

Senator Brian T. Taniguchi and Committee Members
Committee on Labor and Culture and the Arts
Page 2

For all of these reasons, I strongly support Mr. Elefante's appointment as Chairperson of LIRAB. Thank you for the opportunity to submit these comments in support of his nomination.

Very truly yours,



Derek R. Kobayashi

GM-751

Submitted on: 5/15/2020 6:27:57 AM

Testimony for LCA on 5/15/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kurt Kawafuchi	Individual	Support	No

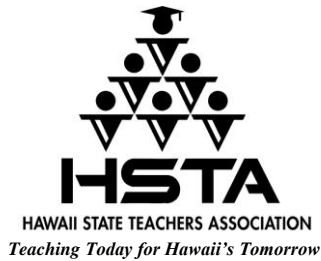
Comments:

Dear Chair Taniguchi, Vice Chair Ihara, and Members of the Senate Committee on Labor, Culture and Arts:

Please find attached my written testimony in strong support of the confirmation of Damien Elefante (GM 751). Thank you.

Very truly yours,

Kurt Kawafuchi



Corey Rosenlee
President
Osa Tui Jr.
Vice President
Logan Okita
Secretary-Treasurer
Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LABOR, CULTURE, AND THE ARTS

RE: GM 751- SUBMITTING FOR CONSIDERATION AND CONFIRMATION AS
CHAIRPERSON OF THE LABOR AND INDUSTRIAL RELATIONS APPEALS
BOARD, GUBERNATORIAL NOMINEE, DAMIEN ELEFANTE, FOR A TERM TO
EXPIRE 06-30-2030.

FRIDAY, MAY 15, 2020

WILBERT HOLCK, EXECUTIVE DIRECTOR
HAWAII STATE TEACHERS ASSOCIATION

Chair Taniguchi, Vice-Chair Ihara, and Members of the Committee on Labor, Culture
and the Arts,

The Hawaii State Teachers Association (HSTA) respectfully submits its written
strong opposition of GM 751 for consideration and confirmation as Chairperson of
the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee,
DAMIEN ELEFANTE, for a term to expire 06-30-2030.

After review of the nominee's experience, HSTA's decision is based on what appears
to be a **complete lack of experience in the area of workers' compensation**. We
feel this experience is vital for anyone appointed to the LAB that actually deals with
worker's compensation which is a complicated process, and any member must have
experience dealing with multiple labor cases from multiple labor employees in a
variety of situations. This area of law is specific, complex, and anyone appointed
needs to understand thoroughly the critical information required about an injured
worker, including their wages and benefits. Lacking the required knowledge and
experience in this area of the law can lead to an erroneous decision that denies an
injured worker vital benefits that can make or break the worker and his/her family.

Mr. Elefante has an impressive resume and educational background, but his lack of
experience and expertise on his curriculum vitae with labor, labor rights, worker's
compensation, etc. stands out. His expertise is in the area of taxation, and not
worker's compensation. This is not the position we want someone to "learn on the
job".

Thank you for the opportunity to testify on this matter. The Hawaii State Teachers
Association asks your committee to **oppose** this nomination.



LATE

INTERNATIONAL LONGSHORE & WAREHOUSE UNION
LOCAL OFFICE • 451 ATKINSON DRIVE • HONOLULU, HAWAII 96814 • PHONE 949-4161

HAWAII DIVISION: 100 West Lanikaula Street, Hilo, Hawaii 96720 • **OAHU DIVISION:** 451 Atkinson Drive, Honolulu, Hawaii 96814
MAUI COUNTY DIVISION: 896 Lower Main Street, Wailuku, Hawaii 96793 • **KAUAI DIVISION:** 4154 Hardy Street, Lihue, Hawaii 96766
HAWAII LONGSHORE DIVISION: 451 Atkinson Drive, Honolulu, Hawaii 96814

LOCAL 142

The Thirtieth Legislature
Regular Session of 2020

THE SENATE

Committee on Labor, Culture and the Arts

Senator Brian T. Taniguchi, Chair

Senator Les Ihara, Jr., Vice Chair

State Capitol, Conference Room 229

Friday, May 15, 2020; 1:00 p.m.

STATEMENT OF THE ILWU LOCAL 142 ON GM 751 APPOINTMENT OF DAMIEN ELEFANTE AS CHAIRPERSON OF THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

The ILWU Local 142 **strongly opposes** the nomination of Damien Elefante to be the Chairperson of the Labor and Industrial Relations Appeals Board (LIRAB).

