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**HAWAI'I
ACCESS TO JUSTICE COMMISSION**

ANNUAL REPORT FOR 2022



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I. HAWAI'I ACCESS TO JUSTICE COMMISSION

This report highlights the Hawai'i Access to Justice Commission's ("Commission") activities in 2022.

A. Commissioners

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

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

The Commissioners who served in 2022 are listed on the next page.



	Name	Appointed By	Term Ends
1.	Hon. Joseph E. Cardoza (Ret.) (Chair)	Chief Justice	12/31/23
2.	Hon. Todd W. Eddins	Chief Justice	12/31/24
3.	Hon. Brian A. Costa	Chief Justice	12/31/24
4.	Hon. Ronald Ibarra (Ret.)	Chief Justice	12/31/24
5.	Hon. Michael K. Soong	Chief Justice	12/31/24
6.	Derek R. Kobayashi (Vice Chair)	Hawai'i State Bar Association	12/31/22
7.	Christine Daleiden	Hawai'i State Bar Association	12/31/23
8.	Joanna E. Sokolow	Hawai'i State Bar Association	12/31/22
9.	Carol K. Muranaka	Hawai'i State Bar Association	12/31/23
10.	Rachel Figueroa (Volunteer Legal Services of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/22
11.	M. Nalani Fujimori Kaina (Legal Aid Society of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/24
12.	Nanci Kreidman (Domestic Action Violence Center)	Hawai'i Consortium of Legal Services Providers	12/31/22
13.	Raymond Kong (Lawyers for Equal Justice)	Hawai'i Consortium of Legal Services Providers	12/31/22
14.	Heather Lusk (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with the Chief Justice	12/31/24
15.	Rona Fukumoto (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with the Chief Justice	12/31/23
16.	Mihoko Ito	Hawaii Justice Foundation	12/31/22
17.	Dean Aviam Soifer (Ret.)	William S. Richardson School of Law	12/31/22
18.	Kalen Sato	Hawai'i Paralegal Association	12/31/22
19.	Diane T. Ono	Governor	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



B. Committees

Rule 21(f) of the Rules of the Hawai'i Supreme Court provides that the Commission may create such committees as it deems necessary or desirable to facilitate the work of the Commission.

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.

The Administration Committee provides the following functions:

- 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.
- Prepares the annual report of the activities of the Commission for filing with the Hawai'i Supreme Court in accordance with Supreme Court Rule 21(j)(1).

During 2022, the members of this committee were Judge Joseph E. Cardoza (Ret.)(Chair), Judge Brian Costa, Christine Daleiden, Judge Jill Hasegawa, Derek Kobayashi, Carol K. Muranaka, Judge Joanna Sokolow, Judge Michael Soong, and Tracey Wiltgen.

Earlier in the year, Rona Fukumoto, one of the commissioners, who was the former Chair of the Annual Report Committee, assisted in photocopying and distribution of the Commission's Annual Report for 2021 that was approved by the Commission in January 2022 and filed with the Hawai'i Supreme Court on February 1, 2022.

The initial charters for the subject matter committees are drawn largely from two sources—the fourteen purposes of the Commission set forth in Supreme Court Rule 21 and the action steps proposed by the Hawai'i Access to Justice Hui in its "Community Wide Action Plan To Increase Access to Justice in Hawai'i by 2010" (the "Community Wide Action Plan"). The Community Wide



Action Plan grew out of “The 2007 Assessment of Civil Legal Needs and Barriers of Low- and Moderate-Income People in Hawai'i,” and both the Assessment and the Action Plan are included in the Report provided to each Commissioner entitled “Achieving Access to Justice for Hawai'i's People” (the “Report”).

The subject matter committees are listed below:

1. Committee on Education, Communications and Conference Planning

Action Step 9(d) of the Community Wide Action Plan stated as follows:

Judges, lawyers and legal services providers should prepare a series of articles on access to justice topics for publication in the Hawaii Bar Journal and make access to justice a regular feature.”

Purpose 8 of Supreme Court Rule 21 provides as follows:

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.

Purpose 9 of Supreme Court Rule 21 provides as follows:

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.

The Committee on Education, Communications, and Conference Planning facilitates the work of the Commission by the following functions:

- a. Assist in organizing an annual conference for presentation of issues related to access to justice.
- b. 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.



- c. 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.
- d. Increase awareness of legal rights of low-income persons and where they can go when legal assistance is needed.
- e. Assist in developing a communications strategy and preparing communications consistent with that strategy.
- f. 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.

The members of this committee in 2022 were former Dean Aviam Soifer (Chair); Sergio Alcubilla, State of Hawai'i Representative Della Au Belatti, State of Hawai'i Representative Sonny Ganaden, Mihoko Ito, Robert J. LeClair, Judge Clarissa Malinao, Simeona Mariano, Michelle Moorhead, Carol K. Muranaka (Vice Chair), Teri-Ann Nagata, Leila Rothwell Sullivan, and Lorenn Walker.

Summary of Activities

- (1) Planned, recommended, and coordinated the 2022 Access to Justice Conference ("Access to Justice and the Time of COVID") held on Friday, June 17, 2022 at the William S. Richardson School of Law, University of Hawai'i.
- (2) Prepared a report to the Commission summarizing the 2022 Hawai'i Access to Justice Conference, including expenses, evaluations, and summaries of various conference workshops.
- (3) Prepared an application for approval of six continuing legal education credits for Hawai'i-licensed attorneys attending the 2023 Hawai'i Access to Justice Conference. Approval for the six credits was ultimately received from the HSBA.
- (4) Worked on possible workshop topics for the 2023 Hawai'i Access to Justice Conference.

2. Committee on Funding of Civil Legal Services

Action Step 2 of the Community Wide Action Plan adopted by the Access to Justice Hui in 2007 stated: "Increase funding to support the delivery of legal services to ensure access to justice." That goal was incorporated in Purpose 4 of Supreme Court Rule 21 as follows:

Increase pro bono contributions by Hawai'i attorneys through such things as rule changes, recruitment



campaigns, and increased judicial involvement, and increased recognition for contributors.

The Committee on Funding of Civil Legal Services facilitates the work of the Commission by the following functions:

- a. 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.
- b. 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.
- c. 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.
- d. 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*.

The members of this committee in 2022 were Gary M. Slovin and Mihoko Ito.

3. Committee on Increasing Pro Bono Legal Services

Action Step 2 of the Community Wide Action Plan adopted by the Access to Justice Hui in 2007 stated: “Develop a culture that values providing pro bono services.”

Purpose 6 of Supreme Court Rule 21 provides as follows:

Increase pro bono contributions by Hawai'i attorneys through such things as rule changes, recruitment campaigns, increased judicial involvement, and increased recognition for contributors.



The Committee on Increasing Pro Bono Legal Services aids in the work of the Commission by the following functions:

- a. 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.
- b. Make recommendations concerning ways to develop a culture of commitment to pro bono service among Hawai'i's lawyers.
- c. Maintain a list of providers of legal services and others who offer opportunities for pro bono service (including adjustments due to COVID-19), describe the nature of those opportunities, and explore and assist providers in increasing the opportunities they provide for such service.
- d. 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.
- e. 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.
- e. 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.
- f. Make recommendations concerning ways to encourage retired lawyers and judges to provide pro bono or staff legal services to low-income persons.
- g. Assist in recruiting and staffing pro bono attorneys for the Access to Justice Room at the Honolulu District Court.

The members of this committee in 2022 were Christine Daleiden (Chair), Angela Kuo Min, Jennifer Chin (Vice Chair), Gilbert Doles, Shannon Wack, Judge Blaine J. Kobayashi, Catherine Taschner, Derek Kobayashi, Judge Rebecca A. Copeland, Grant Teichman, Sergio Alcubilla, Representative Linda Ichiyama, Nicole Altman, Judge Clarissa Malinao, Tracey Wiltgen, Rachel Figueroa, and Ray Kong.

4. Committee on Initiatives to Enhance Civil Justice and Right to Counsel in Certain Civil Proceedings

Action Step 9 of the Community Wide Action Plan stated: “increase access



to justice in other ways.” Accordingly, Purpose 2 of Supreme Court Rule 21 provides as follows: “Develop and implement initiatives designed to expand access to civil justice in Hawai‘i.”

Purpose 12 of Supreme Court Rule 21 provides:

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.

Action Step 4 of the Community Wide Action Plan is: “Establish the recognition of the right to a lawyer in civil cases where basic human needs are at stake.

The Committee on Initiatives to Enhance Civil Justice and Right to Counsel in Certain Civil Proceedings assists the Commission by the following functions:

- a. Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income residents of Hawai‘i.
- b. Study best practices in other jurisdictions and develop and recommend new initiatives to expand access to justice in Hawai‘i.
- c. 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.
- d. 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.
- e. 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.”
- f. Study developments in other jurisdictions with respect to establishment and implementation of a right to counsel in certain civil proceedings.
 - g. 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

In 2022, the Committee was focused on developing recommendations about 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. In this area, the Committee is creating a plan for paralegals to assist self-represented litigants navigate and mediate issues on the family courts' paternity calendars.

