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KEALI'I S. LOPEZ
DIRECTOR

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

Wednesday, April 11, 2012
10:30 a.m.

TESTIMONY ON S.C.R. NO. 161

REQUESTING THE JUDICIARY TO ENSURE THAT THE ACCESS TO JUSTICE
COMMISSION'S TASK FORCE ON ADJUNCT PROVIDERS OF LEGAL
SERVICES INCLUDES AT LEAST AS MANY NON-LAWYERS AS LAWYERS
AND REPRESENTATIVES OF CERTAIN GROUPS

THE HONORABLE CLAYTON HEE, CHAIR
AND MEMBER OF THE COMMITTEE

My name is Keali'i Lopez, Director of the Department of Commerce and Consumer Affairs ("DCCA). I am providing comments on behalf of DCCA regarding S.C.R. No. 161, solely as it relates to DCCA's participation as a task force member on the Access to Justice Commission's task force on adjunct providers of legal services.

DCCA notes that S.C.R. No. 161 references participation on the task force by representatives of offices within DCCA "that are familiar with the regulation of existing specialist adjunct providers of legal services." (page 5 lines 22-25).

DCCA, however, does not regulate any form of legal services and does not have

familiarity with such regulation. While the department strongly supports efforts to provide meaningful access to justice to underserved members of our population, it respectfully suggests that it is not the appropriate agency for this particular initiative.

I will be happy to answer questions the committee may have. Thank you for this opportunity to testify.



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Judiciary and Labor

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

Wednesday, April 11, 2012, 10:30 a.m.

State Capitol, Conference Room 016

by

Rodney A. Maile

Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Resolution No. and Title: Senate Concurrent Resolution No. 161, Requesting the Judiciary to Ensure that the Access to Justice Commission's Task Force on Adjunct Providers of Legal Services includes at least as many Non-lawyers as Lawyers and Representatives of Certain Groups.

Judiciary's Position:

The Judiciary offers the following comments on Senate Concurrent Resolution No. 161.

The resolution asks the Judiciary to "ensure that the Access to Justice Commission's Task Force on Adjunct Providers of Legal Services includes at least as many non-lawyers as lawyers and representatives of certain groups."

Hawai'i Supreme Court Rule 21 created the Hawai'i Access to Justice Commission in May 2008. The Commission is comprised of twenty-two commissioners who are appointed by the Chief Justice of the Hawai'i Supreme Court, the Governor, the Senate President, the Speaker of the House, the Attorney General, the Hawai'i Consortium of Legal Service Providers, the Hawai'i Justice Foundation, the Hawai'i Paralegal Association, the Hawai'i State Bar Association, and the William S. Richardson School of Law. As is evident by the Three Year



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Evaluation filed by the Hawai'i Supreme Court on July 21, 2011, the Commission is an important voice in raising awareness of the need for greater access to the civil justice system.

Supreme Court Rule 21(f) provides that the Commission "may create such committees and task forces, and appoint such committee and task force members, as it deems necessary or desirable to facilitate the work of the Commission." The role of committees and task forces "shall be advisory, and they shall make such recommendations to the Commission as the members of such committees and task forces deem appropriate."

Under Rule 21(f), the composition of the Task Force on Adjunct Providers of Legal Services is a matter within the sound judgment of the Commission.

Thank you for allowing the Judiciary the opportunity to comment.



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TO: Senator Clayton Hee, Chair
Committee on Judiciary and Labor

FROM: Alex Santiago, Executive Director
PHOCUSED

HEARING: Wednesday, April 11, 2012, 10:30AM, Conference Rm. 016

RE: Support SCR 161, Requesting equal representation of lawyers and non-lawyers on the task force of adjunct providers of legal services.

Chair Hee and members of the Committee on Judiciary and Labor,

I am Alex Santiago, the Executive Director of PHOCUSED, a coalition of health, housing, human service agencies and individual advocates voicing the needs of the marginalized and underserved in Hawaii. PHOCUSED strongly supports SCR 161.