The Labor and Industrial Relations Appeals Board adjudicates appeals from decisions rendered by the Director of Labor and Industrial Relations relating to Workers' Compensation and Boiler and Elevator Safety.

The ILWU Local 142 believes it is paramount that the members on the three-person board have substantial workers' compensation experience to properly determine the outcomes of the appeals presented before them. Unfortunately, our review of Mr. Elefante's resume indicates he may not have the necessary understanding of worker's compensation cases and may have a steep learning curve which could be detrimental to the cases presented before the LIRAB board.

Further, the ILWU Local 142 also believes that at least one of the three members comes from a labor background to ensure the decisions are fair and just. Ideally, the board would have proportional representation from labor, business, and government providing the appropriate balance needed to decide the cases. With the addition of Mr. Elefante, the LIRAB board would no longer have a labor voice – a significant concern to the ILWU Local 142.

Please note, the ILWU Local 142 rarely submits testimony in opposition to a nomination and means no disrespect to Mr. Elefante but we believe it is important to point out that labor needs to have a voice on the LIRAB board. It is vitally important that workers are represented.

For the reasons mentioned above, the ILWU Local 142 strongly recommends the Senate Committee on Labor, Culture and the Arts oppose the nomination. Thank you for the opportunity to testify.



LATE

The Thirtieth Legislature
Regular Session 2020

THE SENATE

Committee on Labor, Culture, and the Arts
Senator Brian T. Taniguchi, Chair
Senator Les Ihara Jr., Vice Chair

State Capitol, Conference Room 229
Friday, May 15, 2020; 1:00 p.m.

IATSE LOCAL 665 STATEMENT ON GM 751 – APPOINTMENT OF DAMIEN ELEFANTE AS CHAIRPERSON OF THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD

Chair Taniguchi, Vice-Chair Ihara, and Members of the Committee on Labor, Culture and the Arts,

The International Alliance of Theatrical Stage Employees (IATSE) Local 665 respectfully submits its written **strong opposition of GM 751** for consideration and confirmation as Chairperson of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee, **DAMIEN ELEFANTE**, for a term to expire 06-30-2030.

After review of the nominee's experience, it is, though impressive, in the area of taxation, and not Worker's Compensation. This position should not be associated with on-the-job training. Worker's Compensation is a specific and complicated process. Any member, let alone the Chair, of the LIRAB should be well versed in dealing with multiple labor cases from multiple labor employees in a variety of situations. This area of law is complex and anyone appointed needs to thoroughly understand the critical information required about an injured worker - including, but not limited to, their wages and benefits. Lacking the required knowledge and experience in this area of the law can lead to an erroneous and detrimental decision that denies an injured worker vital benefits that can make or break the worker and their family. Mr. Elefante has an impressive resume and educational background, but his lack of experience and expertise on his curriculum vitae with labor, labor rights, worker's compensation, etc. stands out.

Furthermore, this appointment creates a significant and disproportionate lack of representation for labor. It is imperative that workers are represented fairly on the LIRAB by members who are familiar with the challenges and proven remedies associated with this particular subject. With no disrespect to the nominee, we stand in **strong opposition of GM 751.**



LATE

**Where LGBTQIA+ Rights Meet the Labor Movement
A constituency group of the Hawai'i State AFL-CIO**

May 15, 2020

Senate's Committee on Labor, Culture and the Arts
Hawaii State Capitol
415 South Beretania Street, Room 229
Honolulu, HI 96813

Hearing: Friday, May 15, 2020 – 1:00 p.m.

RE: OPPOSITION for GM 751- Chairperson of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee, DAMIEN ELEFANTE

Aloha Chair Taniguchi, Vice Chair Ihara and fellow committee members,

Pride at Work – Hawai'i is an official chapter of Pride At Work which is a national nonprofit organization that represents LGBTQIA+ union members and their allies. We are an officially recognized constituency group of the AFL-CIO that organizes mutual support between the organized Labor Movement and the LGBTQIA+ Community to further social and economic justice.

We believe that Chairperson of the Labor and Industrial Relations Appeals Board should have a background in Labor rights as well as Workers' Compensation and Damien Elefante does not have either.

Pride at Work – Hawai'i humbly asks that you oppose Damien Elefante's appointment and hold GM 751 in committee.