The Committee also continues to look at “legal counsel as a matter of right at public expense to low-income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.” The Committee has studied developments in other jurisdictions with respect to the establishment and implementation of a right to counsel in certain civil proceedings, namely landlord-tenant cases involving the possible displacement of families with minor children. The Committee is studying the development, funding, and sustainability of programs in other states.

Members of the Committee in 2022 were Joanna E. Sokolow (Chair),¹ Edward Aquino, Lincoln Ashida, Katie Bennett, Charles Crumpton, Elizabeth Fujiwara, Judge Ronald Ibarra (Ret.), Craig Jerome, Patricia Kickland, Gregory Lui-Kwan, Emily Marr, Juan Montalbano, Deja Marie Ostrowski, Kristin Shigemura, and Reginald Yee.

5. Committee on Overcoming Barriers to Access to Justice

Action Step 7 of the Community Wide Action Plan stated: “Overcome barriers to access to justice.” Purpose 7 of the Supreme Court Rule 21 provides

¹ Joanna Sokolow was appointed as a District Family Court Judge in the Third Judicial District of the State of Hawai'i on August 3, 2022.



as follows:

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.

The Committee on Overcoming Barriers to Access to Justice facilitates the work of the Commission by the following functions:

- a. 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:
 - Developing an inter-agency roundtable to meet at least twice a year to identify current needs, resources, and gaps to provide more multilingual services, provide forms in multiple languages, and offer training and translation services to courts, administrative agencies and legal service providers.
- b. Identify other barriers to obtaining legal assistance and make recommendations concerning ways to address them, such as through the provision of ancillary services
 - Identify best practices for supporting technology access for low-income Hawai'i residents by reviewing recent Hawaii-specific projects and making recommendations for broader dissemination. This includes access to smart phones, which was found in one local program to increase justice-related communications.
 - Increase continuing legal education for judges, lawyers and others who work in the justice system on trauma, resilience and wellness. Support opportunities to promote wellness within the justice system.
- c. 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.
 - Identify opportunities to increase use of Forensic Peer Specialists (FPS) in helping people navigate the justice



system. This could include ensuring FPS are diverse and when possible multi-lingual.

Members of the Committee are Heather Lusk (Chair), Judge William M. Domingo (Vice Chair), Russell Awakuni, Patricia Cookson, Simeona Mariano, Calvin Pang, Page Ogata, Jennifer Rose, Brandon Segal, Cynthia Tai, Malia Taum-Deenik, Kristina Toshikiyo, Aphirak Bamrungruan, and Randall M. Wat.

6. Committee on Self-Representation and Unbundling

Action Step 5 of the Community Wide Action Plan stated: “Enable individuals to represent themselves effectively when necessary.” Supreme Court Rule 21 provides as Purpose 11 the following: “Increase support for self-represented litigants, such as through self-help centers at the court.”

The Committee on Self-Representation and Unbundling facilitates the work of the Commission by the following functions:

- a. 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.
- b. 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.
- c. 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.

The members of the Committee in 2022 were 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, Judge Rowena Somerville, Kristina Toshikiyo, and Shannon Wack.

C. Task Forces

1. Pro Bono Initiatives Task Force

The Pro Bono Initiatives Task Force, chaired by Judge Brian Costa,²

² The members of the Task Force include Judge Brian Costa (Chair), Tracey Wiltgen (Co-Chair), Justice Simeon Acoba (Ret.), Shawn Benton, Rachel Figueroa; Marie



coordinated the annual 2022 Pro Bono Celebration during National Pro Bono Celebration week that took place across the country in October. The 2022 Celebration was Hawai'i Access to Justice Commission's tenth annual Pro Bono Celebration. Due to continued health and safety concerns created by the pandemic, the in-person participants at the event were limited to the Hawai'i Supreme Court, the student essay contest winners, their partners, and the legal services honorees. All others were invited to view the event broadcast live via YouTube.

The tenth annual Pro Bono Celebration allows the Commission to recognize the attorneys who generously donate their time without compensation to assist hundreds of people each year. The recognition serves to inspire Hawai'i's young people to volunteer. 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.

The Task Force members coordinated recognition certificates from the Hawaii State Legislature, the Governor, and the Hawai'i Access to Justice Commission for the honorees selected by the various legal services providers, as well as the attorneys who provide pro bono services for the Access to Justice Rooms at the Honolulu District Court and the Kapolei Family Court, volunteer appellate attorneys, the Volunteer Settlement Master Program, and the Appellate Mediation Program.

In addition to honoring pro bono volunteers, the Task Force also coordinated a high school essay contest. This year's theme: "How my volunteerism has helped our recovery from the effects of the pandemic," asked students to describe their volunteer experiences and the impact those experiences made on the community. Essays were submitted from public and private high school students in grades 10 through 12 throughout the state, with three winners from Oahu, one from Kaua'i, and one from Maui. Each student awardee received a \$500 cash prize, and an additional \$100 award for educational purposes was given to a teacher named by the student awardee. The law firms who sponsored the cash awards for the essay contest were Alen M. Kaneshiro, Attorney At Law; Cades Schutte; Davis Levin Livingston; Lowenthal & Lowenthal; and Lukela Kobayashi LLC.

This year's Pro Bono Celebration was also supported by the Commission,

Gavigan, Jill Hasegawa, Regan Iwao, Judge Melanie May, Angela Kuo Min, Trish Morikawa, and Judge Trisha Nakamura.



Hawai'i Justice Foundation, the Hawai'i State Bar Association, and the Hawai'i State Bar Foundation.

2. 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 Non-lawyers ("Task Force") to examine the role of paralegals and other non-lawyers in expanding access to justice in Hawai'i.³ During 2022, the Task Force met at least once each month to work on proposals and projects designed to utilize the talents and dedication of paralegals and non-lawyers to enhance access to justice in Hawai'i. The Task Force created and submitted to the Commission a proposal to amend Hawai'i Supreme Court Rule 7 to expand access to justice for those of low- and moderate-income. The Task Force also continued its work on certain projects including the further development of an Online Volunteer Court Navigator, and a Second Circuit Volunteer Attorney and Volunteer Assistant Pilot Project.

During 2021, the Hawai'i Supreme Court requested that the Hawai'i Access to Justice Commission review Rule 7 of the Rules of the Supreme Court of the State of Hawai'i to determine whether the reach of the law student license program should be broadened. The Task Force created a subcommittee to review Supreme Court Rule 7, which subcommittee included John Barkai, Angela Lovitt, Calvin Pang, and former Dean Aviam Soifer, who are all instructors at the University of Hawai'i, William S. Richardson School of Law.

Rule 7 was promulgated in the 1970s when the University of Hawai'i William S. Richardson School of Law first began. In the 1970s, clinical legal education was still in its infancy. We now have had over forty years of experience with Rule 7. Based on this experience, the Task Force proposed changes to Rule 7 that should provide greater access to justice for those of low- and moderate-income. The proposed changes would also more effectively meet the needs of the

³ The 2022 members of the Task Force on Paralegals and Other Non-lawyers were: Judge Joseph E. Cardoza (Ret.), Second Circuit Chief Judge (Chair, Access to Justice Commissioner); Kalen Sato (Hawai'i Paralegal Association); Gilbert Doles (attorney); Victor Geminiani (retired Co-Executive Director, Hawai'i Appleseed Center for Law and Economic Justice); Raymond Kong (Legal Director, Lawyers for Equal Justice), Susan Jaworowski (Professor and Paralegal Program Coordinator, Kapiolani Community College); Carol K. Muranaka (attorney and Commissioner); Dan O'Meara (Legal Aid Society of Hawai'i staff attorney), Grant Teichman (Volunteer Legal Services Hawai'i); and John Barkai (William S. Richardson School of Law professor), Angela Lovitt (Legal Aid Society of Hawai'i staff attorney), Calvin Pang (William S. Richardson School of Law professor), and Aviam Soifer (retired Dean, William S. Richardson School of Law commissioner) who served as ex officio members of the Task Force.



Law School and Bar, while maintaining the key concepts of training and supervision for law student interns. The proposed amendments to the Rule included a provision to allow eligible law students from other accredited law schools to access Rule 7 authorization, and a provision to streamline the qualification procedures.

During 2022, the proposed amendments to Rule 7 were presented to the Commission for review. The Commission subsequently approved sending the proposed Rule 7 amendments to the Hawai'i Supreme Court for review. The proposed amendments have been shared with the public for review and comment.

One of the Task Force's earlier proposals involved the creation of a non-lawyer Volunteer Court Navigator program in the Second Circuit. Volunteer Court Navigators provide important legal information to unrepresented litigants in District Court landlord-tenant, debt collection, and injunction against harassment cases. The Volunteer Court Navigator Program began as a pilot project in 2018 and is now a permanent program.

