

TESTIMONY OF
MARK E. RECKTENWALD

TO THE SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION 2009

Friday, March 6, 2009
9:30 a.m.
Conference Room 016

TESTIMONY ON GM 439 RELATING TO MARK E. RECKTENWALD FOR THE
POSITION OF ASSOCIATE JUSTICE, SUPREME COURT

Chair Taniguchi, Vice Chair Takamine, and members of the committee, thank you for giving me this opportunity to appear before you today.

I am honored and humbled to be considered to serve on the Hawai'i Supreme Court. I'd like to thank the Judicial Selection Commission for its work in selecting a very strong list of candidates for this position, and Governor Lingle for nominating me and giving me the opportunity to be considered by the Senate.

I came to Hawai'i more than 25 years ago, and the first person I met when I walked off the plane was my future wife, Gailynn. Hawai'i soon became my home, and my only regret was that I didn't come here sooner.

There are many people who have supported me in my life, and I'd like to acknowledge and thank some of them. My wife Gailynn, my children Andrew and Sarah, and my parents Bill and Connie have made countless sacrifices for me, and I thank them with all my heart.

I am also grateful to the judges and staff of the

Intermediate Court of Appeals, who welcomed me to the court when I became a judge almost two years ago in May, 2007. I'd like to thank my predecessor Chief Judge James Burns for his leadership on the court and for the graciousness he has shown me, and Chief Justice Ronald Moon for the support he has given to me and to the court.

I am passionate about public service. I have had the opportunity to serve the people of Hawai'i in several different roles, most recently as a judge. My service on the court has been the most exciting and rewarding challenge of my career, and I have worked hard to live up to the trust that was placed in me. I've sought to write opinions that are fair, well-reasoned and clearly written. I've had the opportunity to participate in more than 250 decisions on the merits as part of our three-judge panels. I wrote the court's disposition in more than 80 of those cases, including ten published opinions.

As chief judge, I have worked with my colleagues to move forward with the restructuring of the appellate system that began in 2006, under which all appeals now come first to the ICA. We have emphasized deciding cases more promptly, without sacrificing the quality of our decisions. We have also emphasized making the court more open and accessible. I am particularly proud of the court's decision to begin holding oral argument on a regular, monthly basis starting in September, 2007. We have held more than 20 oral arguments since then, which has given the bar and the public more opportunities to observe the

court in action. We have also begun posting the court's decisions on the judiciary's website by the afternoon on which they are issued, so they are most readily accessible. I have also sought out opportunities to meet with the legal community, including the neighbor island bar associations, to get input on the work we are doing.

My experience as a practicing attorney has also helped to prepare me for the challenge of serving on the supreme court. I worked as a litigator in private practice, representing clients in both federal and state court. I was a federal prosecutor at the U.S. Attorney's Office, where I specialized in prosecuting white collar and environmental crimes. I also represented the United States in civil cases, recovering money fraudulently taken from the government in health care and defense contracts. These experiences have familiarized me with a wide range of areas of the law.

Finally, as director of the Department of Commerce and Consumer Affairs, I had the opportunity to lead a department with 370 employees who were dedicated to protecting the interests of Hawai'i's consumers.

Serving on the supreme court is a unique challenge. The court addresses some of the most difficult and important issues facing Hawai'i. If I have the opportunity to serve, I would draw on all of the experiences of my career--as a judge, as a practicing attorney, and as someone who has worked in all three branches of government at both the federal and state level--to

meet that challenge.

My goals as a judge have been simple, and I will continue to pursue them wherever I serve: decide cases fairly and promptly, respect the parties who come before the court, my colleagues and the judicial system, and write opinions that are clear, well reasoned and that faithfully apply the law. I want every litigant, whatever the outcome of their case, to feel that they were treated fairly.

In closing, I'd like to express my appreciation to everyone who submitted testimony or who came to testify in person today. I thank the committee for giving me the opportunity to appear before you and for considering my nomination, and I look forward to answering your questions.



UNITED STATES DISTRICT COURT

CHAMBERS OF
HELEN GILLMOR
CHIEF UNITED STATES DISTRICT JUDGE

DISTRICT OF HAWAII
300 ALA MOANA BOULEVARD, C-400
HONOLULU, HAWAII 96850-0400

TELEPHONE
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March 5, 2009

Brian T. Taniguchi
Chair
Committee on Judiciary and
Government Operations
The Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chairman Taniguchi:

Thank you for allowing me to comment on the nomination of Judge Recktenwald to our Supreme Court.

In 1994, when I was appointed to the Federal District bench, Judge Recktenwald was an attorney representing the United States as a member of the U.S. Attorney's Office. He was always prepared, articulate, ethical, and yet, compassionate. In short, he was an exemplary attorney.

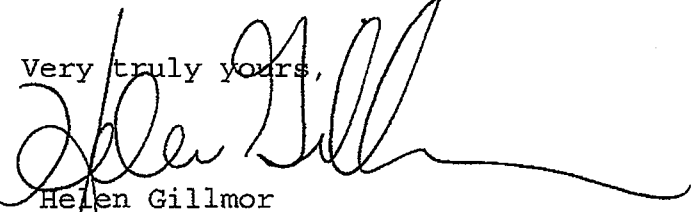
Judge Recktenwald appeared before me regularly for a number of years. His professionalism was always apparent. I was sorry to lose him to other endeavors but I believed he was a person of great capability that would benefit from other experiences.

His current nomination reflects the stature he has earned in the larger Hawaii community, and is well deserved.

I am honored to give him the highest recommendation for confirmation by the Senate of the State of Hawaii.

Please do not hesitate to contact me if I can be of any assistance.

Very truly yours,



Helen Gillmor
Chief District Judge
District of Hawaii



UNITED STATES DISTRICT COURT

CHAMBERS OF
SUSAN OKI MOLLWAY
DISTRICT JUDGE

DISTRICT OF HAWAII
300 ALA MOANA BOULEVARD, C-409
HONOLULU, HAWAII 96850-0409

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March 3, 2009

VIA FAX 586-6461

Senator Brian T. Taniguchi
Senate Committee on Judiciary
and Government Operations
Hawaii State Capitol, Room 228
Honolulu, Hawaii 96813

Re: Chief Judge Mark Recktenwald

Dear Senator Taniguchi:

Thank you for allowing me to address Chief Judge Mark Recktenwald's qualifications to be an Associate Justice of the Hawai'i Supreme Court.

As I told your committee when it was considering Mark Recktenwald for the position of Chief Judge of the Intermediate Court of Appeals, Chief Judge Recktenwald has my highest recommendation. I have known Chief Judge Recktenwald for many years, having first met him when we were on opposite sides of a complicated employment law case. We were both in private practice at the time, and my immediate impression of him was that he was exceedingly bright and an excellent writer. The case we had was hard-fought, but he was always professional in his demeanor, and it was a privilege to work on the same case.

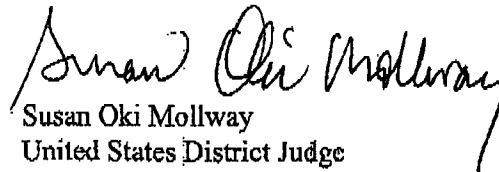
After I became a federal district judge, I was always pleased to have Chief Judge Recktenwald appear before me, whether as a private attorney or as an Assistant United States Attorney. His briefs were always thoroughly researched and well-written, and his arguments focused and cogent. I have a practice of notifying attorneys of how I am inclined to rule before a hearing, so that they may prepare to use the hearing to address the matters that are influencing me. Chief Judge Recktenwald was very adept at using my inclination process to his advantage.

Chief Judge Recktenwald has a thoughtful and even-tempered personality that should serve him well on the Hawai'i Supreme Court. I expect that the other justices will find him collegial, and that attorneys will find him courteous and respectful.

Honorable Brian T. Taniguchi
March 3, 2009
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I hope your Committee speedily approves Chief Judge Recktenwald and that the full Senate resoundingly confirms him.

Very truly yours,


Susan Oki Mollway
United States District Judge



UNITED STATES DISTRICT COURT

CHAMBERS OF
J. MICHAEL SEABRIGHT
UNITED STATES DISTRICT JUDGE

DISTRICT OF HAWAII
300 ALA MOANA BOULEVARD, C-435
HONOLULU, HAWAII 96850-0435

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March 5, 2009

FAX TRANSMITTAL

The Honorable Brian T. Taniguchi
State of Hawaii Senate
Chair
Committee on Judiciary and Government Operations
State Capitol
Honolulu, HI 96813

Re: Mark Recktenwald

Dear Senator Taniguchi:

Thank you for inviting me to submit comments regarding Judge Mark Recktenwald's nomination as an Associate Justice to the Supreme Court, State of Hawaii. I unconditionally recommend that the Senate confirm Mark's nomination.

I have known Mark since 1991, when we were both employed at the United States Attorney's Office for the District of Hawaii. I worked closely with Mark during his entire time as an Assistant U.S. Attorney, acted as Mark's supervisor for a period of time, and have kept in close contact with him since he left the United States Attorney's Office. In short, I know Mark as a colleague and a supervisor, and am honored to consider Mark a friend.

Without any hesitation or reservation, I support Mark's nomination and recommend confirmation. Based on my professional relationship with Mark, I can state that Mark possesses that unique combinations of traits that are required of an Associate Justice of the Supreme Court of the State of Hawaii - intelligence, integrity, compassion, an unquestionable sense of fairness, and an enviable work ethic. I have often been witness to Mark's exceptional intelligence and analytical skills, his caring attitude about others, and his commitment and dedication to the law. Over the years I have also observed Mark work well with others, always striving to build a consensus when possible. And without any doubt, Mark is one of the most hard working individuals that I have known in the practice of law.

The Honorable Brian T. Taniguchi

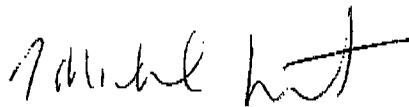
Page Two

March 5, 2009

Mark is also one of the most pleasant individuals that I have ever met. In his practice as an Assistant U.S. Attorney, Mark treated everyone involved in a case -- including opposing counsel -- with respect and dignity. I am confident that this positive attitude towards other would carry over to Mark's work on the Supreme Court.

Thank you for providing me the opportunity to offer my support for Mark's confirmation.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Michael Seabright". The signature is written in a cursive style with a long horizontal stroke at the end.

J. Michael Seabright
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
300 AIA MOANA BLVD., C-415
HONOLULU, HAWAII 96850

CHAMBERS OF
ALAN C. KAY
SR. DISTRICT JUDGE

TELEPHONE:
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March 3, 2009

Fax No. 586-6461

Honorable Brian T. Taniguchi
Chair, Committee on Judiciary and
Government Operations

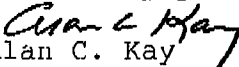
Dear Senator Taniguchi:

This is in response to your letter of March 2, 2009 whereunder the Committee on Judiciary and Government Operations has requested my input with respect to its consideration of the nomination of Mark Recktenwald, Chief Judge of the Intermediate Court of Appeals, for Associate Justice of the Supreme Court of the State of Hawaii.

I first met Chief Judge Recktenwald in the early 1990s when he was a law clerk for the late Judge Harold Fong. Thereafter Mark appeared before me in my court on numerous occasions while he was serving as an Ass't. U.S. Attorney. I found Mark to possess all of the skills and qualities of an outstanding litigant. He was an articulate and strong advocate, yet courteous and humble. He was always well prepared. Chief Judge Recktenwald handled both criminal and civil cases for the U.S. Attorney's office. He also has served as a partner with the law firm of Marr Hipp Jones and Wang, as well as an associate with Coodsill Anderson Quinn & Stifel. Subsequently he has gained sound administrative experience as Director of the Department of Commerce and Consumer Affairs of the State of Hawaii. More recently Mark Recktenwald has ably served as Chief Judge of the Intermediate Court of Appeals. My understanding is that he has done an excellent job in heading that Court through a transition period during which most appeals are now initially heard by it. Moreover he has gained valuable experience as a jurist and written well received decisions.

Chief Judge Recktenwald is well respected in the legal community for his professionalism, integrity and legal expertise. I am confident that he would excel as an Associate Justice of the Hawaii Supreme Court.

Very truly yours,


Alan C. Kay

ACK:ask

cc: Chief Judge Recktenwald



UNITED STATES DISTRICT COURT

CHAMBERS OF
LESLIE E. KOBAYASHI
UNITED STATES MAGISTRATE JUDGE

DISTRICT OF HAWAII
300 ALA MOANA BLVD., RM C-353
HONOLULU, HAWAII 96850

TELEPHONE
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March 5, 2009

VIA TELECOPIER AND U.S. MAIL

The Honorable Brian T. Taniguchi
Chair
Committee on Judiciary and
Government Operations
The Senate
State Capital
Honolulu, Hawai'i 96813

RE: Chief Judge Mark E. Recktenwald

Dear Chairman Taniguchi:

In response to your letter requesting comments on Chief Judge Mark E. Recktenwald's nomination as Associate Justice of the Supreme Court, State of Hawai'i, I am pleased to provide the following:

Judge Recktenwald is an outstanding judge, attorney and citizen. He will make an excellent Associate Justice. I have found him to be a person of high ethical standards, compassion, intelligence, strong work ethic and great fairness. In short, I highly recommend Judge Recktenwald and believe that the people of Hawai'i will be well-served by his appointment as Associate Justice on the Supreme Court of the State of Hawai'i.

Very truly yours,

LESLIE E. KOBAYASHI
United States Magistrate Judge



U.S. Department of Justice

*United States Attorney
District of Hawaii*

*PJJK Federal Building
300 Ala Moana Blvd., Room 6-100
Honolulu, Hawaii 96850*

*(808) 541-2850
FAX (808) 541-2958*

March 5, 2009

Senate Committee on Judiciary and Government Operations
Hearing on Governor's Message No. 439
Nomination of Mark Recktenwald

Subject: Confirmation of Mr. Mark Recktenwald.

Dear Honorable Taniguchi and Members of the Committee:

Please allow this letter to express my full and strong support for Mr. Mark Recktenwald's confirmation to be the next Associate Justice of the State of Hawaii Supreme Court.

I have known Mr. Recktenwald since about 1993, when he joined the U.S. Attorney's Office in Hawaii as a criminal trial attorney. Having been a co-counsel of his during several important criminal prosecutions, I can emphatically state that Mr. Recktenwald was an outstanding trial attorney. He spoke very humbly in court and was very well respected by our Federal Judges and Juries. I can also state that he was loved by our federal investigators because of his reputation for hard work and solid legal skills.

As an Assistant U.S. Attorney (AUSA) working under me, he was truly my "go to" prosecutor. In 2001, I asked Mr. Recktenwald to pick up a very complex and difficult bankruptcy fraud prosecution with thousands of documents and exhibits just a few weeks before trial and he performed admirably. He threw himself into the case and displayed an outstanding work ethic in preparing for the trial. Eventually, the defendant pled guilty, but this was due to the outstanding preparation done by Mr. Recktenwald in the case, and his solid reputation for being a tough trial attorney in court.

As a AUSA in our Civil Section, Mr. Recktenwald excelled. In the area of Asset and Debt Collections for the Government, his statistics were very impressive. He was recognized by those federal agencies for outstanding performances.

Mr. Recktenwald was also a leader who could bring people together. Because I wanted to develop an Environmental Enforcement Task Force in Hawaii, I assigned Mr. Recktenwald to research the federal environmental laws and to create this task force. I gave him this assignment because of my trust in him and his reputation in our law enforcement community. He carried out

Honorable Taniguchi and Committee Members

March 5, 2009

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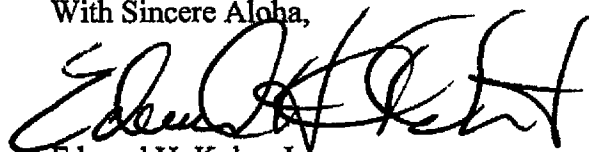
this assignment perfectly and the task force is still in existence today — approximately three years after Mr. Recktenwald's departure from this office.

Finally, although I have not practice before the state court system in a while, I can say that I have talked to many fellow lawyers who do. Each one has complimented Judge Recktenwald's temperament on the bench and his soft spoken, balanced approach to cases. This man is truly a very good judge who knows the law and is even handed in his decisions.

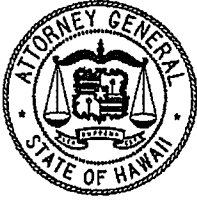
Based on my knowledge of Mr. Recktenwald, I can state without any hesitation that he will be a tremendous asset to our Supreme Court. He is a proven leader and organizer. At the same time, he is thorough in his legal research and trial skills. Finally, he is a very compassionate man who cares about his family and community. All of these virtues makes Mr. Recktenwald an outstanding choice to be an Associate Justice of the Hawaii Supreme Court.

Thank you for allowing me to express my strong support for Mr. Recktenwald. If you have any questions, please contact me.

With Sincere Aloha,

A handwritten signature in black ink, appearing to read "Edward H. Kubo, Jr.", written in a cursive style.

Edward H. Kubo, Jr.
United States Attorney
District of Hawaii



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

G. M. NO. 439, Submitting for consideration and confirmation as Associate Justice to the Supreme Court, State of Hawaii, Gubernatorial Nominee, MARK E. RECKTENWALD, for a term of ten years.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Friday, March 6, 2009 **TIME:** 9:30 AM

LOCATION: State Capitol, Room 016
Deliver to: Committee Clerk, Room 219, 1 Copy

TESTIFIER(S): Mark J. Bennett, Attorney General

Chair Taniguchi, Vice Chair Takamine, and Committee Members:

I strongly support the nomination of Mark E. Recktenwald as an associate justice of the Hawaii Supreme Court.

