



HAWAII PARALEGAL ASSOCIATION

P. O. Box 674
Honolulu, Hawaii 96809
www.hawaii paralegal.org

March 12, 2011

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

Re: Comments in support of SB 1073 Relating to Surcharge for Indigent Legal Services (Hearing: March 15, 2011, 2:00 PM), submitted by email to JUDtestimony@Capitol.hawaii.gov

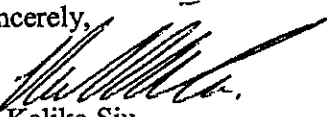
Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The Hawai'i Paralegal Association ("HPA") is a nonprofit professional association incorporated in 1978, affiliated with the National Federation of Paralegal Associations since 1988. The HPA is an active participant in the legal community and regularly takes part in educational and *pro bono* activities. The HPA promotes high standards in the paralegal profession, and its members are exhorted by its Code of Ethics and Professional Responsibility to, among other things, serve the public interest by contributing to the delivery of quality legal services and the improvement of the legal system.

Please approve SB 1073, SD2. Without assistance with their basic legal needs, many of Hawai'i's people are deprived of shelter, food, medicine, custody of their child, or other indispensables. Studies have shown that it costs the state much less to provide basic civil legal services than it costs us when we fail to do so. The proposed amendment to *Hawaii Revised Statutes* Section 607-5.7 will strengthen the Indigent Legal Assistance Fund ("ILAF"), by helping to offset the significant loss of funding from the Interest on Lawyer Trust Accounts ("IOLTA") and other sources. It will make it possible for Hawai'i's nonprofit legal service providers to continue to do their vital work on behalf of Hawai'i's most vulnerable.

We thank you for the opportunity to submit testimony on this critical measure.

Sincerely,



N. Kaliko Siu
President
Hawai'i Paralegal Association

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

My name is Susan Wong, and I am testifying in strong support of S.B. 1073, S.D.2. I am a volunteer member of the Hawaii Immigrant Justice Center at Legal Aid Society of Hawaii (formerly known as Na Loio) advisory committee, and a member of the LASH Board of Directors as well.

Throughout my adult life, I have been a volunteer or staff member of nonprofit organizations. On the other hand, my family and I have received the benefits of financial success resulting from hard work and sacrifice poured into running a small business owned by our family. I understand both sides of the issue which this bill raises.

However, hard and courageous decisions must be made by the leaders of Hawaii such as yourselves, to help all of us through this great economic recession in as good a condition as possible. This means deciding who must give up something so that others may avoid serious and lasting damage through loss of their home, critical medical or social services, etc.

My testimony does not contain the hard facts and cold statistics cited by others before you which point out that we have many more poor people in Hawaii these days than there were just a couple of years ago. LASH is one of the key organizations which can and does help these folks survive from day to day on very limited resources. This bill can be an important source of revenue for our organization so that we do not need to cut back even more than we already have on the legal services that provide critical support to the underserved populations of our community. Thanks for listening.

Susan Wong, Esq.

March 11, 2011

Submitted by E-Mail: testimony@capitol.hawaii.gov

The Honorable Gilbert S.C. Keith-Agaran, Chair
House Committee on Judiciary

The Honorable Karl Rhoads, Vice-Chair
House Committee on Judiciary

RE: SB1073 SD2 - Relating to Surcharge for Indigent Legal Services; Hearing Date:
March 15, 2011 at 2:00 p.m.

Dear Chair Keith-Agaran and Vice-Chair Rhoads:

I am writing on behalf of the Young Lawyer's Division of the Hawaii State Bar Association ("YLD") Board of Directors, which was established in 1958 to provide young lawyers with a means to participate in improving the administration of justice and promoting the public welfare. The YLD became the first board to adopt a "Community Wide Action Plan Resolution", which specifically includes as a goal "increasing funding from all sources to support the delivery of civil legal services to low-income people in Hawaii." Accordingly, SB1073 SD2, which seeks to increase the surcharge for filing fees to increase the amount of funding available for indigent legal services, is squarely on point with the YLD's purpose and mission. The YLD prides itself on increasing community awareness about the fabric of Hawaii's laws through active community service. These services include free legal clinics, outreach to numerous local schools, and mock trial programs to name a few.

All of these services, however, require a substantial amount of capital. Likewise, legal services provided to indigent individuals through organizations like Domestic Violence Action Center, Hawaii Disability Rights Center, Legal Aid Society of Hawaii, Mediation Center of the Pacific, Native Hawaiian Legal Corporation, University of Hawaii Elder Law Program, and Volunteer Legal Services of Hawaii require a minimum level of funding. The indigent legal assistance fund clearly enables these agencies to offer critical legal services to low and moderate-income residents.

Messrs. Keith-Agaran and Rhoads
March 9, 2011
Page 2

In short, increasing the fees from 1996 rates to market, will allow for greater access to justice for Hawaii's people in need. The testimony set forth herein represents the views of the YLD Board only and does not necessarily reflect the views of the Hawaii State Bar Association as a whole. Additionally, this testimony is being submitted on behalf of the YLD through a majority board vote, which did not include polling of all active YLD members. Nonetheless, the YLD Board respectfully requests that you pass this bill.

Best Regards,

Levi Ho`okano
President of the Young Lawyer's Division
Of the Hawaii State Bar Association

From: Calvin Pang [calvinp@hawaii.edu]
Sent: Monday, March 14, 2011 11:24 AM
To: JUDtestimony
Subject: Testimony in support of SB 1073, SD 2
Attachments: Testimony in support of SB 1073.DOC

Attached is testimony from Professor Calvin Pang in strong support of S.B. 1073, S.D.2:

Measure: S.B. 1073, S.D.2 Relating to Surcharge for Indigent Legal Services

Hearing: March 15, 2011, 2:00 pm, House Committee on Judiciary

I write in support of SB 1073, SD 2.

I serve on the boards of the Legal Aid Society of Hawai'i and Lawyers for Equal Justice, and was a member of the Access to Justice Hui whose work resulted in the creation of the state's Access to Justice Commission. I presently serve on the Commission's committee that works to reduce cultural and language barriers to access to justice.

Expanding the ILAF is one of the few practical and concrete ways of increasing funding to local legal service provider organizations that serve the poor. These providers toil daily to bring justice for those who would otherwise have no access to professional legal help. They accept salaries far below market because they believe in the promise of justice for all. Their positions and, in turn, their work are seriously threatened by significant cuts to their funding.

I wish you could observe these professionals do their daily work. It is not glamorous and can be discouraging. But almost every one of them will talk about the rewards of saving homes, helping to put food on the table, securing employment, and ensuring other basic features of a dignified life. These are great people who don't ask for much except for the opportunity to keep doing their brave and necessary work.

I understand the complaints about raising surcharges. They'll make certain lawsuits more expensive to bring, and no one likes to pay more for anything. But the proposed surcharge increases are modest and represent the first raises in well over a decade. Moreover, in many of these cases, successful plaintiffs will be able to request a recovery of their costs and even attorney fees.

Most importantly, the modest increases proposed in this bill will enable legal service providers to continue their work and help our justice system fulfill its responsibility of ensuring justice to all, including the poorest and most vulnerable in our community.

Please pass this important measure. Thank you for the opportunity to submit this testimony.

March 14, 2011

TO: Representative Gilbert S.C. Keith-Agaran, Chair, Judiciary Committee
Representative Karl Rhoads, Vice Chair, Judiciary Committee

FROM: Aviam Soifer, Dean and Professor, William S. Richardson School of Law, University of Hawai'i

HEARING DATE/TIME: Tuesday, March 15, 2011, 2:00 p.m., Conf. Room 325

MEASURE NUMBER: Testimony in Support of SB 1073, SD2, RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES, Amending HRS Section 607-5.7

SUBMITTED BY E-MAIL: JUDtestimony@Capitol.hawaii.gov

I enthusiastically support SB 1073, SD2, which amends HRS Section 607-5.7 to provide amended surcharge fees on various court filings in our Hawai'i State Court system under the "Indigent Legal Assistance Fund" ("ILAF") set forth in HRS Section 607-5.7. I am the Dean and a Professor of Law at the William S. Richardson School of Law, University of Hawai'i; a member of the Hawai'i Access to Justice Commission, and the Chairperson of that Commission's Committee on Education, Communications and Conference Planning, but I am providing testimony only in my personal capacity and not on behalf of any other person or entity.

I have been involved in efforts to increase access to justice for our most vulnerable citizens throughout my professional career, and I have been acutely aware of the severe shortfall in according such access in our state since my sabbatical year here in 1999-2000 and, particularly, since I moved to Hawai'i permanently and began as Dean in the summer of 2003. The survey work and the extensive report done by the Access to Justice Hui in 2007 helped lead to the creation of the Access to Justice Commission in 2008 and underscored the severe gap between needs and services in our state. The underfunding of basic legal services only has become more severe since the substantial economic downturn began in 2008. The work of the Access to Justice Commission underscores the severity of the increasing gap we face in protecting the legal rights and benefits of those among us who are most in need.

Hawai'i can be rightfully proud of the excellent work done by the many remarkably committed and skilled lawyers and their staff members who serve those who most need legal help but who are unable to afford it. I am particularly proud that the students and faculty at our Law School do such a great deal of public interest work themselves through our clinics, our mandatory pro bono program, and in a myriad of other ways. Yet the

lack of even minimally adequate funding for basic legal services in our state has exacerbated the problems faced daily by the many who are poor and vulnerable among us. This ILAF amendment will do a great deal to help protect the people of Hawai'i most in need of legal assistance. I strongly urge its passage.

Please let me know if additional details or different information might be of use to you by contacting me at: 956-6363 or via e-mail at: soifer@hawaii.edu.

Thank you.

COMMITTEE ON JUDICIARY
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
State Capitol
Honolulu, Hawaii

RE: SB 1073, SD2 (SSCR703)/Surcharge for Indigent Legal Services

OPPOSITION TO BILL

HOUSE JUDICIARY COMMITTEE

HEARING: March 15, 2011 (Tuesday) @ 2:00pm

Dear Representative Keith-Agaran and House Judiciary Committee Members:

Please note my objection against this Bill, SB 1073, for the following reasons:

I am an attorney who has practiced in this State for 33 years and handle primarily collect cases mainly in the District Courts.

Plaintiffs, as much as people want to vilify them, are an important entity in the economy of this State. While they are viewed as that "villain" taking the little guy to Court or "to the cleaners" unjustly, they are also: a Mom & Pop grocery store in Wailuku; a small business owner selling shave ice in Moiliili; a Chinatown restaurant; a Waianae drive-inn restaurant; a Waipahu bike shop; a Kakaako mechanic; a Kalihi dry cleaner; and many others trying to make an honest living. They are the life blood of this island, yet they are cast as the "enemy" because they want to be paid for the goods and services they provided someone who failed to be honorable and pay for what they received. Are we to wait until they become "debtors" before we embrace them for the goods and services they used to provide?

In the last 10-15 years I have not seen any indigent legal services providers assisting people in civil assumpsit cases (money matters) in District Court. Legal Aid Society of Hawaii (LASH) tried to establish an illegal presence in the courts by setting up shop in the courtroom to assist eviction matters but was finally removed. Even when they intervened in an eviction matter they would not enter an official appearance as counsel of record for the debtor and merely acted as an unrecorded advisor. They would not handle the case if it went to trial and therefore were more of a hindrance than a help to the court system.

Now the major question to be asked is, if LASH, who would be the major recipient of the surcharge, does not do any significant work in the court system other than in the field of Family/Domestic Abuse, why are the people utilizing the civil court system for monetary issues (assumpsit cases) being forced to support Family Court/Domestic Abuse cases? Why isn't the surcharge being paid by the group involved with the aligned

services (Family Court/Domestic Abuse)? Why are they going after the business population in the assumpsit cases who have nothing to do with Family Court/Domestic Abuse?