In solidarity,

Pride at Work – Hawai'i



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

LATE

The Thirtieth Legislature, State of Hawaii
The Senate
Committee on Labor, Culture and the Arts
Testimony by
Hawaii Government Employees Association

May 15, 2020

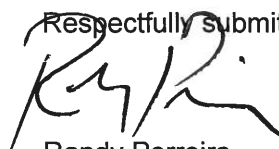
G.M. 751 – SUBMITTING FOR CONSIDERATION & CONFIRMATION
AS CHAIRPERSON OF THE LABOR & INDUSTRIAL
RELATIONS APPEALS BOARD, DAMIEN ELEFANTE

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO respectfully opposes the gubernatorial nomination and confirmation of Mr. Damien Elefante as Chairperson of the Labor and Industrial Relations Appeals Board for a 10-year term to expire in 2030 and raises the following strong concerns.

The Labor and Industrial Relations Appeals Board (LIRAB) fulfills a critical function in adjudicating workers' compensation appeals which directly impacts not only our membership but also workers and employers throughout the entire state. To ensure the public's confidence, all Boards must be fair and balanced, however equal representation is an especially important consideration for this Board, as it must hear and resolve complicated worker's compensation cases on appeal. Historically, LIRAB has had balanced representation from management, government, and labor, and has generally had one representative from each of these sectors. We respectfully insist that this continue.

Since decisions have a financial bearing on both workers and employers, all parties equally deserve transparency and consistency in the appeal process and expeditious resolution of claims. While Mr. Elefante has a strong legal background and has commendably served in the Department of Taxation and Attorney General's Office, as well as in private practice, his lack of experience with the workers compensation system and occupational health and safety cases, is glaringly apparent. Now, more than ever, the public deserves a Chair with intimate knowledge of the workers' compensation system and a deep understanding of prior rulings, who can hit the ground running. We echo the sentiment of many that justice delayed is justice denied and we cannot afford idle time for the Board to find its bearings. Further, Chapter 371-4, Hawaii Revised Statute clearly states, "because cumulative experience and continuity in office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is hereby declared to be in the public interest to continue board members in office as long as efficiency is demonstrated." Therefore, we respectfully request the Committee fully assess whether or not the nominee has the experience and necessary skillset to lead LIRAB or if it is in the public's best interest for the current Chair to continue to serve.

For these reasons, we respectfully oppose the gubernatorial nomination of Mr. Damien Elefante to be the Chairperson of the Labor Industrial Relations Appeals Board.

Respectfully submitted,

Randy Perreira
Executive Director



Local 665 HAWAII'S TECHNICIANS

for
FILM, TELEVISION, STAGE AND PROJECTION
Since 1937

LATE

INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS
OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC

Date: May 15, 2020

To: Chair Taniguchi, Vice-Chair Ihara and Members of the Committee on Labor, Culture and the Arts

Re: GM 751 – Submitting for Consideration and Confirmation as Chairperson of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee, Damien Elefante, for a Term to Expire 06-30-2030

Friday, May 15, 2020

Aloha, Chair Taniguchi, Vice Chair Ihara and Committee Members –

The International Alliance of Theatrical Stage Employees (IATSE) Local 665 respectfully submits its written **strong opposition of GM 751** for consideration and confirmation as Chairperson of the Labor and Industrial Relations Appeals Board, Gubernatorial Nominee, **DAMIEN ELEFANTE**, for a term to expire 06-30-2030.

Although Mr. Elefante has an impressive work history in taxation, it is our opinion that he lacks the depth of experience and knowledge with labor, labor rights, and worker's compensation that the position for which he is recommended requires.

Experience is vital for anyone appointed to the LAB that actually deals with worker's compensation which is a complicated process. A member must have experience dealing with multiple labor cases from multiple labor employees in a variety of situations. This area of law is specific, complex, and anyone appointed needs to understand thoroughly the critical information required about an injured worker, including their wages and benefits. Lacking the required knowledge and experience in this area of the law can lead to an erroneous decision that denies an injured worker vital benefits that can make or break the worker and his/her family.

We humbly ask that you oppose Damien Elefante's appointment and hold GM 751 in committee.

