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**HAWAI'I  
ACCESS TO JUSTICE COMMISSION**

**ANNUAL REPORT FOR 2021**



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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 2021.

### 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 2021 are listed below.<sup>1</sup>

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<sup>1</sup> During the summer of 2021, Grant Teichman, Pro Bono Coordinator, at Volunteer Legal Services of Hawai'i ("VLSH") was appointed as interim executive director of VLSH and served as an interim Commissioner. Similarly, Raymond Kong, new Litigation Director of Lawyers for Equal Justice, assumed the position of Thomas Helper on the Commission, and Mihoko Ito assumed the position of Gary Slovin as representative of Hawaii Justice Foundation.



	Name	Appointed By	Term Ends
1.	Hon. Joseph E. Cardoza (Ret.) (Chair)	Chief Justice	12/31/23
2.	Hon. Todd W. Eddins	Chief Justice	12/31/21
3.	Hon. Brian A. Costa	Chief Justice	12/31/21
4.	Hon. Ronald Ibarra (Ret.)	Chief Justice	12/31/21
5.	Hon. Michael K. Soong	Chief Justice	12/31/21
6.	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.	Angela Kuo Min (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	12/31/21
12.	Nanci Kreidman (Domestic Action Violence Center)	Hawai'i Consortium of Legal Services Providers	12/31/22
13.	Thomas A. Helper (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	12/31/21
15.	Rona Fukumoto (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with the Chief Justice	12/31/23
16.	Gary M. Slovin	Hawaii Justice Foundation	12/31/22
17.	Dean Aviam Soifer (Ret.)	William S. Richardson School of Law	12/31/22
18.	Denise M. Arestad-Asuncion	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.

There are two committees that primarily have organizational or administrative functions (Administration Committee and the Annual Report Committee).

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.

During 2021, the members of this committee were Judge Joseph E. Cardoza (Ret.)(Chair), David Reber (Vice Chair), Judge Brian Costa, Jill Hasegawa, Derek Kobayashi, Angela Kuo Min, Carol K. Muranaka, and Tracey Wiltgen.

The Annual Report Committee, which assists in preparing an annual report of the activities of the Commission for filing with the Supreme Court in accordance with Supreme Court Rule 21(j)(1), is chaired by Rona Yagi Fukumoto. Commissioners and members of the Administration Committee assisted in the preparation of the Commission's annual report for 2021.

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



- c. 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 2021 were former Dean Aviam Soifer (Chair); Sergio Alcubilla, Rep. Della Au Belatti, Sonny Ganaden, Mihoko Ito, Robert J. LeClair, Clarissa Malinao, Emily Marr, 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 2021 Access to Justice Conference (“Access to Justice and the Time of COVID”) held on Friday, June 25, 2021 via Zoom.
- (2) Prepared an application for approval of six continuing legal education credits for Hawai'i-licensed attorneys attending the 2021 Access to Justice Conference. Approval for the six credits was ultimately received from the HSBA.
- (3) Prepared a report to the Commission summarizing the 2021 Access to Justice Conference, including, expenses, evaluations, and suggestions.
- (4) Worked on possible workshop topics for the 2022 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 2021 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 2021 were Angela Kuo Min (Chair), Jennifer Chin (Vice-Chair), Judge Edmund D. Acoba, Sergio Alcubilla, Nicole Altman, Judge Rebecca A. Copeland, Gilbert Doles, Olan Leimomi Fisher, Representative Linda Ichiyama, Judge Blaine J. Kobayashi, Derek Kobayashi, Clarissa Malinao, Emily Marr, Maya Scimeca, Catherine Taschner, Shannon Wack, and Tracey Wiltgen.

#### **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.”



In addition, Purpose 3 of Supreme Court Rule 21 provides:

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

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.

The Committee on Initiatives to Enhance Civil Justice helps in the mission of 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.

### Summary of Activities

- (1) Created a subcommittee to study the issue of right to counsel in civil cases in addition to continuing to look at desirability of a Civil Pro Bono Counsel Panel.



- (2) Working Group on Use of Paralegals continues to look at how paralegals might assist self-represented litigants in the Family Law context, including examining rule and statute changes.
- (3) Continued study of transportation to court as a barrier to access to justice and continued developing instructional materials for distribution to the public for post-pandemic use.
- (4) Assist judiciary staff to finalize Divorce Forms matrix for posting on Judiciary website to allow self-represented litigants to access all forms used in the state.

Members of the Committee in 2021 were Joanna E. Sokolow (Chair), Earl Edward Aquino, Lincoln Ashida, Charles Crumpton, Elizabeth Fujiwara, Judge Ronald Ibarra (Ret.), Craig Jerome, Patricia Kickland, Gregory Lui-Kwan, Emily Marr, Juan Montalbano, Deja Marie Ostrowski, Kristin Shigemura (Vice Chair), 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 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. Identify opportunities to increase the use of Forensic Peer Specialists in helping people navigate the criminal legal system.
  - Support training and capacity building for Forensic Peer Specialist workforce development.
  - Ensure appropriate internship opportunities for Forensic Peer Specialist training.
- b. Make recommendations concerning ways to remove impediments to accessing the justice system due to language, cultural, and other barriers and make recommendations concerning what programs should be initiated to address this barrier, which may include the following:



- Providing multilingual services, including increasing the number of available staff, pro bono attorneys and court personnel who are bilingual.
  - Providing forms in multiple languages.
  - Providing translation services in court, administrative agencies, and with legal service providers.
  - Partnering with the University of Hawai'i and other schools offering language training to encourage multilingual volunteers to provide outreach and translation services.
  - Identify state entities working on these issues to increase collaboration and share resources.
  - Examine factors around barriers to interpreter certification and make recommendations to ensure quality and availability.
- c. 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.
- d. Increase opportunities for continuing legal education for judges, lawyers, and other criminal legal system personnel on trauma-informed lawyering and other competencies.
- Identify resources to develop and offer training.
  - Support wellness for all practitioners in conjunction with the National Task Force on Lawyer Well-being of the American Bar Association.

Members of the Committee in 2021 were Heather Lusk (Chair), Judge William M. Domingo (Vice-Chair), Russell Awakuni, Patricia Cookson, Dan Mistak, Calvin Pang, Page Ogata, Jennifer Rose, Brandon Segal, Cynthia Tai, Malia Taum-Deenik, Kristina Toshikiyo, Trisha Kajimura, Christine Daleiden, 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 2021 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 Initiative Task Force**

The Pro Bono Initiative Task Force was created in the fall of 2012<sup>2</sup> for the purpose of encouraging law firms and offices to volunteer to staff the Access to Justice Rooms on O‘ahu and self-help centers on the neighbor islands and other legal service provider programs in need of pro bono volunteers.