The cases filed in the District Court civil section in 2010 exceeded 20,000. These cases are not in the field of Family Court/Domestic Abuse, yet funding is being sought from them. They are the cash cow indigent service providers seek to milk. If you look at the chart/graph provided by the legal services providers in 2007, over fifty per cent (50%+) of their monetary distribution goes towards Family/Domestic Violence matters, and only six (6%) goes for Financial/Consumer protection matters. Yet they seek to get funding from a segment of the population that they rarely provide services for. This is stealing from those who work hard to provide goods and services to the people of Hawaii. This is wrong!

In Hawaii and nationally only about 10-15% of cases filed for monetary issues are recovered in whole or in part, so that means that between 85-90% of all cases are just pieces of paper. As of September 30, 2010 (a nine month period) 88 credit unions statewide charged-off 31.5 million dollars, and only recovered 5 million dollars, which is 15%. That means they failed to recover 26.5 million dollars. Do you want them to suffer more loss by subjecting them to a surcharge to rightfully collect money owed to them?

All these Indigent Legal Service providers are non-profit organizations and receive funding from donations and grants from individuals and organizations. This surcharge is forcing a certain segment of the population to fund them. It's incredulous that the State can think of passing a bill to force someone to make contributions to NON-PROFIT ORGANIZATIONS. What is to prevent another organization, such as the American Heart Association, to seek similar legislation to fund their programs; why not the American Cancer Association; how about the Boy Scouts of America; how about the Lupus Foundation of Hawaii.? The list goes on and on. Are we to legislate forced contribution on the justification that it's for a worthy NON-PROFIT cause?

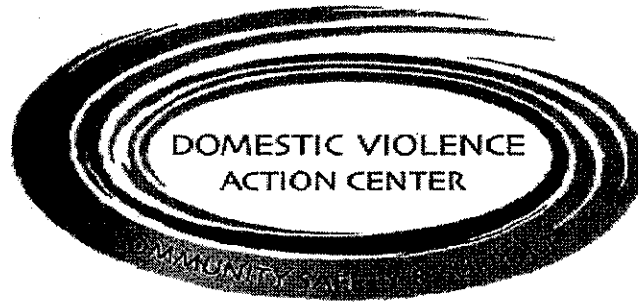
While we in the legal community understand that there is a need to help those less fortunate this is not the way to go about it. The argument by LASH that everybody should pay their fair share in the indigent legal surcharge fund doesn't have merit as the bill only targets a specific segment of the population...those that are attempting to recover money for the goods and services they have not been paid for. These people have suffered loss of income and now must fund indigent legal service providers also!

As Legislators you have the responsibility to look after ALL the people of this State and not just a small group such as those seeking the windfall to be generated by this Bill. Hawaii is struggling economically and businesses are struggling as well, so to single them out to bear the burden of the beneficiaries of this Bill is unjust. These agencies receive funding from the State and while it may not be what they want they shouldn't get more than their fair share by circumventing the system via this Bill, which in essence is a "TAX" on only a specific segment of the population. This is DISCRIMINATION at it's worst. The life blood of this State's economy is through the sweat and efforts of the very

people or business' this Bill if targeting.... SMALL BUSINESS-PEOPLE. Why punish them for keeping the State's economy going?

I respectfully ask that this Bill (SB 1073) not be passed and that the economic impact the small business-people in this State have on our economy be recognized and that they be praised, and not razed.

ALLAN Y. OKUBO, ESQ.
P.O. Box 10225
Honolulu, HI 96816
Phone: (808) 735-6582



March 11, 2011

FROM: Nanci Kreidman, M.A., Domestic Violence Action Center **(REVISED TESTIMONY. Please negate testimony emailed 5 minutes earlier)**

TO: Representative Gilbert S.C. Keith-Agaran, Chair, Representative Karl Rhoads, Vice Chair, Members of the Committee

RE: SB 1073 SD 2, Support

Hearing Date: Tuesday, March 15, 2011, 2pm, Conf Rm #325

Aloha. Please accept this testimony in support of S.B. 1073, SD 2. The Indigent Legal Assistance Fund, modeled initially after strategies across the country to support the crucial work of public interest providers of legal services, is key to sustain our community's programs.

The filing fee surcharge which is assessed at the time of court filing, has not increased for over a decade. The cost of delivering services, by each of the small corporations endeavoring to meet community needs, has increased exponentially.

On February 14, 2011 legal service providers had:

- 824 calls with clients.
- 181 calls on behalf of a client (i.e. opposing party, investigator, social service, etc.).
- 109 calls for technical assistance or consultation with other legal issues (i.e. social service provider, newspaper, etc.).
- 268 in-person contacts with a client.
- 545 children under age 18 were affected by this work (i.e. for each case children were part of the household).
- 17 court appearances were made on behalf of clients.
- 107 helpline/hotline calls were answered.

At the Domestic Violence Action Center demand for services has increased. This, at a time when we have had to impose staff layoffs due to drastic budget cutbacks. Our contract with the Judiciary was amended in 2009 to reduce our agency funding support by \$570,000. Funding support from the City and County of Honolulu was eliminated entirely. Competition for federal and local grants has been fierce. Grants to the Domestic Violence Action Center from the Hawaii Justice Foundation have also shrunk because the interest rates have been low and thus funds collected through IOLTA have decreased.

Although we do not rely exclusively on the funds collected through the ILAF, it is a funding source that is not reliant on general funds or state appropriations. The legal service providers maintain a close working relationship in an effort to examine community needs, best practices, and make a meaningful difference to our low income communities. This is evidenced by our collective participation in the Access to Justice Commission and the Hawaii Consortium of Legal Services Providers.

There is no way we can, in actuality, meet the needs of our low income community, but it would be devastating to continue suffering setbacks to the progress we have seen in the creative collaborative work done on their behalf.

Thank you for inviting community comment on this important measure. We encourage your favorable action on S.B. 1073 SD 2.

P. O. Box 3198 Honolulu, HI 96801-3198
'Oahu Helpline:: 808 531-3771 Toll-free: 800 690-6200 Administration: 808 534-0040 Fax 808 531-7228
dvac@stoptheviolence.org www.stoptheviolence.org



THE MEDIATION CENTER OF THE PACIFIC, INC.

245 N. Kukui Street, Ste. 206, Honolulu, HI 96817
Tel: 521-6767 Fax: 538-1454 Email: mcp@mediatehawaii.org

March 11, 2011

TESTIMONY FROM: Tracey S. Wiltgen, Executive Director, The Mediation Center of the Pacific, Inc.

TO: COMMITTEE ON JUDICIARY
Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The Mediation Center of the Pacific (the Mediation Center) supports SB 1073, SD2.

The proposed increase in filing fees is nominal compared to the costs of providing civil legal services to indigent persons. The \$40.00 increase of the filing fee surcharge for the indigent legal assistance fund (from \$25.00 to \$65.00) for circuit court and appellate filings and the \$25.00 increase of the surcharge (from \$10.00 to \$35.00) in district court cases is also a (typical court case district court 120 to 145 and circuit court from (275 to 315).

Without access to legal representation, low income people are deprived of access to legal services impacting a myriad of critical human needs such as housing, employment, medical care, consumer protection, protection of family and against domestic violence, and reasonable accommodations for disabilities. Access to legal recourse is a foundation of civil society and American democracy.

The number of people living in Hawai'i below 125% of the federal poverty guidelines has increased dramatically since 2007. For this group earning less than \$31,692 annually, for a family of four, the numbers rose from 156,321 to 172,862, and those between 125 - 149% of the federal poverty guidelines, the numbers rose from 38,499 to 45,392. These are the vulnerable in our community. They do not have the financial resources to retain an attorney. This affects more than the accounting ledgers and money in one's business account. These are the people whose life needs are critical and about daily survival. The emotional turmoil they face cannot be measured by mere dollars.

While the cost of doing business has risen, financial support for the legal service providers has declined. The Mediation Center is a 501(c)(3) not for profit corporation whose mission is to provide high quality mediation and dispute resolution services that are affordable and accessible. This past year in 2010, the Mediation Center managed 1,609 cases (a 24% increase since 2008) involving divorcing couples, landlords and tenants, families, consumers and merchants and more.

The need for affordable/accessible mediation services continues to grow in a broad variety of areas including but not limited to domestic matters, small claims disputes, residential foreclosures and more. Yet, over the past two years, the Mediation Center has experienced an approximate 25% reduction in funding.

The proposed legislation will help provide increased financial support for the legal service providers. To increase access to justice for Hawaii's people, the civil legal service providers require increased financial support. Court filing fees, even with the proposed surcharge increase, constitute only a small percentage of the total cost of litigation. The increase does however substantially increase funds for the legal service providers.

Your favorable approval of SB 1073 SD 2 is essential. Passage of this bill will be a major step toward efforts to achieve access to justice for all.

Sincerely,



Tracey S. Wiltgen
Executive Director

HAWAII DISABILITY RIGHTS CENTER

900 Fort Street Mall, Suite 1040, Honolulu, Hawaii 96813

Phone/TTY: (808) 949-2922 Toll Free: 1-800-882-1057 Fax: (808) 949-2928

E-mail: info@hawaiidisabilityrights.org Website: www.hawaiidisabilityrights.org

THE HOUSE OF REPRESENTATIVES THE TWENTY-SIXTH LEGISLATURE REGULAR SESSION OF 2011

Committee on Judiciary Testimony in Support of S.B. 1073, SD2 Relating to Surcharge For Indigent Legal Services

**Tuesday, March 15, 2011, 2:00 P.M.
Conference Room 325**

Chair Keith-Agaran and Members of the Committee:

I am Louis Erteschik, Staff Attorney at the Hawaii Disability Rights Center, and am testifying in support of this bill.

The purpose of the bill is to increase the filing fee in certain court cases so that more funds will be deposited into the indigent legal assistance fund to support various legal services programs. Under present levels of funding from federal and state sources, we are able to assist less than 2% of Hawaii residents with disabilities and mental illness.

We support this bill because it will provide increased funds to organizations that serve a vital interest in our state. We are a member of the Access to Justice Hui and are well aware of the civil legal needs and barriers to indigent people in Hawaii, including those with developmental disabilities. As a member, we are supportive of the recommendations that came from a report prepared to increase access to justice in Hawaii. An increase in the surcharge on filing fees is a reasonable means to provide critical funding to already under funded legal services programs. For those reasons we support this bill.

Thank you for the opportunity to provide testimony in support of this bill.

LAW OFFICES OF NANCY J. BUDD
4374 Kukui Grove Street, Suite 103
Lihue, Hawai'i 96766
(808) 245-5343

TESTIMONY IN SUPPORT OF S.B. 1073, S.D.2

March 11, 2011

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

Measure: S.B. 1073, S.D.2 Relating to Surcharge for Indigent Legal Services
Hearing: March 15, 2011, 2:00 pm, House Committee on Judiciary

Dear Representative Keith-Agaran and Judiciary Committee Members,

I have been in practice in Hawai'i for 30 years and my practice concentrates in the areas of business law, real estate and estate planning. I currently represent many business owners as well as individuals. I consider myself to be a small business owner. I have also, in my early years in practice, served as the managing attorney for the Legal Aid Society of Hawai'i. I do a significant amount of *pro bono* work every year.

I enthusiastically support this proposal to modestly increase filing fees for the purpose of expanding access to the courts to those who most need it.