Respectfully,

Irish Barber
Business Representative

LATE

DENNIS W.S. CHANG

Attorney at Law, A Limited Liability Law Corporation

WORKERS' RIGHTS – LABOR LAW
WORKERS' COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEE RETIREMENT SYSTEM

May 22, 2020

Facsimile: 808-586-6071 Senator Baker	Facsimile: 808-586-8426 Senator Chang
Facsimile: 808-587-7230 Senator English	Facsimile: 808-586-6679 Senator Gabbard
Facsimile: 808-586-6361 Senator Fevella	Facsimile: 808-586-6231 Senator Harimoto
Facsimile: 808-586-7339 Senator Inouye	Facsimile: 808-586-6689 Senator Kahele
Facsimile: 808-587-7220 Senator Keohokalole	Facsimile: 808-586-7109 Senator Kidani
Facsimile: 808-587-7205 Senator Kim	Facsimile: 808-586-6031 Senator Kouchi
Facsimile: 808-586-6879 Senator Nishihara	Facsimile: 808-586-6131 Senator Rhoads
Facsimile: 808-586-7797 Senator Shimabukuro	Facsimile: 808-586-6461 Senator Taniguchi
Facsimile: 808-587-7240 Senator Thielen	Facsimile: 808-587-7240 Senator Thielen

Urgent: Regarding Damien Elefante
Honorable Senators, a couple of minutes is needed

DENNIS W.S. CHANG

Attorney at Law, A Limited Liability Law Corporation

WORKERS' RIGHTS – LABOR LAW
WORKERS' COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEE RETIREMENT SYSTEM

Honorable Senators:

I oppose the confirmation of Damien Elefante for the position of Chairperson of the Labor and Industrial Relations Appeals Board ("LIRAB"). For support, I submit one compelling justification for your deliberation.

* LIRAB is tasked with the critical function of adjudicating appeals in the Workers' Compensation process and Boiler and Elevator Safety. I am troubled that your vote on Mr. Elefante's confirmation may acutely alter the board's decisions and orders, which have a bearing on the physical and financial well-being of all workers.

* LIRAB is a quasi-judicial agency and all members on the board have substantial experience to properly and expeditiously determine fair and just outcomes of the appeals.

* Section 371-4, Hawaii Revised Statutes, underscores the paramount need for all members to possess specialized legal experience, stating "because cumulative experience and continuity in the office are essential to the proper handling of appeals under workers' compensation law and other labor laws, it is hereby declared to be in the public interest to continue board members in office as long as efficiency is demonstrated."

* No one questions Mr. Elefante's impressive legal background and commendable service in the Department Taxation and Attorney General's Office. However, as verified by his resume, his lack of experience with the Workers' Compensation Law is clear and without the fundamental Workers' Compensation knowledge, if confirmed as Chairperson of LIRAB, he inevitably would face a striking learning curve, extending for a few years, if not more. Learning on the job is not an option, and his handicap, in turn, would overburden the other two (2) members and detrimentally diminish the board's crucial responsibility to reach fair, proper, and prompt dispositions of their appeals.

* Historically, members of the board have been carefully selected as representatives from business, government, and labor to secure the required balance needed to process claims and decide appeals.

* Currently, the board has the appropriate balance. One member is an attorney, who previously represented employers and insurance carriers. Another member is also an attorney, who previously served as the Director of the Department of Human Resources and Development (DHRD), overseeing the department which often represents the State of Hawaii against the claims of injured workers. The present Chairperson is the only board member with

DENNIS W.S. CHANG

Attorney at Law, A Limited Liability Law Corporation

WORKERS' RIGHTS -- LABOR LAW
WORKERS' COMPENSATION
SOCIAL SECURITY DISABILITY
LABOR UNION REPRESENTATION
EMPLOYEE RETIREMENT SYSTEM

vast experience as an attorney, who devoted his practice to servicing injured workers and possesses a labor background before his appointment to the LIRAB.

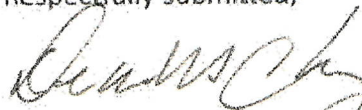
* The current composition of the three (3) members with diverse backgrounds and expertise is arguably the most effective and productive board in its entire history. As the nominee, Mr. Elefante has an exclusive background in government, and his selection by Governor David Ige is imprudent. With his addition, the delicate balance of proportionate representation from business, government, and labor would be disrupted, perhaps irreparably. His appointment would unfairly stack representation from only business and government. Labor would no longer have a voice, which is worrisome when the purpose underlying the Workers' Compensation Law is to protect workers, who unfortunately are injured on the job and frequently suffer financial ruin. As a matter of public policy, even if Mr. Elefante is remotely qualified for an appointment to the board, his selection is wrong as the replacement of the current Chairperson.

For the foregoing reasons, I strongly recommend that the Honorable Senators first fully assess whether Governor David Ige's nominee has the experience and necessary skills for appointment to LIRAB, or whether it is in the public's best interest for the current Chairperson to continue to serve. As stated in the enabling statute above, he has the cumulative experience and continuity that are essential to the proper handling and disposition of appeals.

