



**HAWAI'I  
ACCESS TO JUSTICE  
COMMISSION**

**ANNUAL REPORT FOR 2014**





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## I. HAWAI`I ACCESS TO JUSTICE COMMISSION

This report highlights the Hawai`i Access to Justice Commission's ("Commission") activities in 2014.

### A. Commissioners

The Commission comprises twenty-two Commissioners. The various Commissioners are appointed as designated in Rule 21 of the Rules of the Supreme Court of the State of Hawai`i by separate appointing authorities:

- Chief Justice of the Hawai`i Supreme Court
- Hawaii State Bar Association ("HSBA")
- Hawaii Consortium of Legal Service Providers
- Hawaii Justice Foundation ("HJF")
- Williams S. Richardson School of Law
- Hawaii Paralegal Association
- Governor of the State of Hawai`i
- Attorney General of the State of Hawai`i
- State of Hawai`i Senate President
- State of Hawai`i Speaker of the House

The Commissioners who served in 2014 are listed below:

	Name	Appointed By	Term Ends
1.	Hon. Daniel R. Foley (CHAIR as of June 30, 2010)	Chief Justice	12/31/15
2.	Jill M. Hasegawa (VICE-CHAIR)	Hawaii State Bar Association	12/31/14
3.	Hon. Simeon R. Acoba, Jr. (Former Chair from May 2008 until June 29, 2010)	Chief Justice	12/31/15
4.	Hon. Ronald Ibarra	Chief Justice	12/31/15
5.	Hon. Joseph Cardoza	Chief Justice	12/31/14
6.	Hon. Trudy Senda	Chief Justice	12/31/15
7.	Derek Kobayashi	Hawaii State Bar Association	12/31/16
8.	Darien W.L.C. Nagata	Hawaii State Bar Association	12/31/14
9.	Tracy Jones	Hawaii State Bar Association	12/31/16
10.	Michelle Acosta (Volunteer Legal Services of Hawai`i)	Hawai`i Consortium of Legal Services Providers	12/31/14
11.	M. Nalani Fujimori Kaina (Legal Aid Society of Hawai`i)	Hawai`i Consortium of Legal Services Providers	12/31/15



12.	Moses Haia (Native Hawaiian Legal Corporation)	Hawai'i Consortium of Legal Services Providers	12/31/16
13.	Victor Geminiani (Hawai'i Appleseed Center for Law and Economic Justice)	Hawai'i Consortium of Legal Services Providers	12/31/16
14.	Jean Johnson (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with Chief Justice	12/31/15
15.	Scott S. Morishige (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with Chief Justice	12/31/14
16.	Gary M. Slovin	Hawaii Justice Foundation	12/31/15
17.	Dean Aviam Soifer	William S. Richardson School of Law	12/31/16
18.	R. Elton Johnson, III	Hawaii Paralegal Association	12/31/16
19.	Patricia McManaman	Governor	n/a
20.	Mary Anne Magnier	Attorney General	n/a
21.	Hon. Clayton Hee	Senate President	n/a
22.	Hon. Della Au Belatti	House Speaker	n/a

## **B. Purpose**

Under Rule 21 of the Rules of the Supreme Court of Hawai'i, the purpose of the Commission "shall be to substantially increase access to justice in civil legal matters for low- and moderate-income (together "low-income") residents of Hawai'i."<sup>1</sup> To accomplish such purpose, "the Commission shall, along with such other actions as in its discretion it deems appropriate, endeavor to:

- (1) Provide ongoing leadership and to oversee efforts to expand and improve delivery of high quality civil legal services to low-income people in Hawai'i.
- (2) Develop and implement initiatives designed to expand access to civil justice in Hawai'i.
- (3) Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income Hawai'i residents.
- (4) Increase and stabilize long-term public and private funding and resources for delivery of civil legal services to low-income Hawai'i residents.

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<sup>1</sup> A copy of Rule 21 of the Rules of the Supreme Court of Hawaii is attached as Appendix A.



- (5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among civil legal services providers.
- (6) Increase pro bono contributions by Hawai`i attorneys through such things as rule changes, recruitment campaigns, increased judicial involvement, and increased recognition for contributors.
- (7) Reduce barriers to the civil justice system by developing resources to overcome language, cultural, and other barriers and by giving input on existing and proposed laws, court rules, regulations, procedures, and policies that may affect meaningful access to justice for low-income Hawai`i residents.
- (8) Encourage lawyers, judges, government officials, and other public and private leaders in Hawai`i to take a leadership role in expanding access to civil justice.
- (9) Educate governmental leaders and the public about the importance of equal access to justice and of the problems low-income people in Hawai`i face in gaining access to the civil justice system through informational briefings, communication campaigns, statewide conferences (including an annual summit to report on and consider the progress of efforts to increase access to justice), testimony at hearings, and other means, and increase awareness of low-income people's legal rights and where they can go when legal assistance is needed.
- (10) Increase effective utilization of paralegals and other non-lawyers in the delivery of civil legal services to low-income Hawai`i residents.
- (11) Increase support for self-represented litigants, such as through self-help centers at the courts.
- (12) Develop initiatives designed to enhance recruitment and retention of attorneys who work for nonprofit civil legal services providers in Hawai`i and to encourage law students to consider, when licensed, the practice of poverty law in Hawai`i.
- (13) Encourage the formation of a broad coalition of groups and individuals to address ways to alleviate poverty in Hawai`i.
- (14) Conduct a statewide assessment of unmet civil legal needs among low-income people in Hawai`i five years after the Commission holds its first meeting to measure the progress being made to increase access to justice.

### **C. Committees**

The Commission created committees and various other ad hoc subcommittees and task force groups to carry out and facilitate its mission. Commissioners serve as chairs for the committees. The role of each committee is advisory only, and each committee is intended to make such recommendations to the Commission as the committee determines to be appropriate. The committees, their chairs, their members, and the areas of



responsibility assigned to them may be changed at any time by the Commission.

### **Administration Committee**

[Associate Justice Simeon R. Acoba, Jr. (ret.) (Chair), David Reber (Vice Chair), Associate Judge Daniel R. Foley, Michelle Acosta, Jill Hasegawa, Derek Kobayashi, Carol K. Muranaka, Tracey Wiltgen]

- Assist the Chair of the Commission in developing an agenda for each Commission meeting and assist in arranging for presenters and written or electronic materials in support of agenda items
- Assist in developing a budget for the Commission, including identifying potential sources of funding, and providing reports on the status of operations relative to budget
- Assist in providing administrative and logistical assistance to the Commission and its committees and task forces
- Coordinate the activities of volunteers in support of the Commission's initiatives

### Summary of Actions Taken

The Committee considered and made recommendations to the Commission and other committees regarding the following:

- (1) Five applications for service on the Commission's committees and made recommendations to the Commission and other committees.
- (2) The Report to the ABA Resource Center for Access to Justice Initiatives regarding the \$ 20,000 grant received from the ABA to the Commission.
- (3) Financial support from The Cades Foundation for the 2014 Access to Justice Conference.
- (4) Comments and suggestions from the 2014 Access to Justice Conference and allocation to the various Commission committees.
- (5) Financial support for attendance by Chief Justice Mark Recktenwald at the National Meeting of State Access to Justice Chairs.
- (6) Schedule for Commission meetings and the Access to Justice Conference.
- (7) Website design for the Commission.
- (8) Information correcting some of the data gathered for the Justice Index.





- (9) Senate Concurrent Resolution No. 116, loan repayment program for the graduates of the William S. Richardson School of Law.
- (10) Adjunct legal service providers question referred to the Committee on the Right to Counsel in Certain Civil Proceedings.
- (11) Commission's Annual Report for 2013; approval of printing certain number of hard copies for the appointing authorities such as the Chief Justice, Governor, and legislators.
- (12) Financial support for the Pro Bono Celebration on October 23, 2014.
- (13) Tennessee Online Justice software, which provides a platform where volunteer attorneys answers legal questions for free. (There are rules to meet before one can participate.) Referred to the Committee on Initiatives to Enhance Civil Justice.
- (14) Ka`u Legal Clinic where volunteer attorneys provided legal advice to low-income Ka`u residents on such matters as divorce, child custody, child support, paternity, guardianships, adoptions, landlord-tenant, small claims, collections, Chapter 7 bankruptcy, wills and/or trusts, power of attorney, healthcare directives, and Native Hawaiian rights.

### **Annual Report Committee**

[Jill Hasegawa (Chair), Judge Karen Nakasone (Vice Chair)]

- Assist in preparing an annual report of the activities of the Commission for filing with the Supreme Court in accordance with Rule 21(j)(1)

### Summary of Actions Taken

The Annual Report of the Commission's activities for 2013 was prepared. The annual report was distributed electronically to the HSBA board of directors and others. Hard copies were transmitted to the appointing authorities. The 2013 Annual Report was also posted on the Commission's subpage at the HJF's website.

### **Committee on Education, Communications and Conference Planning**

[Dean Aviam Soifer (Chair), Carol K. Muranaka (Vice Chair), Rep. Della Au Belatti, Sonny Ganaden, Sen. Clayton Hee, Mihoko Ito, Elton Johnson, Robert LeClair, Leila Rothwell Sullivan, Loren Walker]

- Assist in organizing an annual summit for the presentation of access to justice issues
- Make recommendations on encouraging lawyers, judges, government officials and other public and private leaders in Hawai'i to take a leadership role in expanding access to justice



- Assist in developing strategies for educating governmental leaders and the public about the importance of equal access to justice and of the problems low- and moderate-income people in Hawai'i face in gaining access to the civil justice system, including through informational briefings, communication campaigns, statewide conferences, testimony at hearings and other means
- Increase awareness of low- and moderate-income people's legal rights and where they can go when legal assistance is needed
- Assist in developing a communications strategy and preparing communications consistent with that strategy
- Encourage judges, lawyers, and legal services providers to prepare a series of articles on access to justice topics for publication in the *Hawaii Bar Journal* and other media

### Summary of Actions Taken

The Committee considered and made recommendations to the Commission regarding the following:

- (1) Six MCPE credits for the 2015 Access to Justice Conference, which request was subsequently approved by the HSBA.<sup>2</sup> (Five CLE credits and one ethics credit were approved by the HSBA.)
- (2) Coordinated the 2014 Access to Justice Conference ("Meeting the Challenges to Equal Justice for All") on Friday, June 20, 2014.<sup>3</sup>
- (3) Six MCPE credits for the 2014 Access to Justice Conference was requested and subsequently approved by the HSBA.
- (4) Prepared a report to the Commission summarizing the 2014 Access to Justice Conference including expenses, evaluations, and suggestions.