During 2019, the role of Volunteer Court Navigators expanded to assisting at Maui Self-Help Center sessions. The services of Volunteer Court Navigators complement the valuable assistance of the Self-Help Center volunteer attorneys and make the process more efficient and consumer friendly. Courthouse activities were limited during 2020 and 2021 due to the Coronavirus pandemic. During 2021, an Online Court Navigator program was created and began operating on November 8, 2021. The Online Volunteer Court Navigator provides unrepresented persons the opportunity to communicate with a Volunteer Court Navigator via email twenty-four hours a day, seven days a week. This allows unrepresented persons to seek legal information in advance of court dates.

As noted in the Commission's 2021 Annual Report, the Online Court Navigator program also carried the potential of expanding the reach of the Volunteer Court Navigator Program to other circuits desiring such services. This has in fact taken place. Indeed, online inquiries have been received from those with questions in other Hawai'i circuits, persons on the mainland with matters pending in Hawai'i, and a person in a foreign country with a matter pending in Hawai'i. While the number of online inquiries has been small in comparison to in-person inquiries, the Online Court Navigator program has significant long-term potential and will continue to operate in 2023.

During 2020, at the request of the Task Force and Commission, the Hawai'i Supreme Court issued an order establishing a Tenant Volunteer Attorney and Volunteer Assistant Pilot Program in the Second Circuit. Five Maui attorneys and four Maui non-lawyer assistants stepped forward to serve as the



initial volunteers for this program. All five volunteer attorneys were experienced trial attorneys. An intense training program for the volunteer attorneys and volunteer assistants was developed and presented by a twelve-person faculty over the course of one weekday and four weekends during 2021. This was followed by having the volunteers observe eviction cases in the second and first circuits via remote access. This pilot project continued in operation during 2022. Under this project, income-qualified tenants receive free trial court representation by attorneys. The attorneys can be assisted by trained volunteer assistants. The assistants serve under the direction of the volunteer attorneys and are designed to lighten the financial and time burdens associated with this program. This project provides free representation for tenants facing eviction, a critical and previously unmet need in Hawai'i.

The Task Force continues to work on other projects and is carefully examining other areas of concern that can be addressed moving forward in 2023.

The members of the Commission express their deepest appreciation to the Judiciary for its assistance during 2022 and for the dedication of the many volunteers and agencies who have made the Task Force's projects a reality.

3. Task Force on the Impact of the Coronavirus Pandemic

During 2022, the Hawai'i Access to Justice Commission's Task Force on the Impact of the Coronavirus Pandemic ("Task Force") typically met on a monthly basis through October 2022 to address the unprecedented challenges caused by the Coronavirus pandemic.

On September 21, 2020, the Hawai'i Access to Justice Commission approved the formation of this Task Force.⁴ At the time of its formation, the Task Force was one of two such state task forces in the nation. Other states subsequently established similar task forces.

The purpose of the Task Force was not to duplicate the efforts of other groups. Instead, its initial areas of focus included:

⁴ The 2022 members of the Task Force on the impact of the Coronavirus Pandemic were: Judge Joseph E. Cardoza (Ret.), Second Circuit Chief Judge (Chair); Mihoko E. Ito (Attorney); Nalani Fujimori Kaina (Executive Director, Legal Aid Society of Hawai'i); Derek Kobayashi (Vice-Chair, Hawai'i Access to Justice Commission, Attorney); Nanci Kreidman (Executive Director, Domestic Violence Action Center); Heather Lusk (Executive Director, Hawai'i Health & Harm Reduction Center); Rachel Figueroa (Executive Director, Volunteer Legal Services Hawai'i); and Tracey Wiltgen (Executive Director, The Mediation Center of the Pacific, Inc.).



- A. Building awareness of the importance of maintaining critical community services provided by the many private and public agencies involved in access to justice initiatives in Hawai'i.
- B. Educating the public on the availability of rent assistance.
- C. Linking tenants experiencing financial difficulty with free mediation services.
- D. Informing the public of the various services beyond rent assistance that were available to those struggling with maintaining rental housing.

During 2022, Hawai'i experienced a gradual return to normal operations as the pandemic subsided. Nevertheless, issues related to funding for legal services providers, rental housing evictions, landlord-tenant mediation, and rental assistance programs were of importance to all concerned.

Funding for legal services providers during the pandemic continued to be of critical importance. The pandemic created economic challenges for persons and businesses throughout Hawai'i, the nation, and the world. The economic challenges in Hawai'i caused a greater need for legal services. However, the slowing of the Hawai'i economy during the height of the pandemic proved difficult for all. This, in turn, jeopardized funding for legal services providers. During 2022, national and state governments attempted to restore funding to legal services providers. The Commission communicated with state and local governments, and Hawai'i legal and community foundations to inform them of the continuing and increased demand for legal services and the need for adequate funding in order to provide these services and access to justice.

The economic crisis caused by the pandemic also created a serious problem for landlords and tenants. Many tenants were unable to pay rent due to a loss of income and depletion of savings. Without rent payments, landlords found it difficult to meet their financial obligations. A moratorium prohibited landlords from attempting to evict tenants who failed to pay rent. However, the eviction moratorium ended during August 2021. It was feared that the end of the eviction moratorium would lead to a large increase in the number of evictions in Hawai'i. Thus, during 2021, the Commission worked with the Hawai'i legislature and many other persons and groups to support amendments to the landlord-tenant code. These efforts resulted in the enactment of several critical amendments to Hawai'i law, more commonly referred to as Act 57. The most significant amendments required landlords to refer rent disputes to mediation before filing an eviction court case. The centerpiece of this legislation was mediation.



During 2022, the mediation centers throughout Hawai'i and rent relief programs played a central role in helping to avoid an eviction crisis in Hawai'i. Over two thousand landlords and tenants participated in mediation. The rate of successful mediation agreements was extremely high, consistently in the 85% to 90% range. The Act 57 amendments helped landlords and tenants resolve their issues, saved thousands of dollars in legal fees, and avoid the courts from becoming overwhelmed by eviction cases. The Commission is extremely appreciative of the leadership and support from the Hawai'i legislature, Judiciary, state and local government agencies, mediation centers, and rental assistance programs in this area of critical need.

During 2022, various rent and mortgage relief programs were in place to assist landlords and tenants adversely impacted by the coronavirus pandemic. The federal government provided large sums of money for rent and mortgage relief. Although measures to publicize the availability of rental assistance proved effective, community awareness of these relief programs and the proper means of obtaining rent and mortgage relief remained a priority for the Task Force and Commission.

The Commission, attorneys, mediation centers, utilities, and agencies involved with processing applications for rent and mortgage relief continued to participate in ways to increase awareness amongst tenants and landlords. The Legal Aid Society of Hawai'i ("LASH") also utilized information sheets informing the community of legal options and available relief. LASH and the Mediation Center of the Pacific also focused some of their efforts on geographic areas that appeared to be participating in relief programs at a lower rate as compared to other geographic areas. Volunteer Court Navigators informed persons involved in eviction cases of the availability of rent relief when it was learned that either the landlord or the tenant failed to apply for rent relief. Collectively, these efforts helped to significantly reduce the impact of the pandemic on rental housing.

During 2022, the adverse impacts of the pandemic began to disappear, and government and business operations gradually returned to normal. As a result, during its October 2022 meeting, the Task Force determined that the Task Force could be dissolved and thus, recommended dissolution to the Commission. The Commission agreed, and the Task Force was dissolved during October 2022.

The Commission sincerely appreciates the leadership and support received from the Hawai'i legislature and the Judiciary as well as the support from mediation centers, rental assistance programs, legal and community foundations, agencies, businesses, and individuals in responding to the critical needs of the community during the coronavirus pandemic.



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II. 2022 HAWAI'I ACCESS TO JUSTICE CONFERENCE

The thirteenth annual Hawai'i Access to Justice Conference sponsored by the Hawai'i Access to the Justice Commission brought together more than 240 interested individuals on a sunny Friday, June 17, 2022 at the William S. Richardson School of Law, University of Hawai'i.⁵ The theme of the conference, "Continuing to Meet Challenges to Access to Justice" generated exciting discussions on diverse topics.⁶

The Cades Foundation was acknowledged for its financial support in assisting with the conference expenses. It has generously supported the conferences for a number of years.

Retired Second Circuit Chief Judge Joseph Cardoza, who is Chair of the Hawai'i Access to Justice Commission ("Commission") welcomed the attendees by commenting on the numerous challenges facing and testing the nation including wars, ongoing and threatened, economic challenges, the approaching end of the pandemic assistance, and the continued hardships faced by Native Hawaiians and Pacific Islanders. Fortunately, the three branches of government in Hawai'i are focused on serving the common good and finding innovative solutions to new challenges.

Hawai'i Supreme Court Chief Justice Mark Recktenwald described the Judiciary as an organization committed to serving the community. In 2008, the Hawai'i Supreme Court envisioned an organization that would provide consistent focus on identifying access to justice issues and facilitate how Hawai'i could narrow the gap between the need for legal services and the ability to afford these services.⁷

⁵ The major difference from other Access to Justice Conferences was the mandatory face mask requirement. Safety protocols related to COVID-19 were in place at the University of Hawai'i.