As an organization that represents the wide range and various needs of those seeking health and human services, PHOCUSED recognizes the importance and need for citizens to have access to legal counsel. We also know that those who best understand the shortage of legal services are not necessarily themselves lawyers. It is for this reason, that we believe a task force comprised of an equal number of lawyers and non-lawyers would be best positioned to give a voice to the under-served populations and to advise the Access to Justice Commission on how to achieve its mission.

Please feel free to contact me if you have any further questions.

Mahalo for the opportunity to testify.

TESTIMONY

Senate Committee on Judiciary and Labor

Hearing Date: Wednesday, April 11, 2012

Time: 10:30 a.m.

Measure: SCR No. 161 - Requesting the Judiciary to Ensure that the Access to Justice Commission' Task Force on Adjunct Providers of Legal Services Includes at Least as Many Non-Lawyers as Lawyers and Representatives of Certain Groups

TO: Chair Clayton Hee, Vice Chair Maile Shimabukuro and Committee Members

FROM: Jill M. Hasegawa, Esq.
j_hasegawa@yahoo.com

Dear Senator Hee and Senator Shimabukuro:

I am writing to request that any action on S.C.R. 161, be deferred at this time.

Although I submit this testimony in my individual capacity, by way of background, I have served as the Vice-Chair of the Hawaii Access to Justice Commission ("Commission") since its inception in 2008, and currently head the Commission's Task Force on Adjunct Providers of Legal Services. The Commission was created by Rule 21 of the Rules of the Supreme Court of Hawaii on May 1, 2008. The Commission is comprised of members appointed by the three branches of government, as well as the Hawaii State Bar Association, and Hawaii Consortium of Legal Service Providers, among others.¹ In its roughly four years of existence, the Commission has been hard at work exploring ways to increase access to justice for low and moderate-income individuals.²

Rule 21(f) of the Rules of the Supreme Court of Hawaii provides that the Commission "may create such committees and task forces, and appoint such committee and task force members, as it deems necessary or desirable to facilitate the work of the Commission." The role of the committees and task forces "shall be advisory, and they shall make such recommendations to the Commission as the members of such committees and task forces deem appropriate." Ultimately, any final recommendations or decisions shall rest with the Commission.

Under the authority of Rule 21(f), the Commission created the Task Force on Adjunct Providers of Legal Services, and at its November 21, 2011 Commission meeting, the

¹ Specifically, the Commission is comprised of twenty-two commissioners who are appointed by the following authorities: Chief Justice of the Hawaii Supreme Court, the Governor, Senate President, Speaker of the House, Attorney General, Hawaii Consortium of Legal Service Providers, Hawaii Justice Foundation, Hawai'i Paralegal Association, Hawaii State Bar Association, and Williams S. Richardson School of Law.

² On July 21, 2011, the Hawaii Supreme Court filed its Three-Year Evaluation, noting the accomplishments and work of the Commission. A copy of the Three-Year Evaluation can be found at http://www.courts.state.hi.us/docs/news_and_reports_docs/Three-Year%20Evaluation%20of%20Access%20to%20Justice%20Commission%20ada%20version.pdf

Commission approved the proposed task force members. The Task Force is currently composed of ten members, including among others: a supervising attorney with the State of Hawaii Department of the Attorney General's family law division (which department extensively uses paralegals), the head administrator of a state administrative agency hearing's office (which allows paralegal representation of both the agency and pro se litigants), a retired judge, the head supervisory paralegal with the state's largest legal service provider, and the Hawaii Paralegal Association's representative to the Commission.

The Task Force has been charged with exploring the current use of paralegals and ways to increase the effective use of paralegals to ensure greater access to justice. However, due to the wide range of issues needing to be addressed (i.e. certification, education, ethical considerations, legal considerations, etc, which have already been recognized by numerous other states that have explored the issue), initially, the Task Force plans to focus its study on the increased use and role of paralegals within the administrative/ agency context. Based on the Task Force's findings, this study and recommendations may be expanded.

I humbly ask that the Commission and its Task Force be allowed to continue its work, as is, and that any action on the proposed Senate Concurrent Resolution (S.C.R. No. 161) be deferred at this time

Very truly yours,


JILL M. HASEGAWA