I have known Judge Recktenwald for many years, and I believe he is extremely well qualified to serve on the Hawaii Supreme Court. He is a highly competent jurist with extensive knowledge of the law, and his many years of experience as a judge, federal prosecutor, and attorney in private practice have given him a thorough understanding of the judicial system.

Judge Recktenwald is a dedicated public servant with a strong work ethic. As the Chief Judge of the Intermediate Court of Appeals, and previously as the Director of the Department of Commerce and Consumer Affairs, he has proven himself to be a strong leader and an able administrator. He has consistently demonstrated integrity and fairness, sound judgment and common sense.

Judge Recktenwald is highly respected in Hawaii's legal community for his intelligence, diligence, compassion, and high ethical standards. He has served with distinction on the Intermediate Court of Appeals, and I believe he is exceptionally well suited to continue serving the people of Hawaii on the state's highest court.

LINDA LINGLE
GOVERNOR



DARWIN L.D. CHING
DIRECTOR

COLLEEN Y. LaCLAIR
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8844 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 5, 2009

The Honorable Brian T. Taniguchi, Chair
and Members of the Committee on Economic Development and Technology
Twenty-Fifth State Legislature
State Capitol, Room
Honolulu, Hawaii 96813

Re: GM 439 – Mark E. Recktenwald
Hearing: Friday, March 6, 2009 at 9:30 a.m.

Dear Chair Fukunaga Taniguchi:

I am writing in support of Mr. Mark E. Recktenwald's nomination to the Associate Justice to the Supreme Court. As the Director of the State of Hawaii Department of Labor and Industrial Relations, I can fully attest to the qualifications of Mr. Recktenwald.

In all of my dealings with Mark, he has been forthright and fair. He has a high degree of commitment to public service.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Darwin L.D. Ching".

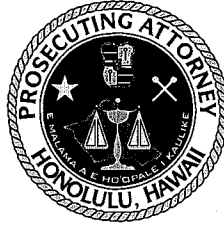
DARWIN L.D. CHING

cc: Mark E. Recktenwald

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET, HONOLULU, HAWAII 96813
AREA CODE 808 • 527-6494

PETER B. CARLISLE
PROSECUTING ATTORNEY



DOUGLAS S. CHIN
FIRST DEPUTY
PROSECUTING ATTORNEY

THE HONORABLE BRIAN TANIGUCHI, CHAIR
SENATE JUDICIARY AND GOVERNMENT OPERATIONS COMMITTEE
Twenty-fifth State Legislature
Regular Session of 2009
State of Hawai'i

March 6, 2009

RE: G.M. 439; APPOINTMENT OF MARK J. RECKTENWALD.

Chair Taniguchi, and members of the Senate Committee on Judiciary and Government Operations Committee, the Department of the Prosecuting Attorney submits the following testimony in support of the appointment of Mark Recktenwald to the Supreme Court of the State of Hawaii.

We strongly support Mark Recktenwald's appointment. For almost two years, Mark has ably served as the Chief Judge of the Intermediate Court of Appeals. During his tenure, he has consistently shown strong administrative skills and sound legal analysis. His commitment to public service is demonstrated by his extensive service in the public sector. This includes four years of service as the director of the Department of Commerce and Consumer Affairs where he oversaw the regulation of securities and insurance as well as enforcement of the state's consumer protection laws. He also served for six years as an Assistant U.S. Attorney where he prosecuted white collar crime and fraud cases as well as civil cases.

We believe that based on his public service experience and his commendable performance as Chief Judge, Mark Recktenwald is more than capable of serving on the Hawaii Supreme Court and we fully support his appointment.

Thank you for this opportunity to testify.



Testimony of the
HAWAII STATE BAR ASSOCIATION
 relating to the nomination of

MARK E. RECKTENWALD
Associate Justice, Hawaii Supreme Court

To: Senate Committee on Judiciary and Government Operations
 The Honorable Brian T. Taniguchi, Chair
 The Honorable Dwight Y. Takamine, Vice-Chair

Hearing: Friday, March 6, 2009 at 9:30 a.m.
 Conference Room 016
 State Capitol

The Board of Directors of the Hawaii State Bar Association appreciates the opportunity to comment on the qualifications of Mark E. Recktenwald for the position of Associate Justice, Hawaii Supreme Court.

In evaluating judicial nominees, the HSBA Board utilizes a modified version of the American Bar Association Guidelines for Reviewing Qualifications of Candidates for State Judicial Office. These Guidelines include the following criteria: integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, and public service, collegiality and writing ability. The HSBA Board's rating system includes the categories of "qualified" and "not qualified."

The HSBA Board has recently reviewed the policies and procedures utilized in developing its positions on judicial nominees and has included in its procedures the use of a standing subcommittee of HSBA Board members to review materials presented by the nominee and input from members; the subcommittee is also tasked with checking references and contacting others who have knowledge of the nominee's experience and qualifications. The full Board reviews the materials prepared by this subcommittee, the complete materials submitted by the nominee and members and conducts an interview of the nominee. These revised procedures are available for review on the HSBA website at <HSBA.org>.

Taking into consideration all of the information presented by and about the nominee and an interview with the nominee, the vote of the Board of Directors of the Hawaii State Bar Association found Mark E. Recktenwald to be qualified for the position of Associate Justice, Hawaii Supreme Court.

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Rotaract - Interact - RYLA

Shannon Smith Scholarship Fund

Soroptimist International

Neighbor Island Parent Volunteers

Kauai: Rosemary Smith 808-822-5216

Mau: Koana Smith 808-669-9602

Hawai'i: Diane Feeney 808-885-6836

Winners' Camp Foundation

P.O. Box 241018

Honolulu, Hawai'i 96824

www.winnerscamp.com

success@winnerscamp.com

808-885-6836 808-885-6836

Senate Sergeant at Arms

To: The Senate Committee on Judiciary and Government
Operations

Re: Judge Mark Recktenwald
Governor's Message No. 439

Dear Chair Brian Taniguchi and Committee Members:

This letter is in support of the Governor's Nomination of Mark Recktenwald to The Hawai'i Supreme Court.

I have known Mark for over twenty five years. He is one of the finest men I have ever met. From the first day he landed here in Honolulu, I have found him to be sincere, trustworthy, resilient, hard working and highly ethical. He is respectful and mindful of the many cultures and ethnic make up of our Islands. He treats everyone with dignity and compassion.

As a small business owner I have benefited from his leadership and expertise. When he was with the Department of Commerce and Consumer Affairs he made the department a one stop efficient department to work with.

As the Founding Director of Winners' Camp Foundation I hold him up as a role model for young people in our Community. I work with teenagers and their families from all walks of life. Because of this, I have spent a lot of time at Court. I have watched trials and observed lawyers and judges for many years. Mark Recktenwald is a man I know will be fair in all his judgments of those who stand before him.

If the way a man treats his family is a measure of his character than Mark is the quintessential family man. I am so impressed with the way he cares for his parents, respects his wife and takes care of his children. We need more men like Mark in leadership. Our Courts and all the People of Hawai'i will benefit greatly with Judge Mark Recktenwald as one of our Hawai'i Supreme Court Justices.

Mahalo, malama pono,

Delorese Gregoire
Founding Director



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA
Executive Director
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NORA A. NOMURA
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**The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Judiciary and Government Operations**

**Testimony by
Hawaii Government Employees Association
March 6, 2009**

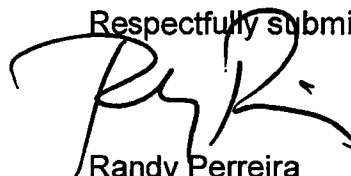
**GM 439 – Submitting for Consideration
and Confirmation as Associate Justice
to the Supreme Court, State of Hawaii,
Gubernatorial Nominee,
Mark E. Recktenwald**

The Hawaii Government Employees Association supports the nomination of Mark E. Recktenwald as an Associate Justice of the State of Hawaii Supreme Court. Mr. Recktenwald has the necessary legal training and judicial temperament to perform the duties and responsibilities as a Hawaii Supreme Court Associate Justice.

Mr. Recktenwald received his law degree from the University of Chicago Law School after graduating from Harvard University. When he served as an Assistant U.S. Attorney, he handled white-collar and environmental cases. Currently, Mr. Recktenwald is Chief Judge of the State of Hawaii Intermediate Court of Appeals, and before that he served as Director of the Department of Commerce and Consumer Affairs.

Mr. Recktenwald is a competent jurist and a dedicated public servant who will be an asset to the State's highest court. His legal background and work experience have prepared him for this important position. Consequently, we are pleased to support his confirmation as an Associate Justice of the Hawaii Supreme Court.

Respectfully submitted,



Randy Perreira
Executive Director

HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

P.O. Box 4109

Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

March 6, 2009

Sen. Brian Taniguchi, Chair
and members of the Senate Committee on Judiciary & Government Operations
Hawaii State Capitol
Honolulu, Hawaii 96813

Re: **Governor's Message 439**
Confirmation of Mark Recktenwald
as Associate Justice to the Supreme Court, State of Hawaii
Hearing Date/Time: Friday, March 6, 2009, 9:30 A.M.

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is the trade association for Hawaii's financial services loan companies.

The HFSA supports the confirmation of gubernatorial nominee Judge Mark Recktenwald as Associate Justice to the Supreme Court, State of Hawaii.

We have known Judge Recktenwald from our previous work with him when he was the Director of the Department of Commerce and Consumer Affairs ("DCCA"). As DCCA Director he was responsible for overseeing the activities of the DCCA, which included regulating numerous industries; enforcing the State's consumer protection laws; licensing various professions and vocations; and registering businesses. He supervised a department which we understand had over 300 employees. We were impressed with Judge Recktenwald's leadership and administrative abilities. He certainly earned a reputation as a well-respected department head in the administration of Governor Lingle.

In addition to Judge Recktenwald's leadership and administrative experiences, he has had an extensive litigation background. Prior to his appointment as the DCCA Director, Judge Recktenwald served as an Assistant United States Attorney in Honolulu prosecuting white-collar crimes. He was the coordinator of that office's healthcare fraud and environmental law enforcement efforts. Judge Recktenwald has also been a litigator as an attorney in the private practice of law.

Based on his above background, the HFSA supported the confirmation of Judge Recktenwald as Chief Judge of the Intermediate Court of Appeals in 2007. He was confirmed by the Senate.

During the past year-and-a-half as Chief Judge since May, 2007, Judge Recktenwald has gained the additional experience needed to be an Associate Justice to the Supreme Court. He has demonstrated that he has the qualities needed to be an Associate Justice including integrity, legal ability, intelligence, fairness, diligence, decisiveness, and judicial temperament.

For the above reasons, we urge your favorable consideration of the nomination.

Thank you for considering our testimony.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)

KURT KAWAFUCHI
830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813

March 6, 2009

The Honorable Brian Taniguchi
Chair, Senate Committee on Judiciary & Government Operations
State Capitol, Room 219
Honolulu, Hawaii 96813

RE: GM 439

**SUBMITTING FOR CONSIDERATION AND CONFIRMATION
AS ASSOCIATE JUSTICE TO THE SUPREME COURT, STATE
OF HAWAII, GUBERNATORIAL NOMINEE, MARK E.
RECKTENWALD, FOR A TERM OF TEN YEARS.**

Dear Chair Taniguchi:

I am writing in strong support of Governor Lingle's nomination of Mark Recktenwald as Associate Justice to the Supreme Court.

As a local boy, as well as a licensed attorney in Hawaii for over 20 years, I appreciate the importance of a judiciary that is composed of persons with solid roots in Hawaii as contributing members of society, both personally and professionally.

While Mark has impressive educational and professional experience, I would first like to discuss Mark's integrity and describe Mark as a person.

Though not originally from the islands, Hawaii has been Mark's home for over 20 years. Mark's wife, Gailynn, is a local girl and attended Kamehameha Schools through the 11th grade. Mark and Gailynn have three children, Trevor, Mark's stepson, Andrew, and Sarah. In Hawaii, family is a very important part of one's life. Based upon my observations and interaction with Mark, he is an excellent husband and parent with his family the cornerstone of his personality. In addition to working hard professionally, Mark ensures that he also spends quality time with his children. Mark helped raise Trevor, his stepson (in addition to wife, Gailynn, and Andrew's father) from 1986 until he graduated in 1991. Mark has dedicated many years of his personal and professional time and energy to make Hawaii a better place.

Mark is an excellent candidate to be an Associate Justice of the Supreme Court, having served as the Chief Judge of the Intermediate Court of Appeals since 2007.

Mark earned his bachelor's degree from Harvard College. He earned his law degree from one of the nation's top law schools, the University of Chicago.

Mark was a law clerk for the former U.S. District Judge Harold Fong. He worked at one of Hawaii's top law firms, Goodsill Anderson Quinn & Stifel for approximately 6 years focusing on civil litigation. Additionally, Mark was appointed as an Assistant U.S. Attorney for the District of Hawaii for over 10 years, prosecuting federal crimes and defending the United States in civil litigation. He took a one-year break to be a partner at a top employment law firm, Marr Hipp Jones & Wang.

When I was recruited by the managing partner of Goodsill Anderson Quinn & Stifel in 1994, he spoke glowingly of Mark Recktenwald as a lawyer, and as a person.

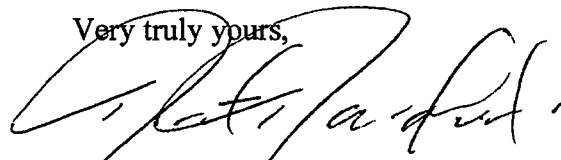
In 2002, the Governor appointed Mark to be the Director of the State of Hawaii Department of Commerce & Consumer Affairs ("DCCA"). With its 11 divisions, Mark has effectively managed DCCA for the betterment of Hawaii and its residents. Mark has worked to improve the business climate and business fees but at the same time worked to protect the rights and interests of the people of Hawaii through his regulatory responsibilities.

In 2007, Mark was appointed and confirmed as Chief Judge of the Intermediate Court of Appeals. Through his experience as an appeals court judge, Mark has obtained invaluable experience as an appellate-level jurist. He has heard and written opinions on dozens of cases of great import to the State. Most importantly, Mark has been an effective leader in transitioning the Intermediate Court of Appeals to a true first appellate level court.

Because of Mark's exceptional professional and judicial experience in civil and criminal law, and most importantly, because Mark is fundamentally a high character solid person and strong family person who will balance fairness and compassion, I believe Mark will be an excellent Associate Justice of the Hawaii Supreme Court. I respectfully urge you to confirm Mark Recktenwald as an Associate Justice of the Supreme Court.

Thank you for considering my testimony in support of Mark Recktenwald. If you have any questions or I can provide any additional information, please feel free to contact me.

Very truly yours,



KURT KAWAFUCHI

March 4, 2009

The Honorable Brian T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice Chair
Senate Committee on Judiciary and Government Operations
State Capitol, Room 016
Honolulu, Hawaii 96813

Re: **GM 439**

**SUBMITTING FOR CONSIDERATION AND CONFIRMATION
AS ASSOCIATE JUSTICE to the SUPREME COURT OF HAWAII,
GUBERNATORIAL NOMINEE, MARK E. RECKTENWALD**

Hearing Date: Friday, March 6, 2009
Time: 9:30 a.m.
Place: Conference Room 016

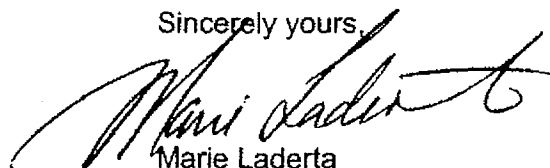
Dear Chair Taniguchi, Vice Chair Takamine and Members of the Committee:

I am writing in strong support of the confirmation of Nominee Mark E. Recktenwald as Associate Justice of the Supreme Court of Hawaii.

I had the privilege of working with Mark Recktenwald as a colleague on Governor Lingle's cabinet. We worked closely together on various initiatives which involved our respective departments. We also served together on the Employer Union Trust Fund Board, which he chaired. During the times that I worked with him, I was able to observe that Mark was dedicated to the tasks he was assigned and undertook them with great vigilance and thoroughness. He was detailed and organized. I have also observed him testifying on behalf of the Governor at the State legislature, seeing him fielding questions on his feet in a very calm and professional manner. Mark was always prepared, even-keeled and a gentleman at all levels. His disposition is well-suited to the bench. His training and education as an attorney is evident in the way he is able to take a complex matter and explain it in a simple and understandable way. He is a person of good judgement, someone who makes decisions backed by reason and sound analysis.

Mark Recktenwald is a top-notch candidate for this position and I urge that this committee confirm him for the position of Associate Justice to the Supreme Court of Hawaii.

Sincerely yours,



Marie Laderta

PRESENTATION OF
John E. Cole

TO THE SENATE COMMITTEE ON
JUDICIARY AND GOVERNMENT OPERATIONS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

March 6, 2009
9:30 a.m.

TESTIMONY IN SUPPORT OF GOVERNOR'S MESSAGE 439
Nomination of Mark E. Recktenwald
As Associate Justice of the Supreme Court, State of Hawaii

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is John Cole, and I am happy to testify in strong support of Mark Recktenwald's nomination to the seat of Associate Justice of the Supreme Court.