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<sup>2</sup> Effective January 1, 2015, Supreme Court Rule 22 was amended to eliminate the distinction between voluntary continuing legal education ("VCLE") and MCPE (mandatory continuing professional education) credits, so there is a requirement that each active bar member complete at least three continuing legal education ("CLE") each annual reporting period. One hour of approved ethics or professional responsibility credit is required every three years.

<sup>3</sup> Further discussion can be found at "II. 2014 Access to Justice Conference" in this report.



### **Committee on Funding of Civil Legal Services**

[Gary M. Slovin (Chair), Michelle Acosta, Rebecca Copeland, M. Nalani Fujimori Kaina, Robert LeClair, Dean Aviam Soifer, Kanani M. Tamashiro, Wilfredo Tungol]

- Make recommendations and provide advocacy in support of establishing a permanent “home” for the legislative funding of providers of civil legal services to low- and moderate-income individuals so that funding for such services may be stable and secure
- Make recommendations and provide advocacy in support of increased legislative funding of civil legal services providers
- Make recommendations and provide advocacy in support of increased funding for civil legal services providers by the federal Legal Services Corporation and other federal and state agencies
- Make recommendations and provide advocacy in support of increased funding of civil legal services through the indigent legal services filing fee surcharge and other measures
- Assist legal services providers in exploring additional public and private funding sources and in developing programs or projects for which funding may be sought
- Make recommendations in collaboration with the Judiciary, the HSBA, law firms, and other employers of lawyers, to encourage attorneys to provide substantial financial support to legal services providers, including additional amounts in years when such attorneys do not meet the aspirational pro bono goals of Rule 6.1 of the Hawaii Rules of Professional Conduct (“HRPC”)

### **Committee on Increasing Pro Bono Legal Services**

[Michelle Acosta (Chair), Tracey Wiltgen (Vice Chair), Sergio Alcubilla, Rebecca Copeland, Ramona Hussey, Linda Ichiyama, Tracy Jones, Derek Kobayashi, Audrey Stanley, Kanani Michelle Tamashiro, Jan Tamura, Jeanilou Torrado, Shannon Wack]

- Study best practices in other jurisdictions for increasing the level of pro bono services by lawyers, paralegals and others who may assist in overcoming barriers to access to justice, including developing effective recruitment campaigns
- Make recommendations concerning ways to develop a culture of commitment to pro bono service among Hawaii’s lawyers
- Maintain a list of legal services providers and others that offer opportunities for pro bono service, describe the nature of those opportunities and explore and assist providers in increasing the opportunities they provide for such service
- Make recommendations concerning ways to make providing pro bono service more attractive to attorneys, such as by assisting in developing



resources for the pre-screening of cases, ensuring proper training, providing support and recognizing service

- Make recommendations concerning ways in which the Commission, the Judiciary and the HSBA--acting alone or in partnership with others--can encourage attorneys to provide higher levels of pro bono service
- Make recommendations concerning ways to encourage law firms and others who employ lawyers (including governmental agencies and corporate law departments) to promote greater pro bono service among their attorneys
- Make recommendations concerning ways to encourage retired lawyers and judges to provide pro bono or staff legal services to low- and moderate-income individuals

#### Summary of Actions Taken

- (1) Supported activities initiated by the Pro Bono Initiatives Task Force.
- (2) Reviewed proposal for the Molokai Legal Clinic and conferred with the Senior Counsel Division of the HSBA. Reported to the Administration Committee that the Senior Counsel Division would be conducting a legal information clinic in Molokai.
- (3) Participated in the working group on the Appellate Pro Bono Pilot Project, headed by Rebecca Copeland, which project included the Supreme Court.
- (4) Designed the Ka`u Legal Clinic from an initiative from the Committee on Initiatives to Enhance Civil Justice as a pilot for delivery of legal services to underserved rural communities in Hawai`i.<sup>4</sup>
- (5) Worked on increasing pro bono participation through pro bono recruitment at the Access to Justice Conference. Made recommendations to the Committee on Education, Communications, and Conference Planning to include a pro bono focused component at the conference by way of a pro bono room or incorporated into applicable workshops.

#### **Committee on Initiatives to Enhance Civil Justice**

[Judge Ronald Ibarra (Chair), Kristin Shigemura (Vice Chair), Sergio Alcubilla, Earl Aquino, Lincoln Ashida, Elizabeth Fujiwara, Ryan Hew, Mihoko Ito, Elton Johnson, Laura Ka`akua, Carol Kitaoka, Gregory Lui-Kwan, Michelle Moorhead, George Zweibel]

- Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low- and moderate-income Hawai`i residents

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<sup>4</sup> More information about the Ka`u Legal Clinic is found later in this Report.



- Study best practices in other jurisdictions and develop and recommend new initiatives to expand access to justice in Hawai'i
- Make recommendations and provide advocacy in support of enhancing recruitment and retention of attorneys to work as staff members or to volunteer pro bono for nonprofit civil legal services providers in Hawai'i, which may include:
  - Establishment by the Hawai'i legislature of a student loan repayment assistance program to help full-time, nonprofit civil legal services attorneys pay back their student loans
  - Adoption by the Hawai'i Supreme Court of rules to permit attorneys actively licensed to practice law by the highest court of a state or territory of the United States or the District of Columbia or Puerto Rico and who are working on staff or volunteering pro bono for nonprofit civil legal service providers to practice in that capacity for up to one year without being admitted to practice law in Hawai'i
- Make recommendations concerning ways in which paralegals and other non-lawyers may assist in meeting specified unmet civil legal needs, including whether ethical or procedural rules would need to be changed to accommodate such assistance

#### **Law School Liaison Committee**

[Moses Haia (Chair), Mary Anne Magnier (Vice Chair), Katie Bennett, Jean Johnson, Linda Kreiger, Calvin Pang, James Pietsch, Dean Aviam Soifer]

Make recommendations concerning ways to:

- Expand efforts to create and develop law student interest in the practice of poverty law by increasing existing clinical programs and instituting new ones to serve the needs of low- and moderate-income populations
- Emphasize, as part of the professional responsibilities curriculum, a lawyer's ethical duty under HRPC Rule 6.1 to perform pro bono legal services and the ways this obligation can be met
- Develop opportunities with legal services providers, and sources of additional funding, to support law students' efforts to meet the 60-hour pro bono graduation requirement in a manner consistent with addressing the needs of low- and moderate-income populations
- Encourage and recognize the involvement of faculty members in efforts to promote equal justice by, for example, testifying in support of access to justice legislation, accepting pro bono cases, serving on boards of organizations that serve the legal needs of low- and moderate-income populations, contributing financially to organizations that serve the legal needs of low- and moderate-income people and filing amicus briefs in proceedings affecting legal services to the underserved



- Develop more public interest summer and academic year clerkships and obtain grants for summer internships and clerkships that serve low- and moderate-income populations

### **Committee on Overcoming Barriers to Access to Justice**

[Jean Johnson (Chair), Jennifer Rose (Vice Chair), Russ Awakuni, Patricia Cookson, Nanci Kreidman, Mary Anne Magnier, Mark K. Murakami, Calvin Pang, Cynthia Tai, Malia Taum-Deenik, Kristina Toshikiyo, Randall M. Wat]

- Make recommendations concerning ways to remove impediments to accessing the justice system due to language, cultural and other barriers and make recommendations concerning what programs should be initiated to address this barrier, which may include:
  - Providing multilingual services, including increasing the number of available staff and pro bono attorneys and court personnel who are bilingual
  - Providing forms in multiple languages
  - Providing translation services in court, administrative agencies, and with legal service providers
  - Partnering with the University of Hawai'i and other schools offering language training to encourage multilingual volunteers to provide outreach and translation services
- Identify other barriers to obtaining legal assistance and make recommendations concerning ways to address them, such as through the provision of ancillary services, e.g., providing for child care during a court hearing or for necessary mental health services
- Seek to reduce barriers by recommending input on existing and proposed laws, court rules, regulations, procedures and policies that may affect meaningful access to justice for low- and moderate-income Hawai'i residents

### Summary of Actions Taken

Four quarterly meetings were held that were well attended. Four new members were welcomed to the committee during the year: Mark Murakami, Randall Wat, Patricia Cookson, and Cynthia Tai. They have diverse backgrounds and employment settings bringing new values, ideas, and viewpoints to enrich the Committee.

During the first meeting of the year, strategic objectives for the year were adopted.

- Unmet Needs of Persons with Disabilities
- Micronesia Access Issues/Data Needs
- Need for Zero to Three Court
- Further Language Access Training Programs



Considerable success was achieved on each of the objectives as described in the following paragraphs.

Unmet Needs of Persons with Disabilities. The third meeting of the year was devoted to an educational session on the issues, particularly those surrounding school-aged children. Louis Erteschik, Executive Director of the Hawai'i Disability Rights Center was invited to provide an informational session. The serious barriers facing parents as they represent themselves *pro se* in Individuals with Disabilities Education Act ("IDEA") due process hearings were discussed. Consensus was reached on a number of recommendations from that meeting. One action was to prepare a request for a workshop discussing the issues during the Access to Justice Conference in June 2015.

Micronesian Access Issues/Data Needs. A guest speaker from the Hawai'i Appleseed Center for Law and Economic Justice was invited to participate in the fourth meeting of the year to discuss the pressing legal issues facing the Compact of Free Association ("COFA") emigrants in Hawai'i. The publication, *A Community of Contrasts*, was discussed during an earlier meeting. Three consensus recommendations were developed for presentation to the Commission. A request was made for a workshop during the 2015 Access to Justice Conference to have COFA members share the barriers they are encountering in the State as they seek to meet their basic needs for health, shelter, safety, and educational services.

Need for Zero to Three Court. Discussions were held during the first two meetings of the year to inform members about the work of the Zero to Three Court. The Committee voiced its support to bring the needs to the legal community and judiciary through preparation of an article for the Hawaii Bar Journal. Two members of the committee worked with Judge Christine Kuriyama of the Zero to Three Court to produce, "Access to Justice for Those Without Voice, Words, or Language." This article was published in the December 2014 issue of the Hawaii Bar Journal.<sup>5</sup> The Chief Justice, during a December judicial swearing-in ceremony publicly praised the work of the Court and pledged his support to include funding for its continuation in the next Biennium Judiciary Budget.