You are exercising your constitutional obligation of checks and balances for a monumental decision that has repercussions for injured workers and the general public. I implore you to refrain from giving the advice and consent for the Governor's incompatible selection of the nominee as the Chairperson of LIRAB.

Thank you for your consideration. Stay Healthy. Stay Safe.

Respectfully submitted,



Dennis W. S. Chang

40+ years as a Labor Lawyer
with emphasis in complex WC litigation



LATE

May 29, 2020

The Hawaii State Senate
The Thirtieth Legislature
Regular Session of 2020

Committee on Labor Culture and the Arts

Senator Brian T. Taniguchi, Chair

Senator Les Ihara, Jr., Vice Chair

Date of Hearing: Tuesday, May 19, 2020

Time of Hearing: 10 p.m.

Place of Hearing: Conference room 229
State Capitol
415 south Beretania St.

Testimony in Opposition to GM751 Damien Elefante

Liz Ho
AFSCME Administrator
United Public Workers Union
Local 646, AFSCME

The United Public Workers Union stands in opposition to the confirmation of Damien Elefante to serve as the Chair of the Labor and Industrial Relations Appeals Board ("LIRAB"). Please permit us to explain our organization's interest in workers' compensation in general, and this nomination in particular, so that the reasons for our opposition are understood in full context.

The United Public Workers, Local 646, AFSCME, AFL-CIO is a union of 13,000 blue collar workers. Our membership is employed across a wide range of government services from the adult and juvenile corrections officers, to technicians in our wastewater treatment plants, the custodians in our public schools and government buildings, and the equipment operators who build and maintain our roads in the several counties. We experience not only the ordinary hazards of slips and falls, motor vehicle accidents and lifting heavy objects, but also the unusual exposures to toxic waste exposure, noxious fumes in sewers, encounters with fecal matter and urine when inmates destroy plumbing in correctional facilities, and the psychological stressors that accompany guarding convicted felons in prisons, as well as caring for mentally ill persons in our state hospitals. Industrial safety is a major priority for our membership, and we are one of the

UNITED PUBLIC WORKERS
AFSCME Local 646, AFL-CIO
Administrator Liz Ho



very few unions that have implemented a program which pays the attorney's fees of our members who are injured during industrial accidents.

An appointment to the Labor and Industrial Relations Appeals Board ("LIRAB") is therefore a matter of utmost importance to our union, as the Board is the adjudicator of the most difficult and disputed claims in the workers' compensation system and it establishes the standards for coverage and compensation for all injuries. Throughout the State of Hawaii, there were 21,388 reported work injury cases in 2018 according to the 2018 Annual Report of the Dept. of Labor and Industrial Relations. These cases had an aggregate value of \$358 million, resulted in over 1.2 million days off work, and included 33 fatalities.

Simple cases involving clear-cut injuries are rapidly settled and often never reach the Department of Labor and Industrial Relations, Disability Compensation, much less the Board. When claims are appealed to the Board, it conducts a trial de novo under HRS Section 386-87(a) and actually rehears a claim from start to finish after it is appealed from the Disability Compensation Division.

This is a comprehensive adjudicatory process that is often complicated and exhaustive. The Board conducts hearings on motions for stay of payments under HAR 12-47-34 in most appeals. The parties are afforded the opportunity and often do file written discovery, interrogatories, production of documents, and depositions, exactly as occurs in disputed civil cases in state Circuit Court and the federal courts. Trials frequently involve complex expert testimony with orthopedic surgeons, neurosurgeons, psychologists, psychiatrists, and vocational rehabilitation experts.

The written decisions of the Board are sometimes lengthy, running 50 to 60 pages because of the interaction between factual findings about the injury and nuances of law and medicine. The LIRAB's 2019 Annual Report, which reflects cases handled through June 30, 2019, documents that 291 appeals were filed in the year covered by the report. 348 cases were resolved during the same time period, a noteworthy difference of 57 more claims resolved than were newly filed and an appreciable reduction in the backlog of cases. 377 cases remained pending, but 72% of the cases before the Board were resolved in 15 months of being filed and 53 cases were awaiting decision.

Current LIRAB members came to their positions with extensive prior experience in workers compensation. Chair Vasconcellos had practiced labor law, with specialization in workers' compensation, for roughly 23 years and had argued six appellate cases regarding workers compensation before the Hawaii Supreme Court or Intermediate Court of Appeals. Board Member Matsui had been a well-regarded lawyer in both workers compensation and personal injury defense for perhaps two decades. Board Member Laderta served as the Director of the Department of Human Resources Development in

the Lingle Administration. Her prior department administered and defended the State of Hawaii in all industrial injury claims filed by workers through the entirety of state government. Almost every prior Board chair who has served on LIRAB from Toshimi Sodentani, Nadao Yoshinaga, Ed Correa, Frank Yap, Roland Thom had direct experience representing parties in workers' compensation as a lawyer.