Funding for organizations that provide civil legal services for the most underserved in our community has dramatically decreased while Hawai'i's population facing poverty continues to increase. According to the Star Advertiser (9/17/10), poverty in Hawai'i is the highest since 1997. The proposal before you offers a reasonable way to significantly increase funding for a number of extraordinary legal services programs that give many in our community their only chance to get a foot in the courthouse door. Access to legal recourse often provides dignity and a chance at justice that often misses this vulnerable population. Its impact is critical and can be far-ranging, affecting housing, employment, medical care, consumer protection, and family and domestic violence issues.

This modest increase in filing fees will not affect filings or hurt business in Hawai'i. The filing fee for a Chapter 7 bankruptcy petition is \$299.00; this

fee does not deter those in desperate financial straits from filing for bankruptcy. If a litigant has hired an attorney, a great deal more than the \$40 (increase for circuit court and appellate filings) or \$25 (increase for district court filings) has been spent in attorney's fees in less than 15 minutes of the attorney's billable time. I suspect that this modest fee increase would not be a consideration as to whether to proceed.

Thank you for the opportunity to comment.

Sincerely,

NANCY J. BUDD

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 11, 2011 6:30 PM
To: JUDtestimony
Cc: jtkent@gmail.com
Subject: Testimony for SB1073 on 3/15/2011 2:00:00 PM

Testimony for JUD 3/15/2011 2:00:00 PM SB1073

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Jeff Kent
Organization: Individual
Address:
Phone:
E-mail: jtkent@gmail.com
Submitted on: 3/11/2011

Comments:

Aloha,

I have been a strong supporter of the Access to Justice Movement in Hawai'i. I am a recent graduate of the UH Williams S. Richardson School of Law and am a firm follower and believer in public interest law.

I support this bill because it will enable Access to Justice to occur.

Mahalo for the opportunity to testify.

EDWARD R. BENDET
JAY M. FIDELL
YURIKO J. SUGIMURA
THOMAS R. SYLVESTER*
KEITH S. AGENA
LORI LEI Y. HIJII
JENNIFER L. STRINGFELLOW

BENDET FIDELL

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March 12, 2011

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
House Committee on Judiciary
State Capitol, Honolulu, Hawaii 96813

RE: Testimony in Opposition to SB1073 SD2 (SSCR703)
Surcharge for Indigent Legal Services
Hearing: Tues., March 15, 2011 at 2 p.m., Conf. Room 325

Chair Keith-Agaran, Vice-Chair Rhoads and Members of the Committee:

I am a principal of this firm and I am an attorney who has practiced in this State for 33 years and handle collection cases in the district and circuits courts on all islands. I am opposed to this bill for the following reasons:

I have supported Volunteer Legal Services Hawaii ["VLSH"] in time and money. I have contributed money to VLSH through the Hawaii State Bar Association. I have represented indigent persons and I have provided them with legal services through VLSH and other non-profit organizations.

Most of my clients are small and medium local businesses who are currently struggling to survive in this recession and to keep their workers employed. There is already an existing \$10 district court surcharge on summary possession (i.e., landlord-tenant eviction actions) and a \$25 circuit court surcharge on each assumpsit action. This bill provides for additional surcharges, plus expanding the number of cases that will be subject to the charge¹. Raising the court filing fees during these challenging economic times will severely impact those small businesses that are currently struggling to make ends meet and will have a negative effect on their businesses and their employees.

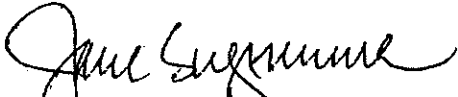
¹ In district court, an additional surcharge will be imposed on summary possession actions and the surcharge will now be imposed on all other cases filed in the district court.

Testimony in Opposition to SB1073
Re Surcharge for Indigent Legal Services
House Judiciary Committee
March 12, 2011
Page 2

I join in and incorporate by reference the testimonies of many of my attorney colleagues and of the Hawaii State Bar Association Collection Law Section who oppose this bill and trust that this Committee will take no action on it this year, or this committee is inclined to move this bill out to impose the surcharge on family law and domestic abuse cases instead of on assumpsit and summary possession cases.

Thank you for allowing me to testify on this important bill.

Very truly yours, *

A handwritten signature in cursive script, appearing to read "Yurko J. Sugimura".

Yurko J. Sugimura
Of BENDET FIDELL

YJS:cp

HAWAII JUSTICE FOUNDATION
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(tel) 808•537-3886 (fax) 808•528-1974
E-Mail: [hjff@hawaii.rr.com](mailto:hjf@hawaii.rr.com) Website: www.hawaiijustice.org

March 12, 2011

TESTIMONY FROM: Robert J. LeClair, Executive Director, Hawaii Justice Foundation
(Note: Robert LeClair will be testifying in person.)

TO: Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302
Members of the House Committee on Judiciary

HEARING DATE/TIME: Tuesday, March 15, 2:00 p.m., House Committee on Judiciary

MEASURE NUMBER: TESTIMONY IN STRONG SUPPORT OF
SB 1073, SD2, RELATING TO SURCHARGE FOR
INDIGENT LEGAL SERVICES, Amending HRS Section 607-5.7

SUBMITTED BY E-MAIL: JUDTestimony@Capitol.hawaii.gov

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The Hawaii Justice Foundation (HJF) requests the House Committee on the Judiciary to approve SB 1073, SD2,, including provision of \$35 as the surcharge fee on District Court cases and \$65 as the surcharge fee on Circuit and higher Court cases. HJF supports SB 1073, SD2, which amends HRS Section 607-5.7 to provide amended surcharge fees on various court filings in our Hawaii State Court system under the "Indigent Legal Assistance Fund" ("ILAF") set forth in HRS Section 607-5.7.

HJF distributes funds from a variety of sources to help increase access to justice for Hawaii's people. HJF does not provide direct client services, but HJF's funding activities provide HJF with a perspective on the seriousness of the unmet civil legal needs in the Islands. For several years, HJF has worked in cooperation with the Hawaii State Judiciary to manage the ILAF Program. ILAF has been operating smoothly, with excellent cooperation from the low-income legal service providers, the Hawaii State Judiciary, and the Hawaii Justice Foundation. **The Hawaii Justice Foundation is confident that the proposed amendments to the ILAF statute can be integrated without any difficulty into the ongoing successful ILAF Program.**

HJF's income from the IOLTA funds has plummeted with the decrease in interest rates, and the proposed ILAF amendment is needed to offset some of this decrease. HJF receives funds from the Interest on Attorney Trust Accounts (IOLTA) Program under Rule 11 of the Rules of the Hawaii Supreme Court. Recent economic events have resulted in a serious decline of interest rates, and HJF's interest under the IOLTA program is 1/8th of what it was as recently

as September, 2008. This means that HJF's ability to fund legal service providers under the IOLTA Program is virtually non-existent under current interest rates. It is essential that the proposed ILAF amendment be approved to fill this serious revenue decline. Even with the requested ILAF proposed amendment amounts, the additional funds will not be sufficient to replace IOLTA income under more "typical" federal funds target rates of 2.5% and higher. **The current recipients of funds under HRS Section 607-5.7 unanimously support the provisions of SB 1073, SD2.** All of the current ILAF recipients face serious economic challenges to their continued ability to meet legal needs of our low-income population. We are all painfully aware of the current national and local economic conditions. Legal needs of people are higher than ever, due to these economic conditions. Low-income legal service providers face potential cuts in governmental funding sources and reduced contributions from private donations. This makes it critical that SB 1073, SD2 be approved to provide additional funding from surcharges on various court filings.

The ILAF Program has procedural safeguards to ensure accuracy and accountability. All organizations receiving funds under ILAF are strictly monitored by the Hawaii Justice Foundation. Quarterly reports and a yearly summary report are required of each organization, and these are reviewed by the Hawaii Justice Foundation. The application process is quite extensive, with thorough documentation. The application includes an attestation clause, where the Executive Director of each organization attests to the truthfulness of the application. State Unemployment reporting forms are used for verification of employees, and individual signed statements are received from each person providing legal services that attest to the veracity of the percentage of time that the person spends in providing qualified direct legal services. The Hawaii Justice Foundation works with the Hawaii State Judiciary to determine the allocation formulas, and the potential grantees have an opportunity to contest any determinations made under the ILAF program. For many years, the program has operated smoothly and without complaints regarding accuracy or accountability from the Judiciary, the Hawaii Justice Foundation, or the grantees. The ILAF Program is an example of how mutual cooperation and competency can produce an effective process that works for the betterment of Hawaii's people.

Court filing fees, even with the proposed surcharge increase, constitute only a small percentage of the total cost of litigation. Existing exemptions for small claims cases, TROs, protective orders, *in forma pauperis* cases, and County and State governmental filings will remain in effect under SB 1073, SD2. All court litigation is already heavily "government subsidized," since filing fees do not begin to cover the costs of the State of Hawaii personnel involved in our Courts. SB 1073, SD2 will substantially increase funds available through ILAF for distribution to qualifying low-income legal service providers. The net effect to Hawaii's people from SB 1073, SD2 will be extremely beneficial.

Some Hawaii attorneys from the Collection Section of the Hawaii State Bar Association and their debt collection clients have raised objections to any surcharges on filing fees for their collection cases. It should be noted that this is not an "official" position of the Hawaii State Bar Association and represents the personal and financial views of the collection attorneys. However, the reality is that SB 1073, SD2 will not result in people being unable to file cases in our judicial system. The amounts of increases proposed in SB 1073, SD2 are

relatively small, especially when viewed in light of the costs of attorney billing rates of the attorneys opposing SB 1073, SD2. The Hawaii State Bar Association Board of Directors on December 20, 2007 endorsed the 10 Steps by 2010 included in the Community Wide Action Plan. Part of Step 2 of those 10 Steps included seeking additional funding for the ILAF program. It is quite common that one segment of the Hawaii State Bar Association will favor one viewpoint while other segments have opposing views. It is of course understandable that the collection attorneys are pressing for the financial interests of their clients, but it is essential for the Hawaii State Legislature to take the view of what is in the best interests of Hawaii's people. If the interests of the clients of the collection attorneys are weighed against the needs of those who will be helped by SB 1073, SD2, it is clear that the surcharge is an essential part of the collective efforts to provide justice to all. For nearly 15 years, other groups using the court system have paid a surcharge on court filing fees to help meet civil legal service needs. The debt collection agencies are heavy users of court resources, and it is fair that the ILAF program be expanded to require that these debt collection agencies participate in contributing to ILAF.

SB 1073, SD2 provides a significant boost to the funds available for meeting civil legal services needs. The Community Wide Action Plan, with its 10 Steps by 2010, studied the unmet civil legal needs in the Islands. Step 2 of the 10 Steps by 2010 requests increased funding for low-income legal service providers, and SB 1073, SD2 will provide needed additional funds.

An additional benefit from increasing funding to the low-income legal service providers relates to increased efficiency in the courts by helping with providing legal advice and other needed services to the numerous *pro se* ("by self") litigants in Hawaii's various courts. District Courts and Family Courts have seen a virtual explosion of cases where people are unrepresented by counsel. The Hawaii State Judiciary has made valiant efforts to assist these litigants through information kiosks and other programs. However, people representing themselves face two fundamental difficulties. First, they are unfamiliar with court procedures and forms. Second, litigants of any economic level are emotionally involved in their case, and this makes it very difficult to resolve the case without outside assistance. SB 1073, SD2 will provide additional funds to our legal service providers, who in turn will be able to give greater information, advice, and sometimes direct representation to litigants. **This will assist our Courts in processing cases in a more efficient and effective manner.**

Your favorable approval of SB 1073, SD2 is essential. Passage of this bill will be a major step toward efforts to achieve access to justice for all.

