

2017 Hawaii Access to Justice Conference
“Fulfilling the Promise of Equal Justice”
June 16, 2017

OVERCOMING BARRIERS TO ACCESS TO JUSTICE

Presenters: Eric Seitz (facilitator), Judge William Domingo, Lunsford Phillips

Facilitator-attorney Eric Seitz introduced the workshop by noting that the topic of “Opening Barriers to Access to Justice” does not simply address issues such as physical accommodations, language or sign interpretation, or inability to pay filing fees, for examples. Instead of just filing lawsuits and providing legal assistance we should explore ways for “the stakeholders to empower themselves” to overcome cultural, institutional, and other barriers that may deter or limit them from seeking justice and effectively fighting for their own interests and rights.

As an example of such “empowerment,” Seitz cited the Felix Consent Decree of 1994, a landmark case both locally and nationally that today continues to provide equal access to public education for mentally and physically challenged students in the State of Hawaii. As part of the settlement in that case, funds were allocated to train and support parents to advocate for their own children, and significant resources were directed toward reducing the formalized dispute mechanisms that too often necessitated the participation of lawyers and hearing officers.

Seitz posed the question to his two panelists and to the audience: “What can we do to insure that people who may not have lawyers and face barriers can still obtain some measure of justice for themselves?”

Panelist-District Judge William Domingo, a former public defender, noted that there is, in criminal cases, a major concern of access to justice for defendants who happen to be from Micronesia “because there’s often a lack of translators.” As for access to justice in civil cases, Domingo pointed out that, unlike the constitutionally guaranteed right to counsel in

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criminal cases, there is no such guarantee. “So, in terms of providing for shelter, sustenance, safety, health, and child custody in such cases, the remedy lies in the need for providing more funding” to those agencies who can assist persons who are unable to navigate the justice system and adequately represent themselves.

Panelist-attorney Lunsford Phillips, “a sole practitioner for 32 years” who has concentrated on litigation primarily under the Americans with Disabilities Act (ADA), told the audience that, “as a quadriplegic myself, I think that there are two truths about handling disability cases.” “First, it’s entirely natural for you, as an able-bodied attorney, initially to feel uncomfortable about disability... Second, as an able-bodied person, you may not be able to fully understand a client with a disability. That’s just natural. Don’t beat yourself up about it!” Phillips went on to talk about the importance of assisting disabled clients and the significant contributions that lawyers can make to improve the quality of the lives of their clients.