In this context, the nomination of Damien Elefante the current Deputy Director of the Department of Taxation, State of Hawaii, to serve as Chair of LIRAB, is conspicuous for his lack of experience in the relevant subject matter. We have no quarrel with Mr. Elefante as an individual and no reason to believe he is not well qualified to serve as the Deputy Director of the Department of Taxation. However, we do question whether an individual with no prior background in a complicated body of law and medicine can undertake this demanding position. On-the-job training is not appropriate, and we believe this would be unfair not only to the injured workers, employers, and insurance carriers that appear before the Board but to the two existing Board members who have worked so diligently with the outgoing Chair to manage and reduce the backlog of decided cases.

As a matter of general procedure, there has historically also been proportionality in the Board's representation. Customarily there have been one representative of employer and insurance carrier interest, one government representative, and one representative for injured workers and labor. Such representation promotes balance, insures all relevant perspectives are heard, and insures fairness and objectivity in adjudication.

Whatever Mr. Elefante's personal abilities, he cannot be characterized as a representative or advocate for labor or injured workers, and it would simply make LIRAB skewed in favor of employer and insurance carrier interests were he appointed. We also note that we could find no evidence that any labor union or injured workers' organization was consulted about this appointment before it was made.

Based on the foregoing, the United Public Workers Union is strongly opposed to the confirmation of Damien Elefante as the next Chair of the Labor and Industrial Appeals Board. Thank you for the opportunity to present our views on this important matter.



LATE
LOCAL UNION NO. 126

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BY:



OF THE
International Union of Elevator Constructors

AFFILIATED WITH THE AFL-CIO
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THE SENATE
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2020

COMMITTEE ON LABOR, CULTURE AND THE ARTS

Senator Brian T. Taniguchi, Chair
Senator Les Ihara, Jr., Vice Chair

Date: Friday, May 15, 2020
Time: 1:00 p.m.
Place: State Capitol, Conference Room 229
415 South Beretania Street, Honolulu, HI 96813

**TESTIMONY OF THE INTERNATIONAL UNION OF ELEVATOR
CONSTRUCTORS, LOCAL 126**

**RE: GM 751, NOMINATION & CONFIRMATION OF
DAMIEN ELEFANTE TO SERVE AS CHAIR OF THE
LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD**

Chair Taniguchi, Vice Chair Ihara, Senators Chang, Favella, and Gabbard:

Thank you for the opportunity to present testimony regarding GM 751, the nomination of Damien Elefante to serve as Chair of the Labor & Industrial Relations Appeals Board.

We are in opposition to this nomination. However, permit us to say that we mean no disrespect to Mr. Elefante. We simply believe appointment to the vital position of Chair of the Labor and Industrial Relations Appeals Board should not, under any circumstances, be made to an individual with no discernible experience in workers' compensation. Mr. Elefante's resume, which was posted online when he was nominated to the position of Deputy Director of the Department of Taxation where he now serves, does not contain any experience related to industrial injury compensation. We include his resume for your inspection.

The value of work injuries in the State of Hawaii as reported by the annual report of the Department of Labor and Industrial Relations shows a value of all claims 2018 to be \$358 million dollars. In 2019, the Labor & Industrial Relations Appeals Board decided 348 cases. The Board's cases involve complicated medico-legal issues such as reflex sympathetic dystrophy, multiple chemical hypersensitivity, acoustic trauma, cerebrovascular accidents, and will soon involve a host of issues arising from the COVID-19 pandemic.

Decision making regarding these kinds of complex phenomena require a person who is highly competent in the subject matter of Hawaii's Workers' Compensation Law, well-acquainted with medicine, occupational health and safety, and the extensive separate sets of regulation regarding the Workers' Compensation Medical Fee Schedule, Vocational Rehabilitation, OSHA, and the Board's own rules of Policy and Procedure. Ideally, the person should also be a veteran trial lawyer who can preside over the trial and discovery issues LIRAB regularly encounters. The new Chair should also be capable of confidently deciding motions for stay, motions to compel independent medical examinations, motions for remand, and motions for summary disposition that comprise the Board's routine practice. Because the two current Board members previously represented the insurance industry and human resources for a large government employer, the third board member should also be a representative of labor and injured workers, in accordance with long-standing, historic Board practice.

