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**HAWAI'I
ACCESS TO JUSTICE COMMISSION**

ANNUAL REPORT FOR 2019

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The members of the Annual Report Committee acknowledge and express appreciation to the following persons for assistance in obtaining information, editing, drafting, printing, and distribution of this annual report:

Justice Simeon R. Acoba, Jr. (Ret.), Judge Joseph Cardoza (Ret.), Angela Kuo Min, Carol K. Muranaka, David Reber, Daylin Rose Heather, Derek Kobayashi, Gary Slovin, Heather Lusk, Marie Gavigan, Joanna Sokolow, Sarah Courageous, Robert LeClair, and the Hawai‘i Justice Foundation.



I. HAWAI'I ACCESS TO JUSTICE COMMISSION

Having been established by the Hawai'i Supreme Court on May 8, 2008, the Hawai'i Access to Justice Commission's 10th anniversary took place in 2018.¹ The Commission's past role in access to justice efforts is described in an excerpt, "The Hawai'i Renaissance in Access to Justice," which is reproduced in Appendix B of this report.² Highlights of the Commission's work in each of the years from 2008 to 2018 are set forth in Appendix C.

Among its significant accomplishments in 2019, the Commission completed its coordination of the "Justice for All" grants over a three-year period from 2017 to 2019. The grants totaling approximately \$200,000 were awarded to the Hawai'i Justice Foundation ("HJF") by the National Center for State Courts, in conjunction with an application submitted by the Commission, the HJF, and the Hawai'i Judiciary in 2016. In December 2016, Hawai'i was one of seven states awarded a grant to formulate its own model plan to realize the 100% principle of extending justice to all. In 2017, the Commission coordinated the preparation and submission of the plan.

In 2018, a second grant was awarded to Hawai'i to implement its plan. The Commission coordinated the work on the second grant which resulted in the successful implementation of two primary programs in 2019 and for the future: the community navigator project and the interagency roundtable project. The community navigator project trains trusted persons from discrete communities to provide guidance and assistance to persons from that community in obtaining legal help and human services from appropriate agencies. The roundtable seeks to align and to assist coordination of public and private agency services through a roundtable structure to facilitate the efficient and necessary delivery of services to clients.

The Commission also maintained its annual series of two highly vaunted conferences. The Access to Justice Conference has been held since 2009, and in 2019, its guest speaker was the past President of the New York Legal Aid Society, the oldest and largest of such societies in the nation. The Conference was augmented by panels and workshops on access issues throughout the day.

The second outreach conference was the Pro Bono Celebration, held in October, at the same time as national Pro Bono programs. The celebration included a statewide essay contest for students who wrote on the value of

¹ The Hawai'i Access to Justice Commission was established in 2008 by Hawai'i Supreme Court Rule 21. A copy of this rule is attached here as Appendix A.

² The excerpt is part of an article, "Four Major Hawai'i Judicial Developments in the Last 50 Years" written by former Hawai'i Supreme Court Justice Simeon R. Acoba, Jr. for the King Kamehameha V Judiciary History Center and was published in the January 2019 issue of the *Hawaii Bar Journal* with the permission of the King Kamehameha V Judiciary History Center.



volunteerism and student awardees from each county; the recognition of outstanding pro bono lawyers and firms nominated by legal service providers; the acknowledgment of law firms, groups, and individuals who staff the self-help centers in Honolulu and Kapolei that cover designated civil and family law matters respectively; and the introduction of appellate pro bono lawyers. Staffing commitments by lawyers, law firms and associations for every month in 2020 for the Honolulu self service center were obtained and announced by the Commission.

Additionally, the Commission completed its work in conjunction with the Hawai'i Supreme Court on establishing rules, procedures, and forms for "unbundling" pro bono services. Unbundling services enable attorneys to provide partial legal assistance to maximize available resources for persons in family, district, and circuit courts in need of legal help.

Also in 2019, the Commission provided a presentation on pro bono assistance in Hilo to augment the Hilo Bar Association's recruitment of volunteer attorneys to staff the Hilo self service center; the Supreme Court ordered the Commission's pilot volunteer court navigator program in the district court for Maui made permanent; the Commission continued its consideration of a non-lawyer advocacy program to assist tenants in landlord-tenant cases.

A more detailed accounting of the matters discussed above, and other matters acted on and considered by the Commission in 2019 are contained in the materials that follow in this report.

Please also note the comments interspersed throughout the report on the contributions of the Access to Justice Commission over the last decade.

Congratulations to the Hawai'i Access to Justice Commission on its ten years of leadership enhancing equal access to justice throughout Hawaii's judicial system. Since its creation, the Commission and its community partners have implemented many significant initiatives statewide, and I'm excited about what these collaborations will continue to accomplish in the years to come.

Chief Justice Mark Recktenwald
Hawai'i Supreme Court



A. Genesis of the Commission

In early 2006, a group of representatives of several legal service providers, the Hawai'i state courts, the Hawai'i State Bar Association ("HSBA"), the Hawaii Justice Foundation ("HJF"), the William S. Richardson School of Law, and others organized the Hawai'i Access to Justice Hui ("Hui"). In late 2007, the Hui issued its report detailing a distressing finding that only 20% of the civil legal needs of low- and moderate-income Hawai'i residents were being met and recommending a ten-point community-wide action plan for improving the situation. The first of the proposed actions was to form an Access to Justice Commission, as the Hui reasoned that the other nine proposed actions would likely be advanced only with the support, oversight, and guidance of such a Commission. Rule 21 was adopted in 2008 as a result of the combined drafting efforts of a subcommittee of the Hui led by George Zweibel and David Reber and of now retired Justice Simeon Acoba working with retired Chief Justice Ronald T.Y. Moon.

B. Multi-faceted Approach

Hawai'i has developed a multi-faceted approach to access to justice efforts that involve various entities.

The Commission is unique in that it has developed as a voluntary enterprise. Its members are volunteers who contribute time, effort, and support to carry on the functions of the Commission. Its work is performed by eight standing committees and several task forces composed of volunteers.

The Commission's primary objectives are to propose, to initiate, to support, and to serve as a focal point for justice efforts. For example, it has proposed numerous court rule and procedural changes to facilitate pro bono efforts and to increase access to the courts that have been adopted by the supreme court. With respect to initiating programs it initiated a foreclosure mediation program that was adopted by the judiciary, among other projects. The Commission may partner and collaborate with other entities. As an example, it has collaborated on establishing an appellate pro bono program. As with many other projects, the appellate program was spun off to other entities to implement and to maintain.

The Commission issues annual reports to the Judiciary and to the Bar. These reports principally describe the work of the Commission and its committees and task forces, that has been the focus of the Commission or that involve matters of collaboration with other entities. As part of its outreach efforts, the Commission annually sponsors a pro bono celebration in the First Circuit and an access to justice conference.



The pro bono celebration recognizes attorneys and firms for voluntarily staffing Access to Justice Rooms (self-help centers) where legal advice is offered to the public. A statewide student essay contest on volunteerism is a part of the celebration. The conference features a keynote speaker (the President of the Legal Services Corporation and the Dean of the Harvard Law School have been among the speakers) and workshops.

The Commission thus operates as a platform for entities with diverse interests and constituencies to find shared opportunities to advance the goal of achieving equal justice. The Commission does not raise funds, it does not distribute monies, and it does not provide legal services. Those matters may fall within the province of the different legal service providers who independently maintain their own budgets, determine their programmatic priorities, and evaluate their own results. For example, the Legal Aid Society recently assumed the implementation of a legal navigator portal that had been initiated by the Microsoft Corp.

The Commission provides opportunities for communication and collaboration but recognizes the separate approaches of the legal service providers. The Commission does not evaluate the providers. From an overall state view, the Judiciary and the Bar, of course, may each maintain its own access to justice efforts and initiatives. This multi-faceted approach has led to substantial and innovative initiatives on many fronts.

The Judiciary's work in access to justice resulted in the Hawai'i State Judiciary being ranked third in the nation for best practices in 2014 by the National Center for Access to Justice. The understood unifying principle for Hawai'i's efforts is that justice must be extended to everyone notwithstanding economic, social, cultural, language, and other barriers to equal access to justice and that such efforts must be an integral part of the legal system.

C. Commissioners

The Commission is comprised of twenty-two Commissioners. The various Commissioners are appointed as designated in Rule 21 by separate appointing authorities including the Chief Justice of the Hawai'i Supreme Court, the HSBA, the Hawai'i Consortium of Legal Service Providers, the HJF, the Williams S. Richardson School of Law, the Hawai'i Paralegal Association, the Governor, the Attorney General, the Senate President, and the Speaker of the House.

The Commissioners are listed as follows:



	Name	Appointed By	Term End
1.	Hon. Simeon R. Acoba, Jr. (Ret.) (Chair)	Chief Justice	12/31/21
2.	Hon. Joseph E. Cardoza (Ret.)	Chief Justice	12/31/20
3.	Hon. Brian A. Costa	Chief Justice	12/31/21
4.	Hon. Ronald Ibarra (Ret.)	Chief Justice	12/31/21
5.	Hon. Michael K. Soong	Chief Justice	12/31/21
6.	Katherine G. W. Bennett	HSBA	12/31/20
7.	Derek Kobayashi (Vice-Chair)	HSBA	12/31/22
8.	Carol K. Muranaka	HSBA	12/31/20
9.	Joanna E. Sokolow	HSBA	12/31/22
10.	Thomas A. Helper Lawyers for Equal Justice	Hawai'i Consortium of Legal Services Providers	12/31/19
11.	M. Nalani Fujimori Kaina Legal Aid Society of Hawai'i	Hawai'i Consortium of Legal Services Providers	12/31/21
12.	Nanci Kriedman Domestic Violence Action Center	Hawai'i Consortium of Legal Services Providers	12/31/19
13.	Angela Kuo Min Volunteer Legal Services of Hawai'i	Hawai'i Consortium of Legal Services Providers	12/31/19
14.	Rona Fukumoto Non-attorney public representative	Hawai'i Consortium of Legal Services Providers in consul- tation with the Chief Justice	12/31/20
15.	Heather Lusk Non-attorney public representative	Hawai'i Consortium of Legal Services Providers in consul- tation with the Chief Justice	12/31/21
16.	Gary M. Slovin	Hawai'i Justice Foundation	12/31/21
17.	Dean Aviam Soifer	William S. Richardson School of Law	12/31/19
18.	Karen M. Mason	Hawai'i Paralegal Association	12/31/19
19.	Diane T. Ono	Governor	³ N/A
20.	Marie M. Gavigan	Attorney General	N/A
21.	Hon. Gilbert Keith-Agaran	Senate President	N/A
22.	Hon. Della Au Belatti	House Speaker	N/A

³ Supreme Court Rule 21 states, "Governmental representatives appointed under Subsection 3(vii) shall rotate by their terms of office or at the will of the appointing authority."



The impact of the Commission has been to bring access to justice issues to the forefront and to advance the goal of achieving equal justice.

Justice Simeon R. Acoba, Jr. (Ret.)
Chair, Hawai'i Access to Justice Commission

D. Purpose

The purpose of the Commission “shall be to substantially increase access to justice in civil legal matters for low-income and moderate-income (together “low-income”) residents of Hawai'i.” To accomplish such purpose, the Commission shall, along with such other actions as in its discretion it deems appropriate, engage in the following activities.

- (1) Provide ongoing leadership and 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.
- (5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among providers of civil legal services.
- (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 the problems that low-income persons in Hawai'i face in gaining access to the civil justice system. Methods include 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 legal rights of low-income people and where they can go when legal assistance is needed.
- (10) Increase effective use 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, including self-help centers at the courts.
- (12) Develop initiatives designed to enhance recruitment and retention of attorneys who work for providers of non-profit civil legal services 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.

E. 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.⁴

⁴ Committee lists may include past or former members and interested persons.



Administration Committee

[Associate Justice Simeon R. Acoba, Jr. (Ret.) (Chair), David Reber (Vice Chair), Judge Joseph E. Cardoza (Ret.), Judge Brian Costa, Jill Hasegawa, Derek Kobayashi, Angela Kuo Min, Carol K. Muranaka, and Tracey Wiltgen]

- Assist the Chair of the Commission in developing an agenda for each Commission meeting and assist in arranging for presenters and written materials in support of agenda items.
- Assist in providing reports on the status of operations.
- 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 Activities

Among other matters, the Committee considered and made recommendations to the Commission regarding the following.

- (1) Approved four applications for service on the Commission's committees as follows: Emily Marr who indicated an interest in the Committee on Education, Communications, and Conference Planning ("Education Committee"), the Committee on Increasing Pro Bono Legal Services ("Pro Bono Committee"), and the Committee on Initiatives to Enhance Civil Justice ("Initiatives Committee"); Clarissa Malinao who indicated interest in the Education Committee, Pro Bono Committee, and the Committee on Overcoming Barriers to Access to Justice ("Overcoming Barriers Committee"); J. Alberto Montalbano who indicated interest in the Overcoming Barriers Committee, Initiatives Committee, and the Committee on Self-Representation and Unbundling; Krisna Kay who indicated interest in the Pro Bono Committee, the Overcoming Barriers Committee, and the Committee on Funding of Civil Legal Services.
- (2) Reviewed periodically the status of and made recommendations for and assisted on the content, delivery, and posting of the Commission's annual report for 2018.
- (3) Reviewed the status of the unbundling project.
- (4) Reviewed the activities of the Justice for All Committee in presenting and then implementing the Justice for All grant proposal.



- (5) Reviewed the status of the various Commission committees.
- (6) Reviewed and made comments on the two proposals of the Task Force on Paralegals and Other Nonlawyers related to the First Circuit Advocate Pilot Project Protocol and the Second Circuit Landlord-Tenant Volunteer Attorney and Volunteer Assistant Pilot Project Protocol.
- (7) Monitored the planning of the 2019 Hawai'i Access to Justice Conference on Friday, June 7, 2019 by the Education Committee.
- (8) Monitored the planning for the seventh annual Pro Bono Celebration on October 24, 2019.
- (9) Recommended the participation of the Chair of the Commission at a CLE seminar in Hilo to encourage attorneys to volunteer at the Hilo Self-Help Center and the Chair did so.
- (10) Recommended the submission of a letter of support to the Hawai'i Supreme Court related to the text reminders for state criminal and civil cases of court appearances.
- (11) Recommended the submission of a proposal to the Hawai'i Supreme Court related to stale bench warrants.
- (12) Recommended the submission of a proposal to the Hawai'i Supreme Court related to a "Court Forms" page at the Judiciary's website to allow users to access the most appropriate form that would fit their particular situation by topic rather than by judicial circuit.
- (13) Recommended a response to a survey sent by the ABA Resource Center for Access to Justice Initiatives studying the extent to which Commissions have been able to evaluate their projects.
- (14) Recommended the submission of written testimony on behalf of the Commission in support of SB 214 (right to counsel in foster care cases).
- (15) Recommended the submission of written testimony on behalf of the Commission in support of SB 130 (funds for civil legal services).
- (16) Initiated a review of proposed Rule 1.10 of the Rules of the Hawai'i Supreme Court.
- (17) Approved the posting of the January 13, 2019 Star Advertiser Op. Ed. "Expanding Access to Civil Justice" on the Commission's webpage.



- (18) Approved the posting of Commission highlights of each year over the decade (2008-2018) on the Commission's webpage.
- (19) Approved the posting of the Honolulu City and County Pro Bono Policy for Attorneys on the Commission's webpage.

In the future, the Administration Committee will continue to make recommendations to the Commission regarding its policies and activities.

Annual Report Committee

[Rona Yagi Fukumoto (Chair), Justice Simeon R. Acoba, Jr. (Ret.), Rep. Della Au Belatti, Jill Hasegawa, Mark Murakami, and Tracey Wiltgen]

- Assist in preparing an annual report of the activities of the Commission. The report is filed with the Supreme Court in accordance with Rule 21(j)(1).

Summary of Activities

- (1) Information for the Annual Report of the Commission activities for 2018 was compiled. The report was composed, submitted for approval by the Commissioners, printed, and distributed to the appropriate persons and entities.
- (2) Electronically filed the Hawai'i Access to Justice Commission Annual Report for 2018 with the Supreme Court on May 28, 2019.
- (3) Began collecting information for the Annual Report for 2019.

Committee on Education, Communications, and Conference Planning

[Dean Aviam Soifer (Chair); Sergio Alcubilla, Rep. Della Au Belatti, Sonny Ganaden, Mihoko Ito, Robert J. LeClair, Michelle Moorhead, Carol K. Muranaka, Teri-Ann Nagata, Leila Rothwell Sullivan, and Lorenn Walker]

- Assist in organizing an annual conference for presentation of issues related to access to justice.
- 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 that low-income persons in Hawai'i face in gaining access to



the civil justice system. Strategies include informational briefings, communication campaigns, statewide conferences, testimony at hearings, and other means.

- Increase awareness of legal rights of low-income persons 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 Activities

- (1) Planned, recommended, and coordinated the 2019 Access to Justice Conference (“Expanding Access to Civil Justice”) held on Friday, June 7, 2019.
- (2) Prepared an application for the approval of six CLE credits for Hawai'i licensed attorneys attending the 2019 Access to Justice Conference. Approval for the six CLE credits was one of which was an ethics credit, ultimately received from the HSBA.
- (3) Prepared a report to the Commission summarizing the 2019 Access to Justice Conference, including expenses, evaluations, and suggestions.
- (4) Worked on possible topics for the 2020 Access to Justice Conference.

Committee on Funding of Civil Legal Services

[Gary M. Slovin (Chair), M. Nalani Fujimori Kaina, Robert LeClair, Angela Kuo Min, and Dean Aviam Soifer]

- Make recommendations and provide advocacy in support of establishing a permanent “home” for the legislative funding of providers of civil legal services to low-income individuals. The aim is that funding for such services may be stable and secure. Make recommendations and provide advocacy in support of increased legislative funding for 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 providers of legal services 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 providers of legal services, including additional amounts in years when such attorneys do not meet the aspirational pro bono goals of Rule 6.1 of the *Hawai'i Rules of Professional Conduct*.

Summary of Activities

- (1) Through the actions of the chair, continued efforts to work with legal service providers and others to advocate for general funds from the Legislature to further the efforts to provide legal services on behalf of low-income persons.
- (2) Continued efforts at the Legislature to maintain Indigent Legal Assistance Fund ("ILAF") support for the legal services providers.
- (3) Met periodically with legal service providers to discuss strategies for securing needed funds.

Committee on Increasing Pro Bono Legal Services

[Angela Kuo Min (Chair), Jennifer Chin (Vice-Chair), Sergio Alcubilla, Nicole Altman, Rebecca A. Copeland, Gilbert Doles, Representative Linda Ichiyama, Judge Blaine J. Kobayashi, Derek Kobayashi, Clarissa Malinao, Emily Marr, Catherine Taschner, Shannon Wack, and Tracey Wiltgen]

- 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. Methods include developing effective recruitment campaigns.
- Make recommendations concerning ways to develop a culture of commitment to pro bono service among Hawai'i's lawyers.
- Maintain a list of providers of legal services and others who 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 in which to make providing pro bono service more attractive to attorneys. Methods include 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 increased 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-income persons.

Summary of Activities

- (1) Obtained full volunteer staffing of Access to Justice Rooms for the First Circuit for all months of 2020 by law firms, individual lawyers, and groups.
- (2) Continued to support the development and expansion of the Appellate Pro Bono Program.
- (3) Supported ongoing pro bono initiatives implemented by various providers and groups.
- (4) Assisted in and helped coordinate the annual Pro Bono Celebration.

Committee on Initiatives to Enhance Civil Justice

[Joanna E. Sokolow (Chair), Kristin Shigemura (Vice-Chair), Earl Edward Aquino, Lincoln Ashida, Charles Crumpton, Elizabeth Fujiwara, Judge Ronald Ibarra (Ret.), Craig Jerome, Patricia Kickland, Gregory Lui-Kwan, Emily Marr, Alberto Montalbano, Michelle Moorhead, Jeffrey Ng, Deja Marie Ostrowski, and Reginald Yee]

- Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income residents of Hawai'i.
- 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 non-profit providers of civil legal services in Hawai'i. Methods may include the following:
 - Establishment by the Hawai'i legislature of a student loan repayment assistance program to help full-time, non-profit civil legal services attorneys pay back their student loans; and 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 non-profit providers of civil legal services. Permission would allow these 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.

Summary of Activities

- (1) Recommended changes to the Judiciary Website format to assist self-represented litigants and Self-Help Center Attorneys locate needed forms to remedy the difficulty of using Online Family Court forms.
- (2) Recommended that the Court Date Text Reminder program be extended to all courts in every circuit throughout the state.
- (3) Designated a working group with the task of studying a pilot project to create a civil pro bono counsel project to promote civil right to counsel.
- (4) Prepared testimony in support of a statute providing parents' right to counsel in abuse and neglect/parental rights termination cases.
- (5) Studied the ways in which expungement of criminal case records mitigated collateral consequences and improved outcomes in civil arenas. Further examined the ways in which the expungement process could be streamlined or simplified for those entitled to use it.
- (6) Studied transportation to court as a barrier to access to justice and began developing materials for distribution to the public.