JO ANN M. UCHIDA

March 12, 2011

The Honorable Gilbert S.C. Keith-Agaran, Chair
Committee on Judiciary
Hawaii State House of Representatives
Honolulu, Hawaii

Dear Chair Keith-Agaran and members of the Committee:

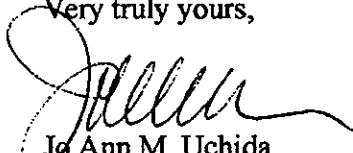
I am writing in my personal capacity in strong support of Senate Bill 1073, Relating to Surcharge for Indigent Legal Services. S.B. 1073 amends Haw. Rev. Stat. 607-5.7(a) and (b) by increasing the amount of the current surcharge on circuit court and district court filings for indigent legal services.

I have had the honor of serving as a Board member of the Hawaii Justice Foundation for several years. This experience, frankly, opened my eyes to the number of worthwhile legal services programs that are providing essential help to an underserved and underrepresented population in this state. The recent economic downturn has meant that these agencies are receiving fewer and smaller funding grants from their revenue sources while their clients' needs continue to grow.

No one wants to pay more in fees, but this bill ensures that the modest increase in filing fees is applied in a manner that is fair and uniform.

Thank you for this opportunity to testify in strong support of this measure.

Very truly yours,



Jo Ann M. Uchida
Honolulu, Hawaii

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA ZAHARA NOH
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ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
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TO: Representative Gilbert S.C. Keith-Agaran
Chair, Committee on Judiciary
Hawaii State Capitol, Room 302
Via Email: JUDtestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin

DATE: March 14, 2011

RE: **S.B. 1073, S.D. 2- Relating to Surcharge for Indigent Legal Services**
Hearing: Tuesday, March 15, 2011 at 2:00 p.m., Room 325

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

I am Gary Slovin, testifying **in strong support** of S.B. 1073, S.D. 2, which increases the amount of surcharges on filing fees for the indigent legal assistance fund (ILAF).

We are assisting various service organizations with this effort, organizations who are greatly in need of the funds that would be generated by an increase in the surcharge on filing fees. The need for additional funding for legal services is urgent, given the economic climate and the dramatic decrease in funding for legal service providers from other sources, most notably interest generated by IOLTA, an account made up of client trust funds.

We ask the Committee to consider that this measure aims to preserve funds to help achieve justice for those who need it most.

Many people in our community find themselves in circumstances that require legal services and protection through no fault of their own -- abused women and children, being just one example. We are fortunate to have agencies and persons willing to provide these services. While these agencies are always underfunded, the recession has affected both their funding and the demands for their services. We cannot make the present situation worse by failing to make an effort to improve their stability.

I respectfully request your favorable consideration of this measure. Thank you for the opportunity to submit testimony.

TESTIMONY IN SUPPORT OF
SB1073, S.D. 2 - RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES

March 14, 2011

To: The Honorable Representative Gil Keith-Agaran,
Chair, House Committee on Judiciary

Re: S.B. 1073, S.D. 2, Relating to Surcharge for Indigent Legal Services
Hearing on Tuesday, March 15, 2011 at 2:00 p.m. in State Capitol Conference Room 325

Dear Chair Keith-Agaran and members of the House Committee on Judiciary:

Thank you for this opportunity to testify in strong support of SB1073, S.D. 2. Although I am testifying as an individual today, I am also a member of the Board of Directors of the Legal Aid Society of Hawaii and of the Board of Directors of the Lawyers for Equal Justice. For many years, I have been concerned about the availability and accessibility of legal services and our legal system to indigent people.

Hawaii's economic troubles have resulted in donations and funding for civil legal services being slashed at the same time we have more people who have a low to moderate income who need legal services. A significant barrier to access to justice is the inability to afford such access or to find assistance and/or representation in legal matters. Hawaii's legal service providers have worked together to pool resources and to try to fill the gaps where indigent people are not receiving legal services. However, according to a state-wide report done by the Access to Justice Hui, Hawaii's legal service providers are able to help only about 1/3 of the people seeking assistance and only one in five low to moderate-income residents have their legal needs met. These are core needs that have significant impact on people's lives such as help for those in domestic violence situations, representation in landlord tenant cases that may help people avoid becoming homeless, helping people with public assistance issues and much more.

The funds received from the Indigent Legal Assistance Fund are critically important in the struggle to meet those needs. I believe this will be the first increase in ILAF surcharges since the surcharges were first implemented in 1996. The increases being sought are modest and reasonable increases.

I respectfully request that you support this bill and help Hawaii's legal service providers help our low to moderate income community members who do not have the resources or ability to address critical civil legal needs on their own.

Sincerely,

/s/

Naomi C. Fujimoto

CAROL K. MURANAKA

P.O. Box 240288
Honolulu, Hawaii
(808) 753-7686
carol.k.muranaka@gmail.com

March 13, 2011

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

Email: JUDtestimony@Capitol.hawaii.gov

Re: **Measure: S.B 1073, S.D.2 - Relating to Surcharge for Indigent Legal Services**
Hearing: March 15, 2011, 2:00 p.m., House Committee on Judiciary

Dear Chair Keith-Agaran and members of the Committee on Judiciary:

I am writing in strong support of the Indigent Legal Assistance Fund bill (S.B. 1073, S.D.2). I am an active member of the Hawaii State Bar Association and have previously practiced law primarily as a federal government attorney. When the Hawaii Access to Justice Commission ("Commission") was created, there was a call for volunteers to assist on various committees of the Commission, and I enthusiastically volunteered.

The proposed measure represents a modest increase in the surcharges of court filing fees, which surcharges under H.R.S. § 607-5.7 have remained unchanged for fifteen years. Yet, during those fifteen years, the nonprofit organizations, which provide legal assistance to Hawai'i's indigent population, have struggled to meet the ever increasing demands. Dedicated and conscientious volunteer lawyers have stepped up to meet the challenges as well. Nonetheless it is a certainty that the civil needs of Hawai'i's low- and moderate-income residents are not being met. Additional funding for civil legal services is urgently needed.

This modest increase is a fair and reasonable means to the funding crisis that the legal services providers face. These nonprofit organizations are severely underfunded, and the proposed legislation will help to ensure that all people in the state have access to justice.

Your approval of the subject bill will be acknowledgment that "justice for all" is more than mere words. Together, we can make it a reality for the state.

Thank you for the opportunity to submit testimony.

Very truly yours,

/s/ Carol K. Muranaka

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 13, 2011 11:51 PM
To: JUDtestimony
Cc: lchunhoon@aol.com
Subject: Testimony for SB1073 on 3/15/2011 2:00:00 PM

Testimony for JUD 3/15/2011 2:00:00 PM SB1073

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Lowell Chun-Hoon
Organization: Hawaii Immigrant Justice Center at LASH
Address:
Phone:
E-mail: lchunhoon@aol.com
Submitted on: 3/13/2011

Comments:
STATE OF HAWAII
HOUSE OF REPRESENTATIVES
2011 LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair
Hearing: Tuesday, March 15, 2011
Time: 2:00 p.m.
Place: Conference Room 325, State Capitol

TESTIMONY OF HAWAII IMMIGRANT JUSTICE CENTER AT LEGAL AID SOCIETY OF HAWAII

Chairman Agaran, Vice Chair Rhoads, Members of the Committee:

Thank you for the opportunity to present testimony regarding S.B. 1073, S.D 2. We vigorously support this bill.

The Hawaii Immigrant Justice Center at Legal Aid Society of Hawaii is essentially the only non-profit entity in the State of Hawaii that provides pro bono legal services to indigent immigrants in the State of Hawaii. While we have served the immigrant community since 1983, financial pressures lead us to become a part of the Legal Aid Society of Hawaii in 2010, when roughly half our legal and administrative staff was eliminated because funding was lacking to continue their employment.

In our to sustain our current efforts assisting immigrant victims of domestic violence, political asylees, victims of human trafficking both those sex trafficked and those who are victims of labor trafficking, the nominal increases proposed by S.B. 1073, SD 2 are essential.

Limited English proficiency clients, such as the Aloun Farms labor trafficking victims or other sex trafficking victims, are in acute need of the legal services HIJC at LASH provides. However, without the funds proposed, it will be increasingly difficult to sustain the present level of service. Other social service programs and state services will undoubtedly face

greater difficulties in rehabilitating and servicing these clients if HIJC's funding is inadequate and our staff attorneys' are not available to assist social workers nurses, and the clients themselves. Thank you very much for considering these remarks.

We therefore urge that your committee swiftly pass SB 1073, SD 1.



JAPANESE AMERICAN CITIZENS LEAGUE

HONOLULU CHAPTER

P.O. BOX 1291, HONOLULU, HAWAII 96807

PHONE: 523-8464 EMAIL: honolulu@jacl.org WEBSITE: www.jaclhawaii.org

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Colbert Matsumoto

Alan Murakami

House Committee on Judiciary

Tuesday, March 15, 2011

Hawai'i State Capitol – Room 325

Testimony in **SUPPORT of SB 1073**, Relating to Surcharge for Indigent Legal Services

Dear Chair Keith-Agaran, Vice-Chair Rhoads, and Members of the Committee:

The Japanese American Citizens League (JACL) Honolulu Chapter stands in support of Senate Bill 1073, which increases the surcharge on filing fees to fund indigent legal services.

JACL is the nation's oldest and largest Asian Pacific American civil rights organization with over 20,000 members. Locally our organization has consistently supported efforts to provide equal rights to citizens of this state.

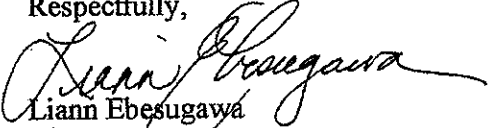
We believe that this bill would make great strides in providing legal services to those who need them most. Without these funds many will go without representation or a means to access the courts.

According to the 2007 Access to Justice Hui report, the total existing funds allow providers to serve less than 23% of low-income residents with critical legal problems. These legal problems can involve basic human needs and issues such as shelter, sustenance, safety, health or child custody.

The JACL's mission is to secure and maintain the civil rights of all who are victimized by injustice. We believe that the inequity in the ability of individuals to access the courts not only diminishes basic rights but erodes the foundational tenet of our society that we are all entitled to equal protection under the law. We must find ways to ensure funding for this critical need.

JACL thanks you for allowing us to testify in support of SB 1073.

Respectfully,


Liann Ebesugawa
1st Vice President

SHKLOV & WONG LLP

A Limited Liability Law Partnership

1001 Bishop Street, Suite 988
Honolulu, Hawaii 96813

MARK T. SHKLOV
Telephone: (808) 585-8858
Facsimile: (808) 599-4198
mark@shklovwonglaw.com

TESTIMONY OF MARK T. SHKLOV

BEFORE THE COMMITTEE ON JUDICIARY
March 15, 2011 at 2:00 p.m.

SENATE BILL 1073, SD2 SURCHARGE FOR INDIGENT LEGAL SERVICES

Chairperson Gilbert S.C. Keith-Agaran and Members of the Committee:

My name is Mark T. Shklov and I oppose Senate Bill 1073, SD2 (Surcharge for Indigent Legal Services).

I am an attorney and I have been licensed to practice law in the State of Hawaii since 1976. I worked for Legal Aid as a volunteer law student while in law school. I have supported the ACLU in time and money. I have contributed money to Volunteer Legal Services Hawaii ("VLSH") through the Hawaii State Bar Association. I have represented indigent persons and I have provided legal services to indigent persons through VLSH. I have provided many hours of pro bono professional legal services to indigent persons. In June 2008, I was awarded the Mayor's Award of Achievement and was recognized by VLSH for providing pro bono legal assistance to the community.