Damien Elefante simply is not the individual with the necessary background, experience, and perspective for this crucial position. We therefore urge the Committee on Labor, Culture, and the Arts reject his confirmation.

GOV. MSG. NO. 751

DAMIEN A. ELEFANTE

EMPLOYMENT AND EXPERIENCE

Employer Trustee – June 2018 to present

Hawaii Employer - Union Health Benefits Trust Fund

I serve in a fiduciary capacity with respect to the Hawaii Employer - Union Health Benefits Trust Fund. Responsibilities include preserving the trust res and making the trust property productive. Engaged in investment decisions and managing the trust funds to produce income for the current beneficiaries. Involved in the decision-making process with respect to establishing health benefits and rates for all public employees and certain retirees, authorizing policies and administrative procedures, and the review of appeal of denied and/or cancelled health benefits. Monthly review of management reports of the administrative office and carrier reports for health, drug, vision, and insurance benefits.

Deputy Director – August 2016 to present

Department of Taxation, State of Hawaii

Manage and administer the operations of the Department of Taxation, State of Hawaii, in accordance with the applicable statutes, administrative laws, and policies. When required, I assume the duties of the director. Responsibilities include the management and resolution of operations activities involving fiscal matters including contract review and negotiation, procurement issues, equipment, resources, and employees. Conduct reviews of budget proposals to determine fiscal impact and requirements for divisions and sections. Oversee management meetings and customer service reviews. Consult with division and section managers in resolving taxpayer issues, public concerns, and general operational issues that affect employees and the public. Handle and resolve employee related issues concerning hiring, dismissal, internal disputes, work place grievances and appeals, and union consultation. Manage division and section managers on compliance projects and improving customer service and interaction. Review manager reports and statistical information concerning Department operations to make recommendations and decisions for the benefit of the people of the State. Work with the general public, legislators and legislative staff members, and directors and deputies of other state departments to address and resolve issues. Provide reports and recommendations to other departments, legislature, and the Governor's office. Oversee the implementation of the tax modernization system, a project that updates the processing and data management of taxpayer returns, payments, and accounts.

Arbitrator – 2009 to present

Court Annexed Arbitration Program

As an Arbitrator, I have the general powers of a court to hear cases in accordance with established rules and procedures. I manage cases from initial assignment to when I render a decision or a settlement is agreed upon. In each assigned case, I review facts against the applicable laws and issued non-binding awards. I am authorized to administer oaths or affirmations to witnesses; decide

Resume - Damien Elefante
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procedural issues; request additional briefs; issue subpoenas; schedule hearings; and aid in the settlement of a case.

Compliance Coordinator – October 2015 to July 2016
Department of Taxation, State of Hawaii

Developed, evaluated, coordinated, and implemented training with respect to law, tax policies and procedures for the purpose of uniform and consistent audit, assessment, and collection of taxes. Managed the implementation and coordination of activities for over 150 employees in different branches and neighbor islands. Participated in meetings concerning legal and administrative questions and requests from managers and employees. Reviewed tax cases and matters concerning compromise, write-offs, waiver of penalty and interest, and recommended appropriate action. Reviewed administrative rules for technical accuracy and practical implementation.

Consolidated and reviewed compliance reports from all branches. Studied and analyzed the information from audits and collections, employees, the current tax delinquency of accounts, costs, and expenses in the division to determine and identify the current practices, staffing requirements, and any administrative issues.

Established standard procedure for the tax voluntary disclosure process. Participated in employee candidate interview panel and contract review panel.

Deputy Attorney General - November 2001 to October 2015
Department of the Attorney General, Tax Division

As an attorney assigned to the Department of Taxation, I represented the State's interest by providing legal advice and litigating contested tax-related cases. Primary responsibilities included the management of tax, bankruptcy, collections, quiet title, interpleader, refunds, foreclosures, and other cases. Involved in litigating and appearing before Federal and State Courts in Hawaii. Collected over \$50 million for the benefit of the State.

Routinely provided legal advice and counsel that related to rules, legislation, constitutional and regulatory matters. Interpreted and applied Hawaii tax laws to resolve questions raised in the context of tax audits and assessments, tax compliance, tax administration, litigation, and attorney general opinions. Reviewed and made recommendations concerning tax legislation, rules, and laws. Assisted in implementing recommendations to insure compliance and consistency with the laws.