Law School Liaison Committee⁵

⁵ During its April 2017 meeting, the Commission decided to defer further work of the Committee because the Dean of the Law School, Dean Aviam Soifer, who is a Commissioner and serves as Chair of the Committee on Education, Communications, and Conference Planning, maintains a liaison and working relationship among the school, the Commission, and the Commission's programs.



Committee on Overcoming Barriers to Access to Justice

[Diane Ono (Chair), Judge William M. Domingo (Vice-Chair), Russell Awakuni, Patricia Cookson, Jean Johnson, Nanci Kreidman, Mary Anne Magnier, Mark Murakami, Calvin Pang, Page Ogata, Jennifer Rose, Brandon Segal, Cynthia Tai, Malia Taum-Deenik, Kristina Toshikiyo, Randall M. Wat and Heather Lusk]

- 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 the following:
 - 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 childcare 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 Activities

- (1) Met with organizations like We are Oceania to discuss language and cultural barriers to accessing the justice system for the Micronesian Community.
- (2) Identified needs for Marshallese and Chuukese in-language documents and interpreters.
- (3) Continued building public awareness of the work of legal service providers, to affect public opinion and channel more funding toward overcoming barriers to access to justice for the unrepresented.



Committee on the Right to Counsel in Certain Civil Proceedings

[Marie Gavigan (Chair), Shannon Wack (Vice-Chair), Jessica Freedman, Regina Gormley, Brandon Ito, Judge Blaine Kobayashi, Wilfredo Tungol, James Weisman, and 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."
- Study developments in other jurisdictions with respect to 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 Activities

The Committee on Right to Counsel in Certain Civil Proceedings was assigned to a joint task force with the Committee on Initiatives to Enhance Civil Justice to review and make recommendations regarding different types of civil matters in which the right to counsel might be appropriate.

Committee on Self-Representation and Unbundling

[Derek Kobayashi (Chair), Sarah Courageous, Damien Elefante, Jerel Fonseca, Victor Geminiani, Nalani Fujimori Kaina, Victoria Kalman, Jo Kim, Jay Kimura, Honorable Blaine Kobayashi, Justin Kollar, Daniel Pollard, Rowena Somerville, Kristina Toshikiyo, and Shannon Wack]

- Reduce barriers encountered by self-represented litigants in the court system. Examples include using plain English, 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 such as family, housing, and landlord-tenant law.
- Make changes to court rules to permit limited representation or "unbundled" legal services, and if achieved, make recommendations concerning continuing legal education programs and other ways of promoting unbundling to meet currently unmet legal needs and empowering individuals to represent themselves.



Summary of Activities

- (1) The Commission received acknowledgement and final proposed amendments, from the Supreme Court, for the November 21, 2018 proposal to Amend Rule 11 of the District Court Rules of Civil Procedure, Hawaii Rules of Civil Procedure, and the Hawaii Family Court Rules as well as the proposed language to Adopt Rule 11.1, of those three bodies of rules.
- (2) On May 31, 2019, the Commission submitted a response, to the Supreme Court, with the recommendation of the SRU Committee to approve the proposed revisions and inquiries, as stated in the final proposed amendments.
- (3) On September 17, 2019, the self-representation and unbundling rules were adopted by the Supreme Court. Orders promulgating the rule changes and court forms necessary to launch the formal program were entered. Three different orders for the District Court Rules of Civil Procedure, the Hawaii Rules of Civil Procedure, and the Hawaii Family Court Rules are attached as appendices.

In 2008, the Access to Justice Hui, composed of members of the Bar, non-profit legal service providers, the Hawaii Justice Foundation, the Law School, and the Judiciary, submitted a proposal to the Hawai'i Supreme Court that resulted in the creation of the Hawai'i Access to Justice Commission. It is truly remarkable what the Commission and its stakeholders have accomplished in the last ten years.

Judge Daniel R. Foley (ret.)
Former Chair of the Hawai'i Access to Justice Commission

F. Task Forces

Pro Bono Initiatives Task Force

The Pro Bono Initiatives Task Force promotes pro bono service by:

- 1) Coordinating activities with the national pro bono celebration;



- 2) Recognizing significant pro bono service by attorneys at self-help centers, in appellate cases, for legal service providers and in other legally related activities;
- 3) Providing outreach to the statewide community on the importance of volunteerism in general, and pro bono services by attorneys;
- 4) Educating the public on the democratic principles of equal treatment and representation in the legal system; and
- 5) Including the Hawai'i Bar Association, the Hawai'i Supreme Court and judiciary, and the other branches of government in the recognition of pro bono service.

To support these goals, each year the Task Force coordinates a Pro Bono Celebration that is held at the Supreme Court in October during National Pro Bono week. The celebration honors the attorneys and law firms who volunteer for the self-help desks at the District and Family Courts in the First Circuit, attorneys who volunteer for the Appellate Program and outstanding volunteers and individuals identified by the various civil legal service providers.

To increase public education and encourage youth to perform pro bono services, the Task Force also coordinates an essay and/or video contest for high school students throughout the State.

In 2019, the Task Force coordinated the seventh annual Pro Bono Celebration on Thursday, October 24, 2019 at the Hawai'i Supreme Court. The Celebration was supported by the Hawai'i Justice Foundation, the Hawaii State Bar Association, and the Hawai'i State Bar Foundation.

Task Force on Paralegals and Other Non-Lawyers

On January 11, 2016, the Hawai'i Access to Justice Commission approved the creation of the Task Force on Paralegals and Other Nonlawyers ("Task Force") to examine the role of paralegals and other non-lawyers in expanding access to justice.⁶ During 2019, the Task Force met on a regular

⁶ The 2019 members of the Task Force on Paralegals and Other Non-lawyers were: Judge Joseph E. Cardoza (Ret.), Second Circuit Chief Judge (Chair); Gilbert Doles (attorney); Rona Fukumoto (non-attorney commissioner); Victor Geminiani (Co-Executive Director, Hawai'i Appleseed Center for Law and Economic Justice); Susan Jaworowski (Professor and Paralegal Program Coordinator, Kapiolani Community College); Jean Johnson (non-attorney commissioner); Carol K. Muranaka (attorney commissioner); and Karen Mason (Hawai'i Paralegal Association). Vanessa Gama (First Circuit Deputy Chief Judge Lono Lee's law clerk), Isaiah Feldman-Schwartz (Hawai'i Appleseed Center for Law and Economic Justice law clerk), Tom Helper (Hawai'i Appleseed Center for Law and Economic Justice litigation director), Angela



basis to work on a variety of proposals designed to utilize the talents and dedication of paralegals and non-lawyers to enhance access to justice in Hawai'i.

One of the Task Force's earlier proposals involved the creation of a non-lawyer Volunteer Court Navigator program in the Second Circuit. On November 3, 2017, the Hawai'i Supreme Court issued an order establishing a Volunteer Court Navigator Pilot Program in the Second Circuit. As reported in the 2018 Annual Report, the program was successful and on November 20, 2018, the Hawai'i Supreme Court issued an order establishing the Volunteer Court Navigator Pilot Program in the Second Circuit as a permanent program.

Volunteer Court Navigators provide important legal information to unrepresented litigants in District Court landlord-tenant, debt collection, and injunction against harassment cases. During 2019, Volunteer Court Navigators assisted unrepresented litigants prior to and during each and every Wailuku District Court civil calendar. Additionally, the role of the Volunteer Court Navigators was expanded beginning August 2019 when the Maui Self-Help Center added Mondays to the schedule, and Volunteer Court Navigators began to provide assistance during the days that the Self-Help Center was open.

During court sessions, Navigators refer an unrepresented litigant to the Self-Help Center if the unrepresented litigant is interested in meeting with a volunteer attorney. At the Self-Help Center, Navigators greet unrepresented litigants, obtain preliminary information to determine if a question can be answered without waiting to see a volunteer attorney, refer unrepresented litigants to the adjacent Second Circuit Service Center, ensure that each unrepresented litigant signs in to meet with a Self-Help Center volunteer attorney, and assists with having unrepresented litigants complete evaluation forms. The services of Volunteer Navigators complement the valuable assistance of the Self-Help Center volunteer attorneys and make the process more efficient and consumer friendly.

In addition, based on information obtained from two landlord-tenant reports released during late 2018 and input received from Volunteer Court Navigators, a project was developed to inform parties in a landlord-tenant case of their specific court date and to provide them with important information before they come to court. Prior to June 2019, the summons in landlord-tenant cases informed the parties of their court date by means of a formula. This required the parties to use the formula to calculate their court date. Other valuable information concerning available services was not included in the documents provided to the parties. Consistent with the landlord-tenant reports

Kuo Min (Executive Director, Volunteer Legal Services Hawai'i), Dan O'Meara (Legal Aid Society of Hawai'i staff attorney) and Calvin Pang (William S. Richardson School of Law professor) served as ex officio members of the Task Force.



published in 2018, Volunteer Court Navigators reported that litigants were sometimes confused about their court dates and thus, came to court on the wrong day. They were also unaware of the services that could be requested prior to a court date. Thus, effective June 2019, the complaint and summons in Wailuku District Court cases was revised to include a summons that provided the parties with notice of their specific court date. An information sheet for landlords and tenants was attached to the top of the complaint and summons. The information sheet informed the parties of a variety of services, including volunteer attorneys at the Maui Self-Help Center, Volunteer Court Navigators at court sessions, the Second Circuit Service Center, free language interpreters, and free Maui Mediation Services mediators who provide the opportunity to resolve a dispute the same day.

The Task Force continues to work on other projects. The members of the Task Force express their deepest appreciation of the selfless dedication of many individuals and agencies involved in providing the needed services.

The Judiciary's Third Circuit Judicial Foreclosure Mediation Program consisted of a partnership between the circuits and the West Hawaii and Ku'ikahi mediation centers. The concept originated from the Access to Justice Commission, adopted by the Hawai'i Supreme Court and was funded by the Hawaii Justice Foundation. It was in effect from 2011 until 2017. During this time, 573 cases were referred to the program. Of the cases referred, eighty-four (25%) homeowners were able to negotiate non-retention options. No data were received regarding the disposition of twelve cases (4%). The success of this program is that the remaining two hundred thirty-eight (72%) homeowners saved their homes.

Judge Ronald Ibarra (ret.)
Hawai'i Access to Justice Commission Member



II. JUSTICE FOR ALL PROJECT⁷

The Community Navigator Project and Hawai'i Legal Aid Interagency Roundtable ("HI-LAIR") Project were the result of Justice for All ("JFA") grants awarded to Hawai'i by the National Center for State Courts ("NCSC"). The grants were awarded to the Hawai'i Justice Foundation in conjunction with an application joined in by the Hawai'i State Judiciary and the Access to Justice Commission. The Commission's Justice for All Committee coordinated the work under the grants, which totaled more than \$200,000.00. The JFA grant efforts began by inventorying access to justice resources in Hawai'i, assessing needs in the community, and developing a strategic action plan to move towards the goal of one hundred percent access to effective assistance for essential civil legal needs. These initial grant efforts focused on envisioning ways to achieve a civil justice system that resembled the craft of ulana lauhala, which is the traditional Hawaiian art of refining and weaving pandanus fronds into prized objects, such as tightly woven mats and baskets. Like ulana lauhala, the JFA project sought to refine Hawaii's collective access to justice efforts by bringing together various stakeholders to envision ways to increase collaboration, dialogue, and ultimately access to justice for all in our community.

To assess what resources were available when the project first began, the Hawai'i JFA Committee conducted an inventory of resources available to assist Hawaii's people with their essential civil legal needs. Nearly 150 resources provided by legal services providers, the Judiciary, and other government sources were identified at that time.

During the first year of the JFA project, the Hawai'i JFA Committee also held focused community and partner meetings throughout the state to gather feedback, build relationships, and further inventory unmet legal needs. The Hawai'i JFA Committee held 14 community meetings hosted by trusted and established community organizations on O'ahu, Maui, Moloka'i, Lāna'i, Hawai'i Island, and Kaua'i. Over 185 participants attended these meetings including immigrants, kūpuna (elders), domestic violence survivors, members of the Native Hawaiian and Micronesian communities, and those at risk for homelessness. In addition, the Committee held five partner meetings with government directors and managers, healthcare leaders, labor unions, and service partners related to immigration to discuss unmet civil legal needs for their constituencies.

⁷ Members of the committee for the implementation phase during 2019 were: Justice Simeon Acoba (Ret.); Angela Kuo Min; Christine Daleiden; Derek Kobayashi; Nalani Fujimori Kaina; Jenny Silbiger; Pat McManaman; Representative Dela Au Belatti; Judge Ronald Ibarra (Ret.); Daylin-Rose Heather, and non-voting members, Carol K. Muranaka, Diane Ono, and Joanna Sokolow.



Because of these meetings, the initial JFA inventory assessment was informed by a wide variety of stakeholders, including most vulnerable Hawai'i residents. From the feedback garnered, the Committee determined three general types of barriers that were preventing people from obtaining meaningful access to justice: (1) safety and security barriers; (2) barriers to getting information; and (3) barriers to getting help. After contemplating these lessons learned, the JFA Committee made four recommendations on how to better achieve meaningful access to justice for all. These recommendations included the establishment of the Community Navigator and HI-LAIR projects, which were subsequently implemented during the second year of the JFA project.

The Community Navigator project trained identified community leaders who are trusted in rural and other communities of high need (e.g., religious leaders, librarians, social and outreach workers from organizations and agencies, informal community leaders, health clinic workers, public-facing employees of various city and state agencies, school leaders, etc.) to provide accurate and relevant information to their community members, including self-help materials that may help resolve legal and other needs. In addition, community navigators are trained to refer more complex situations to legal service providers. The Community Navigator trainings provided a safe space to identify and explore current community issues and discuss how legal services may be able to help. At the training, community leaders were also trained on basic interviewing and issue spotting skills and were familiarized with the community navigator measurement tool.

Over 120 people were trained as community navigators at eight trainings held throughout the state of Hawai'i. Since January 2019, fifteen referrals were reported via Twilio, the text message measurement tool. The referrals involved various subject matters, including family, housing, immigration, public benefits, vital document, and civil rights issues. Referral agencies and resources also varied including seven referrals to legal service providers and five referrals to the Hawai'i Legal Services Portal, which is an on-line portal with information about different legal services. In addition, during this period of time, twenty cases were opened by the Legal Aid Society of Hawai'i with clients who shared, with intake, that they heard of the organization from a community navigator. Thus, the community navigators are helping to connect those with civil legal needs with services and resources that can help. In addition, there are plans to continue to build on the community navigator trainings going forward.

The HI-LAIR project increased collaboration and efficiency across state departments; identified programs that would be more effective, efficient, and produce better outcomes by adding legal services to the supportive services provided; and helped departments leverage federal funds to increase access to legal aid for Hawaii's most vulnerable. The HI-LAIR launched with participation



across several state executive agencies including the Departments of Human Services, the Attorney General's Office, and Department of Health. Project advisor, Karen Lash, former Executive Director of the White House Legal Aid Interagency Roundtable during the Obama administration, identified opportunities to utilize Federal funding to help agencies achieve shared objectives. Through the HI-LAIR project, a tool kit was created to help state agencies identify opportunities for legal services, and over twenty-five employees in various state departments met over the course of the project to discuss departmental goals and the role that civil legal services might play in achieving those goals. These meetings led to fruitful conversations and launched efforts to utilize Federal funds to address issues of local concern, including issues involving elderly and immigrant crime victims, workforce investment, and child support enforcement with the continued assistance of the Department of Human Services.

With thanks to the entire Access to Justice Commission -- and particularly through the leadership of Justice Acoba (Ret.) -- we have done invaluable work, yet there is still much more to do!

Aviam Soifer, Dean
University of Hawai'i at Manoa
William S. Richardson School of Law



By working selflessly toward the goal of helping those in need, hopefully the Access to Justice Commission and the Hawai'i Justice Foundation have set an example that will inspire others.

Gary M. Slovin
Hawai'i Access to Justice Commission Member



III. 2019 HAWAI'I ACCESS TO JUSTICE CONFERENCE

A warm summer morning greeted more than 260 attendees at the 2019 Hawai'i Access to Justice Conference in early June at the William S. Richardson School of Law ("Law School"), University of Hawai'i, Mānoa campus. With the theme "Expanding Access to Civil Justice" at the eleventh Access to Justice Conference, attendees were entertained and inspired by keynote speaker, Daniel Greenberg, Special Counsel for Pro Bono Initiatives at Schulte Roth & Zabel, New York office. His stimulating words enthused the audience for the day-long conference.

Hawai'i Supreme Court Justice Mark Recktenwald provided an update on the judiciary's activities on civil access to justice. He then surprised Dean Aviam Soifer with a proclamation from the Hawai'i Supreme Court about Dean Soifer's contributions as a member of the Hawai'i Access to Justice Commission ("Commission") and as well as on a national scale. Justice Simeon Acoba (ret.), Chair of the Commission, joined in this acknowledgment with a Certificate of Recognition from the Commission, and Representative Della Au Belatti similarly presented Dean Soifer with a certificate from the Hawai'i State Legislature.

The Commission's various endeavors then were described by Justice Acoba. He noted:

As the Commission begins its second decade there are several principles, briefly stated, that may warrant consideration. First, the role of the Commission has been to propose, initiate, and evaluate. The Commission does not provide legal services but plays a supportive role in expanding civil justice statewide. Second, having been established under judicial rule, the Commission must act fairly and equitably and be mindful of the different constituencies in our community and in our legal system that provide the energy, initiative, and assistance that power access to justice efforts. And finally, the Commission has a shared but mandated duty to promote access to justice in the legal system, in our government, and in our communities. The Commission must always do what is best in remaining true to that commitment.

In one of the morning concurrent workshops, "Building Trust and Resolving Conflict Through Dispute Resolution," Tracey Wiltgen, Executive Director of The Mediation Center of the Pacific, facilitated a discussion with panelists District Court Judge Michael Tanigawa, Paul Holtrop, attorney with Johnson Mark, LLC, and Julie Mitchell, Executive Director, Ku'ikahi Mediation Center. They explained that trust should be built into each stage of



the dispute resolution process:

Initially, mediators “listen” to the stories of the participants who share details about their personal situation and the realities of their lives. Being “heard” is empowering, and mediators honor confidential information. The process gives the person a voice in a less stressful situation and with the assistance of the mediator, a dialogue can occur between the parties.⁸

In the other concurrent morning workshop on the topic “Should We Fear the Future: Evolving Nature of the Practice of Law,” Dean Soifer led a discussion with Chief Justice Recktenwald; Law School Professor Linda Hamilton Krieger; Liam Skilling, Director of the Evening Part-Time Program and Academic Success of the Law School, and Deane Neubauer, Emeritus Professor of Political Science and Associate Director of the Asia Pacific Higher Education Research Partnership at the East-West Center. Chief Justice Recktenwald mentioned three significant changes that contribute to the challenges to access to justice: (1) rapidly increasing number of unrepresented litigants in civil court cases; (2) lack of awareness that a legal issue may be involved; and (3) changing expectations of potential litigants.⁹

Professor Krieger asked the audience to think of the law as a “bottom-up system” in which the practice of and innovations in law are motivated and initiated by the people for the people. Director Skilling mentioned that the moral authority of the law is being questioned as the law is being used to stall desired change. Emeritus Professor Neubauer said that technology will change our work and the necessity of human legal professionals.

In concluding remarks, Professor Krieger said, “There is no such thing as justice without the subjective experience of a human being. It is a felt experience, and the perception of justice and the belief in justice influence our willingness to obey the law.” Chief Justice Recktenwald noted the importance of doing what is right under the law because the public’s trust in the court’s ability to be fair must not be undercut. Emeritus Professor Neubauer advised the creation of work groups to study the impact of the fourth industrial revolution, including artificial intelligence, on the legal profession. Director Skilling encouraged engagement and inclusion of youth.

⁸ This excerpt is from a summary of the workshop prepared by the presenters. A complete copy can be found at www.hawaiijustice.org/hajc/2019-hawaii-access-to-justice-conference.

⁹ Please see a summary of this workshop at www.hawaiijustice.org/hajc/2019-hawaii-access-to-justice-conference.



A. Afternoon Workshops¹⁰

There were four concurrent workshops for the first afternoon session and four more in the second afternoon session. Brief summaries follow:

Justice for All Projects to Enhance Access to Civil Justice

Representative Della Au Belatti and Nalani Fujimori Kaina, executive director, Legal Aid Society of Hawai'i, informed the attendees about the Hawai'i Justice for All Project, a strategic assessment that began two years ago to identify the critical needs of the community to increase meaningful access to justice. The Community Navigator Project and the Hawai'i Legal Aid Interagency Roundtable are the focus of the Hawaii Justice for All Committee, which was formed by the Commission three years ago.

The goals of the Community Navigator Project were to provide community members with the capacity and skill to identify current community issues and to identify legal service providers who may be able to help with various issues the communities face.

The goals of the Roundtable include increasing collaboration across state agencies, identifying programs that would be more effective by adding legal services to the services already provided, and leveraging federal funds to increase access to civil legal aid. The Roundtable members are comprised of representatives from various state government agencies, including the Department of Public Safety, the Department of the Attorney General, the Department of Health, and the Department of Human Services.