Organizations such as Legal Aid, the ACLU, and VLSH deserve support but this Bill is not the proper vehicle because it places added burdens on business and ordinary citizens, it taxes access to the Courts and it is vague and ambiguous in its application and consequences. There is no rational or reasonable relationship between the class of persons who are taxed by this Bill and the provision of indigent legal services. There is no reasonable justification for this increased additional and expanded surcharge.

I represent many individuals and small businesses in Hawaii who file lawsuits. It is unfair and unreasonable to burden these persons and businesses, who support the economy and employ citizens of our State, with another tax and penalty on what should be their right of access to the Courts of the State of Hawaii.

This Bill, which sets an increased additional and expanded surcharge of \$35.00 at District Court and an increased additional surcharge of \$65.00 at Circuit Court for civil case filings and \$65.00 for filing appeals, was obviously drafted to benefit certain legal service providers who

have the largest budgets and spend the most money, and amounts to taxation of the public to support certain special interest groups who fit a pre-determined definition under Haw. Rev. Stat. § 607-5.7

This Bill does not indicate how much money will be generated by this surcharge or the demographics of those who will be required to pay it. Nor does this Bill adequately describe who will receive the funds, how the funds will be used or why. Nor is there any justification for rewarding, as this Bill does, those legal service providers with the largest budgets. Nor does this Bill necessarily provide funds to organizations that assist indigent parties with the legal needs identified in the Justice Hui Report entitled "Achieving Access to Justice for Hawaii's People". This Bill does not describe how this surcharge will help low- and moderate-income residents meet their legal needs. This Bill does not provide for any accountability by those who receive the funds or for how it is used. This Bill rewards spending, not results.

Legal services for the poor are needed. Indigent legal services should be supported. However, an increased additional and expanded surcharge on the right to Court access is not the way to do it. This Bill assures that the wealthiest will preserve their rights and hurts the middle class. This Bill does not guarantee proper legal services for the indigent. It proposes a tax on certain citizens for the support of certain private companies. This issue should be resolved through participation of Hawaii lawyers, the Hawaii State Bar Association and the Hawaii Supreme Court. The Bar Association and the Supreme Court have already begun this process. The Legislature and the indigent legal service providers should work with the Supreme Court and the Bar to find a fair and just solution.

Thank you for this opportunity to express my view.

Very truly yours,



Mark T. Shklov

BARBARA L. RITCHIE
61-759 Papailoa Road
Haleiwa, Hawaii 96712

March 14, 2011

Chair Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

Measure: S.B. 1073, S.D. 2 Relating to Surcharge for Indigent Legal Services
Hearing: March 15, 2011, 2 p.m. House Committee on Judiciary
Submitted by email to JUDtestimony@Capitol.hawaii.gov

Dear Representative Keith-Agaran and Judiciary Committee Members,

I have been a paralegal in Hawaii for over thirty years and worked primarily in the areas of litigation and trust administration. I began my paralegal career with the Legal Aid Society in 1978. As a member of the Hawaii Paralegal Association ("HPA"), Hawaii's only nonprofit professional association for paralegals, I have been an active participant in the legal community and taken part in educational and *pro bono* activities.

I strongly support the proposed amendment to Hawaii Revised Statutes Section 607-5.7 to modestly increase filing fees for the purpose of increasing access to legal services for those most in need.

During the worst economic downturn in seventy years, much of the funding for public interest legal service organizations has been severely diminished. This has occurred at the same time that the number of low and moderate income people needing civil legal assistance has significantly increased.

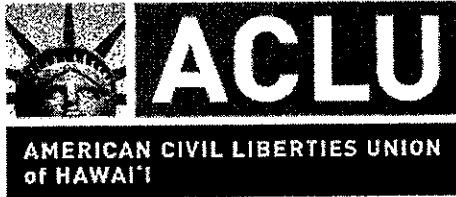
Without assistance with their basic legal needs, many of Hawaii's people are deprived of essential human needs such as adequate food, shelter, and medical care. Studies have shown that it costs the State much less to provide basic civil legal services than the cost when we fail to do so.

The proposal before you offers a reasonable way to strengthen the Indigent Legal Assistance Fund ("ILAF") and helps to offset the significant loss of funding from the Interest on Lawyer Trust Accounts ("IOLTA") and other sources. It will make it possible for Hawaii's nonprofit legal service providers to continue to do their vital work on behalf of Hawaii's most vulnerable residents.

Thank you for the opportunity to submit testimony on this critical measure.

Sincerely,

Barbara L. Ritchie



Committee: Committee on Judiciary
Hearing Date/Time: Tuesday, March 15, 2011, 2:00 p.m.
Place: State Capitol, Conference Room 325
Re: *Testimony of the ACLU of Hawaii in Support of S.B. 1073, SD2, Relating to Surcharge for Indigent Legal Services*

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of S.B. 1073, SD2, which seeks to increase the amount of surcharges for indigent legal fees.

In its 2007 report, the Access to Justice Hui found that **only 1 in 5 low- and moderate-income residents of Hawaii have their serious legal needs met because legal services providers lack adequate funding and attorneys.** S.B. 1073, SD2, will increase the ability of legal service organizations to provide essential services to our most vulnerable populations and help to ensure that more people in Hawaii are able to secure access to justice.

The ACLU of Hawaii was one of the organizations represented in the Access to Justice Hui, and is currently serving as part of the Consortium of Hawaii Legal Service Providers. Please note that the ACLU of Hawaii does not accept government funds and therefore is not a direct beneficiary of the surcharge in S.B. 1073, SD2.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawaii
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

From: Sally Kaye [skaye@runbox.com]
Sent: Monday, March 14, 2011 1:10 PM
To: JUDtestimony
Subject: SB 1073 SD 2, hearing on March 15, 2011, Room 325, 2 p.m.

COMMITTEE ON JUDICIARY
Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair

Aloha Members of the Judiciary Committee:

I am writing today to express my **support** for **SB 1073 S.D. 2**. The additional funding that would result by increasing the surcharge from \$25 to \$65 on initial court filing fees in civil actions in Circuit Court, and from \$10 to \$35 in District Court is urgently needed to help support civil legal services for those unable to afford legal assistance.

As noted in the introduction to the Bill, Achieving Access to Justice for Hawai'i's People: The 2007 Assessment of Civil Legal Needs and Barriers of Low and Moderate-Income People in Hawai'i found that Hawai'i's lower-income population continues to increase relative to the population and that an unacceptable level of unmet civil legal needs persists. For example, only one in five low and moderate-income Hawai'i residents have their legal needs met, and those providing legal services are able to help only one in three of those who contact them for assistance. This is unacceptable, and will likely persist or worsen if current funding levels remain static.

One of the recommendations issued by the Access to Justice Hui's report to address this dire situation was for the Legislature to increase funding for civil legal services by increasing the filing fee surcharge.

I began my legal career as a part time paralegal for the Legal Aid Society of Hawai'i here on Lana'i in the late 70's. Our island is still being primarily served through the efforts of a single, part-time paralegal. This situation leads to many unmet civil legal needs and will not likely change without additional funding.

Thank you for considering my request.

Sally Kaye, LASH Board Member
P.O. Box 631313
Lana'i City, HI 96763
808/565-6276



TESTIMONY IN SUPPORT OF
SB1073 SD2 - RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES

March 15, 2011 at 2:00 p.m.

The Legal Aid Society of Hawaii hereby provides testimony to the House Committee on Judiciary on SB1073 SD2 Relating to Surcharge for Indigent Legal Services, in strong support of the bill.

In November 2007, the Access to Justice Hui released “Achieving Access to Justice for Hawai‘i’s People,” a two-part report that included The Community Wide Action Plan: Ten Action Steps to Increase Access to Justice in Hawai‘i by 2010 and The 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People in Hawai‘i. The Assessment found that one out of every five low- and moderate-income residents in Hawai‘i seeking legal services is unable to receive the assistance that they need and that one in three who seek assistance from legal service providers cannot be helped.

Since the 2007 Assessment, the number of people living in poverty has increased and now more than 1 in 10 people in Hawai‘i earn less than \$25,710 for a family of four. The need for legal services has also increased.

Need for Funding

This bill could raise \$1.5 million in funds that would be available to providers of all providers of civil legal services. Currently, legal service providers share a pot of only \$305,000 in funds. In this time of economic recession, core services, like those provided by Legal Aid and other legal service providers are fundamental to the safety net. The loss of critical general funding support for general legal services and more proposed losses due to federal cut backs further raise the need for funding for legal services. As the Judiciary’s “Justice in Jeopardy” report stated that 103,009 self-represented litigants were helped by the Judiciary’s Ho‘okele service centers on Oahu in 2009, a 5.6% increase from 2008. With continued cuts to funding, these numbers will only grow, taxing the Judiciary even more in needing to provide services to self-represented litigants.

Legal Services Do Make a Difference

The legal system is a complex set of rules and procedures which most lay people are unfamiliar with. The word “assumpsit” and “replevin” are foreign to those facing collection actions or repossession of their personal property, yet are used daily in court forms and in the court system. Knowing how to subpoena a witness, get documents through a subpoena duces tecum, and how to serve the opposing party, are all skills that attorneys develop through years of post-graduate education. Our services help those facing this system get relief in domestic violence situations, those who are subject to predatory lending practices, those who are vulnerable due to disability and those who need representation in this complex legal system.

On February 14, 2011, seven legal service providers had telephone calls with 824 clients, made 181 calls on behalf of clients, and provided technical assistance to 109. They met with 268 clients face to face, made 17 court appearances, and answered 107 hotline calls. Their services affected the lives of 545 children – on just one day alone.

On this day, some of the ways in which Legal Aid attorneys and paralegals made a difference included,

- helping a human trafficking victim with an application for legal immigration status;

- writing a guardian ad litem report which recommended reunification of a child with her mother;
- agreeing to represent a client in a custody case where the father is confirmed to have sexually molested the child;
- assisting a homeless person with her application for SSI;
- helping a victim get a restraining order; and
- counseling a client in tears after her collection hearing.

The funding from this bill would help low- and moderate-income residents understand the legal process and have an attorney standing with them in more critical and complex situations.

Expansion of Surcharge in District Court – It's About Fairness

Since the start of the indigent legal assistance surcharge in 1996, assumpsit cases have been exempt from this surcharge. In FY10 there were 20,789 assumpsit cases filed which represented 68.04% of all civil district court cases filed. This represents over 20,000 filings where collection agencies and others are not paying their fair share of the indigent legal assistance fund despite being those whom most often proceed against pro se clients who do not have access to representation.

No Increase Since 1996

There has been no increased to the indigent legal services surcharge in fourteen years. The cost of doing business has increased as has the need for services. It is time for an increase.

Accountability

Some issues have been raised about accountability, yet this issue is merely an attempt at a distraction from the real issue of justice and fairness facing this Committee with respect to this bill. On an annual basis, our organization along with other legal service providers submit a comprehensive grant application to the Hawai'i Justice Foundation and are required to submit quarterly and annual reports. This grant application is one of the largest and most complex submissions we have, requiring each staff member or manager to complete documentation regarding their annual activities and the collection of comprehensive data with regard to salary information which is verified through unemployment documentation.

The Legal Aid Society of Hawai'i ("Legal Aid") is the largest provider of legal services with eleven offices on each of the major islands. We provide legal assistance in family, housing, consumer, public assistance, child welfare, elder law, and as of 2010 in immigration. On an annual basis we close approximately 9,500 cases affecting the lives of almost 20,000 people. However, because of cuts in funding, in 2010, while Legal Aid provided basic advice and assistance to all who meet eligibility criteria, we were only able to provide representation to one in five who contacted us.

I ask for your support of this bill. Thank you for this opportunity to provide comments.