I have known and worked with Mr. Recktenwald since he first became the Director of the Department of Commerce and Consumer Affairs (DCCA) in January 2003. First, as a staff attorney in the department's Division of Consumer Advocacy (DCA), next, as a policy analyst in the Office of the Governor, where I worked with him on DCCA related issues, then, as the Executive Director of DCA, and then as a member of the Public Utilities Commission. Because of our varied working relationships, I believe I have a fairly comprehensive and unique perspective of Mr. Recktenwald's abilities, work ethic, and demeanor, all of which I believe make him an excellent choice for Associate Justice of the State's highest court.

Mr. Recktenwald is an extremely intelligent and conscientious person. He is a clear and articulate communicator, both verbally and through his writing skills. Even more importantly, Mr. Recktenwald is a great listener, open to hearing all sides of an issue. His calm demeanor, his strength and moral courage to make his own decisions based on rigorous analytic assessment of the facts, and his sound independent judgment would serve him well on the Supreme Court.

I can say without hesitation that Mr. Recktenwald is a person of solid character and unbending integrity, and I strongly urge you to favorably consider his nomination as Associate Justice of the Supreme Court of Hawaii.

To The Honorable Brian T. Taniguchi, Chair and to the Honorable Dwight Y. Takamine, Vice Chair and Members of the Committee on Judiciary and Government Operations:

In Re: GM 439. Testimony in Support of Mark E. Recktenwald's Nomination to the Supreme Court of Hawaii

My name is Stephen H. Levins.

It gives me great pleasure to testify in support of the candidacy of Mark Recktenwald, Chief Judge of the Intermediate Court of Appeals, for the position of Associate Justice of the Supreme Court of Hawaii. I do not believe that you could find a more qualified individual.

I have known Mr. Recktenwald since he became the Director of the Department of Commerce and Consumer Affairs (DCCA) in 2003, where I had the privilege of serving under his leadership. As the executive director of the Office of Consumer Protection I interacted with Mr. Recktenwald on almost a daily basis for the four years that he led the DCCA. During that time, I found him to be hard working, fair, insightful, smart, honest, courageous, and deliberative. It was truly a pleasure to work with such a talented person.

In my view, one of Mr. Recktenwald's most outstanding characteristics is that in an effort to reach an equitable solution he carefully examines all issues before rendering a decision. He is not summarily dismissive of anyone's opinion nor does he deliberately exclude anyone out of the process. I can not recall even one instance in which an interested party was denied input. Throughout my association with Mr. Recktenwald I always observed him to treat people with the utmost respect.

Mr. Recktenwald is a keen observer of human nature. Although he has stellar academic credentials, he does not inhabit an intellectual ivory tower removed from the "real world". He is neither dogmatic nor an ideologue. He is a "straight shooter" and has no "hidden agendas". I can not imagine anyone encountering Mr. Recktenwald on the bench feeling otherwise.

As an attorney, it would be an honor to have the opportunity to appear before him. The people of Hawaii would be well served to have such a distinguished person grace the bench of our Supreme Court.

Thank you for this opportunity to testify in support of Mr. Recktenwald. I will be happy to answer any questions that the Committee members may have.

Mitchell A. Imanaka
745 Fort Street, 17th Floor
Honolulu, Hawaii 96813

February 23, 2009

Senator Brian T. Taniguchi
Chairman
Judiciary and Government Operations Committee
Hawaii State Capitol
415 South Beretania Street, Room 219
Honolulu, Hawaii 96813

Re: Mark Recktenwald

Dear Chairman Taniguchi and Members of the Committee:

I am writing this letter in support of the nomination of Mark Recktenwald to the Supreme Court of the State of Hawaii.

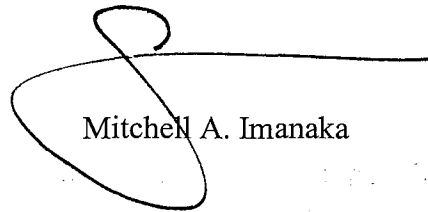
During my tenure as a Real Estate Commissioner (1997 – 2005), I had the opportunity to interface with Director Recktenwald in his capacity as the director of the Department of Commerce and Consumer Affairs. I always found him to be open, straightforward, and knowledgeable about the issues at hand.

I have no doubt that he will make an excellent justice, if he is confirmed. I have the highest regard for his intellect, fairness, humility and capacity to listen to others and ask the right questions. Further, he has the right temperament to serve in this capacity.

Accordingly, I fully support his nomination to the Supreme Court of the State of Hawaii, and look forward to your favorable consideration of the nomination.

Very truly yours,

IMANAKA KUDO & FUJIMOTO



Mitchell A. Imanaka

MAI:anlb

cc: Honorable Mark Recktenwald

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333 Queen Street, Suite 610
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March 3, 2009

Senator Brian T. Taniguchi
Chair, Committee on Judiciary
and Government Operations
Hawaii State Senate
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Confirmation Hearing Of Mark Recktenwald on Friday,
March 6, 2009, 9:30 a.m., Conference Room 016, State Capitol

Dear Senator Taniguchi and Committee Members:

I am honored to write this letter of recommendation for the Honorable Mark Recktenwald, Chief Judge of the Intermediate Court of Appeals for the State of Hawaii, who has been nominated by Governor Linda Lingle to fill the seat on the Hawaii Supreme Court that was vacated by the retirement of Associate Justice Steven H. Levinson.

I have known Chief Judge Recktenwald since 1986 or 1987, when he served as law clerk to the late Chief United States District Judge Harold M. Fong. During that period I frequently appeared as counsel for the defendant in cases proceeding before Judge Fong. Mark and I met again and many times during Mark's service as a federal prosecutor (1991 to 1997 and 1999 to 2003). Because I believe Mark Recktenwald would serve with distinction as an Associate Justice of the Hawaii Supreme Court, I offer the following observations:

First, the most obvious qualities that support Mark's candidacy as a Hawaii Supreme Court Justice are that he is an intellectually honest and very fair person. During the approximately ten years that Mark served with diligence and fairness as an Assistant United States Attorney in our local United States Attorney's Office, I opposed Mark as a defense lawyer in numerous federal criminal cases; several had civil aspects, as well. Dealing with Mark was always a positive experience. He was a forthright, candid, sincere, and always well prepared prosecutor. He paid close attention to the details of the cases entrusted to him. Mark brought these same qualities to his work as the Director of the Department of Commerce and Consumer Affairs for the State of Hawaii, between 2003 and 2007, and more importantly, to his service as Chief Judge of the Intermediate Court of Appeals since April 30, 2007.

March 3, 2009

Page 2

As a federal prosecutor, Mark's insightful decisions were tempered with compassion. Examples are two specific cases where I observed these qualities in action. The first, involving an elderly physician convicted of medical fraud, would have allowed Mark to personally and financially crush the defendant with unnecessarily painful consequences to him and to his family, but Mark did not do so. Rather, as a prosecutor, Mark was sensitive to the defendant's age and infirmity. While the charges were resolved in a way very favorable to the United States, the defendant was not totally humiliated or physically oppressed. Mark agreed to a fair term of imprisonment and conditions of forfeiture that recognized the defendant's continuing need to support his family.

In another case, involving a highly publicized international financier and real estate developer, Mark and his co-counsel, Assistant United States Attorney (now Associate Judge of the ICA) Craig Nakamura, agreed to a fair resolution of complicated federal bank fraud and other charges and thereby avoided a protracted trial for the defendant and for the government. While the defendant appropriately took responsibility for his crimes, Mark and Craig made certain to tender to the court a fair and balanced recommendation for sentencing. The unusual action that "broke the log jam" just prior to trial was the reasonable decision that Mark and Craig made to dismiss the charges against the defendant's fiancée, a woman whose culpability was arguably marginal.

Notably, Mark's service as an Assistant United States Attorney encompassed not only criminal matters, but also civil matters handled by the civil division of that office. Additionally, Mark has had several years of experience as an attorney in private practice, including labor and employment litigation. The varied nature of Mark's legal experience has served him well as an appellate jurist. Furthermore, he has a solid educational background, having graduated magna cum laude from Harvard University with a Bachelor of Arts degree in anthropology and then graduating with honors from the University of Chicago Law School.

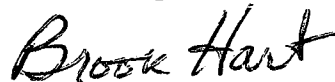
After leaving the United States Attorney's Office, Mark demonstrated quiet leadership and persistent diligence as the Director of the Department of Commerce and Consumer Affairs. He applied the same qualities of honesty, fairness, breadth of vision, practical good judgment, and reasonableness that characterized his work as a federal prosecutor, and that he has demonstrated as Chief Judge of the Intermediate Court of Appeals since April 30, 2007. In that connection I have closely followed his judicial performance; as a jurist, he has developed a reputation for fairness and efficiency. For example, in a complex appeal from a sexual assault conviction where my client strongly maintained his innocence, Chief Judge Recktenwald, along with Associate Judges Foley and Nakamura, wrote a lengthy Memorandum Opinion carefully analyzing the novel evidentiary and other issues in that case. They then issued a reasoned and sensible decision, remanding the case for further findings by the trial court and, perhaps, a new trial for the defendant. That case involved a spirited oral argument. Chief Judge Recktenwald presided over the proceedings with dignity and aplomb.

Additionally, I have reviewed five of the published Intermediate Court of Appeals opinions authored by Chief Judge Recktenwald in criminal cases: State v. Rippe, 119 Hawaii 15, 193 P.3d 1215 (App. 2008); State v. Yamada, 116 Hawaii 422, 173 P.3d 569 (App. 2007), cert. denied, 117 Hawaii 332, 180 P.3d 473 (2008); State v. Mars, 116 Hawaii 125, 170 P.3d 861 (App. 2007), cert. denied, 117 Hawaii 234, 177 P.3d 1278 (2008); State v. Kolia, 116 Hawaii 29, 169 P.3d 981 (App. 2007), cert. denied, 117 Hawaii 234, 177 P.3d 1278 (2008); and State v. Fagaragan, 115 Hawaii 364, 167 P.3d 739 (App. 2007). All of those opinions are well researched, logically reasoned and written with clarity, regardless of whether the ultimate outcome on each specific issue was favorable to the prosecution or the defense.

I have frequently encountered Mark outside of the courthouse. He is a man of broad vision and deep perspective. He is kind and generous, with a well developed sense of humor; there is no evidence of arrogance or self importance. Mark is interested in numerous subjects beyond the law; he possesses a thoughtful, insightful, and inquisitive mind that has now developed into an excellent judicial temperament. I believe that Chief Judge Mark Recktenwald has demonstrated that he has the intelligence, courage, and professional experience, as well as the administrative and legal skills, to perform admirably as an Associate Justice of the Hawaii Supreme Court. A man of unquestioned integrity and impeccable reputation, Chief Judge Recktenwald is focused, measured, knowledgeable, and fully committed to the rule of law. I strongly urge confirmation of Mark Recktenwald as an Associate Justice of the Hawaii Supreme Court.

Sincerely yours,

LAW OFFICES OF BROOK HART
A Law Corporation



BROOK HART

BH:ls

February 27, 2009



Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Committee on Judiciary & Government Operations
Hawaii State Capitol, Room
Honolulu, HI 96813-2453

RE: GM439 Submitting for consideration and confirmation as Associate Justice to the Supreme Court, State of Hawaii, Gubernatorial Nominee, MARK E. RECKTENWALD, for a term of ten years.

Dear Chair Taniguchi, Vice Chair Takamine and Members of the Committee:

I strongly support the candidacy of Mark Recktenwald for the position of Justice of the Hawaii Supreme Court.

I knew Mark prior to his appointment as Director of the State of Hawaii Department of Commerce and Consumer Affairs, and had the pleasure of working with him directly, and often, during the four years that he served as Director. We also served together on the Board of the Employer-Union Health Fund Trust

As a governmental official and as a judge, Mark Recktenwald is exceptional, rare, and maybe unique.

He is certainly well educated and qualified. His family background, education, and life experiences to date, place him in what might best be described as a "mandarin-like" status.

Unlike most other Americans, he was trained for public service. Public service, for most Americans today, is an accident. From what I have been able to see, his, has been the happy result of a public spirited family seeking to educate their best, for service to the rest of us. And he chose to follow in that direction. His legal training was impeccable, and it resulted in his becoming a government prosecutor of note. Governor Lingle saw that talent and ability in him, and nominated him to be her Director of the DCCA. He was easily confirmed, and by all accounts, certainly by mine, did an outstanding job as Director of DCCA.

RADCLIFFE & ASSOCIATES, LLC • *Governmental Relations Consulting*
Royal Queen Emma Building • 222 S. Vineyard Street, Suite 401
Honolulu, Hawaii 96813-2453

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Committee on Judiciary and Government Operations
February 27, 2009
Page 2

I supported his candidacy to the Intermediate Court of Appeals, where, again, he was easily confirmed by the State Senate, and where he proved his mettle, and did an absolutely outstanding job.

You can often learn a lot about a person by observing how s/he deals with others, over time, in both public and in private. Mark is unfailingly polite, solicitous, sensitive, and appreciative, of those around him. He is never short tempered or intemperate—even in those situations where he has been provoked. He is always calm and fair. And that attitude is conveyed to those with whom he interacts. I do not know a more humble, or hardworking, or dedicated, or decent, man.

I strongly support his candidacy now, to become a justice of the Hawaii Supreme Court. He is polite, courteous, well educated, humble, and caring. He epitomizes fairness and respect for others, and, especially, the law. He genuinely cares about others, and is very, very hard working.

Hawaii could not hope to have a better, more qualified person to serve on our highest court.

If there is such a thing as having “good judicial temperament,” Mark Recktenwald exemplifies it.

Thank you for this opportunity to state my views. I will be happy to answer any questions that you may have.

Sincerely,

John H. Radcliffe
President

February 28, 2009 Via E-Mail: JGOTestimony@Capitol.hawaii.gov

**Senator Brian T. Taniguchi
Chair, Committee on Judiciary & Government Operations
Hawaii State Senate, Hawaii State Capitol**

Dear Senator Taniguchi:

I hereby submit this letter as my testimony on behalf of Chief Judge Mark E. Recktenwald's nomination to be a member of the Hawaii Supreme Court. While I intend to appear in person to testify at the Committee's hearing at 9:30 a.m. on Friday, March 6, 2009, I may not be able to attend due to jury duty. In the event that I cannot attend, this letter will be my testimony. Please provide copies of this letter to the other members of the Committee.

I previously testified before the Committee in support of Chief Judge Recktenwald's appointment to be Chief Judge of the Intermediate Court of Appeals. I have known Mark for over 20 years—first when he was an associate with Goodsell Anderson Quinn & Stifel and later when he was my partner at Marr Hipp Jones and Pepper.

I strongly believe that Chief Judge Recktenwald's nomination should be confirmed. It is no secret that the Hawaii Supreme Court has suffered from internal divisions and has failed to handle its caseload in a timely manner. The next person to join the court must be someone who can help heal the divisions and bring energy and efficiency to resolving the court's backlog. Mark is that person.

In his brief tenure as Chief Judge of the ICA, Mark has streamlined the case handling of the ICA and pushed the court to handle its case load. He is an incredibly hard worker and a brilliant person. Of the hundreds of lawyers I worked with in 37 years of law practice, I consider Mark to be the best writer and thinker. The persuasiveness of his legal analysis will garner him the respect of the other members of the Supreme Court, as will his commitment to hard work and the public interest. However, I believe that it is his fair, respectful, and calm demeanor that will be most useful in bringing the court together. I, therefore, urge the Senate to confirm Chief Judge Recktenwald's nomination to be the next member of the Hawaii Supreme Court. I am confident that he will go down in history as one of Hawaii's great jurists.

**Sincerely,
Ken Hipp**

From: Roland Tolentino [ro.landt@live.com]
Sent: Saturday, February 28, 2009 8:38 PM
To: JGO Testimony
Subject: *****SPAM***** GM439: Recktenwald nomination, Hearing 3/6 at 9:30a.m.

I strongly oppose the nomination of Mark Recktenwald to be Chief Justice of the Supreme Court. I worked with Mark at DCCA and found him to be indecisive and more persuaded by the masses than what was the law or what was the right thing to do. Needless to say, these are not good qualities for a Chief Justice. People have told me that he is smart, but I have never seen that side of him. Even if I assume that he is smart, it makes no difference if he is unable to make the hard decisions.

I know many people who supported his appointment to the ICA because they thought he could do less harm at ICA than at DCCA. Well now we are talking about the Chief legal office of the State and the stakes are too high. I strongly urge this committee to oppose his nomination.

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TO THE SENATE COMMITTEE ON
JUDICIARY AND GOVERNMENT OPERATIONS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Friday March 6, 2009
9:30 a.m.

GOVERNOR'S MESSAGE 439
Nomination of Mark E. Recktenwald

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lawrence M. Reifurth, and I am testifying **in strong support** of Mark Recktenwald's nomination to the Hawai'i State Supreme Court.

I have known Mark Recktenwald for a long time. Our children were at pre-school together, thirteen or fourteen years ago, and we worked together briefly while he was an Assistant U.S. Attorney and I was in private practice. But I came to know Mark very well in 2003 when he asked me to serve as deputy director of the department of commerce and consumer affairs. From January 2003 until April 2007, when Mark left the department to become the Chief Judge of the Hawai'i Intermediate Court of Appeals, we worked very closely together. Since then, we have kept in close contact; keeping in mind that we were both busy in our jobs, but caring very much for how each other was doing on both a personal and professional level.