Access to Justice for Immigrants

John Egan, who is chairperson of the American Immigration Lawyers Association, Hawai'i Chapter, and Kevin Block, Maui Immigration Law, discussed several of the complicated issues of immigration. Immigrants face obstacles that impair their access to justice in ways that are easily overlooked but crucial to their cases. Key factors in moving forward were discussed:

¹⁰ All workshop summaries can be found at www.hawaiijustice.org/hajc/2019-hawaii-access-to-justice-conference. The summaries were initially drafted by volunteers at Legal Aid Society of Hawai'i and reviewed and edited by the panel presenters: Malia Alexander, staff attorney at Legal Aid Society of Hawai'i, on the Immigrants workshop; Nicholas J. Severson, legal intern, on the elder care workshop; Jay L. Mason, staff attorney on mediation in divorce actions workshop; Lisa Sparrel, Director of Grants, on the gender and language barriers workshop; Jasmine Jin on the prisons workshop; Mary Pascual, summer law clerk, on the closing panel.



(1) the Law School's commitment to the process, training of young lawyers in this area, and providing necessary information to the immigrants; (2) community involvement; and (3) funding.

Confronting Gender and Language Barriers to Civil Access to Justice

District Court Judge William Domingo facilitated a discussion with Nanci Kreidman, executive director, Domestic Violence Action Center; Rebecca Copeland, solo appellate practitioner; and Cristina Arsuaga, Spanish interpreter and translator, and a partner at TopNotch Translations, in New York.

Panel members discussed and demonstrated bias in both systems and individuals and suggested that, while some formerly rigid gender roles have been broken down, the foundations of those roles remain. Women are still at a much higher risk for poverty than men; they perform substantially more caregiving work; the wage gap persists; and one-third of single mothers live in poverty. The representation and power base are still comparatively small. The progress that has been made has led to complaints and some backlash.

Mediation for the Income Gap Group in Divorce Actions

Thomas E. Crowley, co-facilitator, partner in the law firm of Rezens & Crowley, LLP; Stephanie A. Rezens, co-facilitator, partner in the law firm of Rezens & Crowley, LLP; and Judge Dyan Medeiros provided their observations about mediation in divorce actions.

Those helping the parties need a long-term perspective. In addition to assistance with standard court preparation, the parties need to ensure that, when addressing custody, property division, and the like, they can survive for a lengthy period. Litigation costs are steep. Private mediation also costs money, but it can be money well spent. Mediation allows the parties to control the outcome. Even if mediation does not resolve the matter, it will reduce the number of issues prior to a trial in the case. Mediation should start as early as possible, but homework is needed for mediation to work. The parties need to be educated in advance about the law and need to enter mediation with the right mindset.

Legal Planning for the Worst--It May Not Be Enough

Professor James H. Pietsch facilitated this workshop with Lenora H. Lee, faculty specialist; and Michele Bray, instructor at the University of Hawai'i School of Nursing and Dental Hygiene. This session provided a practical perspective to end-of-life planning through both a legal and medical lens. The presenters highlighted the limitations of the legal system in addressing an



individual's late life needs, while suggesting possible actions to be as prepared as possible.

Expanding Civil Access to Justice in Prisons and Jails

Mateo Caballero, legal director of the American Civil Liberties Union of Hawai'i, facilitated the discussion with other panelists, Robert Merce, a retired personal injury attorney who became interested in prison reform in 2011; Kat Brady, community justice advocate; and Deja Ostrowski, staff attorney with the Medical-Legal Partnership Hawai'i. Caballero commented that of ACLU Hawaii's 500 to 600 intakes each year, about one-half relate to prisoners' rights in some manner, e.g., access to religion, sanitation, safety, access to medical care, and retaliation by enforcement personnel. He stated that these issues are triggered by overcrowding, lack of funding, and the inherent bias and racism permeating the attitudes of facility management and enforcement personnel. Without proper services and programs focused on rehabilitation, recidivism rates do not decrease and the adverse effects on a prisoner's family compound exponentially.

Two other afternoon workshops attracted attendees: (1) "Seeing the Human First--Helping the Homeless in 2019" with Law School Professor Calvin G.C. Pang as facilitator; Connie Mitchell, the Institute for Human Services; and Janet Kelly, Homeless Outreach Program, Legal Aid Society of Hawai'i; and (2) "Using Technology to Provide Meaningful Help in Access to Justice," with Angela Kuo Min, facilitator, executive director, Volunteer Legal Services Hawai'i; Sergio Alcubilla, director of external relations for the Legal Aid Society of Hawai'i; and Grant Teichman, pro bono coordinator for Volunteer Legal Services Hawaii.

Closing Panel Discussion

Dean Soifer, Robert LeClair, and Danny Greenberg shared their reflections about the conference in the plenary closing session, which Professor Calvin Pang moderated. LeClair said, "It is easy to get caught up in the feeling of competition with each other and with other legal services organizations, but what is necessary is that we remember the clients, not us, are the ones who matter."

Greenberg added that an important trait that seems to be lacking in the world today is empathy. He said we are dealing with people's lives, so we need to be empathetic. "Law is a means," he said, "We need to focus on the people."



B. Scenes from the 2019 Hawai'i Access to Justice Conference



Rep. Della Au Belatti, Dean Aviam Soifer, Marlene Booth, Chief Justice Mark Recktenwald, and Justice Simeon Acoba (ret.)



Dean Soifer and Danny Greenberg



Julie Mitchell, Paul Holtrop, and Tracey Wiltgen



Janet Kelly, Connie Mitchell, Justin Phillips, Angela Kuo Min, and Calvin Pang



Liam Skilling, Deane Neubauer, Chief Justice Recktenwald, Linda Krieger, and Dean Soifer



Cristina Arsuaga, Judge William Domingo, Nanci Kreidman, and Rebecca Copeland



Stephanie Rezens, Tom Crowley, and Judge Dyan Medeiros



James Pietsch



Sergio Alcubilla, Angela Kuo Min, and Grant Teichman



Robert LeClair, Danny Greenberg, Dean Soifer, and Calvin Pang



IV. PRO BONO CELEBRATIONS

A. First Circuit

The Hawai'i Access to Justice Commission ("Commission") hosted the seventh annual Pro Bono Celebration¹¹ on Thursday, October 24, 2019 at the Hawai'i Supreme Court. The Celebration was supported by the Hawai'i Justice Foundation ("HJF"), the Hawaii State Bar Association, and the Hawai'i State Bar Foundation ("HSBF"). The Program honored five outstanding individuals and a law firm who volunteer their services for legal service providers, fifty-four attorneys, law firms and groups who volunteer for the First Circuit District and Family Court Access to Justice Self Help Desks, and the Appellate Pro Bono Program, and seven student essay contest winners from public and private high schools throughout the State.

Hawai'i Supreme Court Associate Justice Simeon Acoba (ret.), Chair of the Commission, opened the celebration with the following comments:

Under the lawyer's code of professional conduct, 'a lawyer, as a member of the legal profession... has a special responsibility for the quality of justice' in our communities. The commission supports lawyers' pro bono services because such services strengthen democratic principles and democratic institutions that are necessary to maintaining justice throughout our state. In addition, we are honoring the students who have participated in our statewide essay contest and have shared their views of the importance of volunteering-- for themselves and for our communities.

Chief Justice Mark Recktenwald welcomed the honorees and guests stating:

Today's celebration honors those who volunteer their time and talent to better the conditions of others. Whether it be advocating for the rights of undocumented immigrants, to volunteering at a local hospital, or guiding

¹¹ The Pro Bono Celebration is coordinated by the Pro Bono Initiatives Task Force comprised of Judge Brian Costa, Co-Chair, Tracey S. Wiltgen, Co-Chair,; Rex Fujichaku, Jill Hasegawa, Marie Gavigan, Judge Ronald Ibarra (Ret.), Regan Iwao, Chase Livingston, Judge Melanie May, Angela Kuo Min, Judge Trish Morikawa, and Associate Justice Michael Wilson.



a pro se litigant through the legal process, today's student and pro bono honorees possess a quality of selflessness that helps to make Hawai'i a better place for all.

Pro Bono Honorees

Legal Service Providers play a key role in increasing access to justice in Hawaii. It is only through the dedication of the individuals who provide pro bono services, that the Legal Service Providers can assist thousands of people annually. Hawai'i Supreme Court Associate Justice Michael Wilson recognized the individuals and law firm honored by the legal service providers. Chief Justice Mark Recktenwald presented the honorees with certificates from Governor David Ige's office. The honorees included:

The Law Firm of Simpson Thacher & Bartlett LLP

The ACLU of Hawai'i honored Simpson Thacher & Bartlett LLP, who are co-counsel in ACLU's pending Title IX class action lawsuit against the Hawai'i State Department of Education and the Oahu Interscholastic Association for denying girls equal opportunities, treatment, and benefits in athletics at Campbell High School. The Simpson Thacher team—led by Jayma Meyer, Buzz Frahn, and Wyatt Honse—has been critical in ACLU's efforts to ensure that female athletes in DOE are treated equally with their male counterparts. Thacher has contributed deep knowledge about Title IX athletics issues, as well as substantial time and resources to the case and has been essential during key stages of the litigation. The ACLU of Hawai'i is grateful to Simpson Thacher for their immense contributions to the effort to ensure that, nearly a half a century after Title IX's passage, DOE finally levels the athletic playing field for girls and boys in Hawai'i.

Meredith Miller

The Disabilities Rights Center honored Meredith Miller. Several years ago, the Hawaii Disability Rights Center undertook a large-scale class action against the Department of Education and established the right of young adults to receive special education until the age of 22. The law firm of Alston Hunt Floyd and Ing, now Dentons, partnered with the Hawaii Disability Rights Center in that effort. Following the Court's decision, the matter was remanded to the District Court to fashion relief for class members who were now too old to return to school. For these individuals who were wrongly aged out of school, the challenge was to find and fund relief for them in the form of "compensatory education" to make up for the lost years they experienced. Ms. Miller embraced the challenge with diligence, professionalism, and an upbeat attitude. There are approximately 500 members in the class. Ms. Miller has been responsible for contacting each class member, assessing their needs and developing a program



and package of services which can be submitted to the Administrator for approval. Despite the labor- intensive nature of the work, Ms. Miller persisted and as a result of her efforts, the lives of some of the members were positively impacted and substantially improved.

Christine Daleiden

The Legal Aid Society of Hawai'i honored Christine Daleiden for her leadership and pro bono service towards Legal Aid's vision of "Building a Just Society." Ms. Daleiden chairs the Hawaii State Bar Association's Committee on the Delivery of Legal Services to the Public ("DLSP"), is a member of the Justice for All ("JFA") committee, and volunteers at the Honolulu District Court Access to Justice Room ("AJR"). Under her leadership, the DLSP has expanded its initiatives to improve access to justice while continuing its strong support of court self-help centers statewide. Ms. Daleiden recruited volunteer attorneys from the banking sector to help staff the Honolulu AJR and provided additional computer equipment when needed. As a member of the JFA committee, Ms. Daleiden helped oversee the implementation of the state's Justice for All projects that included the Community Navigator statewide training program and the launch of Hawaii's Legal Inter-Agency Roundtable. Finally, Ms. Daleiden has been instrumental in assisting Legal Aid with content development for the Legal Navigator Portal Project, an innovative online legal services portal that will increase access to justice by directing people with legal needs to the most appropriate forms of assistance.

Denise C. George

The Mediation Center of the Pacific ("MCP") honored Denise C. George for her commitment to serving as a mediator pro bono and generously dedicating hundreds of hours to mediating and assisting with the mentoring and training of new mediators through MCP. Since becoming a volunteer mediator for MCP in October 2016, Ms. George mediated 156 cases and spent approximately 500 hours in mediation. The majority of the cases mediated by Ms. George involve family situations, ranging from paternity and divorce to extended families meeting together to try to decide how to best care for their elderly relatives. In the fiscal year ended June 30, 2019, Ms. George mediated 74 cases and increased her involvement with MCP by also mediating on-site Paternity cases at Family Court in Kapolei. Ms. George also assists with trainings, and at MCP community outreach events including topics as varied as using mediation to resolve landlord tenant issues to elder issues.

Barbara Ritchie

The University of Hawai'i Elder Law Program's ("UHELP") honored Barbara Ritchie. Ms. Ritchie has been a UHELP board member and volunteer



for many years. For the past several years, she has also served as UHELP's liaison on the North Shore where she lives. When not volunteering for UHELP, she is an active member of the North Shore Chamber of Commerce Historic Preservation Committee. She regularly helps with UHELP's seminars and conferences at the law school and can be counted on to make elders feel comfortable and at ease. She always has time to listen to elders and other people with legal problems.

Gary Singh

Volunteer Legal Services of Hawaii ("VLSH") honored Gary Singh. Mr. Singh is one of VLSH's most active Pro Bono Attorneys volunteering his time on a regular basis at VLSH's Neighborhood Legal Clinics where he provides advice and counsel to family law clients and even taking on clients as full representation cases – all pro bono. Additionally, VLSH can always count on Mr. Singh to volunteer at VLSH's Pop Up Clinics where the clinic goes on the road to rural areas, from Waianae to Waimanalo on an early Saturday morning. Mr. Singh also served on the VLSH Board providing additional guidance to the organization and currently finishing his final term this year.

Access to Justice Self-Help Volunteers

Judge Melanie May recognized the individuals, law firms, and groups who volunteered at the Honolulu District Court Access to Justice Room including: Sergio Alcubilla, Cassie Bagay, William Bagasol, Justin Brackett, Bronster Fujichaku Robbins, Carlsmith Ball, Cades Schutte, Case Lombardi & Pettit, Chun Kerr LLP, Damon Key Leong Kupchak Hastert, Dentons US LLP, Joni Dominuges, Stacey Djou, Goodsill Anderson Quinn & Stifel, LLP, Arlette Harada, Hawaii Association for Justice, Hawaii Filipino Lawyers Association, Hawaii Women Lawyers, Walter Hebblethwaite, Marr Jones Wang, Miriah Holden, Nathaniel Higa, Daniel Kim, McCorriston Miller Mukai McKinnon LLP, Jae Park, Schlack Ito, Shannon Wack, Starn O'Toole Marcus & Fisher, Yamamoto Caliboso, Bryant Zane, and Eileen Zorc.

Judge Brian Costa recognized the individuals who volunteered at the Family Court Access to Justice Room including: Kevin Adaniya, Leslie Ching Allen, Dick Diehl, Mari Kishimoto Doi, Greg Frey, Noah Gibson, Seth Harris, Elizabeth Paek-Harris, Jill Hasegawa, Steve Hioki, Erin Kobayashi, Lynnae Lee, Elsa McGehee, Dyan Mitsuyama, John Montalbano, Mei Nakamoto, Gemma Poland-Soon, Ellen Politano, Tom Tanimoto, Jackie Thurston, Carol Tribbey, and Cheryl Yamaki.

Judge Rebecca Copeland recognized attorneys Daniel M. Gluck and David M. Raatz, Jr. for volunteering for the Pro Bono Appellate program.



The Family Court Access to Justice Room volunteers and the Pro Bono Appellate program volunteers received certificates from the commission signed by Chief Justice Recktenwald and the Commission Chair, Justice Simeon Acoba (Ret.).

The Essay Award Recipients

The Commission received 153 essays from public and private high school students throughout the State in grades 10 through 12 on the theme: *"How We Can Create and Inspire Change With Fifty Hours of Community Service Work."* In addition to the \$500 student awards, a \$100 award for educational purposes was given to a teacher named by the student awardee.

This year the contest was expanded to include separate awards for East and West Hawaii students for a total of seven awardees. The 2019 essay award recipients were: Maia Motta (Kamehameha – Kapalama), Kyler Arruda-Sukehira (Kapaa High School), Tyra Bailey (Konawaena High School); Cameron Wells (Christian Liberty Academy), Michelle Phan (Roosevelt High School), Natalie Dzubian (King Kekaulike High School), and Grace Chinen (Waipahu High School).

The preliminary judges for the contest included: Michelle Acosta, Judge Rhonda Loo, Tracy Jones, Roya Deyhim, Judge Darien Nagata, Jennifer Ng, Michelle Oishi, Judge William Domingo, Michael Schlueter, Judge Ann Isobe, Angela Kuo-Min, Judge Hilary Gangnes, Judge Randal Shintani, Max Kopper, Judge James Kawashima, Judge Rebecca Copeland, Micah Smith, Judge Michelle Comeau, Judge Thomas Haia, Daylin Heather, Judge Summer Kupau-Odo, Judge John Montalbano, Judge Kenneth Shimosono, Judge Sherri Iha, Judge Dyan Mitsuyama, Justine Herrera, and Jenny Silbiger.

The finalist judges of the essay contest were Chief Justice Recktenwald, Judge Michael Soong, and 2019 HSBA President Derek Kobayashi. They praised the high school students for their inspiring essays and for actively engaging in volunteerism. Each of the students received a cash award of \$500, donated by Porter McGuire Kaikona & Chow, Coates Frey Tanimoto & Gibson, AAL, LLC, Schlueter Kwiat & Kennedy LLP, Law Office of Jennifer D.K. Ng, LLC and Law Office of Michelle S.K. Oishi, LLC, Mitsuyama & Rebman, LLC, Goodsill Anderson Quinn & Stifel, LLP, and Ashford & Wriston.

The Commission is grateful to everyone who supported and participated in the 2019 Pro Bono Celebration. The event serves to inspire Hawaii's young people to volunteer, and it represents an important gesture of gratitude to the attorneys and individuals who generously donate their time to assist hundreds of people each year. Equally important, the celebration is a reminder of the importance of pro bono work and helping those in need. It is only through the



efforts of the many individuals who dedicate hundreds of hours of pro bono service, that Hawai'i continues to increase access to justice for all.

B. Second Circuit

During May 2019, the Maui County Bar Association sponsored an event to recognize the tireless efforts of the Second Circuit Self-Help Center volunteer attorneys and Volunteer Court Navigators. The event was combined with a valuable continuing legal education ("CLE") course on District Court practice in the Second Circuit. The District Court CLE was presented by the three Second Circuit District Court Judges, a Supervising District Court Clerk, the Second Circuit Maui Service Center, the Supervising Staff Attorney for the Maui Office of the Legal Aid Society of Hawai'i, and Maui Mediation Services.

The late Friday afternoon celebration and CLE was held at the spacious Cafe O'Lei Dunes Restaurant located at the Dunes at Maui Lani Golf Course before a packed house. The Maui County Bar Association planned an excellent dinner menu that was enjoyed by all in attendance.

Hawai'i Supreme Court Chief Justice Mark Recktenwald made a special trip to Maui to celebrate with and honor the dedicated efforts of the volunteer attorneys and Navigators. The attorneys who were present and were recognized included Benjamin Acob, Lauren Akitake, Magdalena Bajon, Caroline Belsom, Bevanne Bowers, David Cain, Liz Cuccia, Damir Kouliev, Megan Moniz, Gary Murai, Yukari Murakami, Judith Neustadter Naone, William Panell, Ben Pittenger, and Napoleon Taylor. Volunteer Court Navigators who were present and were recognized included Sandy Filipelli, Pam Lavarre, Linda Powley, Tori Renschen, Lani Scott, and Diane Sueno. Chief Justice Recktenwald presented certificates to all of these Maui Self-Help Center volunteer attorneys and Volunteer Court Navigators.

Benjamin Acoba and Caroline Belsom received special recognition as the two attorneys who amassed the greatest number of volunteer hours at the Self-Help Center during the previous year. Volunteer Court Navigators Pam Lavarre and Diane Sueno received special recognition as the Volunteer Court Navigators who volunteered during every Wailuku District Court civil court session during the previous year.

Chief Justice Recktenwald observed: "Every year we have thousands of people come into our courthouses across the state who are representing themselves in matters that can affect fundamental rights, such as whether they will be evicted from their apartment or whether they will have custody of their children after a divorce. Most of them don't know much about our legal system, what is expected of them or even where to go in the courthouse and what to do



when they arrive there. So, the question is this: How do we help these folks feel welcome and ensure that they can effectively tell their side of the story? That's where the self-help centers and navigators come in."

Chief Justice Recktenwald's appreciation for the work of the volunteers was well-deserved as these volunteers as well as other volunteers provided critical assistance to those in need during 2019.



In 2008, there was a call for volunteers to be members of the committees of the Hawaii Access to Justice Commission. I answered that call and along the way met selfless, bright, compassionate individuals who believe in the mission of the Commission of achieving equal access to civil justice for the low- and moderate-income Hawaii residents. We cannot do it alone.

Carol K. Muranaka
Hawai'i Access to Justice Commission Member



V. OTHER INITIATIVES TO INCREASE ACCESS TO JUSTICE

A. Unbundling Rules

The Self-Representation and Unbundling (“SRU”) Committee reconstituted its “Rule 1.2 Subcommittee” and developed a recommendation to the Commission in response to a letter received by the Commission in March 2017 from the Hawai'i Supreme Court. The letter, written by Staff Attorney Matthew Chapman, addressed the Commission's proposed amendments to the Hawai'i Rules of Civil Procedure, the Hawai'i Family Court Rules, and the District Rules of Civil Procedure to formalize the provision of unbundled, limited-scope representation to *pro se* litigants. After the close of the public comment period on September 19, 2016, followed by comments and further analysis by the Court, the Court requested that the Commission consider certain revisions and prepare additional related court forms. The Commission referred the Supreme Court's letter to the SRU Committee for a recommendation on a response.