Sincerely,

/s/

M. Nalani Fujimori Kaina
Executive Director
527-8014

A United Way Agency
Corporation
www.legalaidhawaii.org

Legal Services

DEREK R. KOBAYASHI

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745 FORT STREET · SUITE 1500
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TELEPHONE (808) 523-6060 · FAX (808) 523-6030
INTERNET: dkobayashi@schlackito.com

March 14, 2011

Via Email: JUDtestimony@Capitol.hawaii.gov

Representative Gilbert S.C. Keith-Agaran and Committee Members
Committee on Judiciary
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: SB 1073, S.D. 2 – Relating to Surcharge For Indigent Legal Services
Testimony IN SUPPORT
Hearing Date: Tuesday, March 15, 2011
Time: 2:00 p.m.

The Honorable Chair Gilbert S.C. Keith-Agaran and Honorable Committee Members:

I write to voice strong support for SB 1073, S.D. 2 which seeks to increase the amount of surcharges for the Indigent Legal Assistance Fund (“ILAF”). I am an attorney in private practice and throughout the years have sought to contribute to *pro bono* representation of those who cannot afford legal representation and have served and continue to serve in various capacities working on access to justice issues.

The purpose and intent of SB 1073 – to increase assessments to ILAF and thereby increase funding for legal service providers who provide civil legal services to the low to moderate-income residents – would greatly facilitate meeting the civil legal needs of low and moderate-income residents of Hawai‘i.

Since the establishment of ILAF fifteen years ago in 1996, there has been no increase in the ILAF assessments. Yet concurrently, as evidenced by other testimonies submitted in support of the measure, the demand for civil legal services funded by ILAF continues to increase.

ILAF funds are invaluable because these funds are distributed to legal service providers who provide services in myriad legal areas. The recipients include: Domestic Violence Action Center, Hawai‘i Disability Rights Center, Legal Aid Society of Hawai‘i, The Mediation Center of the Pacific, Native Hawaiian Legal Corporation, the University of Hawai‘i – Elder Law Program and Volunteer Legal Services Hawai‘i.

Representative Gilbert S.C. Keith-Agaran and Committee Members
Committee on Judiciary
Page 2

Advice given by the legal service providers includes alternative dispute resolution and strategies to achieve settlements, which effectively contributes to alleviating the burgeoning caseload in the courts. This leads to more efficient judicial services for all litigants.

Accordingly, I respectfully join those who urge the House Committee on the Judiciary to support passage of SB 1073, S. D. 2.

Very truly yours,



Derek R. Kobayashi

DRK:kkh



HAWAII ACCESS TO JUSTICE COMMISSION

Daniel R. Foley
Judge, Intermediate Court of Appeals
Chair

Jill M. Hasegawa, Esq.
Vice Chair

March 14, 2011

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

RE: Measure: SB 1073 SD 2- Relating to Surcharge for Indigent Legal
Services
Hearing: March 15, 2011, 2:00 pm, House Committee on Judiciary

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

The Hawaii Access to Justice Commission (the "Commission"), **strongly supports** SB 1073 SD2, Relating to Surcharge for Indigent Legal Services. The Commission, which was created by Rule 21 of the Rules of the Supreme Court of Hawaii on May 1, 2008, was established with the purpose to substantially increase access to justice in civil legal matters for low- and moderate-income residents of Hawaii ("low income Hawaii residents"), including increasing and stabilizing long-term public and private funding and resources for delivery of civil legal services to low-income Hawaii residents. A copy of the Commission's current roster is attached for your information.

The Commission was created in response to the 2007 Assessment of Civil Legal needs and Barriers of Low- and Moderate-Income People of Hawaii, which found that four out of five low income Hawaii residents do not have their legal needs met and that legal service providers are only able to assist one in three persons who contact them for assistance. The Commission recognizes that in order to increase delivery of legal services to low income Hawaii residents, more funding is essential to assist the legal service providers. One such potential source of increased funding has been identified as the Indigent Legal Assistance Fee.

In the current economic climate, it is imperative, now more than ever, that we maintain funding for our legal service providers. The proposed additional surcharge fees on various court filings in our Hawaii State Court system under the "Indigent Legal Assistance Fund" ("ILAF") set forth in HRS Section 607-5 would provide sorely needed funds for meeting civil legal services needs, especially during a time when the legal need and number of low income Hawaii residents are increasing.

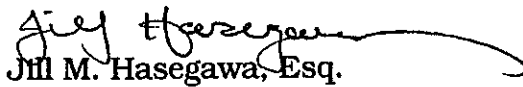
Since 2007, legal service providers have consistently seen between a 20-50% increase in the number of requests for assistance over and above the 2007 figures. In a recent survey taken on February 14, 2011, which looked at a day-in-the-life of Hawaii's legal service providers, the increased need is dramatically apparent -- in one day, these providers affected over 1,000 individuals, including 545 children. The results of this survey are attached.

This increase in demand has come at a time when the legal service providers have been experiencing dramatic cuts in funding from the legislature and other traditional funding sources. In addition to these cuts, many legal service providers who rely on IOLTA (Interest on Lawyer Trust Account) revenue, which is disbursed by the Hawaii Justice Foundation, have been hit by the sharp decline in interest rates, with HJF receiving only one-eighth the amount of interest received prior to December 15, 2008. This drop in revenue makes the ILAF program even more vital to the continued operations of low-income legal service providers.

During 2009, access to justice in Hawaii suffered another significant blow, with the closing of a long-time legal service provider, the Hawaii Immigrant Justice Center (formerly known as Na Loio) due to funding cuts. Several other organizations have been forced to cut essential programs that service low income individuals, in order to balance budget cuts. As it currently stands, several organizations that rely on federal funding through the Office on Violence Against Women Legal Assistance for Victims, including the Domestic Violence Action Center, are only receiving approximately 20% of their previous funding levels, and this amount is expected to continue to decrease. Those legal services providers who receive federal funding have already been told to anticipate significant cuts in funding, potentially in excess of 25%.

Given the increasing number of indigent persons in Hawaii and their mounting legal needs, it is imperative that funding be maintained for legal service organizations. The increase in ILAF filing fees is essential to providing legal service providers with additional funding to make up for funding shortfalls elsewhere and to meet the ever increasing need for legal services.

In summary, the Commission strongly supports the passage of SB 1073 SD2, to assure that the legal needs of our communities' indigent will be met. Thank you.


Jill M. Hasegawa, Esq.
Vice-Chair
Hawaii Access to Justice Commission

THE COMMISSIONERS

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

1.	Hon. Daniel R. Foley (CHAIR)	Chief Justice	n/a
2.	Jill M. Hasegawa (VICE-CHAIR)	Hawai'i State Bar Association	12/31/11
3.	Hon. Simeon R. Acoba, Jr.	Chief Justice	12/31/12
4.	Hon. Greg K. Nakamura	Chief Justice	12/31/12
5.	Hon. Joseph Cardoza	Chief Justice	12/31/11
6.	Hon. Trudy Senda	Chief Justice	12/31/12
7.	Derek Kobayashi	Hawai'i State Bar Association	12/31/13
8.	B. Martin Luna	Hawai'i State Bar Association	12/31/11
9.	Shannon L. Wack	Hawai'i State Bar Association	12/31/13
10.	Moya Gray (Volunteer Legal Services of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/11
11.	M. Nalani Fujimori Kaina (Legal Aid Society of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/12
12.	Moses Haia (Native Hawaiian Legal Corporation)	Hawai'i Consortium of Legal Services Providers	12/31/13
13.	Nanci Kreidman (Domestic Violence Action Center)	Hawai'i Consortium of Legal Services Providers	12/31/13
14.	Jean Johnson (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers	12/31/12
15.	* (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers	12/31/11
16.	Gregory Markham	Hawai'i Justice Foundation	12/31/12
17.	Dean Aviam Soifer	William S. Richardson School of Law	12/31/13
18.	R. Elton Johnson, III.	Hawai'i Paralegal Association	12/31/13
19.	* To be appointed	Governor	n/a
20.	Mary Anne Magnier	Attorney General	n/a
21.	Hon. Clayton Hee	Senate President	n/a
22.	Hon. Della Au Belatti	House Speaker	n/a

A Day in the Life of Hawaii's Legal Services Providers
Legal Services Provided to the Community
February 14, 2011

- 1) On February 14, 2011 Hawaii's legal services providers ¹ participated in:
 - a. **824** calls with clients
 - b. **181** calls on behalf of a client (i.e. negotiating with an opposing party, investigative call to a social service agency for a GAL report, etc.)
 - c. **109** calls for technical assistance or consultation with others on legal issues that may affect clients (i.e. calls from social services providers, media, etc.)²
- 2) On February 14, 2011, program staff had **268** in-person contacts with clients
- 3) On February 14, 2011, **545** children under the age of 18 were affected by this work (i.e. for each case that was handled, children were part of that household)
- 4) On February 14, 2011, **17** court appearances were made on behalf of clients
- 5) On February 14, 2011 programs answered **107** helpline/hotline calls

¹ Hawaii Disability Rights Center; Legal Aid Society of Hawaii; Native Hawaiian Legal Corporation; Volunteer Legal Services of Hawaii; Elder Law Clinic; Mediation Center of the Pacific; Domestic Violence Action Center

² Volunteer Legal Services of Hawaii collected this data on February 15, 2011

From: Shoko Nonaka [shokon@stoptheviolence.org]
Sent: Monday, March 14, 2011 1:55 PM
To: JUDtestimony
Subject: FW: Tesimony in strong support of for S.B. 1073, S.D.2
Attachments: ELLEN's TESTIMONY S.B. 1073.doc; Anabelle's TESTIMONY S.B. 1073.doc; Reiko's TESTIMONY S.B. 1073.doc; Meika TESTIMONY S.B. 1073.doc

From: Shoko Nonaka
Sent: Monday, March 14, 2011 1:42 PM
To: 'JUDtesimony@Capitol.hawaii.gov'
Subject: Tesimony in strong support of for S.B. 1073, S.D.2

Dear Madam/Sir,

Attached is testimony from Ms. Ellen Amero, Ms. Annabelle Tibar-Tamura and Ms. Reiko Tanaka in strong support of S.B. 1073, S.D.2:

Measure: S.B. 1073, S.D.2 Relating to Surcharge for indigent Legal Services

Health: March 15, 2011, 2:00 pm, House Committee on Judiciary.

Ms. Ellen Amero, Ms. Annabelle Tibar-Tamura and Ms. Reiko Tanaka will testify at the hearing.

We also submit one more testimony written by Ms. Meika Matsuda. Unfortunately Ms. Matsuda can not show up to the hearing.

Thank you and Aloha,

Shoko Nonaka, MSW
Advocate/case manager
Domestic Violence Action Center
Community and safety support

*P.O. Box 3198
Honolulu, HI 96801
Tel (808)-534-0040
Fax (808)-531-7228
Shokon@stoptheviolence.org*

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY
REPRESENTATIVE: Gilbert S.C. Keith-Agaran, Chair
Representative Carl Rhoads, Vice Chair
Hawaii State Capitol, Room 302

On

SB 1073, Relating to Surcharge for Indigent Legal Services

Dear Chair Gilbert S.C. Keith-Agaran and Members of the Committee on Judiciary:

I am Ellen Amero, a survivor of domestic violence. I am originally from the Philippines and I am not proficient in the English language. My inability to understand English fully well combined with my limited knowledge of the legal system and culture in the United States became to be the platform of my husband to exercise his power and control over me. I arrived on Oahu, Hawaii with a fiancée visa and the marriage which I thought made in heaven turned into a nightmare.