Further Language Access Training Programs. The Committee has been collaborating with Judge Katherine Leonard and the American Judicature Society Criminal Justice Committee for further training and a possible forum that will likely occur during 2015.

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<sup>5</sup> A copy of the article, "Access to Justice for Those Without Voice, Words, or Language" in the December 2014 issue of the Hawaii Bar Journal is attached hereto as Appendix B.



### **Committee on the Right to Counsel in Certain Civil Proceedings**

[Tracy Jones (Chair), Shannon Wack (Vice Chair), Jessica Freedman, Regina Gormley, Brandon Ito, Mary Anne Magnier, James Weisman, Cheryl Yamaki]

- The American Bar Association, at its 2006 annual meeting in Hawai'i, adopted a resolution supporting "legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health, or child custody, as determined by each jurisdiction." The Committee should study developments in other jurisdictions with respect to the establishment and implementation of a right to counsel in certain civil proceedings
- Make recommendations concerning the types of civil matters in which the rights or issues involved are of such fundamental importance that counsel should be provided in Hawai'i, assess to what extent attorneys are available for such matters and make recommendations on how to assure that counsel is available

#### Summary of Actions Taken

- (1) Assigned a new chair of the Committee in August 2014.
- (2) Discussed the case of In re T.M., 131 Haw. 419, 319 P.3d. 338 (2014), about having a procedural checkpoint for Family Court cases or an amendment to the Hawai'i Revised Statutes that directs the Family Court Judge to appoint counsel for indigent parents upon the granting of a petition to DHS for temporary foster custody of their children. Also discussed was a reporting requirement to track the number of cases and the number of appointments.
- (3) Tasked in October 2014, pursuant to Rule 21(b)(5), to explore and develop an adjunct legal service provider referral and methods of partnership to "(5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among civil legal services providers," as this is an presently unaddressed mandate of the Commission.

### **Committee on Self Representation and Unbundling**

[Derek Kobayashi (Chair), Sarah Courageous, Damien Elefante, Jerel Fonseca, Victor Geminiani, Tracy Jones, M. Nalani Fujimori Kaina, Victoria Kalman, Jo Kim, Jay Kimura, Justin Kollar, Daniel Pollard, Judge Trudy Senda, Kristina Toshikiyo, Shannon Wack]

Members of this Committee may also serve on a joint committee with the Supreme Court's Committee on Professionalism. Although the joint committee





will need to determine its agenda, this Committee of the Commission may study and make recommendations concerning ways to:

- Create, staff, and fund self-help centers that are connected to every courthouse in Hawai'i in order to provide real-time assistance to low- and moderate-income individuals
- Design programs to make courts more “user-friendly” to low- and moderate-income individuals
- Provide information to self-represented litigants on where they can receive legal assistance
- Reduce barriers encountered by self-represented litigants in the court system, e.g., by using plain English and translations into other languages, and by simplifying procedural rules
- Make changes to court rules and statutes that would streamline and simplify substantive areas of the law, e.g., family, housing and landlord-tenant law
- Make changes to court rules in order to permit limited representation or “unbundled” legal services, and if achieved, make recommendations concerning continuing legal education programs and other ways of promoting unbundling as a way to meet currently unmet legal needs and empowering individuals to represent themselves





## II. 2014 ACCESS TO JUSTICE CONFERENCE

Over 265 people attended the sixth annual Access to Justice Conference held at the William S. Richardson School of Law, University of Hawai'i at Manoa on June 20, 2014. The theme of the 2014 conference was "Meeting the Challenges to Equal Justice for All." Three mandatory continuing professional education ("MCPE") credits were available to Hawai'i-licensed attorneys for attending either three hours in the morning session or three hours in the afternoon session of the conference. For attendance at the all-day conference, six MCPE credits were offered to Hawai'i attorneys.<sup>6</sup>

There were 41 speakers or panelists. Dean Aviam Soifer and Robert LeClair served as co-emcees for the conference as well as moderators for the legislative panel and the closing panel, respectively.

The Cades Foundation was acknowledged for its generosity in providing a grant to assist in defraying the costs of the conference. Gunner Schull, Rhonda Griswold, and Larry Takumi, trustees of The Cades Foundation, were in attendance at the conference.

### **A. Morning Session**

Commission Chair Judge Daniel R. Foley provided an update on the Commission's activities. Hawaii Supreme Court Chief Justice Mark E. Recktenwald gave an overview of access to justice in the Judiciary. He stated:

Although we have made significant strides in providing increased access to justice here in Hawai'i, we have much work left to do. We need to sustain our achievements, such as the self-help centers, while at the same time looking for innovative ways in which to continue to move forward.

One example of the out-of-the-box thinking that will be required in order to keep us moving forward is the recent report completed by the Judiciary's Strategic Planning Committee on Access to Justice. The purpose of this committee, which is chaired by Justice Acoba, was to set forth a long-range vision for the judiciary's ATJ efforts. The committee's recommendations range from designating an individual or committee to facilitate access to justice programs statewide, to creating an online ask-a-lawyer interface, to producing YouTube videos to inform the public of common legal issues. It also recommended expanding the judiciary's Ho'okele assistance program, under which court staff provide directions and assistance to court users as they enter our courthouses.

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<sup>6</sup> Of the approximately 265 individuals who attended the conference, 154 sought MCPE credits.



It is only through a combination of maintaining and fostering community partnerships, developing innovative means of expanding involvement, and stretching our resources through the use of technology that we will be able to maintain the significant momentum we have achieved during the last six years in making justice more accessible to all of Hawaii's residents. I look forward to hearing your experiences, insights, and ideas on what we can do to make the ideal of justice for all a reality.<sup>7</sup>

The keynote address, "Rethinking Access to Justice" by James J. Sandman, President of Legal Services Corporation, invigorated the audience with concepts on how to redefine access to justice.<sup>8</sup> There are two questions: Is it access? Is it justice? Sandman identified two challenges facing the access to justice movement today:

The first is the invisibility of the issue—the widespread ignorance of the magnitude of the justice gap in the United States. The second is a service-delivery model that leaves too many people with no assistance of any kind.

The invisibility of the issue explains, to a significant extent, the disconnect between our professed national value of "justice for all" and funding for civil legal aid. Ignorance of the crisis in access to justice is prevalent among the public, the legal profession (at least with regard to the magnitude of the problem), private philanthropy, and legislators.

...

I turn now to the second major challenge facing the access to justice movement: a service-delivery model that leaves 80 percent of the legal needs of low-income Americans unmet and turns away half or more of the people who actively seek legal aid. Accepting that status quo as the inevitable result of inadequate funding is complacency. We have to do better.

President Sandman said that Legal Services Corporation released a report addressing the issue of representation for every client in every case. The report recommended a statewide portal encompassing all legal services providers in the state as a universal point of entry to the legal aid system. "The portal would employ an automated "triage" system to identify the most appropriate and feasible level of assistance for the matter at issue, taking into account such factors as the sophistication of the client, the nature of the matter, what is at stake, whether the other party is represented, and what resources are available."

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<sup>7</sup> The full text of Chief Justice Recktenwald's speech is attached hereto as Appendix C.

<sup>8</sup> The full text of President Sandman's keynote address is attached hereto as Appendix D.



### President Sandman observed:

I offer one final thought on rethinking access to justice: We need to rethink the scope of the access-to-justice mission. The mission must encompass simplifying the legal system—a system that was designed largely by lawyers for lawyers and does not work well for those who do not have a lawyer. The system need not be nearly as complicated as it is. We must also expand the role of non-lawyer professionals in the way the medical profession has deployed paraprofessionals to speed and improve patient care. The consequences of being without a lawyer do not have to be as dire as they are today. It may be contrary to the economic self-interest of some lawyers to simplify the system and open it to non-lawyers, but so be it. Access to justice should never be driven by lawyers' self-interest.

President Sandman concluded that legal aid lawyers are heroes. “They are making America’s promise of justice, reflected in the first line of our Constitution and the closing words of the Pledge of Allegiance, real for thousands of people.”

The legislative panel on “Where, Oh, Where Is The Money?” was moderated by Dean Soifer with Senator Clayton Hee and Senator Suzanne Chun Oakland. Senator Chun Oakland provided a handout on information on certain legislative action in the 2014 session.

### **B. Afternoon Workshops**

There were five concurrent workshops for the first afternoon session:

- “Maintaining the Momentum and Maximizing Legal Services for the Underserved” with Michelle Acosta, Volunteer Legal Services Hawaii; Moses Haia, Native Hawaiian Legal Corporation; Jessica Stabile, Mediation Center of the Pacific; Nalani Fujimori Kaina, Legal Aid Society of Hawaii; Gavin Thornton, Hawaii Appleseed Center for Law and Economic Justice; Louis Erteschik, Disability Rights Center; James Pietsch, Elder Law Program; Nanci Kreidman, Domestic Violence Action Center; Daniel Gluck, American Civil Liberties Union. There were 47 attendees who signed up for this workshop.
- “Right to Counsel in Civil Cases--Where Are We? with Associate Justice Simeon R. Acoba, Jr. (ret.), Russ Awakuni, William D. Hoshijo, Mary Anne Magnier, Patricia McManaman, and John Tonaki. There were 33 attendees who signed up for this workshop. An article



describing this workshop was published in the October 2014 issue of the Hawaii Bar Journal.<sup>9</sup>

- “Giving Voice to the Underserved: Lobbying and Political Movements” with Sonny Ganaden, Mihoko Ito, and Gary Slovin. Forty-five attendees signed up for this workshop.
- “Mental Health Issues Concerning Low-Income Individuals” with Associate Justice Michael Wilson and Representative Della Au Belatti. Fifty attendees signed up for this workshop.
- “Strengths/Limitations of Self-Help Centers; Challenges in Working with Unrepresented Litigants” with Judge Ronald Ibarra, Judge Barbara Richardson, and Jessi Hall. There were 41 attendees who signed up for this workshop. The panelists provided a narrative of their workshop as follows:

A summary of the strengths and weakness of the self-help centers (SHCs) and the access to justice rooms (AJRs) in Honolulu and at Kapolei was provided and emphasized that these endeavors result from a partnership between the Judiciary, HSBA, Access to Justice Commission and legal service providers in our communities. Both the SHCs and AJRs are currently providing much needed services to those who would not otherwise be able to afford legal assistance. While services and operations of the SHCs and AJRs should be expanded, the existing SHCs and AJRs are limited by the number of attorneys who can volunteer (especially in the second, third, and fifth circuits) and by the facilities necessary to deliver quality services.