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

- 1) Coordinating activities with the national pro bono celebration;
- 2) Recognizing significant pro bono service by attorneys at self-help centers, in appellate cases, for legal service providers and in other legally related activities;
- 3) Providing outreach to the statewide community on the importance of volunteerism in general, and pro bono services by attorneys;
- 4) Educating the public on the democratic principles of equal treatment and representation in the legal system; and

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<sup>2</sup> See Minutes of the Commission dated November 26, 2012 and Minutes of the HSBA dated December 13, 2012.



- 5) Including the HSBA, the Hawai'i Supreme Court and judiciary, and the other branches of government in the recognition of pro bono service.

The members of the Task Force in 2021 included Judge Brian Costa (Chair), Tracey Wiltgen (Vice Chair), Justice Simeon Acoba (Ret.), Shawn Benton, Marie Gavigan, Jill Hasegawa, Regan Iwao, Judge Melanie May, Angela Kuo Min, Judge Trish Morikawa, and Judge Trisha Nakamura.

## **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.<sup>3</sup> During 2021, the Task Force met at least once each month to work on several proposals designed to utilize the talents and dedication of paralegals and non-lawyers to enhance access to justice in Hawai'i. These proposals included the creation of an Online Volunteer Court Navigator, the implementation of a Second Circuit Volunteer Attorney and Volunteer Assistant Pilot Project, a First Circuit Tenant-Advocate Project, and a review of Hawai'i Supreme Court Rule 7.

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

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<sup>3</sup> The 2021 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); Denise Arestad-Asuncion (Hawai'i Paralegal Association); Gilbert Doles (attorney); Victor Geminiani (retired Co-Executive Director, Hawai'i Appleseed Center for Law and Economic Justice); Thomas A. Helper (Litigation Director, Lawyers for Equal Justice); Raymond Kong (current Litigation Director, Lawyers for Equal Justice); Susan Jaworowski (Professor and Paralegal Program Coordinator, Kapi'olani Community College); Carol K. Muranaka (attorney and Commissioner); Angela Kuo Min (Executive Director, Volunteer Legal Services Hawai'i); Dan O'Meara (Managing Attorney, Legal Aid Society of Hawai'i); Grant Teichman (Acting Executive Director, Volunteer Legal Services Hawai'i); John Barkai (William S. Richardson School of Law professor); Angela Lovitt (Deputy Director, Legal Aid Society of Hawai'i); Calvin Pang (William S. Richardson School of Law professor); and Aviam Soifer (retired Dean, William S. Richardson School of Law and Commissioner) who served as ex officio members of the Task Force.



2020 and 2021 due to the Coronavirus pandemic. Thus, 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. It also carries the potential of expanding the reach of the Volunteer Court Navigator Program to other circuits desiring such services.

During 2020, the Task Force proposed to the Commission a Second Circuit Tenant Volunteer Attorney and Volunteer Assistant program. The Commission approved transmitting this proposal to the Hawai'i Supreme Court. On September 18, 2020, 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 March 2021. This was followed by having the volunteers observe evictions cases in the second and first circuits via remote access. On July 12, 2021, although an eviction moratorium was still in place for unpaid rent cases, Volunteer Court Navigators began to appear in person at District Court landlord-tenant sessions to assist unrepresented persons who desired legal representation in Second Circuit eviction cases. For those desiring representation, a referral was forwarded to Volunteer Legal Services Hawai'i (VLSH). VLSH then screened applicants to determine whether they were income-qualified. VLSH then assigned an attorney to represent the tenant from the list of trained volunteer attorneys. Under this program, income-qualified tenants receive free and full trial court representation by attorneys. The attorneys were assisted by trained volunteer assistants. The assistants served under the direction of the volunteer attorneys and were 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 also presented to the Commission a First Circuit Advocate Pilot Project. Under this proposal, an advocate is trained to provide, under the direct supervision of a Hawai'i-licensed attorney working for a legal services provider, representation to tenants in eviction cases. On October 19, 2020, this pilot project was approved by the Commission for transmittal to the Hawai'i Supreme Court. On October 20, 2020, this pilot project was transmitted to the Hawai'i Supreme Court for review. On February 11, 2021, the Hawai'i Supreme Court issued an order establishing a Tenant-Advocate Pilot Project in the First Circuit. Pursuant to the proposal and order, the Legal Aid Society of Hawai'i



“LASH”) was designated as the project’s legal services provider. Subsequent to the issuance of the Hawai'i Supreme Court order, LASH elected to assume sole responsibility for the implementation of and reporting on this pilot project. Thus, this project in its entirety has been turned over to LASH with the Hawai'i Access to Justice Commission remaining available to provide assistance if so requested by LASH.

At the request of the Hawai'i Supreme Court, the Hawai'i Access to Justice Commission has also been working on possible amendments to Hawai'i Supreme Court Rule 7. This endeavor was assigned to the Task Force on Paralegals and Other Non-lawyers. The purpose of this project is to determine if Rule 7 should be amended to expand the pool of persons available to provide pro bono legal services in Hawai'i. This project remains under review by the Task Force.

The Task Force continues to work on other projects. The members of the Task Force express their deepest appreciation to the Judiciary for its assistance during 2021 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 2021, the Hawai'i Access to Justice Commission’s Task Force on the Impact of the Coronavirus Pandemic (“Task Force”) met each month 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.<sup>4</sup> At the time of its formation, the Task Force was one of two such state task forces in the nation, the other having been established in Massachusetts. Other states have since 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:

- 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.

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<sup>4</sup> The 2021 members of the Task Force on the impact of the Coronavirus Pandemic were Judge Joseph E. Cardoza (Ret.), Second Circuit Chief Judge (Chair); Tom Helper (Litigation Director, Hawai'i Appleseed Center for Law and Economic Justice); 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); Angela Kuo Min (Executive Director, Volunteer Legal Services Hawai'i); Gary M. Slovin (Attorney); and Tracey Wiltgen (Executive Director, The Mediation Center of the Pacific, Inc.).