I became the object of my husband's anger without any provocation. During our marriage, he started to call me names like stupid, idiot, and dumb. He swore at me daily. I did not even know what they meant until I reached out to fellow-Filipinos I met in my church. My husband never gave me money to buy food. I was his sex object. He told me that I should always be ready for his consumption. Each time I refused, he called me names and would hurt me physically that giving in to what he wanted became my only choice to remain safe. He would humiliate me and throw dollar bills at me as compensation. He accused me of stealing his collection of coins. He got upset each time I disagreed with his opinion. He physically abused me. He strangled, pushed, and grabbed me in a locked position several times. He even convinced me that if I call 911, I would automatically be deported. So I never did. I remember being very afraid of what might happen to me. If I get deported back to the Philippines, I will also put my entire family's name to shame. My husband also never filed the documents to legalize my stay here.

The last incident of abuse happened on the night he strangled me and this was when I decided to run away from the man I thought loved and respected me. I managed to get on a bus and went to a friend's house. They were the ones who called the police and helped me report the abuse. The police told me to call the Domestic Violence Action Center for help. I called their helpline and was immediately given an advocate who spoke my language. She helped me find a place to stay. Domestic Violence Action Center provided me with free legal representation during the Temporary Restraining Order to Show Cause Hearing. They also helped me with my divorce.

I was penniless. I had no legal status and was considered an undocumented person. The agency understood my situation and waived every fee related to my legal/advocacy services. Therefore, I strongly support SB 1073 as it helped me get the legal services I needed. Domestic Violence Action Center is my family. They were the only one I had here back then. I know that many women would benefit with the passage of this bill. We need an agency like the Domestic Violence Action Center. I hope that they are able to continue their work in helping abused women get the legal and advocacy assistance they need to be free from abuse. If not because of the options I learned from my advocate and attorney, I would have not been able to get

knowledgeable in making a sound decision. Because of their help and legal assistance, I felt empowered and supported. The Domestic Violence Action Center saved my life!

It was a very long legal process for me, both divorce and immigration. But now, I am safe, free from abuse and a legal resident of the United States of America. I am now living the American Dream.

Thank you for the opportunity to testify.

ELLEN AMERO

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY
Representative Gil Keith-Agaran,
Chair, House Committee on Judiciary
Hawaii State Capital, Room 302

S.B.1073 S.D.2, Relating to Surcharge for Indigent Legal Services
By Reiko Tanaka
Survivor of Domestic Violence

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

My name is Reiko Tanaka. I am a survivor of the domestic violence. I have been receiving legal and non legal services from the Domestic Violence Action Center (DVAC). I wish to testify in support of the intent of SB1073 because it will open the door for more indigent people, in particular, victims of domestic violence like myself to get legal services.

I heard there were over 8,000 domestic violence cases were reported in Hawaii in 1999. I believe that the actual number should be much higher now. I am one of these victims and have been abused by my partner physically, psychologically, emotionally, financially and sexually.

I came to Hawaii as a student from Japan. I met my husband here. He was very kind and took good care of me before the marriage. He was a hard working and responsible man. Eight months later, I married him. I was very happy and became pregnant soon. He was so pleased with it. However, since then, he started to control me by calling me many times a day. He became very mad if I missed his calls. So I needed to take his call wherever I was.

He did not want me to go out and became very jealous even if I'm with my girl friends. He said that he would kill himself if I left him. I could not understand his behavior. We started having more fights. When I wanted to go outside to be alone, he locked the door and forcefully grabbed my arm and pulled me back inside the room. When I was 5 months pregnant, I tried to leave the room during the argument. My husband pushed me down and I hit my lower back really hard. I was very shocked by this but I still hoped the birth of our child would bring change on how my husband would treat me.

However, my hope was betrayed. He became jealous of our new born baby. His verbal abuse against me escalated. Even though he knew that I was with my mother, when I did not answer his calls he called the police and they came to check if I was home. I was scared of my husband's behavior. I was also hurt, suffered and felt very hopeless. After another violent incident, I left him with my son and went to the Domestic Violence Shelter.

What I mentioned so far is only a part of my abusive relationship.

To protect myself and my son, I filed a Temporary Restraining Order last year. With the legal assistance from DVAC, I was granted 20 years Restraining Order for my self. My son was also granted it until he becomes 18 years old. I am very thankful of DVAC services.

It is because I am an immigrant and have language barriers. I do not know about the legal system well. Furthermore, I am very afraid of my husband. I would not be able to go into the court room alone. When I tried to contact some private attorneys with the help of my friends, I was very shocked by the expensive legal fee. I did not have such a big money because I am unable to work due to my legal status.

Currently, I am in the process of divorce. The DVAC attorney represents me again. It may take another several months to finalize it but I feel very confident to go through this procedure. In the shelter or at the court, I met many victims of domestic violence who face the same kind of problems as I did before I got the DVAC services. I felt bad because many of them did not have any legal assistance mainly due to financial reasons.

If the bill SB 1073, Relating to Surcharge for indigent legal services is passed, it will help more domestic violence victims to get the legal assistance. Therefore, I support the intent of the bill and I urge you to pass SB 1073.

Thank you for the opportunity to testify.

Reiko Tanaka

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY
REPRESENTATIVE: Gilbert S.C. Keith-Agaran, Chair
Representative Carl Rhoads, Vice Chair
Hawaii State Capitol, Room 302

On

SB 1073, relating to Surcharge for Indigent Legal Services

Dear Chair Gilbert S.C. Keith-Agaran and Members of the Committee on Judiciary:

My name is Annabelle Tibar-Tamura. I moved to Hawaii last August 10, 2010. I was born and raised in the Philippines and also finished a Bachelor's degree in a university. I moved to Hawaii through a fiancée visa and eventually married the man I thought was a dream come true but instead had a life that was unbearable.

I suffered physical, sexual, financial, verbal, and emotional abuse. I submitted myself to my husband and did the best I could to save our marriage but was unsuccessful. I tried my hardest to please him. I cooked his meals, cleaned our home, washed his car, ironed his clothes and even bathed him although he is able-bodied. I shined his shoes, put belt on his pants, everything I could do but it was not good enough for him. He called me names such as stupid, dumb, crazy, and incompetent. He called me a monkey and that I should go back to the Philippines where monkeys abound.

I was subjected to his daily verbal abuse. I was sad and depressed and began to lose weight. I cried and cried and I had no one but myself. My abuser also forced me to watch pornographic materials despite my objection. He would get angry at me all the time. He asked me to sign a pre-nuptial agreement. He instructed me to kneel before and asked me to beg him to marry me.

My suffering continued. His physical abuse increased in frequency. He punched my leg, twisted my arms, kicked and sexually assaulted me. He forced me to drink pills which he said would help with my depression and later found out they were pills prescribed to him. My life was a living hell. I managed to call the Philippine Consulate and told them what I was going through. They gave me the Domestic Violence Action Center phone number.

I called the following day and I was able to talk to one of the advocates who spoke my language. She is very supportive of me, and asked me information about my husband and what I was going through. From then on I always communicated with her, and she always asked me about my safety. At that time I was so scared, always having second thought of leaving because I didn't have money and I was scared about my status here in America...

I called 911 and Honolulu Police Department advised me to file a restraining order against my husband. I had no money to get my own lawyer but the Domestic Violence Action Center provided me with an attorney without paying anything. I was so happy and grateful. I did not know there is an agency like DVAC who offer their support and legal expertise considering I have no financial means.

The help I received from DVAC is enormous and I would not have gone this far in making the decision to leave the abusive relationship if I did not feel supported by my community and agency like the Domestic Violence Action Center.

I support the bill SB 1073 and I urge you to pass this bill so people like me with no financial means can continue to receive both legal and advocacy assistance from agencies like the Domestic Violence Action Center.

Respectfully yours,

Annabelle Tibar-Tamura

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

I, Meika Ella Matsuda A Survivor of Domestic Abuse, would like to testify in behalf of Domestic Violence Action Center why the bill is important to organization like this one and to people like me. Domestic Violence Action Center provided me with all the necessary legal help that I needed when I was going through my divorce with my abuser. The Domestic Violence Action Center continued to provide me with all the resources I needed to go through my legal proceedings in court against my Domestic Violence Abuser. I am here to testify the importance of the services of the domestic violence to women like me.

TO : THE LEGISLATURE OF THE STATE OF
HAWAII

By Meika Ella Matsuda

I am a Domestic Abuse Survivor, a single mother and a student pursuing a degree in
Nursing at Honolulu Community College.

I am a Survivor of Domestic Violence I wish to testify in behalf of the Domestic
Violence Action Center. My intent here is to support the bill, because it can help support
organizations like Domestic Violence Action Center to continue to help Women Victims
of Domestic Abuse. We are all aware of the negative outcomes of domestic abuse. I am
one of the lucky ones to survive and surpass domestic abuse, but not everyone is given
this opportunity everyday more and more women suffers or even die because we were
not fast enough to give them the support and protection they needed. Therefore I would
like for all of you to understand the importance of this services. For over 15 years I
feared my abuser I knew my rights but I did not know where to ask help. The Domestic
Violence Action Center advocates gave me hope to live they provided me protection and
Legal help I needed. I am a living testimony of a person who has been given a chance to
re live life with freedom and rights. My son and I are changing our lives now he is a
freshmen at Moanalua High School and I am a sophomore student at Honolulu
Community College. It has been a long journey to where we are now and we are still
going through the challenges of healing. But we continue to not give up because we
believe that there is hope and a new beginning. There are more Women out there who are
experiencing Domestic Abuse right this moment some of them are still reaching out to

organizations like Domestic Abuse Action Centers and other social services. Please help them and support them to make a difference in Hawaii. Many Women are suffering and continue to suffer from Domestic abuse please give them a chance to be a survivor and start a new beginning.

LAW OFFICE OF HOWARD K. K. LUKE

ATTORNEYS AT LAW
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HOWARD K. K. LUKE
DAVID M. HAYAKAWA

TEL: (808) 545-5000
FAX: (808) 523-9137

March 14, 2011

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawaii State Capitol, Room 302

Re: S.B. 1073, S.D.2:
Measure: S.B. 1073, S.D.2 Relating to Surcharge for Indigent Legal Services
Hearing: March 15, 2011, 2:00 pm, House Committee on Judiciary

Dear Chair Keith-Agaran and Members of the Committee on Judiciary:

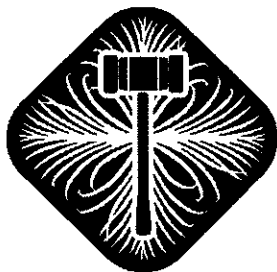
I am writing in support of Senate Bill 1073, which will amend the surcharge for the filing of legal documents in the District and Circuit Courts of the State of Hawaii.

It is my firm belief that the proposed bill will greatly enhance the access to our courts by all our citizens, regardless of their personal economic circumstances. Passage of S.B. 1073 will once again affirm that the State of Hawaii remains committed to the principle of equal access to justice for all.

Respectfully submitted,



HOWARD K. K. LUKE
Attorney at Law



**VOLUNTEER
LEGAL
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HAWAII**

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Moya T. Davenport Gray
EXECUTIVE DIRECTOR

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what matters.™

To: Representative Gilbert Keith-Agaran
Chair, House Committee on the Judiciary

From: L. Dew Kaneshiro, Interim Executive Director
Volunteer Legal Services Hawai'i

Re: Testimony in Support of S.B. 1073 S.D. 2
Relating to the Surcharge for Indigent Legal Services

Hearing: March 15, 2011 at 2:00 pm

Place: Conference Room 325, State Capitol

Chair Keith-Agaran, Vice-Chair Rhoads, and members of the Committee on Ways and Means:

Volunteer Legal Services Hawai'i (VLSH) strongly supports S.B. 1073 S.D. 2.