Mark would make a superb Associate Justice on the State Supreme Court. His tenure on the Intermediate Court of Appeals evidences his dedication to the rule of law, his appreciation for the value in open, public discussion, and his understanding of the importance that the State's appellate courts have on our daily lives; lawyers and non-lawyers alike.

I believe that Mark would be a success at almost any career and any task that he set himself to. But it is law that he has chosen, after an extended foray into public policy and administration while at DCCA, and I think that this has served him (and all of us) well as good background to the myriad of issues that he encounters on the appellate court.

I could talk for hours about Mark's qualifications, but I think that the Committee is as familiar as I am with Mark's temperament, his nature, his intelligence and his integrity.

For these reasons, I respectfully urge you to confirm Mark Recktenwald's nomination to serve as Associate Justice on the Hawai'i Supreme Court.

RICK TSUJIMURA

745 FORT STREET MALL, 17TH FLOOR, HONOLULU, HAWAII 96813
TELEPHONE: (808) 521-9500 • FACSIMILE: (808) 541-9050

March 2, 2009

The Honorable Brian T. Taniguchi, Chair
The Honorable Dwight Y. Takamine, Vice Chair
Senate Committee on Judiciary and Government Operations
State Capitol, Room 16
Honolulu, Hawaii 96813

Re: Testimony in Support of GM 439: Consideration and Confirmation as Associate Justice to the Supreme Court, State of Hawaii, Gubernatorial Nominee, Mark E. Recktenwald, for a term of ten years

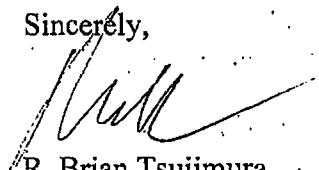
Chair Taniguchi, Vice Chair Takamine, and members of the Senate Committee on Judiciary and Government Operations:

I write this testimony on my own behalf in support of the nomination of Mark E. Recktenwald as Associate Justice of the Supreme Court.

I have had the pleasure of working with Mark on several issues involving the Department of Commerce and Consumer Affairs. I have found him to be of even disposition, fair and reasonable. These are traits that one seeks in a judge, especially a chief judge. This should not be taken to mean that he is wavering in his views or his commitment to "doing the right thing". Mark has, in my humble opinion, always tried to do the right thing. This attitude is borne out by the efficient and smooth operation of the department. While we have not always agreed on issues, Mark has exercised the temperament one would want from a jurist. He is understanding and fair. That is all one can expect from a jurist. While he may have had predispositions not once did I detect anything other than a willingness to learn about the issues being presented and to see justice done. He is perfect for this position.

Your positive consideration of his appointment is recommended.

Sincerely,



R. Brian Tsujimura

RBT:ay

D.B. GRIFFIN III
2979 Kalakaua Avenue
Honolulu, Hawaii 96815
808 478-8780

TO THE
SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

Friday, March 6, 2009
9:30 A.M.

TESTIMONY ON GM 439 RELATING TO MARK E. RECKTENWALD FOR THE
POSITION OF ASSOCIATE JUSTICE
THE SUPREME COURT, STATE OF HAWAII

My name is Nick Griffin. I strongly support the nomination of Mark E. Recktenwald for the position of Associate Justice of the Supreme Court of the State of Hawaii, and ask this Committee to recommend his confirmation to the full Senate.

I first met Mark Recktenwald in 2003 when he interviewed me for a job with the Department of Commerce and Consumer Affairs. From the very first, Mark's wide ranging knowledge and professionalism coupled with a friendly and positive demeanor set him apart. As I worked for him at DCCA over the next four years, I saw him display the many skills and attributes he brings to any process in which he is involved.

Mark is, above all, a leader. He outlines his objectives, works with you to obtain your input and then agrees upon a common goal for you to attain. He thereupon becomes an excellent manager, encouraging you to keep moving, periodically checking to see if the goal is still appropriate and reachable, and finally acknowledging successful completion with congratulations, or working positively with you to recalibrate if the goal has not been achieved. His leadership style is collaborative and inspirational – I candidly have to admit that I have seldom seen such an effective approach in my 40 plus years of military and private sector work experience – it is really powerful.

Mark thoroughly examines all sides of an issue, yet he does so in a friendly and positive way. He really digs into the meat of the question and makes sure he has every available aspect fully accounted for before proceeding with a decision. His style stimulates discussion and provides due consideration for multiple inputs. Your opinions get a hearing, and he wants to be certain that you understand his position as well – no blind following.

After weighing the issues, Mark's decisions are prompt – he doesn't waffle, the instructions are clear and the delivery crisp, yet complete. You know where you stand, and proceed from there.

Finally, Mark is a boss you can be proud of. He is forthright, fair, compassionate when appropriate and, above all, honest in all respects. I would be honored to work for him again any time.

Mark Recktenwald will be an outstanding Associate Justice of the Supreme Court of the State of Hawaii. I am proud to strongly support his nomination and would ask the Committee to do the same.

Thank you.

B R Y S E N C . P O U L T O N

TO THE
COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

THE SENATE

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

Friday, March 6, 2009
9:30 a.m.

GUBERNATORIAL NOMINEE MARK E. RECKTENWALD
AS ASSOCIATE JUSTICE TO THE STATE OF HAWAII SUPREME COURT

TO THE HONORABLE SENATOR BRYAN T. TANIGUCHI, CHAIR, AND
MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to testify this morning. My name is Brysen Poulton and I am here today to testify in **strong support** of gubernatorial nominee, Mark Recktenwald as an Associate Justice on the State Supreme Court.

As many know, Mr. Recktenwald currently serves as the Chief Judge of the State Intermediate Court of Appeals. I supported his nomination then and am proud to support his nomination to this new position as well. I first came to know Mr. Recktenwald when he served as Director of the State Department of Commerce and Consumer Affairs (DCCA). I was employed with the department throughout his time as director. It was during that time I came to know, admire, and respect this truly great man.

In my opinion, one I share with many others, Mr. Recktenwald did an excellent job of running the department and its employees were the benefactors of his strong work ethic, a willingness, nay an eagerness, to roll up his sleeves and sweat it out in the trenches never asking an employee to do something he was not willing to do himself regardless of the task be it great or small. His management style and leadership were of further benefit to the department and this, in addition to those characteristics previously mentioned, has served him well in his current position as Chief Judge and will no doubt continue to serve him well as an Associate Justice.

Mark is someone who listens to those around him and incorporates the best of their ideas into the decisions he makes. He is fair, honest, and clearly explains his expectations and the reasons for his decisions. Beyond that Mark is intelligent, hardworking, ethical, and compassionate.

But most of all, Mark treats everyone who he works with or meets with dignity and respect, carefully listens to all viewpoints, is prudent in making decisions, will not yield to improper influences, and is committed to doing what is right, rather than what is expedient. I can attest to these things because I have seen them happen, first hand, and they have influenced my own life greatly.

I believe that these philosophies and attributes are what make Mark such an outstanding administrator and what will enable him to be a most effective associate judge. Mark is qualified, prepared, and willing to take on the challenges of the court in the position to which he has been nominated. I strongly encourage the members of this committee to approve his nomination because not doing so will deprive the people of Hawaii and our legal system of one of the brightest minds and capable men our community has to offer.

In conclusion, I believe the highest compliment I can pay Mr. Recktenwald is to call him a mentor and, most importantly, my friend.

Thank you again for this opportunity to testify.

TESTIMONY OF MICHAEL F. NAUYOKAS

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice-Chair
Committee on Judiciary and Government Operations

Michael F. Nauyokas, Esq., Attorney, Mediator & Arbitrator
733 Bishop Street, Suite 2300
Honolulu, Hawaii 96813
(808) 538-0553

Friday, March 6, 2009 at 9:30 a.m., Conference Room 016

Re the consideration and confirmation as Associate Justice to the Supreme Court, State of Hawaii, Gubernatorial Nominee, MARK E. RECKTENWALD, for a term of ten years.

I am an attorney specializing in mediation, arbitration, and employment & labor law. I have been practicing law for 20 years, first at the Goodsill Anderson Quinn & Stifel law firm, then as a sole practitioner for the past 15 years. I am in support of the confirmation of Mark E. Recktenwald as Associate Justice to the Supreme Court of the State of Hawaii.

I have known, worked with and/or observed Mark for over twenty years, including first as law clerks, then as associate attorneys together at Goodsill Anderson Quinn & Stifel for several years, then at the U.S. Attorney's office, then as a partner in the Marr Jones firm, as the Director of the State DCCA, and finally, as the Chief Judge of the Intermediate Court of Appeals. His legal analysis and writing skills are among the best I've seen. In fact, he helped me with mine at the Goodsill firm.

Specifically, Mark is excellent at appellate work. I believe, and history has shown, that prior experience as an appellate judge will be a huge plus in being an excellent Supreme Court Justice. He demonstrated excellent administrative skills as the Director of the DCCA for four years. He has made substantial contributions to the Intermediate Court of Appeals for the last two. I believe he would be an excellent addition to our Supreme Court and recommend him without reservation.

From: Melvin Ah Ching
Sent: Wednesday, March 04, 2009 2:33 PM
To: JGO Testimony
Subject: FW: Mark Recktenwald

-----Original Message-----

From: Randy Roth [mailto:randy.roth.hawaii@gmail.com]
Sent: Wednesday, March 04, 2009 11:32 AM
To: Sen. Brian Taniguchi; Sen. Dwight Takamine; Sen. Robert Bunda; Sen. Mike Gabbard; Sen. Clarence Nishihara; Sen. Sam Slom
Subject: Mark Recktenwald

Aloha Chairman Taniguch, Vice-Chairman Takamine, and Senators Bunda, Gabbard, Nishihara, and Slom. I am a professor at the University of Hawaii School of Law, but I am providing this testimony as an individual, not on behalf of my employer or any other organization.

I strongly encourage you to confirm Judge Mark Recktenwald as an Associate Justice of the Hawaii State Supreme Court. In my opinion, you could not have a more qualified candidate in front of you. I base this assessment and comparison on nearly 35 years of as a lawyer and professor of law, including one year as president of the state bar association. Judge Recktenwald has been a model lawyer and public servant. I have known him personally for years and consider him to be one of the most decent, hard-working, selfless individuals I have ever known.

Thank you for this opportunity to speak on behalf of Judge Recktenwald.

AYABE, CHONG, NISHIMOTO, SIA & NAKAMURA

ANN H. ARATANI
SIDNEY K. AYABE*
ROBERT A. CHONG
STEPHEN G. DYER
PATRICIA T. FUJII
STEVEN L. GOTO
KENNETH T. GOYA
DAVID A. GRUEBNER
RYAN I. INOUE
GAIL M. KANG
RONALD T. MICHIOKA
GARY S. MIYAMOTO
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RICHARD F. NAKAMURA
LAWRENCE H. NAKANO
JOHN S. NISHIMOTO
ZALE T. OKAZAKI
RONALD M. SHIGEKANE
JEFFREY H. K. SIA
PHILIP S. UESATO
MICHAEL J. VAN DYKE
J. THOMAS WEBER
DIANE W. WONG
EDMUND K. U. YEE
CALVIN E. YOUNG

*A LAW CORPORATION

RODNEY S. NISHIDA
(1949 - 2004)

March 4, 2009

VIA EMAIL (JGOTestimony@capitol.hawaii.gov)

Senator Brian T. Taniguchi, Chair
Committee on Judiciary and Government Operations
State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Senate Confirmation of Chief Intermediate Court of Appeals Judge Mark E. Recktenwald for Associate Justice on the Hawaii State Supreme Court

Dear Chairperson Taniguchi and Members of the
Senate Judiciary and Government Operations Committee:

I am writing this letter in support of Governor Linda Lingle's nomination of Chief Judge Mark E. Recktenwald to serve as an associate justice on the Hawaii State Supreme Court.

I became acquainted with Chief Judge Recktenwald when his name was submitted for consideration for the position of Director of the Department of Commerce and Consumer Affairs. I was a member of the committee which interviewed applicants for that position. After the committee interviewed a number of applicants, the committee found Chief Judge Recktenwald an outstanding candidate for the position of Director for the Department of Commerce and Consumer Affairs. His name was then submitted to Governor Lingle who did accept the recommendation of the committee and appointed Chief Judge Recktenwald to be the Director for the Department of Commerce and Consumer Affairs.

I have had the opportunity to speak with staff members at the Department of Commerce and Consumer Affairs about Chief Judge Recktenwald during his tenure as the director of that department. The comments have all been favorable. He has been credited with stream lining the application process for the various departments within the Department of Commerce and Consumer Affairs as well as making the department more responsive to the consumers' needs.

I was pleased to learn that Chief Judge Recktenwald submitted his application for the associate position on the Hawaii State Supreme Court. During my tenure on the 000999/401919

Celebrating 46 years of service to the community

Senator Brian T. Taniguchi
March 4, 2009
Page 2

Judicial Selection Commission, Chief Judge Recktenwald did submit his application for the position on the Intermediate Court of Appeals. He was found to be an outstanding applicant and did receive strong recommendations and accolades in support of his application. As we know, he did make the list of six names submitted to the Governor and was nominated by the Governor and subsequently confirmed by the Senate to serve as Chief Judge of the Intermediate Court of Appeals.

Since his appointment to the Intermediate Court of Appeals, the feedback from members of the legal community has been very favorable. During his tenure as Chief Judge of that Court, the Intermediate Court of Appeals has strived to issue opinions in a timely manner.

I know the community is always looking for a well-rounded individual to serve on the appellate level. That person is certainly Chief Judge Recktenwald who has the background, experience, and credentials to serve as an associate on the Hawaii State Supreme Court. He has already exhibited excellence during his private practice career as well as his tenure with the Office of the U.S. Attorney. He has demonstrated excellent administrative skills while serving as the Director of the Department of Commerce and Consumer Affairs. His present position as Chief Judge of the Intermediate Court of Appeals has shown that he is an excellent jurist whose goals are to issue decisions in a timely manner.

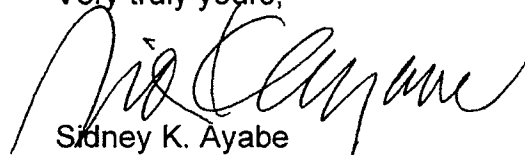
We are always mindful of having a jurist whose ethics and integrity are beyond reproach. From my personal knowledge of Chief Judge Recktenwald as well as other members of the legal community who have known him, we all conclude that his ethics and integrity are beyond reproach.

The legal community will certainly benefit from having someone with the skills, training, background, and appellate experience like Chief Judge Recktenwald. He possesses the requisite traits which we are looking for in someone to serve on the Hawaii State Supreme Court. He is an outstanding individual. His appointment will also be a benefit to the community.

Without any reservations, I strongly recommend Chief Judge Recktenwald's confirmation to serve as an associate justice on the Hawaii State Supreme Court.

If you have any questions, please do not hesitate to contact me. I thank you for allowing me to present this letter in support of Chief Judge Recktenwald.

Very truly yours,



Sidney K. Ayabe

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

TESTIMONY IN SUPPORT OF
MARK E. RECKTENWALD
GUBERNATORIAL NOMINEE AS ASSOCIATE JUSTICE TO THE SUPREME
COURT

DATE: Friday, March 6, 2009

TIME: 9:30 a.m.

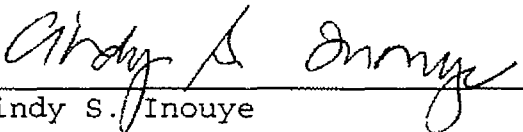
PLACE: Conference Room 016

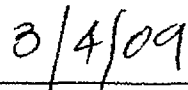
Chair Taniguchi, Vice-Chair Takamine and Members of the
Committee:

I am pleased to express my strong support of the Honorable
Mark Recktenwald's appointment as Associate Justice of the
Hawaii Supreme Court.

I have known Judge Recktenwald for approximately three
years. He is a person of great integrity, fairness and
intelligence. I am confident that he will approach his
duties as Associate Justice very diligently, with a clear
recognition of the magnitude of responsibility that the
position entails. Judge Recktenwald also has a very calm,
even-tempered demeanor, which should serve him well in
dealing with the often difficult and contentious legal
issues confronting the court.

I urge this Committee to recommend Judge Recktenwald's
appointment to the Hawaii Supreme Court.


Cindy S. Inouye


Date

Testimony of Daniel Bent

Before the Senate Committee on Judiciary and Government Operations

DATE: Friday, March 6, 2009

TIME: 9:30 a.m.

PLACE: Conference Room 016, State Capitol

Via Fax: **586-6659**

Re: Governor's Message 439: Supreme Court Nominee Mark Recktenwald

Chairman Taniguchi and Members of the Senate Committee on Judiciary and Government Operations:

This is to commend to your Committee and the Senate Mark Recktenwald for the position of Associate Justice of the Supreme Court of the State of Hawaii. Because of Mark's service as Chief Judge of the Intermediate Court of Appeals (ICA) and formerly in the Governor's Cabinet as Director of the Department of Commerce and Consumer Affairs many members of the Committee and the Senate know Mark and his work. This is to share my knowledge and insights about Mark from my experience and perspective to support his recommendation by the Committee and confirmation by the Senate for the position Associate Justice of the Hawaii Supreme Court.

I have known and admired Mark Recktenwald since I hired him as an Assistant United States Attorney in 1991. I found him to be an exceptionally qualified candidate for that position. Once in the position, his performance was excellent.

Mark graduated from Harvard University with highest honors in anthropology. After graduating from Harvard, Mark worked for several years in a variety of positions, as I recall, that were unique and gave him a depth and variety of experience not found among those who progress directly to law school from undergraduate school.