- 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 are available to those struggling with maintaining rental housing.
- E. Expanding the Second Circuit Volunteer Court Navigator Program to other circuits to provide legal information and services to unrepresented persons in landlord-tenant, debt collection, and district court injunctions against harassment cases.

During 2021, the Task Force's work focused on funding for legal services providers, rental housing evictions, landlord-tenant mediation, rental assistance programs, and limited scope representation.

Funding for legal services providers during the pandemic continued to be of critical importance. The pandemic has created economic challenges for persons and businesses throughout Hawai'i, the nation, and the world. The challenges in Hawai'i increased the need for legal services. However, the decline in tourism and the need to control the spread of the virus caused a slowing of the Hawai'i economy, businesses closures, and loss of employment. This, in turn, jeopardized funding for legal services providers. The Task Force and Commission communicated with Hawai'i legal and community foundations to inform them of the increased demand for legal services and the need for adequate funding to sustain these services.

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. 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. The eviction moratorium ended during August 2021. The approaching end of the eviction moratorium caused concern that there would be a large increase in the number of evictions in Hawai'i. Thus, the Task Force and 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, the most significant of which requires landlords to refer rent disputes to mediation before filing an eviction court case. The centerpiece of this legislation is mediation. The mediation centers throughout Hawai'i have played a central role in helping to avoid an eviction crisis in Hawai'i.



During 2021, for the hundreds of landlords and tenants who participated in mediation, the rate of successful mediation agreements has been extremely high, in the 88% to 90% range. At least for the present, these amendments have helped landlords and tenants resolve their issues and avoid the courts from becoming overwhelmed by evictions cases. The Judiciary also met regularly with stakeholders, including Commission representatives, to minimize the impact of the pandemic. The Task Force and Commission are extremely appreciative of the leadership and support from the Hawai'i Legislature and Judiciary in this area.

During 2021, various rent and mortgage relief programs were in place to assist landlords and tenants who were adversely impacted by the Coronavirus pandemic. The federal government provided large sums of money for rent and mortgage relief. The problem that arose was the apparent lack of community awareness of these relief programs and the proper means of obtaining rent and mortgage relief. The Commission, attorneys, mediation centers, utilities, and agencies involved with processing applications for rent and mortgage relief participated in televised forums to increase awareness amongst tenants and landlords. The Legal Aid Society of Hawai'i ("LASH") also prepared 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.

The Task Force has also presented limited scope representation training to attorneys. Limited scope representation makes it more affordable for persons desiring legal representation to be represented by an attorney at certain stages of a case.

During 2021, the Task Force also participated in planning for calendar year 2022 and fiscal year 2022. Planning has been challenging as circumstances related to the impact of the Coronavirus pandemic have changed often and rapidly.

The Task Force sincerely appreciates the leadership and support received from the Hawai'i Legislature and the Judiciary as well as the support from 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. 2021 HAWAI'I ACCESS TO JUSTICE CONFERENCE

The shutdown of the entire state in March 2020 because of the raging COVID-19 pandemic made the normal not likely for a period. Everyone planning a conference at the time remained hopeful, nonetheless.

But the pandemic created too much uncertainty for the Hawai'i Access to Justice Commission (Commission) to continue with plans for an in-person Access to Justice Conference in 2020.

In 2021, however, the Hawai'i Access to Justice Conference attracted 270 attendees to its first Zoom conference with the theme, "Access to Justice and the Time of COVID."<sup>5</sup> Former Dean Aviam Soifer and Robert LeClair, Executive Director, Hawaii Justice Foundation, served as co-emcees for the conference, which included 33 speakers or panelists.

The Cades Foundation was acknowledged for its generosity in providing a grant to assist in defraying the costs of the conference.

Second Circuit Court Judge Joseph Cardoza (Ret.), Commission Chair, welcomed the attendees with opening remarks for the conference. See Appendix A for a copy of Judge Cardoza's remarks. Hawai'i Supreme Court Chief Justice Mark Recktenwald engaged the virtual audience with an update on the judiciary's access to justice activities. See Appendix B for a copy of Chief Justice Recktenwald's speech.

Keynote speaker, former United States District Judge Nancy Gertner, who is on the faculty at Harvard Law School, gave her "Lessons from a Pandemic." One lesson, she said, is the need for technological responses to the extraordinary divisions during the pandemic, and the other is the limits of technology solutions. She noted that pre-pandemic the "contours of the problem were

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<sup>5</sup> This section is based upon summaries of the workshops and plenary sessions of the conference prepared by Jay Mason, Managing Attorney, Kauai Office; Makia Minerbi, Senior Staff Attorney, Windward Office; Laura Cushman, Staff Attorney, Kona office; Eliot Schulte, Paralegal; Maya Scimeca, Engagement Specialist; Katharine Munk, AmeriCorps; Nicholas Severson, Staff Attorney; Lona Hertz, Paralegal; Prya Oliveira, Test Coordinator, Fair Housing Enforcement Program; and Shaela Garces, AmeriCorps. Michelle Moorhead coordinated the summaries written by the staff within Legal Aid Society of Hawai'i. These summaries may be found at the subpages of the Hawai'i Access to Justice Commission at:

<https://www.hawaiijustice.org/hajc/access-to-justice-commission/2021-hawaii-access-to-justice-conference>.



economic inequality, cultural heterogeneity, and physical disability and differences.”

Judge Gertner observed that there may be subcategories of cases where technology enhances justice: informational settings versus deliberative settings.

Judge Gertner opined that the tyranny of numbers applies overwhelmingly to the cases of poor people. She quoted from the former Dean of Yale Law School, Harold Koh, in his keynote address, “The Just, Speedy, and Inexpensive Determination of Every Action”:

When you cannot measure what is important, you tend to make important what you can measure. And so like anyone else in the workplace, judges tend to do what is measured, and what is measured and valued in today’s courthouses is how many cases are closed, not how justly they are decided.

Judge Gertner described a case about learning through screens and its limitations. In United States v. Nippon Paper Industries, 17 F.Supp.2d 38 (D. Mass. 1998), a criminal antitrust case, the government wanted to take the testimony of a critical witness in Japan through either a videotaped deposition or through simultaneous video teleconferencing. The witness refused to come to the United States. The defendant objected to the videotaped deposition approach but agreed to video teleconferencing.

Judge Gertner allowed the video teleconferencing, but not the simultaneous transmission to the jury. She ordered that the witness’ testimony be taken in the evening between 6:30 and 9:30 p.m., that counsel be present to cross-examine, that the court rule on all objections as if the testimony were being conducted before the jury, and the conference be taped and edited for later transmission to the jury.