#### Challenges from a Judge’s Point of View

It was pointed out that judges who preside over cases involving SRLs often encounter challenges because, among other things, SRLs have difficulty understanding procedural requirements, do not know what the law requires or prohibits and sometimes base their expectations on what they hear from friends and relatives or what they view on television or in the movies. A judge must remain impartial and therefore cannot in some instances help the SRL move his/her case forward. This can lead to a misunderstanding of the SRL that a judge is biased toward litigants who are represented by an attorney. The SHCs and AJRs do provide SRLs with help they need to navigate our court system and give them some of the tools needed to understand court procedures and the law.

#### Challenges from a Volunteer Attorney’s Point of View

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<sup>9</sup> The article entitled “Right to Counsel Discussed at the Access to Justice Conference” by Mel Masuda is attached hereto as Appendix E.



From the standpoint of attorneys who volunteer at the SHCs and AJRs, there are challenges to meet, and these volunteer attorneys need to prepare themselves, to include the following examples of the challenges:

- SRLs are often those with limited education.
- Be able to explain the legal issues and process in a manner that they will understand.
- SRLs often do not have the resources or ability to perform discovery or prepare for hearings.
- Be creative in suggesting easier and cost effective ways to obtain necessary information.
- Introduce SRLs to alternative resources such as Hawaii Self-Help Interactive Forms.

With a little preparation, the experience of volunteering can be beneficial not only to the SRL, but also for the volunteer attorney.

#### Meeting the Challenges

In meeting the challenges of working with SRLs, the following are some of the suggestions made:

- Enhance the Judiciary's website.
- Initiate online services, such as "Ask a Lawyer" programs.
- Produce YouTube videos.
- Provide online forms.
- Use training videos.
- Partner with mediation centers.
- Partner with the Paralegal community.
- Bring forms and research tools to public libraries (see below).

#### Presentation on Use of Legal Aid's LawHelp Website, Self-Help Workstations and A2J Court Forms

Legal Aid staff shared information about current forms accessible via their LawHelp website and self-help workstations where users can access the forms. They also explained that an SJI grant would allow them to enhance their current programs, including the intent to provide assistance to SRLs at our public libraries.

For the second part of the afternoon, there were five concurrent workshops as follows:

- "Current Topics in Domestic Violence" with Judge R. Mark Browning and Nanci Kreidman. There were 40 attendees who signed up for this workshop.



- “Mediation and Civil Applications of Restorative Justice for the Underserved” with United States District Judge Leslie Kobayashi, James Hoenig, and Diane Petropulos. There were 37 attendees who signed up for this workshop.

Diane Petropulos summarized her presentation as follows:

“The role of community mediation centers in contributing to access to justice is that the underserved are our clients. Our center, Maui Mediation Services, has a policy to provide service regardless of ability to pay. Fortunately, we have also received grant funding to help defray the cost of mediations for low-income disputants.

“Community mediation centers do not just mediate disputes; they educate the community, because of the difference between the evaluative model and the facilitative model of mediation. In facilitative mediation, mandated for community mediation centers by the Hawaii State Judiciary, the parties are the decision-makers, and as they mediate they learn collaborative techniques to resolve problems and it may follow that they become better neighbors, better co-workers and better family members.

“Our mediators must remain neutral by not offering their own solutions and they do not provide legal advice. So what do we do? We empower the disputants.

“We help them turn on a light bulb in their heads—get new perspectives, and move away from previous, unworkable approaches to dispute resolution. This model allows the parties themselves to arrive at their own best solutions.

“By following this model the centers are giving them the confidence to successfully resolve future conflicts on their own. They have the experience of fashioning solutions that they might not have achieved otherwise. They did not have the skills when they walked into the mediation session, but by the end of it, through an inquiry-based learning process, they learn some of those skills. We just gave them a precious gift—how to resolve a dispute without spending the time and money to get others to do it for them. Give a man a fish or teach him to fish.

“In the evaluative model the mediators offer their opinions and guide the parties and their attorneys towards likely solutions. They may review the evidence and give opinions on how it impacts the case. These mediators are often attorneys who can give legal opinions to the parties and can help them negotiate during a mediation session. Note that the parties are not working on coming up with the solutions—it is the mediators who are taking the lead in problem-solving. In this model the parties themselves may not learn new ways to deal with their disputes in the future.”





Jim Hoenig summarized his presentation as follows:

“In 2007, the Access to Justice Hui, a group comprising representatives from several legal organizations, conducted a study that identified the areas having the greatest unmet civil legal needs as: housing (24%), family (23%), domestic violence (8%), and consumer (7%). Mediation has proven to be an excellent process to address all of these issues, with the exception of domestic violence.

“The Community Mediation Centers across the State located on the islands of Oahu, Maui, Kauai, and Hawaii (one located in East Hawaii and one located in West Hawaii) collectively referred to as Mediation Centers of Hawaii, (“MCH”), have a proven track record of assisting individuals in the areas of housing, family, and consumer, through either on-site mediations conducted at court in the various circuits, or in cases referred from the courts to their respective offices. During fiscal year 2012-13, the five centers together provided services for a total of 3,466 cases, of which 3,260 were cases newly opened during the fiscal year, including 2,360 family, consumer and housing cases referred directly from Circuit, District and Family Court. Fifty-one percent of these cases overall, resulted in written agreements.

“The community mediation centers located throughout the State, play a key role in increasing access to justice for Hawaii’s low income and vulnerable populations by providing them with the opportunity to work through their issues quickly in an informal setting, thereby eliminating the need to go to court or engage in a formal legal or administrative process.

“For example, on Oahu, the Mediation Center of the Pacific, (“MCP”) uses approaches that are culturally sensitive to best assist the participants in reaching agreements. The mediation process itself is generally more comfortable for many members of the low income and vulnerable populations because it is informal and gives them the opportunity to be heard.

“While mediators do not provide legal advice, the MCP staff and volunteers ensure that mediation participants are properly prepared to negotiate potential agreements by first directing them to the resources and information they need to make informed decisions. The important relationships MCP has developed with the legal service providers and other organizations, have helped to create a seamless process for the mediation participants to obtain the information they need to most effectively participate in mediation and other dispute resolution processes. Equally important, through these collaborations, pro bono attorneys spend far less time with clients as they are able to resolve their issues quickly through mediation.



“Additionally, MCP works to make its services accessible by: scheduling cases in the evenings and Saturday mornings, as well as during the week days; offering programs on-site at court as well as at the office of MCP; providing services directly at a location in the community if an individual is not physically able to participate at the Mediation Center’s office; allowing parties to participate in a mediation session via Skype or telephone if they are located off-island and are unable to travel to Oahu to attend in person; and making arrangements for language interpreters when necessary to allow a party to participate in their mediation session.

“Approximately 35% of the mediations are conducted at the office of the MCP located at the Children's Kukui Center on 245 N. Kukui Street. MCP also provides mediation services for summary possession matters, small claims and temporary restraining order requests at the various District Courts located in Honolulu, Ewa, Kaneohe, Wahiawa, and Kapolei. A paternity mediation program involving unmarried couples with children, is conducted at the Family Court in Kapolei to help the couples agree on co-parenting plans and where the children will live. And finally, to ensure that services are accessible when accommodations are needed by a participant, mediations are also conducted at various locations within the communities throughout Oahu including but not limited to nursing homes, community centers, residential homes and more.

“Guided by its mission of providing high quality mediation and dispute resolution services that are accessible and affordable, MCP serves thousands of people annually. In fiscal year 2012-13, the MCP served 4,989 individuals through its mediation programs. Forty-five percent of the individuals involved in mediations were in the gap group population (persons with incomes between 125% and 250% of federal poverty level) and 22% were in the legally poor population (persons at or below 125% of federal poverty level). A total of 1,578 mediation cases were opened, and 1,243 mediations were conducted during the year. Altogether, 48% of the total cases mediated (on-site at court and in-house at the Mediation Center’s office) resulted in written agreements, while 60% of the in-house cases mediated at the Mediation Center resulted in written agreements.

“MCP’s approach and culturally sensitive model of mediation is particularly well suited for people in conflict who have continuing relationships. It is for this reason that MCP has been successful in assisting: unmarried ex-couples to agree on co-parenting plans for their children; siblings to agree on transition and caregiving plans for elderly parents; payment plans between landlords and tenants; and more.

“For example, in 2011, statistics from Family Court in the First Circuit showed that more unmarried couples were going to court regarding custody and time-sharing. In response, MCP created a pilot paternity mediation program that was successful. As a result, the Family Court referrals of these cases has more than tripled. MCP has been able to grow this program from



serving 30 cases in 2011 to 196 cases (158 in-house at the office of MCP and 38 on-site at Family Court in Kapolei) in 2013. Of the 178 cases that were mediated in this area in 2013, 56% reached a written agreement.

“Similar to the Paternity Mediation Program, MCP also provides mediation services for divorcing couples. In 2013, 263 divorce cases were managed, with 58% of the mediated cases reaching final agreements. Three of the divorce cases were mediated with the assistance of the Skype equipment in the virtual mediation room created in the early part of the year.

“Many of Hawaii’s elderly are in the low income population and are vulnerable, particularly if they have Alzheimer’s or other form of dementia. To assist the elderly and their families, MCP created the Kupuna Pono Program, which offers them the opportunity to prevent and resolve their issues through a safe, comfortable process. The processes offered through the Kupuna Pono Program, mediation and family conferencing, provide elders and their families with the opportunity to talk through sensitive issues with the assistance of impartial mediators or facilitators to create their own customized family plans that meet the unique needs of the elder and family members. This reduces stress and strengthens family relationships. Equally important, the processes empowers the elder to have a voice in the decisions that are made for and about them, allowing them to express their desires and participate in family decision-making. Most important, the families do not end up in court.

“A more recent initiative of MCP is implementing an Adopt-A-Court Program to recruit and train managers as mediators for small claims and summary possession cases at District Court. Currently the MCP provides mediators for the six District Courts located throughout Oahu. Last year, 754 cases were mediated at Court. Of the summary possession (eviction) cases that were mediated, 126 were mediated to a successful resolution, allowing the tenants and their families, including 85 children, to remain on the property. This is significant because had the tenants, been evicted, they may not have had any place to go and could have potentially ended up homeless.