⁶ This narrative is a compilation of the summaries prepared by Teri-Ann Nagata, Michelle Moorhead, Tracey Wiltgen, Rona Fukumoto, Esther Yoo, Deja Ostrowski, Scott Shishido, and Nicholas Severson. Photos courtesy of Spencer Kimura, Faculty Specialist, Director of LLM and Summer Programs, William S. Richardson School of Law, University of Hawai'i. Summaries of the various workshops may be found at the Commission's subpages about the 2023 Hawai'i Access to Justice Conference at www.hawaiijustice.org.

⁷ The Hawai'i Supreme Court implemented Supreme Court Rule 21 that created the Hawai'i Access to Justice Commission in 2008 with a purpose to "substantially increase access to justice in civil legal matters for low- and moderate-income



Chief Justice Recktenwald noted that one of the examples of the Commission's work is the establishment of the self-help centers. In California, the self-help centers are staffed by court employees, but here, Hawaii's self-help centers are staffed by volunteers who have assisted 30,000 individuals and have continued to provide services remotely during the pandemic.

Chief Justice Recktenwald mentioned that the online pro bono program and online dispute resolution thrived during the pandemic. In Small Claims Court, litigants have access to a system that assists in the completion of forms. The Judiciary has learned during the pandemic that remote proceedings have delivered justice while keeping people safe.

For certain kinds of cases, it does not seem necessary for someone to arrange childcare, to be excused from work, to drive a long distance to the courthouse -- to respond to a traffic citation. In contrast, it is helpful for litigants to appear in person for family court matters. The Judiciary worked with the legislators and legal services providers to assist tenants through mediation and receipt of rental relief funds. Together the community kept evictions from becoming a crisis.

Dean Camille Nelson of William S. Richardson School of Law captivated the audience with her keynote address about inclusive justice through the lens of legal education.⁸ She framed her talk on current societal upheaval, jurisprudential alienation, technological innovation, transdisciplinary thinking, and the need for well-being for those in the legal profession.

Societal upheaval provides an opportunity to revisit the underpinnings of the legal profession and law schools. The increasingly diverse law schools

residents of Hawai'i." The Commission is comprised of 22 members with a current or retired Hawai'i Supreme Court Associate Justice and four judges appointed by the Chief Justice; four members appointed by the Hawaii State Bar Association; six members (four representatives of Hawai'i nonprofit civil legal services providers and two non-attorney public representatives) appointed by the Hawai'i Consortium of Legal Services Providers; one member appointed by the Hawaii Justice Foundation; one member appointed by the Dean of the William S. Richardson School of Law; one member appointed by the Hawaii Paralegal Association; appointments or service by the Governor, the Attorney General, President of the Hawai'i Senate, and the Speaker of the Hawai'i House of Representatives. More information about the Commission can be found at www.hawaiijustice.org.

⁸ Dean Camille Nelson based her keynote address on her article, "Redux: Towards An Empowering Model of Legal Education," 8 *Canadian Journal of Comparative and Contemporary Law* 192 (2022).



provide an opportunity to reinvent the legal profession in an inclusive way. Unfortunately, the legal profession was not originally intended to be inclusive. Current societal pressures, including an increased awareness of issues facing marginalized groups in society, should push law schools and the legal profession generally to better reflect the people and needs of modern society.

Jurisprudential alienation acknowledges that many have lost faith in the system. Lawyers and law schools must think critically about why this is so. Lawyers must embrace a better, more inclusive vision of the future so the worst of the past is not replicated.

The proliferation of technological innovation invites consideration of the role of technology in law school education and the legal profession. We are in a revolutionary time and, in the words of Dr. Martin Luther King, Jr., “there is nothing more tragic than to sleep through a revolution.” Law schools should do what they can to broaden access to justice through technology and become centers of innovation.

The importance of transdisciplinary thinking merits reconsideration of the rigid boundaries we build between disciplines. It pushes us to think about what we would do if we could start over and build our systems from scratch. For law schools, this means building a curriculum where multifaceted, creative thinking is encouraged.

Dean Nelson discussed the importance of wellness in the legal profession. Existing concerns about the mental health of lawyers have been exacerbated by the pandemic. It is critical that those of us engaged in this work maintain work-life balance and mental health. When attorneys are well, the community benefits.

In closing, Dean Nelson reemphasized the importance of law schools in the access to justice movement and called on the community to partner with law schools to pursue a more just and inclusive society.

Morning Plenary

The morning plenary workshop entitled “Access to Justice in the Current Climate” explored the perspectives of the state’s executive, judicial, and legislative branches of government in meeting the access to justice concerns. Former Dean Aviam Soifer moderated the following panel: Governor David Ige, Chief Justice Mark Recktenwald, Representative Della Au Belatti, and Dean Camille Nelson.



Opening Remarks

Chief Justice Recktenwald opened by expressing his appreciation for having a governor as aware of and involved in access to justice concerns as Governor Ige. Chief Justice Recktenwald commented on several initiatives to improve the justice system including the Women in Prison Project, which works to provide resources and residential treatment options to women so they may remain with their children. Another example is Drug Court, which allows judges, prosecutors, public defenders, and medical and social workers to collaboratively assist people with intensive supervision and treatment for about two years. In Veterans Treatment Court, other veterans serve as resources and mentors and help people with accessing resources available through Veterans Affairs. The Judiciary is also working to better serve juveniles with addiction issues, particularly girls in the juvenile justice system, by pairing them with peers who serve as role models.

Chief Justice Recktenwald cited the government's unified approach to dealing with eviction crisis as a notable example of how the branches of government can work together and with the private sector to minimize suffering. Together, the community was able to connect tenants with resources and with access to neutrals who could help the level playing field. The important question now is which programs and innovations should be kept in place after the pandemic.

The Judiciary has focused also on diversity, equity, and inclusion. Efforts include ensuring equality and inclusion for persons who identify as lesbian, gay, bisexual, transgender, queer, questioning, or other, and persons from Micronesia; addressing implicit bias; and providing Hawaiian language resources. Through these and other efforts, the Judiciary is becoming a more inclusive institution that better reflects the community.

Governor Ige highlighted several state initiatives and accomplishments. In addition to reviewing and signing bills proposed by the Hawai'i Women's Legislative Caucus, the Governor has supported initiatives aimed at ensuring inclusion of persons who identify as lesbian, gay, bisexual, transgender, queer, questioning, or other. Governor Ige reported that, for the first time, there were no girls in the Hawai'i Youth Correctional Facility. He cited the accomplishment as a testament to hard work of many people. Governor Ige is expanding the Office of Language Access and ensuring that state agencies embrace the need to help speakers of various languages understand the labyrinth of forms that are required to access certain services. One pressing issue has been issuing identification cards, which are required for access to State services. The State has been working through the Departments of Human Services and Public Safety to assist clients (particularly those of limited English proficiency) with gaining



access to documents and identification cards. In the area of language access, the State has been reviewing the use of technology to provide access to native speakers and interpreters over telephone and video.

The State has endeavored to address access challenges that impact students. The State implemented a significant pay differential for teachers in categories such as Hawaiian language immersion; locations such as Lanai and Molokai; and special needs. The State received a tremendous response from teachers and has been able to retain teachers in these shortage categories at a much higher rate than in past.

Governor Ige provided an update on the continued challenges of homelessness. He has been working in partnership with the legislature in rethinking how the State is able to provide more services, encourage acceptance of services, and place more individuals into permanent supportive housing. The legislature embraced Ohana Zones, which provides shelter and focuses on the end game of placement in permanent supportive housing. The State has reduced homelessness by 18% in all categories and has made progress in reducing homelessness among families and veterans. Chronic homelessness and unsheltered homelessness have also decreased. In the last four years, services have been provided to 5,500 individuals with the goal of placement in permanent supportive housing.

Representative Belatti focused her opening remarks on four points: public health, economic consequences of the shutdown, funding, and looking to the horizon. Representative Belatti echoed Governor's Ige's comments regarding the COVID-19 response in Hawai'i. When the effects of COVID-19 in Hawai'i were compared to those in other states, Hawai'i had the fewest excess deaths from February 2020 to April 2022 and was well below the national average for deaths per nursing home resident. Queen's Medical Center had zero days with critical staffing shortages because the State was able to bring in traveling nurses to assist at the hospitals.

Looking to the horizon, Representative Belatti discussed the importance of technology. Efforts to increase access to broadband include weekly meetings of a digital hui, and funding to support a Digital Equity Office. During the pandemic, public libraries allowed users to borrow iPads and participate in the legislative process. The legislature continues to consider ways in which it can increase access for the community. Other efforts on the horizon include a pilot program for domestic violence that would offer treatment for the perpetrator and family.

Representative Belatti concluded by noting that issues such as homelessness, diversity, and addiction are difficult to address and will require



coordination and collaboration. She encouraged participants to consider how efforts to reform the criminal justice system are connected with efforts to increase access to civil legal services and to reduce homelessness.

