

## **2023 HAWAI‘I ACCESS TO JUSTICE CONFERENCE**

### **“BUILDING TRUST AND UNDERSTANDING ABOUT CIVIL ACCESS TO JUSTICE”**

Friday, June 16, 2023

William S. Richardson School of Law, University of Hawai‘i

3:35 - 4:15 p.m.

#### **Plenary: “Building Trust and Understanding about Civil Access to Justice” [Nancy Gertner, Regan Iwao, Robert LeClair]<sup>1</sup>**

Regan Iwao, Treasurer and Director for the Legal Aid Society of Hawai‘i and Director for the Hawai‘i Justice Foundation, opened the final plenary by expressing his appreciation for the support of everyone in attendance in terms of increasing access to justice. Through the efforts of many dedicated and devoted individuals, the future looks promising.

Mr. Iwao shared three takeaways from earlier sessions of the conference. First, we can leverage virtual hearings to make legal services more affordable and to enhance access to justice, but the promise of virtual hearings must be balanced against potential problems, including a potential loss of gravitas, context, and empathy. Second, in our criminal courts, access to lawyers and resources may not necessarily give criminal defendants access to justice. Third, we have an overwhelming number of resources and services available. It may be difficult for individuals to navigate through all of the different resources and services when they need help.

Robert LeClair agreed that it is difficult to navigate through resources and services. Although there are many organizations that offer assistance, there are never enough resources at any one organization. Some ideas being considered at the Access to Justice Commission include creating a single source of information. This would not solve the problem of limited resources and capacity, however.

One of the most promising solutions we have left is more extensive use of para-professionals. One idea would be to fund pilot programs to allow paralegals to perform certain functions under attorney supervision such as representing others in landlord-tenant hearings, child support hearings, or mediation. This system would work well if paralegals received meaningful supervision and review of their work.

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<sup>1</sup> Teri-Ann Nagata, a member of the Commission’s Committee on Education, Communications, and Conference Planning, prepared this summary.

Judge Gertner spoke about the commitment she observed at the conference. The camaraderie among the individuals doing the hard work of increasing access to justice was incredibly impressive.

Regarding criminal injustice, Judge Gertner commented on the irony of having many resources available, including presentence report writers, probation officers, marshals, and addiction programs. Judge Gertner dealt with many criminal defendants who were suffering from addiction. In the criminal context, Judge Gertner was limited to punishing these individuals and hoping that they would receive assistance in prison. One example was Damien Perry, a criminal defendant she sentenced to four years in prison after writing a sentencing memo discussing the bullet fragments lodged in Mr. Perry's brain. When Mr. Perry was released from prison, he was expected to attend programs for psychological and educational issues. Because he was homeless after his release, however, he was unable to find transportation to these programs. Programs and services would have been much more meaningful if they had been offered before he was a felon on probation.

In response to a question about staying motivated, Mr. LeClair shared several promising facts, including funds coming in from the Interest on Lawyers' Trust Account (IOLTA) Program and legislature, committed legal services providers, excellent pro bono attorneys, and a caring judiciary. Attendees can feel good knowing that they are doing the right things and dealing with other quality people who want to do the right thing.

Judge Gertner shared that the work keeps her going. States like Hawai'i, Massachusetts, California, and Oregon can feel like bubbles, but attendees should make an effort to take themselves outside their bubbles. We have a special obligation to repair the world and speak truth to power. When Judge Gertner called the individuals she had sentenced, she took solace in knowing that she was doing her best to humanize a system that in many ways was inhumane. If she could make the system a little more human, she could make a very big difference.