In the March 2017 letter, the Court requested the SRU Committee to review further amendments to the Rules and accompanying forms and provide the Court with comments, insights, and additional information. The Court also requested that the SRU committee draft an “Objection to Withdrawal of Limited Appearance” form and a “Stipulation for Withdrawal of Limited Appearance” form, both of which had been mentioned in the proposed rules and forms though not previously provided. The Committee, after much discussion and deliberation, recommended an attorney be allowed to file a notice of withdrawal instead of a stipulation, followed by a deadline of fourteen days for the client to file an objection, if any. This resulted in a new “Notice of Withdrawal of Limited Appearance” form in addition to the “Objection to Notice of Withdrawal of Limited Appearance” form. The intent is that if the client does not file a timely objection, the withdrawal will be granted. Because of the SRU Committee's recommended change in procedure, a stipulation form was not drafted.

Because of the myriad revisions involved for all three sets of court rules, the SRU Committee decided that it would submit only its recommended amendments and accompanying forms for the District Court Rules of Civil Procedure. If the Commission and the Court found the revisions acceptable, the SRU Committee would then prepare matching amendments and forms for the Hawai'i Rules of Civil Procedure and the Hawai'i Family Court Rules.

The SRU Committee provided a draft of its response to the Court to the Commission for review prior to its October 2018 meeting. During that meeting, the response was approved by the Commission. On November 21, 2018, the



Proposal to Amend Rule 11 and to Adopt Rule 11.1 of the District Court Rules of Civil Procedure was submitted to the Hawai'i Supreme Court. Included in that transmission were a redline and clean copy of the Revised District Court Rules of Civil Procedure, proposed amended Rule 11 (Signing of Pleadings, Motions, and Other Papers; Sanctions) and proposed new Rule 11.1 (Limited Appearance and Withdrawal), a redline and clean copy of the further revised District Court forms "Agreement and Consent to Limited Representation" and Notice of Limited Appearance, and new forms "Notice of Withdrawal of Limited Appearance" and "Objection to Notice of Withdrawal of Limited Appearance."

Staff Attorney Chapman made minor revisions to the proposed rule amendments and forms with the SRU Committee's knowledge and approval. Because the revisions were minor, he also prepared conforming rules and similar forms for the Hawai'i Rules of Civil Procedure and the Hawai'i Family Court Rules.

The SRU Committee received a response from the Supreme Court on April 12, 2019 suggesting final proposed amendments and four finalized forms for appending to the amended rules. The letter, written by Staff Attorney Chapman, provided a deadline of June 12, 2019 for the Commission to submit further comments or inquiries regarding the materials.

On May 20, 2019, the Commission met and approved proposed revisions and inquiries, as recommended by the SRU Committee, to be transmitted back to Staff Attorney Chapman. On May 31, 2019, the Commission submitted a letter, detailing the recommendations of the SRU Committee, in response to the proposed rule amendments offered by the Supreme Court. Following the close of a public comment period, Staff Attorney Chapman notified Justice Acoba (Ret.) and SRU Committee Chair, Derek Kobayashi on September 17, 2019, that earlier that morning the Supreme Court entered three orders promulgating the rule changes and court forms to formally support and facilitate the provision of unbundled legal representation.

B. Hawai'i Appellate Pro Bono Project

The Hawai'i Appellate Pro Bono Project was initiated by the Access to Justice Commission and the Hawai'i State Bar Association Appellate Section. The Hawai'i appellate courts and Volunteer Legal Services Hawai'i ("VLSH") participated in a joint project that was begun in 2012. The co-chairs for the project were Rebecca Copeland of the Appellate Section and Dew Kaneshiro of VLSH who was succeeded at VLSH by Michelle Acosta. Other members of the project were Hawai'i Supreme Court Associate Justice Simeon Acoba (Ret.), Intermediate Court of Appeals Chief Judge Craig Nakamura, Brandon Segal, Audrey Stanley, Matthew P. Chapman, and Joshua Korr.



The purpose of the project was to match eligible pro se appellate litigants with volunteer appellate attorneys willing to provide pro bono services on appeal to the Intermediate Court and the Supreme Court. The project was formally adopted by the Hawai'i Supreme Court on August 7, 2015, and the program was subsequently made permanent. Under the program, Rebecca Copeland on behalf of the HSBA led the recruitment of attorneys and matched them to clients and VLSH determined eligibility and logistics for the potential clients. In December 2019, Ms. Copeland was appointed to the District Family Court of the First Circuit and was replaced by Christopher Leong and Lance Collins who now serve as the HSBA liaisons working with VLSH.

The Intermediate Appellate Project is focused on civil cases involving foreclosures, summary possessions, employment discrimination, worker's compensation, wrongful termination, denial of unemployment benefits, state tax appeals, probate matters, and paternity and non-married custody cases. The Project liaisons and Appellate Project working group are currently working on expanding the coverage areas and recruiting additional volunteer attorneys to assist at the Appellate and Supreme Court level. Participants must meet income level requirements and are responsible for any costs associated with the appeal, including filing, transcript, or other costs related to the preparation of the record on appeal and presentation of arguments to the appellate courts.

In 2019, eleven applications were submitted and qualified based on income/assets criteria and the subject area of the case. Two of the eleven were placed with volunteer attorneys – one case prevailed for the client and the other has a merit panel selected. Volunteer Attorney Daniel Gluck was a repeat volunteer attorney in 2019, taking his second appellate case with the Appellate Pro Bono Program.

Since the beginning, there have been a total of forty-five applications submitted, seventeen of which were qualified based on income/asset criteria and the subject area of the case. A total of seven cases have been heard and prevailed in all of them.

C. Hawai'i Online Pro Bono Project

Hawai'i's On-line Pro Bono ("HOP"), administered by VLSH was launched in October 2016. This initiative began as one of the projects initiated by the Committee on Initiatives to Enhance Civil Justice based on a model from Tennessee. This legal service platform is part of the American Bar Association Free Legal Answers Project. The goal of HOP is to provide an additional tool for individuals who cannot afford an attorney. Volunteer attorneys can log in at any time, choose a question, and then respond. This service is accessible from any computer, including public library computers.



Through HOP, users can register at Hawaii.FreeLegalAnswers.org and post a specific civil legal question. To qualify to use the service, users must meet income and asset qualifications. Once qualified, the user can post legal questions via an email format and upload any picture or document associated with the legal issue. Once posted, the question will be added to the bank of questions on the site, which can only be viewed by registered volunteer attorneys.

HOP is an opportunity for attorneys to provide limited assistance to those in need of legal guidance. The commitment is short-term, and there is no expectation for representation beyond the question-and-answer format. Volunteers are provided professional liability insurance through the American Bar Association for pro bono activities provided through HOP. HOP is intended to be an opportunity to engage more attorneys in providing pro bono services to those in need. The online format makes it easy for users and attorneys to connect with one another whenever and wherever it is most convenient for them.

In 2019, 80 attorneys were registered to respond to questions asked by users. During the year, these attorneys donated a total of 159 hours representing a value of these services of over \$39,750 (at an average hourly rate of \$250/hr.). While Honolulu had 55% of the users, 28% of the users were residents of the Big Island, with the users on that island representing the highest percentage of the population of the island compared to the user percentages of the population of each of the other islands. Twelve percent of the users were from Maui County, and 5% per cent from Kaua'i.

The largest percentage of inquiries (48%) consisted of questions related to family law, divorce, custody, and paternity. Private landlord-tenant issues were the next largest category (19%), followed closely by debt collections (17%), estate planning (6%), bankruptcy (4%), immigration (2%), and veteran benefits (1%), with all other questions accounting for less than 3% of the total inquiries.

D. Funding Initiatives to Increase Access to Justice

The Commission's commitment to increasing resources for funding legal service providers is led by its Committee on Funding of Civil Legal Services. Its Chair, Gary Slovin and his law partner, Mihoko Ito, have been at the forefront of legislative efforts to increase fiscal resources. Over the past decade funding has increased by several million dollars, flowing primarily from the Indigent Legal Assistance Fund ("ILAF") program. However, efforts are needed every year to ensure continuation of the funds for legal service providers.

With the increase in ILAF funding, the next hope was to initiate a program to raise funds in the private sector. However, it has not been possible to make



progress on securing private sector funding because of the need to work during every legislative session to monitor ILAF funding for legal service providers. Securing funding from the private sector is a definite need and efforts will continue to develop that source.

The Committee's Chair has also been involved in issues related to how government funded grants to legal service providers should be managed as well as supporting grants themselves. Those grants have averaged \$750,000. The committee has worked to increase the funding to \$2,000,000. While ILAF was maintained in 2017, the grant funding did not survive, despite the efforts of many to save the grants.

While not directly related to the committee agenda, the Chair had been involved with Dean Avi Soifer in an effort to secure help for the legal service providers through efforts to persuade the Legislature to pass legislation that would assist law graduates in paying off their student loans if they agreed to work for a legal service provider. That effort, to date, has been unsuccessful. However, there is precedent in a number of states for such a program in Hawai'i. The Committee Chair does not feel the effort should be abandoned, but a different approach may need to be pursued.



Initially I feared that our Access to Justice Commission would be just another “blue-ribbon panel.” Fortunately, I could not have been more wrong! Our Commission has proven instrumental in working for access to justice. The Commission has worked cooperatively with other segments of our legal community to make a positive movement towards essential fairness in our legal system.

Robert J. LeClair, Executive Director
Hawaii Justice Foundation



APPENDICES

- Appendix A: Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i*
- Appendix B: "The Hawai'i Renaissance in Access to Justice"
- Appendix C: Access to Justice Commission Highlights (2008-2018)
- Appendix D: Testimony in Support of SB 214 (providing parents' right to counsel in abuse and neglect/parental rights termination cases)
- Appendix E: Order Amending the District Court Rules of Civil Procedures (filed on September 17, 2019)
- Appendix F: Order Amending the Hawai'i Family Court Rules (filed on September 17, 2019)
- Appendix G: Order Amending the Hawai'i Rules of Civil Procedure (filed on September 17, 2019)

Rule 21 of the Rules of the Supreme Court of the State of Hawai‘i

Rule 21. ACCESS TO JUSTICE COMMISSION.

(a) Creation. There shall be a commission to be known as the Hawai‘i Access to Justice Commission (the “Commission”).

(b) Purpose. 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. To accomplish this, 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.
- (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.

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- (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) Membership.

- (1) NUMBER OF MEMBERS AND TERMS OF OFFICE. The Commission shall consist of 22 members, with staggered terms. The initial members (other than the chair and the four members appointed under subsection (3)(vii) below) shall draw their terms by lot so that five members shall serve a term ending on December 31 of the year of appointment, six shall serve a term ending on December 31 of the year following the year of appointment, and six shall serve a term ending on December 31 of the second year following the year of appointment. All subsequent appointments of such members (other than appointments to fill vacancies as described in subsection (2)) shall be for terms of three years or until his or her successor is appointed. Governmental representatives appointed under subsection (3)(vii) shall rotate by their terms of office or at the will of the appointing authority. Terms shall run on a calendar

year basis, except that a member shall continue to serve until his or her successor is duly appointed.

- (2) VACANCIES. A vacancy in the office of a member shall occur upon (i) the written resignation, death or permanent incapacity of such member, (ii) the determination by the applicable appointing authority that there has been a termination of a position held by such member that was the basis of such member's appointment to the Commission and that the appointing authority wishes to replace such member with a new appointee, or (iii) for such other cause as shall be specified in the bylaws, rules or written procedures of the Commission. Upon the occurrence of a vacancy, the appropriate appointing authority shall appoint a successor member to serve the remainder of the term of the vacating member.
- (3) APPOINTMENT OF MEMBERS. Members of the Commission shall be appointed as follows:
 - (i) The Chief Justice of the Supreme Court shall appoint five members to the Commission as follows: (A) the Chief Justice or a current or retired Associate Justice of the Supreme Court and (B) four other current or retired judges who the Chief Justice shall endeavor to appoint from different judicial circuits and to include at least one circuit court judge, one family court judge, and one district court judge.
 - (ii) The Hawai'i State Bar Association (the "HSBA") shall appoint four members to the Commission as follows: (A) two representatives of the HSBA, who may be officers, directors or the Executive Director of the HSBA; and (B) two active HSBA members who have demonstrated a commitment to and familiarity with access to justice issues in Hawai'i and who are not currently serving as an HSBA officer or director, one of whom shall be from a law firm of ten or more attorneys. At least one of the attorneys appointed by the HSBA shall be from an Island other than O'ahu.
 - (iii) The Hawai'i Consortium of Legal Services Providers (the "Consortium") shall appoint six members to the Commission as follows: (A) four representatives of Hawai'i nonprofit civil legal services providers; and (B) in consultation with the Chief Justice of the Supreme Court, two non-attorney public representatives not directly associated with any such provider who have demonstrated a commitment to and familiarity with access to justice issues in Hawai'i. The initial members of the Consortium shall be the American Civil Liberties Union Hawai'i, Domestic Violence Action Center, Hawai'i Disability Rights Center, Legal Aid Society of Hawai'i, Mediation Center of the Pacific, Na Loio, Native Hawaiian

Legal Corporation, University of Hawai'i Elder Law Program of the Richardson School of Law, and Volunteer Legal Services Hawai'i. Other civil legal services providers may be added to, and members may resign or be removed from, the Consortium as determined by the vote of a majority of the then members of the Consortium.

(iv) The Hawai'i Justice Foundation (the "Foundation") shall appoint one member to the Commission, who shall be an officer, director or the Executive Director of the Foundation.

(v) The Dean of the University of Hawai'i William S. Richardson School of Law shall appoint one member to the Commission, who may be the Dean.

(vi) The Hawai'i Paralegal Association shall appoint one member to the Commission, who shall be a paralegal with a demonstrated interest in equal access to justice.

(vii) The Governor of Hawai'i, the Attorney General of Hawai'i, the President of the Hawai'i Senate, and the Speaker of the Hawai'i House of Representatives shall each be entitled to serve on the Commission or to appoint one member, provided that any appointee of the Governor shall be drawn from the Executive branch of government, any appointee of the Attorney General shall be a Deputy Attorney General, any appointee of the President of the Senate shall be a state Senator, and any appointee of the Speaker of the House shall be a state Representative.

- (4) COMMUNITY WIDE REPRESENTATION. In making appointments, the appointing authorities shall take into account the effect of their appointments on achieving a Commission composed of members who are residents of different islands in Hawai'i and who reflect the diverse ethnic, economic, urban, and rural communities that exist in the Hawaiian Islands.

(d) Officers. The Chief Justice of the Supreme Court shall designate from among the members of the Commission a chair and a vice chair of the Commission. The chair, who shall be the Chief Justice or the Chief Justice's designee, shall serve an initial term of one year and thereafter shall be designated at such times as the Chief Justice shall determine. The vice chair shall be designated for a term of two years, provided that such term shall expire at any earlier date on which the term of the vice chair as a member of the Commission shall expire or be terminated. The Commission shall select such other officers as it deems necessary and useful. Terms of all officers shall run on a calendar year basis, except that an officer shall continue in office until his or her successor is duly designated or selected. Designations or selections to fill officer-vacancies shall be for the remainder of the term of the vacating officer.

(e) Bylaws, Rules and Procedures. The Commission may adopt bylaws, rules or operational procedures as it deems necessary for and consistent with Sections (c), (d) and (f) through (j) of this Rule.

(f) Committees and Task Forces. The Commission may create such committees and task forces, and appoint such committee and task force members, as it deems necessary or desirable to facilitate the work of the Commission. The Commission shall designate a chair of the committee or task force. The Commission may appoint to the committee or task force persons who are not members of the Commission. The role of committees and task forces shall be advisory, and they shall make such recommendations to the Commission as the members of such committees and task forces deem appropriate. Meetings of committees and task forces shall be at the call of the chair or at the call of at least 20% of the members of the committee or task force. A quorum consisting of not less than one-third of the then-appointed and serving members of a committee or task force shall be necessary at a duly called meeting to adopt a recommendation to the Commission.

(g) Meetings, Quorum, and Voting. The Commission shall meet at least quarterly and shall have additional meetings at the call of either the chair or at least seven members upon at least ten days prior notice. A quorum consisting of not less than one-third of the members of the Commission then in office shall be necessary to transact business and make decisions at a meeting of the Commission. On any votes taken at a meeting of the Commission, the chair shall vote only in the event of a tie.

(h) Staff and Funding Support. It is anticipated that staff and funding support for the Commission will be provided by a combination of private and public sources of financial and in-kind support.

(i) Recommendations. Any recommendations by the Commission shall be made in the name of the Commission only, and not in the name of the individual members or the institutions or entities they represent.

(j) Reports and Review.

(1) **ANNUAL REPORTS.** The Commission shall file with the Supreme Court an annual report describing its activities during the prior 12-month period and deliver a copy of the report to the Executive Director of the HSBA.

(2) **THREE-YEAR REVIEW.** Three years after the Commission holds its first meeting, the Supreme Court shall evaluate the progress made by the Commission toward the goal of substantially increasing access to justice in civil legal matters for low-income Hawai'i residents.

(Added April 24, 2008, effective May 1, 2008; further amended December 11, 2015, effective December 11, 2015.)

The Hawai‘i Renaissance in Access to Justice¹

by Hon. Simeon R. Acoba, Jr. (ret.)

The recent decade marked a renaissance in access to justice efforts. The movement was spurred by a 2007 report by the Access to Justice hui, a group comprised of representatives from the judiciary, the bar, the William S. Richardson School of Law, and spearheaded by legal service organizations. The report found that only one in five low- and moderate-income residents had his or her legal needs met and that legal service providers could assist only one in three persons who contacted them.² The report recommended ten action steps, the first of which was the establishment of an Access to Justice Commission (“Commission”).³ In response, the Hawai‘i Supreme Court adopted rules of the Supreme Court of Hawai‘i Rule 21, establishing the Commission on April 24, 2008. The rule became effective on May 1, 2008, the 50th anniversary of Law Day, and the Commission held its first meeting on July 23, 2008.

The purpose of the Commission is to “substantially increase access to justice in civil legal matters for low- and moderate-income “persons. RSCH Rule 21(b) (2008). Each of the three branches of government, the Hawaii State Bar Association (“HSBA”), the Consortium of Legal Service Providers, the William S. Richardson law school, the Hawaii Justice Foundation (a private fund-granting nonprofit corporation), the Hawai‘i attorney general, the Hawai‘i Paralegal Association, and the community at large were accorded representatives on the 22-member Commission. See RSCH rule 21(3), (4) (2008).

What is unique about the Commission from other prior attempts in Hawai‘i to advance civil legal assistance to those who are underserved is that it formally institutionalized an ideal—that justice must be extended to everyone notwithstanding economic, social, cultural, language, and other barriers to equal access to the civil law system. At its inception, the role of the Commission could not be predicted, but since its establishment many accomplishments⁴ have marked its existence.⁵

The Judiciary, under the leadership of Chief Justice Recktenwald, has taken a prominent national leadership role in promoting equal justice. In 2014, the Hawai‘i judicial system was ranked fourth in a “Justice index”⁶ based on a nationwide survey by the national center for Access to Justice. The report of the National Center for State Courts based the ranking on four categories: attorney access for low-income litigants; support of self-represented litigants; support for litigants with limited language proficiency; and support for people with disabilities.⁷ In a press release dated November 13, 2014, Chief Justice

APPENDIX B

Recktenwald noted that “[t]he 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.” In 2016, the Justice Index findings by the National Center ranked Hawai‘i, “[a]mong the top three states in the country for progress toward making access to justice a reality for all people.”⁸

In 2015, the National Conference of Chief Justices adopted Resolution 5, which committed the states to extending civil access to justice to 100% of those in need of services.⁹ In 2016 and in 2018, Hawai‘i was one of the states chosen by the National Center for State Courts to receive “Justice for All” (“JFA”) grants for creating and implementing a model plan to achieve the goal of Resolution 5. The Hawaii Justice Foundation, working in collaboration with the Judiciary and the Commission, was awarded the grants, which in total exceeded \$200,000. The implementation grant funded (i) a community navigator project using community leaders and other trusted persons to reach discrete communities that face access barriers because of ethnicity, culture, language, income, age, or geography; and (ii) a health and social services coordinator/roundtable project that seeks to align and to assist the coordination of public and private agency services through a roundtable structure.

The HSBA furnishes much of the volunteer assistance by lawyers that supports legal services for those in need. Under the aspirational tenets of the Hawai‘i Rules of Professional Conduct (“HRPC”) Rule 6.1, at least 25 hours of legal services without fee or expectation of a fee is recommended on behalf of “(1) persons of limited means; or (2) [needy] charitable, religious, civic, community, governmental and educational organizations.” While mandatory pro bono service is not required, RSCH rule 17(d)(1)(b) mandates each attorney to annually report his or her “hours of pro bono service and amount of related financial contributions.” It does not appear that pro bono records were kept prior to the mandated reporting, but following adoption of the rule, data posted on the HSBA website during April or May of each licensing year indicate that total pro bono hours contributed by the bar have ranged from 105,000 hours in 2003 to 200,000 in 2017, with an annual average contribution of over 173,000 hours over the 15-year period.

As noted in Hawaii’s December 2017 JFA grant application, there are ten primary legal service providers and five mediation centers that work across the state to provide civil legal services and mediation services.¹⁰ These entities have made significant strides in expanding assistance to those who are in need.¹¹ To note two examples, Volunteer Legal Services Hawai‘i has implemented broader services to reach low-income groups and those who face geographic barriers through the use of technology in the “Hawai‘i Online Pro bono – ABA (American Bar Association) Free Legal Answers” project.

In another groundbreaking example, Hawai'i was one of two states recently selected by the Legal Services Corporation and Microsoft Corporation to develop, through the Legal Aid Society of Hawai'i and the Judiciary,¹² a next-generation internet portal that will use inclusive design principles to help people understand and to resolve their civil legal problems. The project is intended to lay the foundation for portals in other states across the country. The impact of the Commission has been to heighten and to broaden awareness of the need for civil legal assistance for those underserved and to bring access to justice issues to the forefront. Under the Judiciary's leadership and in collaboration with the Commission, legal service providers, and the bar, access to justice considerations have become an integral part of practically every endeavor involving the law in Hawai'i and have had and continue to have a national impact.

¹ This article is part of an article ("Four Major Hawai'i Judicial Developments in the Last 50 Years") written by former Hawai'i Supreme Court Justice Simeon R. Acoba, Jr. for the King Kamehameha V Judiciary History Center and was published in the January 2019 issue of the Hawaii Bar Journal with the permission of the King Kamehameha V Judiciary History Center. This article expresses the personal views of the author and does not reflect his views in any other capacity.

² See "FAQs about the Commission" at Hawai'i Access to Justice commission ("Commission") pages on the Hawaii Justice foundation ("HJF") website at <http://www.Hawaiijustice.org/Hawai'i-access-to-justice-commission/faqs-about-the-commission> (visited on September 25, 2018).

³ See *id.*

⁴ Commission highlights over the last decade are listed in Appendix 2 of the December 2017 "Justice for All" ("JFA") report at "news and reports" on the Judiciary website at http://www.courts.state.hi.us/news_and_reports/news_and_reports (visited September 27, 2018). These highlights are also part of this posting.

⁵ On July 21, 2011, pursuant to the three-year review required by RSCH Rule 21(j)(2), the Hawai'i Supreme Court filed its evaluation stating that the

commission had made “concrete strides in a very difficult fiscal environment” resulting in “impressive and real progress in providing practical solutions to the ongoing challenge of improving access to the civil justice system.” Appendix B, 2011 annual report of the commission, pp. 17-18, Commission pages, HJF website <http://25shu2g61cw30sjn46t4k87by.wpengine.netdna-cdn.com/wp-content/uploads/2011/05/Appendix-B-to-annual-report-for-2011.pdf> (visited September 25, 2018).

⁶ Justice Index at <https://justiceindex.org/> (visited on September 28, 2018).

⁷ See “Justice for All Strategic Plan,” Commission pages at HJF <http://www.Hawaiijustice.org/hajc/justice-strategic-plan> (visited on September 28, 2018).

⁸ Hawai‘i State Judiciary Annual Report 2017, p.6 available at http://www.courts.state.hi.us/wp-content/uploads/2016/03/2017_Judiciary_Annual_Report.pdf (visited on September 28, 2018).

⁹ See “Justice for All Strategic Plan,” at the Commission pages, HJF website <http://www.Hawaiijustice.org/hajc/justice-strategic-plan> (visited on September 28, 2018).

¹⁰ The legal service providers include the American Civil Liberties Union of Hawai‘i, Business Law Corps, Domestic Violence Action Center, Hawai‘i Appleseed Center for Law and Economic Justice, Hawai‘i Disability Rights Center, Legal Aid Society of Hawai‘i, Native Hawaiian Legal Corporation, the University of Hawai‘i Elder Law Project and Medical Legal Partnership for Children, and Volunteer Legal Services Hawai‘i. The mediation centers include the Kauai Economic Opportunity Mediation Program, Ku‘ikahi Mediation Center, Maui Mediation Services, Mediation Center of the Pacific, and West Hawai‘i Mediation center.

¹¹ See Appendix 3 in December 2017 JFA report at “news and reports” at the Judiciary website at <http://www.courts.state.hi.us/newsandreports/> (visited on September 28, 2018).

¹² See Hawai‘i State Judiciary Annual Report 2017, p.9 available at http://www.courts.state.hi.us/wp-content/uploads/2016/03/2017_Judiciary_Annual_Report.pdf (visited on October 29, 2018).

HAWAI'I ACCESS TO JUSTICE COMMISSION HIGHLIGHTS: 2008-2009

1. In accordance with Rule 21 of the Rules of the Supreme Court of the State of Hawaii ("Supreme Court Rule 21"), the first Annual Report of the Hawai'i Access to Justice Commission ("Commission") summarizing the initial 18 months of the Commission's work was distributed in December 2009.
2. Over 200 people attended the first annual Hawai'i Access to Justice Conference, which was held on June 24, 2009 at the William S. Richardson School of Law, University of Hawaii. The featured speaker for the conference was Chief Justice John T. Broderick of the New Hampshire Supreme Court.
3. Facilitating the collaborative efforts of the legal service providers, the Commission supported the 2009 National Pro Bono Celebration at Tamarind Park in downtown Honolulu on Wednesday, October 28, 2009. The event was a celebration of and introduction to the Access to Justice legal service providers and pro bono opportunities.
4. Following the adoption of Rule 21 by the Hawai'i Supreme Court on May 1, 2008, the Commission was formed and held its first official meeting on July 23, 2008, chaired by Hawaii Supreme Court Associate Justice Simeon Acoba.
5. To carry out and facilitate its mission to substantially increase access to justice in civil legal matters for low- and moderate-income Hawai'i residents, the Commission created thirteen advisory committees as follows:
 - Administration Committee
 - Annual Report Committee
 - Staffing Committee
 - Committee on Funding of Civil Legal Services
 - Committee on Increasing Pro Bono Legal Services
 - Committee on Right to Counsel in Certain Civil Proceedings
 - Committee on Self-Representation and Unbundling
 - Committee on Maximizing Use of Available Resources
 - Committee on Overcoming Barriers to Access to Justice
 - Committee on Initiatives to Enhance Civil Justice
 - Committee on Education, Communications, and Conference Planning
 - Committee on Alleviating Poverty in Hawai'i

- Law School Liaison Committee
6. It was initially contemplated in the budget that a paid, part-time person would provide administrative help to the Commission, but due to the current economic crisis, the Commission decided that it would rely on the support of volunteers for all Commission activities.
 7. The Commission, through the Committee on Right to Counsel in Civil Proceedings, studied the civil right of counsel issue by examining the existing right-to-counsel statutes in Hawai'i and comparing them with statutes in other jurisdictions. The feasibility of a proposed model right-to-civil-counsel statute to address certain high priority basic needs such as shelter, sustenance, safety, health, and child custody was being studies.
 8. The Commission, through the Committee on Initiatives to Enhance Civil Justice, developed and approved a proposed foreclosure mediation program, which was subsequently approved by the Hawai'i Supreme Court. By order filed on September 29, 2009, the Court established a Foreclosure Mediation Pilot Project in the Third Circuit Court, effective November 1, 2009, to October 31, 2010. The pilot project provided that a Foreclosure Mediation Notice would be served along with the complaint and summons in residential foreclosure actions. The Foreclosure Mediation Notice provided that the party is allowed to participate in mediation under the pilot project if: (1) the party is the borrower or co-borrower, and (2) the party occupies the property as his/her primary residence. If a Foreclosure Mediation Request is filed within fifteen days after service of the notice with the complaint and summons, then the deadline to file and serve an answer to the complaint and to seek relief by dispositive motion would be suspended until further order of the court.
 9. The Commission, through the Committee on Funding Civil Legal Services, prepared resolutions for submission to the state legislature:
 - supporting the proposal to raise the jurisdiction of the small claims court, a division of the district court, from \$3,500 to \$7,000. This legislation amending Haw. Rev. Stat. § 633-27 would free judicial time and allow the pro se litigants greater and less expensive access to the legal system.
 - supporting funding for the indigent legal service recipients grants.
 - supporting an increase of the filing fee in civil cases, which monies are paid into the Indigent Legal Assistance Fund that, in turn, supports the legal services providers.

10. The Committee on Maximizing the Use of Available Resources sent surveys on July 9, 2009 and on September 21, 2009 to organizations providing legal services regarding their access to justice needs.
11. The Commission, through the Committee on Maximizing the Use of Available Resources, sought to review of the current framework of the delivery of civil legal services and facilitate concrete, workable improvements to the framework. In conducting this review, the Commission sought to ensure that:
 - there is an efficient and effective referral system of clients to the “right” program and among programs;
 - innovative methods of legal services delivery are explored and used;
 - new ways to utilize technology, including a centralized access to justice website, to meet current unmet legal needs are implemented where appropriate;
 - mediation and other alternative dispute resolution methods for resolving legal problems are utilized when appropriate; and
 - outreach efforts are coordinated among legal service providers as well as with social service providers, agencies and other organizations.
12. The Commission, through the Committee on Increasing Pro Bono Legal Services, studied the implementation of the following model policies: judicial pro bono policy; a corporate pro bono policy; a private law firm pro bono policy; and a government attorney pro bono policy. A proposal to amend Rule 3.7 of the Hawai‘i Revised Code of Judicial Conduct, to clarify participation in allowable pro bono activities by judges was posted for public comment on July 31, 2009, with a deadline of November 3, 2009 to submit comments. A model law firm pro bono policy was endorsed by the Hawaii State Bar Association (“HSBA”) board of directors on August 20, 2009.
13. The Commission supported a new Supreme Court Rule 22 that requires each active attorney in Hawai‘i to take three credits of approved mandatory continuing professional education, where one of the qualifying education topics was “access to justice.”
14. The Commission encouraged participation in Law Week and Law Day. Rule 6.1 of the Hawai‘i Rules of Professional Conduct Rule 6.1 of the Hawai‘i Rules of Professional Conduct embodies an aspirational goal that lawyers provide 50 hours of pro bono service annually, which would encompass participation in various pro bono activities as described in the rule. Representatives of the Commission visited with various law

firms and government offices to encourage their commitment to meet the goals of Rule 6.1. The following groups committed to striving to meet the requirements of Rule 6.1:

- Alston Hunt Floyd & Ing
- Ashford & Wriston
- Ayabe Chong Nishimoto Sia & Nakamura
- Cades Schutte
- Carlsmith Ball, LLP
- Chee & Markham
- Damon Key Leong Kupchak Hastert
- Goodsill Anderson Quinn & Stifel
- Hawai'i County Office of the Corporation Counsel
- Hawai'i County Office of the Prosecuting Attorney
- Hawai'i Disability Rights Center
- Henderson Gallagher & Kane
- Intermediate Court of Appeals
- Labor and Industrial Relations Appeals Board
- Maui County Department of the Corporation Counsel
- Office of the Federal Public Defender
- Office of the Public Defender, State of Hawai'i
- Schlack Ito Lockwood Piper & Elkind
- Law Office of Eric A. Seitz
- Starn O'Toole Marcus & Fisher

15. The Commission, through the Committee on Initiatives to Enhance Civil Justice, recommended that Comment [5] to the Rule 2.2 of the Hawai'i Revised Code of Judicial Conduct, which would permit a judge to sanction an attorney by ordering the attorney to perform pro bono legal services or to make a monetary contribution to a non-profit organization providing pro bono legal services. This amendment was posted for public comment on August 11, 2009, with a deadline of November 13, 2009 to submit comments.
16. The Commission, through the Committee on Initiatives to Enhance Civil Justice, examined projects that would benefit from an expanded role of paralegals, such as assisting in uncontested divorces where the parties are unrepresented by attorneys and guardian ad litem work.
17. The Commission, through the Committee on Self-Representation and Unbundling considered increasing the number of family law and bankruptcy clinics, conducting workshops on electronic resources and court forms, and approaching the Judiciary about securing physical space to provide pro bono services.

18. To inform the members of the bar, a total of 18 articles were published in the *Hawaii Bar Journal*, the official magazine of the HSBA, concerning critical issues concerning access to justice for people in Hawai'i.
19. To further inform members of the community, a supplement was published to *Pacific Business News* concerning the purpose and actions of the Commission.
20. Efforts were made to reach the general public through radio and television interviews with Commissioners.
21. The Chair of the Commission attended the Access to Justice Symposium at Stanford Law School on March 27, 2009, and the Chair and other members of the Committee attended the ABA-sponsored annual National Meeting of the State Access to Justice Chairs on May 16, 2009.

**HAWAI‘I ACCESS TO JUSTICE COMMISSION
HIGHLIGHTS: 2010**

1. In accordance with Supreme Court Rule 21, the Commission’s Annual Report for 2010 was distributed in May 2011.
2. Over 270 people attended the second Hawai‘i Access to Justice Conference, which was held on June 25, 2010 at the William S. Richardson School of Law, University of Hawaii. The theme of the conference was “Access to Justice: Is This A Promise We Can Keep?” The featured speaker for the conference was Family Court Judge Michael Town. The morning panels addressed issues related to meeting the needs of the underserved with attorneys willing to provide pro bono services, challenges in obtaining funding to improve access, and the need for Commission committees to generate additional momentum to address the tasks before them.
3. New Commission members were added, and Intermediate Court of Appeals Associate Judge Daniel R. Foley was designated as the succeeding Chair of the Commission in June 2010.
4. The thirteen committees gained momentum as they tackled the tasks outlined in Rule 21 with the Administration Committee continuing to provide administrative and logistical assistance to the Commission, its committees, and task forces.
5. In January 2010, the Committee on Overcoming Barriers to the Access of Justice convened the first roundtable discussion on linguistic and cultural barriers (“Roundtable”), to bring together three pillars within the legal community: the bar, the bench, and the Commission. The Roundtable participants included the Hawai‘i Supreme Court Committee on Equality and Access to the Courts; the Hawai‘i Supreme Court Committee on Court Interpreters and Language Access; Hawai‘i State Judiciary’s Office on Equality and Access to the Courts; HSBA Committee on Diversity, Equality and the Law; and the Commission’s Committee on Overcoming Barriers to Access to Justice.
6. On February 11, 2010, the Hawai‘i Supreme Court entered an order amending Rule 3.7(a) of the Hawai‘i Revised Code of Judicial Conduct to describe the pro bono activities that a judge may participate in.
7. In March 2010, the Commission approved the proposal for a new rule 1.16 to the Rules of the Supreme Court of Hawai‘i that would allow for limited admission of attorneys employed by non-profit civil legal service providers for a period of two years, with a possible extension of an additional two years.

8. In May 2010, the Commission recommended to the Hawai'i Supreme Court that Rule 23 of the Hawai'i Rules of Civil Procedure be amended to create a presumption that unclaimed funds in class action suits be distributed to non-profit organizations eligible to receive funding from the state Indigent Legal Assistance Fund. Public comment was sought, with a deadline for comments on September 8, 2010. Previously, Rule 23 was silent as to the distribution of such residual funds, leaving open the potential that those funds could be retained by the defendant. The Commission urged the Hawai'i Supreme Court to adopt the proposed amendment in order to prevent such a windfall for the defendant, as well as to provide increased funding to organizations that promote access to justice.
9. In July 2010, the Hawai'i Supreme Court adopted the comment [5] to Rule 2.2 of the Hawai'i Revised Code of Judicial Conduct allowing judges to impose a pro bono sanction.
10. In September 2010, the Commission recommended to the Hawai'i Supreme Court that Rule 6.1 of the Hawai'i Rules of Professional Conduct be amended to allow the substitution of a monetary contribution of \$500 in lieu of the recommended minimum of fifty hours of pro bono service hours per year.
11. Also in September 2010, the Commission recommended to the Hawai'i Supreme Court that Rule 6.5 of the Hawai'i Rules of Professional Conduct be adopted to allow lawyers working with a non-profit organization or the court to provide limited legal services, such as advice over a hotline or through a clinic to a client without the expectation of the creation of an attorney-client relationship, so long as the lawyer does not know of any conflict of interest.
12. The Commission was represented at the 2010 National Meeting of State Access to Justice Chairs. Information about the Commission's activities was provided during the peer state breakout groups.
13. An article was published in the December 2010 issue of the *Hawaii Bar Journal*, written by a Commissioner, addressing issues parents with a child with disabilities face in access to justice as they seek to obtain appropriate services for their child.
14. During 2010, the Commission's website became operational as a subpage of the Hawai'i Justice Foundation's website at <http://www.hawaiijustice.org>. (Prior to this, information about the Commission was located at the HSBA website.) The Commission

approved a website protocol whereby all content shall be approved first by the Commission through its Administration Committee.

15. The Commission approved the following definition of “access to justice” for mandatory continuing legal education (“MCPE”) purposes:

To qualify for MCPE credit, access to justice course topics should educate attorneys about equal access to justice, including barriers arising from biases against persons because of race, gender, economic status, creed, color, religion, national origin, disability, age, or sexual orientation, and should cover equal justice issues as they relate to the delivery of legal services to the low-income individuals in need. The annual Access to Justice Conference sponsored by the Hawaii Access to Justice Commission qualifies for MCPE credit. Additionally, substantive courses taught by non-profit entities such as the Legal Aid Society of Hawaii that require attorneys attending their course to commit to pro bono service also qualify for MCPE credit.

In November 2010, the Commission submitted a request to the HSBA Board of Continuing Legal Education to expand the definition of “access to justice” as described above.

16. On November 18, 2010, the Commission co-sponsored the Self-Help Center Conference with the HSBA Committee on the Delivery of Legal Services to the Public, Legal Aid Society of Hawaii, and Volunteer Legal Services Hawaii.

HAWAI'I ACCESS TO JUSTICE COMMISSION
HIGHLIGHTS: 2011

1. In accordance with Supreme Court Rule 21, the Commission's Annual Report for 2011 was distributed in May 2012.
2. The Commission sponsored the third Hawai'i Access to Justice Conference built on the theme, "Access to Justice: Pursuing a Noble and Necessary Purpose. Over 230 attendees attended the all-day conference at the William S. Richardson School of Law, University of Hawaii. Judge Lora Livingston, elected to the 261st District Court, Texas in 1999, presented a lively and thought-provoking speech titled, "The Fight for Equal Justice: Promoting Effective Strategies," filled with humor and specific suggestions about the necessary of leadership by judges and possible collaborative partnerships in the pursuit of equal justice. Judge Livingston was Chair of the ABA Commission on Interest on Lawyers Trust Accounts. The Commission's request to the HSBA to provide legal education credits for the attendance by Hawai'i attorneys was approved prior to the conference.
3. National Pro Bono Day was celebrated by the Commission on October 25, 2011 with the "Pro Bono Experiences and Ethical Considerations" workshop at the Hawai'i Supreme Court courtroom. Over 85 individuals attended the event, listening to a panel moderated by law professor Calvin Pang where attorneys, including Hawai'i Supreme Court Associate Justice Sabrina McKenna described how they had been personally rewarded by the experience of providing pro bono services. Six nonprofit legal service organizations provided a Legal Services Fair at the conclusion of the workshop: Domestic Violence Action Center, Legal Aid Society of Hawai'i, Mediation Center of the Pacific, Native Hawaii Legal Corporation, Volunteer Legal Services Hawai'i, and the Young Lawyers Division of the HSBA.
4. On January 27, 2011, the Hawai'i Supreme Court adopted an amendment to Haw.R.Civ.P. 23 to add a new subsection (f) that provides direction to parties and the trial court regarding the redistribution of residual funds in class action cases. The amended rule provides that it is within the discretion of the court to approve the timing and method of distribution of residual funds to entities, as agreed to by the parties, which may include nonprofit tax exempt organizations that provide legal services to indigent persons or to HJF (for distribution to one or more such organizations). The Commission created an ad hoc subcommittee to work on a communications plan to educate the Hawai'i legal community about the rule amendment. The subcommittee drafted a "cy pres toolkit" and other information to assist Hawai'i attorneys in state court class action lawsuits or other similar types of suits.

5. On February 24, 2011, the Hawai'i Supreme Court approved Rule 1.16 of the Rules of the Hawai'i Supreme Court to allow limited admission of attorneys employed by non-profit civil legal service providers for a period of two years, with a possible extension of another two years. This rule became effective on July 1, 2011.
6. On July 21, 2011, pursuant to Supreme Court Rule 21(j)(2), the Hawai'i Supreme Court filed its evaluation of the Commission. The Court acknowledged that the Commission made concrete strides in a difficult fiscal environment resulting in "impressive and real progress in providing practical solutions to the ongoing challenge of improving access to the civil justice system for low-income individuals in Hawai'i."
7. On October 7, 2011, the Kauai Self Help Center opened in the Kauai courthouse. It was open two days a week with volunteer attorneys covering one day and Americorps volunteers staffing the other day. It was intended that the days and hours would be expanded in 2012.
8. The Commission's Committee on Overcoming Barriers to the Access to Justice continued to sponsor meetings of the Roundtable to increase collaboration among the various state and judicial groups addressing linguistic and cultural barriers to services and to justice. These meetings were of increased importance in view of the U.S. Department of Justice Investigations into Hawai'i's compliance with Title IV, which requires state agencies in receipt of federal funds to comply with language access mandates.
9. On December 13, 2011, the Hawai'i Supreme Court amended Rule 6.1 of the Hawai'i Rules of Professional Conduct ("HRPC") to allow the substitution of an appropriate monetary contribution in lieu of the recommended minimum of 50 hours of pro bono service hours per year.
10. On December 13, 2011, the Hawai'i Supreme Court adopted HRPC Rule 6.5, which allowed lawyers working with a non-profit organization or the court to provide limited legal services, such as advice over a hotline or through a clinic to a client without the expectation of the creation of an attorney-client relationship (exempt from HPRC Rules 1.17 and 1.9(a)), so long as the lawyer does not know of any conflict of interest.
11. The Commission sent a letter of general support for federal funding of Hawai'i organizations that provide legal services to the indigent.
12. Through the Committee on Initiatives to Enhance Civil Justice, the Commission considered recommendations on further changes to the

Residential Foreclosure Mediation Initiative; support for the Hawai'i Street Law Project; and a Foreclosure Dispute Resolution proposal.

13. The Committee on Maximizing Use of Available Resources prepared a descriptive summary of the services provided by various legal services providers and dispute resolution centers.

HAWAI'I ACCESS TO JUSTICE COMMISSION
HIGHLIGHTS: 2012

1. In accordance with Supreme Court Rule 21, the Commission's Annual Report for 2012 was distributed in May 2013.
2. The Commission sponsored the fourth Hawai'i Access to Justice Conference on June 12, 2012, with the theme: "Justice in Jeopardy: Expanding Access to Justice in Challenging Economic Times. Almost 300 persons had the opportunity to hear Dean Martha L. Minow, Harvard Law School and Vice-Chair of the Legal Services Corporation share insights on the challenges for increasing access to justice. Two morning workshops presented at the conference were "Implicit Bias: An Obstacle to Access to Justice and "Strengths and Limitations of Pro Bono."
3. During the Pro Bono Celebration on October 23, 2012, outstanding pro bono attorneys were recognized. The honorees included Sean K. Clark, who was instrumental in the launch and implementation of the Business Law Corps, a new legal nonprofit entity; Blaine Rogers for his work in ensuring that low-income families had timely access to food stamps and for successfully arguing Sound v. Koller; Mariah Holden, for her contributions as a pro bono guardian ad litem; Charles H. Hurd, for his steadfast commitment as a mediator to assist parties in addressing a myriad of issues, particularly in the civil rights and elder arenas; Scott C. Suzuki, for his work with the elderly population; and, Gavin K. Doi, for the countless hours he devoted to Volunteer Legal Services Hawai'i.
4. In 2012, four self-help centers opened: in the Hilo courthouse in June; in the Honolulu District Court in August; in the Maui courthouse in August; and the Kapolei courthouse in December. The self-help centers are a collaboration of the Judiciary, the Commission, HSBA, Legal Aid Society of Hawaii, the AmeriCorps program, and the county bar associations.
5. The Commission sponsored community briefings to discuss the importance of equal access to justice, to describe the past and ongoing work of the Commission, to explain the resources available to the public, and to collect community input regarding the needs for increased access to justice for all. The first was held at the Parish of St. Clement on January 11, 2012. Another was held at the Windward Community College on May 9, 2012. The final one was held at the Wai'anae District Park on December 11, 2012.

6. The Commission approved the formation of a task force to work on an appellate pro bono project that would provide pro bono help in civil cases for indigent parties.
7. The Commission submitted a proposal to the Hawai'i Supreme Court for a statewide foreclosure mediation program.
8. The Commission approved the formation of the Pro Bono Initiative Task Force to plan events to highlight volunteer opportunities not only at the Access to Justice Room (self-help center) at the Honolulu District Court, but other opportunities with the various nonprofit legal service entities.
9. Under consideration by the Commission was a proposal to allow limited scope representation and amendments to HRPC Rule 1.2 that would allow the "objectives of the representation" to be limited if the client consents in writing after consultation. Additionally, there would be a new Rule 11.1 on the limited appearance and withdrawal of an attorney.
10. The Commission was examining a proposed amendment to Rule 1101 of the Hawai'i Rules of Evidence, which would provide that the rules of evidence would not apply where one or more parties was not represented by counsel in civil proceedings in the state district court or in family court.
11. The Commission applied for a Phase II grant from the ABA Access to Justice Commission Expansion Project for language services, which would include translation of informational brochures to meet the needs of limited English proficient individuals, seminars to educate attorneys about language access, and a conference for court, staff, and attorneys on implicit bias. A grant in the amount of \$20,000 was awarded to the Hawaii Justice Foundation on behalf of the Commission for the aforementioned three projects.
12. In April 2012, the Hawaii Bar Journal published an article based on Commission hearings entitled, "Access to Justice of Hawaii Migrants from Pacific Islands Associated with the United States."

**HAWAI'I ACCESS TO JUSTICE COMMISSION
HIGHLIGHTS: 2013**

1. In accordance with Supreme Court Rule 21, the Commission's Annual Report for 2013 was distributed in November 2014.
2. "Justice in Jeopardy: Expanding Access to Justice in Challenging Economic Times" was the theme of the fifth annual Hawai'i Access to Justice Conference attended by over 260 people. Professor Charles R. Lawrence, III, Centennial Professor at the William S. Richardson School of Law gave the keynote address on "Sustaining the Struggle for Justice: Remembering and Renewing Abolitionist Advocacy."
3. The annual Pro Bono Celebration, which recognized Hawaii's outstanding pro bono attorneys for 2013 was held on October 24, 2013 at the Hawai'i Supreme Court courtroom. This year's Pro Bono Celebration included an essay contest involving high school students. This year's essay theme was, "Meaningful Volunteering and What It Means to Me." Over 200 students from public and private schools across the state submitted essays for consideration.
4. On February 21, 2013, the Commission sponsored the Pro Bono Initiative Program designed to identify opportunities for lawyers and law firms to work with existing legal service organizations to expand pro bono services within the community. Over 150 attendees explored potential pro bono opportunities with Business Law Corps, Hawaii Disability Rights Center, Domestic Violence Action Center, Hawai'i Appleseed Center for Law and Economic Justice, Legal Aid Society of Hawai'i, Volunteer Legal Services of Hawai'i, Mediation Center of the Pacific, University of Hawai'i Elder Law Clinic.
5. In 2013, over 2,250 people received legal assistance through the self-help centers in each of the four judicial circuits in the state.
6. During the year, the Kona Court Self Help desk opened, allowing litigants to receive legal assistance from volunteer attorneys on civil and family court matters. Some litigants travelled from as far as Waikoloa and Kohala (approximately 30 miles away) to receive these services.
7. The Access to Justice Room in Honolulu District Court expanded its hours of operation. As a result, approximately 700 people received short-term legal advice from volunteer attorneys 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. The difference between the Access to Justice Rooms (at the Honolulu District

Court and the Kapolei Family Court) and the self-help centers on the neighbor islands is that the volunteer attorneys staffing the Access to Justice Rooms are able to provide legal advice. The neighbor island volunteer attorneys currently are only able to provide legal information.

8. The Access to Justice Room in Kapolei expanded its volunteer staffing by 50%. As a result, several hundred people received short-term legal advice from volunteer attorneys on family court matters.
9. In April 2013, Hawai'i Supreme Court Chief Justice Mark Recktenwald and Associate Justice and former Commission Chair Simeon Acoba attended the White House Forum on Increasing Access to Justice, a national event co-hosted by the Legal Services Corporation and the White House.
10. In November 2013, the Commission sponsored a community briefing at Farrington High. Hawai'i Supreme Court Chief Justice Mark E. Recktenwald and Associate Intermediate Court of Appeals Judge and Commission Chair Daniel R. Foley discussed the Judiciary's efforts toward improving access to the judicial system. Representatives from Volunteer Legal Services Hawai'i, Mediation Center of the Pacific, Hawai'i Disability Rights Center, Hawai'i Appleseed Center for Law and Economic Justice, and Legal Aid Society of Hawai'i gave presentations and met with interested individuals.
11. The Commission proposed that HRPC Rule 6.1, Pro Bono Service, and its commentary be amended to include "organizations in matters which are designed primarily to address the needs of persons of limited means" in the rule and to include in Comment [2] "the provision of legal advice or information under nonprofit or court-annexed programs such as court self-help centers and access to justice rooms which are designed primarily to serve persons of limited means." The proposed amendments were adopted in the HRPC, effective January 1, 2014.
12. The Commission completed the projects pursuant to the ABA expansion grant with (1) development of an interpreter request court form and a brochure explaining how to request an interpreter for limited English proficient court users in Hawai'i; (2) additional translated materials were prepared about the Kapolei Access to Justice Room; frequently asked divorce-related questions; and landlord-tenant law; (3) a three-hour seminar entitled "Working Effectively with Limited English Proficient Clients" was presented in Kona, Island of Hawai'i in the courtroom of Circuit Court Judge Ronald Ibarra, Commissioner, on August 5, 2013; (4) an all-day training session for all state judges on implicit bias occurred on November 1, 2013.

13. The Pro Bono Appellate Pilot Project was being developed by the Commission's Committee on Increasing Pro Bono Legal Services. Additional planning included further defining the role of the program for cases in the Intermediate Court of Appeals and expansion of the program in the Hawai'i Supreme Court.

HAWAI'I ACCESS TO JUSTICE COMMISSION HIGHLIGHTS: 2014

1. In accordance with Supreme Court Rule 21, the Commission's Annual Report for 2014 was distributed in March 2015.
2. "Meeting the Challenges to Equal Justice for All" was the theme of the sixth annual Hawai'i Access to Justice Conference, which drew 265 attendees on June 20, 2014. Legal Services Corporation President James J. Sandman gave the keynote address on "Rethinking Access to Justice." In redefining access to justice, there are two questions to ask, he said: Is it access? Is it justice?
3. Approximately 150 people attended the 2014 Pro Bono Celebration on October 23, 2014 in the Hawai'i Supreme Court Courtroom. A high school essay contest was also part of the celebration. Writing on the topic, "How to Inspire Others to Volunteer" approximately 280 students from public and private high schools across the state submitted essays for consideration by the Commission. Cash awards sponsored by local law firms and offices were presented to the essay award recipient from each island. The outstanding volunteers for 2014, all of whom were selected by the legal services providers, were recognized. Additionally, attorneys who volunteered to staff the Access to Justice Rooms at the Honolulu District Court and the Kapolei Family Court were honored.
4. In 2014, approximately 3,650 people received legal assistance through the self-help centers in each of the four judicial circuits in the state.
5. In 2014, the Commission partnered with other community organizations to bring legal services to Ka'u, a rural community on Hawai'i Island. The one-day Ka'u Legal Clinic was designed as a pilot for delivery of legal services to underserved rural communities, where scarce legal resources and limited transportation hinder access to legal services. Using a neighborhood legal clinic model, on-site and telephonic services were provided to over a dozen participants during a three-hour block, with follow-up services provided through Volunteer Legal Services of Hawai'i and the Native Hawaiian Legal Corporation.
6. The Commission continued its work on a proposal to allow limited scope representation. The proposals were discussed in workshops at the 2013 and 2014 Hawai'i Access to Justice Conferences. Discussion is ongoing.
7. The Commission continued its work on a pilot project that aims to match pro se appellate litigants with volunteer appellate attorneys. The project is modeled after similar programs in other jurisdictions, but has been tailored to meet the needs of litigants in Hawai'i. The project would

match eligible pro se appellate litigants with volunteer appellate attorneys willing to provide pro bono legal services.

8. During the 2014 legislative session, the Hawai`i State Senate requested that the Commission convene a working group to develop an educational loan repayment program for William S. Richardson School of Law graduates to expand opportunities to pursue public interest careers in Hawaii for the benefit of underserved communities.
9. The National Center for Access to Justice's ("NCAJ") created the "Justice Index" 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, self-representation, language assistance, and disability assistance. In 2014, Hawaii was ranked first in the nation for providing support to self-represented litigants and fourth overall by the NCAJ.
10. The Commission determined that its subpages at the Hawaii Justice Foundation website needed to 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 Hawaii Justice Foundation website because of lack of funding and administrative staff.

**HAWAI'I ACCESS TO JUSTICE COMMISSION
HIGHLIGHTS: 2015**

1. In accordance with Supreme Court Rule 21, the Commission's Annual Report for 2015 was distributed in December 2015.
2. The 2015 Hawai'i Access to Justice Conference, with the theme, "Narrowing the Justice Gap" was held on June 19, 2015 at the William S. Richardson School of Law, University of Hawai'i. Jonathan D. Asher, Executive Director, Colorado Legal Services was the keynote speaker. Approximately 260 people attended including 140 attorneys seeking continuing legal education credits for their attendance.
3. The Commission's Pro Bono Celebration on October 29, 2015 attracted more than 150 attendees. The program was held to recognize attorneys doing pro bono services and volunteer attorneys at the Access to Justice Rooms. A special feature of the celebration were the awards presented to high school student essay award recipients from each of the judicial circuits.
4. On January 20, 2015, Commissioner, Retired Associate Justice Simeon R. Acoba, Jr., appeared before the Senate Committee on Judiciary and Labor and the House Committee on Judiciary to provide information about the accomplishments of the Commission.
5. On August 7, 2015, the Hawai'i Supreme Court established a Hawai'i Appellate Pro Bono Pilot Project, effective on the filing of its order and expiring on July 1, 2017, unless extended or made permanent by order of the Court. This was the result of two years of work by the Commission's Committee on Increasing Pro Bono Legal Services.
5. The self-help centers continued to provide services in each judicial circuit, with collaborative support from the Commission, the various bar associations, the Judiciary, and practicing attorneys.
6. The Commission, pursuant to the Senate Concurrent Resolution No. 116, convened a working group to develop an educational loan repayment program for William S. Richardson School of Law graduates to encourage expanded opportunities to pursue public interest careers in Hawai'i for the benefit of underserved communities. The working group submitted a report to the Hawai'i legislature dated January 20, 2015, wherein it reached a consensus on several factors that would need to be included in a loan repayment assistance program and supported the adoption of legislation to establish such a program at an estimated initial cost of \$600,000. In addition, an incubator program was also considered that would assist recent law school graduates to develop group or solo

practices aimed at clients of modest means in key legal need areas in Hawai'i.

7. The Commission's Pro Bono Initiatives Task Force sought assistance from Central Pacific Bank ("CPB") to obtain volunteers for the Honolulu Access to Justice Room. The CPB embraced the idea, recruited counterparts at other major banks, and organized a training day for the attorneys. The group committed to staffing the Honolulu Access to Justice Room for the month of October 2015.
8. The Commission received copies of Senate Resolution No. 6 and House Resolution No. 12 from the Hawai'i legislature requesting that the Commission assemble a working group of interested governmental agencies and community entities to develop a plan for determining which agency or organization should administer funding for civil legal services. The recommendations of the working group identified the Judiciary as appropriate entity for administration of funding for civil legal services. The Commission forwarded the report to the Hawaii State Legislature.

HAWAI‘I ACCESS TO JUSTICE COMMISSION
HIGHLIGHTS: 2016

1. In accordance with Supreme Court Rule 21, the Commission’s Annual Report for 2016 was distributed in July 2017.
2. The 2016 Hawai‘i Access to Justice Conference with the theme “Pursuit of Meaningful Justice for All” was held on June 24, 2016 at the William S. Richardson School of Law, University of Hawai‘i. Approximately 250 people attended, including 96 attorneys seeking CLE credits for attendance. There were forty-one speakers or panelists. Former New York Courts Chief Judge Jonathan Lippman (ret.) was the keynote speaker.
3. The 2016 Pro Bono Celebration on October 27, 2016 in the Hawai‘i Supreme Court Courtroom attracted 140 attendees. The program was held to honor attorneys who volunteer at the Access to Justice Rooms and the attorneys who volunteer for the legal service providers. High school students who participated in the Commission’s essay contest and selected as the essay award recipients were also acknowledged at the event.
4. Hawai‘i Supreme Court Associate Justice Simeon Acoba (ret.) was appointed Chair of the Commission in 2016.
5. On February 29, 2016, the Commission members enjoyed an informal luncheon with the Justices of the Hawai‘i Supreme Court in the courtroom at Ali‘iolani Hale (Supreme Court building). The luncheon was a gracious gesture of appreciation by the Court and an opportunity to briefly discuss to discuss the work of the Commission with the Justices and with other Commissioners, outside of the usual official Commission meeting format.
6. The Justice Index’s “2016 Findings,” released by the National Center for Access to Justice at Fordham Law School, ranked Hawai‘i among the top three states in the country for practices aimed at making access to justice a reality for all people. The report measures the accessibility of each state’s justice system in four categories: attorney access to low-income litigants; support for self-represented litigants; support for litigants with limited language proficiency; and support for people with disabilities.
7. A summary report titled “Progress Toward Increasing Access to Justice and Summary of Unmet Civil Legal Needs Pursuant to Hawai‘i’s Supreme Court Rule 21(b)(14),” was prepared in early 2016. The report covered the period from May 1, 2008 through the end of 2015. It also identified

challenges and forecasts associated with the Commission's efforts on behalf of Hawai'i's low- and moderate-income people.

8. On March 28, 2016, the Commission submitted testimony in support of House Bill 2121, HD 3, SD 1, which passed the 2016 legislative session with a \$750,000 appropriation for the Judiciary's efforts on behalf of low- and moderate-income people for fiscal year 2016 - 2017. About \$600,000 of that amount maintained service contracts administered by the Judiciary.
9. In May 2016, the Court ruled in favor of the Appellate Pro Bono Pilot Project client in Gao v. State, the first case orally argued through the pilot project. In July 2016, the Commission's Committee on Increasing Pro Bono Legal Services submitted a one-year report to the Supreme Court, as required by the order that established the project. The Hawai'i Appellate Pro Bono Pilot Project was designed by a subcommittee of the Committee on Increasing Pro Bono Legal Services, to match eligible pro-se appellate litigants with volunteer appellate attorneys willing to provide pro bono legal services.
10. There was a strong Hawai'i contingent in attendance at the 2016 national ABA Equal Justice Conference from May 12 to 14, 2016 in Chicago. There were more than 85 sessions and pre-conference sessions covering a variety of topics from pro bono to language access.
11. Hawai'i was well represented at the 2016 National Meeting of State Access to Justice Chairs on May 13 and 14, 2016.
12. On June 14, 2016, Volunteer Legal Services Hawai'i and Legal Aid Society of Hawai'i received over \$100,000 each in cy pres funds from a local law firm.
13. At its October 2016 Commission meeting, the commissioners were introduced to the new legal service platform called Hawai'i Online Pro Bono ("HOP"). The new website, which is part of the American Bar Association Free Legal Answers project, was officially launched during National Pro Bono Week. Hawai'i joined over forty jurisdictions now participating in this virtual walk-in clinic concept.
14. The Commission continued to support efforts to promote limited representation or 'unbundled' legal services" and "unbundling as a way to meet currently unmet legal needs." Comments were provided to the Hawai'i Supreme Court on behalf of the Commission regarding proposed amendments to the pending rules for adoption.

15. The Commission's Task Force on Paralegals and Other Non-lawyers met regularly during 2016. The Task Force identified areas of greatest unmet need, and recommended the concurrent development of a court-sponsored volunteer Court Navigator program, a dedicated paralegal Tenant Advocate, and a regulated Licensed Paralegal Practitioner to help address substantiated unmet need in housing, family, domestic violence, consumer, health, public benefits, and special education areas. At its October 17, 2016 meeting, the Commission voted to "support the efforts of the Task Force and to send the Task Force report to the Supreme Court for its information and to await response from the Court.
16. The self-help centers were started by and continued to be a collaboration of the Hawai'i State Judiciary, the Commission, the HSBA (in particular, the Committee on the Delivery of Legal Services to the Public), Legal Aid, the AmeriCorps program, the county bar associations (East Hawai'i Bar Association, Kauai County Bar Association, Maui County Bar Association, West Hawai'i Bar Association), and the HSBA Family Law Section. There are now self-help centers in each courthouse in each state judicial circuit.
17. In November 2016, the National Center for State Courts and the Public Welfare Foundation announced that Hawai'i was one of the seven among the 25 applying states to be awarded a grant of nearly \$100,000 to support efforts to enhance access to justice for all of Hawai'i's citizens. The Justice for All grant was distributed in December 2016 and will be used over the course of twelve months to develop an inventory of resources, assessment of needs, and strategic action planning. A Justice for All Committee was formed by the Commission to facilitate the process.

HAWAI'I ACCESS TO JUSTICE COMMISSION HIGHLIGHTS: 2017

1. In accordance with Supreme Court Rule 21, the Commission's Annual Report for 2017 was distributed in May 2018.
2. The 2017 Hawai'i Access to Justice Conference with the theme "Fulfilling the Promise of Equal Justice" was held on Friday, June 16, 2017 at the William S. Richardson School of Law, University of Hawai'i. Approximately 260 people attended, including 118 attorneys seeking CLE credits for attendance. There were 42 speakers or panelists. Governor David Ige opened the Conference by praising the work of the Commission and encouraging the audience to participate in expanding access to justice. Kellye Y. Testy, former Toni Rembe Dean and Professor of Law at the University of Washington delivered her keynote address, "Just Innovations."
3. The 2017 Pro Bono Celebration on Thursday, October 26, 2017 in the Hawai'i Supreme Court Classroom honored ten outstanding persons, including nine attorneys, who volunteer for legal service providers, sixty-five attorneys, law firms, and groups who volunteer for the First Circuit District and Family Court Access to Justice Rooms, and six winners of the student essay/video contest.
4. Following the award of a Justice for All grant to Hawai'i, the Commission prepared a final report to the National Center for State Courts encompassing: (1) an inventory of existing access to justice resources, programs, and projects being undertaken by Hawaii's access to justice stakeholders, including Hawaii's Judiciary, Commission, the legislature, and legal service providers; (2) an assessment of Hawaii's access to justice needs based upon the Justice for All Committee community and network partner meetings undertaken during the court of the year; and (3) a strategic action plan comprising four key recommendations for Hawaii's access to justice partners to focus on.
5. In 2017, Hawaii's Online Pro Bono, administered by Volunteer Legal Services Hawai'i, successfully finished its first full year of services. A total of 226 questions were asked by qualified clients, who meet income and asset requirements, and answered by more than 60 volunteer attorneys. In total, 349 hours of professional services were provided with an estimated value exceeding \$83,000.
6. The Hawai'i Appellate Pro Bono Pilot Project, a joint project of a subcommittee of the Commission's Committee on Increasing Pro Bono Legal Services, the HSBA Appellate Section, and Hawai'i appellate courts,

proved to be a successful venue for increasing access to justice by matching eligible pro se appellate litigants with volunteer appellate attorneys willing to provide pro bono legal services to these individuals. The Hawai'i Supreme Court ordered that the pilot project be made permanent. The program is focused on civil cases involving foreclosures, summary possessions, employment discrimination, worker's compensation, wrongful termination, denial of unemployment benefits, state tax appeals, probate matters, and paternity and non-married custody cases.

7. In May 2017, the Commission approved the Task Force's proposal for a Volunteer Court Navigator program to be transmitted to the Hawai'i Supreme Court. The proposal presented a pilot program in the First Circuit (Oahu) and in the Second Circuit (Maui) to assist the self-represented litigants who are appearing in the District Courts on landlord-tenant, debt collection, and temporary restraining orders (non-family) cases. The project was modeled after the New York Court Navigator program, which has been successful. On November 3, 2017, the Hawai'i Supreme Court issued its orders establishing a Volunteer Court Navigator Pilot Program in the First and Second Circuits.
8. The Commission continued to support efforts to promote limited representation through unbundled legal services by working on proposed rule amendments that would allow such limited representation.
9. Hawai'i was well represented at the 2017 national ABA Equal Justice Conference and the 2017 National Meeting of State Access to Justice Chairs in May 2017 at Pittsburgh, Pennsylvania.
10. The self-help centers established in each state judicial circuit continued to provide legal information (and legal advice on Oahu) to unrepresented litigants.

HAWAI‘I ACCESS TO JUSTICE COMMISSION HIGHLIGHTS: 2018

1. In accordance with Supreme Court Rule 21, the Commission’s Annual Report for 2018 was distributed in May 2019.
2. The 2018 Hawai‘i Access to Justice Conference with the theme “Fighting for Access to Justice for All” was held on Friday, June 29, 2018 at the William S. Richardson School of Law, University of Hawai‘i. More than 300 people attended this tenth annual conference with keynote speaker Chief Judge Robert Katzmann of the Second Circuit, United States Court of Appeals, who presented an inspiring talk on “Addressing the Desperate Legal Needs of the Immigrant Poor.” The conference included 46 speakers or panelists.
3. The 2018 Pro Bono Celebration on Thursday, October 25, 2018 in the Hawai‘i Supreme Court Courtroom honored nine outstanding attorneys who volunteer for legal service providers, sixty-six attorneys, law firms, and groups who volunteer for the First Circuit District and Family Court Access to Justice Rooms and the Appellate Pro Bono Program, and six high school student essay/video contest winners.
4. A Justice for All Implementation Grant, administered through the National Center for State Courts, was awarded to Hawai‘i. Two projects were adopted under the grant: The Hawai‘i Legal Aid Interagency Roundtable Project and the Community Navigator Project. The Interagency Roundtable Project recruited a consultant and held planning meetings in 2018 with key stakeholders, scheduling the first meeting of the Roundtable for January 2019. The Community Navigator Project developed its curriculum and trained the first eight Community Navigators.
5. During the Kaua‘i pro bono celebration, the AmeriCorps Advocate was honored by Hawai‘i Supreme Court Chief Justice Mark Recktenwald. Her work with the Kaua‘i Self-Help Center for the past four years enabled the Center to be open five days a week in 2018.
6. Also, in 2018, Hawai‘i began developing the Legal Navigator initiative, hoping to create a scalable platform that can be adopted by other states. Also, many of the tools and processes the initiative is developing continue to serve as learning opportunities on how the use of technology can move the legal community towards the aspirational goal of 100 percent access to effective assistance for essential civil legal needs.

7. On November 20, 2018, based on a proposal submitted by the Commission, the Hawai'i Supreme Court issued an order establishing the Volunteer Court Navigator Pilot Program in the Second Circuit as a permanent program and issued another order extending the pilot program another year in the First Circuit. In the Second Circuit, 18 volunteer navigators were trained and were providing services at the Court.
8. In 2018, more than 70 attorneys registered to provide online pro bono services through the Hawai'i Online Pro Bono Program. A total of 281.1 hours was provided through this program to pro se clients across the state.
9. Under the Hawai'i Appellate Program, four cases have been heard; in all cases the clients prevailed.
10. The Commission submitted to the Hawai'i Supreme Court the Proposal to Amend Rule 11 and to Adopt Rule 11.1 of the District Court Rules of Civil Procedure ("DCRCP"), Hawai'i Rules of Civil Procedure, and the Hawai'i Family Court Rules. The Commission submitted the proposed amendments to Rule 11 and a proposed Rule 11.1 of the DCRCP and related forms.
11. The Self-Help Centers and Access to Justice Rooms continues to offer free consultations to meet the needs of self-represented litigants.
12. Hawai'i was well represented at the 2018 National Meeting of State Access to Justice Chairs on May 12, 2018 as well as at the 2018 Equal Justice Conference.



Hon. Simeon R. Acoba
Associate Justice (Ret.)
Hawai'i Supreme Court
Chair

Derek R. Kobayashi
Vice Chair

HAWAI'I ACCESS TO JUSTICE COMMISSION

Commissioners:

Hon. Edmund D. Acoba
Rep. Della Au Belatti
Katherine G.W. Bennett
Hon. Joseph E. Cardoza
Hon. Brian Costa

Rona Y. Fukumoto
Marie M. Gavigan
Victor Geminiani
Hon. Ronald Ibarra

M. Nalani Fujimori Kaina
Sen. Gilbert Keith-Agaran
Nanci Kreidman
Angela Kuo Min
Carol K. Muranaka

Diane T. Ono
Matthew Sagum
Gary M. Slovin
Dean Aviam Soifer
Joanna E. Sokolow

January 29, 2019

The Honorable Russell E. Ruderman, Chair
The Honorable Karl Rhoads, Vice Chair
Senate Committee on Human Services
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: SB 214

Hearing: January 30, 2019 at 2:45 p.m.

Testimony IN SUPPORT (written testimony only)

Dear Chair Ruderman, Vice Chair Cullen and members of the Senate Committee on Human Services:

I am writing on behalf of the Hawai'i Access to Justice Commission (the "ATJ Commission") to express the ATJ Commission's **support** for SB 214. As you may know, the ATJ Commission was established on May 1, 2008 by the enactment of Rule 21 of the Rules of the Supreme Court of the State of Hawai'i. Rule 21(b) expressly provides, "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."

Towards fulfilling this stated purpose, the ATJ Commission hereby expresses its support of SB 214, the intent of which is to ensure that our laws comport with the Hawai'i Supreme Court decision *In the Interest of T.M.*, 131 Haw. 419 (2014), wherein the Court held that under the due process clause of the Hawai'i State Constitution, indigent parents are guaranteed the right to court-appointed counsel in termination of parental rights proceedings. Enactment of SB 214 would serve the ATJ Commission's purpose of increasing access to justice in civil legal matters for low- and

APPENDIX D

The Honorable Russell E. Ruderman, Chair
The Honorable Karl Rhoads, Vice Chair
Senate Committee on Human Services
January 29, 2019
Page 2

moderate-income residents of Hawaii by ensuring the right to counsel to indigent legal parents in cases where their parental rights are in jeopardy.

Accordingly, the ATJ Commission submits this testimony in support of SB 214 and respectfully requests that your Committee give this measure its favorable consideration.

Sincerely,



Derek R. Kobayashi
Vice Chair
Hawai'i Access to Justice Commission

Cc: Hon. Simeon R. Acoba, Associate Justice, Hawaii Supreme Court (Ret.)
Chair
Hawai'i Access to Justice Commission

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IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Matter of the
DISTRICT COURT RULES OF CIVIL PROCEDURE

ORDER AMENDING THE DISTRICT
COURT RULES OF CIVIL PROCEDURE

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Rule 11 of the District Court Rules of Civil Procedure is amended and new Rule 11.1 of the District Court Rules of Civil Procedure is adopted, effective upon the filing of this order, as follows:

[NEW MATERIAL IS UNDERLINED]

**Rule 11. SIGNING OF PLEADINGS, MOTIONS, AND OTHER
PAPERS; SANCTIONS.**

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in that attorney's individual name, whose address shall be stated. Any document prepared by an attorney for an unrepresented party shall comply with Rule 11.1(c) of these Rules. A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer

APPENDIX E

under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by the signatory that the signatory has read the pleading, motion, or other paper; that to the best of the signatory's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

[NEW RULE]

Rule 11.1 LIMITED APPEARANCE AND WITHDRAWAL.

(a) Limited Appearance of Attorneys.

(1) An attorney providing limited representation to an unrepresented party as authorized by Rule 1.2 of the Hawai'i Rules of Professional Conduct may file with the court a "Notice of Limited Appearance," appended to these Rules, if the representation will include appearances in court. The attorney shall use the form appended to the Rules or a substantially similar document.

(2) An attorney may submit *in camera* an "Agreement and Consent to Limited Representation" by using the form appended to these Rules or a substantially similar document.

(3) An attorney who has filed a "Notice of Limited Appearance" and who later files a pleading or motion outside the scope of the limited representation shall be deemed to have amended the notice to extend to the filing of that pleading or motion.

(b) Termination of Limited Representation.

(1) An attorney who has made a limited representation appearance, has filed a "Notice of Limited Appearance" and has completed the agreed-upon services stated in an "Agreement and Consent to Limited Representation," may file a "Notice of Withdrawal of Limited Appearance" by using the form appended to these Rules or a substantially similar document.

(2) Any attorney who has filed a "Notice of Limited Appearance" and who seeks to withdraw prior to the completion of the agreed-upon services stated in the "Agreement and Consent to Limited Representation" shall file a motion for withdrawal of counsel pursuant to Rule 10.1 of the Rules of the District Courts of the State of Hawai'i.

(3) An attorney who provides limited representation that includes a court appearance but who has elected not to file a “Notice of Limited Appearance” shall file a motion for withdrawal of counsel pursuant to Rule 10.1 of the Rules of the District Courts of the State of Hawai‘i.

(4) A client who objects to the withdrawal of the client’s attorney under this Rule 11.1(b) may file an “Objection to Withdrawal of Limited Appearance” using the form appended to these Rules or a substantially similar document, and a hearing will be scheduled. The objection shall be filed within fourteen days of the date the attorney files the notice of withdrawal.

(5) In any hearing on a motion for withdrawal of counsel or an objection to withdrawal of limited appearance, the court shall consider the terms of any agreement for limited scope representation.

(c) Pleading Prepared for Unrepresented Party.

(1) When an attorney, regardless of whether a formal “Agreement and Consent to Limited Representation” has been entered into, provides limited representation to an unrepresented party by drafting a pleading, written motion, or other paper intended to be filed with the court, but the attorney has not agreed to appear in court or otherwise provide representation regarding that document, the attorney is not required to disclose the attorney’s name on that document. However, the first page of the document must conspicuously contain the following statement, “This document was prepared with the assistance of an attorney.” The unrepresented party must comply with this required disclosure.

If, however, a pleading, motion, or other paper is prepared by an attorney providing limited representation under the auspices of a program sponsored by a nonprofit organization, court, or government, the pleading, motion or other paper need not contain this statement.

(2) An attorney who provides limited representation as described in paragraph (c)(1), above, shall be deemed to have made the certifications set forth in Rule 11 of these Rules.

IT IS FURTHER ORDERED that Forms DC58, DC59, DC60, and DC61 are adopted, as attached hereto, and shall be appended to the District Court Rules of Civil Procedure, effective upon the filing of this order.

IT IS FURTHER ORDERED that the trial courts are authorized to insert circuit and court identifiers, appearance information, addresses, and contact information in the form and

to publish the form in print or electronic format for the
respective courts and circuits.

DATED: Honolulu, Hawai'i, September 17, 2019.

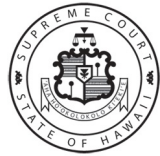
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson



Agreement and Consent to Limited Representation

In order to help you with your legal needs, you, _____, the client ("Client"), and _____, the attorney ("Attorney"), agree that Attorney will provide limited representation to help you with a specific legal matter for a short time or for a particular purpose.

Attorney must act in your best interest and give you competent help. It is important that you be aware, however, that even after Attorney and you agree that Attorney will provide limited help:

- Attorney DOES NOT HAVE TO GIVE MORE HELP in this limited representation than Attorney and you have agreed upon; and
- Attorney DOES NOT HAVE TO HELP WITH ANY OTHER PART of your legal matter.

In performing the limited legal services, Attorney:

- Is not promising any particular outcome; and
- Is relying entirely on your disclosure of facts and will not make any independent investigation unless such an investigation is expressly agreed to in writing in this document.

I, the Attorney, agree to help you by performing the limited services listed below and no other service, unless we revise this agreement in writing.

(Initial each applicable section)

_____ Preparation of Pleadings and Documents: Draft pleadings, motions and other documents. (If I am not appearing in court on your behalf, the pleadings, motions and other documents will conspicuously display the following statement: "This document was prepared with the assistance of an attorney.")

(Optional) List of documents: _____

_____ Court Appearance: I will appear in court for the limited purpose of: _____

_____ Discovery: Perform discovery by interrogatories, depositions, production of documents and/or request for admissions.

_____ Settlement: I will appear on your behalf to negotiate a settlement (i.e. mediation, settlement conference, etc.)

_____ Other: _____

Attorney will charge to Client the following costs: _____

Attorney will charge to Client the following fee for the limited legal representation: _____

CLIENT'S CONSENT

I have read this Agreement and Consent to Limited Representation and I understand it. I agree that the legal services listed above are the ONLY legal services to be provided by Attorney. I understand and agree that Attorney who is helping me with these services is not my attorney for any other purpose and does not have to give me more legal help. I agree to provide my cooperation to Attorney, including providing Attorney with sufficient information to responsibly provide the limited assistance I am seeking, and agree that failure to provide such cooperation may serve as a basis for Attorney to withdraw from this limited representation. I also understand Attorney will stop helping me when the services listed above have been completed. I have been informed of, and Attorney has explained to me, the material risks of and reasonably available alternatives to this proposed limited representation.

I understand that when the legal services listed above have been completed, Attorney may file a "Notice of Withdrawal of Limited Appearance" and must give me notice. I further understand that if I object to Attorney's withdrawal, I will have fourteen (14) days from the filing of this notice to file an "Objection to Notice of Withdrawal of Limited Appearance" in compliance with Rule 11.1(b) of the Hawai'i District Court Rules of Civil Procedure. Attorney may also file a motion to withdraw as counsel, in which case Attorney must provide me with notice to give me the opportunity to respond.

I understand that this Agreement and Consent to Limited Representation may be filed with the court "in camera," which means that it can only be viewed by the court.

In exchange for Attorney's limited representation, I agree to pay Attorney's fees and costs described above.

Signature of Client: _____

Printed name of Client: _____

The address I give below is my permanent address where I can be reached:

Client address: _____

Phone number: _____ FAX: _____

Message phone: _____

Name of individual with whom messages may be left: _____

Email address: _____

Attorney has reviewed this Agreement and agrees to the terms.

[Attorney's signature]

Date: _____

[Attorney's printed name]

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE _____ COURT OF THE _____ CIRCUIT
 _____ DIVISION
 STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
Plaintiff/Petitioner,	)	NOTICE OF LIMITED APPEARANCE
)	
vs.)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) enters a Notice of Limited Appearance
 for _____ ☐ Plaintiff/Petitioner ☐ Defendant/Respondent,
 pursuant to Rule 11.1 of the District Court Rules of Civil Procedure (“DCRCP”).

1. Attorney’s appearance in this matter shall be limited to the following matter(s):

☐ _____

☐ _____

☐ _____

☐ _____

☐ _____

2. A copy of the “Agreement and Consent to Limited Representation” or a substantially similar document between Attorney and Client may be submitted *in camera* to the court in compliance with Rule 9 of the Hawaii Court Records Rules.
3. Attorney is the attorney of record and available for service of process in accordance with DCRCP Rules 4 and 5 for all matters related to paragraph #1 above.
4. Attorney hereby notifies this court that Client can be contacted as follows:

Name: _____

Address: _____

Telephone: _____ FAX: _____

Email: _____

5. The attorney for opposing party [] may [] may not contact Client regarding matters not listed in paragraph #1 above without first consulting Attorney.
6. To terminate a limited scope representation either a “Notice of Withdrawal of Limited Appearance” or a motion to withdraw as counsel may be filed pursuant to DCRCP Rule 11.1(b). Client shall be provided with notice and an opportunity to object.
7. This accurately sets forth the scope of Attorney’s limited representation.

Date

Signature of Attorney

I have read and approve this notice:

Date

Signature of Client

The ORIGINAL of the foregoing is filed with the court.

COPIES of the foregoing were mailed/delivered this _____ day of _____, 20____, to:

The Honorable _____ *[can be presiding judge]*.

By: _____

Attorney for: _____

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE _____ COURT OF THE _____ CIRCUIT
 _____ DIVISION
 STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
Plaintiff/Petitioner,)	
	)	NOTICE OF WITHDRAWAL OF
vs.	)	LIMITED APPEARANCE;
	)	CERTIFICATE OF SERVICE
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF WITHDRAWAL OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) hereby files notice of Attorney’s withdrawal of limited appearance for Client _____ (“Client”) in the above-captioned matter. Client has 14 days from the filing of this notice to file an “Objection to the Withdrawal of Limited Appearance” pursuant to Rule 11.1(b)(4) of the District Court Rules of Civil Procedure.

DATED: _____, Hawai’i, _____.

 Attorney

OPTIONAL: Client consents to this withdrawal: _____
 [Signature of Client]

[attach proof of service upon the client here]

(FILING PARTY)

Name

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE _____ COURT OF THE _____ CIRCUIT
 _____ DIVISION
 STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
)	
Plaintiff/Petitioner,	)	OBJECTION TO WITHDRAWAL OF
	)	LIMITED APPEARANCE;
vs.	)	CERTIFICATE OF SERVICE
)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

OBJECTION TO WITHDRAWAL OF LIMITED APPEARANCE

Pursuant to Rule 11.1(b)(4) of the District Court Rules of Civil Procedure, Client
 _____ (“Client”) hereby objects to the Notice of Withdrawal of
 Limited Appearance of Attorney _____ (“Attorney”) filed on
 _____, because _____
 _____.

DATED: _____, Hawai‘i, _____.

 Client

A hearing on this matter shall be held on _____, in Courtroom _____, at
 _____ a.m./p.m.

Electronically Filed
Supreme Court
SCRU-11-0000582
17-SEP-2019
11:22 AM

SCRU-11-0000582

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
HAWAI‘I FAMILY COURT RULES

ORDER AMENDING THE HAWAI‘I FAMILY COURT RULES
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Rule 11 of the Hawai‘i Family Court Rules is amended and new Rule 11.1 of the Hawai‘i Family Court Rules is adopted, effective upon the filing of this order, as follows:

[NEW MATERIAL IS UNDERLINED]

Rule 11. SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS; SANCTIONS.

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney’s individual name, whose address shall be stated. Any document prepared by an attorney for an unrepresented party shall comply with Rule 11.1(c) of these Rules. A party who is not represented by an attorney shall sign the party’s pleading, motion, or other paper and state the party’s address. The name of the person signing the document shall be typed or hand-printed in block letters directly below the signature. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit or declaration. The rule in equity that the averments of an answer under oath must

APPENDIX F

be overcome by the testimony of 2 witnesses or of one witness sustained by corroborating circumstances is abolished. The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

[NEW RULE]

Rule 11.1 LIMITED APPEARANCE AND WITHDRAWAL.

(a) Limited Appearance of Attorneys.

(1) An attorney providing limited representation to an unrepresented party as authorized by Rule 1.2 of the Hawai'i Rules of Professional Conduct may file with the court a "Notice of Limited Appearance," appended to these Rules, if the representation will include appearances in court. The attorney shall use the form appended to the Rules or a substantially similar document.

(2) An attorney may submit *in camera* an "Agreement and Consent to Limited Representation" by using the form appended to these Rules or a substantially similar document.

(3) An attorney who has filed a "Notice of Limited Appearance" and who later files a pleading or motion outside the scope of the limited representation shall be deemed to have amended the notice to extend to the filing of that pleading or motion.

(b) Termination of Limited Representation.

(1) An attorney who has made a limited representation appearance, has filed a "Notice of Limited Appearance" and has completed the agreed-upon services stated in an "Agreement and Consent to Limited Representation," may file a "Notice of Withdrawal of Limited Appearance" by using the form appended to these Rules or a substantially similar document.

(2) Any attorney who has filed a "Notice of Limited Appearance" and who seeks to withdraw prior to the completion of the agreed-upon services stated in the "Agreement and Consent to Limited Representation" shall file a motion for withdrawal of counsel pursuant to Rule 25.1 of the Hawai'i Rules of Civil Procedure.

(3) An attorney who provides limited representation that includes a court appearance but who has elected not to file a “Notice of Limited Appearance” shall file a motion for withdrawal of counsel pursuant to Rule 25.1 of the Hawai‘i Rules of Civil Procedure.

(4) A client who objects to the withdrawal of the client’s attorney under this Rule 11.1(b) may file an “Objection to Withdrawal of Limited Appearance” using the form appended to these Rules or a substantially similar document, and a hearing will be scheduled. The objection shall be filed within fourteen days of the date the attorney files the notice of withdrawal.

(5) In any hearing on a motion for withdrawal of counsel or an objection to withdrawal of limited appearance, the court shall consider the terms of any agreement for limited scope representation.

(c) Pleading Prepared for Unrepresented Party.

(1) When an attorney, regardless of whether a formal “Agreement and Consent to Limited Representation” has been entered into, provides limited representation to an unrepresented party by drafting a pleading, written motion, or other paper intended to be filed with the court, but the attorney has not agreed to appear in court or otherwise provide representation regarding that document, the attorney is not required to disclose the attorney’s name on that document. However, the first page of the document must conspicuously contain the following statement, “This document was prepared with the assistance of an attorney.” The unrepresented party must comply with this required disclosure.

If, however, a pleading, motion, or other paper is prepared by an attorney providing limited representation under the auspices of a program sponsored by a nonprofit organization, court, or government, the pleading, motion or other paper need not contain this statement.

(2) An attorney who provides limited representation as described in paragraph (c)(1), above, shall be deemed to have made the certifications set forth in Rule 11 of these Rules.

IT IS FURTHER ORDERED that Forms 1, 1-A, 1-B, and 1-C are adopted, as attached hereto, and shall be appended to the Hawai‘i Family Court Rules, effective upon the filing of this order.

IT IS FURTHER ORDERED that the trial courts are authorized to insert circuit and court identifiers, appearance information, addresses, and contact information in the form and

to publish the form in print or electronic format for the
respective courts and circuits.

DATED: Honolulu, Hawai'i, September 17, 2019.

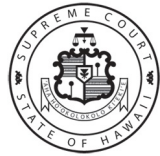
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson



Form 1. Agreement and Consent to Limited Representation.

Agreement and Consent to Limited Representation

In order to help you with your legal needs, you, _____, the client ("Client"), and _____, the attorney ("Attorney"), agree that Attorney will provide limited representation to help you with a specific legal matter for a short time or for a particular purpose.

Attorney must act in your best interest and give you competent help. It is important that you be aware, however, that even after Attorney and you agree that Attorney will provide limited help:

- Attorney DOES NOT HAVE TO GIVE MORE HELP in this limited representation than Attorney and you have agreed upon; and
- Attorney DOES NOT HAVE TO HELP WITH ANY OTHER PART of your legal matter.

In performing the limited legal services, Attorney:

- Is not promising any particular outcome; and
- Is relying entirely on your disclosure of facts and will not make any independent investigation unless such an investigation is expressly agreed to in writing in this document.

I, the Attorney, agree to help you by performing the limited services listed below and no other service, unless we revise this agreement in writing.

(Initial each applicable section)

_____ Preparation of Pleadings and Documents: Draft pleadings, motions and other documents. (If I am not appearing in court on your behalf, the pleadings, motions and other documents will conspicuously display the following statement: "This document was prepared with the assistance of an attorney.")

(Optional) List of documents: _____

_____ Court Appearance: I will appear in court for the limited purpose of: _____

_____ Discovery: Perform discovery by interrogatories, depositions, production of documents and/or request for admissions.

_____ Settlement: I will appear on your behalf to negotiate a settlement (i.e. mediation, settlement conference, etc.)

_____ Other: _____

Attorney will charge to Client the following costs: _____

Attorney will charge to Client the following fee for the limited legal representation: _____

CLIENT'S CONSENT

I have read this Agreement and Consent to Limited Representation and I understand it. I agree that the legal services listed above are the ONLY legal services to be provided by Attorney. I understand and agree that Attorney who is helping me with these services is not my attorney for any other purpose and does not have to give me more legal help. I agree to provide my cooperation to Attorney, including providing Attorney with sufficient information to responsibly provide the limited assistance I am seeking, and agree that failure to provide such cooperation may serve as a basis for Attorney to withdraw from this limited representation. I also understand Attorney will stop helping me when the services listed above have been completed. I have been informed of, and Attorney has explained to me, the material risks of and reasonably available alternatives to this proposed limited representation.

I understand that when the legal services listed above have been completed, Attorney may file a "Notice of Withdrawal of Limited Appearance" and must give me notice. I further understand that if I object to Attorney's withdrawal, I will have fourteen (14) days from the filing of this notice to file an "Objection to Notice of Withdrawal of Limited Appearance" in compliance with Rule 11.1(b) of the Hawai'i Family Court Rules. Attorney may also file a motion to withdraw as counsel, in which case Attorney must provide me with notice to give me the opportunity to respond.

I understand that this Agreement and Consent to Limited Representation may be filed with the court "in camera," which means that it can only be viewed by the court.

In exchange for Attorney's limited representation, I agree to pay Attorney's fees and costs described above.

Signature of Client: _____

Printed name of Client: _____

The address I give below is my permanent address where I can be reached:

Client address: _____

Phone number: _____ FAX: _____

Message phone: _____

Name of individual with whom messages may be left: _____

Email address: _____

Attorney has reviewed this Agreement and agrees to the terms.

[Attorney's signature]

Date: _____

[Attorney's printed name]

FORM 1-A. Notice of Limited Appearance.

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE FAMILY COURT OF THE _____ CIRCUIT

STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
)	
Plaintiff/Petitioner,	)	NOTICE OF LIMITED APPEARANCE
)	
vs.)	
)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) enters a Notice of Limited Appearance for _____ ☐ Plaintiff/Petitioner ☐ Defendant/Respondent, pursuant to Rule 11.1 of the Hawai‘i Family Court Rules (“HFCR”).

1. Attorney’s appearance in this matter shall be limited to the following matter(s):

☐ _____

☐ _____

☐ _____

☐ _____

☐ _____

2. A copy of the "Agreement and Consent to Limited Representation" or a substantially similar document between Attorney and Client may be submitted *in camera* to the court in compliance with Rule 9 of the Hawaii Court Records Rules.
3. Attorney is the attorney of record and available for service of process in accordance with HFCR Rules 4 and 5 for all matters related to paragraph #1 above.
4. Attorney hereby notifies this court that Client can be contacted as follows:

Name: _____

Address: _____

Telephone: _____ FAX: _____

Email: _____

5. The attorney for opposing party [] may [] may not contact Client regarding matters not listed in paragraph #1 above without first consulting Attorney.
6. To terminate a limited scope representation either a "Notice of Withdrawal of Limited Appearance" or a motion to withdraw as counsel may be filed pursuant to HFCR Rule 11.1(b). Client shall be provided with notice and an opportunity to object.
7. This accurately sets forth the scope of Attorney's limited representation.

Date

Signature of Attorney

I have read and approve this notice:

Date

Signature of Client

The ORIGINAL of the foregoing is filed with the court.

COPIES of the foregoing were mailed/delivered this _____ day of _____, 20____, to:

The Honorable _____ *[can be presiding judge]*.

By: _____

Attorney for: _____

FORM 1-B. Notice of Withdrawal of Limited Appearance.

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE FAMILY COURT OF THE _____ CIRCUIT

STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
)	
Plaintiff/Petitioner,	)	NOTICE OF WITHDRAWAL OF
	)	LIMITED APPEARANCE;
vs.	)	CERTIFICATE OF SERVICE
)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF WITHDRAWAL OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) hereby files notice of Attorney’s withdrawal of limited appearance for Client _____ (“Client”) in the above-captioned matter. Client has 14 days from the filing of this notice to file an “Objection to the Withdrawal of Limited Appearance” pursuant to Rule 11.1(b)(4) of the Hawai‘i Family Court Rules.

DATED: _____, Hawai‘i, _____.

Attorney

OPTIONAL: Client consents to this withdrawal: _____
[Signature of Client]

[attach proof of service upon the client here]

FORM 1-C. Objection to Withdrawal of Limited Appearance.

(FILING PARTY)

Name

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE FAMILY COURT OF THE _____ CIRCUIT

STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
)	
Plaintiff/Petitioner,	)	OBJECTION TO WITHDRAWAL OF
	)	LIMITED APPEARANCE;
vs.	)	CERTIFICATE OF SERVICE
)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

OBJECTION TO WITHDRAWAL OF LIMITED APPEARANCE

Pursuant to Rule 11.1(b)(4) of the Hawai'i Family Court Rules, Client _____
_____ ("Client") hereby objects to the Notice of Withdrawal of
Limited Appearance of Attorney _____ ("Attorney") filed on
_____, because _____
_____.

DATED: _____, Hawai'i, _____.

Client

A hearing on this matter shall be held on _____, in Courtroom _____, at
_____ a.m./p.m.

Electronically Filed
Supreme Court
SCRU-11-0000051
17-SEP-2019
10:57 AM

SCRU-11-0000051

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the

HAWAI‘I RULES OF CIVIL PROCEDURE

ORDER AMENDING THE HAWAI‘I RULES OF CIVIL PROCEDURE

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Rule 11 of the Hawai‘i Rules of Civil Procedure is amended and new Rule 11.1 of the Hawai‘i Rules of Civil Procedure is adopted, effective upon the filing of this order, as follows:

[NEW MATERIAL IS UNDERLINED]

Rule 11. SIGNING OF PLEADINGS, MOTIONS, AND OTHER PAPERS; REPRESENTATIONS TO THE COURT; SANCTIONS.

(a) Signature. Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Any document prepared by an attorney for an unrepresented party shall comply with Rule 11.1(c) of these Rules. Each paper shall state the signer's address and telephone number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken by the clerk unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

APPENDIX G

(c) **Sanctions.** If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(1) HOW INITIATED.

(A) *By Motion.* A motion for sanctions under this rule shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). It shall be served as provided in Rule 5 of these Rules, but shall not be filed with or presented to the court unless, within 21 days after service of the motion (or such other period as the court may prescribe), the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.

(d) **Inapplicability to discovery.** Subdivisions (a) through (c) of this [r]Rule do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to the provisions of Rules 26 through 37 of these Rules.

[NEW RULE]

Rule 11.1 LIMITED APPEARANCE AND WITHDRAWAL.

(a) Limited Appearance of Attorneys.

(1) An attorney providing limited representation to an unrepresented party as authorized by Rule 1.2 of the Hawai'i Rules of Professional Conduct may file with the court a "Notice of Limited Appearance," appended to these Rules, if the representation will include appearances in court. The attorney shall use the form appended to the Rules or a substantially similar document.

(2) An attorney may submit *in camera* an "Agreement and Consent to Limited Representation" by using the form appended to these Rules or a substantially similar document.

(3) An attorney who has filed a "Notice of Limited Appearance" and who later files a pleading or motion outside the scope of the limited representation shall be deemed to have amended the notice to extend to the filing of that pleading or motion.

(b) Termination of Limited Representation.

(1) An attorney who has made a limited representation appearance, has filed a "Notice of Limited Appearance" and has completed the agreed-upon services stated in an "Agreement and Consent to Limited Representation," may file a "Notice of Withdrawal of Limited Appearance" by using the form appended to these Rules or a substantially similar document.

(2) Any attorney who has filed a “Notice of Limited Appearance” and who seeks to withdraw prior to the completion of the agreed-upon services stated in the “Agreement and Consent to Limited Representation” shall file a motion for withdrawal of counsel pursuant to Rule 25.1 of these Rules.

(3) An attorney who provides limited representation that includes a court appearance but who has elected not to file a “Notice of Limited Appearance” shall file a motion for withdrawal of counsel pursuant to Rule 25.1 of these Rules.

(4) A client who objects to the withdrawal of the client’s attorney under this Rule 11.1(b) may file an “Objection to Withdrawal of Limited Appearance” using the form appended to these Rules or a substantially similar document, and a hearing will be scheduled. The objection shall be filed within fourteen days of the date the attorney files the notice of withdrawal.

(5) In any hearing on a motion for withdrawal of counsel or an objection to withdrawal of limited appearance, the court shall consider the terms of any agreement for limited scope representation.

(c) Pleading Prepared for Unrepresented Party.

(1) When an attorney, regardless of whether a formal “Agreement and Consent to Limited Representation” has been entered into, provides limited representation to an unrepresented party by drafting a pleading, written motion, or other paper intended to be filed with the court, but the attorney has not agreed to appear in court or otherwise provide representation regarding that document, the attorney is not required to disclose the attorney’s name on that document.

However, the first page of the document must conspicuously contain the following statement, “This document was prepared with the assistance of an attorney.” The unrepresented party must comply with this required disclosure.

If, however, a pleading, motion, or other paper is prepared by an attorney providing limited representation under the auspices of a program sponsored by a nonprofit organization, court, or government, the pleading, motion or other paper need not contain this statement.

(2) An attorney who provides limited representation as described in paragraph (c)(1), above, shall be deemed to have made the certifications set forth in Rule 11 of these Rules.

IT IS FURTHER ORDERED that Forms 32, 32-A, 32-B, and 32-C are adopted, as attached hereto, and shall be appended to the Hawai‘i Rules of Civil Procedure, effective upon the filing of this order.

IT IS FURTHER ORDERED that the trial courts are authorized to insert circuit and court identifiers, appearance

information, addresses, and contact information in the form and to publish the form in print or electronic format for the respective courts and circuits.

DATED: Honolulu, Hawai'i, September 17, 2019.

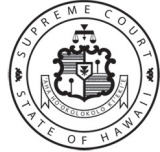
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson



Agreement and Consent to Limited Representation

In order to help you with your legal needs, you, _____, the client ("Client"), and _____, the attorney ("Attorney"), agree that Attorney will provide limited representation to help you with a specific legal matter for a short time or for a particular purpose.

Attorney must act in your best interest and give you competent help. It is important that you be aware, however, that even after Attorney and you agree that Attorney will provide limited help:

- Attorney DOES NOT HAVE TO GIVE MORE HELP in this limited representation than Attorney and you have agreed upon; and
- Attorney DOES NOT HAVE TO HELP WITH ANY OTHER PART of your legal matter.

In performing the limited legal services, Attorney:

- Is not promising any particular outcome; and
- Is relying entirely on your disclosure of facts and will not make any independent investigation unless such an investigation is expressly agreed to in writing in this document.

I, the Attorney, agree to help you by performing the limited services listed below and no other service, unless we revise this agreement in writing.

(Initial each applicable section)

_____ Preparation of Pleadings and Documents: Draft pleadings, motions and other documents. (If I am not appearing in court on your behalf, the pleadings, motions and other documents will conspicuously display the following statement: "This document was prepared with the assistance of an attorney.")

(Optional) List of documents: _____

_____ Court Appearance: I will appear in court for the limited purpose of: _____

_____ Discovery: Perform discovery by interrogatories, depositions, production of documents and/or request for admissions.

_____ Settlement: I will appear on your behalf to negotiate a settlement (i.e. mediation, settlement conference, etc.)

_____ Other: _____

Attorney will charge to Client the following costs: _____

Attorney will charge to Client the following fee for the limited legal representation: _____

CLIENT'S CONSENT

I have read this Agreement and Consent to Limited Representation and I understand it. I agree that the legal services listed above are the ONLY legal services to be provided by Attorney. I understand and agree that Attorney who is helping me with these services is not my attorney for any other purpose and does not have to give me more legal help. I agree to provide my cooperation to Attorney, including providing Attorney with sufficient information to responsibly provide the limited assistance I am seeking, and agree that failure to provide such cooperation may serve as a basis for Attorney to withdraw from this limited representation. I also understand Attorney will stop helping me when the services listed above have been completed. I have been informed of, and Attorney has explained to me, the material risks of and reasonably available alternatives to this proposed limited representation.

I understand that when the legal services listed above have been completed, Attorney may file a "Notice of Withdrawal of Limited Appearance" and must give me notice. I further understand that if I object to Attorney's withdrawal, I will have fourteen (14) days from the filing of this notice to file an "Objection to Notice of Withdrawal of Limited Appearance" in compliance with Rule 11.1(b) of the Hawai'i Rules of Civil Procedure. Attorney may also file a motion to withdraw as counsel, in which case Attorney must provide me with notice to give me the opportunity to respond.

I understand that this Agreement and Consent to Limited Representation may be filed with the court "in camera," which means that it can only be viewed by the court.

In exchange for Attorney's limited representation, I agree to pay Attorney's fees and costs described above.

Signature of Client: _____

Printed name of Client: _____

The address I give below is my permanent address where I can be reached:

Client address: _____

Phone number: _____ FAX: _____

Message phone: _____

Name of individual with whom messages may be left: _____

Email address: _____

Attorney has reviewed this Agreement and agrees to the terms.

[Attorney's signature]

Date: _____

[Attorney's printed name]

Form 32-A. Notice of Limited Appearance.

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE CIRCUIT COURT OF THE _____ CIRCUIT

STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
)	
Plaintiff/Petitioner,	)	NOTICE OF LIMITED APPEARANCE
)	
vs.)	
)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) enters a Notice of Limited Appearance
for _____ ☐ Plaintiff/Petitioner ☐ Defendant/Respondent,
pursuant to Rule 11.1 of the Hawai‘i Rules of Civil Procedure (“HRCP”).

1. Attorney’s appearance in this matter shall be limited to the following matter(s):

- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

2. A copy of the “Agreement and Consent to Limited Representation” or a substantially similar document between Attorney and Client may be submitted *in camera* to the court in compliance with Rule 9 of the Hawaii Court Records Rules.
3. Attorney is the attorney of record and available for service of process in accordance with HRCF Rules 4 and 5 for all matters related to paragraph #1 above.
4. Attorney hereby notifies this court that Client can be contacted as follows:
- Name: _____
- Address: _____
- Telephone: _____ FAX: _____
- Email: _____
5. The attorney for opposing party [] may [] may not contact Client regarding matters not listed in paragraph #1 above without first consulting Attorney.
6. To terminate a limited scope representation either a “Notice of Withdrawal of Limited Appearance” or a motion to withdraw as counsel may be filed pursuant to HRCF Rule 11.1(b). Client shall be provided with notice and an opportunity to object.
7. This accurately sets forth the scope of Attorney’s limited representation.

Date

Signature of Attorney

I have read and approve this notice:

Date

Signature of Client

The ORIGINAL of the foregoing is filed with the court.

COPIES of the foregoing were mailed/delivered this _____ day of _____, 20____, to:

The Honorable _____ *[can be presiding judge]*.

By: _____

Attorney for: _____

Form 32-B. Notice of Withdrawal of Limited Appearance.

(FILING PARTY)

Name & Attorney Number

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE CIRCUIT COURT OF THE _____ CIRCUIT

STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
)	
Plaintiff/Petitioner,	)	NOTICE OF WITHDRAWAL OF
	)	LIMITED APPEARANCE;
vs.	)	CERTIFICATE OF SERVICE
)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

NOTICE OF WITHDRAWAL OF LIMITED APPEARANCE

Attorney _____ (“Attorney”) hereby files notice of Attorney’s withdrawal of limited appearance for Client _____ (“Client”) in the above-captioned matter. Client has 14 days from the filing of this notice to file an “Objection to the Withdrawal of Limited Appearance” pursuant to Rule 11.1(b)(4) of the Hawai‘i Rules of Civil Procedure.

DATED: _____, Hawai‘i, _____.

Attorney

OPTIONAL: Client consents to this withdrawal: _____

[Signature of Client]

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[attach proof of service upon the client here]

Form 32-C. Objection to Withdrawal of Limited Appearance.

(FILING PARTY)

Name

Mailing Address

Phone Number

Email Address

Representing _____

☐ Plaintiff/Petitioner ☐ Defendant/Respondent

IN THE CIRCUIT COURT OF THE _____ CIRCUIT

STATE OF HAWAII

_____	)	CIVIL NO. _____
)	
)	
Plaintiff/Petitioner,	)	OBJECTION TO WITHDRAWAL OF
	)	LIMITED APPEARANCE;
vs.	)	CERTIFICATE OF SERVICE
)	
)	
_____)	
)	
Defendant/Respondent.)	
_____	)	JUDGE: _____

OBJECTION TO WITHDRAWAL OF LIMITED APPEARANCE

Pursuant to Rule 11.1(b)(4) of the Hawai'i Rules of Civil Procedure, Client _____
_____ ("Client") hereby objects to the
Notice of Withdrawal of Limited Appearance of Attorney _____
("Attorney") filed on _____, because _____
_____.

DATED: _____, Hawai'i, _____.

Client

A hearing on this matter shall be held on _____, in Courtroom _____, at
_____ a.m./p.m.