As noted by Judge Gertner in the case:

While some argue that videotaping is just like the real thing, “just like” is not, in most situations, good enough . . . I, though an avid supporter of the “Courtroom of the Future,” with a courtroom equipped with every manner and means of high tech accoutrements, believe that we should be cautious about the technology lest we begin to practice “virtual justice.”

Judge Gertner raised a question, “Will we wind up with a two-tiered system? Those who are working through screens, and those who are in person? Will that then exacerbate the substantive access to justice issues?”



There is a difference between watching someone at a sentencing in a courtroom and watching that someone on a screen, she said. She mentioned this quote about empathy:

Empathy is erased or sharply curtailed by technology because the other person is not present in an embodied way as an individual, nor can their emotions be experienced.<sup>6</sup>

Another cautionary tale alluded to by Judge Gertner was information from the Brennan Center in September 2020 as follows:

- One study of bail hearings found that the defendants whose hearings were conducted over video had higher bond amounts than their in-person counterparts
- A study of immigration courts found that detained individuals were more likely to be deported when their hearings occurred over video conference rather than in-person.
- Studies of remote witness testimony by children found that the children were perceived to be less believable, accurate, confident when appearing over video
- In three out of six surveyed immigration courts, judges identified instances where they had changed credibility assessments made during a video hearing *after* holding an in-person hearing.

Judge Gertner stated that she did not know what is next, but that this conference and these discussions are the critical places to start.

In the morning workshop, “Impact of the Coronavirus Pandemic on Access to Justice,” former Dean Avi Soifer facilitated the discussion with fellow panelists: Chief Justice Recktenwald; Judge Cardoza (ret.); Heather Lusk, executive director of the Hawai'i Health and Harm Reduction Center; and Nalani Fujimori Kaina, executive director of the Legal Aid Society of Hawai'i. The presenters examined the effects of the pandemic and contemplated future perspectives. Better access may be provided by online services, and it is likely that access to the legislative process via Zoom may continue, coupled with in-person participation. Funding for legal service providers needs to be a priority since staying at the same level of funding means that over time they are falling

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<sup>6</sup> Dennis P. Slattery, “Myth and Culture” (drawing on Sherry Turkle, “The Power of Talk in a Digital Age.”) (2016).



behind. The live-streaming of oral arguments at the Hawai'i Supreme Court will continue.

There were three concurrent workshops for the first afternoon session and four in the later afternoon.

### **“Lifting Stoppers, Lifting Barriers”**

The Re-Entry and Community Service (“RACS”) Program at the Honolulu District Court was explained by Angela Kuo Min, executive director of Volunteer Legal Services Hawai'i, facilitator; First Circuit District Court Judge Melanie Mito May; and Clarissa Malinao, volunteer attorney. Outstanding traffic tickets often cause “stoppers,” meaning that the individual with many outstanding tickets will not be able to renew one's driver's license or vehicle registration and this, in turn, may cause difficulty when the individual needs to drive to work or to find employment.

In 2020, Volunteer Legal Services Hawai'i helped 200 RACS clients. The program conducts a comprehensive search of all tickets under the person's name(s) and vehicles used and consolidates the court locations so that the case can be handled in Honolulu. Once the fines have been identified and are eligible for the program, a volunteer attorney will file on behalf of the client a motion to convert the fines to community service. The volunteer attorney will attend the court hearing with the client and argue for community service in place of the fines. When the motion is granted, the person is referred to Adult Services Branch, which oversees community service throughout the state.

Although the program functions only in the First Circuit, there is a court form at the judiciary website of a motion to convert fines into community service that can be used generally.

Another program discussed by the panelists involves restricted licenses under Haw. Rev. Stat. § 286-109, where the district court judge may allow a restricted driver's license where: (1) the individual must be gainfully employed in a position that requires driving and will be discharged if the individual is unable to drive; or (2) the individual has no access to alternative transportation and therefore must drive to work. In addition, a district court judge sitting in the traffic division has the power to dismiss a notice of traffic infraction, with or without prejudice, or to set aside a judgment for the state. Haw. Rev. Stat. § 291D-12(a)(3).



### **“Different Dispute Resolution Approaches: Modifying the Process for the Issues and the People”**

Tracey Wiltgen, facilitator, executive director of The Mediation Center of the Pacific; Michelle Acosta, Deputy Chief Court Administrator for the First Circuit; Katie Ranney, Special Programs Coordinator for The Mediation Center of the Pacific; Laurie Tochiki, executive director of EPIC ‘Ohana; and Katie Bennett, mediator of Family Mediation Hawai‘i discussed the perspectives of their respective dispute resolution organizations. Some of the guidelines discussed included: design a space that is safe and allows the clients to have a voice; focus on the level of engagement of the participants; give people time to think about what’s happening; understand that access to justice in the context of mediation, includes having access to childcare and interpreters.

### **“Working Together to Provide Immigration Legal Services to the Low-Income Clients”**

Corey Park, facilitator, board president of The Legal Clinic; Esther Yoo, staff attorney at The Legal Clinic, and Taylor Brack, Law Fellow at the Refugee and Immigration Law Clinic, informed the attendees that currently there are approximately 255,000 Hawai‘i residents who are immigrants. This is higher than the national average by almost five percent. Over 110,000 of these immigrants have not been naturalized, and nearly 48,000 do not have legal status in the United States. The presenters discussed the issues facing these immigrants such as no right to counsel in immigration courts, complex asylum cases, and the lack of due process.

### **“The Civil and Legal Rights of People Experiencing Homelessness in the Times of COVID”**

Mateo Caballero, facilitator, principal attorney of Caballero Law LLC, led the discussion with Wookie Kim, Legal Director at the ACLU of Hawai‘i; Deja Ostrowski, Staff Attorney with the Medical-Legal Partnership Hawai‘i; and Janet Kelly, Senior Attorney, Homeless Specialist at Legal Aid Society of Hawai‘i on the complex issue of homelessness. It was noted that only about 1.79 percent of Oahu’s homeless population can access available shelter beds. The presenters discussed the barriers that criminalization of homelessness has created. Suggestions on how to help included assistance obtaining vital documents; advocating decriminalization of homeless individuals; developing an understanding of the issue of the homeless individual; and working to connect these individuals with available community resources.





### **“Access to Justice and the Hawaiian Home Lands Trust”**

Summer Sylva, facilitator, executive director of the Native Hawaiian Legal Corporation (“NHLC”), and others at NHLC--David Kauila Kopper, Director of Litigation, Ashley Obrey, Legal Practice Administrator and staff attorney, and Henderson Huihui, Equal Justice Works fellow and staff attorney--explained that NHLC’s mission is to perpetuate, through legal and other advocacy, the rights, customs, and practices that strengthen Native Hawaiian identity and culture. The organization assists the Hawaiian Homes beneficiaries with issues including lost applications, evictions, construction defects, and successorship criteria. The Hawaiian Homes Commission Act was one hundred years old on July 9, 2021. It was noted that homestead is important to stability and the intent of the program was to have families on leases; instead, the waiting list grows, and Native Hawaiians are overrepresented in the homeless population.

### **“Family Law and Access to Justice”**

Gemma-Rose Poland Soon, facilitator, solo practitioner; First Circuit District Family Court Judge Rebecca A. Copeland; Tom Farrell, founder and managing attorney of Farrell & Perrault; and Angelina Mercado, executive director of the Hawai'i State Coalition Against Domestic Violence, discussed coercive control, which is control of another person’s behavior by using force or threats or causing fear. The power and control can be exhibited by using intimidation, emotional abuse, isolation, blame, children or third party, privilege, or economic abuse.

### **“Access to Justice in Elder Law and Special Needs Planning”**

Scott Suzuki explained that one in two people over 85 years old has a neurocognitive condition, and there is an increasing need to help older individuals. He discussed barriers to access to justice--care, cost, lack of creativity in the legal system, and lack of compassion. He explained that care is complicated and often not pre-planned, but reactionary. The second barrier of cost can be a strain on the caregiver and care recipient. A private room costs an average of \$8,820 monthly nationwide. In-home care may average \$4,000 monthly, but \$3,895 is the highest Social Security benefit. Suzuki expressed that the traditional medical model of institutions and nursing homes is an old concept. He believes that circumstances have changed and so should policies. Many laws lack compassion for the elderly and special needs individuals such as the Medicare Secondary Payer Act, Social Security, ABLE (Achieving a Better Life Experience) Act, and Medicaid. He explained that prevention requires anticipation; that is, one should anticipate the legal needs and health care needs.



## **Closing Session**

The plenary closing session with Professor Calvin G.C. Pang and Judge Gertner shared reflections of the day's conference. Professor Pang said that the reliance of Zoom with its convenience and ease may continue, but it is important to remember the "vitality of human interaction" for the preservation of humanity. He referenced Judge Gertner's address about "hard" and "easy" cases, and that standards, rules, and practices are followed in other arenas to dispose of cases and he encouraged observation of a deeper context of a person's situation and to resist the tendency of the easy route. "If the totality of observations suggests that the hard route be taken, then maybe it should be taken."

Judge Gertner observed that law may be an abstraction and that there is a need to stay rooted in the real world. She explained that judges deal in abstractions and rules. In the various workshops, she observed the panelists' compassion and consideration about people in the community. The panelists spoke about the affected community and outreach, not abstractions. Judge Gertner stated that judges are distant from the people they serve, and it was her belief that judges should be more willing to meet people where they are. She saw a glimpse of it here at the conference and was encouraged to come back and "keep learning."



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### III. 2021 PRO BONO CELEBRATION

The Pro Bono Initiative Task Force (“Task Force”), chaired by Judge Brian Costa,<sup>7</sup> coordinated the annual 2021 Pro Bono Celebration during National Pro Bono Celebration week that took place across the country in October. The 2021 Celebration was Hawai'i Access to Justice Commission's ninth annual Pro Bono Celebration. Due to continued health and safety concerns created by the pandemic, the Task Force once again partnered with ThinkTech Hawaii to tape and livestream the Celebration.

The annual Celebration allows the bar to recognize and thank the attorneys and individuals who generously donate their time to assist hundreds of people each year. It also recognizes those volunteers who have gone above and beyond to assist our legal service providers in helping the public and 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, especially during the pandemic. 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 Hawai'i State Legislature, the Governor, and the Hawai'i Access to Justice Commission for selected honorees from the various legal service providers, as well as the attorneys who provide pro bono services for the Access to Justice Self-Help Desks at the District and Family courts, volunteer appellate attorneys, the Volunteer Settlement Master Program, and the Appellate Mediation Program.

The 2021 outstanding pro bono attorneys recognized were Carol K. Muranaka by Hawaii Justice Foundation; Diane Ono and Jan Boivin by Hawaii State Bar Foundation; Mike Goodman by Legal Aid Society of Hawai'i; Jeffrey Foster by Native Hawaiian Legal Corporation; Lisa Jacobs by The Mediation Center of the Pacific, Inc.; and Derek James Brow by Volunteer Legal Services Hawai'i.

The attorneys who volunteered at the Kapolei Access to Justice Room in 2021 were:

Kevin S. Adaniya  
Shelby N. Ferrer  
Stephen T. Hioki

Leslie Ching Allen  
Seth R. Harris  
Ann S. Isobe

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<sup>7</sup> The members of the Pro Bono Initiative Task Force include Judge Brian Costa (Chair), Tracey Wiltgen (Co-Chair), Justice Simeon Acoba (Ret.), Shawn Benton, Marie Gavigan, Jill Hasegawa, Regan Iwao, Judge Melanie May, Angela Kuo Min, Trish Morikawa, and Judge Trisha Nakamura.



Curtis M. Kam  
Lynnae Lee  
Dyan K. Mitsuyama  
Ellen B. Politano  
Jacqueline E. Thurston

Mari L. Kishimoto Doi  
Elsa F.M. McGhee  
Gemma-Rose Poland Soon  
Tom S. Tanimoto  
Carol A. Tribbey

The First Circuit Family Court Volunteer Settlement Masters recognized were:

Kevin Adaniya  
Cheryl Arakaki  
Jennifer Chan  
Tom Crowley  
Everett Cuskaden  
Richard Diehl  
Huilin Dong  
Shelby Ferrer  
Stacey Fukuhara-Barclay  
Christian (Christy) Gray  
Geoff Hamilton  
Steve Hartley  
Denise Havicon  
Ann Isobe  
Curtis Kam  
Mari Kishimoto-Doi  
Erin Kobayashi  
Ed Lebb  
Kendal Luke  
Tim Luria  
Elsa McGehee  
Dyan Mitsuyama  
Juan Montalbano  
Blake Okimoto  
Anthony Perrault  
Ellen Politano  
Alethea Rebman  
Candra Rivers  
Judith Schevtchuk  
Scott Schmidtke  
Gemma-Rose Poland Soon  
Jo-Ann Takara  
Christopher Thomas  
Molly Turpin  
Sheila Vierra  
Craig Yim

Marrionette Andrews  
Sara Jo Buehler  
Bradley Chong  
Nicole Cummings  
William Darrah  
Gavin Doi  
Thomas Farrell  
P. Gregory Frey  
Noah Gibson  
Donna Davis Green  
Seth Harris  
Jill Hasegawa  
Stephen Hioki  
Debbie Jew  
Kevin Kimura  
Charles Kleintop  
Jackie Kong  
Lynnae Lee  
Katherine Lukela  
Michael McEnerny  
Lynne McGivern  
Naoko Miyamoto  
Courtney Naso  
Maria Penn  
Karl Phillips  
Pablo Quiban  
Stephanie Rezents  
Gregg Ryan  
John Schmidtke  
Isaac Smith  
Justin Sturdivant  
Tom Tanimoto  
Paul Tomar  
Mitchell Wong  
Trina Yamada



The law firms, organizations, and individual attorneys who volunteered to staff the Honolulu District Court Access to Justice Room were:

Bronster Fujichaku Robbins  
Cades Schutte LLP  
Carlsmith Ball LLP  
Case Lombardi & Pettit  
Damon Key Leong Kupchak Hastert  
Dentons US LLP  
Goodsill Anderson Quinn & Stifel LLP  
Hawai'i Association for Justice  
Hawai'i Filipino Lawyers Association  
Hawai'i Women Lawyers  
Marr Jones & Wang  
McCoriston Miller Mukai MacKinnon LLP  
Schlack Ito LLC  
Yamamoto Caliboso

Sergio J. Alcubilla	William C. Bagasol
Thomas J. B. Berger	Vladimir P. Devens
Gilbert C. Doles	Tred R. Eyerly
Michael J. Goodman	Sue Vo Hansen
Arlette S. Harada	Miriah Holden
Judy M. Iriye	Jeanilou G. T. Maschhoff
Scott G. Morita	Steven R. Nichols
Laura E. Ozak	Tom E. Roesser
Megumi Sakae	Casey K. Shoji
Lynne T.T. Toyofuku	Katherine E. Vessels
Calvin E. Young	Bryant Zane
Rachel A. Zelman	

The volunteers on the Pro Bono Appellate Mediator List were:

Judge Riki May Amano	Judge Joel E. August
Judge Karen Blondin	Professor Addison Bowman
Robin K. Campaniano	Corlis J. Chang
Louis L.C. Chang	Chuck W. Crumpton
Justice James E. Duffy, Jr.	Jaqueline Earle
Judge Max W.J. Graham	Diane Hastert
Judge Eden Elizabeth Hifo	Kenneth B. Hipp
Judge Colleen K. Hirai	James K. Hoenig
Judge Walter H. Ikeda	Elizabeth Kent
Judge Walter S. Kirimitsu	Justice Robert G. Klein
Ralph R. La Fontaine	Judge Rosalyn Loomis



Ivan Lui-Kwan	Judge Victoria S. Marks
Georgia McMillen	Judge Douglas S. McNish
Judge Marie N. Milks	Chief Justice Ronald T.Y. Moon
Richard C. Mosher	Judge Gail C. Nakatani
Patricia Kim Park	Judge Shackley F. Raffetto
Judge Frank D. Rothschild	Judge Nancy Ryan
Judge Sandra A. Simms	Judge Leland H. Spencer
Thomas L. Stirling	Judge Allene K. Suemori
Owen K. Tamamoto	Judge Michael A. Town
Judge Diane L. Warrington	Arne Werchick
Judge Andrew P. Wilson	Judge Patrick K.S.L. Yim

The appellate pro bono attorneys were :

Sean C. Aronson  
Lance D. Collins  
Ryan D. Hurley  
Bianca K. Isaki  
Kai K. A. Lawrence  
Benjamin E. Lowenthal  
Sharla A. Manley

In addition to honoring pro bono volunteers, the committee also coordinated a high school essay contest. This year's theme: "Many hands make light work: How my work as a volunteer helped to build and/or strengthen my community," asked students to describe their volunteer experiences and the impact those experiences made on the community. Essay submissions were received from public and private high school students throughout the state in grades 10 through 12, with three winners from Oahu, and one each from Kaua'i, Maui, East and West Hawai'i, all receiving the top student awards. 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 essay contest were Alen M. Kaneshiro, Attorney At Law; Tamashiro Sogi & Bonner; Schlueter Kwiat & Kennedy; Bickerton Law Group LLP; Kaua'i Bar Association; Marr Jones & Wang; Law Office of Jennifer D.K. Ng, LLC; and Law Office of Michelle S. K. Oishi, LLC.

This year's Pro Bono Celebration was supported by the Hawai'i Access to Justice Commission, Hawai'i Justice Foundation, the Hawai'i State Bar Association, and the Hawai'i State Bar Foundation.



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## **APPENDICES**

- Appendix A Welcoming remarks of Hawai'i Access to Justice Commission Chair Judge Joseph Cardoza (Ret.) at the 2021 Hawai'i Access to Justice Conference
- Appendix B Remarks of Hawai'i Supreme Court Chief Justice Mark E. Recktenwald at the 2021 Hawai'i Access to Justice Conference



## **Opening Remarks—ATJ 2021 Annual Conference**

by Hon. Joseph E. Cardoza, Second Circuit Chief Judge (Ret.)

Aloha Everyone.

Welcome to the 2021 Hawai`i Access to Justice Annual Conference. It is great to be back with all of you after having to take a break in 2020 due to the Coronavirus pandemic and the related shutdown that occurred so close to the date of the 2020 conference.

The past year has been one of opportunity. Yes, it was challenging for most and sadly tragic for some, but with each challenge came an opportunity to create a new solution. You rose to the occasion. In just one year, you have moved forward on many initiatives that were once thought to be reserved for the distant future. More challenges await us. I am confident that all of you will view these as new opportunities to move forward.

There are so many people to recognize for the hard work that has been done. Let me simply say mahalo to the many who contributed so much for those in need.

Nationally, Hawai`i continues to rank among the highest when it comes to access to justice with Hawai`i ranked sixth in the nation in the most recent Justice Index. This would not have been possible were it not for the outstanding leadership, support and enthusiasm of Chief Justice Mark Recktenwald, the entire Judiciary, the support of the Legislative and Executive branches of government, and all of you. I urge you to continue with your outstanding efforts. If you have not had the chance to join the team, please let us know. We welcome each and every member of the legal profession and community at large to be a part of the great work that is taking place to provide access to justice in Hawai`i. Participating in these efforts makes a real difference to the people of Hawai`i.

In its history, the Hawai`i Access to Justice Commission was blessed to be served by dedicated Commissioners and led by two outstanding jurists who are now retired, Hawai`i Supreme Court Associate Justice Simeon Acoba and Chief Judge of the Hawai`i Intermediate Court of Appeals Daniel Foley. They were the pioneers who helped give life to the Commission and its work.

A special mahalo to our current Commissioners of the Hawai'i Access to Justice Commission, the Committee members, and Task Force members, the Hawai'i State Bar Association, the legal and community foundations, legal services providers, private and public agencies, law firms, and individuals, all of whom consistently rise to the occasion to improve the lives of others in Hawai'i.

The committee that organized this conference worked very hard to provide you with the best conference, one that is a hybrid virtual conference. We have an exceptional and highly respected featured speaker who will be introduced later, along with several other important presentations. My thanks to the team that led the planning for this conference, Committee Chair, Former William S. Richardson School of Law Dean Aviam Soifer, and Committee members Bob LeClair, and Carol Muranaka. As you will see, Avi and Bob are quite an entertaining pair. You will not see Carol, but she is the person behind the scenes who brings it all together. Special thanks to the William S. Richardson School of Law for their tremendous assistance and expertise in making this conference a reality. We are very fortunate to be able to partner with them. To those who contributed financially to make it possible to present this conference, mahalo.

Again, mahalo to all of you for being a part of this conference. We look forward to working with you between now and the next conference.

Mahalo and Welakahao!

**Access to Justice Conference Opening Remarks  
June 25, 2021 - Chief Justice Mark E. Recktenwald**

Aloha and welcome to the 2021 Access to Justice Conference. I'd like to thank the Hawai'i Access to Justice Commission for sponsoring today's program, and for all the Commission does to increase access to justice in Hawai'i. I'd particularly like to acknowledge Chair Judge Joseph E. Cardoza for his leadership of the Commission.

Mahalo as well to Bob LeClair and the Hawai'i Justice Foundation, the Cades Foundation, Avi Soifer and the William S. Richardson School of Law, Representative Della Au Belatti, and Pat Mau-Shimizu and Levi Ho'okano of the Hawai'i State Bar Association for their support of access to justice and today's conference. I'd like to thank everyone who worked so hard to plan this conference, including Carol Muranaka and the Access to Justice Commission's Education Committee. Mahalo to the folks from the Women's Community Correctional Center in Kailua for the beautiful lei - deeply appreciate their aloha.

I'd also like to welcome and thank Judge Nancy Gertner for joining us this morning as the keynote speaker. Judge Gertner has had a distinguished career, including as a law professor and federal judge. Throughout her career, she has been an advocate for the rights of the most marginalized. Welcome, Judge Gertner, and mahalo for joining us.

Finally, I'd like to thank all of the amazing speakers, panelists, and facilitators who will be presenting today. I am so grateful that we have the opportunity to learn from and collaborate with all of them over the course of today's conference.

We are very fortunate in Hawaii to have a vibrant Access to Justice movement, as is reflected by the fact that more than 260 people have registered to attend today's event. We have a supportive legislature, and great partners at the law school, at the HSBA and the county bar associations, at the Hawaii Justice Foundation, and at the legal services providers. We also have countless attorneys and others in the community who are volunteering their time to increase access to justice throughout the state. I'd like to specially acknowledge the amazing attorneys and staff at Hawai'i's legal service providers, who, day in and day out, work to empower and uplift the most vulnerable in our community.

The combined efforts of all these folks with the leadership of our Access to Justice Commission has drawn national attention. Hawai'i was recently ranked 6th in access to justice among the fifty states, D.C., and Puerto Rico by the National Center for Access to Justice. The Center's Justice Index evaluation was based on performance in four key policy areas (attorney access, support for self-represented litigants,

language access, and disability access). While we have a lot of work left to do, this is an accomplishment worth celebrating, and it's been a true team effort. Mahalo to everyone who came together to make it happen.

Today's Conference comes after a long year filled with challenges to the administration of justice in Hawai'i. COVID-19 forced everyone in the legal profession to rethink the way we do business from the ground up. For the Judiciary, that meant shifting as much of our operations online as possible, particularly in the pandemic's early days when doing so was essential for the health and safety of the community. But if there's been a silver lining to the pandemic, it's been the opportunity to use this transition to build the courts of the future - courts that are more resilient, accessible, and responsive to the needs of the people we serve.

We are now at a critical turning point: as pandemic conditions improve and more of our community becomes vaccinated, we need to make important decisions about continuing these innovations into the future and to resume our progress on those key initiatives that may have been paused during the upheaval of COVID-19. I'd like to talk today about where we are headed, and how the courts plan to keep up the momentum we gained during the pandemic towards becoming a more modern and responsive institution that truly provides justice for all.

We began the pandemic doing virtually no court business via video but over the course of the past year, the Judiciary has leveraged videoconferencing platforms, like Zoom and Webex, to hold hearings in all case types online. Although the shift to remote proceedings grew out of necessity, I have no doubt that the use of video technology is here to stay. The response has been tremendous: in our trial courts, we have held more than 200,000 remote hearings since August. Many people welcome the convenience of appearing remotely, rather than coming to a brick-and-mortar courthouse. Remote hearings allow court users - especially self-represented litigants - to avoid taking time off work, finding childcare, and getting to the courthouse. Remote hearings aren't a great fit for every hearing or case type, and we must be careful to account for access for people with limited English proficiency, people with disabilities, and those who don't have the necessary technology. But in many instances, remote proceedings reduce some of the critical barriers to justice that exist in a traditional courtroom.

Earlier in the spring, the Judiciary sent out a survey to HSBA members regarding remote hearings. The survey results showed widespread enthusiasm for the long-term use of remote proceedings: 88% of respondents rated their overall experience with video remote proceedings as "very positive" or "somewhat

positive," and 95% of the respondents thought remote proceedings should become permanent in some fashion. I thank everyone who contributed to the survey; your feedback was incredibly thoughtful, and it will be used to inform the Judiciary's decision-making. We have shared the results of the survey with the Committee on Operational Solutions, which is a group we created last year to coordinate our statewide pandemic response. The Committee, which is led by Judge James Ashford, and including Levi Ho'okano and Pat Mau-Shimizu from the Hawai'i State Bar Association, has now shifted its focus to the future and is formulating recommendations about what long-term use of remote proceedings will look like in Hawai'i courts.

Technology has also enabled the self-help centers and access to justice rooms, a signature effort of the Access to Justice Commission, to continue their important work during the pandemic. This year marks the ten-year anniversary of the opening of the first self-help center on Kauai, which provides free legal information to those who cannot afford an attorney in civil cases. In ten years, volunteer attorneys staffing the six self-help centers statewide assisted more than 31,000 people at little-to-no cost to the public. After briefly closing during the early days of the pandemic, the self-help centers reopened remotely and have served more than 2,400 people since May - a great example of leveraging technology. Thank you to the Legal

Aid Society of Hawai'i and the Hawai'i State Bar Association, as well as the many attorney volunteers, who run these indispensable centers.

Looking ahead, we envision that technology will play a critical role in helping meet the legal needs of those who cannot afford an attorney, even after the pandemic. For example, the Supreme Court Law Library launched a virtual reference desk and a "live chat" feature on their website. As another example, the Supreme Court issued an order this week creating a Small Claims Online Dispute Resolution, or ODR, pilot project. The ODR service will provide a streamlined process for folks to resolve small claims disputes online. The platform will provide interactive court forms and facilitate electronic filing, and crucially, it allows for online negotiation and mediation. ODR won't be for everyone, but for many, it will be an accessible and efficient way to resolve disputes without the need to physically come to court. The ODR program has been in the works for a long time, and we are thrilled to see it launch as another resource to make legal proceedings more accessible to those who can't afford an attorney.

But while technology has been a critical asset to the Judiciary's pandemic response, from the start, we have been acutely aware of the "digital divide" and the barrier it poses to accessing remote hearings for the many in the community.



Many folks don't have access to the internet or other tools needed to participate in our virtual courtrooms, and this is especially likely for those who cannot afford an attorney. In this way, the transformations to court business precipitated by COVID-19 risked leaving behind the most vulnerable members of our community.

The digital divide is, in short, an issue of access to justice. The courts have had to think creatively and take active steps to bridge that divide. For instance, we created guides to accessing virtual hearings, and built a map of free Wi-Fi hotspots. We also created a kiosk in the Supreme Court Law Library where a litigant without the required technology could go to access their court hearing. District court notices now include information about the remote hearing kiosk option, and the law library has had 20 appointments for the kiosk (plus some walk-ins) in May and June alone. There's no doubt that the decisions we need to make about the use of remote technology must keep the digital divide at the fore, and we will continue to think critically about how to ensure that the courts of the future are effective for everyone in the community.

We also must recognize that the devastating economic impact of the pandemic has affected too many in our community, heightening the legal needs of many. Like many states, we are anticipating a surge of evictions when the Governor's moratorium

ends. Hawai'i is not alone, and experts have been warning for months of a national eviction "tsunami" - literally tens of millions of Americans are at risk of losing their homes due to the pandemic. The coming surge is particularly concerning in light of the fact that past research has suggested that in Hawai'i, approximately 50% of all eviction cases filed result in a default judgment against the tenant, and less than 10% of tenants involved in evictions have access to representation. In short, even in the best of times, there are significant unmet legal needs in this type of case. And this gap disproportionately impacts women and people of color, who nationally are over-represented among people who qualify for civil legal assistance, and at the same time overrepresented amongst litigants without counsel.

We have been carefully preparing for the lifting of the moratorium by collaborating with stakeholders. For example, we have worked closely with mediation providers to ensure that alternative dispute resolution is available. Additionally, in First Circuit district court, Legal Aid Society of Hawai'i attorneys have been on standby during the initial remote hearings for summary possession cases to provide self-represented litigants legal advice if needed. And the Governor recently signed into law Act 57, which extends the required period for a notice of termination of the rental agreement to 15

days, and mandates pre-filing mediation. Mahalo to Representatives Nadine Nakamura and Troy Hashimoto for their diligent efforts to craft that legislation. This issue has also, of course, received significant attention at the national level. Just yesterday, Associate Attorney General Vanita Gupta reached out to state judiciaries to encourage the use of effective eviction diversion strategies.

It is, in short, a critical moment for Hawai'i courts and access to justice. As we emerge from the pandemic, we must take the lessons we have learned from our implementation of remote proceedings and embrace what makes the courts more efficient and accessible. At the same time, we must work actively and thoughtfully to bridge the digital divide, and to address the legal issues caused by the pandemic itself. I am looking forward to collaborating with you all in this important moment.

In all the work we do, we must be committed to addressing issues of systemic inequality in our justice system. I am grateful to our Committee on Equality and Access to the Courts (Judge Rebecca Copeland, Willie Bagasol, Judge Sandra Simms, Justice Sabrina McKenna, and Daylin Heather, among others) for organizing a series of forums on racial justice earlier this year, including a panel on civil rights and access to justice. The response was amazing - hundreds of people attended these

events. We look forward to recommendations for action that are being developed and are committed to continuing this important conversation.

To close, I'd like to acknowledge the recent passing of Judge Robert Katzmann of the Second Circuit Court of Appeals. On behalf of the Judiciary, we send our aloha to Judge Katzmann's family and colleagues on the Second Circuit during this difficult time. Judge Katzmann spoke at this event a few years ago, and his insights resonated with many. Indeed, his loss has been felt deeply in the legal community. Judge Katzmann leaves a legacy of service, and is remembered as a leader who focused on making big ideas successful on-the-ground. His colleague, Southern District of New York Judge Jed Rakoff, recently said of Judge Katzmann, "No judge ever took a broader view of the role of a judge in promoting justice in our society, or was more successful in turning those views into practical accomplishment." As we reflect on Judge Katzmann's life and legacy, I hope you will join me in reaffirming your commitment to the promotion of justice and to taking action to make vision into reality.

Mahalo to you all joining us today. Aloha.