I first had contact with Mark during one such job in this period when he was a United Press International reporter. On several occasions he called me in the process of preparing stories for the UPI on cases arising out of the U.S. Attorney's office. I found him courteous, thoughtful and clearly interested in the thoroughness and accuracy in his work.

Later Mark attended the University of Chicago School of Law where he was an editor of its law review and again graduated with honors. He then served as a law clerk with then Chief U.S. District Court Judge Harold Fong.

When Mark applied for a position as an Assistant U.S. Attorney, he had an additional four or so years experience as an attorney with the Goodsill firm. It was my practice then before hiring an Assistant U.S. Attorney to personally speak to at least 15 people who knew the applicant and his or her work. Judge Fong had very high praise for Mark and his work, as did every one of the numerous partners and others that I spoke to at Goodsill. I also spoke to several others who knew Mark from his earlier career. Every one of his former coworkers and colleagues that I contacted had extraordinarily favorable comments to make about Mark, his work and his honesty and integrity. I should note that I typically spoke to one or more former secretaries of my applicants since they were often the best source of information about an applicant's work habits and importantly whether they are a "nice person" with whom to work. All spoke glowingly of Mark.

Most important, in my own experience with Mark, he was an outstanding Assistant U.S. Attorney. I assigned Mark to some of the most demanding and difficult investigations and prosecutions. He handled them with intelligence, fairness, calm, vigor, persistence and integrity. Mark tried a significant number of aggressively defended criminal prosecutions and handled many appeals. His energy and productivity were impressive.

Those of us who have practiced before the appellate courts know that it is important to clients and counsel to have appeals decided well but also with reasonable dispatch. Mark has demonstrated that ability in his capacity as a member of the Intermediate Court of Appeals while handling the administrative and leadership responsibilities as Chief Judge of that court.

His work between college and law school have added to his preparation to assume the responsibilities of an Associate Justice. In the several jobs he did during that period, reporter, Presidential candidate advance man, legislative staff member (Hawaii Legislature and U.S. Senate), journalist, etc., he certainly gained experience working on deadlines as well as working with others toward common objectives in a timely way. This experience, I believe, gave Mark teamwork skills and ability that have served him well as an attorney, in his position as Director of the DCCA and as Chief Judge of the ICA.

Mark's integrity and moral courage are unquestioned. In the years that we worked closely together and that I have known Mark, I have had full confidence in Mark's integrity and moral courage such that I know him to do what is

right directly and without question. My confidence in him continues. Mark shoots straight and has the confidence of those around him that he always will whether anyone is looking.

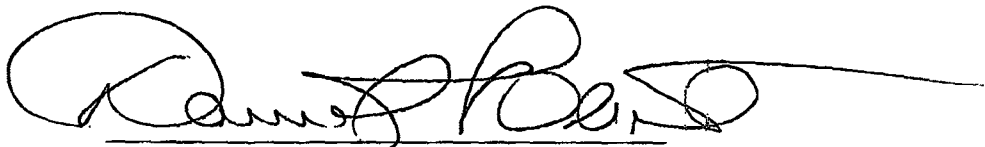
Lincoln once said that the true test of a person's character is not how they handle adversity but how they handle power. Mark has now been in three positions in which he had to exercise considerable power on behalf of the federal and state government, respectively. I consider it a point of my pride in him that he has done so with obvious modesty, thoughtfulness, fairness and integrity.

As important as any of the above, Mark is a very decent guy who has balanced judgment and sees the complexities of matters as well as their human side. His is a very "even keeled" person who does not get emotional even in heated situations. All of this causes his work to be graced with intelligence, compassion and fairness.

In sum, an Associate Justice must demonstrate productivity, intellectual ability, legal acumen, honesty and integrity as well as the ability to work in a demanding high profile environment important to the members of the bar and their clients and the people of the State of Hawaii.

I submit that Mark Recktenwald has those attributes as well as a unique background and consummate skills that will serve Hawaii well if confirmed. Mark Recktenwald would be an excellent choice by you for the position of Associate Justice would be a credit to your Committee and the Senate.

If you desire any additional information from me regarding Mark, I would be pleased to provide it to you.

A handwritten signature in black ink, appearing to read "Daniel Bent", with a long horizontal flourish extending to the right.

Daniel Bent, Esq.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

LISA WOODS MUNGER

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DIRECT DIAL:
(808) 547-5744

INTERNET:
lmunger@goodsill.com

March 5, 2009

Via Email (JGOTestimony@Capitol.hawaii.gov)

Senator Brian T. Taniguchi
Chair, Committee on Judiciary and
Government Operations
Hawaii State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Re: GM 439 - Submitting for consideration and confirmation as Associate
Justice to the Supreme Court, State of Hawai'i, Gubernatorial Nominee,
MARK E. RECKTENWALD, for a term of ten years

Dear Chair Taniguchi and Members of the Committee:

Thank you for the opportunity to testify in support of the consideration and confirmation of Mark Recktenwald as Associate Justice to the Supreme Court. I have known Mr. Recktenwald for twenty years. Mr. Recktenwald began his legal career at Goodsill Anderson Quinn & Stifel where I had the opportunity to work with him. I have had the opportunity to work with him in his subsequent positions at the United States Attorneys' Office and the Department of Commerce and Consumer Affairs.

Mr. Recktenwald has always impressed me with his intelligence and legal analyses. He had handled complex matters ably, devoting the time necessary for careful consideration.

Mr. Recktenwald is a man of great integrity. It does not matter whether one is on the same side of the table or the opposite side, he always displays the highest degree of civility and courtesy. It is not just that he is quiet when others speak; it is that he listens thoughtfully and considers their views. He truly appreciates that civility and zealous representation of one's clients are not mutually exclusive.

Mr. Recktenwald's career path demonstrates his commitment to public service. His agency experience as well as his tenure as Chief Judge of the Intermediate Court of Appeals have prepared him for the challenges of the Supreme Court.

Senator Brian T. Taniguchi
Chair, Committee on Judiciary and Government Operations
March 5, 2009
Page 2

I fully support Mr. Recktenwald's consideration and confirmation as the next Associate Justice of the Supreme Court.

Sincerely,



Lisa Woods Munger

LWM/crld

TESTIMONY OF GREGORY KIM

**IN SUPPORT OF CONFIRMATION OF
MARK E. RECKTENWALD**

AS

**ASSOCIATE JUSTICE TO THE
SUPREME COURT, STATE OF HAWAII**

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

**Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair**

FRIDAY, MARCH 6, 2009

**9:30 AM, CONFERENCE ROOM 016
STATE CAPITOL**

I am a corporate attorney and have practiced law for 25 years. I am writing in support of the confirmation of Mark E. Recktenwald as Associate Justice to the Supreme Court of the State of Hawaii.

I have known and worked with Mark for almost twenty years, since 1988 when I joined the Hawaii law firm of Goodsill Anderson Quinn & Stifel. Mark was already at the firm, and we had adjoining offices and shared secretaries.

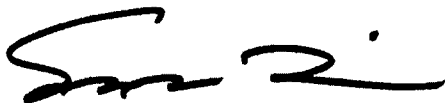
At Goodsill, Mark had the reputation as one of the brightest and hardest working, if not THE brightest and hardest working, attorneys at Goodsill. I've seen Mark at work and can personally attest to that.

In addition to his intelligence and hard work, Mark is devoted to public service and left a high paying profession to become the Director of Commerce and Consumer Affairs. I remember speaking with Mark about his change of direction and how excited he was about serving the public. At the DCCA, Mark has reached out to the community to find and implement improvements at the DCCA to foster a better business climate. Thereafter Mark continued his public service as Chief Judge of the Intermediate Court of Appeals, and I have heard nothing but praise from practicing attorneys about the excellent job he has been doing in that position.

Moreover, Mark has unquestionable ethics and integrity and a keen sense of fairness, and compassion for people from all walks of life. He is a man of principle, and you can easily see that in his actions and deeds, in his work and personal life.

All of these qualities will make Mark an excellent Associate Justice to the Supreme Court of the State of Hawaii, and I enthusiastically support his confirmation.

Sincerely,



Gregory Kim
780-2495, GKim@virtuallawpartners.com

MARR JONES & WANG

A LIMITED LIABILITY LAW PARTNERSHIP

Labor and Employment Law

March 5, 2009

Via E-Mail (JGOTestimony@Capitol.hawaii.gov)

Committee on the Judiciary and Government Operations
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

**Re: Testimony in support of Judicial Nominee Mark E. Recktenwald
GM 439
Hearing Date: Friday, March 06, 2009
Hearing Time: 9:30 a.m.
Hearing Location: Conference Room 016, State Capitol**

Dear Chairman Taniguchi, Vice Chair Takamine, and members of the Committee on the Judiciary and Government Operations:

I am an attorney at the law firm of Marr Jones & Wang and have been associated with the firm since 1997. I am writing in support of Mark E. Recktenwald, one of the six candidates for the Hawaii Supreme Court.

I first met Mark in 1997, when we both joined Marr Jones & Pepper (now known as Marr Jones & Wang). At the time, Mark was the firm's newest partner, and I was the firm's newest associate. While Mark was at the firm, I interacted with him on a daily basis and had an opportunity to observe him interact with a variety of different people in a variety of situations. Having worked closely with Mark, I know that he will be an excellent addition to the Hawaii Supreme Court.

Mark clearly possesses the intellect, experience, and skill necessary to serve on the Hawaii Supreme Court, as evidenced by his curriculum vitae. In addition, Mark's work in criminal and civil matters, in federal and state court, in representing the prosecution and the defense, with a balanced perspective that few attorneys possess. Finally, Mark's current service as Chief Judge of the Intermediate Court of Appeals provides him with direct appellate experience and might help to foster greater efficiency within our appellate court system.

110413

1001 Bishop Street • Suite 1500 Pauahi Tower • Honolulu, Hawaii 96813
Phone: (808) 536-4900 • Fax: (808) 536-6700 • E-mail: mmitomay@marrjones.com

Mark's personality is also well-suited for judicial office, as he is patient, compassionate, and extremely hard working. I would like to discuss each of these characteristics in-depth, as I believe that these are the characteristics that distinguish successful attorneys from successful judges.

Patience. Mark is a patient person who takes the time to teach others. When I first met Mark, I was a young associate attorney entering private practice. Although I had completed a clerkship at the First Circuit Court and had a basic understanding of the legal system, I knew precious little about the practice of law. Mark quickly changed that. One of the first cases I worked on at the firm was a wrongful termination case that was ultimately heard by the Hawaii Supreme Court. Mark was the partner assigned to the case, which meant that he was ultimately responsible for analyzing the claims and defenses, creating a litigation strategy, and preparing the case for trial. While Mark could have given assignments to me in a piecemeal fashion and banished me to the law library, he instead chose to use the case to teach me how to litigate a case. Mark took the time to explain each step of the case to me, allowed me to participate in important meetings with our client, asked for and considered my suggestions, and even let me argue a motion in federal court for the first time.

Mark's patience and willingness to take the time to explain things to others are characteristics that will continue to serve him well if he is appointed to the Hawaii Supreme Court. While there are bound to be times where attorneys and parties involved in cases will disagree with decisions issued by judges, judges who are patient and who take the time to explain the reasons for their decisions quickly earn the respect of the public.

Compassion. Mark is also extremely compassionate and shows compassion for people from all walks of life and under all circumstances. As a prosecutor in the U.S. Attorney's office, I am sure that Mark had a lot of compassion for the victims of federal crimes, including victims of investment scams, fraud and embezzlement, illegal smuggling operations, and chemical dumping. As a partner at Marr Jones & Pepper (now Marr Jones & Wang), which specializes in the defense of labor and employment cases, Mark showed compassion for his clients, many of whom felt hurt, insulted, and angry that they had been falsely accused of employment discrimination, sexual harassment, and wrongful termination. Mark always knew how to put a client at ease by listening to their concerns, empathizing with them, and helping them resolve the case. At the same time, Mark expressed compassion for the individuals who had sued his clients, as he often found that those individuals had other things going on in their life (for example, long-term illness, divorce, and financial problems) that complicated matters. While the interests of his clients always came first, Mark also took pains to treat opposing parties with dignity and respect. Mark's compassion for others was also apparent in the way that he treated the staff at the firm. Private practice is not easy, and Mark recognized that late nights and long hours took a toll on the staff. Mark always made it a point to show his appreciation for the sacrifices that people made in their personal lives to get a job done for a client. For example, after a particularly long case that involved a lot of long hours and interisland travel, our firm had

a “victory lunch” to celebrate Mark’s success at trial. At lunch, Mark presented the team members gift certificates to Toys-R-Us to thank them for spending their time in the office when they could have been spending time with their children instead.

It probably goes without saying that compassion is a characteristic that would make Mark an excellent judge. Legal disputes, by their nature, are never pleasant for the parties involved. By the time a case finds its way to a judge (particularly at the appellate level), much of the damage has been done and the parties have invested a lot of time and resources to get their day in court. It would be terrible for a person in that position to then have their case heard by a judge who does not care about them or what they have to say, or worse, to be treated unkindly and without respect. While there are many reasons why parties may decide to resolve their disputes out of court, fear of being assigned to a cold and uncaring judge should not be one of those reasons.

Work Ethic. Finally, Mark has an extremely strong work ethic. If given a project, he will do whatever it takes to get the best possible result. Mark is extremely thorough in his work. He will examine a problem from every possible angle, come up with multiple solutions, and then painstakingly analyze each of those solutions before making a decision. He once told me that when he had been a law clerk to Judge Fong, he had been assigned to work on a case that involved an issue of first impression. Mark spent hours and hours researching the issue and preparing a bench brief for Judge Fong. Mark gave the brief to Judge Fong on Friday and went home. Over the weekend, he thought about the case and decided to prepare a second bench brief just in case Judge Fong was inclined to reach the opposite conclusion. Though I may not remember all of the details of the story, I have a distinct impression in my head of Mark driving to Judge Fong’s house on a Sunday morning and leaving a 30-page bench brief on his doorstep – probably in a beat-up car and wearing a college sweatshirt (Mark is not one for appearances and chooses to spend his hard-earned money on education for his children).

Given the heavy case load assigned to our appellate court judges and the judiciary’s commitment to reducing the current backlog, I know that a strong work ethic is a prerequisite for a position on the Hawaii Supreme Court. Although I have not personally appeared before Mark in his current position as Chief Judge of the Intermediate Court of Appeals, the feedback that I have heard from others has been unanimously positive.

Committee on the Judiciary and Government Operations
March 5, 2009
Page 4

I urge you to confirm the nomination of Mark Recktenwald as an Associate Justice of the Hawaii Supreme Court. Thank you for taking the time to consider my testimony.

Very truly yours,



Melanie Mito May

MMM:tvf

**J. P. Schmidt, Esq.
2801 Coconut Avenue 3F
Honolulu, HI 96815**

TO THE SENATE COMMITTEE ON JUDICIARY AND Government Relations

Twenty-Fifth Legislature 2009

Friday March 6, 2009, 9:30 a.m.

**TESTIMONY IN FAVOR OF CONFIRMATION OF
MARK E. RECKTENWALD AS ASSOCIATE JUSTICE OF THE
SUPREME COURT OF THE STATE OF HAWAII**

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR, AND COMMITTEE MEMBERS

My name is J.P. Schmidt, private citizen and attorney, and I strongly support the confirmation of Mark E. Recktenwald as Associate Justice of the Supreme Court of the State of Hawaii. I have known Mr. Recktenwald for 6 years and served as Insurance Commissioner under his management of the Department of Commerce and Consumer Affairs. Mark exhibited the character and qualities that we all hope to find in our judges. As Director of DCCA he considered himself a servant of the people and worked diligently to serve the public in an open, efficient and fair even-handed manner.

Mark established a policy of responding to all questions or complaints from the public in a timely manner, and established a computer program to track and follow up with reminders that a response was due. Mark pushed forward computerization of the divisions of the Department to improve the efficiency of dealing with the reams and reams of paperwork flowing through the Department each day.

Mark is able to quickly grasp the numerous details of the varied complex issues arising in DCCA and make the necessary decisions. He patiently listens, takes notes on details while keeping hold of the big picture. He treats all equally and always with even temper and good humor.

I have been an attorney for 23 years in California and Hawaii, and I believe Mark's intelligence, grasp of the law and realities of life, outstanding management abilities, sense of fairness, even temper and good humor make him a truly exceptional choice for the office of Chief Judge of the Intermediate Court of Appeals. Please give your favorable recommendation.

March 4, 2009

Senator Brian T. Taniguchi, Chair
Committee on Judiciary and Government Operations
State Capitol, Room 219
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Senate Confirmation of Chief Intermediate Court of Appeals Judge Mark E. Recktenwald as Associate Justice on the Hawai'i State Supreme Court

Dear Senator Taniguchi and Members of the
Senate Judiciary and Government Operations Committee:

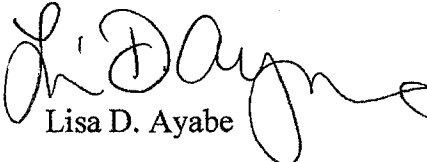
I am writing this letter in support of Governor Linda Lingle's nomination of Chief Intermediate Court of Appeals Judge Mark E. Recktenwald to serve as associate justice on the Hawai'i State Supreme Court.