“Finally, the feedback provided on the Mediation Center’s quality survey questionnaires completed by the participants upon the conclusion of their mediation session has historically been overwhelmingly complementary. Parties are typically very thankful for the services received and wish that they had known about mediation sooner. During the past fiscal year, 93% of survey respondents agreed that mediation is a useful process. Moreover, the vast majority of participants express their intent to use mediation to resolve disputes in the future. A testament to their belief in the utility of mediation, a full 89% of survey respondents agreed that they would use mediation to resolve future problems.

“Despite their limited resources, the community mediation centers together play a critical role in increasing access to justice. With more support, they could make an even bigger impact.”



- “Capacity Issues for the Elderly: Your Clients, Your Parents” with Dr. John Buzanoski, Dr. Ritabelle Fernandes, and Professor James Pietsch. There were 60 attendees who signed up for this workshop. This panel discussed legal, medical, and psychological issues regarding mental capacity from the perspectives of a lawyer, a geriatrician, and a psychiatrist. They also discussed how doctors and lawyers can more effectively work together to address the growing demographic of aging in Hawaii. A consensus was developed that there are not enough professionals in these fields with expertise in capacity issues (and especially professionals who have trained together) to serve the older population in Hawai`i.
- “Using Technology to Enhance Access to Justice” with Ellen Politano and Emily Su-lan Reber Porter. There were 56 attendees who signed up for this workshop. In their presentation, Ms. Politano and Ms. Porter explored new strategies, technologies, and barriers in the effort to improve access to justice. They summarized their workshop as follows:

“In developing strategies to better achieve our nation’s promise of equal access to justice, we should encompass consideration not only of the legal needs of low-income individuals, *but also* the gap group *and* anyone else for whom services for important needs are currently unavailable or unaffordable. Of course, legal aid service providers and pro bono lawyers must continue to make most of their services available for low-income individuals. But to the extent they develop low-cost legal service delivery systems through the use of technology, these providers may make these services more broadly available. And legal professionals serving individual and family (versus corporate) needs must also find ways to deliver legal services at much lower costs; such services for individual and family needs cannot remain a luxury item.

“Accomplishing equal access to justice in the broader sense referred to above is likely to require fundamental changes to the framework of our legal services marketplace. Other industries have reinvented themselves recently, using advancements in technology. Examples include taxi-type services made available by companies such as Uber, Sidecar and Lyft; travel accommodations offered through AirBnB and VRBO, and even medical services offered online through FirstOpinion and LiveHealth Online. These changes have made the goods and services people that seek more plentiful, accessible, and affordable. The legal services sector needs to embrace similar magnitudes and methods of innovation.

“In the quest to improve access to justice, what types of technologies might be useful? The legal profession could use Apps, Internet websites,



software programs, online chat and video, algorithms, data science and other technologies to increase the supply and lower the cost of legal services. Private companies are already starting to do this in the legal services space: AttorneyFee, Avvo, Elance, JustAnswer, LawGuru, LawDingo, LegalZoom, and RocketLawyer. Pro bono innovators also exist – with online chat through the San Francisco Law Library; online Q&A through the Online Tennessee Justice website, Legal Services of Northern Michigan’s Internet Representation Project, Legal Services of Northwest Minnesota’s Legal Information Online Network, and JustAnswer’s pro bono site Pearl Pro Bono; and information about various areas of law, portals to other legal services providers’ websites, and document creation tools on LawHelp.org.

“The barriers to fully embracing the benefits of technology in improving access to justice are found largely in the legal ethics rules and regulations promulgated by the legal profession itself. While originally created to protect the public from unscrupulous attorneys and other persons, many of these rules and regulations now act as barriers to permitting lawyers and others to provide the legal information and legal services necessary to serve the public. They include restrictions and prohibitions against:

- Fee-splitting
- Corporate practice of law
- Lawyer referrals
- Lawyer advertising
- Unauthorized practice of law

“Since legal ethics rules are state-specific, it can be very difficult to take advantage of the economies of scale that could be achieved by a multi-state or even nationwide solution.

“At a minimum, a distinction should be made between the business of law and the practice of law. Lawyers need help in making the business of law more efficient, but fee-splitting and corporate practice of law restrictions make this objective more difficult to achieve. Lawyers need to be more easily reached by individuals and families with legal needs, but lawyer referral and lawyer advertising restrictions make this goal difficult to achieve. More can be done by non-lawyers, especially those already helping in areas where there is a lot of legal need and the non-legal services they provide are intertwined with the legal needs as well, but UPL restrictions again limit the legal services available to those in need.

“Lawyers should not think of embracing technology and loosening legal ethics rules as threatening to their existence or dangerous to the public; rather, these changes should make lawyers’ legal services much more efficient and accessible and therefore increase the opportunities for lawyers to deliver more legal services to individuals and families in need, at prices that individuals and families can afford, with more or similar take-home pay for the lawyers.



“To help us envision what might be done to improve access to justice, rather than asking “Can we?” or even “How should we?” we should ask “How might we?” This subtle change in approach helps many entrepreneurs and business people come up with more innovative solutions, in part by suspending judgment, putting less emphasis on current barriers, and looking further out to the ultimate goal to find creative ways to get there, and is the approach that should be taken in tackling access to justice issues.

- “Meeting Challenges to Effective Delivery of Unbundled Legal Services” with Judge Joseph Cardozo, Judge Barbara Richardson, Derek Kobayashi, and Eric Seitz. There were 33 attendees who signed up for this workshop.

The closing panel focused on “Meeting the Challenges to Equal Justice” with Chief Justice Recktenwald, Associate Justice Simeon R. Acoba, Associate Judge Daniel R. Foley, James Sandman, and Robert LeClair as moderator.

The 2014 Access to Justice Conference was another successful conference that raised the awareness of low-income people’s legal rights and the importance of equal access to justice.<sup>10</sup>

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<sup>10</sup> An excellent article written by R. Elton Johnson, III, a member of the Hawai'i Access to Justice Commission, provides his perspectives on the conference: “Reflections on the 2014 Access to Justice Conference” published in the December 2014 issue of the Hawaii Bar Journal. A copy of this article is attached hereto as Appendix F.



### **III. SELF-HELP CENTERS**

The self-help centers were started by and continue to be a collaboration of the Hawaii State Judiciary, the Commission, HSBA (in particular, the HSBA Committee on the Delivery of Legal Services to the Public), Legal Aid Society of Hawai'i, the AmeriCorps program, the county bar associations (East Hawaii Bar Association, Kauai County Bar Association, Maui County Bar Association, West Hawaii Bar Association), and the HSBA Family Law Section. There are now self-help centers in each courthouse in each state judicial circuit.

#### **A. Hilo Self-Help Center**

The Hilo Self-Help Center is located on the first floor of the Hilo courthouse (Hale Kaulike, 777 Kilauea Avenue) and is open twice a week (Tuesday and Friday) from 11:15 a.m. to 12:45 p.m.

In 2014, almost 900 individuals sought and received assistance from attorneys who volunteered with the Hilo Self-Help Center. The volunteer attorneys provided limited legal information to self-represented litigants on civil matters related to district and family courts such as temporary restraining orders and divorce.

Volunteer attorneys for the Hilo Self-Help Center are coordinated by the East Hawaii Bar Association and include solo practitioners, law firm associates, and government attorneys. The Hilo Self-Help Center was also staffed by an AmeriCorp member, who in addition to providing participants with brochures and forms, also monitored the wait list for participants, collected intake information, and aided volunteer attorneys in locating referral information and copying brochures and forms.

#### **B. Maui Self-Help Center**

The Maui Self-Help Center is located on the first floor of Hoapili Hale (2145 Main Street, Wailuku), and is open from 9:00 a.m. to noon on Thursdays. Residents on Molokai, Lanai, and in Hana will also be able to have access to the Center by cell phone.

Throughout 2014, over 630 individuals sought and received assistance from volunteer attorneys through the Maui Self-Help Center. The most common issues for which assistance was sought included: landlord-tenant, family/custody, small claims, and foreclosure cases.



### **C. Access to Justice Room at the Honolulu District Court**

The Access to Justice Room (“AJR”) at the Honolulu District Court is located on the third floor of the Honolulu district court building at 1111 Alakea Street. It is staffed by volunteer attorneys on Mondays and Wednesdays, 9:00 a.m. to 1:00 p.m. and an AmeriCorps representative from 8:30 a.m. to 1:30 p.m. The AJR is also open on the first and third Fridays from 9:00 a.m. to 1:00 p.m. The AJR provides short-term legal advice to self-represented litigants on district court civil matters such as landlord-tenant, debt collection, and temporary restraining order and injunction against harassment (involving non-family members or parties who have not been in a dating relationship) issues.

In 2014, over 950 individuals were referred to the AJR. Through an initiative spearheaded by the Access to Justice Commission’s Pro Bono Initiatives Task Force, which included members: Carol K. Muranaka, Co-Chair; Associate Justice Simeon R. Acoba, Jr., Co-Chair; Judge Ronald Ibarra, Judge Barbara Richardson, Michelle Acosta, Rex Fujichaku, Jill Hasegawa, Regan Iwao, Kristin Shigemura, and Tracey Wiltgen, various law firms and offices adopted a month of staffing for the AJR.

The AJR was staffed by the following law firms, organizations, and governmental entities in 2014: January, Cades Schutte; February, Starn O’Toole Marcus & Fisher; April, Carlsmith Ball; May, Yamamoto Caliboso and Marr Jones & Wang; June, Ashford & Wriston; July, Bronster Hoshibata and Hawaii Filipino Lawyers Association; August, Goodsill Anderson Quinn & Stifel; September, Alston Hung Floyd & Ing; October, Office of the Public Defender; November, Damon Key Leong Kupchak Hastert; December, Schlack Ito and James S. Burns Aloha Chapter, American Inns of Court IV. In the month of March 2014, individual attorneys volunteered to staff the AJR.<sup>11</sup>

### **D. Access to Justice Room at the Kapolei Courthouse**

The Access to Justice Room (“KAJR”) at the Kapolei Courthouse is open on the first and third Thursday of every month from 11:30 a.m. to 1:30 p.m. The KAJR issues are limited to family law issues, including: custody/visitation, child support, divorce and paternity issues, family court temporary restraining orders/protective orders, guardianships, and adoptions.