Dean Nelson focused her opening remarks on the climate, noting that “climate” was an important part of the session’s title. She described a current climate in which there were numerous challenges including an ongoing and increasingly apparent climate crisis, an ongoing pandemic, an international racial reckoning (involving concerns such as police brutality, a rise in anti-Semitism, and Asian American and Pacific Islander hate), domestic terrorism, gun violence, insurrection, impeachment, the January 6 hearings, the future of *Roe v. Wade*, war in Ukraine, international concerns about famine, and an increase in the wealth gap.

Dean Nelson encouraged participants to ask how the rule of law enters conversations regarding these challenges. For younger generations, these challenges are particularly urgent. Millennials and Generation Z are among the most diverse and most embracing of diversity, the most interested in globalization, the most mobile, the most technologically savvy, and the most environmentally conscious of all citizens. Dean Nelson asked participants to consider how we can continue learning from younger generations. Lawyers are not the entire solution, but there is an opportunity to bring people together. Hawai'i is a special place for addressing problems in holistic, inclusive ways.

Workshop Summaries

What follows are a few summaries of the various afternoon concurrent workshops at the conference.

Preventing and Resolving Community Conflicts

This workshop was presented by Peter S. Adler, principal in The Accord3.0 Network, Dawn Naomi S. Chang, principal of Ku'iwalu, former Hawai'i Supreme Court Associate Justice James Duffy, Melissa May, senior planner and deputy manager of Strategic Services at SSFM International, and moderated by Tracey Wiltgen, executive director of the Mediation Center of the Pacific.

Mediation and other dispute resolution processes help people from all backgrounds to engage in difficult conversations and negotiations to address a broad array of issues from domestic disputes, landlord-tenant matters, family conflicts, and more. With the appropriately designed processes, community disputes involving individuals, families, government, small and big businesses, contractors, developers, and more, can also be addressed. By engaging in creative strategies, including proactive community engagement and dispute



resolution processes, community members are given a voice, and trust can be built between various stakeholders to address critical community issues.

The prevention and resolution of community conflicts is an access to justice issue because without the appropriate processes and neutrals designing and leading those processes, disenfranchised members of the community are left without a voice or even a basic understanding of proposed changes, developments, and projects that are undertaken in their communities. Government agencies maintain control over the conversation.

The panel highlighted the benefits and challenges of preventing and resolving community conflicts, when mediation and dispute resolution is appropriate, the importance of designing dialogue formats and structures for the organization or community, and how contention can be avoided, and civility restored.

Each panel member described specific community projects they have actively worked on including issues involving Waimanalo and other communities. The panelists emphasized the importance of early planning and engagement noting that a successful process can leave communities stronger and better able to represent their interests. Principles for engaging communities in dialogue include respecting place and culture; communicating early and often; identifying community champions; involving keiki and kūpuna; partnering with schools and community organizations; creating inclusive and creative platforms for visioning and participation; making clear how input was incorporated; and building in tools for implementation and sustained effort.

It was emphasized that to be successful, the right process needs to be designed and managed for each situation and group, by an independent, impartial facilitator. If any steps in the process are left out, or the interaction is not lead by an impartial person, then all voices in the community are generally not heard and trust is broken, leaving communities deeply entrenched in continuous conflict.

The presenters reminded the participants that they need to be the ambassadors for getting the word out to members of the community who would truly benefit from these processes. The marginalized members of communities will not be aware of such opportunities or resources, without the help of others to make the connection.

ABLE (Achieving a Better Life Experience) and Access to Justice

Daintry Bartoldus, Executive Administrator of the Hawaii State Council on Developmental Disabilities, and Rona Yagi Fukumoto, President and CEO of



Lanakila Pacific, shared information about the history of advocacy and successful creation of the Hawaii ABLE Savings Program. Since Congress passed the Achieving a Better Life Experience (ABLE) Act in 2014, advocates in Hawaii have worked with local legislators to create a local program.

Hawaii's plan, the ABLE for All Savings Plan, is a financial tool that allows an individual with a disability, who receives SSI, SSDI, Medicaid, SNAP, HUD assistance, Medicare, FAFSA, or other state and federal benefits, to save up to \$100,000 before they lose their benefits. To qualify, an individual must meet the disability requirements of SSI or SSDI, with a disability that developed before age 26, that will last at least a year. More importantly, the ABLE plan provides the individual and their family the resources, support, and holistic services to reach their financial goals. ABLE was designed for self-empowerment and built with a presumption of competence. Individuals with disabilities are encouraged to manage their own accounts and are both the beneficiary as well as the account owner.

Social Justice Lawyering for Public Health

Deja Ostrowski, staff attorney for Medical-Legal Partnership for Children in Hawai'i moderated a panel with Fernando Cosio, staff attorney for Medical-Legal Partnership for Children in Hawai'i, Sharde Freitas, data and policy analyst with the Center for Indigenous Innovation and Health Equity, and Wayne Tanaka, executive director of the Sierra Club. The panelists emphasized the importance of social justice lawyering work that centers community stories, cultural and indigenous practices, and building power with traditionally excluded people.

With the backdrop of lessons learned and underscored as a result of the COVID-19 pandemic, panelists provided specific examples of their work especially in light of the historical inequities exposed by the pandemic. Fernando Cosio provided an overview of the Medical-Legal Partnership model of integrating legal services into a community health setting. He shared why it is needed, why it works, and an overview of the social determinants of health (SDH). Sharde Freitas opened with an oli ("E Iho Ana") and built on the SDH framework to introduce Maui Ola, a more encompassing Native Hawaiian framework for wellness. Wayne Tanaka provided a rethinking of the ways in which colonialism has impacted our islands and communities, and the roles that lawyers can play in using Hawai'i's laws to seek justice, and heal the ongoing harms of past injustices.

Panelists also identified how themes from Dean Nelson's keynote speech on inclusive justice are implemented in their own law and policy initiatives, including being responsive to "societal upheaval," challenging the status quo to



benefit all and engaging in “trans-disciplinary teams” and engaging “where justice lives.” The panelists concluded with practical tips and takeaway lessons about their foundational tenets of social justice lawyering: collaborating across disciplines and roles; building trust by listening, showing empathy, and meeting people where they are at; and “not sleeping through the revolution” by remembering Hawaii’s colonial past and working to upend the status quo. The panelists’ collective work illustrates how social justice lawyering does not just benefit one client or one community—social justice lawyering often results in benefits for all. Examples range from successful landlord-tenant mediations that resulted in better outcomes for all parties to ‘āina work engaging a Maui Ola approach that uplifts all people in the community.

Working Together to Provide Immigration Legal Services to the Low-Income Clients

Moderators John Egan, director of the Refugee and Immigration Law Clinic at the William S. Richardson School of Law, and Esther Yoo, Senior Staff Attorney at The Legal Clinic, led the discussion with Ethan Higa, Fellow at the Refugee and Immigration Law Clinic, Makoto Messersmith, staff attorney at Hawai'i Immigrant Justice Center, and Kara Teng, staff attorney at The Legal Clinic.

This panel focused on the importance of building human infrastructure in order to provide immigration legal services specifically, and access to justice more broadly, for low-income immigrants in Hawai'i. Despite the fact that nearly a quarter of Hawaii’s population is foreign born, Professor Egan pointed out that there are only a handful of immigration practitioners doing the type of immigration work that indigent immigrants typically need.

Esther Yoo shared a recent Tweet by Ian Millhiser, a legal correspondent: “One of the law’s cruelest twists is that the areas of the law which involve the most vulnerable people – immigration, habeas, civil rights – are monstrously complicated and often require top notch lawyers that immigrants, inmates, and civil rights plaintiffs can rarely afford.” She explained the typical challenges that indigent immigrants face in court. Unlike criminal defendants, indigent immigrants do not have a right to counsel that is paid by the government, despite the severity of the consequence of deportation. Those who cannot afford a lawyer must represent themselves in court and must contend not only with understanding a highly technical, complicated body of law but also navigating a legal process not in their primary language. As a result, the lack of counsel almost certainly dooms the immigrant to failure.

Building this infrastructure means, in part, creating a pipeline starting in law school for emerging immigration practitioners to learn immigration law and



practice. The panel featured a conversation with three emerging immigration practitioners, all of whom were former students of Professor Egan and represent the diversity of practices, pathways, and potentials in immigration.

Thinking Forward for Access to Justice

Judge Joseph Cardoza (ret.), Chair of the Hawai'i Access to Justice Commission, Heather Lusk, executive director of Hawai'i Health and Harm Reduction Center ("HHHRC"), Nalani Fujimori Kaina, executive director of the Legal Aid Society of Hawai'i ("Legal Aid"), Tracey Wiltgen, executive director of the Mediation Center of the Pacific ("Mediation Center"), and State Senator Karl Rhoads (District 13) began with a discussion on lessons learned during the pandemic about access to justice. They agreed that innovations in technology allowed access to the courts and increased mediation. This resulted in more people participating in their court proceedings and more people coming to resolutions without court intervention. Individuals who may not have participated in the court process before now faced reduced barriers as a result of technology, which made it easier for them to participate in their cases. Access to remote testimony in the legislature also increased as a result of the pandemic.

Remote access to court proceedings via Zoom increased the parties' participation in the process. Prior to the pandemic, only about 50% of tenants appeared at eviction hearings. During the pandemic with Zoom online hearings, 64% of tenants made appearances.

In looking back at what succeeded during the pandemic, the panel emphasized the importance of partnering with community stakeholders and having navigators available within all facets of the community. If an individual is working with a community partner or navigator, that increases an individual's participation in their court proceedings, including mediation. Community partners, if aware of a party's court-required obligations, can work with the party on an individual basis to help ensure access to justice. Medical-legal partnerships, such as the one that now exists between Legal Aid and HHHRC, also work well to increase access to justice.

The panel then discussed how the increase in use of technology also created some barriers to access to justice. Innovations in technology highlighted the need for "tech equity." There should be no assumptions by the government or service providers that individuals can easily access or even understand how to use technology.

The panel discussed how "justice delayed is justice denied" and how arbitration and mediation are helping to reduce court delays. If court dates are scheduled at a later date, alternative dispute resolution offers individuals



opportunities to resolve their problems on their own schedules. Mediation conducted prior to filing a legal action can also help to reduce court backlogs. Act 57 is a strong example of the effectiveness of pre-filing mediation where 87% of the landlord-tenant disputes that proceeded to pre-filing mediation were successfully resolved through mediated agreements.

The panel discussed initiatives that may help to increase access to justice in Hawai'i. There is a national conversation on the concept of a "Regulatory Sandbox." An example of this is "The Sandbox" which is overseen by the Office of Legal Services Innovation in Utah. The Sandbox allows entities to use new business structures and service models to provide legal services in Utah after going through a review and approval process. The Utah Supreme Court recently extended the term of The Sandbox from two years to seven years. Entities that have been approved so far in the first two years of the program include services for family law, end of life planning, and small business needs. Nonlawyer human or software providers are being used to provide legal advice and assistance.

Likewise, on a national level, the ABA is supporting researchers across the country whose goal is to transform access to the legal system. There are not enough lawyers to serve low-income individuals who cannot afford lawyers. There are also areas of law where representation is virtually non-existent because lawyers are not able to help individuals if their business model does not allow them to assist. In the state of Arizona, the Arizona Supreme Court eliminated its ethics rule barring nonlawyers from having an economic interest in a law firm or participating in fee sharing. The court also approved a new category of nonlawyer licensee called Legal Paraprofessionals. Corporations have begun working and training social workers in order to assist parties in specific legal situations.

On a local level, Forensic Peer Specialists ("FPRs") are another innovation that are helping to increase access to justice. FPRs work with those involved in the criminal justice system by sharing their own history of criminal justice involvement and mental health recovery. The state legislature recently appropriated \$800,000.00 for additional funding for this program.

Members of the panel agreed that to increase access to justice in Hawai'i community stakeholders will need to continue to work together as they did during the pandemic. The community must also not be afraid to think of unconventional answers to longstanding problems.

Access to Justice for the Elder Population Affected by Diminishing Capacity

Scott Suzuki, sole practitioner, and Gary Powell, executive director of The Caregiver Foundation, highlighted the primary concerns of the caregiving-



caregiver dynamic, which they identified as capacity, care, and cost. In dealing with elderly clients, they stressed the importance of hearing, recognizing, and including elderly clients in the decisions impacting their lives. As one in two people over 85 has a neurocognitive condition, everyone is likely to either be a caregiver or be cared for at some point in their lifetimes. The need for caretakers will only increase over time, as the number of Americans over 65 will exceed the number of Americans under 18 by 2034 for the first time in history.

Because the changing care dynamic can be challenging, it is important to engage in supported decision-making, where individuals are empowered to participate to the extent possible in decisions concerning their lives. As the average cost for care continues to rise, it is important to note the limitations of our current systems, such as Social Security Disability and Medicaid and consider other long-term planning and solutions to help make transitions throughout the caregiving process smooth and dignified. It is absolutely critical that compassion remains at the forefront for those providing care and legal assistance to persons affected by diminishing capacity.

Other afternoon workshops included “Domestic Abuse and Protective Orders: Access to Justice for All Parties” with District Family Court Judge Rebecca A. Copeland as moderator, District Family Court Judge Courtney Naso, Nanci Kreidman, executive director of Domestic Violence Action Center, and Alen Kaneshiro, private attorney;⁹ “Language Access Is Language Justice” with Melody MacKenzie, Professor of Law Emerita and founding director of Ka Huli Ao Center for Excellence in Native Hawaiian Law at the law school, who was the moderator; First Circuit District Court Judge William M. Domingo; Aphirak Bamrungruan, executive director of the Hawai'i State Office of Language Access; and Ayano Nishimura, interpreter; and “Legal Issues Related to the Provision of Education Services in ‘Olelo Hawai'i” with David Kauila Kopper, director of Litigation at Native Hawaiian Legal Corporation (NHLIC) as moderator, and panelists: Daylin Rose Heather, staff attorney with NHLIC, and Ka'ano'i Walk, senior policy analyst in the Hi'ialo Group at Kamehameha Schools.

The plenary closing session with Professor Calvin G.C. Pang and Dean Nelson shared reflections of the day's conference.

⁹ An outline of this workshop can be found at www.hawaiijustice.org under the tab for the Commission.



III. 2022 PRO BONO CELEBRATION

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

*-- Intermediate Court of Appeals Associate Judge Daniel R. Foley (ret.)
former Chair of the Hawai'i Access to Justice Commission*

The Hawai'i Access to Justice Commission (“Commission”) again organized the Pro Bono Celebration in the Hawai'i Supreme in celebration of the National Pro Bono Week in October 2022. With support from the Hawaii Justice Foundation (“HJF”), Hawaii State Bar Foundation, and the Hawaii State Bar Association (“HSBA”), the Commission coordinates a high school essay contest as part of the event as well as a celebration of the volunteer attorneys who assist the state’s low- and moderate-income individuals.

Second Circuit Chief Judge Joseph Cardoza (ret.), Chair of the Commission, opened the event by noting the “severe imbalance between the demand for civil legal services and the supply of the civil legal services required to meet the needs of those with low- and moderate-income.” He remarked that for the past four decades there has been a steady decline in the number of persons represented by an attorney in civil proceedings and today, the civil legal system relies on certain interventions to address the problem of the imbalance. These interventions include self-help centers and pro bono legal services. “While these interventions may not be sufficient to address the magnitude and the urgency of the problem, they are nevertheless of critical importance.”

Judge Cardoza noted that it has been reported that every licensed attorney in the entire United States would have to provide 180 hours of pro bono services every year in order to provide just one hour of service to every household with an unmet civil legal need. He acknowledged that each person at the celebration makes a real difference in the lives of those in need of essential legal services.

Hawai'i Supreme Court Chief Justice Mark Recktenwald described that the self help centers are places where attorneys may volunteer their time to provide limited advice or information about what the unrepresented individuals will experience and what the court will expect of them, how they might be able to best present the evidence they have or present their evidence to the court and this is invaluable to someone who is coming into the system without any knowledge as to what the system expects of them. He further reported that the six self help centers from Hilo to Lihue have served almost 35,000 people since they were started at almost no cost to the state; just space in the courthouses



and the support of Judiciary's partners--volunteer attorneys, HSBA, Legal Aid Society of Hawai'i ("Legal Aid") and others that made the centers a reality.

The honorees for 2022 who were selected by the legal services providers were as follows:

Mihoko Ito

HJF honored Mihoko Ito for her efforts in significantly contributing to the establishing of the Indigent Legal Assistance Fund ("ILAF") through legislation and its maintenance over the years since its adoption. A brief description of her work follows:

While Mihoko's work for ILAF is her most visible work and is, perhaps the major basis for this award, it does not fully reflect Mihoko's community contributions or her character or her dedication. From Mihoko's earliest time as a practicing lawyer she has contributed to the community in innumerable ways. While many of her efforts have directly helped indigent residents in legal predicaments, she has contributed in many other ways to Hawaiian causes and community needs. For Mihoko, helping in the community is like breathing. For her, contributing to the community is not an accomplishment to be celebrated. Rather her community efforts spring from seeing a wrong, perceiving a need and doing something about it.

Mihoko currently serves on the HJF Board, and she is HJF's representative to the Access to Justice Commission. She is also serves as the (unpaid) lobbyist for both HJF and the ATJ Commission. Her advice and consultation for the legal service providers is invaluable in achieving essential funding to assist those in legal need.

William C. Darrah

The HSBA honored William C. Darrah, who is a divorce practitioner and editor of the *Hawai'i Divorce Manual* since 1990. The publication is used by pro se litigants as well as family law practitioners and judges. His activities were described as follows:

Since 1979, Mr. Darrah has taught many Family Court educational divorce programs offered to attorneys, judges, and parties to court proceedings. These programs include: The Divorce Experience, Kids



First II, and most recently in conjunction with the Mediation Center of the Pacific Divorce Law in Hawaii, a monthly program to help litigants deal with money issues in divorce.

Mr. Darrah devotes countless hours as a Family Court volunteer settlement master, a member of the Hawaii Supreme Court's Committee on Statewide Divorce Practice Reform and Permanent Committee on Hawaii Family Court Rules, and the First Circuit Family Court's Procedures Improvement Group. Participation in these programs and committees help to improve and streamline court procedures in furtherance of access to justice objectives.

Caroline Belsom

Legal Aid honored Caroline Belsom, who volunteered for over 60 shifts at the Maui Self-Help Center, more than any other volunteer during this period. She has consistently volunteered at the center for years and volunteers at least once a week. Legal Aid described her activities as follows:

Caroline enjoys her volunteer work at the center in part because she is able to empower others to see they can do something about their situations.

Growing up in Kalihi, Oahu, Caroline was taught at a young age the importance of giving back to the community. "God gives us gifts and talents and expects us to use them in ways that sustain and grow our community," she said. "I believe in equal access to the system, and in finding ways to allow people to participate in the justice system to the fullest extent possible. The Self-Help Center is one way to do that." One might assume that Caroline had a calling to become an attorney from a young age, but her path to where she is today has been anything but ordinary. "Life should be exciting," she exclaimed, when asked about how she found law. At Kamehameha Schools, Caroline easily excelled in mathematics and physics. Her family did not have the money to send her to France to study French over the summer, so instead she accepted an offer to study physics and found she was fascinated to learn "how things work." She pursued physics in college and graduate school (magna cum laude) and found she enjoyed teaching because of the people aspect it brought to her discipline. During her time teaching physics, she learned that a number of her friends and colleagues were experiencing legal issues as well as issues with their attorneys. These legal issues piqued her interest, but she did not understand



enough about the law to think of alternative solutions, so she decided to attend law school.

Caroline loved law school. After law school, she eventually found herself back on Oahu, and then on Maui, where she has worked as partner as well as Vice President in multiple firms and then as a solo practitioner for over a decade. Caroline has volunteered with the Maui Self-Help Center since it first opened ten years ago, and although the work is much different than her past research in quarks and high energy physics, she still brings with her some lifelong skills she developed from her research and teaching days. “When the callers have someone to listen as they pour everything out, their story is not always logical. It’s our job to help them put it in order; like a puzzle,” she said. “When the light bulb goes on, it just makes me smile.”

Richard Norton

Native Hawaiian Legal Corporation honored Richard Norton, who formerly practiced land use matters in California. Native Hawaiian Legal Corporation described his activities as follows:

As an NHLC volunteer, Richard is a valued legal consultant and mentor. For two years he has served with our team weekly and can be relied upon to generously share expertise ranging from trial strategy to legal leadership to legal business management. Richard will take a flight before dawn and return after dark so he can visit a sacred site and spend time with a hui of traditional practitioners. He is growing knowledge of ‘ōlelo Hawai‘i to better understand the people, law, and culture of his new home. And he’s frequently asking questions about local and Native Hawaiian history and culture to inform creative thinking about legal solutions that are practical, just, and pono.

Dentons U.S. LLP’s team

The Hawai‘i Disability Rights Center (“HDRC”) honored Dentons U.S. LLP’s team of Erika Amatore, Janna Ahu, Nicholas Reyes, Cassandra Crawford, Kristin Holland, and Paul Alston for their work in the E.R.K. class action. Their activities are described below:

E.R.K. involved a class of 495 former special-education students who were improperly aged out of Hawai‘i high schools by the state Department of Education. The case has spanned almost ten years



through initial filing, trial, appeal, and settlement administration. The Class members made over one thousand claims for compensatory education, totaling over \$5.3 million. Disbursements from the settlement fund paid for assistive technology, adaptive vehicles, physical therapy, speech therapy, vocational training and vocational equipment that have greatly enhanced the lives of the Class members. Settlement Administrator James E. Duffy helmed a staff of four contractors, supervised by the Dentons team. HDRC partnered with Dentons throughout this litigation, which is concluding in 2022.

In court filings, the judge assigned to this case recognized the team's work as highly labor intensive, due in part to the complex structure of the settlement. Each Class member had unique challenges and needs that had to be assessed on an individual basis. Class members often required guidance in locating appropriate services for their individualized needs, especially on neighbor islands. To make disbursements, the team engaged with each Class member, often numerous times, to match them with compensable, education-related goods and services. This task grew even more challenging with the March 2020 Covid-19 pandemic when many services became unavailable to class members. The team re-negotiated the settlement agreement to extend the time available to disburse funds by one year, with an additional year for Class members to receive services under individualized treatment plans.

The court in this case noted, however, that even with the one-year extension, the disbursement process was not smooth sailing. In particular, the DOE frequently opposed disbursements, resulting in numerous conferences, negotiations, and briefing before the court. The team's hard work resulted in court approval for disbursements related to adaptive vehicles and mobility services, educational travel, data plan expenses, and occupational tools and equipment. This work came with great rewards when Class members sent photos and videos to the team, showcasing their successes. In one case Nicholas Reyes recalled, the opportunity to help a Class member gain independence was a source of particular pride. He added that he felt most rewarded when the team was able to help Class members return to school or gain tutoring services.

Clyde Namuo

The Mediation Center of the Pacific ("MCP") honored Clyde Namuo who after retiring from his job as executive director of the Office of Hawaiian Affairs



in 2012 began mediating for MCP. Since that time, he has brought “his equanimity and practical empathy to 353 cases, comprised of 376 sessions and over 596 hours.” A further description of Namuo’s works is below:

From the beginning, Clyde has always been dedicated to helping meet the community’s needs for dispute resolution. Over the years he has mediated hundreds of small claims, TRO, and regular claims disputes both on-site at court and remotely when the pandemic necessitated the switch to remote mediation. He has also mentored apprentice mediators for the District Court mediation program, developing the next generations of mediators. Over the last couple of years, Clyde expanded his skillset to mediating domestic cases, helping couples agree on time-sharing and co-parenting plans that best meet the needs of their children. In addition to mediating, Clyde assists with MCP’s many trainings conducted for the public, as well as other private and non-profit organizations, such as Catholic Charities Hawaii and the Hawaii State Teachers Association.

Clyde has truly been a stalwart volunteer for MCP and is always willing to be involved with initiatives to make mediation more accessible. Not only did he adapt quickly to mediating via videoconference, but he also assisted with the testing and analysis of MCP’s internal text-based online mediation program, as well as the Judiciary’s pilot Online Dispute Resolution program.

Caitlin Moon

Volunteer Legal Services of Hawaii (“VLSH”) honored Caitlin Moon, who is currently an associate in the Trusts and Estates Department at Cades Schutte. VLSH describes her work as follows:

Caitlin is one of VLSH's steady volunteer attorneys, regularly assisting individuals with Estate Planning and Adult Guardianship matters. She is currently one of only two volunteers who assist with Adult Guardianships, which is vital to our programs. As of today, Ms. Moon has helped approximately 30 VLSH clients and has logged over 80 pro bono hours since she started volunteering with VLSH in 2020. Ms. Moon volunteers for VLSH's remote/telephonic Neighborhood legal clinics multiple times a month and has performed many pro bono brief services for VLSH clients. Caitlin also volunteers for the American Bar Association Free Legal Answers Hawaii online program (otherwise known as Hawaii Online Pro Bono) where she has answered numerous questions from vulnerable Hawaii residents during the course of the pandemic.



Access to Justice Rooms Volunteers

The volunteer attorneys who staffed the Access to Justice Rooms at the Honolulu District Court and the Ronald T.Y. Moon Judiciary Complex in Kapolei were also recognized. Since the centers opened in 2012, attorneys have provided nearly 8,500 consultations, at no charge, to people seeking legal assistance.##

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The law firms and offices who staffed the Honolulu Access to Justice Room in particular months in 2022 were: Office of Disciplinary Counsel, Chun Kerr, Goodsill Anderson Quinn & Stifel, Cades Schutte, Hawaii Association for Justice, Carlsmith Ball, Bronster Fujichaku Robbins, Hawaii Filipino Lawyer Association, Dentons U.S. LLP, Schlack Ito, Starn O'Toole Marcus & Fisher, Hawaii Women Lawyers, Case Lombardi & Pettit, Damon Key Leong Kupchak Hastert, Marr Jones & Wang, and Yamamoto Caliboso Heatherington.

The individual attorneys who volunteered were Sergio Alcubilla, Thomas Berger, Justin Brackett, Pohai Nuuhiwa Campbell, Matthew A. Cohen, Tred Eyerly, Mike Goodman, Sue Vo Hansen, Arlette Harada, Kauano Jackson, Eric T. Kawatani, Lloyd Lim, Andrea Lux Miyashita, Scott George Morita, Steve Nichols, Christine Nowland, Laura Ozak, Erika Strawn, Lynne T.T. Toyofuku, Shannon Wack, and Sarah Wang.

The individual attorneys who volunteered at the Kapolei Access to Justice Room were Kevin Adaniya, Marrionette Andrews, Cheryl Arakaki, Sara Jo Buehler, Mari Kishimoto Doi, Shelby Ferrer, Gregory Frey, Noah Gibson, Andrea Graf, Donna Green, Shannon Hackett, Seth Harris, Stephen Hioki, Ann Isobe, Curtis Kam, Lynnae Lee, Elsa McGehee, Dyan Mitsuyama, Ellen Politano, Gregory Ryan, Gemma-Rose Poland Soon, Tom Tanimoto, Jacqueline Thurston, and Carol Tribbey.