I am currently serving as a law clerk to Chief Judge Recktenwald. During my clerkship, he has been a wonderful mentor and has taught me a tremendous amount over the past six months. I have known him to be a man of integrity and high moral character. He is committed to justice and has a passion for the law. As a dedicated public servant, he is mindful of the impact his decisions have on the parties and works extremely hard to ensure that each case is given the attention it deserves. In his present position as Chief Judge of the Intermediate Court of Appeals, he leads by example and his strong work ethic inspires everyone around him to work just as hard.

Chief Judge Recktenwald is also a compassionate individual who genuinely cares about those he works with. As his law clerk, he has treated me with nothing but dignity and respect. He does not hesitate to compliment good work and provides only constructive feedback. Despite his many achievements, he remains one of the most grounded and humble individuals I know. It has been an honor to clerk for him.

For the reasons stated above I strongly support his confirmation. I firmly believe he will be an outstanding jurist on the Hawai'i State Supreme Court.

Sincerely,


Lisa D. Ayabe

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
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CHRISTOPHER G. PABLO
ANNE T. HORIUCHI
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MEMORANDUM

TO: Senator Brian T. Taniguchi
Chair, Senate Committee on Judiciary and Government Operations
Hawaii State Capitol, Room 219

FROM: Gary M. Slovin

DATE: March 5, 2009

RE: GM 439 - Submitting for consideration and confirmation as Associate Justice to the Supreme Court, State of Hawaii, Gubernatorial Nominee, MARK E. RECKTENWALD, for a term of ten years
Hearing: Friday, March 6, 2009

Dear Chair Taniguchi and Members of the Committee:

I would like to respectfully support the nomination of Mark Recktenwald to be the Associate Justice to the Supreme Court, State of Hawaii.

Mark was a litigation lawyer with our law firm and a partner before joining the office of the U.S. Attorney. I worked extensively with Mark when he was with our firm and also worked with him when he was the Director of the Department of Commerce and Consumer Affairs.

During my many years of contact with Mark, both as a partner and as a government administrator, I can say confidently that I have never seen him act in any but the highest manner in terms of competence and integrity. Mark is a highly competent lawyer, capable of handling very complex issues. He is also an experienced litigator and understands both civil and criminal procedure. Mark possesses a wonderful temperament and remains calm in stressful situations. He is a compassionate person and consistently treats people with dignity and respect. Simply put, I consider Mark to be one of the finest persons I know. While I have not appeared before Mark in his role as an Intermediate Court of Appeals judge, that role has only enhanced this already stellar reputation.

March 5, 2009
Page 2

Mark's breadth of experience will be a significant asset on the Supreme Court as it has been in his role as Chief Judge of the Intermediate Court of Appeals. He has practiced both as a private and a government lawyer. In his private practice, he had wide experience that was enhanced by his service as a U.S. Attorney. Since many critical cases involve government, Mark's time as a government administrator in a department with a wide range of functions will continue to give him insights that will be helpful in fairly judging cases that affect government.

Accordingly, I respectfully and strongly support Mark Recktenwald's nomination to the Supreme Court. I feel that Mark's qualifications and his integrity and character place him among the first rank of lawyers in Hawaii.

Testimony before the
Senate Committee on Judiciary and Government Operations

Friday, March 6, 2009
9:30 a.m., Conference Room 016

Statement on Governor's Message No. 439

by Robert A. Alm
Executive Vice President
Hawaiian Electric Company, Inc.

TO THE HONORABLE BRIAN TANIGUCHI, CHAIR, DWIGHT TAKAMINE, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:

I am here to support the nomination of Mark E. Recktenwald to be an Associate Justice of the Hawaii Supreme Court.

Mark Recktenwald is a great public servant who has done an outstanding job at each task he has undertaken. From his days in the U. S. Attorney's Office, to his service as Director of Commerce and Consumer Affairs, to his current tenure as Chief Judge of the Intermediate court of Appeals, he has approached each role with strong values and integrity, a great work ethic and sense of what being a public servant really means, and an intellectual rigor that is a particular criterion for an appellate judge.

One aspect of Mark's leadership is worth noting. Mark has remained a very humble and straightforward human being. His increasingly influential positions have not changed the fact that he remains easy to approach, down-to-earth, and very much in the real world. In his role as an appellate judge, and particularly in the role of an Associate Justice, this is a critical trait.

I strongly urge your confirmation of Mark E. Recktenwald to be an Associate Justice of the Hawaii Supreme Court.

March 5, 2009

Re: Testimony for Mark E. Recktenwald for Associate Justice of the Hawaii Supreme Court

I am submitting this written testimony in support of the nomination of Mark E. Recktenwald for Associate Justice of the Hawaii Supreme Court.

I have known Mark Recktenwald since 1989, when I started work as an associate attorney at the law firm of Goodsill Anderson Quinn and Stifel. Mr. Recktenwald worked at Goodsill Anderson Quinn and Stifel from 1988 to 1991.

Mr. Recktenwald is highly qualified and experienced to sit on the Hawaii Supreme Court. He is highly intelligent and graduated with honors at Harvard University and at the University of Chicago Law School. Mr. Recktenwald has extensive legal experience at both the trial level and the appellate level.

Mr. Recktenwald has also served as head of the Department of Commerce and Consumer Affairs. Through his leadership, the Department has streamlined and updated procedures to keep up with our ever advancing technology which has helped the department run more efficiently.

Since being appointed as Chief Judge of the Intermediate Court of Appeals, Mr. Recktenwald has continued with his excellent work and work ethic. I believe through his leadership, he has helped reduce case back log and has efficiently moved cases through our appellate system.

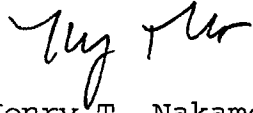
Throughout his tenure on the Intermediate Court of Appeals, Mr. Recktenwald has been accessible to the bar and especially to the neighbor island bar. He has come to Hilo and has spoken to the Hawaii County Bar Association about the Intermediate Court of Appeals and its procedures.

Mr. Recktenwald is a very patient and understanding person. His moral standards and ethics are beyond reproach. As a longtime member of the community, he will be able to continue to deal with the difficult problems and issues that will come before him on the Hawaii Supreme Court. I have only heard positive comments about Mr. Recktenwald.

I have no doubt that if confirmed to the Hawaii Supreme Court, Mark E. Recktenwald will serve our bar and community well.

If you have any questions, please contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Henry T. Nakamoto". The signature is written in a cursive style with a large initial "H" and a stylized "N".

Henry T. Nakamoto
187 Kapiolani Street
Hilo, Hawaii 96720
(808) 961-0641

GOODSILL ANDERSON QUINN & STIFEL

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March 5, 2009

VIA EMAIL jgotestimony@capitol.hawaii.gov

Senate Committee on Judiciary and
Government Operations
March 6, 2009 9:30 a.m.

Re: In the Matter of the Confirmation of Mark Recktenwald

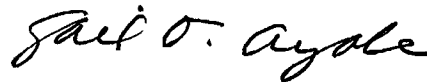
Ladies and Gentlemen:

I first met Mark Recktenwald over twenty years ago when we both clerked for the Honorable Harold M. Fong at the United States District Court for the District of Hawaii. Mark and I also worked together as associate attorneys at the law firm of Goodsill Anderson Quinn & Stifel.

Mark is highly intelligent and well-qualified to serve as an Associate Justice of the Hawaii Supreme Court. He is honest, trustworthy and humble. I consider him to be a person of great integrity and compassion. Mark works hard and cares very much about the work that he does and doing it well. He has an excellent temperament and demeanor which serves him well as a judge. I am confident that if confirmed, Mark would continue to serve the public in a fair and thoughtful manner.

I support the confirmation of Mark Recktenwald as Associate Justice of the Supreme Court of the State of Hawaii without any reservation or qualification.

Very truly yours,



Gail O. Ayabe

SHANLYN A. S. PARK

965 Maunawili Circle
Kailua, Hawaii 96734

March 5, 2009

Senate Committee on Judiciary and
Government Operations

Re: **Nomination of Mark E. Recktenwald**
Hearing on Governor's Message No. 439
March 6, 2009, 9:30 a.m., State Capitol, Room 016

Dear Committee Members:

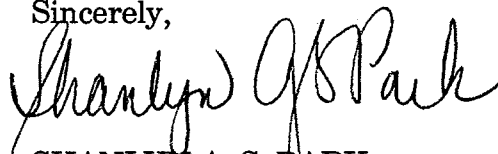
I am writing to express my views concerning Mark E. Recktenwald, applicant for Associate Justice of the Hawai'i Supreme Court. I have known Mr. Recktenwald personally and professionally for over ten years, and I believe that if confirmed, he will make an excellent Associate Justice.

Mr. Recktenwald has an impeccable reputation in our community for his many talents and abilities, including his competence and his civility. In my opinion, Mr. Recktenwald possesses a sound and mature appreciation for the importance of mediation and common sense, and he would bring these qualities to bear as an Associate Justice of the Hawai'i Supreme Court. In addition, Mr. Recktenwald has an extensive background in all aspects of law, both civil and criminal. Perhaps equally important, Mr. Recktenwald is level-headed, has excellent judgment and a strong sense of fairness. He has the ability to see to the heart of the matter and analyze it properly.

Finally, Mr. Recktenwald is a person of honesty and integrity. He has the moral courage necessary to be an effective Associate Justice. My view is that Mr. Recktenwald's background and his personal traits would clearly translate into him being a very effective member of the Hawai'i Supreme Court.

If I can provide any further information to assist you in making your confirmation decision, please do not hesitate to contact me at 541-2521.

Sincerely,



SHANLYN A. S. PARK
Assistant Federal Defender
District of Hawaii

MARCUS D. E. ROSEHILL
Trustee/Advocate/Pro se
46-089 Lilipuna Rd.
Kaneohe, Hawaii 96744-3617
Telephone: 342-2089

March 1, 2009

Honorable Senator Brian T. Taniguchi,
Senator Judiciary Committee Chair
415 South Beretania Street, Rm. 219
Honolulu, HI 96813

Re: **Opposition to the nomination of Judge MARK E. RECKTENWALD** to
the Supreme Court in replacement of Associate Justice S. LEVINSON
(Retired).
Hearing Date & Time: Friday, March 6, 2009. 9:30 a.m.

Greetings Chair Taniguchi, Vice-Chair Takamine and members of the Judiciary and
Government Operations Committee:

I am writing in strong **opposition to the nomination of Judge MARK E.
RECKTENWALD** to the Supreme Court in replacement of Associate Justice S.
LEVINSON (Retired) for any given term.

Since 2003, after the demise of my mother, Violet Marie Rosehill, I have worked as her
sole successor Trustee for the Rosehill Trust in order to protect and preserve the
purpose and use of said Rosehill Real Property of an Estate by Trust. When breaches
occurred by operation of contract and statutory violations also occurred the Trust was
successful and obtained its Judgment of Possession and Writ of Possession to the
exclusion of all others. Moreover, COUNTERCLAIM Plaintiffs lawsuit was soundly
dismissed. There has already been a District Court determination entitling the Trust to
damages and remains the subject on appeal before Judge Mark E. Recktenwald in
S.C. 28350 by the Defendants.

Although these countless contractual breaches and statutory violations were thought
to be cured in the Hawaii District Court and would not continue to defraud the Trust
esp. in the the damages part of the **same trial**, the Trust soon discovered that what
was already mandated and directed to occur esp. with Possession to the exclusion of
all others no longer at issue in both the Hawaii District and Circuit Courts has become
the exact same victimization of the Trust, the exact same corruption of the damages
part of the same trial. A just, speedy and fair trial on its merits has not occurred for
several years. It is also well documented that this corrupted litigation process was the
cause for and subject of on appeal before Judge Mark E. Recktenwald in S.C. 28744.

First some background.

In ensuing court proceedings pursuant to the mandates and directives of the Hawaii District Court and despite a favorable determination that was meant to cease further contractual breaches and violations in law, the once determined statutory remedies afforded Rosehill et al by the District Court instantly became corruptly negated and trashed in the Hawaii Circuit Court. With the allowance for resurfacing of already decided issues by the corrupt filing of a second consecutive lawsuit, the once already found **guilty and liable COUNTERCLAIM Plaintiffs** were corruptly allowed to negate all the overwhelming **evidence of their indebtedness** to said Trust and become corruptly renewed Plaintiff's in their multiplicity of unlawful action scheme; their unlawful circuitry of action scheme; and to file their bogus/blackmail lawsuit for blackmail settlement with their falsified evidence negating all the evidence of their indebtedness.

It was of little or no consequence in the ensuing Circuit Court proceedings to trash the **overwhelming evidence of indebtedness** that had already accrued against the Defendants because at the helm of these court proceedings was the infamous Judge Randal K. O. Lee who has already been documented as exhibiting corrupt conduct **"so pervasive, extensive and sweeping, that we can only conclude that that failure deprived appellants of a fair trial, and thus violated their right to due process . . ."** in Rosehill et al vs. Andrews et al.

It is this same Judicial Conduct by Judge Lee with him having little or no concerns over what is illegal, unlawful and criminal under constitutional law and the protections under these laws being afforded to the Rosehill Trust similarly being trashed for a fair trial.

In the District Court the COUNTERCLAIM Plaintiffs' violations of existing fraud statutes are clearly evident, the evidence of their indebtedness clearly indisputable and as referenced above remain the subject of appeal from the District Court S.C. No. 28350 (pending Mark E. Recktenwald- Merit Panel Member).

In the ensuing Circuit Court proceedings said continued litigation is not only contemptible of the jurisdiction of the District Court but in reckless disregard of the sanctity of the appellate review process by the higher court and remains in reckless disregard of the Trusts Real Property rights.

As the Trust becomes victimized again by enlarging violations of law in order to cover up not only the corrupt resurfacing of already decided claims which is in contempt of existing court judgment and existing court ordered writ, but Rosehill et al become further victimized by the added incriminating component of criminal conspiracy to commit fraudulent concealment and to further fraudulently deceive all that had already transpired in the District Court as having no standing and likewise having no standing when pending appeal before the Hawaii Supreme Court. Mr. Recktenwald's participation in appeal S.C. 28744 is so identical to Judge Lee's conduct esp. when it covers up what is not only Judge Lee's **"so pervasive, extensive and sweeping, that**

we can only conclude that that failure deprived appellants of a fair trial, and thus violated their right to due process . . ." but also exhibits Mr. Recktenwald's similar judicial failures, his lack of moral and ethical values.

Henceforth, the Rosehill Trust became stripped of any reliance upon long standing just laws already in existence and have become subjected to an operation of unjust law, unlawful indebtedness akin to being subjected to organized efforts worst than organized crime. If ever an appellate review process was necessary from the corrupted Circuit Court proceedings with corrupt Plaintiff in **Civil No 06-1-1976-11 (KNB) (RKOL) (GJK)**, filed 11/14/06 which why the Trust filed timely appeals in appeal S.C. 28744 (there exist both a Precautionary Appeal, filed September 13, 2007 as well as a enforceable appeal, filed December 7, 2007) esp. wherein legitimate appeal is fraudulently concealed under one Supreme Court Number.

Sadly, this has become the genesis for my serious concerns over the nomination of Mr. Recktenwald and my concerns continue through his involvement in appeal S.C. 28350. It is his perpetrated conspiracy with staff attorneys and clerks of the Hawaii Supreme Court that enabled him to fraudulently conceal a legitimate right to an appeal. Mr. Recktenwald writes his unpublished opinion and the necessary appellate review does not occur. Plus, of worst consequence the appellate process is **corruptly dismissed** by his unpublished opinion that has no legal basis in law. Moreover, Mr. Recktenwald corruptly accomplishes this without any review of any necessary and statutorily required Findings of Fact and Conclusions In Law that the Hawaii Circuit Court is mandated to produce on appeal to the appellate court from its onset and Rosehill et al have and continue to demand for it.

I am reminded that all civil litigants reasonably expect that their cases will be heard and fairly decided by an impartial judge, **who abides by the letter of the law** and spirit of the Revised Code of Judicial Conduct.