In 2014, over 350 individuals were referred to the KAJR where attorneys from the HSBA Family Law Section volunteer to assist. Appointments are made

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<sup>11</sup> See later discussion in this report of the 2014 Pro Bono Celebration where the individual volunteer attorneys are identified.





through the Ho`okele Self Help Desk on the first floor of the Kapolei Courthouse for 30-minute sessions.

#### **E. Kauai Self-Help Center**

The Kauai Self-Help Center located at Pu`uhonua Kaulike, 3970 Kaana Street, Lihue is open on Mondays and Fridays from 9:00 a.m. to noon. It is staffed by volunteer attorneys of the Kauai Bar Association and Legal Aid Society of Hawaii attorneys. On Tuesdays, Wednesdays, and Thursdays, an AmeriCorps member has assisted the self-represented litigants.

In 2014, over 320 individuals were served at the Kauai Self-Help Center. The general types of issues involved landlord tenant issues, consumer collections, and temporary restraining orders involving non-family members.

#### **F. Kona Court Self Help Desk**

The Kona Court Self Help Desk is located at the Kona Courthouse, Keakealani Building, 79-1020 Haukapila Street, Kealahou. It is open on Wednesdays from 11:00 a.m. to 1:00 p.m.

The Kona Self Help Desk is staffed by volunteer attorneys from the West Hawaii Bar Association, including solo practitioners, law firm associates, and government attorneys. An AmeriCorps member also assisted with the intake process, prepared the consultation areas for attorneys, supervised the waiting areas, and conducted follow-up with requests from several individuals. Almost 500 individuals were assisted at the Kona Self Help Desk in 2014.





#### **IV. PRO BONO CELEBRATION**

*“The pursuit of equal justice for all is truly a noble endeavor.”*

*-- Hawai'i Intermediate Court of Appeals Associate Judge  
Daniel R. Foley, Chair, Hawai'i Access to Commission*

Approximately 150 people attended the 2014 Pro Bono Celebration on Thursday, October 23, 2014 in Ali`iolani Hale (Hawai'i Supreme Court building) sponsored by the Hawai'i Access to Justice Commission (“Commission”) and supported by the Hawai'i State Bar Association (“HSBA”) and the Hawai'i State Bar Foundation (“HSBF”).

##### **A. Coordination**

Monthly meetings of the Pro Bono Initiative Task Force<sup>12</sup> were held from January 2014 through October 2014. The Task Force members recruited various law firms and offices to staff the Access to Justice Room at the Honolulu District Court for the calendar year 2014.

Upon a request from the Commission, the HSBA and HSBF approved the sum of \$1,500 to support the Pro Bono Celebration. The Commission itself approved up to \$2,000 in additional financial support.

It was decided again that an essay contest be part of the Pro Bono Celebration. The theme for this year's contest was “How to Inspire Others to Volunteer” with students answering questions such as: What have you done as a volunteer? Why is it important to volunteer? What are the qualities needed in the role of a volunteer? The contest was open to students in grades 10 to 12 and limited to 500 words or less.

As in last year's essay contest, it was decided that one essay from each of the islands of Kauai, Maui (including Lanai and Molokai), and the Big Island and three essays from the island of Oahu would be selected to be recognized at the Pro Bono Celebration event. A \$500 award for each student award recipient would be given, and a travel stipend (for airfare and rental cars) for each of the awardees and his/her parent or guardian would be provided for students traveling from the neighbor islands.

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<sup>12</sup> The members of the Pro Bono Initiative Task Force are: Associate Justice Simeon R. Acoba, Jr. (ret.), Co-Chair, Carol K. Muranaka, Co-Chair, Michelle Acosta, Rex Fujichaku, Jill Hasegawa, Judge Ronald Ibarra, Regan Iwao, Judge Barbara Richardson, Kristin Shigemura, and Tracey Wiltgen.



Members of the Task Force requested various law firms and legal offices/departments for sponsorships of the \$500 awards to the six students. The six law firms and legal department who generously sponsored the essay recipient awards in 2014 were:<sup>13</sup>

Cronin Fried Sekiya Kekina & Fairbanks  
First Hawaiian Bank  
McCorriston Miller Mukai MacKinnon  
Rush Moore LLP  
Torkildson Katz Moore Hetherington & Harris  
Watanabe Ing LLP

An essay packet was prepared with a cover letter to school principals explaining the Commission's essay contest. These letters were sent prior to the end of the school year in May 2014 with Regan Iwao's help at Goodsill Anderson Quinn & Stifel. Matt Mattice, executive director of the Judiciary History Center, assisted in providing the addresses to all of the schools (public and private). Another letter was sent in August 2014 to teachers and principals to remind them of the essay contest. The Goodsill law firm assisted in the dissemination of these letters.

The HSBA Committee on the Delivery of Legal Services to the Public ("DLSP Committee"), which has a number of overlapping members on the Task Force<sup>14</sup> helped with the preliminary judging of the approximate 280 essays. The final judges were Chief Justice Mark Recktenwald, Jill Hasegawa, Vice Chair of the Commission, and HSBA president Calvin Young.

The preliminary judges were:

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<sup>13</sup> The law firms that sponsored these individual cash awards in 2013 were willing to provide the awards again in 2014.

<sup>14</sup> Members of the DLSP Committee in 2014 were: Regan Iwao (Chair), Justice Simeon Acoba (ret.), Christine Daleiden, Darien Nagata, David Brittin, Derek Kobayashi, James Pietsch, Jennifer Oana, Jo Kim, Judge Barbara Richardson, Gregory Markham, Judge Catherine Remigio, Judge Greg Nakamura, Judge Joel August (ret.), Judge Rhonda Loo, Judge Ronald Ibarra, Nalani Fujimori Kaina, Naomi Kusachi, Rex Fujichaku, Rodney Maile, Russ Awakuni, Sergio Alcubilla, Shannon Wack, Tracey Wiltgen, Victor Geminiani, Carol K. Muranaka, Christopher Pan, Jessi Hall, Scott Shishido, Jennifer Zelko, Tracy Jones, Michelle Acosta, Emiko Meyer, Shauna Cahill, Elton Johnson, Carol Kitaoka, Joanna Sokolow, Jill Hasegawa, Pat Mau-Shimizu, Sonya Toma, Lynda Arakawa, Valerie Grab, Alana Prescott-Richardos, and Calvin Young.



<u>Oahu 1:</u>	Judge James Ashford, Kristin Shigemura, Kimberly Asano
<u>Oahu 2:</u>	Judge Melanie Mito May, Derek Kobayashi, Christine Daleiden
<u>Oahu 3:</u>	Judge Catherine Remigio, Jessi Hall, Tracey Wiltgen
<u>Oahu 4:</u>	Judge Faye Koyanagi, Judge Barbara Richardson, Michael Bird, Shannon Wack
<u>Big Island 1:</u>	Judge Michael Tanigawa, Judge Leslie Hayashi, Darien Ching Nagata
<u>Big Island 2:</u>	Judge Ronald Ibarra, Carol Kitaoka, Joanna Sokolow
<u>Maui:</u>	Judge Rhonda Loo, Roya Dehim, Tracy Jones

Tracey Wiltgen prepared the certificates of recognition from the Commission for the outstanding volunteers. Representative Della Au Belatti prepared the legislative certificates for the volunteers. Kristin Shigemura coordinated the catering of refreshments.

## **B. Pro Bono Celebration Program**

Prior to the program, photographs with the Hawaii Supreme Court (Chief Justice Mark Recktenwald, Associate Justices Paula Nakayama, Richard Pollack, and Michael Wilson), student award recipients, parents, teachers, law firm sponsors, and legislators were arranged.

Justice Acoba welcomed the attendees. Chief Justice Recktenwald and HSBA president Calvin Young provided brief opening remarks. Regan Iwao described the essay contest and acknowledged the preliminary judges who winnowed 280 essays to a “finalist” category so that the final judging could occur.

The essay award recipients were:

Joseph Kim, 10th grade, Maui High School  
Lisa Ishimoto, 12th grade, Waiakea High School  
Harley Broyles, 12th grade, Waimea High School  
Bayani Gamit, Jr., 11th grade, Leilehua High School  
Ariana Kim, 11th grade, St. Andrews Priory  
Kelsey Uyeda, 12th grade, Leilehua High School



The following attorneys represented their firms in delivering the cash awards to the students at the event:

Bert Sakuda of Cronin Fried Sekiya Kekina & Fairbanks;  
Michael Bird of Watanabe Ing LLP;  
Ron Heller of Torkildson Katz Moore Hetherington & Harris;  
Kimberly Asano of McCorriston Miller Mukai MacKinnon;  
Carrie Okinaga of First Hawaiian Bank; and  
Nathaniel Higa of Rush Moore LLP.

Senator Gilbert Kahele and Representative Clift Tsuji were present to honor Lisa Ishimoto from the Big Island who resides in their legislative district. Representative Marcus Oshiro also attended the Pro Bono Celebration to congratulate Bayani Gamit and Kelsey Uyeda, both from Leilehua High School.

Outstanding volunteers selected by several legal services providers were also recognized at the Pro Bono Celebration. The representatives of the nominating agencies and volunteers were:

- ♦ Alston Hunt Floyd & Ing was honored by the Hawaii Disability Rights Center (“HDRC”) for their invaluable assistance in the past year on two large-scale class actions. In E.R.K. v. Department of Education, the Court ruled that the Department of Education is required to extend special education to children until they reach age 22. The law firm is leading the implementation of this ruling to ensure that approximately 1,500 children will have the opportunity to receive training and services that will help them have more satisfying, productive lives. This effort has been spearheaded by Claire Wong Black, Michelle Comeau, and Chrystn Eads. In J.E. v. McManaman, Alston Hunt represents the HDRC as well as their client in a federal court action to compel the Department of Human Services to provide appropriate treatment under its Medicaid program for children diagnosed with autism spectrum disorder. HDRC was particularly grateful to Kristin Holland and Maile Osika for their efforts.
- ♦ Chris Mashiba, a partner at Cades Schutte, was honored by the Business Law Corps (“BLC”) for his contributions since BLC’s inception in December 2011. Mr. Mashiba had the vision to see the potential of the BLC program and persuaded his firm to become one of BLC’s initial group of participating law firms. Since then, he has generously volunteered his time and talents to represent worthy entrepreneurs in need of assistance to



launch their promising businesses. Recently, Mr. Mashiba traveled to Maui with other BLC participating attorneys to conduct, in collaboration with the Maui Economic Development Board, a seminar and one-on-one meetings with entrepreneurs on Creating Fundable Startups. Mr. Mashiba's contributions facilitated BLC in fulfilling its mission of promoting economic justice and creating sustainable jobs for the community.