As the primary attorney assigned to a case, I was responsible to identify the applicable legal theories, to organize, develop, and implement the trial strategies for discovery, pretrial motions, and litigation. Provided a clear and persuasive analysis of case law, statutes, and regulations and their application to a case. Provided written evaluation and legal advice regarding litigation benefits, risks, strategies, and settlement. Responsible for drafting all written memoranda, discovery requests, motions, and briefs. Reviewed and organized all documents, records, and the sufficiency of the facts and evidence to insure that the amounts assessed are consistent and appropriate given the facts in the case and are defensible in litigation before the tax court.

Resume - Damien Elefante
Page 3 of 4

Involved in negotiations with opposing counsel over various aspects of the litigation, from the scheduling of filings to possible settlement on the merits of the case. As the principal negotiator in cases, the negotiations focused on the merits of the issues raised in the litigation and any settlement should be beneficial to the State. Drafted and reviewed contracts and agreements that formalized the terms of the settlement.

Some of my significant cases are: In re Tax Appeal of Reel Hooker Sportfishing Inc., 123 Haw. 494, 236 P.3d 1230 (2010), cert. denied 2010 WL 4132126, cert. denied 131 S. Ct. 1616, 179 L. Ed. 2d 502 (2011); In re Tax Appeal of Compusa Stores, L.P., 123 Haw. 299, 233 P.3d 719 (2010) judgment vacated by 123 Haw. 116, 284 P.3d 209 (2011); In re Tax Appeal of Spirent Holding Corp., 121 Haw. 220, 216 P.3d 1243 (2009); cert. denied 2009 WL 3166574 (2009); In re Tax Appeal of Director of Taxation, State of Hawaii v. Medical Underwriters of California, 115 Haw. 180, 166 P.3d 353 (2007), and In re Tax Appeal of Subway Real Estate Corp., 110 Haw. 25, 129 P.3d 528 (2006).

Associate Attorney - October 2000 to November 2001
Hisaka Stone Goto Yoshida Cosgrove & Ching

Assisted in the management of various trial and appellate court cases. Gathered, reviewed, and organized evidence for complex multiparty litigation involving products liability, asbestos, and construction cases. Involved in the trial preparation of a case that was subsequently resolved in favor of our client. Researched and drafted various summary judgment and pre-trial motions in civil cases that included sexual harassment, contracts, construction, and products liability. Defended clients in asbestos cases by participating in depositions and discovery to determine if our client's product attributed to the injury. Drafted informational letters and legal memoranda for clients and attorneys/partners. Drafted and conducted research for the opening and answering briefs in an appeal and cross-appeal to the Hawaii Supreme Court for which a favorable decision was rendered in favor of our client.

Judicial Law Clerk - August 1999 to October 2000
Chief Judge James S. Burns, Intermediate Court of Appeals

Reviewed and drafted court opinions resolving legal issues in complex civil and criminal cases. Prepared and wrote memoranda, briefs, and reports regarding appellate cases. In reviewing a particular appellate case, identified the legal problem(s) and conducted legal research to determine the laws, statutes, and cases that support or opposed positions. The research encompassed relevant legislative history, statutes, regulations, administrative rules, treatises, and Attorney General Opinions. Determined what information supported or refuted the arguments of the parties. Verified citations and quotations to assure that they were in a proper format.

Developed an electronic database for all the court's memorandum opinions that was created, implemented, and established within a two-month period. Prior to the development of the database, the information was contained on an array of disks and computers.

Assisted in the administrative and organizational aspects of the court. Created a reference guide for all incoming law clerks to help them understand the legal standards of review in civil and criminal appeal cases. Maintained and installed law-oriented

Resume - Damien Elefante
Page 4 of 4

computer programs and templates for all legal clerks and judicial assistants. Served as the Westlaw representative to facilitate the management of the active accounts. Prepared for and attended court proceedings. Helped volunteers in legal research and writing memoranda.

EDUCATION

Syracuse University College of Law, Syracuse, New York
Juris Doctor, Cum Laude

Honors: Certificate in Law, Technology, and Management; Award for the Outstanding Member of the Syracuse Law Review

Journals: Syracuse Law Review; Computer Editor, Syracuse Law and Technology Journal; Syracuse Journal of Legislation and Policy

University of Hawaii at Manoa, Honolulu, Hawaii
Bachelor of Arts in Political Science, Magna Cum Laude,
Honors: Graduated with Distinction; Dean's List

Kailua High School, Kailua, Hawaii
Diploma, Cum Laude

OTHER QUALIFICATIONS

Licensed in all State of Hawaii courts; United States Ninth Circuit Court of Appeals;
United States District Court for the District of Hawaii