"A judge shall disqualify himself or herself in a proceeding in which the Judge's impartiality might reasonably be questioned, including but not limited to cases where a) the judge has a personal bias or prejudice concerning a party or a party's lawyer "

I cite major corruption and non compliance with existing law by Judge Recktenwald in S.C. 28744 as referenced above esp. in context with the existence of pending decision S.C. 28350 and always preserving the sanctity of the entire appellate review process in appeal S.C. 28350 (S.C. 28744 as well). Mr. Recktenwald is a member of the S.C. 28350 merit panel and must not be allowed to also corrupt that appeal. Justice delayed is justice denied and Mr. Recktenwald continues to corruptly DELAY and deprive Rosehill Trust of necessary determination because it would expose his involvement in the corrupt conspiracy for the fraudulent dismissal of the appeal S.C. 28744. Dismissal of appeal S.C. 28744 remains his continued fraudulent concealment of the existence of a blackmail lawsuit for blackmail settlement **Civil No. 06-1-1976-11 (KNB) (RKOL) (GJK)**, that also remains, without limitation:

1. continuous fraudulent concealment of the **corruption that allows for the introduction of falsified evidence** against forfeiture, against loss of reliance interest by breaches of contract, against a COUNTERCLAIM Plaintiff bringing lawsuit for non performance when he is the only party with **substantial performance defects** and massive statute of fraud violations esp. as the continuously corrupt Plaintiff in **Civil No 06-1-1976-11 (KNB) (RKOL) (GJK)**, filed 11/14/06 after Counterclaim Plaintiff fraud schemes had been dismissed and is subject on appeal to the higher court (ICA) S.C. 28350;

2. continuous fraudulent concealment of corrupt allowance for **the unlawful circuitry of action** that continues to commit fraud, fraudulent concealments, deception, irreconcilable fraudulent-fact-based arguments only containing grossly improper "Hypothetical Pleadings" with no genuine issues of material facts, NO initial set of Facts because of NO SWORN AFFIDAVIT as required by COUNTERCLAIM Plaintiffs (Non Compliance with 12.1 Rule that requires "**when the title to real estate is involved, such defense shall be asserted with a written answer or motion, which shall be received by the court unless accompanied by an affidavit of the defendant, setting forth the source, nature and extent of the titled claimed by the defendant to the land in question, and such further particulars as shall fully apprise the court of the nature of defendbant's claim**"); fraudulent scheme, acts of conspiracy, bribery, blackmail, extortion, robbery, tax evasion, embezzlement, financial institution fraud, mail fraud, wire fraud, tampering with witnesses, informants and victims et al which fulfill Original Federal Jurisdiction prohibited acts (required **RICO** predicate acts);

3. continuous fraudulent concealment of **the multiplicity of unlawful action** with second consecutive lawsuit because there exist in appeal S.C. 28350:

a. (Firstly as COUNTERCLAIM Plaintiffs in **Civil No. 1RC06-1-4850 Rosehill et al vs. Andrews et al** which Rosehill et al already have a favorable determination over disputed and genuine issues of material facts by operation of law pursuant to, without limitation: H.R.S. §507-43, §521-56, §521-68, §605-2, §666-11, §666-13, §632-1); and, which remains pending appeal for any reversal of that dismissed counterclaim Plaintiff's causes of action's in S.C. 28350; and,

b. (Secondly with blackmail lawsuit Civil No. 06-1-1976-11 (KNB) (RKOL) (GJK) which finds Rosehill et al falsely accused again in corrupt attempts for blackmail settlement esp. wherein Judge Randal K. O. Lee participates in a corrupt reassignment of a legitimate case with blackmail lawsuit; commences to become the trial judge and corrupt judicial settlement judge at the same time; and, also exhibiting acts of **extortion under color of office and/or by official right** with his **inexcusable scare tactics** about future news headlines of violent acts against the Trust et al to further extract said blackmail settlement.

I am continuously reminded of the **Substantial Performance Doctrine** that estopps a Plaintiff from filing an initial complaint let alone multiple lawsuits for non performance on a contract esp. wherein that same plaintiff has already been found guilty and liable for massive non performance in a court of law.

I remind this committee that Judge Randall K.O. Lee's nomination to the ICA was

rejected for very serious concerns about his judicial conduct, without limitation:

"so pervasive, extensive and sweeping, that we can only conclude that that failure deprived appellants of a fair trial and thus violated their rights to due process under Article I, Section 5 of the Constitution of the State of Hawaii."

I am informing this committee that it is Mr. Recktenwald 's involvement in S.C. 28744 that attempts to cover up said continued public corruption by Judge Lee.

I am aware that all civil litigants reasonably expect their cases will be heard and fairly decided by an impartial judge, who abides by the letter and spirit of the Revised Code of Judicial Conduct (hereinafter CJC) and, with that in mind I inform this committee that Judge Recktenwald made mockery of the appellate review process in appeal S.C. 28744.

It is well pronounced that any unjust law is not law at all and moreover for the protection of all citizens in any decent society such unjust law must be rebuked in its entirety. The corrupt introduction and application of irrelevant case law which is the allowance of falsified evidence immediately comes to mind for your committee's review. Mr. Recktenwald did not even have the the moral and ethical values to let the necessary appeal proceed on its merits. This remains well documented and is public record for your perusal.

It has become increasingly necessary with my fiduciary duties that obligate me to act in order to protect and secure against any such pervasive, extensive, sweeping and continuous acts of conspiracy in such corrupt litigation process itself esp. when it continues to damage one's real property of an estate by Trust, its Trust related business and its necessary Trust's finances in so many corrupted court proceedings; in such an extensively corrupted litigation process itself; a corruptly manipulated appellate review process; and, that which continues to always be in violative concert with named Circuit Court Judge[s] and appellate review Judge[s] themselves in order to indefinitely continue to avert their detection of their corrupt activities and inhibit their necessary prosecution for any deterrent effect against their continued public corruption.

There exist only a fine line between acts of conspiracy (two or more persons that damage one's property by their contemptible conduct, their attempt, their incitement and their criminal solicitation) having always with their corrupt activity an intent to defraud the entire judicial process by their continuous acts of fraudulent concealment and deception and having these same perpetrators/conspirators attempt to claim a defense that they only exhibited poor judgment, that mistakes were made and so what. This is much more than mere cover up of harmless judicial error but is the criminal infancy and continued criminal conspiracy for the allowance of the introduction of continuously fraudulent litigation by "*falsified evidence*" in a corrupted litigation process itself by named judge[s] themselves in collusion with other judge[s].

I continue to have cases before the Intermediate Court of Appeals (ICA) esp. wherein

Judge Recktenwald comprises the three (3) member Merit Panel in **S.C. 28350** from **Civil No. 1RC06-1-4850 Rosehill et al vs. Andrews et al** which is an appeal by Defendants Andrews et al to overturn a Judgment of Possession that restored the Rosehill's Real Property of an Estate by Trust to its owners with Warranty Deed (Recorded); Writ of Possession properly executed for Defendants removal and that any personal property remaining on the premises is now abandoned property.

Rosehill et al, in spite of being corruptly charged, indicted and found guilty for **the unauthorized practice of law** by the Circuit Court without jurisdiction (It remains the **Supreme court that has original jurisdiction** over said proceedings) will be filing their NOTICE OF INTENT TO SUE, pursuant to the Rules of the Federal District Court, State of Hawaii.

Furthermore the Rosehill Trust will be seeking immediate pendent jurisdiction over the appeal S.C. 28350.

I strongly reiterate my unconditional opposition to the nomination of Mark E. Recktenwald to the vacant position in the Supreme Court, and request your immediate attention to the abovementioned facts. These facts as mentioned above attest to the magnitude of corruption, the magnitude of fraudulent concealment, the magnitude of falsified evidence, the magnitude of referenced continuous Solicitation and Incitement in a corrupted litigation process itself by named judge[s] themselves that commences to meet required pleadings for Original Federal Jurisdiction over these federally prohibited acts and pattern of racketeering activity (their organized efforts worst than organized crime) esp. wherein these underlying state offenses have become RICO predicate acts.

Respectfully Submitted,



MARCUS D. E. ROSEHILL

cc: 1) Commission on Judicial Conduct; Chair Gerald Y. Sekiya
Kapuaiwa Bldg., Rm. 118 **VIA CERTIFIED MAIL ON 3/5/09**
426 Queen St.
Honolulu, HI 96813-2914

- 2) Judicial Selection Commission; Chair Rosemary T. Fazio
417 South King St. **VIA CERTIFIED MAIL ON 3/5/09**
Honolulu, HI 96813-2902
- 3) House of Representatives **VIA CERTIFIED MAIL ON 3/5/09**
Judiciary Committee; Chair Jon R. Karamatsu
Hawaii State Capitol, Rm. 302
415 South Beretania St.
Honolulu, HI 96813
- 4) Jim Dooley; Advertiser Staff Writer
C/O The Honolulu Advertiser **VIA CERTIFIED MAIL ON 3/5/09**
605 Kapiolani Blvd.
Honolulu, HI 96813
- 5) Office of Disciplinary Counsel (ODC)
1132 Bishop St., Suite 300 **VIA CERTIFIED MAIL ON 3/5/09**
Honolulu, HI 96813

Senators Brian Taniguchi and Dwight Takamine
Committee on Judiciary and Government Operations
State Capitol, Room 219
415 S. Beretania Street
Honolulu, HI 96813

Thursday, March 5, 2009

Re: Consideration of Mark E. Recktenwald as Associate Justice to the Supreme Court, State of Hawai'i


Dear Senators Taniguchi and Takamine:

I strongly support Governor Lingle's nomination of Chief Judge Mark Recktenwald to serve as an associate justice on the Supreme Court of Hawai'i.

I applied for a judicial clerkship with Mark Recktenwald in May of 2007. Although I had other interviews and opportunities, I was particularly interested in clerking for Judge Recktenwald because I was an aspiring public interest lawyer, and based on his extensive public interest career, I thought he would be a good mentor.

Needless to say, my clerkship has been everything I have hoped for and more. I have grown immensely as a lawyer in the last year and a half, and I credit this to the time and energy Judge Recktenwald has invested in me as a lawyer and as a person. Judge Recktenwald engages me fully as a law clerk, giving me challenging assignments and asking probing legal questions of my work, but also valuing my opinions and advice, even as a new lawyer. He encourages me to stop by his office at least once a day, no matter how busy he is, to talk not only about my current case but also about my husband, my dog, and whatever is happening in my life at the time. He genuinely cares not only about me and my co-clerk, but the other clerks at the ICA as well, and they comment on and appreciate his warm, approachable, and caring personality. Judge Recktenwald is constantly seeking to improve the working environment of the court, no matter how large or small the task. His focus as Chief Judge is always what would best serve the public. His ethics and integrity are beyond reproach, and he has been an excellent mentor for me both in my personal and professional life. He has been a superb role model for the clerks at the ICA, and will continue to be for future generations of young lawyers.

Sincerely,



Elizabeth Bray
337 Kihapai St.
Kailua, HI 96734
Cell: (734) 678-7631

March 5, 2009

Attn: Senate Sergeant-At-Arms. Fax # 586-6659

Measure: Testimony in support of Mark E. Recktenwald's Nomination.

Hearing JGO-03-06-09

Date: Friday, March 06, 2009

Time: 9:30 a.m.

Senator Brian T. Taniguchi
Chair, Committee on Judiciary & Government Operations
Hawaii State Senate, Hawaii State Capitol

Dear Senator Taniguchi:

We hereby submit this letter as our testimony on behalf of Chief Judge Mark E. Recktenwald's nomination to be a member of the Hawaii Supreme Court.

We strongly support the nomination of Chief Judge Mark E. Recktenwald to be a member of the Hawaii Supreme Court. His exemplary record as an attorney at Goodsell Anderson Quinn & Stifel and at Marr Hipp Jones and Pepper, plus his directorship of the DCCA and his work as Chief Judge of the ICA speak to his merit. The people of Hawaii have much to gain from this appointment. His integrity and fortitude will enhance the stability and strength of the Hawaii Supreme Court.

Sincerely,


Scott Dezzani and Marni A. Dezzani, MD

**MARR HIPP
JONES & WANG**
A LIMITED LIABILITY LAW PARTNERSHIP

Labor and Employment Law

March 5, 2009

*Via Email (JGOTestimony@Capitol.hawaii.gov),
Facsimile (808-586-6659) and U.S. Mail*

The Honorable Brian T. Taniguchi, Chair
Senate Committee on Judiciary and
Government Operations
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

**Re: Nomination of Mark Recktenwald
Hearing on Governor's Message No. 439
March 6, 2009, 9:30 a.m., State Capitol, Room 016**

Dear Senator Taniguchi:

I am writing in support of Mark Recktenwald's nomination to be an Associate Justice on the Hawai'i Supreme Court.

I have known Mark for many years, and he was my partner at this firm from 1997 through 1999. During the time we were partners, we worked closely together on a regular basis and we tried a case together in Maui that ran for about three weeks. While I knew him well before the trial, working closely with him for an extended period under significant pressure provided me greater insight. Based on my experience with him, I believe he is one of the finest attorneys that I have worked with or against in more than 30 years of private practice.

Mark was always extremely diligent and timely. He was focused on what needed to be done, and he accomplished it well before it was due. His finest qualities as an advocate, however, were his legal analysis and his judgment. He provided great insight to his partners, this firm, and our clients.

Our entire firm, from our staff through our partners, was extremely disappointed when Mark left our firm to return to public service. He set a high standard for all of us, from his high ethical standards to the quality of his legal advice.

110433

1003 Bishop Street • Suite 1500 Paahi Tower • Honolulu, Hawaii 96813
Phone: (808) 536-4900 • Fax: (808) 536-6700 • Direct: (808) 566-5600 • E-mail: bmarr@marrjones.com

Senate Committee on Judiciary and
Government Operations
March 5, 2009
Page 2

Since leaving my firm, I have had occasion to work with Mark on behalf of two non-profit organizations. In my capacity as President of Volunteer Legal Services Hawai'i, I twice asked Mark to provide a keynote speech at our annual awards luncheon. On both occasions, he accepted. As I have come to expect from him, he on both occasions did far more than was expected. He took the time before his speech to visit the organization, speak with the Executive Director, visit a clinic, and get to know the organization. As a result, his remarks were both compelling and inspiring.

Mark and I also serve together as Trustees of Le Jardin Academy. As Board Chair, I asked him last month to serve as Chair of a newly formed strategic planning committee composed of trustees, faculty and administrators. True to form, he not only willingly took up the task, but was back to me within a week with a plan of action, an agenda, and short term goals.

Mark is an extraordinary individual and an exceptional attorney. He is eminently well qualified to serve as an Associate Justice in the Hawai'i Supreme Court. I fully support his nomination and urge that the Senate confirm his appointment.

Please feel free to contact me if I can provide further information. Thank you for your consideration of my comments.

Very truly yours,



Barry W. Marr

BWM:jes

March 5, 2009

Senator Brian T. Taniguchi
Chair, Committee on Judiciary & Government Operations
Hawaii State Senate, Hawaii State Capitol

Re: Confirmation of Mark E. Recktenwald

Dear Senator Taniguchi:

I am writing to express my strong support for Mark E. Recktenwald, Chief Judge of the Hawaii Intermediate Court of Appeals, and to urge this committee to confirm his nomination to the Hawaii Supreme Court. Judge Recktenwald's abilities, experience, and dedication make him the perfect candidate, and I know that as an Associate Justice he would be of great service to the people of Hawaii.

His intelligence, common sense, and concise and clear writing style will make Judge Recktenwald a valuable asset for the court. As a law clerk for Judge Recktenwald I had the opportunity to witness his incredible intellect and common sense approach to the law on a daily basis. Additionally, Judge Recktenwald's writing skills enable him to write opinions that are easily understood by the general public, no matter how complex the issues are.

Judge Recktenwald also has the necessary experience to be a great addition to the Supreme Court of Hawaii. His credentials speak for themselves: Harvard, University of Chicago law school, federal clerkship, state and federal legislative experience, U.S. Attorneys' office, private practice, Chairman of the DCCA, Chief Judge of the Hawaii Intermediate Court of Appeals, etc.

Finally, as is exemplified by his impressive credentials, Judge Recktenwald has the dedication to service necessary to be a Supreme Court Justice.

In conclusion, I strongly support of Judge Recktenwald, and I urge this committee to confirm Judge Recktenwald's nomination to the Supreme Court of Hawaii.

Sincerely,

Andrew Hipp

From: Vicki Kalman [vkalman@hawaii.rr.com]
Sent: Thursday, March 05, 2009 3:01 PM
To: JGO Testimony
Subject: Re: Mark Recktenwald

To Whom It May Concern:

This email is written in support of the appointment of Chief Judge Mark E. Recktenwald to the Hawaii Supreme Court.

In my capacity as a member of the West Hawaii Bar Association Board of Directors, I had the pleasure of working with Judge Recktenwald on a program presented to the members of the West Hawaii Bar Association. Judge Recktenwald took the time to invest in building a relationship with attorneys here on the Big Island – an investment that is most appreciated here in Kona. At that time, he demonstrated to us his commitment to an honest and meaningful dialogue with the state's attorneys concerning the management of the business of the courts, the more timely administration of the court's caseload, and an appreciation for the problems associated with delays in the disposition of pending matters. Previously, Judge Recktenwald demonstrated his administrative abilities as the head of the DCCA; and as Chief Judge of the ICA, he has once again shown he has the wisdom and strength of character to tackle difficult problems in support of the fair and just administration of the law.

In my opinion, Judge Recktenwald will bring these valuable skills to the Hawaii Supreme Court, just as he has to the ICA. I urge your support of his nomination.

Respectfully,

Victoria L. Kalman
Attorney-Mediator
75-165 Hualalai Road, Suite 202
Kailua-Kona, HI 96740
Ph: 808.334.9888
Fx: 808.334.9633
vkalman@hawaii.rr.com

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

DAVID J. REBER

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

DIRECT DIAL:
(808) 547-5611

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

INTERNET:
dreber@goodsill.com

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

March 5, 2009

VIA EMAIL jgotestimony@capitol.hawaii.gov

Senate Committee on Judiciary and
Government Operations
March 6, 2009 9:30 a.m.

Re: In the Matter of the Confirmation of Mark Recktenwald

Dear Senators:

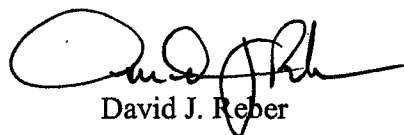
I am pleased to write this letter in support of the confirmation of Mark Recktenwald as Associate Justice of the Supreme Court of the State of Hawaii.

I was involved in the decision of this firm to hire Mark as an associate in the late 1980's. Mark had extraordinary academic credentials and had performed well as a clerk for United States District Court Judge Harold M. Fong. Mark was an outstanding associate of our firm and we felt a heavy loss when he left us to serve as an Assistant U.S. District Attorney for the District of Hawaii. Members of our firm kept in touch with Mark over the years in hopes that we might be able to encourage him to rejoin us, but his interest in public service was paramount.