- ♦ Bronster Hoshibata was honored by the Hawaii Appleaseed Center of Law and Economic Justice. In particular, the firm's attorneys, Margery S. Bronster and Catherine L. Aubuchon, volunteered for the past four years as critical members of the litigation team that actively pursued the rights of immigrants residing in Hawaii under the Compact of Free Association agreements ("COFA") to receive life sustaining health care including dialysis and chemotherapy. Ms. Bronster and Ms. Aubuchon have each spent countless hours, including the pending request for review by the United States Supreme Court, guaranteeing the continuation of health care for COFA migrants. This herculean effort was in response to the State of Hawaii's attempt to significantly reduce services for Micronesians because of funding. The federal district court in Hawaii found the attempt to be in violation of equal protection. The case is currently before the United States Supreme Court. Over 8,000 COFA migrants were affected by the litigation.
- ♦ Jim Bickerton was honored by the Native Hawaiian Legal Corporation. He currently represents a wide range of both plaintiff and defendant clients in commercial and real estate litigation, consumer class actions, professional liability of attorneys, accountants, and real estate brokers, medical malpractice, serious personal injury and wrongful death, and First Amendment and defamation issues. He and founding firm member, William Saunders, Jr. are well-known in the community for their extensive pro bono representation on behalf of many of the significant environmental, free speech, and community causes over the past two decades, including Save Sunset Beach, Save Haleiwa Beach Park, Kaimana Beach Coalition, Save the Star-Bulletin, and Honolulu Weekly.
- ♦ Katherine Bennett, social worker, lawyer, and full-time faculty member at the University of Hawaii at Manoa's Myron B. Thompson School of Social Work, was honored by The Mediation Center of the Pacific. Balancing her time as a mother



of three, family law attorney serving as guardian ad litem for foster care children, and as a faculty lecturer, Ms. Bennett never hesitates to say “yes” to serving as a pro bono mediator whenever her busy schedule allows. She mediates complex family law matters at the office of the Mediation Center as well as mediates paternity cases at the Family Court in Kapolei. She is a generous volunteer who has helped the Mediation Center of the Pacific to further its mission of providing high quality mediation and dispute resolution services that are affordable and accessible.

- ◆ Kevin Kimura was honored by Legal Aid Society of Hawaii for his outstanding work with the Partnership in Pro Bono Project. Since July 2010, he has been working on a divorce case with Legal Aid and persevered to its finality where the client was finally granted a divorce and child support. Because of his diligence, the client is safe from her abusive former husband who will not be able to see or hurt her or their children again.
- ◆ Bradley Tamm was honored by Volunteer Legal Services of Hawaii (“VLSH”). He started volunteering with VLSH in 2009 and his selfless dedication to access to justice has resulted in the delivery of quality pro bono service to countless economically disadvantaged Hawaii residents. Not only has Mr. Tamm volunteered monthly to provide advice and counsel to numerous individuals at VLSH’s bankruptcy clinics, but extended his services to assist in the review of documents and forms, accepted full-representation cases, and provided guidance to the VLSH staff.

In his brief remarks, prior to recognizing the attorneys who volunteered to staff the Kapolei Access to Justice Room in 2014, Judge Browning said:

The Preamble of the Hawaii Rules of Professional Conduct sets the standard of excellence that attorneys aspire to live -  
- each and every day.

Subsection (6) reads in part:

"A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources to ensure equal access to our system of





justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel."

The lawyers, who make up the Family Law Section and consistently volunteer their time and expertise to assist litigants in Family Court, have taken these ideals to heart. From serving as Volunteer Settlement Masters and on important committees to volunteering to be part of our Kapolei Access to Justice Program – these attorneys exemplify the highest ideals of our profession.

The volunteer attorneys who staffed the Kapolei Access to Justice Room in 2014 were: Kevin Adaniya; Richard Diehl; Jessi Hall; Seth Harris; Stephen Hioki; John Hughes; Ann Isobe; Curtis Kam; Mari Kishimoto; Marianita Lopez; Louis Markee; Dyan Mitsuyama; Mei Nakamoto; Elizabeth Paek-Harris; Dean Soma; Tom Tanimoto; Jackie Thurston; Carol Tribbey; and Sandra Young.

Judge Barbara Richardson remarked that when the Access to Justice Room opened in the Honolulu District Court in August, 2012, the invitation to its dedication ceremony stated:

"The Access to Justice Room will offer legal advice through short-term limited legal services to help self-represented litigants better understand the court process and the law which may apply to their case." Today, the Access to Justice Room users are definitely receiving what was promised.

Judge Richardson said the comments by the self-represented litigants show their appreciation for the services they have received. A sample of such comments are:

*"This is such a necessary and wonderful program. It really helped give me peace of mind and confidence in my situation. The volunteers were perfectly suited for my needs and I cannot express my appreciation. The admin staff was also wonderful! Thank you so much!"*

*"This service is wonderful and should be publicized as much as possible. Obtaining an attorney can be an intimidating process and Access to Justice Room alleviates this hurdle and makes the legal process more accessible to everyone."*

*"I think that this service is invaluable and important to all who need*



*legal advice. I am grateful and hope that this service continues to help others like myself and family."*

The following law firms/office and individuals who devoted time at the Honolulu Access to Justice Room during the months of 2014 were:

- January: Cades Schutte (Kristin Shigemura, Stacy Takekawa, Carolyn Volgaridis, Paul Saito, Chris Goodin, Kaliko Fernandes, Keoni Shultz, Andrew Odell, Andrea Ushijima, Elijah Yip, Allison Mizuo Lee, John Duchemin, Rhonda Griswold, Peter Olson, Keith Yamada, Megan Suehiro, Marc Rousseau, Lori Amano)
- February: Starn O'Toole Marcus & Fisher (Judith Ann Pavey, Sharon V. Lovejoy, Christina Ohira, Lindsay Orman, Ivan M. Lui-Kwan, Duane R. Fisher, Norman H.Y. Cheng, Mateo Caballero, Danielle Kiyabu, Stephanie E.W. Thompson, Lisa Anne Evans)
- March: Mateo Caballero; Corlis Chang; Esther Ervin; Tred Eyerly; Steven L. Goto; Arlette Harada; Beverly Hiramatsu; Kurt Kagawa; Bernice Krause; Heather Moore; Mark M. Murakami; Cheryl Nakamura; Radji Tolentino; Shannon Wack; and Jefferson Willard
- April: Carlsmith Ball (Mark Murakami, Alison Kato, Pete Manaut, Lindsay McAneeley, Jake Matson, Tim Lui-Kwan, Duane Miyashiro, Arsima Muller, Onaona Thoene, Rick James, Bob Strand, Erika Lewis, Megan Lim, Melissa Lambert, Jon Yamamura, Harry Oda, Michael Scanlon, Rodd Yano)
- May: Yamamoto Caliboso (Tyler McNish, Terri Motosue, Adrienne Elkind, Carl Caliboso, Jodi Yamamoto)
- Marr Jones & Wang (Lynne Toyofuku, Erin Hisano, Jason Minami, Sarah Wang, Chris Cole, Leighton M. Hara, Eileen Zorc, Christie Trenholme)
- June: Ashford & Wriston (Kevin Herring, Steven Grey, Jill Hasegawa, Lisa Tello, Michael Gibson, John A. Lockwood, Connie Chow, Rosemary Fazio, Mary Beth Wong, Clara Park)
- July: Bronster Hoshibata (Rex Fujichaku, Sunny Lee, Catherine Aubuchon, John Hoshibata, T.J. Quan, Jae Park, Mia Obciana)
- Hawaii Filipino Lawyers Association (Shyla Fukushima, Rozelle Agag, Alana Peacott-Ricardos, Will Tungol)



- August: Goodsill Anderson Quinn & Stifel (Terri O'Connell, Scott Shishido, Audrey Ng, David Hoftiezer, Johnathan Bolton, Christine Terada, Scott Prange, Claire Goldberg, Lynda Arakawa, James Abraham, Corlis Chang, Carolyn Wong, Regan Iwao)
- September: Alston Hunt Floyd & Ing (Michelle N. Comeau, Christy Gray, Miriah Holden, Sam Sneed, Chrystn Eads, Trisha Gibo, Jessica Y.K. Wong, Louise K.Y. Ing, Richard J. Kowen, Ryan J. Loeffers, Maile Osika, Morgan Early, Kee Campbell, Lucas J. Myers, Blaine Rogers, Kristin L. Holland, Anderson L. Meyer)
- October: Office of the Public Defender (Audrey Stanley, Craig Jerome, Cheryl Chun, Jessica Domingo, Seth Patek, Kai Collins, William Bagasol, Susan Arnett, Reiko Bryant, Bryan Tanaka, Kaupena Soon)
- November: Damon Key Leong Kupchak Hastert (Madeleine M.V. Young, Judith A. Schevtchuk, Bethany C.K. Ace, Christopher Leong, Gregory W. Kugle, Anna H. Oshiro, Tred Eyerly, Caron N. Ikeda, Clare M. Hanusz, Sommerset K.M. Wong, Sara E. Coes, Matthew T. Evans, Douglas C. Smith, Mark M. Murakami, Ikaika B. Rawlins, E. Mumau Pineda-Akiona, Kelly Y. Morikone.
- December: Schlack Ito (Scott Morita, Derek Kobayashi, Natalie Hiu, Mark Ito)
- James S. Burns Aloha Chapter, American Inns of Court IV (Cheryl Y. Arakaki, Annette Andrews, Sergio Rufo)

Judge Daniel R. Foley, Commission Chair, provided the closing remarks for the formal part of the program. The Hawai'i Supreme Court sat for picture taking with the volunteer attorneys who were able to stay after the program concluded.

Refreshments were served and allowed an opportunity for mingling and conversation at the conclusion of the program.





## V. OTHER ACTIVITIES

### A. Justice Index

The National Center for Access to Justice (“NCAJ”) created the “Justice Index” in an attempt to measure what is being done nationally to make access to justice a reality for all. The Justice Index reported on four elements of state-based justice systems:

- Attorney access: the number of civil legal aid attorneys serving the poor;
- Self-representation: systems available to assist self-represented litigants;
- Language assistance: systems available to assist people with limited English proficiency; and,
- Disability assistance: systems available to assist people with disabilities.