Other Volunteers Honored

The Appellate Pro Bono Program Volunteers recognized were Sean Aronson, Lance Collins, and David Harada-Stone.

The Oahu Family Court Volunteer Settlement Masters were recognized by First Circuit Deputy Chief Judge and Senior Family Court Judge Matthew Viola: Kevin Adaniya, Marrionette Andrews, Cheryl Arakaki, Sara Jo Buehler, Jennifer Chan, Bradley Chong, Tom Crowley, Nicole Cummings, Everett Cuskaden, William Darrah, Richard Diehl, Gavin Doi, Huilin Dong, Tom Farrell, Shelby Ferrer, Greg Frey, Stacey Fukuhara-Barclay, Noah Gibson, Christian (Christy) Gray, Donna Davis Green, Geoff Hamilton, Seth Harris, Steve Hartley, Jill Hasegawa, Denise Havicon, Stephen Hioki, Ann Isobe, Debbie Jew, Judith Schevtchuck, Curtis Kam, Kevin Kimura, Charles Kleintop, Erin Kobayashi,



Jackie Kong, Lynnae Lee, Kendal Luke, Katherine Lukela, Tim Luria, Elsa McGehee, Lynne McGivern, Dyan Mitsuyama, Naoko Miyamoto, Juan Montalbano, Blake Okimoto, Maria Penn, Anthony Perrault, Karl Phillips, Ellen Politano, Pablo Quiban, Alethea Rebman, Stephanie Rezens, Gregg Ryan, John Schmidtke, Scott Schmidtke, Isaac Smith, Gemma-Rose Poland Soon, Justin Sturdivant, Jo-Ann Takara, Tom Tanimoto, Christopher Thomas, Paul Tomar, Carol Tribbey, Molly Turpin, Sheila Vierra, Mitchell Wong, and Craig Yim.

The Appellate Mediator volunteers were recognized for their service in a segment led by the Hawaii State Judiciary Center for Alternative Dispute Resolution's Appellate Mediation Program Administrator Anne Marie Smoke. They included Justice Simeon R. Acoba, Jr. (ret.), Judge Riki May Amano (ret.), George B. Apter, Judge Joel E. August (ret.), Robin K. Campaniano, Corlis J. Chang, Louis L.C. Chang, Charles W. Crumpton, Justice James E. Duffy (ret.), Jacqueline L.S. Earle, David H. Franzel, Judge Max W.J. Graham (ret.), Judge Eden Elizabeth Hifo (ret.), Kenneth B. Hipp, Judge Douglas H. Ige (ret.), Elizabeth Kent, Judge Walter S. Kirititsu (ret.), Judge Robert G. Klein (ret.), Ralph R. La Fountaine, Rosalyn Loomis, Stanley Majka, Judge Victoria S. Marks (ret.), Judge E. John McConnel (ret.), Georgia K. McMillen, Judge Douglas S. McNish (ret.), Judge Marie N. Milks (ret.), Richard C. Mosher, Judge Gail C. Nakatani (ret.), Judge Rhonda A. Nishimura (ret.), Judge Maura M. Okamoto (ret.), Patricia Kim Park, Esq., Judge Shackley F. Raffetto (ret.), Judge Nancy Ryan (ret.), Judge Karl K. Sakamoto (ret.), Judge Sandra A. Simms (ret.), Judge Leland H. Spender (ret.), Thomas L. Stirling, Judge Allene K. Suemori (ret.), Owen K. Tamamoto, Judge Michael A. Town (ret.), Arne Werchick, Judge Andrew P. Wilson (ret.), and Judge Patrick K.S.L. Yim (ret.).

The five winners of the Commission's statewide high school essay contest were additionally recognized. Hawai'i Supreme Court Associate Justice Michael Wilson, 2022 HSBA bar president Shannon Sheldon, Representative Della Au Belatti, and Department of Education Deputy Superintendent Heidi Armstrong also participated in the celebration. The law firms acknowledged for providing the cash awards for the students and teachers were Cades Schutte, Davis Levin Livingston, Law Offices of Alen M.K. Kaneshiro, Lowenthal & Lowenthal, and Lukela Kobayashi.

This annual event honors those dedicated individuals who inspire others through their selfless provision of critical civil legal services to those who would otherwise go unrepresented.



IV. Hawai'i Supreme Court Rule 1.16

In February, 2022, the Commission recommended to the Hawai'i Supreme Court that Supreme Court Rule 1.16 that provided limited admission status to attorneys with law licenses to be employed by nonprofit legal service providers to help the low- and moderate-income residents of Hawai'i be amended to allow that an applicant under the rule who met the standard of character and fitness by providing a certificate of good standing from the jurisdiction that the applicant has been admitted to practice law and a certificate from the disciplinary authority of that jurisdiction. The Commission explained that since 2011 when the rule was promulgated, in actual practice, it generally took ten months for a first application for limited admission to be approved. With this type of delay, most legal services providers were not able to utilize the rule.

It appears that the main stumbling blocks were the good character and fitness requirements under Section 2.6 of the Hawai'i Board of Bar Examiners Rules of Procedures, which requires a full moral character application and such application require a significant amount of time.

Subsequently, a version of Rule 1.16 was distributed for comment. The Commission commented that if a requirement of a full disciplinary history report would take an inordinate amount of time, the goal of providing qualified and capable attorneys to the economically disadvantaged communities would be lost. It was suggested that the approach taken under Hawai'i Supreme Court Rule 1.9 relating to *pro hac vice* appearance of counsel for court proceedings be considered.

Supreme Court Rule 1.9(b)(2) provides, in part, that the declaration of the applicant for *pro hac vice* admission include, at a minimum, the applicant's business address, the name of the law firm the attorney is associated with and the address of the law firm, every state and federal jurisdiction to which the applicant has been admitted to practice law and a statement attesting that the attorney is in good standing in those jurisdictions, a statement that the applicant is not currently, and has not been, suspended or disbarred from the practice of law before any court or otherwise disciplined, and if the applicant has been disciplined or is subject to a pending disciplinary proceeding, material information about those proceedings must be provided, an affirmation that, if admitted, the applicant will comply with all applicable Hawai'i statutes, laws, and rules of the courts including the Hawai'i Rules of Professional Conduct and Guidelines of Professional Courtesy and Civility for Hawai'i Lawyers; and an affirmation that, if admitted, the applicant understands that the applicant is subject to all applicable Hawai'i statutes, laws, rules of the court, and the Hawai'i



disciplinary process with respect to any acts or omissions occurring during representation pursuant to the rule.

On September 9, 2022, the Hawai'i Supreme Court amended Supreme Court Rule 1.16(a) to follow the same format as an attorney seeking pro hac vice appearance under Supreme Court Rule 1.9.

Supreme Court Rule 1.16 provides as follows (the new material is underlined):

1.16. Limited Admission of Attorneys Employed by Non-profit Organizations Providing Civil Legal Services to Economically Disadvantaged Persons.

(a) **Employees.** An attorney employed by a civil legal service provider recognized by the Internal Revenue Service as a 501(c)(3) non-profit organization (“Legal Service Provider”) that is eligible to receive funds from the Indigent Legal Assistance Fund, who has been admitted to practice by the highest court of another state, the District of Columbia, or a territory of the United States, and whose license to practice in that jurisdiction is active, ~~and~~ who is a graduate of a law school approved by the American Bar Association Council on Legal Education and Admissions to the Bar, and who is in good standing in every jurisdiction where the attorney is licensed may apply for limited admission and be accorded limited admission without examination. In all other respects the application shall be made, adjudged, and conditioned as provided by Rules 1.3(a), (b), (c), (d), (e), (h), (i), 1.4 and 1.5 of this Rule 1. Pending completion by the Board, and approval by the court, of the full character and fitness report, limited admission may be provisionally granted upon submission by the applicant of a declaration containing the following information and declarations:[.]

- (1) the applicant’s contact information;
- (2) every state and federal jurisdiction to which the applicant has in the past been admitted to practice law and a statement attesting that the attorney is in good standing in those jurisdictions or has resigned in good standing;
- (3) a statement that the applicant is not currently, and has not been, suspended or disbarred from the practice of law before any court or otherwise disciplined, and if the applicant has been disciplined or is subject to a pending disciplinary proceeding, material information about those proceedings must be provided;
- (4) an affirmation that, if admitted, the applicant will comply with all applicable Hawai'i statutes, laws, and rules of the courts including the Hawai'i Rules of Professional Conduct and Guidelines of Professional Courtesy and Civility for Hawai'i Lawyers; and
- (5) an affirmation that, if admitted, the applicant understands that the applicant is subject to all applicable Hawai'i statutes, laws, rules of the court, and the Hawai'i disciplinary process with respect to any acts or omissions occurring during representation pursuant to this Rule.