Mark's work product at our firm was excellent. He has a brilliant legal mind and great common sense. I believe him to be a person of the highest integrity and to have an exceptionally strong work ethic. He evidenced a judicial temperament even in his early days with our firm -- open, fair, kind and respectful. The broad range of his experiences over the years will be invaluable in evaluating the merits of cases before him and reaching sound decisions.

I believe that, if Mark is confirmed, he will be a wonderful addition to our Supreme Court and that he will leave a mark as one of our most notable and distinguished Justices.

Sincerely,



David J. Reber

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Committee on Judiciary and Government Operations
Conference Room 016, State Capitol
415 S. Beretania Street
Honolulu, Hawaii

Re: Neighbor Island Testimony from Margaret Masunaga in
STRONG SUPPORT of the confirmation of MARK E. RECKTENWALD,
Associate Justice, Hawaii Supreme Court

Dear Senator Taniguchi and Senator Takamine, and Members of the
Committee on Judiciary and Government Operations:

I am submitting this testimony in STRONG SUPPORT of the Honorable MARK E. RECKTENWALD as Associate Justice of the Hawaii Supreme Court. I believe it is important for the members of the Senate Committee on Judiciary and Government Operations to know that the legal community in West Hawaii (Kona) was honored and excited when Chief Judge Mark Recktenwald of the Intermediate Court of Appeals met with the attorneys and judges in the fall of 2007 and gave an excellent seminar on appellate procedures. His written materials for the continuing legal education (CLE) seminar were exceptional! In fact, an article in the Hawaii Bar Journal was published in December 2008, pages 27, 28, and 30, about the content of the seminar.

I am a neighbor island government attorney and really appreciate Judge Recktenwald's willingness to get to know the members of the West Hawaii Bar Association. We were very honored that he took the time to meet with us.

Personally, I have known Judge Recktenwald since 1988, when we were both working at the law firm of Goodsill Anderson Quinn & Stifel. He was an associate in the Honolulu office, and I was an associate at the same firm in the Kona office.

Over the years, I have kept in touch with Mark, when he was the Director of the Department of Commerce & Consumer Affairs, and most recently when he became the Chief Judge of the Intermediate Court of Appeals (ICA).

My colleagues, such as Henry Nakamoto of Hilo, Carol Kitaoka of Kealahou, and Vicki Kalman of Kailua-Kona, have given me positive feedback and are equally impressed by the leadership and direction of Judge Recktenwald. I do not recall ever having an appellate judge reach out to the neighbor island attorneys. It is apparent to me that Judge Recktenwald is one of the most brilliant and smartest judges we have in the State of Hawaii.

I believe Judge Recktenwald is a well-rounded person who would be great asset to the Hawaii Supreme Court. The citizens of Hawaii deserve the best and the brightest on

the highest court in our state, and we cannot go wrong with Judge Recktenwald on the Hawaii Supreme Court. I wholeheartedly support him.

Thank you for allowing me to submit this testimony via email. Although I cannot be physically present to present this testimony, I hope you understand that I wholeheartedly support Judge Recktenwald and hope you will confirm this Gubernatorial Nominee, Mark Recktenwald, for a term of ten years.

Should you have any questions, please call me at 808 987-1046.

Sincerely,

Margaret K. Masunaga

PRESENTATION OF
LAWRENCE L. TONG

TO THE SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT
OPERATIONS

TWENTY-SIXTH STATE LEGISLATURE
Regular Session of 2009

Friday, March 6, 2009
9:00 a.m.

TESTIMONY ON GOVERNOR'S NOMINATION OF
MARK E. RECKTENWALD AS ASSOCIATE JUSTICE,
SUPREME COURT OF THE STATE OF HAWAII

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR,
AND MEMBERS OF THE COMMITTEE:

It is my privilege to recommend the confirmation of Mark E. Recktenwald as Associate Justice, Supreme Court of the State of Hawaii.

I have been Judge Recktenwald's friend for almost 25 years, and have had substantial professional contact with him. Judge Recktenwald and I worked together for more than 10 years in the private practice of law, and at the United States Attorney's Office. I have been privileged to know his family, and to have shared time with them. I believe Judge Recktenwald has extraordinary professional skills and personal character, and will serve the people of our state well as an Associate Justice of the Supreme Court.

Professional Skills

Judge Recktenwald's academic and professional accomplishments are readily apparent from his resume. He has been a successful student, journalist, attorney and public servant. Judge Recktenwald has a diverse background, having worked in the public sector, in large and small law firms, and as an appellate judge. As a judicial law clerk and federal prosecutor, Judge Recktenwald became intimately familiar with criminal law and constitutional issues. Having been an attorney to businesses, and a partner in a commercial law firm, he also became well versed in civil law and procedure. As the Director of the State Department of

Commerce and Consumer Affairs, he experienced firsthand many of the challenges of our state's economy. As chief judge of the Intermediate Court of Appeals, he oversaw the court's handling of an expanding docket, and became the court's primary spokesperson.

I met Judge Recktenwald when we both worked at Goodsill Anderson Quinn & Stifel, a large Honolulu law firm. Judge Recktenwald handled a variety of business and antitrust matters which normally were assigned to far more senior attorneys. I was immediately impressed by his work ethic and interpersonal skills.

I continued my professional association with Judge Recktenwald while we both served as Assistant United States Attorneys. Judge Recktenwald regularly handled some of the most difficult cases in the office. He obtained convictions and monetary settlements in environmental and health care fraud cases. These cases presented unique challenges. They required Judge Recktenwald to understand complex regulatory schemes in specialized areas. He then had to prove, beyond a reasonable doubt, that a defendant violated the appropriate rules and acted with criminal intent. Judge Recktenwald eagerly took on these matters because he was committed to our environment, and to protecting our health care dollars. Judge Recktenwald was successful in these cases because he is well organized and incisive, capable of distilling complex fact patterns and presenting cases in an understandable, coherent manner.

In handling these cases, Judge Recktenwald served not only as an attorney but also as an administrator. Judge Recktenwald led the efforts of task forces and working groups which investigated environmental and health care fraud offenses. These groups were comprised of large numbers of personnel drawn from various county, state and federal agencies, as well as representatives of the private sector. The different agencies often had conflicting needs and priorities. None of the personnel reported directly to the U.S. Attorney's Office. Judge Recktenwald thus could lead their efforts only if he first earned their trust and respect. Judge Recktenwald was consistently able to coordinate such investigations, all while respecting each agency's unique perspective.

As a prosecutor, Judge Recktenwald handled his cases vigorously. He nonetheless showed an ability to consider all mitigating circumstances, and showed compassion when appropriate. Judge Recktenwald understood that his decisions greatly affected people's lives, and he exercised his discretion carefully. He understood that his job was not to win cases, but rather to do justice.

Judge Recktenwald built on his legal successes with a term as director of a large State agency. He quickly became immersed in the challenges faced by local businesses, and worked to make Hawaii a better place to do business. Judge Recktenwald tackled his new challenges with great energy and skill, and was, by all accounts, a fine leader. He was also a fine administrator, running a large department efficiently, while showing personal concern for the well being and morale of his employees.

Judge Recktenwald has served mostly recently as chief judge of the Intermediate Court of Appeals. It is my understanding that he has added considerably to the character of the court family. He has been a consensus builder, encouraging his colleagues to dispose of cases efficiently and fairly. I understand he has helped to build morale and team spirit among all of the court's employees.

Personal Character

I am certain the Committee will hear from many about Judge Recktenwald's extraordinary professional skills. But while Judge Recktenwald is indeed a consummate professional, he is even more impressive as a person. He is a fine human being who works hard to maintain a balanced life. He is devoted to his wife, children and mother, and has not allowed his career successes to come at their expense. He consistently participates in his children's schooling and activities, and cultivates a loving relationship with his wife. Judge Recktenwald also deeply values his personal relationships. He is a loyal friend to many, and treats us as if we were family.

At his core, Judge Recktenwald has the type of personal character which we should demand of our judges and public servants. He treats everyone with dignity and

respect. He carefully listens to all viewpoints. He is prudent in his decisions, and does not yield to improper influences. As an Associate Justice of the Supreme Court, Judge Recktenwald will do what is right, and not just what is expedient.

Summary

Judge Recktenwald will make an extraordinary Associate Justice of the Supreme Court. There is no question about his legal acumen. He is brilliant, careful and fair. He will write opinions that are well-reasoned and provide clear guidance to future litigants. I believe he will respect prior legal decisions and not legislative from the bench. Most important, he will be compassionate and understand that each litigant's view is entitled to careful consideration.

I am also confident that he will work closely with the other Judges to build a collegial and efficient court. I have no doubt he will take on any increased judicial challenges with the same skill and energy he has shown throughout his career.

I am proud to support Judge Recktenwald, and urge this Committee to act favorably on his nomination.



KAILUA NEIGHBORHOOD BOARD NO. 31

P.O. BOX 487 • KAILUA, HAWAII 96734
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov>

LATE

March 5, 2009

Via facsimile
Senate Sergeant-At-Arms Office 586-6659
Honorable Governor Linda Lingle 586-0006

To :

Committee on Judiciary and Government Operation (JGO)

- Chair: Senator Brian T Taniguchi
- Vice Chair: Senator Dwight Y Takamine
- Members: Senator Robert Bunda
- Senator Mike Gabbard
- Senator Clarence K Nishihara
- Senator Sam Slom

Copy provided Honorable Governor Linda Lingle

At the March 5, 2009 regular meeting got the Kailua Neighborhood Board No 31 the following motion was adopted.

The Kailua Neighborhood Board supports the appointment of the Honorable Judge Mark Recktenwald, Chief Judge of Intermediate Court of Appeals to the Hawaii State Supreme Court.

Sincerely,

Charles Prentiss, Chair



TO THE SENATE COMMITTEE ON
JUDICIARY AND GOVERNMENT OPERATIONS

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

March 6, 2009
9:30 a.m.

**TESTIMONY ON GOVERNOR'S MESSAGE NO. 439
REGARDING THE NOMINATION OF MARK E. RECKTENWALD
TO BE ASSOCIATE JUSTICE TO THE SUPREME COURT,
STATE OF HAWAII**

TO THE HONORABLE BRIAN T. TANIGUCHI, CHAIR,
THE HONORABLE DWIGHT Y. TAKAMINE, VICE CHAIR
AND MEMBERS OF THE COMMITTEE:

My name is Rod Maile, and I am the Senior Hearings Officer for the Office of Administrative Hearings, Department and Commerce and Consumer Affairs ("DCCA"). Thank you for the opportunity to present testimony in support of the nomination of Chief Judge Mark E. Recktenwald to become Associate Justice of the Supreme Court of the State of Hawai'i.

As the Senior Hearings Officer of the Office of Administrative Hearings ("OAH"), Department of Commerce and Consumer Affairs ("DCCA") for the past twenty years, I have been privileged to serve under many outstanding Directors. I was most fortunate in having been able to work very closely with Chief Judge Recktenwald for four years while he was the Director of DCCA. In my own humble opinion, Chief Judge Recktenwald was certainly among the finest Directors of DCCA that I have worked with.

As a starting point, every one who knows Chief Judge Recktenwald, all recognize that he is very bright. But, because he is also very modest and self-

effacing, he will often find a way to deflect attention from his contributions and accomplishments, and instead, emphasize the efforts of others. Next, because of his keen analytical skills, Chief Judge Recktenwald is also able to grasp the details as well as the conceptual nature of whatever task he is given in a very short time and under very intense circumstances. Once he has an understanding of the process or the problem, he will find the most appropriate methods or systems to address the situation.

On the personal side, Chief Judge Recktenwald is considerate, respectful, and has a very highly developed sense of fairness. He will listen to all sides of an issue, and will consider good ideas and valid concerns regardless of the source. When it is time to make a final determination, Chief Judge Recktenwald is very decisive and will try to incorporate as many points of view as possible. However, Chief Judge Recktenwald insists on taking full responsibility for his decisions.

After becoming Chief Judge of the Intermediate Court of Appeals, those of us who were privileged to have worked with Chief Judge Recktenwald at DCCA, have continued to follow his career with great personal and professional interest. We note with great pride that Chief Judge Recktenwald has continued to utilize his leadership and his analytical skills in helping the Intermediate Court of Appeals deal with its unprecedented increase in its case volume and responsibilities.

The qualities that I most respect and admire in Chief Judge Recktenwald are his firm commitment to public service and his utterly unselfish leadership. He truly understands that it is a privilege to serve the public, and as Chief Judge of the Hawaii Intermediate Court of Appeals, Chief Judge Recktenwald is acutely aware of the tremendous responsibilities that are part of being an Associate Justice of the Hawaii Supreme Court. Chief Judge Recktenwald has had a very successful career in private practice, but as his experience reflects, I believe that his calling has always been in public service. To the people that he works with, Chief Judge Recktenwald is caring, considerate, compassionate, and hard-working. He is very meticulous and sets very high standards for himself and through his example, inspires those who work with him. At the same time, he also encourages the people that he works with to challenge themselves and to develop their own leadership skills.

I firmly believe that Chief Judge Recktenwald has a truly exceptional combination of integrity, character, intelligence, common sense, and leadership that will allow him to be an excelled Associate Justice.

Thank you again for the opportunity to support the nomination of Chief Judge Recktenwald to serve as Associate Justice of the Supreme Court of Hawai'i.

TESTIMONY IN SUPPORT OF MARK RECKTENWALD

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

Friday, March 06, 2009

9:30 a.m.

Conference Room 016

LATE

Chair Taniguchi, Vice Chair Takamine, and members of the Committee,

I am writing as a private citizen in support of the Honorable Mark Recktenwald as selected nominee to fill the vacancy for Associate Justice to the Hawaii Supreme Court.

As the past Chair of the Kailua Neighborhood Board, it was my distinct pleasure to work with Mr. Recktenwald as our designated Governor's board liaison prior to his appointment to the Intermediate Court of Appeals.

While others in the legal community will highlight his legal qualifications to serve on the Hawaii Supreme Court, I would like to focus on character and judicial temperament. These skills are equally important in selecting a member of our Supreme Court.

I have been greatly impressed with Mr. Recktenwald's excellent listening skills and his ability to quickly understand issues presented to him by our board and the community. He was responsive and thorough in his research and preparation for our meetings. When reporting information it was always presented in a fair and balanced manner. He worked well with all members of our board and community. He earned our respect and confidence through his several years of dedicated service to the Kailua community. I believe that strong character should be a primary consideration when selecting our judges, particularly those chosen to serve on the Hawaii Supreme Court. Judge Recktenwald has demonstrated through his actions that he is thoughtful, intelligent, concerned and respectful.

I strongly endorse his nomination.

Katharine M. Bryant-Hunter
248 Uilama St.
Kailua, Hawaii 96734
Home: (808) 262-6012
Email: kathybryant@dprhawaii.com

From: Joelle Kane [joellekane@hawaii.rr.com]
Sent: Thursday, March 05, 2009 11:09 PM
To: JGO Testimony
Subject: GM 439 - MARK E. RECKTENWALD

LATE

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair
Senate Committee on Judiciary and Government Operations
Hawaii State Capitol
Honolulu, Hawaii 96813

RE: GM 439 – MARK E. RECKTENWALD
Consideration and Confirmation as Associate Justice to the Supreme Court

Chair Taniguchi, Vice Chair Takamine and Members of the Senate Judiciary and Government Operations Committee:

It is with high regard that I offer this letter in support of Gubernatorial Nominee, MARK E. RECKTENWALD, as he is considered for confirmation as Associate Justice to the Supreme Court, State of Hawaii.

I have known Mark for over a decade during which time I have maintained a deep respect for him professionally and a fondness for him personally. He has an impeccable reputation for his intelligence, skill, professionalism and civility. His qualifications and work ethic are outstanding. His knowledge of the law and ability to tackle the complex legal and legislative issues are impressive. Most importantly, Mark is a person of tremendous integrity.

I am fortunate to have had the opportunity to work with Mark on a number of legal and legislative issues before his present appointment to the Intermediate Court of Appeals. He's consistently demonstrated his commitment to the protection and betterment of the people of Hawai'i and has proven himself to be a fair and effective leader in both the private and public sectors.

I respectfully ask for your favorable consideration and urge you to confirm MARK E. RECKTENWALD as Associate Justice to the Supreme Court, State of Hawaii. I thank you very much for the opportunity.

With much Aloha,
Joelle Segawa Kane
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LATE

Testimony

**Before the Senate Committees on
JUDICIARY AND GOVERNMENT OPERATIONS**

**Friday, March 6, 2009
9:30 AM
State Capitol, Conference Room 016**

**In consideration of
GOVERNOR'S MESSAGE 439
RELATING TO SUPREME COURT JUSTICE**

We, A. Kimbal and Nicki Ann Thompson, submit this testimony in strong support of the confirmation of Mark E. Recktenwald as Associate Justice to the Supreme Court, State of Hawaii.

We have personally known Judge Recktenwald for more than twelve years. Our relationship stemmed from the friendship of our children when they were in pre-school. Mark is a respected member of the windward Oahu community. Through the years of friendship, we have known Mark to perform his duties in the United States Attorney's Office, Director of the Department of Commerce and Consumer Affairs and, currently, Chief Judge of the Intermediate Court of Appeals. Judge Recktenwald has performed these duties with competency, honesty and strong work ethic.

We strongly support the confirmation of Mark E. Recktenwald as Associate Justice to the Supreme Court, State of Hawaii.



A. Kimbal and Nicki Ann Thompson
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Kaneohe, Hawaii 96744