A comprehensive score is based upon each of these aforementioned categories. Hawai'i scored fourth nationwide.

In a press release issued by the Judiciary, Chief Justice Mark Recktenwald said:

I'm very pleased that Hawaii has been recognized as a leader in providing access to justice. Our hard work is paying off. The Hawaii Access to Justice Commission was formed by the Supreme Court in 2008 with these very objectives in mind. The Justice Index results serve as a testament to how much the Commission, the state judiciary, volunteer attorneys, and our other partners have been able to accomplish with limited resources. The Findings reflect dedication and commitment toward realizing justice for all in Hawaii, and the effectiveness of the partnerships that the Commission has forged.

In a commentary published by the Honolulu Star Advertiser on December 30, 2014, Commission Chair, Judge Daniel Foley said: “the National Center for Access to Justice ranked Hawaii No. 1 for providing support to self-represented litigants. And as this year comes to a close, I cannot help but reflect on how far we have come this past decade to give voice to those who cannot afford an



attorney, and how much help has been provided to those who navigate the judicial system on their own.”<sup>15</sup>

## **B. Strategic Planning Committee on Access to Justice**

The Hawai'i Judiciary 20/20: Our Vision (Final Report of the Judiciary Strategic Planning Committee), December 30, 2012 provided under the topic of “Access to Justice:”

Hawaii's Judiciary shall strive to improve access to justice and shall continue to support, where possible, the mission of the Access to Justice Commission.

### **A. Make justice accessible for all.**

#### **Recommended Actions:**

1. Expand and establish centers where Judiciary forms, information, and assistance navigating through the court process and system are provided to self-represented parties via technology (e.g., public access computers) or by Judiciary personnel.
2. Create additional centers where legal advice is offered by volunteer attorneys, in person, or via technology where limited demand or resources make physical centers less feasible.
3. Ensure that baseline information for each Circuit is posted on the Judiciary's internet site, available via mobile applications and in multiple languages, with sufficient guidance to assist self-represented court customers.
4. Facilitate the use of interpretation services by installing equipment in courtrooms to allow for video-based American Sign Language (ASL) interpretation and language interpretation for individuals with limited English proficiency.

One of the committees established to work toward implementation of the Judiciary's Strategic Plan's recommended actions was the Strategic Planning

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<sup>15</sup> A copy of the article “Hawaii Takes the Lead in Providing Access to Justice for All” by Judge Daniel R. Foley published on December 30, 2014 in the Honolulu Star Advertiser is attached hereto as Appendix G.



Committee on Access to Justice. Chief Justice Recktenwald appointed former Commission Chair, Associate Justice Simeon Acoba (ret.) to chair this committee.

As mentioned in his opening remarks at the 2014 Access to Justice Conference, Chief Justice Recktenwald stated that the committee's recommendations range from designating an individual or committee to facilitate access to justice programs statewide, to creating an online ask-a-lawyer interface, to producing YouTube videos to inform the public of common legal issues. The committee also recommended expanding the Judiciary's Ho`okele assistance program, where Judiciary staff provide assistance to court users as they enter the courthouses.

### **C. SCR 116, Access to Justice Loan Repayment Program**

The Senate Concurrent Resolution No. 116 (S.C.R. No. 116) requested that the Commission convene a working group to develop an educational loan repayment program for William S. Richardson School of Law ("Law School") graduates to expand opportunities to pursue public interest careers in Hawaii for the benefit of underserved communities.<sup>16</sup> It was proposed that the working group be composed of members of the Commission, faculty and staff of the Law School, the Student Bar Association of the Law School, the Alumni Association of the Law School, the HSBA, a retired member of the Hawai'i Supreme Court, Hawai'i Consortium of Legal Service Providers, HJF, a member of the House of Representatives, a member of the Senate, and a representative of the Governor's Office.

The Commission approved Gary Slovin as chair of this working group. He reported that the group met several times in 2014 and would be submitting a status report to the legislature in 2015.

### **D. Website Design**

The Commission determined that its subpage at the Hawaii Justice Foundation ("HJF") website--[www.hawaiijustice.org](http://www.hawaiijustice.org)--should be updated. The Commission also examined whether the Commission should have its own independent website and decided that at the present time the Commission would remain a subpage at the HJF website because of lack of funding and administrative staff.

The website is easy to navigate with two tabs: one for HJF news and the other for the Commission. The subpages of the Commission contain news

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<sup>16</sup> A copy of S.C.R. No. 116 is attached hereto as Appendix H.



about the Access to Justice Conferences, Annual Reports, model pro bono policies, cy pres toolkit, orders adopted by the Hawai`i Supreme Court resulting from recommendations from the Commission, and other information. The “how to help” internal link leads the reader to the various self-help centers (including Access to Justice Rooms) where attorneys may reach a contact person to volunteer.

### **E. Ka`u Project**

The Ka`u Legal Clinic was designed as a pilot for delivery of legal services to underserved rural communities throughout the State of Hawai`i. The District of Ka`u was identified by community stakeholders as an ideal location to test and evaluate rural delivery of legal services using VLSH’s Neighborhood Legal Clinic (“NLC”) model.

Due to Ka`u’s rural nature, legal resources are scarce and transportation issues serve as hurdles to accessing legal services which are presently concentrated in Hilo and Kona. According to the 2010 U.S. Census, Ka`u, Puna, and South Hilo had the highest rate of poverty for Hawaii County. An estimated 45-55% of the population within this district had household incomes falling at or below 200% of the federal poverty level. This translates to a household income of approximately \$55,000 for a family of four.

The NLC model has been used by VLSH for over 30 years to service the low and moderate income community throughout Hawaii through face-to-face and phone consultations. VLSH staff carefully screen applicants for income and legal issue eligibility prior to matching the applicants with experienced attorneys. Staff provide administrative support to both the participant and clinic attorneys before, during, and after each clinic session to ensure a continuum of services at the level needed to assist each participant.

Spearheaded by Lincoln Ashida, VLSH collaborated with O’Ka`u Kakou, the Ka`u Resource and Distance Learning Center in Pahala, the Native Hawaiian Legal Corporation, and the Commission to bring the pilot NLC to Ka`u on November 8, 2014.

A total of seven attorneys were on hand to provide services: four on-site, two on stand-by via phone, and a staff attorney from the Native Hawaiian Legal Corporation. The Clinic took place at the Ka`u Resource and Distance Learning Center in Pahala from 9:00 a.m. to 12:00 noon. Overall, there were 13 participants who received a total of 16 services to include legal advice, document review, and form preparation. Of the 13 participants, 11 are receiving follow-up services through VLSH and the Native Hawaiian Legal





Corporation. A heartfelt mahalo went to the volunteers: Lincoln Ashida, Elizabeth Fujiwara, Matt Jewell, Greg Lui-Kwan, Alana Murakami, Michelle Oishi, and Jennifer Zelko-Schleuter and to the planning group: Lincoln Ashida, Raylene Moses, Jessie Marques, and Heanu Grace.

## **F. Unbundling Project**

The Commission is considering a proposal to allow limited scope representation. Currently, Hawai'i Rules of Professional Conduct, Rule 1.2 provides as follows:

### Rule 1.2. SCOPE OF REPRESENTATION.

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which the objectives are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the objectives of the representation if the client consents after consultation.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

(e) When a lawyer knows that a client expects assistance not permitted by the Rules of Professional Conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

The Commission is considering amendments to Rule 1.2 that would allow the "objectives of the representation" to be limited if the client consents in writing after consultation. In addition, there would be an exception from providing such a consent in writing in the following situations: (1) an initial consultation with any attorney; (2) pro bono services provided through a nonprofit organization, a court-annexed program, a bar association, or an accredited law school; or (3) services provided by a nonprofit organization funded in whole or in part by a federal, state, or county government. Under



consideration is a new Rule 11.1 on the limited appearance and withdrawal of an attorney.

Proposals were discussed in workshops at the 2013 Access to Justice Conference and 2014 Access to Justice Conference, and these discussions are still continuing.

#### **G. Pro Bono Appellate Pilot Project**

A subcommittee of the Access to Justice Commission's Committee on Increasing Pro Bono Legal Services continued its work on the Pro Bono Appellate Pilot Project. The Subcommittee's Co-Chairs are Rebecca A. Copeland, of the HSBA Appellate Section, and Michelle Acosta, Executive Director of Volunteer Legal Services of Hawaii ("VLSH"). Other subcommittee members include former Hawai'i Supreme Court Associate Justice Simeon Acoba, Intermediate Court of Appeals Chief Judge Craig Nakamura, Brandon Segal, Audrey Stanley, Matthew P. Chapman, and Joshua Korr.

The subcommittee has been working over the last two years to design the project, which will match eligible pro-se appellate litigants with volunteer appellate attorneys willing to provide pro bono legal services. The project is modeled after similar programs in the United States Court of Appeals for the Ninth Circuit and the Texas Supreme Court, but the subcommittee amended those programs for Hawai'i to ensure that it will serve the needs of the Hawai'i appellate courts and litigants in our community.

**APPENDICES**

- Appendix A: Rule 21 of the Rules of the Supreme Court of Hawaii
- Appendix B: “Access to Justice for Those Without Voice, Words, or Language” by Jean L. Johnson, Hon. Christine Kuriyama, and Mary Anne Magnier in the December 2014 issue of the Hawaii Bar Journal
- Appendix C: Welcoming Remarks for Hawai`i Access to Justice Conference, June 20, 2014, Chief Justice Mark E. Recktenwald
- Appendix D: “Rethinking Access to Justice” by James J. Sandman, keynote address at the Hawaii Access to Justice Conference, June 20, 2014
- Appendix E: “Right to Counsel Discussed at the Access to Justice Conference” by Mel Masuda published in the October 2014 issue of the Hawaii Bar Journal
- Appendix F: “Reflections on the 2014 Access to Justice Conference” by R. Elton Johnson, III, published in the December 2014 issue of the Hawaii Bar Journal
- Appendix G: “Hawaii Takes the Lead in Providing Access to Justice for All” by Judge Daniel R. Foley published on December 30, 2014 in the Honolulu Star Advertiser
- Appendix H: Senate Concurrent Resolution No. 116 regarding a loan repayment program for graduates of the William S. Richardson School of Law