S.B. 1073 S.D. 2 increases the filing fee surcharge that funds the Indigent Legal Assistance Fund (ILAF). The surcharge has remained the same since ILAF was established in 1996. The bill will also extend the surcharge to all civil matters, including high-volume matters that have been exempt from the fee for 15 years. By increasing and extending the surcharge, S.B. 1073 S.D. 2 will help struggling legal service providers serve the 12.5% of Hawaii's population that is living in poverty.

Through volunteer attorneys, VLSH has responded to the legal needs of Hawaii's low-income population since 1981. Like many agencies providing services to the poor, the organization has suffered severe funding cuts in recent years. At the same time, the eligible service population has swelled as individuals who always had jobs and families that always had a roof over their heads find themselves living on the brink. Access to legal services for housing, employment, medical care, and consumer issues is often the margin between economic survival and homelessness.

ILAF money, which can be used to cover operational and administrative costs, are critical to organizations like VLSH, which uses volunteers to provide legal services. ILAF is also an increasingly important source of funding for other legal service providers, including Domestic Violence Action Center, Hawaii Disability Rights Center, Legal Aid Society of Hawaii, Mediation Center of the Pacific, Native Hawaiian Legal Corporation, and University of Hawaii Elder Law Program. We urge you to allow access to justice to Hawaii's poor by supporting S.B. 1073 S.D. 2.

Thank you for this opportunity to testify.

Representative Gil Keith-Agaran
Chair, House Committee on Judiciary
Hawai'i State Capitol, Rom 302

Dear Chair Keith-Agaran and members of the Committee on
Judiciary:

My name is Stanley Bain and I am writing in support of S.B. 1073,
S.D. 2. I am a clergyperson serving in Hawai'i for the past 35 years
with a strong ministry emphasis on justice for the defenseless.

Research reported in 2007 indicating that 80% of out state's low and
moderate income people do not have their legal needs met does not
bode well for "...justice and equality for all" in our Hawai'i nei.
Therefore I favor the bill's requirement to increase and expand filing
surcharges. I hold this conviction because of three crises in our
state:

1. Family protection -- Reports of domestic violence are increasing.
Clearly spouses and children need more protection under the law.
Without access to legal services by indigent victims of violence we
can expect domestic violence to rise.
2. Immigrant rights -- We are a state of immigrants and proud to be
so. Violation of basic human rights to which all immigrants are
entitled is increasing with the rampant xenophobia being expressed in
the national political arena and the media. For the past three years I
have worked to advocate protection of these rights for immigrants
and for immigration reform. I am fully aware of the difficulty our
immigrant population have in obtaining protective legal services.
3. Need for adequate housing -- The shrinking availability of
affordable housing and the rampant increase in foreclosures place
our state in a housing crisis. Hawai'i working families who cannot
afford high rents or are being evicted from their homes need
affordable legal services to defend them and to advocate for
affordable housing.

Finally, I urge you to pass this bill because the strength and goodness of Hawai'i Nei will be determined to the degree to which you our leaders do your part to defend our most defenseless residents.

Thank you for receiving my testimony.

The Rev. Stanley Bain



CENTER ON DISABILITY STUDIES

Center on Disability Studies
College of Education
University of Hawai'i
Jean Johnson,
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March 14, 2011

The Honorable Gilbert S.C. Keith-Agaran, Chair
Committee on Judiciary
House of Representatives, State Capitol
415 South Beretania Street
Honolulu, HI 96813

Aloha Representative Agaran, Vice-Chair Karl Rhoads, and Committee Members

RE: SB 2073, SD 2

I am writing to express my strong support for SB 2073, SD2, related to the Surcharge for Indigent Legal Services. As a member of the Hawai'i Access to Justice Commission, I am gravely concerned about the financial barriers that currently exist that preclude low income members of our community from accessing critically needed legal services.

The proposed additional surcharge fees on various court filings in the Hawai'i State Court System under the "Indigent Legal Assistance Fund" would provide badly needed funds for meeting the civil legal services of our low-income citizens. While individually, these additional surcharge fees would not create a significant hardship for the persons introducing the court filings, the income the fees could generate would result in increased access to legal services for persons for whom might mean the difference between life and death, between maintaining or losing their home, between maintaining their family or losing supervision of their children, between getting the special services their children need or their children languishing without the special services they need to learn and succeed.

In summary, I humbly ask your consideration in approving SB 2073, SD 2 for the benefit of the most vulnerable members of our community. Mahalo,

Sincerely,

Jean L. Johnson, DrPH
Associate Director



Collection Law Section

Chair:
Steven Guttman

Vice Chair:
William J. Plum

Secretary:
Thomas J. Wong

Treasurer:
Arlette S. Harada

Directors:
Lynn A.S. Araki-Regan
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James Hochberg
Elizabeth A. Kane
William J. Plum
David B. Rosen
Mark T. Shklov
Yuriko J. Sugimura
Thomas J. Wong

March 14, 2011

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
House Judiciary Committee
Honolulu, Hawaii

**RE: SB 1073 / Indigent Surcharge
HEARING 3/15/11 @ 2:00 PM**

Dear Rep. Keith-Agaran and Committee Members:

The Collection Law Section of the Hawaii State Bar Association OPPOSES SB 1073.¹

Introduction.

SB 1073 is a bill to raise money to fund civil legal services for the low- and moderate-income residents. SB 1073 does this by increasing and expanding a surcharge levied against individuals and entities that file cases in state court.

Currently, filing surcharges exist in the following form:

- In the District Court, there is a \$10 surcharge for all summary possession (eviction) cases filed (for reference, approximately 2,500 cases were filed in FY 2009/2010 per the Judiciary's latest report).
- In the Circuit Court, there is a \$25 surcharge for all civil cases filed
- In the Appellate Courts, there is a \$25 surcharge for all civil appeals filed.

¹ The comments and positions of the Collection Law Section of the Hawaii State Bar Association (HSBA) and not necessarily those of the HSBA proper.

SB 1073 attempts to increase the surcharge to:

- \$35 in the District Court to for summary possession cases and expand it to an additional approximately 21,000+ other types of civil cases annually that are currently not subject to the surcharge (the 21,000 + figure is based on the number of non-summary possession civil cases filed in District Court in FY 2009/2010).
- \$65 in the Circuit Court and \$65 in the Appellate Courts.

The proposed legislation would result in the following:

- A **350% increase** in the surcharge in summary possession cases in the District Court, with projected revenue of approximately **\$87,500** based on FY 2009/2010 filings (2,500 cases x \$35 = \$87,500).
- A new surcharge on 21,000+ District Court cases based on FY 2009/2010 filings @ \$35 = **\$735,000**.
- Total projected District Court annual revenue would be approximately a **3,290% increase (or \$822,500)** (\$87,500 + \$735,000), up from estimated current levels of approximately \$25,000 over the same period (2,500 cases x \$10 = \$25,000). Additionally, if filings continue to increase due to the economy, this number could easily break **\$1,000,000** in a year or two from the District Court alone.
- A **260% increase** in surcharge in the Circuit Court and the Appellate Courts.

Moreover, because the legislation includes levying the surcharge whenever “[c]omplaints, petitions, interventions, applications for special proceedings, and answers containing one or more cross-claims or counter-claims... [and] [t]hird-party complaints” are filed, a strong multiplier effect comes into play that will net the legal services organizations more money than the state gets for its filing fee if just four of these items are filed in one case.

For example, in the Circuit Court, where many of these types of filings are often present in one case, the surcharge fees netted by the legal services organizations for the complaint, plus one cross-claim, one counter-claim and one third party complaint, will equal \$260. That is \$60 more than the \$200 filing fee the Judiciary charges. In larger cases with more parties and claims, like asbestos litigations cases, construction litigation cases, multi-car motor vehicle accidents and others, the amount that the legal service organizations will net easily could amount to thousands of dollars (while the state still gets \$200). The same number

of pleadings in District court (4) would net the legal service organizations \$140, while the state and the Judiciary get \$120.

Our Position

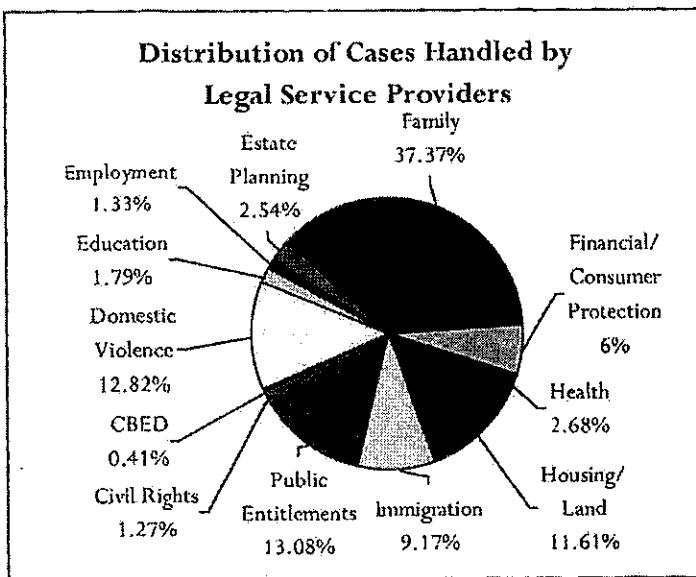
Any time filing fees are increased, it creates barriers that may prevent some, especially those who already can least afford to seek access to our justice system, from having access. This is not only unfortunate – it is wrong. Making the court system less accessible will not benefit the parties by any means.

This proposed surcharge not only taxes access to the state courts and justice with no rational relationship to the institutions it benefits², it is unfairly and unjustly taxing only a small segment of the population. Should the Legislature approve the proposed legislation, this small segment will end up paying a large share of the operational budgets for these non-profit legal services groups.

To compound matters, as most citizens do not know presently whether they will need to file a lawsuit, opposition is less likely to form.

During these tough economic times, the last thing Hawai'i should do is force its residents, especially financially struggling residents, to pay an increase in fees in order to gain access to the state court system. The same goes for Hawai'i's small businesses.

² Of the over 15,000 cases in which legal services were provided by such institutions that responded to the survey, the overall distribution falls heavily in the family law area, followed by cases in public entitlements, domestic violence and housing/land. A Report of the Access to Justice Hui, 2007.



Furthermore, the proposed legislation does not indicate how much money will be generated by this surcharge or the demographics of those who will be required to pay it, nor does the bill adequately describe who will receive the funds, how the funds will be used or why.

While levying additional fees is a simple way to increase funding to a state's designated charity, it is important for the State Legislature to ask critical questions about the size of the increase and the types of specific cases that the legal services groups spend the funds received on. Providing an unchecked pipeline of money from now until forever, as this bill does, is not oversight. If the state was using its own money from the general fund to finance these outside groups, it is doubtful it would hand over the money using this type of funding mechanism. It is also doubtful any state agency is going to get an increase in funding ranging from 260% to 3,290% this session.

While we believe that indigent legal services should be supported, this is not the way to do it. If the state feels these groups should receive government assistance, the state is free, as it has done in the past, to fund these organizations from the state's general funds through grants. There is no difference between the groups seeking funding from this bill and other groups seeking funding for other well intended charitable purposes.

Thank you.

Sincerely,

/s/ Bill Plum

Bill Plum
Vice Chair of the
Collection Law Section

cc: Steve Guttman
Lyn Flanigan

\\sb1073f.cis

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 12, 2011 2:05 PM
To: JUDtestimony
Cc: kristinhoewaa@gmail.com
Subject: Testimony for SB1069 on 3/17/2011 2:00:00 PM

Testimony for JUD 3/17/2011 2:00:00 PM SB1069

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Kristin Herrick
Organization: Individual
Address:
Phone:
E-mail: kristinhoewaa@gmail.com
Submitted on: 3/12/2011

Comments: