



JUDICIARY COMM. NO. 8

Hon. Simeon R. Acoba
Associate Justice (Ret.)
Hawai'i Supreme Court
Chair

Derek R. Kobayashi
Vice Chair

HAWAI'I ACCESS TO JUSTICE COMMISSION

Commissioners:

Hon. Edmund D. Acoba
Michelle Acosta
Rep. Della Au Belatti
Hon. Joseph Cardoza
Rona Fukumoto

Marie M. Gavigan
Victor Geminiani
Hon. Ronald Ibarra
Jean Johnson
M. Nalani Fujimori Kaina

Sen. Gilbert Keith-Agaran
Nanci Kreidman
Mark K. Murakami
Carol K. Muranaka
Hon. Karen T. Nakasone

Diane T. Ono
Matthew Sagum
Gary M. Slovin
Dean Aviam Soifer

June 4, 2017

The Honorable Ronald D. Kouchi
President, Hawaii State Senate
415 South Beretania Street, Room 409
Honolulu, HI 96813

Re: **2016 Annual Report of the Hawai'i Access to Justice
Commission**

Dear Senator Kouchi:

Pursuant to Rule 21(j)(1) of the Rules of the Supreme Court of the State of Hawai'i, enclosed is the 2016 Annual Report of the Hawai'i Access to Justice Commission. The report summarizes the activities of the Commission during the period, January 1, 2016 through December 31, 2016.

Thank you for your attention to this matter and your continued support of access to justice in Hawaii.

Very truly yours,

SIMEON R. ACOBA, JR.
Associate Justice (ret.)
Hawai'i Supreme Court
Chair, Hawai'i Access to Justice Commission



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HAWAI'I ACCESS TO JUSTICE COMMISSION

ANNUAL REPORT FOR 2016



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I. HAWAI'I ACCESS TO JUSTICE COMMISSION

This report describes the activities of the Hawai'i Access to Justice Commission ("Commission") in 2016.¹

A. Commissioners

The Commission comprises twenty-two Commissioners. The various Commissioners are appointed as designated in Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i*² by separate appointing authorities:

- Chief Justice of the Hawai'i Supreme Court
- Hawai'i State Bar Association ("HSBA")
- Hawai'i Consortium of Legal Service Providers
- Hawai'i Justice Foundation ("HJF")
- William S. Richardson School of Law
- Hawai'i Paralegal Association
- Governor of the State of Hawai'i
- Attorney General of the State of Hawai'i
- State of Hawai'i Senate President
- State of Hawai'i Speaker of the House

The Commissioners who served in 2016 are listed below:

	Name	Appointed By	Term Ends
1.	Hon. Simeon R. Acoba, Jr. (ret) (Chair)	Chief Justice	12/31/18
2.	Hon. Edmund D. Acoba, Jr.	Chief Justice	12/31/18
3.	Hon. Joseph Cardoza	Chief Justice	12/31/17
4.	Hon. Ronald Ibarra	Chief Justice	12/31/18
5.	Hon. Karen T. Nakasone	Chief Justice	12/31/18
6.	Mark K. Murakami	Hawai'i State Bar Association	12/31/17
7.	Derek Kobayashi (Vice Chair)	Hawai'i State Bar Association	12/31/16
8.	Carol K. Muranaka	Hawai'i State Bar Association	12/31/17

¹ The Commission acknowledges the following persons who substantially contributed to the annual report: Elton Johnson, Carol Muranaka, Jean Johnson, and Rona Fukumoto with the assistance of Jill Hasegawa, David Reber, Judge Brian Costa, Derek Kobayashi, Tracey Wiltgen, and Justice Simeon Acoba (ret.).

² Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i* is attached as Appendix A.



9.	Tracy Jones	Hawai'i State Bar Association	12/31/16
10.	Michelle Acosta (Volunteer Legal Services of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/16
11.	M. Nalani Fujimori Kaina (Legal Aid Society of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/18
12.	Moses Haia (Native Hawaiian Legal Corporation)	Hawai'i Consortium of Legal Services Providers	12/31/16
13.	Victor Geminiani (Hawai'i Appleseed Center for Law and Economic Justice)	Hawai'i Consortium of Legal Services Providers	12/31/16
14.	Jean Johnson (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with Chief Justice	12/31/18
15.	Rona Fukumoto (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with Chief Justice	12/31/17
16.	Gary M. Slovin	Hawai'i Justice Foundation	12/31/18
17.	Dean Aviam Soifer	William S. Richardson School of Law	12/31/16
18.	R. Elton Johnson, III	Hawai'i Paralegal Association	12/31/16
19.	Diane T. Ono	Governor	n/a
20.	Marie M. Gavigan	Attorney General	n/a
21.	Hon. Gilbert Keith-Agaran	Senate President	n/a
22.	Hon. Della Au Belatti	House Speaker	n/a

B. Purpose

Under Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i*, the purpose of the Commission “shall be to substantially increase access to justice in civil legal matters for low- and moderate-income (together “low-income”) residents of Hawai'i.” To accomplish such purpose, “the Commission shall, along with such other actions as in its discretion it deems appropriate, endeavor to:

- (1) Provide ongoing leadership and to oversee efforts to expand and improve delivery of high quality civil legal services to low-income people in Hawai'i.
- (2) Develop and implement initiatives designed to expand access to civil justice in Hawai'i.
- (3) Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income Hawai'i residents.



- (4) Increase and stabilize long-term public and private funding and resources for delivery of civil legal services to low-income Hawai'i residents.
- (5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among civil legal services providers.
- (6) Increase pro bono contributions by Hawai'i attorneys through such things as rule changes, recruitment campaigns, increased judicial involvement, and increased recognition for contributors.
- (7) Reduce barriers to the civil justice system by developing resources to overcome language, cultural, and other barriers and by giving input on existing and proposed laws, court rules, regulations, procedures, and policies that may affect meaningful access to justice for low-income Hawai'i residents.
- (8) Encourage lawyers, judges, government officials, and other public and private leaders in Hawai'i to take a leadership role in expanding access to civil justice.
- (9) Educate governmental leaders and the public about the importance of equal access to justice and of the problems low-income people in Hawai'i face in gaining access to the civil justice system through informational briefings, communication campaigns, statewide conferences (including an annual summit to report on and consider the progress of efforts to increase access to justice), testimony at hearings, and other means, and increase awareness of low-income people's legal rights and where they can go when legal assistance is needed.
- (10) Increase effective utilization of paralegals and other non-lawyers in the delivery of civil legal services to low-income Hawai'i residents.
- (11) Increase support for self-represented litigants, such as through self-help centers at the courts.
- (12) Develop initiatives designed to enhance recruitment and retention of attorneys who work for nonprofit civil legal services providers in Hawai'i and to encourage law students to consider, when licensed, the practice of poverty law in Hawai'i.
- (13) Encourage the formation of a broad coalition of groups and individuals to address ways to alleviate poverty in Hawai'i.
- (14) Conduct a statewide assessment of unmet civil legal needs among low-income people in Hawai'i five years after the Commission holds its first meeting to measure the progress being made to increase access to justice.

C. Committees

The Commission created committees and various other ad hoc subcommittees and task force groups to carry out and facilitate its mission.



Commissioners serve as chairs for the committees. The role of each committee is advisory only, and each committee is intended to make such recommendations to the Commission as the committee determines to be appropriate. The committees, their chairs, their members, and the areas of responsibility assigned to them may be changed at any time by the Commission.

Administration Committee

[Associate Justice Simeon R. Acoba, Jr. (ret.) (Chair), David Reber (Vice Chair), Judge Karen Nakasone, Michelle Acosta, Brian Costa, Jill Hasegawa, Derek Kobayashi, Carol K. Muranaka, Tracey Wiltgen]

- Assist the Chair of the Commission in developing an agenda for each Commission meeting and assist in arranging for presenters and written or electronic materials in support of agenda items
- Assist in developing a budget for the Commission, including identifying potential sources of funding, and providing reports on the status of operations relative to budget
- Assist in providing administrative and logistical assistance to the Commission and its committees and task forces
- Coordinate the activities of volunteers in support of the Commission's initiatives

Summary of Actions Taken

The Committee considered and made recommendations to the Commission and other committees regarding the following:

- (1) Approved 20 applications for service on the Commission's committees and task forces, and made recommendations to the Commission and other committees.
- (2) Approved appointment of Judge Cardoza as Chair of the Task Force on Paralegals and Other Nonlawyers.
- (3) Approved appointment of Mark K. Murakami as Vice Chair of the Committee on Overcoming Barriers to Justice.
- (4) Reviewed the status of the Tennessee online project, ABA online project.
- (5) Reviewed the status of Hawaii's pro bono appellate project.
- (6) Reviewed the status of the unbundling project.



- (7) Approved preparation, submission, and posting of five-year summary report.
- (8) Coordinated attendance of the Commission lunch with Hawai'i Supreme Court.
- (9) Monitored planning of 2016 Access to Justice Conference by Committee on Education, Communication, and Conferences.
- (10) Solicited preparation of each committee's written planning report for 2016.
- (11) Monitored status of legislation regarding Indigent Legal Assistance Fund ("ILAF").³
- (12) Recommended approval of \$2,000 from Commission funds for the 2016 Pro Bono Celebration program in October 2016.
- (13) Recommended the formation of a RFP Review Task Force to make a recommendation to the Commission on the Justice for All planning grant.
- (14) Recommended approval of the grant proposal prepared in response to the Justice for All request for proposals (sponsored by the Public Welfare Foundation and the National Center for State Courts).
- (15) Recommended that the memorandum from the Commission's Task Force on Paralegals and Other Nonlawyers regarding different models (court navigator similar to New York's Court Navigator program; tenant advocate in the initial area of landlord-tenant cases; and a licensed paralegal practitioner) to assist in the needs of low- and moderate-income Hawai'i residents be considered by the Commission.
- (16) Proposed assignment of specific guidelines for judges in pro se cases to the Commission's Committee on Self Representation and Unbundling.
- (17) Proposed that a policy be developed regarding the Commission's logo.
- (18) Approved the coordination of providing Commission materials at the APIL Pro Bono Fair with Volunteer Legal Services Hawai'i ("Volunteer Legal").

³ See Haw. Rev. Stat. § 607-5.7.



- (19) Approved a revision of the application for committee membership to include language that the choice of committees is limited to three committees.

On October 7, 2016, Justice Simeon R. Acoba, Jr. (ret.) and Derek Kobayashi spoke at the “Equal Justice for All” session, which was part of the HSBA Leadership Institute.

Annual Report Committee

[R. Elton Johnson, III (Chair), Rona S. Y. Fukumoto, and Jean Johnson,]

- Assist in preparing an annual report of the activities of the Commission for filing with the Supreme Court in accordance with Rule 21(j)(1)

Summary of Actions Taken

- (1) The Annual Report of the Commission’s activities for 2016 was compiled and composed, in preparation for printing and transmittal to the appointing authorities.
- (2) The Committee began collecting information for the Annual Report for 2017.

Committee on Education, Communications and Conference Planning

[Dean Aviam Soifer, Chair; Sergio Alcubilla, Rep. Della Au Belatti, Sonny Ganaden, Reyna Ramolete Hayashi, Mihoko Ito, R. Elton Johnson, III, Robert J. LeClair, Michelle Moorhead, Tammy Mori, Carol K. Muranaka, Teri-Ann Nagata, Diane T. Ono, Leila Rothwell Sullivan, and Lorenn Walker]

- Assist in organizing an annual conference for the presentation of access to justice issues
- Make recommendations on encouraging lawyers, judges, government officials and other public and private leaders in Hawai'i to take a leadership role in expanding access to justice
- Assist in developing strategies for educating governmental leaders and the public about the importance of equal access to justice and of the problems low- and moderate-income people in Hawai'i face in gaining access to the civil justice system, including through informational briefings, communication campaigns, statewide conferences, testimony at hearings and other means
- Increase awareness of low- and moderate-income people’s legal rights and where they can go when legal assistance is needed
- Assist in developing a communications strategy and preparing communications consistent with that strategy



- Encourage judges, lawyers, and legal services providers to prepare a series of articles on access to justice topics for publication in the *Hawai'i Bar Journal* and other media

Summary of Actions Taken

The Committee undertook the following:

- (1) Planned, recommended, and coordinated the 2016 Access to Justice Conference (“Pursuit of Meaningful Justice for All”) on Friday, June 24, 2016.⁴
- (2) Prepared a report to the Commission summarizing the 2016 Access to Justice Conference including expenses, evaluations, and suggestions.
- (3) Worked on possible topics for the 2017 Access to Justice Conference.
- (4) Prepared an application for approval of six CLE credits for Hawai'i-licensed attorneys attending the 2017 Access to Justice Conference. (Approval for the six CLE credits was ultimately received from the HSBA.)

Committee on Funding of Civil Legal Services

[Gary M. Slovin (Chair), Michelle Acosta, Rebecca Copeland, M. Nalani Fujimori Kaina, Robert LeClair, Dean Aviam Soifer, Kanani M. Tamashiro, Wilfredo Tungol]

- Make recommendations and provide advocacy in support of establishing a permanent “home” for the legislative funding of providers of civil legal services to low- and moderate-income individuals so that funding for such services may be stable and secure
- Make recommendations and provide advocacy in support of increased legislative funding of civil legal services providers
- Make recommendations and provide advocacy in support of increased funding for civil legal services providers by the federal Legal Services Corporation and other federal and state agencies
- Make recommendations and provide advocacy in support of increased funding of civil legal services through the indigent legal services filing fee surcharge and other measures

⁴ Further discussion may be found at “II. 2016 HAWAI'I ACCESS TO JUSTICE CONFERENCE” in this report.



- Assist legal services providers in exploring additional public and private funding sources and in developing programs or projects for which funding may be sought
- Make recommendations in collaboration with the Judiciary, the HSBA, law firms, and other employers of lawyers, to encourage attorneys to provide substantial financial support to legal services providers, including additional amounts in years when such attorneys do not meet the aspirational pro bono goals of Rule 6.1 of the *Hawai'i Rules of Professional Conduct* ("HRPC")

Summary of Actions Taken

- (1) Focused primarily on maintaining the ILAF funding, which now totals well more than \$1,000,000 a year.
- (2) When the Fund came under threat again during the 2016 legislative session, a significant amount of time was required both during and after the session to protect it. It is expected that much diligence will be required by both the committee and others in 2017.
- (3) With many others, assisted in the composition of the application for the Justice for All grant. Many participated in this successful application.

With involvement in the foregoing activities, there was not sufficient time or resources to pursue other funding. The committee cannot determine at this time whether it will be able to focus on such other resources during 2017.

Committee on Increasing Pro Bono Legal Services

[Michelle D. Acosta (Chair), Tracey Wiltgen (Vice Chair), Judge Edmund Acoba, Sergio Alcubilla, Rebecca Copeland, Gilbert Doles, Representative Linda Ichiyama, Gregory Kim, Derek Kobayashi, Catherine Taschner, and Shannon Wack]

- Study best practices in other jurisdictions for increasing the level of pro bono services by lawyers, paralegals and others who may assist in overcoming barriers to access to justice, including developing effective recruitment campaigns
- Make recommendations concerning ways to develop a culture of commitment to pro bono service among Hawai'i's lawyers
- Maintain a list of legal services providers and others that offer opportunities for pro bono service, describe the nature of those opportunities and explore and assist providers in increasing the opportunities they provide for such service
- Make recommendations concerning ways to make providing pro bono service more attractive to attorneys, such as by assisting in developing



resources for the pre-screening of cases, ensuring proper training, providing support and recognizing service

- Make recommendations concerning ways in which the Commission, the Judiciary and the HSBA--acting alone or in partnership with others--can encourage attorneys to provide higher levels of pro bono service
- Make recommendations concerning ways to encourage law firms and others who employ lawyers (including governmental agencies and corporate law departments) to promote greater pro bono service among their attorneys
- Make recommendations concerning ways to encourage retired lawyers and judges to provide pro bono or staff legal services to low- and moderate-income individuals

Summary of Actions Taken

- (1) Identified current pro bono initiatives and assembled such information for the Commission.
- (2) Supported known ongoing pro bono initiatives implemented by various providers and groups.

Committee on Initiatives to Enhance Civil Justice

[Judge Ronald Ibarra (Chair), Kristin Shigemura (Vice Chair), Sergio Alcubilla, Earl Aquino, Lincoln Ashida, Elizabeth Fujiwara, Carol Kitaoka, Gregory Lui-Kwan, Michelle Moorhead, Reginald Yee, Jeffrey Ng, Dawn Henry, Judge Leslie Hayashi (ret.), and Charles Crumpton]

- Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low- and moderate-income Hawai'i residents
- Study best practices in other jurisdictions and develop and recommend new initiatives to expand access to justice in Hawai'i
- Make recommendations and provide advocacy in support of enhancing recruitment and retention of attorneys to work as staff members or to volunteer pro bono for nonprofit civil legal services providers in Hawai'i, which may include:
 - Establishment by the Hawai'i legislature of a student loan repayment assistance program to help full-time, nonprofit civil legal services attorneys pay back their student loans
 - Adoption by the Hawai'i Supreme Court of rules to permit attorneys actively licensed to practice law by the highest court of a state or territory of the United States or the District of Columbia or Puerto Rico and who are working on staff or volunteering pro bono for nonprofit civil legal service providers to practice in that capacity for up to one year without being admitted to practice law in Hawai'i



- Make recommendations concerning ways in which paralegals and other non-lawyers may assist in meeting specified unmet civil legal needs, including whether ethical or procedural rules would need to be changed to accommodate such assistance

Summary of Actions Taken

- (1) Researched the implementation of Tennessee online pro bono project.
- (2) Evaluated a potential Kohala Self-Help Center.
- (3) Worked on the self-help video project.
- (4) Prepared and presented a workshop on a possible court navigator project and other initiatives at the 2016 Hawai'i Access to Justice Conference.
- (5) Evaluated the ABA proposal regarding police brutality.
- (6) Worked on growing the committee membership and added four new members to the committee.

Law School Liaison Committee

[Moses Haia (Chair), Ashlee Berry, Katie Bennett, Jean Johnson, Linda Kreiger, Mary Anne Magnier, Calvin Pang, James Pietsch, Dean Aviam Soifer]

Make recommendations concerning ways to:

- Expand efforts to create and develop law student interest in the practice of poverty law by increasing existing clinical programs and instituting new ones to serve the needs of low- and moderate-income populations
- Emphasize, as part of the professional responsibilities curriculum, a lawyer's ethical duty under HRPC Rule 6.1 to perform pro bono legal services and the ways this obligation can be met
- Develop opportunities with legal services providers, and sources of additional funding, to support law students' efforts to meet the 60-hour pro bono graduation requirement in a manner consistent with addressing the needs of low- and moderate-income populations
- Encourage and recognize the involvement of faculty members in efforts to promote equal justice by, for example, testifying in support of access to justice legislation, accepting pro bono cases, serving on boards of organizations that serve the legal needs of low- and moderate-income populations, contributing financially to organizations that serve the legal needs of low- and moderate-income people and filing amicus briefs in proceedings affecting legal services to the underserved



- Develop more public interest summer and academic year clerkships and obtain grants for summer internships and clerkships that serve low- and moderate-income populations

Committee on Overcoming Barriers to Access to Justice

[Jean Johnson (Chair), Mark Murakami (Vice-Chair), Russell Awakuni, Patricia Cookson, Judge William M. Domingo, Nanci Kreidman, Mary Anne Magnier, Calvin Pang, Page Ogata, Jennifer Rose, Cynthia Tai, Malia Taum-Deenik, Kristina Toshikiyo, and Randall M. Wat]

- Make recommendations concerning ways to remove impediments to accessing the justice system due to language, cultural and other barriers and make recommendations concerning what programs should be initiated to address this barrier, which may include:
 - Providing multilingual services, including increasing the number of available staff and pro bono attorneys and court personnel who are bilingual
 - Providing forms in multiple languages
 - Providing translation services in court, administrative agencies, and with legal service providers
 - Partnering with the University of Hawai'i and other schools offering language training to encourage multilingual volunteers to provide outreach and translation services
- Identify other barriers to obtaining legal assistance and make recommendations concerning ways to address them, such as through the provision of ancillary services, e.g., providing for child care during a court hearing or for necessary mental health
- Seek to reduce barriers by recommending input on existing and proposed laws, court rules, regulations, procedures and policies that may affect meaningful access to justice for low- and moderate-income Hawai'i residents
- Identify other barriers to obtaining legal assistance and make recommendations concerning ways to address them, such as through the provision of ancillary services, e.g., providing for child care during a court hearing or for necessary mental health

Summary of Actions Taken

- (1) Identified two main priority issues to be addressed during the year:
 - Linguistic and cultural access for migrants from Micronesia
 - Access issues for persons with disabilities



The first priority issue grew from concerns voiced during the workshop at the 2015 Hawai'i Access to Justice Conference. The concerns from the community included the following issues.

- Inaccurate written translations
 - Quality of oral interpretations
 - Continuing overt and implicit bias
 - Inadequate quality control in written and oral translations
 - Status of interpreter positions
 - Limited awareness of recognition of multiple languages within COFA nations
 - Lack of understanding of gender and class rules within island cultures
 - Migrants arriving unprepared for the difference in behavioral expectations between island and state cultures
- (2) Convened a well-attended initial meeting of the Roundtable in April, in which action steps were identified.
 - (3) Met with representatives of migrant communities (an action step identified in the April Roundtable meeting), which resulted in an enhanced understanding of what may be the most effective strategies for addressing their issues.
 - (4) Convened a second meeting of the Roundtable in October.
 - (5) Developed a workplan that included:
 - Addressing procurement issues with legislation
 - Submitting a request for a workshop in the 2017 Access to Justice Conference
 - Submitting an article to the *Hawaii Bar Journal* identifying both the successes in improving linguistic access as well as the barriers that remain
 - (6) Addressed the disability issues through a detailed presentation by attorney John Delera discussing the significant issues that remain, especially the ability of children to obtain a free and appropriate education under the *Individuals with Disabilities Education Act*.
 - (7) Composed a number of recommendations regarding disability issues, which await further action by the committee in 2017.



Committee on the Right to Counsel in Certain Civil Proceedings

[Tracy Jones (Chair),⁵ Shannon Wack (Vice Chair), Jessica Freedman, Regina Gormley, Brandon Ito, Mary Anne Magnier, Wilfredo Tungol, James Weisman, Cheryl Yamaki, Marie Gavigan, and Judge Blaine Kobayashi]

- The American Bar Association, at its 2006 annual meeting in Hawai'i, adopted a resolution supporting "legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health, or child custody, as determined by each jurisdiction." The Committee should study developments in other jurisdictions with respect to the establishment and implementation of a right to counsel in certain civil proceedings
- Make recommendations concerning the types of civil matters in which the rights or issues involved are of such fundamental importance that counsel should be provided in Hawai'i, assess to what extent attorneys are available for such matters and make recommendations on how to assure that counsel is available

Committee on Self Representation and Unbundling

[Derek Kobayashi (Chair), Sarah Courageous, Damien Elefante, Jerel Fonseca, Victor Geminiani, Tracy Jones, M. Nalani Fujimori Kaina, Victoria Kalman, Jo Kim, Jay Kimura, Justin Kollar, Daniel Pollard, Judge Trudy Senda, Kristina Toshikiyo, Shannon Wack]

Members of this Committee may also serve on a joint committee with the Supreme Court's Committee on Professionalism. Although the joint committee will need to determine its agenda, this Committee of the Commission may study and make recommendations concerning ways to:

- Reduce barriers encountered by self-represented litigants in the court system, e.g., by using plain English and translations into other languages, and by simplifying procedural rules
- Make changes to court rules and statutes that would streamline and simplify substantive areas of the law, e.g., family, housing, and landlord-tenant law
- Make changes to court rules in order to permit limited representation or "unbundled" legal services, and if achieved, make recommendations concerning continuing legal education programs and other ways of promoting unbundling as a way to meet currently unmet legal needs and empowering individuals to represent themselves

⁵ On September 19, 2016, the Commission appointed Marie Gavigan as Chair after Tracy Jones resigned.





II. 2016 HAWAI'I ACCESS TO JUSTICE CONFERENCE

Approximately 250 people attended the 2016 Hawai'i Access to Justice Conference, including 96 attorneys seeking CLE credits for attendance.

The Commissioners in attendance were: Associate Justice Simeon Acoba, Jr. (ret.), Chair, Commission; Judge Edmund Acoba, Judge Ronald Ibarra, Judge Karen Nakasone, Representative Della Au Belatti, Michelle Acosta, Rona Fukumoto, Victor Geminiani, R. Elton Johnson, Derek Kobayashi, M. Nalani Fujimori Kaina, Mary Anne Magnier, Mark K. Murakami, Carol K. Muranaka, Diane Ono, Gary Slovin, and Dean Aviam Soifer.

There were forty-one speakers or panelists. Dean Aviam Soifer and Robert LeClair served as co-emcees for the conference.

Hawai'i Supreme Court Chief Justice Mark E. Recktenwald noted, in his opening remarks, that about forty states and the District of Columbia have created Access to Justice Commissions. He observed:⁶

The work we are doing here in Hawai'i is being noticed across the country. Recently, Hawai'i was ranked number 3 in the nation by the National Center for Access to Justice's "Justice Index" for our performance in increasing ATJ for our citizens. Although we can take pride in this recognition, we have so much work left to do. There are literally thousands of people in Hawai'i who must represent themselves in civil cases in our courts each year because they cannot afford an attorney. Their cases involve fundamental human interests, from housing and health care to child custody. If their voices go unheard because they cannot effectively tell their side of the story, then we are not providing justice for all.

Both here in Hawai'i and on a national level, it is appropriate to ask the question: Where do we go from here? How do we continue the momentum that has been developed through the work of our ATJ commissions? Last year, the Conference of State Chief Justices adopted Resolution 5, which encouraged each state ATJ Commission to develop a strategic plan with realistic and measurable outcomes, and set an ambitious overall goal of 100% access to justice provided through a continuum of meaningful and appropriate services. To be sure, this is a lofty goal. But it is a goal that Hawai'i can achieve, if we plan carefully, build upon our successes, use technology and innovate, and bring new partners into the effort.

In his opening remarks, Commission Chair Associate Justice Simeon R. Acoba, Jr. (ret.) emphasized four achievements, namely the launching of the pro bono appellate program, the preservation of the Indigent Legal Assistance Fund, the launching of the Hawai'i pro bono online project, and Hawai'i's ranking as

⁶ A copy of Chief Justice Mark E. Recktenwald's welcoming remarks at the 2016 Access to Justice Conference is attached as Appendix B.



the third in the nation in access to legal services for the underserved and underrepresented. He further stated:

The purpose of the Commission is to initiate, support, and evaluate efforts to attain equality of access and opportunity. While we often focus on the legal service providers whose primary function is to achieve this end, the commission's reach extends beyond that.

The premise of the Commission as reflected in the composition of its members is that equal access is an objective that can be truly realized only if our state community, including the three branches of government, share in common commitment to achieve it. As a Commission we must value and we must promote the involvement of the greater community toward this end.

In his keynote address, "Shifting the Landscape on Access to Justice," former New York Courts Chief Judge Jonathan Lippman (ret.) said:⁷

In speaking to you this morning about access to justice, I would start by making clear that I have been very much an advocate of judicial leaders playing a strong proactive role on access issues and reform of the justice system. A few years ago, the *New York Times* credited me with the national quote of the day, when I said that state courts are the emergency room for society's ailments. All of the societal issues of the day ultimately find their way into the courts and, as an institution, the Judiciary must be engaged in removing the barriers that confront those who seek access to our courts to resolve their most pressing problems.

For too long, access was limited to those with the financial resources to afford quality legal representation, while those without money in their pockets were left to fend for themselves. From the perspective, not of an activist judge--you know, that has certain connotations--but as a judge who is, I hope and believe, proactive in the pursuit of justice, it has been my focus to shift the landscape on access to justice to better serve the disadvantaged, the vulnerable, and those who just need a helping hand.

Shifting that landscape is about ensuring that the scales of lady justice are exquisitely balanced regardless of one's wealth or station in life. The pursuit of justice for all should and must be our mission, and we are the essential players in this endeavor.

To me, the greatest threat to the pursuit of justice today--and to the very legitimacy of the justice system--is the desperate need for legal services by the poor and people of modest means. Whether it be the homeless and downtrodden in Honolulu, or those evicted or foreclosed on in their homes in New York, people who are fighting for the necessities of life--the roof over their heads, their physical safety, their livelihoods, and the well-being of their families--literally are falling off the proverbial cliff because they cannot get, they cannot afford, legal representation.

There is a huge justice gap that exists between the desperate need for legal services by the poor and people of modest means, and the finite legal resources that are available. We have made

⁷ A copy of Chief Judge Jonathan Lippman's keynote address at the 2016 Hawai'i Access to Justice Conference is attached as Appendix C.



great strides over the last years, and how proud you should be that Hawai'i now ranks third in the country in the new Access To Justice Index. Yet the justice gap still manifests itself in so many different ways, as witnessed by the fact that in New York there are 1.8 million people who came into the courts last year who were unrepresented by a lawyer, and that 96% of defendants in landlord-tenant case here in Hawai'i are unrepresented, with 80% not having a lawyer in foreclosure proceedings.

Chief Judge Lippman (ret.) believes that the Judiciary has an important role and should be at the center of the efforts to effect change. Reflecting on the lessons that were learned in New York in access to justice, he said, "My belief was that the Judiciary should be at the center of this effort, because that is our Constitutional mission—to foster equal justice. That's what the Judiciary does, above everything else. Everybody gets equal justice, everybody gets their day in court." He said:

. . . I really believe that we are changing the priorities, that people are starting to understand that civil legal services for the poor are as important as schools, hospitals, and housing, and all the things that we hold dear in our society.

We're at the tipping point. I believe there's a revolution today in access to justice. The public is getting it. The person on the street has known for many years, since Gideon, that if your liberty is at stake, you get a lawyer. They watch television, they know about Miranda rights. They know that everyone gets a lawyer, if you may go to jail.

But what about if you asked, a few years ago, what would happen if your home was being foreclosed on, or you were being evicted—should you get a lawyer? Until recently, a very tiny percentage would have said yes. Go out in the street today, after the foreclosure crisis and the economic crisis in the country, and all of our efforts on access to justice in civil matters, and ask people if they think someone who is getting the roof over their head taken away from them should get a lawyer. Today you are going to have 80 to 90 percent say, absolutely! All the things that you are doing in Hawai'i is making that happen, and the same goes for the rest of the country.

So, the dialogue is changing. We really are getting to the point where we can have a right to counsel. We are building the foundation. We are shifting the landscape.

Can we really close the justice gap? We can and we will. It requires innovation, it requires leadership, it requires partnerships, and it requires being proactive in the pursuit of justice.

The Judiciary, again, is uniquely suited to make this happen, as the gatekeeper for bar admission, as the legal regulator, as the rule-maker. It's our Constitutional role. It is what we're supposed to do.

The profession? We are not a parochial profession, we can't be. We have to always remember the nobility, the values, and look at the example of the legal service providers, our heroes. Whatever we do, we must support them with pro bono work to help people.



And our legal educators must be value-driven. Being at law school is more than learning about the subjects we talked about—contracts, and all of the others. It's about learning what it means to be a lawyer, so that with the next generation of lawyers we are not going to worry about mandatory pro bono and the nose under the tent. They are going to meet their obligations as lawyers because it is in their DNA, it's what lawyers do.

Together, if we continue to think out of the box, if we are proactive in pursuing justice, if we truly are leaders in the Judiciary and the profession, if law schools teach new lawyers about values, and if you and other Access to Justice Commissions continue your groundbreaking work, we can and we will, one day in the not-so-distant future, make the ideal of equal justice a reality here in Hawai'i, in New York, and around this great country.

Chief Justice Recktenwald moderated the “Engaging the Community in Access to Justice” workshop with panelists Chief Judge Lippman, Representative Della Au Belatti, Morgan Evans, Director of New Organizing at UNITE HERE! Local 5, and John Komeiji, Chief Administrative Officer and General Counsel at Hawaiian Telcom. There were approximately 116 attendees who signed up for this workshop.

Judge Michael Tanigawa moderated the other morning workshop, “Landlord-Tenant Mediation: Working Together to Prevent Homelessness.” The panelists were David Chee, solo practitioner, Jan Harada, President and CEO of Helping Hands Hawai'i, Nalani Fujimori Kaina, Executive Director, Legal Aid Society of Hawai'i (“Legal Aid”), and Tracey Wiltgen, Executive Director, The Mediation Center of the Pacific. There were approximately 69 attendees who signed up for this workshop.

There were five concurrent workshops for the first afternoon session:

1. “Self-Help Center Attorney Training and Attorney Opportunities, Part 1” with Judge Hilary Gangnes, Judge Melanie May, Nalani Fujimori Kaina, Sheila Lippolt, Legal Aid staff attorney, David Chee, and Camille Fleming, AmeriCorps Advocate, Legal Aid. There were approximately 26 attendees who signed up for this workshop.
2. “Native Hawaiian Traditional and Customary Practices and Water Rights” with Moses Haia, Executive Director of Native Hawaiian Legal Corporation (“NHLC”), Sharla Manley, NHLC litigation director and staff attorney, and David Kopper, NHLC staff attorney. There were approximately 39 attendees who signed up for this workshop.
3. “Introduction and Training for Hawai'i Pro Bono Online” with Michelle Acosta, Executive Director, Volunteer Legal Services Hawai'i (“Volunteer Legal”) and Emily Briski, Volunteer Legal staff attorney. There were approximately 16 attendees who signed up for this workshop.



4. “Affordable Housing Issues” with Gavin Thornton, Co-Executive Director of Hawai'i Applesseed Center for Law and Economic Justice, and Scott Fuji, Executive Director of PHOCUSED (Protecting Hawai'i's Ohana, Children, Underserved, Elderly, and Disabled). There were approximately 37 attendees who signed up for this workshop.
5. “Innovations in Expanding Access to Justice” with Judge Ronald Ibarra, Judge Randal Valenciano, Gregory Lui-Kwan, and Kristin Shigemura. (Both Mr. Lui-Kwan and Ms. Shigemura are members of the Commission's Committee on Initiatives to Enhance Civil Justice chaired by Judge Ibarra.) There were approximately 61 attendees who signed up for this workshop.

For the second part of the afternoon, there were another five concurrent workshops as follows:

6. “Self-Help Center Attorney Training and Attorney Opportunities, Part 2” with Judge Hilary Gangnes, Judge Melanie May, Nalani Fujimori Kaina, Daniel O'Meara, and Camille Fleming. There were approximately 26 attendees who signed up for this workshop.
7. “Hawai'i Law Related to Ceded Land and Quiet Title Actions” with Moses Haia, Sharla Manley, and David Kopper. There were approximately 28 attendees who signed up for this workshop.
8. “Problem-Solving Homelessness” with Daniel Gluck, Legal Director for the ACLU of Hawai'i, Representative Karl Rhoads, and Julie Ford, Special Assistant, Office of the Governor. There were approximately 44 attendees who signed up for this workshop.
9. “Implicit Bias and Access to Justice” with Associate Justice Simeon Acoba, Jr. (ret.), Judge Michael Town (ret.), Professor Charles Lawrence, and Professor Justin Levinson. There were approximately 52 attendees who signed up for this workshop.
10. “Divorce: Challenges for Access to Justice” with Judge R. Mark Browning, Judge Kevin Souza, and Jessi Hall. There were approximately 37 attendees who signed up for this workshop.

The closing panel focused on the theme, “Pursuit of Meaningful Justice for All” with Professor Calvin Pang as moderator, and with Michelle Acosta, Executive Director, VLSH, and Victor Geminiani, Co-Executive Director, Hawai'i Applesseed Center for Law and Economic Justice.





III. INITIATIVES

A. Online Pro Bono

At its October 17, 2016 Commission meeting, Michelle Acosta and Emily Briski of Volunteer Legal gave commissioners a preview of the new legal service platform called Hawai'i Online Pro Bono ("HOP"). The new website, which is part of the American Bar Association Free Legal Answers project, was then launched during National Pro Bono Week. Income-qualifying residents may register at <http://hawaii.freelegalanswers.org> and post a legal question, for response by a volunteer Hawai'i attorney.

The goal of HOP is to provide an additional tool for individuals who cannot afford an attorney. Volunteer attorneys can log in any time, choose a question, and then respond. The service is accessible from any computer, including public library computers.

This type of online functionality for pro bono has been discussed at the Commission conferences and on Commission committees—in particular the Committee on Initiatives to Enhance Civil Justice. The online pro bono website developed and implemented by the Tennessee Alliance for Legal Services and the Tennessee Bar Association since 2011 has provided an efficient, low-cost template for a centralized national network of pro bono websites, under the administration of the American Bar Association. Hawai'i joined over forty jurisdictions now participating in this virtual walk-in clinic concept.

How the Portal Works

Through HOP, users can simply register at Hawaii.FreeLegalAnswers.org, and post a specific civil legal question. In order to qualify to use the service, users must meet income and asset qualifications. Specifically, a user cannot have an annual gross household income of over 250% of the federal poverty guidelines, and must have less than \$8,000 in liquid assets.

Once qualified, the user will be able to post her legal question via an email format, and upload any pictures or documents associated with her legal issue. Once posted, the question will be added to the bank of questions on the site which can only be viewed by registered volunteer attorneys.

Volunteer attorneys registered to use the portal may review the list of questions. They will have an opportunity to view the user's name, the opposing party's name for conflict checking, and a brief summary of the question. Once cleared of conflict, the volunteer attorney may open the question. The volunteer attorney has up to 3 days to answer. A volunteer attorney may at that point



decide to answer or return the question back to the pool. If the volunteer fails to answer the question within 3 days, the question is automatically withdrawn from that volunteer and returned to the pool.

Answers provided through the portal are sent to the user anonymously. The volunteer attorney may choose to reveal her name only if she wishes. In addition, the user and volunteer may continue the dialogue to allow for follow-up questions and answers. Once the volunteer attorney closes the question and answer queue, the dialogue ends.

For users who are not eligible for the service, they are provided with an email containing resources, including the Hawaii State Bar Association's Lawyer Referral and Information Service. In addition, for those who have had the opportunity to have their question answered, but need additional assistance, volunteers and Volunteer Legal will refer them to the appropriate organizations and/or agencies. For example, if full representation is deemed appropriate and the user is eligible for services at either the Legal Aid Society of Hawaii or Volunteer Legal, the user will be provided with such a referral.

How to Volunteer

As site administrator, Volunteer Legal is responsible for the recruitment of volunteer attorneys. Registering as a volunteer is quick and easy at Hawaii.FreeLegalAnswers.org. Volunteers must be Hawaii-licensed attorneys and in good standing. Once registered, Volunteer Legal will provide an orientation and ask the volunteers adhere to a user agreement.

HOP is an opportunity for attorneys to provide limited assistance to those who are in need of legal guidance. The commitment is short term, and there is no expectation for representation beyond the answer and question format. Volunteers are provided professional liability insurance through the American Bar Association for pro bono activities provided through HOP.

HOP is intended to be an opportunity to engage more attorneys in providing pro bono service to those in our community who need it the most. The online nature of HOP makes it easy for both users and attorneys to connect with one another whenever and wherever it is most convenient for them.

B. Unbundling Rule

Action Step 9.c of the 2007 *Community-Wide Action Plan* recommended that the Hawai'i Supreme Court "consider adopting rules providing for limited representation or 'unbundled' legal services" and "promote unbundling as a way to meet currently unmet legal needs," and Purpose 11 of Rule 21 of the *Rules*



of the Supreme Court of the State of Hawai'i affirms "[i]ncrease[d] support for self-represented litigants." Based on this mandate, members of the Commission's Self-Representation and Unbundling Committee have long endeavored to explicitly articulate an authorization for Hawai'i's attorneys to help self-represented claimants with discrete tasks short of full representation.

At first, the Committee's focus was especially on Rule 1.2 of the *Hawai'i Rules of Professional Conduct*, however, after feedback from Hawai'i attorneys the Committee decided to recommend permissive rather than mandatory disclosure of limited scope representation, and in recent years the emphasis has been on amendments to Rule 11 of the *Hawai'i Rules of Civil Procedure* ("HRCP"), the *District Court Rules of Civil Procedure* ("DCRCP"), and the *Family Court Rules* ("FCR"), as well as proposed new Rule 11.1 of the HRCP, DCRCP, and DCR, and associated forms.

The proposed amendments, which had been approved by the Commission at its November 15, 2015 meeting, were submitted to the Hawai'i Supreme Court for consideration. Comments in support were provided to the Court on behalf of the Commission in September 2016. Response from the Court is pending.

C. Hawai'i Appellate Pro Bono Pilot Project

The Hawai'i Appellate Pro Bono Pilot Project was designed by a subcommittee of the Committee on Increasing Pro Bono Legal Services, to match eligible pro-se appellate litigants with volunteer appellate attorneys willing to provide pro bono legal services. The pilot project, which is administered with the assistance of Volunteer Legal, was established by the August 7, 2015 order of the Hawai'i Supreme Court and will expire on July 1, 2017, absent further order of the Court.

In May 2016, the Court ruled in favor of the Appellate Pro Bono Pilot Project client in *Gao v. State*, the first case orally argued through the pilot project. In July 2016, the Committee on Increasing Pro Bono Legal Services submitted a one-year report to the Supreme Court, as required by the order that established the project. At the July 2016 meeting of the Commission, Volunteer Legal reported that the Hawai'i Appellate Pro Bono Pilot Project had been able to match 7 of 13 applications received with pro bono attorneys.

The Hawai'i Appellate Pro Bono Pilot Project is currently limited to civil cases involving foreclosures, summary possessions, employment discrimination, worker's compensation, wrongful termination, denial of unemployment benefits, state tax appeals, probate matters, and paternity and non-married custody cases. Participants in the pilot project, who must meet



income level requirements, are responsible for any costs associated with the appeal, including filing, transcript, or other costs related to the preparation of the record on appeal and presentation of arguments in the appellate courts.

D. Proposal to Increase Effective Utilization of Paralegals and Other Nonlawyers

In the *2007 Community-Wide Action Plan* the Access to Justice Hui recommended, at Action Step 6.a, that “[t]he Hawai'i Supreme Court should consider amending relevant ethics and procedural rules, and the Hawai'i Supreme Court and the Hawai'i Access to Justice Commission, or equivalent entity, should consider taking such other actions as may be necessary to encourage the training and regulation of paralegals and paralegal practice in appropriate roles to meet particular types of unmet needs for legal services.” The *Community-Wide Action Plan Commentary* on this Action Step read in part: “The delivery of certain identified types of legal services by regulated paralegals, in more evolved supervised and unsupervised adjunct roles, would help. Lawyers and paralegals as primary and adjunct providers could complement one another far more effectively than they now do, were adjunct provider roles permitted their natural evolution in the public interest.”

In 2008, Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i* identified “[i]ncrease [in] the effective utilization of paralegals and other non-lawyers in the delivery of civil legal services to low-income Hawai'i residents” as one of the means to fulfill the purpose of the Hawai'i Access to Justice Commission to “substantially increase access to justice in civil legal matters for low- and moderate-income (together “low-income”) residents of Hawai'i.”

The Commission's Task Force on Paralegals and Other Non-lawyers met regularly, sometimes more than once per month, during 2016. Judge Joseph Cardoza, Chair of this Task Force, and Task Force members Gilbert Doles, Rona Fukumoto, Victor Geminiani, Susan Jaworowski, Elton Johnson, Jean Johnson, Tracy Jones, Carol Muranaka, and Diane Ono, discussed main areas of unmet civil legal need in the low- and moderate- income population, and reviewed available models to help address such need.

The Task Force identified areas of greatest unmet need, and recommended the concurrent development of a court-sponsored volunteer Court Navigator program, a dedicated paralegal Tenant Advocate, and a regulated Licensed Paralegal Practitioner to help address substantiated unmet need in housing, family, domestic violence, consumer, health, public benefits, and special education areas. These three models were proposed in order to provide “a spectrum of legal services to supplement existing lawyer pro bono and nonprofit legal service agencies to help address substantiated longstanding



unmet need of Hawai'i's low-and moderate-income people pursuant to our mandate.” The Task Force proposal mentioned New York state precedent for the Court Navigator program, and for the Licensed Paralegal Practitioner model, the proposal mentioned Washington State precedent, and the possible implementation in other states including Utah and Oregon.

At its October 17, 2016 meeting, the Commission voted to “support the efforts of the Task Force and to send the Task Force report to the Supreme Court for its information and to await response from the Court;” by letter dated October 24, 2016, Commission Chair Simeon Acoba transmitted the Task Force Proposal “for the Court’s information.” In a letter to Justice Acoba dated December 23, 2016, on behalf of the Supreme Court Chief Justice Mark E. Recktenwald expressed openness to the Commission’s proposal for a Volunteer Court Navigator program, as well as the proposal for an Advocate pilot program to help with not only evictions but also certain family law cases (with the limitation that such Advocates be employees of legal services providers). However, the Court was not inclined to pursue the proposed Licensed Paralegal Practitioner program at this time. The Task Force will continue to work within the parameters articulated by the Court and the Commission.

E. Self-Help Centers

The self-help centers were started by and continue to be a collaboration of the Hawai'i State Judiciary, the Commission, the HSBA (in particular, the Committee on the Delivery of Legal Services to the Public), Legal Aid, the AmeriCorps program, the county bar associations (East Hawai'i Bar Association, Kauai County Bar Association, Maui County Bar Association, West Hawai'i Bar Association), and the HSBA Family Law Section. There are now self-help centers in each courthouse in each state judicial circuit.

Hilo Self-Help Center

The Hilo Self-Help Center is located on the first floor of the Hilo courthouse (Hale Kaulike, 777 Kilauea Avenue, Hilo, Hawai'i 96720) and is open twice a week (Tuesday and Friday) from 11:15 a.m. to 12:45 p.m.

The volunteer attorneys provide limited legal information to self-represented litigants on civil matters. According to AmeriCorps staff, the individual attorneys who volunteered at the Hilo Self-Help Center in 2016 are: Albert Thompson, Jennifer Wharton, Joy San Buenaventura, Kenneth Goodenow, Lauren Martin, Melody Parker, Michael Kagami, Ray Hasegawa, and Zachary Wingert.



Maui Self-Help Center

The Maui Self-Help Center is located on the first floor of Ho‘apili Hale (2145 Main Street, Wailuku, HI), and is open on Thursdays from 9:00 a.m. to noon. Residents on Molokai, Lanai, and in Hana will also be able to have access to the Center by telephone when the Center is open.

The volunteer attorneys provide limited legal information to self-represented litigants on civil matters. The most common issues for which assistance was sought included: landlord-tenant, family/custody, small claims, and foreclosure cases. According to AmeriCorps staff, the individual attorneys who volunteered at the Maui Self-Help Center in 2016 are: Aisha Hill, Allison Mileur, Ben Acob, Brianne Wong Leong, Caroline Belsom, Danielle Sears, David Cain, David Raatz, Gary Murai, Graham Mottola, Judy Neustadter Naone, Keri Mehling, Kevin Jenkins, Kyle Coffman, Lauren Akitake, Loren Tilley, Mary Blaine Johnston, Nicole Forelli, Patty Cookson, Sam Shnider, Sonya Toma, Timothy P. McNulty, Tracy Jones, and Yukari Murakami.

Access to Justice Room at the Honolulu District Court

The Access to Justice Room at the Honolulu District Court is located on the third floor of the Honolulu district court building at 1111 Alakea Street. It is staffed by volunteer attorneys on Mondays and Wednesdays, 9:00 a.m. to 1:00 p.m. and an AmeriCorps representative from 8:30 a.m. to 1:30 p.m. The Access to Justice Room is also open on the first and third Fridays from 9:00 a.m. to 1:00 p.m. The Access to Justice Room provides short-term legal advice to self-represented litigants on district court civil matters such as landlord-tenant, debt collection, and temporary restraining order and injunction against harassment (involving non-family members or parties who have not been in a dating relationship) issues.

Through an initiative by the Access to Justice Commission’s Pro Bono Initiatives Task Force, which includes members Associate Justice Simeon R. Acoba, Jr. (ret.) (Chair), Tracey Wiltgen (Vice Chair), Michelle Acosta, Judge Brian A. Costa, Rex Fujichaku, Marie M. Gavigan, Jill Hasegawa, Judge Ronald Ibarra, Regan Iwao, Judge Melanie Mito May, Audrey Stanley, Kristen Shigemura, and Associate Justice Michael Wilson, various law firms and offices adopted a month of staffing for the Access to Justice Room in 2016, and individual attorneys volunteered to cover the month of February 2016.



The Access to Justice Room was staffed by the following law firms, organizations, and governmental entities in 2016:

January: Ayabe Chong Nishimoto Sia Nakamura
February: Individual volunteers
March: Office of the Public Defender (Honolulu) / Chun Kerr
April: Carlsmith Ball
May: Cades Schutte
June: Goodsill Anderson Quinn & Stifel
July: Hawai'i Filipino Lawyers Association / Bronster
Fujichaku Robbins
August: Schlack Ito / Starn O'Toole Marcus & Fisher
September: Alston Hunt Floyd & Ing
October: "Consortium of banks and friends"
November: Damon Key Leong Kupchak Hastert
December: Marr Jones Wang / Yamamoto Caliboso

The individual attorneys who staffed the Honolulu Access to Justice Room in 2016 are: Aaron Stewart, Adrienne Yoshihara, Alana Peacott-Ricardos, Alison Davidson, Allison Mizuo Lee, Anderson L. Meyer, Andrea Ushijima, Andrew Michaels, Angela Jacso, Anna H. Oshiro, Arlette Harada, Arsima Muller, Beverly Sameshima, Blaine Rogers, Bob Strand, Brandon Mikala Kimura, Brett Tobin, Bruce Paige, Bryant Zane, Calli Chinen, Carlito P. Caliboso, Catherine Aubuchon, Catherine Gutierrez, Cheryl Nakamura, Cheryl Park, Chris Goodin, Christina Ohira, Christine Terada, Christopher Leong, Chrystn Eads, Clare M. Hanusz, Connie Liu, Corlis Chang, Dan O'Meara, Daniel Cheng, Daniel Kim, David Gruebner, David Hoftiezer, David Wong, Deborah Ng-Furuhashi, Derek Kobayashi, Donna Marron, Douglas C. Smith, Douglas Codiga, E. Kumau Pineda-Akiona, Eileen C. Zorc, Elijah Yip, Erika Lewis, Gary S. Miyamoto, Gregory W. Kugle, Harry Oda, Henry Ting, Ian Sandison, Ikaika B. Rawlins, Imran Naeemullah, Jack Tonaki, Jacquelyn Esser, Jae Park, James Abraham, Jasmine Fisher, Jefferson Willard, Jennifer Chin, Jenny Nakamoto, Jessica Y.K. Wong, Jodi S. Yamamoto, John Duchemin, John S. Nishimoto, John S. Rhee, Johnathan Bolton, Judith A. Schevtchuk, Judith Ann Pavey, Justin Brackett, Kainani Collins, Kee Campbell, Keith Yamada, Kelly Higa, Kelly LaPorte, Kelly Y. Uwayne, Kenneth T. Goya, Keoni Shultz, Kimberly Van Horn, Kimi Ide-Foster, Kirk Neste, Kristie Chang, Kristin Shigemura, Kukui Claydon, Kurt Kagawa, Laura Lucas, Leroy Colombe, Lianna Figueroa, Lindsay McAneeley, Lindsay Orman, Lisa Tellio, Loren A. Seehase, Lynda Arakawa, Lynne T. Toyofuku, Madeleine M. V. Young, Maile Osika, Marc Rousseau, Marie Gavigan, Mark Ito, Mark M. Murakami, Mateo Caballero, Matthew T. Evans, Megan L.M. Lim, Megumi Honami, Melissa Lambert, Michael A. Yoshida, Michael J. Van Dyke, Michelle N. Comeau, Miriah Holden, Morgan Early, Natalie S. Hiu, Nathaniel Higa, Nickolas Kacprowski, Onaona Thoene, Pamela Macer, Patricia Fujii, Radji Tolentino, Regan Iwao, Robert A. Chong,



Rodd Yano, Ronald T. Michioka, Rowena Somerville, Rozelle Agag, Ryan I. Inouye, Sam Yee, Scott Boone, Scott G. Morita, Scott Shishido, Shannon Wack, Sharon Alice Lim, Sharon V. Lovejoy, Stacey Djou, Steven L. Goto, Sunny Lee, Susan Arnett, T. J. Quan, Teri-Ann Nagata, Terri O'Connell, Tim Lui-Kwan, Timothy Irons, Timothy Partelow, Toby Yamashiro, Tom Roesser, Travis Agustin, Tred Eyerly, Trisha Akagi, Trisha Akagi, Trisha Gibo, Tyler Tsukazaki, V. R. Ikaika Jobe, Veronica Nordyke, Voltaire Gansit, Wil Yamamoto, Zach DiIonno, and Zale T. Okazaki.

The Pro Bono Initiatives Task Force has recruited firms, offices, and individual volunteers to staff the Access to Justice Room for the entire calendar year of 2017.

Access to Justice Room at the Kapolei Courthouse

The Access to Justice Room at the Kapolei Courthouse, 4675 Kapolei Parkway, Kapolei, HI 96707 is open on the first and third Thursday of every month from 11:30 a.m. to 1:30 p.m. The Kapolei Access to Justice Room issues are limited to family law issues, including: custody/visitation, child support, divorce and paternity issues, family court temporary restraining orders/protective orders, guardianships, and adoptions.

Appointments are made through the Ho'okele Self Help Desk on the first floor of the Kapolei Courthouse for 30-minute sessions.

Kaua'i Self-Help Center

The Kaua'i Self-Help Center located at Pu'uhonua Kaulike, 3970 Kaana Street, Lihue, HI 96766 is open on Mondays through Thursdays from 9:00 a.m. to noon, staffed by the Legal Aid Society of Hawai'i. On Fridays, it is open from 9:00 a.m. until noon, provided there are volunteer attorneys available to staff it.

The volunteer attorneys provide limited legal information to self-represented litigants on civil matters. According to AmeriCorps staff, the individual attorneys who volunteered at the Kaua'i Self-Help Center in 2016 are: Emiko Meyers, Katherine Caswell, Laura Barzilai, Laura Loo, Linda Lach, Margaret Hanson, Margaret Sueoka, Ryan Jimenez, Sara Silverman, and Sherman Shiraishi.

***Kona Court Self-Help Desk***

The Kona Court Self Help Desk is located at the Kona Courthouse, Keakealani Building, 79-1020 Haukapila Street, Kealahou, HI 96750. It is open on Wednesdays from 11:00 a.m. to 1:00 p.m.

The volunteer attorneys provide limited legal information to self-represented litigants on civil matters. According to AmeriCorps staff, the individual attorneys who volunteered at the Hilo Self-Help Center in 2016 are: Aaron Masser, Andrew Kennedy, Andrew Odell, Ann Datta, Bob Kim, Bob Olson, Brit Barker, Carol Kitaoka, Catherine Gibson, Charles McCreary, Charles Murray, Chris Eggert, Daniel Peters, Dawn Henry, Dean Kauka, Donna Payesko, Edward Fetzer, Fred Giannini, Frederick Macapinlac, James Biven, Jennifer Heimgartner, Jerry Garcia, Joanna Sokolow, John Olson, Katherine Deleon, Kauano Jackson, Kimberly Taniyama, Mark Van Pernis, Peter Olson, Porter DeVries, R. Hermann Heimgartner, Rebecca Colvin, Robert Triantos, Susan Kim, and Wendy DeWeese.





IV. METRICS

A. Statewide Assessment Report

Rule 21(b)(14) provides that the Commission shall “[c]onduct a statewide assessment of unmet civil legal needs among low-income people in Hawai'i five years after the Commission holds its first meeting to measure the progress being made to increase access to justice.”

A summary report titled “Progress Toward Increasing Access to Justice and Summary of Unmet Civil Legal Needs Pursuant to Hawai'i's Supreme Court Rule 21(b)(14),” was prepared in 2016 with Commissioner Jean Johnson taking the lead for this work. The resulting report covered the five years through May 2013 as required by Rule 21, as well as subsequent years; it also identifies challenges and forecasts associated with the Commission's efforts on behalf of Hawai'i's low- and moderate-income people.

The report was transmitted to the Hawai'i Supreme Court, and posted on the Commission page on the HJF website.⁸

B. 2016 Findings, The Justice Index

The Justice Index's “2016 Findings,” released by the National Center for Access to Justice at Fordham Law School, ranked Hawai'i among the top three states in the country for practices aimed at making access to justice a reality for all people. The report measures the accessibility of each state's justice system in four categories: attorney access for low-income litigants; support for self-represented litigants; support for litigants with limited language proficiency; and support for people with disabilities.

Hawai'i was ranked first in the country for providing support for people with limited English proficiency (“LEP”). The State Judiciary's Office on Equality and Access to the Courts (“OEAC”) has improved and increased the services available to Hawai'i's growing LEP population. The Judiciary annually provides interpreting services for LEP clients in as many as 45 different languages. OEAC also conducts statewide mandatory staff training on language access services for all Judiciary staff, so that the Judiciary can uphold the highest standard of service.

⁸ A copy of the February 29, 2016 report titled “Progress Toward Increasing Access to Justice and Summary of Unmet Civil Legal Needs Pursuant to Hawai'i's Supreme Court Rule 21(b)(14)” is attached at Appendix D.



Hawai'i ranked in the top five for providing support to self-represented litigants. The Hawai'i State Judiciary together with the Commission and various community partners opened Self Help Centers in every circuit in the state, where parties who cannot afford an attorney for their civil legal cases can get information from volunteer attorneys. The Judiciary has worked with the Bar organizations on each island to increase the hours of operation and number of volunteers available to assist individuals who cannot afford an attorney. Since the first self-help center opened in 2011, volunteer attorneys and AmeriCorps Advocates have assisted more than 12,000 people, at almost no cost to the public.

The Hawai'i State Judiciary also partnered with Legal Aid and the HSBA to make self-help interactive court forms available online. Twenty-three of the most frequently used civil legal forms are now available online, accompanied by state-of-the-art software. This software takes users through a step-by-step question and answer process to help complete the forms easily and correctly. For those who do not own a personal computer or have Internet access, the Hawai'i State Public Library System provides access to these "A2J" (Access to Justice) self-help forms at locations statewide.

Hawai'i ranked in the top seven for providing support for people with disabilities. The Hawai'i State Judiciary is recognized for providing website information on how to request an accommodation, using only certified sign language interpreters in court, and providing information on how to file a complaint for anyone who has difficulty accessing court facilities or services because of a disability. Accommodations covered by the courts may include, but are not limited to, modifications to schedules to assist those with disabilities, the cost of providing sign language interpreters or computer assisted real-time transcription for persons who are Deaf or have a hearing impairment.

See www.justiceindex.org for more information about the Justice Index findings.



V. FUNDING

A. Primary Funding Developments

On March 28, 2016, the Commission submitted testimony in support of House Bill 2121, HD 3, SD 1, which did pass the 2016 Legislative Session with a \$750,000 appropriation for the Judiciary's efforts on behalf of low- and moderate-income people for fiscal year 2016 - 2017. About \$600,000 of that amount will maintain service contracts administered by the Judiciary.

The Judiciary administration of funds reflects the recommendations of the working group of state and community entities assembled pursuant to 2015 Senate Resolution No. 6 and House Resolution No. 12, which requested that the Commission assemble interested government agencies and community entities to develop a plan for determining which agency or organization should administer funding for civil legal services.

At its April 18, 2016 meeting, the Commission also discussed a concern about a recommendation being considered at the Legislature that the ILAF monies be transferred to the State's General Fund. However, that transfer did not proceed, and the ILAF funds, which are critical for maintenance of civil legal services for Hawaii's most vulnerable, appear to be secure for the coming year.

B. "Justice For All" Grant

In November 2016, the National Center for State Courts and the Public Welfare Foundation announced that Hawai'i is one of the seven among the 25 applying states to be awarded a grant of nearly \$100,000 to support efforts to enhance access to justice for all of Hawai'i's citizens. The Justice for All grant was distributed in December 2016. The HJF will supplement the \$99,520 grant with an additional \$10,000.

The Justice for All project is supported by the Public Welfare Foundation and administered by the National Center for State Courts. The project will support efforts by the states to include all relevant stakeholders in the civil justice community in a partnership to better understand, adopt, and move toward implementation of Resolution 5, "Reaffirming the Commitment to Meaningful Access to Justice for All," by the Conference of Chief Justices and Conference of State Court Administrators.⁹ Resolution 5 supports "the goal of

⁹ A copy of Resolution 5, "Reaffirming the Commitment to Meaningful Access to Justice for All," by the Conference of Chief Justices and Conference of State Court Administrators, is attached at Appendix F.



100 percent access through a continuum of meaningful and appropriate services.”

The application by the Hawai'i State Judiciary, the Commission, and the HJF involved nearly two dozen local leaders in access to justice, including judges, legislators, executive directors of civil legal service providers, the State Law Librarian, nine commissioners of the Commission, and directors of HJF.

The Justice for All grant will be used over the course of twelve months to develop an inventory of resources, assessment of needs, and strategic action planning. A Justice for All Committee was formed to help facilitate support from current and potential new stakeholders. Community meetings will be held across the state, and a statewide meeting will be convened as well.

At the end of the twelve-month period, it is expected that Hawai'i will apply for another grant to begin implementing the strategic action plan. The HJF has also committed additional funds to supplement the implementation phase.

More information about the Justice for All project may be found at <http://www.ncsc.org/jfap>.

C. Cy Pres Awards

On June 14, 2016, the law firms Perkins & Faria and Bickerton Dang with the agreement of American Savings Bank presented over \$107,000 each in cy pres funds to the non-profit legal service providers Volunteer Legal Services Hawai'i and Legal Aid Society of Hawai'i. Both law firms also designated the same amount of cy pres funds to nonprofit organizations Junior Achievement and Hawai'i Council for Economic Education. These residual funds come from a class action lawsuit filed by the two firms against American Savings Bank.

Cy pres is a legal doctrine originally developed to ensure the fair distribution of a trust fund. Its original meaning, from French “as near as possible,” refers to use of a trust fund for its “next best use” should its original purpose fail. Today, cy pres refers primarily to residual funds left over from a class action lawsuit, but it can also refer to funds from restitution, settlements, or penalties.

On January 27, 2011, the Hawai'i State Supreme Court amended Rule 23(f) (effective July 1, 2011) of the *Hawai'i Rules of Civil Procedure* to provide that the residual funds from a class action may be distributed to nonprofit tax exempt organizations that provide civil legal assistance to low income Hawai'i



residents or to the Hawai'i Justice Foundation for distribution to one or more such organizations. The amended Rule 23 provided that it would be within the discretion of the court to approve the timing and method of the distribution of the residual funds as agreed to by the parties. Previously, Rule 23 was silent as to the distribution of such residual funds. The Hawai'i Access to Justice Commission in May 2010 recommended the proposed amendment in order to provide increased funding to organizations that promote access to justice.

Volunteer Legal, established in 1981, provides legal assistance to the community through education, legal advice clinics, brief services, and referrals to pro bono attorneys for direct representation. Services cover a broad range of civil legal matters affecting an individual's basic living needs such as housing, employment, debt relief, and caring for family members. The \$107,000 distribution to Volunteer Legal will help make possible the provision of services to individuals least able to exercise their legal rights.

The Legal Aid, established in 1950, provides civil legal help to the most vulnerable in our community. Legal Aid has ten offices statewide and over 100 staff members dedicated to achieving Legal Aid's vision of "Building a Just Society." The \$107,000 distribution to the Legal Aid Society of Hawai'i will be used to help launch a workers' rights enforcement program.

A cy pres toolkit created by the Commission to assist attorneys who are interested in providing a distribution of residual funds to nonprofit tax exempt organizations that provide legal services to the indigent may be found here: <http://www.Hawaiijustice.org/Hawaii-access-to-justice-commission/what-is-cy-pres>. The toolkit provides sample documents including orders and stipulations.





VI. OTHER ACTIVITIES

A. Pro Bono Celebration

By celebrating acts of charity, generosity, sharing, and sacrifice, we encourage discussion by young people about volunteering to help others, and we endorse the valuable contributions our colleagues make to those in need.

-- Hon. Simeon R. Acoba (ret.), Chair, Hawai'i Access to Justice Commission

Rule 6.1 of the *Hawai'i Rules of Professional Conduct* states that pro bono service is the individual ethical commitment of each member of the HSBA and that all members of the bar are to aspire to perform at least 50 hours of direct pro bono services annually.

Nearly 140 people attended the 2016 Pro Bono Celebration on October 27, 2016, in the Supreme Court Courtroom at Ali'iolani Hale, an event designed to highlight the responsibility to increase access to justice in our community, and to recognize outstanding pro bono volunteers. Remarks by Associate Justice Simeon R. Acoba (ret.), Chief Justice Mark E. Recktenwald, HSBA President Jodi Kimura Yi, and Hawai'i State Bar Foundation President Rai Saint Chu acknowledged and celebrated the important work of those who provide pro bono services to those in need.

"There is a growing number of people who cannot afford representation in civil legal cases, which poses a significant problem for our justice system, both nationally and in Hawai'i," observed Chief Justice Recktenwald. "For this reason, I am grateful to the many attorneys who have volunteered their time and expertise to those in our community who need it the most. These attorneys are helping us to fulfill our mission of providing justice for all." Associate Justice Acoba put our efforts in current context: "Today, unfortunately, we see examples of public discourse across our nation that have seemingly sunk to new lows in civility. And violations of the law that beget retaliatory violations. In this environment, acts of charity, of generosity, of sharing, of sacrifice become all the more important and valuable."

Student Essay Contest

Judge Melanie May introduced what is always one of the most heartwarming parts of the program at the annual Pro Bono Celebration event: Six high school students were recognized for their volunteerism and for their winning essays on the 2016 topic "What you've done as a volunteer and how do



you encourage others to volunteer.” In 2016, the contest attracted more than 120 essays from high school students in grades 10 through 12 throughout the State.

The essay award recipients were: Mahealani Sims-Tulba, Sacred Hearts Academy; Kiana Anderson, Waiakea High School; Sydnie Ito, Punahou School; Charlene Tan, Kauai High School; Chad Schuler, Trinity Christian School; and Aimee Nathan, Maui High School.

Chief Justice Mark Recktenwald, Judge Ronald Ibarra, and HSBA President Jodi Yi expressed appreciation to the students for their inspiring essays and for actively engaging in volunteerism. Each student who wrote a winning essay was presented with a certificate from the Commission and a \$500 check. The awards were donated by American Savings Bank, Starn O’Toole Marcus & Fisher, Alston Hunt Floyd & Ing, Damon Key Leong Kupchak Hastert, Chong Nishimoto Sia Nakamura & Goya, LLP, and Carlsmith Ball. The final judges of the essay contest were Chief Justice Recktenwald, Judge Ronald Ibarra, and 2016 HSBA President Yi.

Pro Bono Honorees

Hawai'i Supreme Court Associate Justice Michael Wilson recognized the pro bono attorneys honored by the legal service providers. The honorees received certificates from Governor David Ige’s office and legislative certificates presented by Representative Della Au Belatti. These honorees included:

- Kristin Holland and Nick Kacprowski of Alston Hunt Floyd & Ing, were recognized by the American Civil Liberties Union of Hawai'i for serving as pro bono counsel litigating Martin v. City & County of Honolulu, a class action lawsuit in federal court on behalf of homeless families and individuals. The landmark lawsuit resulted in a court order prohibiting the summary destruction of property; establishing systemic changes to the ways that the City conducts "sweeps" of homeless individuals; and requiring that City documents be translated into multiple languages as required by federal and state law.
- Judi Morris, currently Of Counsel for Oceanit, was recognized by the Domestic Violence Action Center (“DVAC”) for being reliable, generous, and innovative in her support of the Center. As Chair of the Fund Development Committee, Ms. Morris never gives up. She has brought community and personal allies to service, and is thoughtful in her approach to problem solving, opportunities and discussion. No task is too small or too large for her. She brings friends, talent and enthusiasm to DVAC’s Board meetings, organization events, and agency endeavors.



- Jennifer F. Chin, an associate at the Goodsill Anderson Quinn & Stifel law firm, was recognized by the Hawai'i Appleseed Center for Law and Economic Justice for spending in excess of 125 hours since last Fall to finalize a report on the effects evictions on the lives of the seven thousand tenants being evicted each year here in Hawai'i, and the significant impact those evictions have on our community. The report is based on 230 eviction return hearings which were observed in the various Oahu District courts. The observational study found that 70% of landlords were represented in the process while only 4% of tenants had an advocate.
- Arlette Harada, Of Counsel for the law firm of Ekimoto & Morris, was recognized by the Legal Aid Society of Hawai'i for volunteering the most shifts at the Honolulu District Court Access to Justice Room. Over the past four years, she volunteered fifty-four times. Taking about two shifts per month since September 2012, Ms. Harada has almost double the hours of the person with the second highest in volunteer hours at the Access to Justice Room.
- Howard K. K. Luke was recognized by the Native Hawaiian Legal Corporation for joining their legal team in the Davis v. Sakai case in 2014. The Davis case is a federal class action about the rights of inmates at Saguaro Correctional Center to engage in Native Hawaiian spiritual practices. Mr. Luke is the team's trial specialist. He was instrumental in obtaining certain concessions from the Defendants. As a result of his participation in the case, a settlement proposal from the Defendants is being considered for approval by the court.
- Erika Ireland, a private attorney and mediator, was recognized by The Mediation Center of the Pacific for mediating hundreds of hours of pro bono, as well as assisting the Mediation Center with outreach, education and training. Ms. Ireland never hesitates to say "yes" when asked to mediate high contention divorce, custody and visitation or family matters. She has also served pro bono as a facilitator for complex family conferences that assist families caring for an elder member, in developing plans that support the needs of the elder member. Ms. Ireland is one of the "go-to" mediators who work with the most vulnerable clients in the most challenging cases.
- Dyan Mitsuyama, a family law attorney and a partner at Mitsuyama & Rebman, was recognized by Volunteer Legal for her many years of volunteer work with, and advocacy for the organization. As a volunteer, Ms. Mitsuyama has provided legal advice, limited scope services, and full representation cases on pro bono basis. Her volunteer work has assisted



a great number of individuals and families undergoing a legal crisis to navigate the judicial system in Hawai'i. In 2015 and again this year, Ms. Mitsuyama helped raise thousands of dollars during Volunteer Legal's Taste of Justice fundraiser in support of civil legal services to the low and moderate income people in the state.

Access to Justice Room Volunteers

Judge Melanie May and Judge Brian Costa recognized individuals, groups, and law firms who volunteered at the Honolulu District Court Access to Justice Room, including: Justin Bracket, Miriah Holden, Mateo Caballero, Jefferson Willard, Bruce Paige, Connie Liu, Arlette Harada, Stacey Djou, Tred Eyerly, Catherine Gutierrez, Kurt Kagawa, Sharon Lim, Cheryl Nakamura, Shannon Wack, Sam Yee, Dan O'Meara, Chrystn Eads, Alana Peacott-Ricardos, and Elton Johnson. The law firms and groups included: Chong Nishimoto Sia Nakamura & Goya, LLP, Office of the Public Defender (Honolulu), Chun Kerr, Carlsmith Ball, Cades Schutte, Goodsill Anderson Quinn & Stifel, Hawai'i Filipino Lawyers Association, Bronster Fujichaku Robbins, Schlack Ito, Starn O'Toole Marcus & Fisher, Alston Hunt Floyd & Ing, "Consortium of banks and friends," Damon Key Leong Kupchak Hastert, Marr Jones Wang, and Yamamoto Caliboso.

Judge Mark Browning recognized individuals who volunteered at the Family Court Access to Justice Room, including: Ann Isobe, Carol Tribbey, Dyan Mitsuyama, Elizabeth Paek-Harris, Ellen Politano, Erin Kobayashi, Evans Smith, Gemma-Rose Poland Soon, Greg Frey, Jackie Thurston, Jessi Hall, Jill Hasegawa, John Bryant, Jr., John Hughes, Juan Montalbano, Lynnae Lee, Marianita Lopez, Mei Nakamoto, Michelle Moorhead, Sandra Young, Seth Harris, Stephen Hioki, Tom Tanimoto.

For more complete lists of volunteers at the Honolulu Access to Justice Room and at each neighbor island self-help center, please see the preceding section of this report, titled "III. Self-Help Centers."

Behind the Scenes

The 2016 Pro Bono Celebration was organized by the Pro Bono Initiatives Task Force and funded through the HSBA (\$2,000), the Hawai'i State Bar Foundation (\$1,500), and the above-mentioned donations of \$500 each from local law firms to the six student essay contest awardees.



B. National Conferences

ABA Equal Justice Conference

There was a strong Hawai'i contingent in attendance at the 2016 national ABA Equal Justice Conference from May 12 to 14 in Chicago. There were more than 85 sessions and pre-conference sessions in 2016, covering various aspects of numerous topics, including:

- Pro bono
- Community-based partnerships
- Medical-legal partnerships
- Eviction diversion
- Social impact bonds
- Metrics
- Civil Gideon
- Rural outreach
- Debt defense
- Domestic violence survivor safety
- Continuum of services
- State legislative funding
- Holistic legal services
- Cy pres
- Limited License Legal Technician program
- Veteran needs
- Technology
- Meaningful access to justice
- Immigrant needs
- Language access

National Meeting of State Access to Justice Chairs

Hawai'i was also well represented at the 2016 National Meeting of State Access to Justice Chairs on May 13 and 14, 2016. The first day included breakout sessions for commission chairs, commission staff, and judges, and a panel presentation on Meaningful Access to Justice for All as affirmed by the important 2015 Resolution 5 of the Conference of Chief Justices and the Conference of State Court Administrators. Resolution 5 challenged states to meet the “aspirational goal of 100 percent access to effective assistance for essential legal needs” and to deliver “a continuum of meaningful and appropriate services” to all who need legal help to protect their families, their homes, and their livelihoods in the civil justice system.



On the second day of this conference, Lisa Foster of the Department of Justice Office for Access to Justice gave the keynote presentation, and the Hon. Lora Livingston gave the closing remarks. Presentations and discussions during the day emphasized capacity building and were focused on these areas:

- Communications and messaging
- Self-help services and courtroom innovation
- Private funding for legal aid
- Networking activities

C. Luncheon with the Supreme Court

On February 29, 2016, most of the commissioners on the Commission enjoyed an informal luncheon with the Justices of the Supreme Court in the courtroom at Ali'iolani Hale.

This luncheon, which was arranged by the Commission Chair, Associate Justice Simeon R. Acoba (ret.), was a gracious gesture of appreciation by the Court and an opportunity to briefly discuss some of the work of the Commission with Court members and with other Commissioners, outside of the usual official Commission meeting format.¹⁰

¹⁰ A copy of a photo at the commissioners' luncheon with the Hawai'i Supreme Court on February 29, 2016 is attached at Appendix F.

**APPENDICES**

- Appendix A: Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i*
- Appendix B: Chief Justice Mark E. Recktenwald, welcoming remarks at the Hawai'i Access to Justice Conference, June 24, 2016
- Appendix C: Chief Judge Jonathan Lippman, keynote address titled "Shifting the Landscape on Access to Justice," at the Hawai'i Access to Justice Conference, June 24, 2016
- Appendix D: "Progress Toward Increasing Access to Justice and Summary of Unmet Civil Legal Needs Pursuant to Hawai'i's Supreme Court Rule 21(b)(14)," February 29, 2016
- Appendix E: Resolution 5, "Reaffirming the Commitment to Meaningful Access to Justice for All," Conference of Chief Justices and Conference of State Court Administrators, 2015
- Appendix F: Photo, commissioners' luncheon with the Hawai'i Supreme Court, February 29, 2016

RULES OF THE SUPREME COURT

OF THE STATE OF HAWAI‘I

* * *

Rule 21. ACCESS TO JUSTICE COMMISSION.

(a) Creation. There shall be a commission to be known as the Hawai‘i Access to Justice Commission (the “Commission”).

(b) Purpose. The purpose of the Commission shall be to substantially increase access to justice in civil legal matters for low- and moderate-income (together “low-income”) residents of Hawai‘i. To accomplish this, the Commission shall, along with such other actions as in its discretion it deems appropriate, endeavor to:

(1) Provide ongoing leadership and to oversee efforts to expand and improve delivery of high quality civil legal services to low-income people in Hawai‘i.

(2) Develop and implement initiatives designed to expand access to civil justice in Hawai‘i.

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

(4) Increase and stabilize long-term public and private funding and resources for delivery of civil legal services to low-income Hawai‘i residents.

(5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among civil legal services providers.

(6) Increase pro bono contributions by Hawai‘i attorneys through such things as rule changes, recruitment campaigns, increased judicial involvement, and increased recognition for contributors.

(7) Reduce barriers to the civil justice system by developing resources to overcome language, cultural, and other barriers and by giving input on existing and proposed laws, court rules, regulations, procedures, and policies that may affect meaningful access to justice for low-income Hawai‘i residents.

(8) Encourage lawyers, judges, government officials, and other public and private leaders in Hawai‘i to take a leadership role in expanding access to civil justice.

(9) Educate governmental leaders and the public about the importance of equal access to justice and of the problems low-income people in Hawai‘i face in gaining access to the civil justice system through informational briefings, communication campaigns, statewide conferences (including an annual summit to report on and consider the progress of efforts to increase access to justice), testimony at hearings, and other means, and increase awareness of low-income people's legal rights and where they can go when legal assistance is needed.

(10) Increase effective utilization of paralegals and other non-lawyers in the delivery of civil legal services to low-income Hawai'i residents.

(11) Increase support for self-represented litigants, such as through self-help centers at the courts.

(12) Develop initiatives designed to enhance recruitment and retention of attorneys who work for nonprofit civil legal services providers in Hawai'i and to encourage law students to consider, when licensed, the practice of poverty law in Hawai'i.

(13) Encourage the formation of a broad coalition of groups and individuals to address ways to alleviate poverty in Hawai'i.

(14) Conduct a statewide assessment of unmet civil legal needs among low-income people in Hawai'i five years after the Commission holds its first meeting to measure the progress being made to increase access to justice.

(c) Membership.

(1) NUMBER OF MEMBERS AND TERMS OF OFFICE. The Commission shall consist of 22 members, with staggered terms. The initial members (other than the chair and the four members appointed under subsection (3)(vii) below) shall draw their terms by lot so that five members shall serve a term ending on December 31 of the year of appointment, six shall serve a term ending on December 31 of the year following the year of appointment, and six shall serve a term ending on December 31 of the second year following the year of appointment. All subsequent appointments of such members (other than appointments to fill vacancies as described in subsection (2)) shall be for terms of three years or until his or her successor is appointed. Governmental representatives appointed under subsection (3)(vii) shall rotate by their terms of office or at the will of the appointing authority. Terms shall run on a calendar year basis, except that a member shall continue to serve until his or her successor is duly appointed.

(2) VACANCIES. A vacancy in the office of a member shall occur upon (i) the written resignation, death or permanent incapacity of such member, (ii) the determination by the applicable appointing authority that there has been a termination of a position held by such member that was the basis of such member's appointment to the Commission and that the appointing authority wishes to replace such member with a new appointee, or (iii) for such other cause as shall be specified in the bylaws, rules or written procedures of the Commission. Upon the occurrence of a vacancy, the appropriate appointing authority shall appoint a successor member to serve the remainder of the term of the vacating member.

(3) APPOINTMENT OF MEMBERS. Members of the Commission shall be appointed as follows:

(i) The Chief Justice of the Supreme Court shall appoint five members to the Commission as follows: (A) the Chief Justice or a current or retired Associate Justice of the Supreme Court and (B) four other current or retired judges who the Chief Justice shall endeavor to appoint from different judicial circuits and to include at least one circuit court judge, one family court judge, and one district court judge.

(ii) The Hawai'i State Bar Association (the "HSBA") shall appoint four members to the Commission as follows: (A) two representatives of the HSBA, who may be officers, directors or the Executive Director of the HSBA; and (B) two active HSBA members who have demonstrated a commitment to and familiarity with access to justice issues in Hawai'i and who are not currently serving as an HSBA officer or director, one of whom shall be from a law firm of ten or more attorneys. At least one of the attorneys appointed by the HSBA shall be from an Island other than O'ahu.

(iii) The Hawai'i Consortium of Legal Services Providers (the "Consortium") shall appoint six members to the Commission as follows: (A) four representatives of Hawai'i nonprofit civil legal services providers; and (B) in consultation with the Chief Justice of the Supreme Court, two non-attorney public representatives not directly associated with any such provider who have demonstrated a commitment to and familiarity with access to justice issues in Hawai'i. The initial members of the Consortium shall be the American Civil Liberties Union Hawai'i, Domestic Violence Action Center, Hawai'i Disability Rights Center, Legal Aid Society of Hawai'i, Mediation Center of the Pacific, Na Loio, Native Hawaiian Legal Corporation, University of Hawai'i Elder Law Program of the Richardson School of Law, and Volunteer Legal Services Hawai'i. Other civil legal services providers may be added to, and members may resign or be removed from, the Consortium as determined by the vote of a majority of the then members of the Consortium.

(iv) The Hawai'i Justice Foundation (the "Foundation") shall appoint one member to the Commission, who shall be an officer, director or the Executive Director of the Foundation.

(v) The Dean of the University of Hawai'i William S. Richardson School of Law shall appoint one member to the Commission, who may be the Dean.

(vi) The Hawai'i Paralegal Association shall appoint one member to the Commission, who shall be a paralegal with a demonstrated interest in equal access to justice.

(vii) The Governor of Hawai'i, the Attorney General of Hawai'i, the President of the Hawai'i Senate, and the Speaker of the Hawai'i House of Representatives shall each be entitled to serve on the Commission or to appoint one member, provided that any appointee of the Governor shall be drawn from the Executive branch of government, any appointee of the Attorney General shall be a Deputy Attorney General, any appointee of the President of the Senate shall be a state Senator, and any appointee of the Speaker of the House shall be a state Representative.

(4) COMMUNITY WIDE REPRESENTATION. In making appointments, the appointing authorities shall take into account the effect of their appointments on achieving a Commission composed of members who are residents of different islands in Hawai'i and who reflect the diverse ethnic, economic, urban, and rural communities that exist in the Hawaiian Islands.

(d) Officers. The Chief Justice of the Supreme Court shall designate from among the members of the Commission a chair and a vice chair of the Commission. The chair, who shall be the Chief Justice or the Chief Justice's designee, shall serve an initial term of one year and thereafter shall be designated at such times as the Chief Justice shall determine. The vice chair shall be designated for a term of two years, provided that such term shall expire at any earlier date on which the term of the vice chair as a member of the Commission shall expire or be terminated. The Commission shall select such other officers as it deems necessary and useful. Terms of all officers shall run on a calendar year basis, except that an officer shall continue in office until his or her successor is duly designated or selected. Designations or selections to fill officer-vacancies shall be for the remainder of the term of the vacating officer.

(e) Bylaws, Rules and Procedures. The Commission may adopt bylaws, rules or operational procedures as it deems necessary for and consistent with Sections (c), (d) and (f) through (j) of this Rule.

(f) Committees and Task Forces. 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 Commission shall designate a chair of the committee or task force. The Commission may appoint to the committee or task force persons who are not members 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. Meetings of committees and task forces shall be at the call of the chair or at the call

of at least 20% of the members of the committee or task force. A quorum consisting of not less than one-third of the then-appointed and serving members of a committee or task force shall be necessary at a duly called meeting to adopt a recommendation to the Commission.

(g) Meetings, Quorum, and Voting. The Commission shall meet at least quarterly and shall have additional meetings at the call of either the chair or at least seven members upon at least ten days prior notice. A quorum consisting of not less than one-third of the members of the Commission then in office shall be necessary to transact business and make decisions at a meeting of the Commission. On any votes taken at a meeting of the Commission, the chair shall vote only in the event of a tie.

(h) Staff and Funding Support. It is anticipated that staff and funding support for the Commission will be provided by a combination of private and public sources of financial and in-kind support.

(i) Recommendations. Any recommendations by the Commission shall be made in the name of the Commission only, and not in the name of the individual members or the institutions or entities they represent.

(j) Reports and Review.

(1) ANNUAL REPORTS. The Commission shall file with the Supreme Court an annual report describing its activities during the prior 12-month period and deliver a copy of the report to the Executive Director of the HSBA.

(2) THREE-YEAR REVIEW. Three years after the Commission holds its first meeting, the Supreme Court shall evaluate the progress made by the Commission toward the goal of substantially increasing access to justice in civil legal matters for low-income Hawai'i residents.

(Added April 24, 2008, effective May 1, 2008; further amended December 11, 2015, effective December 11, 2015.)

Chief Justice Mark E. Recktenwald
Welcoming Remarks for Access to Justice Conference
William S. Richardson School of Law
June 24, 2016

Good morning and aloha, and welcome to the eighth annual Access to Justice Conference. I'd like to start by thanking the Access to Justice Commission for sponsoring this event, and acknowledging my good friend and former colleague, Commission Chair Justice Simeon Acoba, for his leadership on the Commission. I also want to thank Bob LeClair and the Hawai'i Justice Foundation, Dean Avi Soifer and the William S. Richardson School of Law, and Jodi Kimura Yi, Pat Mau-Shimizu and the Hawai'i State Bar Association for their tireless support of access to justice in Hawai'i. I also want to recognize everyone who has worked so hard to plan today's conference, including Carol Muranaka and the Commission's Committee on Education, Communications, and Conference Planning, and all of the distinguished speakers and panel members who will be participating. And I'd like to extend a personal mahalo to the women at the Women's Community Correctional Center who made these beautiful lei for the speakers today. I would also like to acknowledge Senator Suzanne Chun Oakland, who is retiring from the Senate, for her distinguished service and for joining us today. Will you please join me in acknowledging everyone who helped make this conference possible?

I would also like to extend a warm aloha to the Honorable Jonathan Lippman, former Chief Judge of the State of New York, who will present this year's keynote address. Chief Judge Lippman has been a game-changer nationally in the fight for access to justice, and we are truly fortunate to have him share his insights with us today. I'd like to thank Chief Judge Lippman and his wife, Amy, for making the long trip to be here.

This is an exciting time for the access to justice movement, both in Hawai'i and across the United States. Approximately 40 states and the District of Columbia have created Access to Justice Commissions. Most of these commissions, like ours, are relatively new. Our commission was formed in 2008, at the height of the financial crisis--without any direct government support--and has succeeded for one simple reason: we have passionate people in Hawai'i who deeply care about access to justice, and are willing to devote their time and talent to serving others. We also have great partners in the community: the Richardson Law School, the HSBA, the Hawai'i Justice Foundation, and our strong network of legal service providers, many of which are represented here today. I thank each of these providers and their dedicated attorneys and staff for all they do to seek justice on behalf of their clients.

The work we are doing here in Hawai'i is being noticed across the country. Recently, Hawai'i was ranked number 3 in the

nation by the National Center for Access to Justice's "Justice Index" for our performance in increasing ATJ for our citizens. Although we can take pride in this recognition, we have so much work left to do. There are literally thousands of people in Hawai'i who must represent themselves in civil cases in our courts each year because they cannot afford an attorney. Their cases involve fundamental human interests, from housing and health care to child custody. If their voices go unheard because they cannot effectively tell their side of the story, then we are *not* providing justice for all.

Both here in Hawai'i and on a national level, it is appropriate to ask the question: where do we go from here? How do we continue the momentum that has been developed through the work of our ATJ commissions?

Last year, the Conference of State Chief Justices adopted Resolution 5, which encouraged each state ATJ Commission to develop a strategic plan with realistic and measurable outcomes, and set an ambitious overall goal of 100% access to justice provided through a continuum of meaningful and appropriate services. To be sure, this is a lofty goal. But it is a goal that Hawai'i can achieve, if we plan carefully, build upon our successes, use technology and innovate, and bring new partners into the effort.

Fortunately, we have an opportunity to do exactly that.

The National Center for State Courts, with funding from the Public Welfare Foundation, recently announced a program that will award grants of \$50,000 to \$100,000 to states to develop strategic plans to achieve 100% access. Those states that receive planning grants can also apply for additional grants to assist with implementation of their plans.

In short, this grant process would give us the opportunity to develop a shared vision of what 100% access would look like and how to get there, and then to work together to make it a reality.

We have a very strong foundation to build upon. In 2011, our commission and the Judiciary, with the help of many community partners, opened up the first Self-Help Center in our courthouse on Kauai, where volunteer attorneys assist individuals who could not afford an attorney. Today, we have Self-Help Centers in every circuit in the state, and they have served over 12,500 people at almost no cost to the public.

We also partnered with the Legal Aid Society of Hawai'i and the Hawai'i State Bar Association to make self-help interactive court forms available online. And for those persons who might not own a computer or have access to the internet, these forms are also accessible on computers at many Hawai'i State Public Library locations. We have trained librarians across the state, and these legal materials are now available on

800 computers in 50 libraries statewide.

Another significant innovation, the Appellate Pro Bono Pilot Project, was launched last fall with the help of HSBA's appellate section, especially Rebecca Copeland. The goal of the Project is to match low- and moderate-income pro se appellate litigants, in certain eligible civil appeals, with volunteer attorneys who are willing to provide pro bono appellate representation. Last January, the Hawai'i Supreme Court held our first oral argument with volunteer appellate attorneys, and we look forward to seeing this program grow and flourish in the coming years.

In addition to innovation, we must continue to build relationships and partnerships with institutions outside of the legal field. Obviously, a huge part of our mission involves making sure that all people have meaningful access when they are in court. But just as doctors know that illness does not start in a hospital, we know that many of the barriers that prevent full access to justice arise long before litigation starts. Our work cannot begin and end in the courthouse alone. By identifying and engaging with new partners, we can bring together a myriad of resources and experiences to help meet Hawaii's access to justice needs.

A great example of this type of engagement is the Medical-Legal Partnership for Children in Hawai'i. Through a

collaboration between Richardson Law School and Kokua Kalihi Valley Comprehensive Family Services, the Partnership has fused "preventative legal care" with "preventative health care." For the low-income families who rely on Kokua Kalihi Valley, what might appear on the surface to be a medical issue (an ill child, for example), can have a legal component, such as a recent loss of housing. Since April 2009, lawyers, law students, doctors and medical residents have worked together on-site at the KKV health center to provide legal services to over 500 families in Kalihi Valley. Attorneys and law students often meet with families right in the exam rooms, while children wait for their vaccinations and booster shots. This is an exciting model, and we should look for other similar opportunities.

Indeed, one of the most important benefits of this annual conference is that it gives us the chance to hear and learn from other groups and stakeholders that care deeply about our community, but are not directly involved with the legal profession. Last year, we heard from a panel that discussed how to engage the business community in access to justice efforts. This year, we are fortunate to welcome a representative from organized labor, Richardson graduate and Local 5 Organizer Morgan Evans, who is on our first panel this morning, as well as representatives from business and health care.

Although we have a wide variety of views and

experiences represented here today, we are united by a common goal: the pursuit of meaningful justice for all of Hawaii's people. I am proud of the work we have done, I am excited for the challenges that lie ahead, and I am optimistic for a future in which "justice for all" is not just an ideal, but a reality.

Aloha and mahalo nui loa.

Chief Judge Jonathan Lippman (ret., New York)
Shifting the Landscape on Access to Justice
Hawaii Access to Justice Conference
June 24, 2016

Thank you Dean Soifer, Bob LeClair, Justice Acoba and, of course, Chief Justice Mark Recktenwald. Mark, I would be remiss if I did not say what a truly wonderful leader you are in the Access to Justice movement taking place in Hawaii and beyond, a fact that every Chief Justice in the country would attest to. And you are a truly worthy successor to your distinguished predecessors, including Bill Richardson, for whom this great law school was named, and my good friend, Ron Moon.

It is a delight to be at the Richardson Law School, and I want to thank the Access to Justice Commission for inviting me to be your keynote speaker at this 2016 Access To Justice Conference.

In speaking to you this morning about access to justice, I would start by making clear that I have been very much an advocate of judicial leaders playing a strong proactive role on access issues and reform of the justice system. A few years ago, the New York Times credited me with the national quote of the day, when I said that state courts are the emergency room for society's ailments. All of the societal issues of the day ultimately find their way into the courts and, as an institution, the Judiciary must be engaged in removing the barriers that confront those who seek access to our courts to resolve their most pressing problems.

For too long, access was limited to those with the financial resources to afford quality legal representation, while those without money in their pockets were left to fend for themselves. From the perspective not of an activist judge -- you know, that has certain connotations -- but as a judge who is, I hope and believe, proactive in the pursuit of justice, it has been my focus to shift the landscape on access to justice to better serve the disadvantaged, the vulnerable, and those who just need a helping hand.

Shifting that landscape is about ensuring that the scales of lady justice are exquisitely balanced regardless of one's wealth or station in life. The pursuit of justice for all should and must be our mission, and we are the essential players in this endeavor.

To me, the greatest threat to the pursuit of justice today -- and to the very legitimacy of the justice system -- is the desperate need for legal services by the poor and people of modest means. Whether it be the homeless and downtrodden in Honolulu, or those evicted or foreclosed on in their homes in New York, people who are fighting for the necessities of life -- the roof over their heads, their physical safety, their livelihoods, and the wellbeing of their families -- literally are falling off the proverbial cliff because they cannot get, they cannot afford, legal representation.

There is a huge justice gap that exists between the desperate need for legal services by the poor and people of modest means, and the finite legal resources that are available. We have made

great strides over the last years, and how proud you should be that Hawaii now ranks 3rd in the country in the new Access To Justice Index. Yet the justice gap still manifests itself in so many different ways, as witnessed by the fact that in New York there are 1.8 million people who came into the courts last year who were unrepresented by a lawyer, and that 96% of defendants in landlord tenant cases here in Hawaii are unrepresented, with 80% not having a lawyer in foreclosure proceedings.

In the heart of the fiscal crisis, the Legal Aid Society, in New York City, the oldest legal services entity in the country, turned away eight of nine people who came to them seeking legal assistance. Today, legal services organizations around the country still turn away more people than they can help.

The poverty rate hovers at around 20 percent in so much of the country, almost that high here in Hawaii when you factor in your high cost of living. The Legal Services Corporation in Washington DC is under attack, and very lucky to keep the limited funding that it has. IOLTA, or IOLA, as we call it in New York, which gives money to legal services based on lawyers' fiduciary accounts has seen its revenues drop dramatically because of low interest rates -- New York, for instance, went from about \$36 million to \$6 million in one year in terms of the monies from interest bearing accounts that go to legal services.

What is required to meet this kind of crisis and the issues that we face today is leadership, partnerships and innovation, on the part of the Judiciary, on the part of the Bar, from the biggest firms to the smallest practitioners, from the academy and the law school community, and of course from the workers in the vineyards -- our legal service providers.

When I first became Chief Judge in 2009, I went to testify at a hearing before a joint legislative committee on the long range plan for civil legal services in New York. What became clear to me in the course of that testimony was that there not only was no long range plan for legal services in our state, but no short range plan and, in reality, no plan at all.

In my role as the steward of the justice system in New York, I decided to attack this issue head on as the centerpiece and focus of my years as Chief Judge. I want to talk to you today about the lessons we learned in New York in seeking to close the justice gap, to the extent that is instructive, and also talk about what is going on here and around the country and what we all have to do to make the ideal of equal justice a reality each and every day in Hawaii, in New York and across the nation.

The first thing that we did in New York to try to change the equation on access to justice, was to put together a task force to enhance civil legal services that we now call the New York State Permanent Commission on Access to Justice, very much the counterpart to the Hawaii Access to Justice Commission which brings us all together today. The one rule that I set out to the task force and to our chair, Helaine Barnett, the former president of the Legal Services Corporation in Washington -- was that this was not going to be an arm's length relationship, but a partnership where we had a basic understanding. We would collaborate from day 1 before any reports or suggestions were issued, and based on our discussions, I would do absolutely

everything that the Commission recommended. It was incestuous to say the least, and to the end I followed through on every single thing on the Commission's to do list.

In my mind, access to justice commissions around the country cannot be divorced from, or operate apart from, the Judiciary and the leadership of the profession, if they are to be effective and avoid putting out recommendations that sit on the library shelf, with nothing getting done.

We also decided that we would focus on two pillars in our efforts to support civil legal services in our state. The first of the two pillars was public funding for legal services, which when I started as the Chief Judge in 2009, was essentially zero. We had a few dollars in what we call member items from the legislature, but really, no systemic public funding. So, we committed to focus on public monies to support legal services, and determined that the other pillar of our program would be, and remains, increasing pro bono work by the Bar.

At the outset, we decided to reach out to the public and to our constituencies to get their support, through public hearings that the leadership of the Judiciary and the profession would preside over. Each year, I personally presided over four hearings throughout the state to promote legal services, to make a record, and to get the facts.

We also, at the very beginning, obtained a joint resolution from the legislature -- and we always want them to think that these things are their ideas -- saying, "Chief Judge, go hold these hearings and tell us what resources you need to support civil legal services for the poor in our state -- and put those needs in the Judiciary budget." And we said, "Great idea, legislature. That's exactly what we're going to do."

My belief was that the Judiciary should be at the center of this effort, because that is our Constitutional mission -- to foster equal justice. That's what the Judiciary does, above everything else. Everybody gets equal justice, everybody gets their day in court.

In addition to that, I believe that the Judiciary is uniquely positioned to play a leadership role in access to justice because of the leverage that we have and the resources that we have. But to succeed, the Bar had to be our partners, and they without hesitation joined us, recognizing that helping our fellow human beings goes to the very core of our great profession.

Another centerpiece was the realization that because of the gridlock in Washington, we could not depend on Washington for further funding, or to provide the ultimate solutions to our access to justice issues.

We decided to look to state and local government as a means to fund legal services for the poor, and supplement the LSC grants New York was getting for legal services. To me, funding at the state level is the new horizon for public funding for legal services. That is where the average citizen comes in contact with the justice system and legal services should, in significant measure, be funded locally, rather than always looking to Washington.

Remember, the Legal Services Corporation has \$375 million -- for the entire country -- to provide grants to legal services providers. Fair to say, a small amount in the big scheme of things -- and Hawaii has one statewide grantee -- the Legal Aid Society of Hawaii.

In asking for state and local funding, we had to answer why the state should fund civil legal services for the poor. The approach in one respect was obvious -- because it's the right thing to do. And from time immemorial, as long as there have been judges and lawyers -- we talk about the moral imperative for equal justice. Remember the Bible, Deuteronomy? "Justice, justice, shall you pursue, for rich and poor, high and low alike."

Well, we know, it is the right thing, the moral thing to do. But the answer we get from our partners in government, if that is our only rationale, is that there are lots of right and moral things that are important. Shouldn't we help poor people? Sure, we must help poor people, but what we get if that is our exclusive argument is that this is a tough budgetary year, and we just don't have the money -- get in line!

So, we took a little different approach. And that approach was -- and is -- that it is good for the economic bottom line of our state and our communities to support legal services for the poor. And that, if you invest money in civil legal services, more money is returned to the state with reduced social services cost, reduced incarceration costs, and more federal dollars flowing to the state.

We delivered highly sophisticated economic studies done pro bono by major accounting firms and fiscal experts that showed that for every dollar invested in civil legal services, five to six dollars are returned to the state. Our newest studies show that, in fact, ten dollars are returned to the state for every dollar invested.

So, we tell our partners in government, don't just do it because you want to help the vulnerable -- which you should do -- but do it because it helps the well-being of our economy and our society. Everyone loses if people fall off the cliff, go on public welfare, and don't have money to put into local banks and local stores. We help all of us by funding civil legal services.

This is an unconventional approach, a counterintuitive approach, and you also need unconventional messengers to deliver it. So, who did we have testify at these hearings? We had the heads of the largest banks, the heads of the landlord associations, the business associations, the Comptroller of the State of New York, the City Council Speaker, and even Cardinal Dolan. And let me tell you, it was quite a scene when Cardinal Dolan came in with his red hat and red robe, and said that the message of the church was the same as the message that the Chief Judge was giving. The word from on high!

We must continue to think of new ways to get our message across. If we don't do it, no one will. Whether in New York City or Honolulu, you don't have people protesting in the street with placards saying, "More money for legal services for the poor." It's not that kind of an issue. We have to stand for something, and advocating for legal representation for the most vulnerable in society is our most fundamental obligation. We are not here just to feather our own nest.

And lesson in point. At the beginning of my tenure as the Chief Judge, the Governor and the legislature cut \$170 million from the Judiciary budget – a hell of a lot of money, by any standard, even in a state as large as New York. A budget cut of that size necessarily required layoffs of court personnel.

At the same time, I had pledged to give millions of dollars to legal services for the poor in the Judiciary budget. The other two branches of government asked how can you lay people off and possibly close the doors of the courthouses, at the same time that you're giving money to legal service organizations that are representing poor people?

The answer I gave was that if we keep the courthouse doors open and don't have equal justice inside, then we might as well close the doors. In those circumstances, justice does not mean anything!

So we gave the monies to legal service providers and we did what we had to do and laid off court personnel, most of whom I am pleased to say were able to return to the court system within a reasonable period of time. But we agonized about this choice, and in the end I believe made our point – that the Judiciary and the profession believed that access to justice for all was the very foundation of our court system.

From that moment on, we didn't have a day's trouble in funding legal services for the poor in the Judiciary budget. We went from \$12.5 million, to \$27.5 million, to \$40 million, to \$55 million, to \$75 million, to \$85 million. And then with this year's budget, to \$100 million – which was the goal we originally set, and we believe that we have now institutionalized that kind of funding at the state level, beyond what New York legal service providers get from Federal or other sources.

In New York today, between state and local funding – including funds that New York City provides -- we have \$160 million, almost half the funding the Legal Corporation has for the entire country to support legal services for the poor.

And public funding for legal services is essential, so that our legal service providers know that they are not alone. Providers are doing God's work, and we need to show them that we are right there to support them.

So, it is great to have public funding, but make no mistake, it is the tip of the iceberg. As I said before, we still turn away more people than we can help. There's not enough public money in the world to meet the need. More has to be done, and it has to come from the voluntary, pro bono efforts of the Bar to fill that gap.

We have to appeal to the nobility of the Bar. We need to get more soldiers in the field to help the legal service providers by doing pro bono work. In New York, we first looked to parts of the Bar that were relatively untapped when it came to pro bono work.

First, we had the Baby Boomers -- who were slowing down their practices. We told them if they do a certain amount of pro bono work for the poor, we'll put a gold star on their chest, and

we'll call them Lawyers Emeritus. We have 2,000 of these Baby Boomer lawyers who are now doing pro bono work in the Emeritus Program.

We also talked to corporate counsel -- those corporate counsel that come from other states, working for big corporations in New York. We told them that we would change our rules and allow them to do pro bono work here even if they were not admitted to the Bar. The bottom line -- if you are representing someone for no fee, you can practice in the courts of the state of New York, whether admitted or not.

And then we went to aspiring lawyers and said: We're going to impose a 50-hour pro bono requirement on all law students who want to become admitted lawyers in New York. The theory is that if you're not going to embrace the core values of our profession, which are about helping others, serving others, then you're not going to be a lawyer in New York.

You would have thought that the world was coming to an end when we announced this. While some law schools, like here in Hawaii, required 50 hours of community service or a certain number of clinic hours, this was a licensing requirement.

The main opposition came from the organized Bar that said that this was the nose under the tent for mandatory pro bono for all lawyers. While this was not the case, as Seinfeld would say: "Not that there's anything wrong with it." If every lawyer in the State of New York, Hawaii or the country gave 50 or 100 hours of pro bono work, wouldn't that be terrible? Wouldn't that be horrible? The world would surely collapse.

The bottom line is that the people who really got it, who really understood what we were doing, were the students. The students embraced it immediately, and they did not stop at 50 hours, either. When they start getting into pro bono work, they love it, and they do much more than they're required to do.

My view is that if we require law students to learn about torts, and contracts, and property, we should also require them to learn about values, and that it's not enough to teach the different disciplines that you learn about in law school. Interwoven with that has to be learning what being a lawyer is all about, helping others. You can't live in a vacuum, whether you become a corporate lawyer, or a torts lawyer, or a legal services lawyer. All admitted lawyers, no matter what they do, should know that lawyering in a real way is a public service.

So, we survived all of that, and then there came another crisis in shifting the landscape on access to justice in New York. Another crisis with the organized Bar. We asked lawyers to report on their attorney registration how many hours of pro bono work they did and how much they contribute to legal services providers. We did this to help us chart our future course on access to justice. We cannot know what to do, unless we know how we are doing. Again, in return, we got the nose under the tent argument.

But, our rationale was the same as for the 50-hour rule. We're the gatekeepers. The Judiciary, the Chief Judge, in my case, is the gatekeeper for Bar admission. We're also the legal regulator of the profession. And our job as legal regulator is not to make sure that all lawyers make a lot of money and have 2 cars in the garage.

No. Our job is to make sure that the public has trust and confidence in this profession, and that the profession is what it's supposed to be, and operates at a level that is beyond reproach. It's not to see to it that lawyers are financially successful.

I did not take a vote and ask lawyers if they thought it was a good idea that we require them to tell us how many hours of pro bono work that they do. Rather, I believed that this was a critical, ethical issue for our profession that required leadership by the Judiciary as the legal regulator. The end result of that was that we were able to get the best system of pro bono reporting in the country. After we exercised moral leadership on this issue, we talked with the Bar and came to an understanding to develop a much more expansive, but somewhat less intrusive, pro bono reporting system. We now have the information we need by geographic area, big firm, little firm and specialties. We are going to know where we need to do more, and where lawyers are doing their part.

So, what other things should we be thinking about to change the landscape on access to justice? One thing is to identify in the everyday practices and protocols of the courts and the profession what needs to be done to even the playing field. What we did in the Judiciary in this regard, as the rule-maker, was to put out new rules for foreclosure and consumer credit cases. What was happening in foreclosure cases? Remember the robo-signings, where lawyers were getting robo-signed foreclosures while representing the banks, but often really had no idea what the case was about.

We made the lawyers put in affidavits saying that they were personally familiar with the case. And surprise of surprise, foreclosures dropped over 50 percent in New York. Why? Because lawyers didn't want to attest falsely that they knew the facts of the case.

We did the same thing with consumer credit cases, addressing where the consumer credit entities buy up the credit card bills – for pennies on the dollar -- and then put in some broad-brush affidavit that says that an unsuspecting defendant owes \$5,000 or \$20,000 or more.

What we did is say that they needed to give us the trail of the debt. Who has owned it, who owns it now, what is the history, what is the exact amount. Give us this information before we give you a default judgment over some poor person who may or may not get notice and, if it is received, has no idea what to do with it. Let's make sure that there is notice, and that the courts and the defendant get all the particulars about the debt.

Making these new court rules did help our access to justice efforts, but we were determined to continue to think out of the box and be innovative in finding new ways to deliver legal services to disadvantaged New Yorkers. And we had a seemingly insoluble problem in New York. We concluded that there were just not enough lawyers doing pro bono work to make sure that people get legal representation. What to do?

We looked around and found that civil legal services in Great Britain are done, for the most part, by nonlawyers. This was intriguing to us. Obviously, the best solution is to have a lawyer to promote access. We concluded, however, that the next best solution is to have a non-

lawyer trained in a particular niche who might even be more effective than a generalist lawyer who doesn't know about the particular area.

So, we started the Navigator program, where nonlawyers go into the courtroom with the litigant, particularly in housing and consumer credit cases -- they can answer questions from the judge, and provide moral support to the litigant. Then we took it a step further to the street level. We opened storefronts of non-lawyers, called Legal Hand, supervised by legal service attorneys. These storefronts are in communities that are changing and non-lawyers provide legal assistance and information.

The Bar looked at what we were doing, and thought it was a good idea -- because we were not taking the bread out of any lawyer's mouth. In these kinds of cases, over 90 percent of the people are unrepresented, just like here in Hawaii.

So, up to now, I've tried to give you an overview of some of the things we've done to change the paradigm on access to justice -- the funding, increasing pro bono, stressing values and the nobility of what we do, new rules, new ideas, and the use of non-lawyers. And there's so many other things to be done with technology, unbundling of legal services, lawyers for a day programs, court help websites and do-it-yourself forms.

And look at all you've done here in Hawaii -- self-help centers, access to justice rooms, clinics, model pro-bono policies, foreclosure mediation programs, the Indigent Legal Assistance Fund, court forms, training libraries, the use of non-lawyers, language access, the Domestic Violence Center, the Disability Rights and Mediation Centers, and on and on.

And none of us have a monopoly on innovative ideas on Access to Justice. California has a pilot Civil Gideon program. Connecticut has a Lawyer Corps program where the big corporations fund fellows to provide civil legal services. The State of Washington has a new lowbono legal technician program. New Jersey has done so much with foreclosures. Texas has line items in the executive budget supporting legal services for the poor. And so much more.

There are lots of interesting, innovative things happening here in Hawaii, in New York and around the United States. But, how do they fit together? To me, in one fashion or another, we are going toward some kind of a right to counsel, or a Civil Gideon -- meaning, in my mind, legal representation, or at the very least, effective legal assistance for every person in need. But, how do you actually get there? There are three obvious ways -- by policy, by statute, or by Constitution.

If you look at the most recent US Supreme Court cases on a constitutional right to counsel in civil matters -- Turner versus Rogers, for example -- I would not count on it as a constitutional right in the near future. We need more time. What about by statute? It's possible. There are right of counsel bills in cities around the country, particularly in housing matters, that are gaining support. But, to me the real new frontier, for the time being is on the policy side. In New York, our legislature passed a joint resolution declaring that it is the public policy of our state to provide legal representation or effective legal assistance to everybody in need, fighting for the necessities of life.

And the initiatives that you've undertaken in the Hawaii Judiciary and the Access to Justice Commission are mostly on the policy side. The things I talked to you about going on in New York and all the different and interesting things happening in other states are policy based. I believe that a thousand flowers are blooming and that we are literally changing the dialogue on Access to Justice and civil legal services.

That's what happened on the criminal side. Look at the seminal case of Gideon versus Wainwright, that says that everyone whose liberty is at stake is entitled to a lawyer. It's not perfect, believe me. Criminal indigent defense representation is very uneven in the country, but at least there is a Constitutional floor. If your liberty is at stake, you get a lawyer.

Gideon was fifty plus years ago. Twenty years before that, in Betts versus Brady, the U.S. Supreme Court (just like in Turner versus Rogers in civil cases) said that even if you're going to go to jail, you have no right to a lawyer.

What happened in the 20 years between Betts and Gideon? What happened was that the dialogue changed, and lots of interesting things were done in different states around the country to promote criminal indigent defense representation. Things were changing. Innovation was about in the country. That's why by the time of Gideon, 25 attorney generals in different states in the United States put in amicus briefs to the U.S. Supreme saying that you should have a constitutional right to a lawyer when your liberty is at stake.

The discussion had changed. That's what happens when people are proactive in the pursuit of justice. That's what is happening in the civil side today – that's what you are all doing. I really believe that we are changing the priorities, that people are starting to understand that civil legal services for the poor are as important as schools, hospitals, and housing, and all the things that we hold dear in our society.

We're at the tipping point. I believe there's a revolution today in access to justice. The public is getting it. The person on the street has known for many years, since Gideon, that if your liberty is at stake, you get a lawyer. They watch television, they know about Miranda rights. They know that everyone gets a lawyer, if you may go to jail.

But what about if you asked, a few years ago, what would happen if your home was being foreclosed on, or you were being evicted -- should you get a lawyer? Until recently, a very tiny percentage would have said yes. Go out in the street today, after the foreclosure crisis and the economic crisis in the country, and all of our efforts on access to justice in civil matters, and ask people if they think someone who is getting the roof over their head taken away from them should get a lawyer. Today you are going to have 80 to 90 percent say, absolutely! All the things that you are doing in Hawaii is making that happen, and the same goes for the rest of the country.

So, the dialogue is changing. We really are getting to the point where we can have a right to counsel. We are building the foundation. We are shifting the landscape.

Can we really close the justice gap? We can and we will. It requires innovation, it requires leadership, it requires partnerships, and it requires being proactive in the pursuit of justice.

The Judiciary, again, is uniquely suited to make this happen, as the gatekeeper for Bar admission, as the legal regulator, as the rule-maker. It's our Constitutional role, it is what we're supposed to do.

The profession? We are not a parochial profession, we can't be. We have to always remember the nobility, the values, and look at the example of the legal service providers, our heroes. Whatever we do, we must support them with pro bono work to help people.

And our legal educators must be value-driven. Being at law school is more than learning about the subjects we talked about -- contracts, and all of the others. It's about learning what it means to be a lawyer, so that with the next generation of lawyers we are not going to worry about mandatory pro bono and the nose under the tent. They are going to meet their obligations as lawyers because it is in their DNA, it's what lawyers do.

Together, if we continue to think out of the box, if we are proactive in pursuing justice, if we truly are leaders in the Judiciary and the profession, if law schools teach new lawyers about values, and if you and other Access to Justice Commissions continue your ground breaking work, we can and we will, one day in the not so distant future, make the ideal of equal justice a reality here in Hawaii, in New York and around this great country. Thank you.

**PROGRESS TOWARD INCREASING
ACCESS TO JUSTICE**

and

**SUMMARY OF UNMET CIVIL LEGAL NEEDS
PURSUANT TO HAWAI‘I SUPREME COURT RULE 21(b)(14)**

ACCESS TO JUSTICE COMMISSION

February 29, 2016

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INTRODUCTION

Rule 21(b)(14) provides that the Commission shall “Conduct a statewide assessment of unmet civil legal needs among low-income people in Hawai‘i five years after the Commission holds its first meeting to measure the progress being made to increase access to justice.” Rule 21(j) also provides that annual reports shall be filed with the Supreme Court and that the Supreme Court shall provide a three-year review of the progress made by the Commission in “substantially increasing access to justice in civil legal matters for low-income Hawai‘i residents.” While annual reports and the three-year review have been filed, the five-year review called for in Rule 21(b)(4) was not filed in 2013, five years after the first meeting of the Commission on May 1, 2008.

Nevertheless, as briefly outlined in the following report, substantial progress was made during the period from May 1, 2008, to the present. This report provides a summary assessment for the period, May 1, 2008, through the end of 2015.¹

¹ This report was prepared by Jean Johnson with editorial suggestions by Carol Muranaka and Simeon Acoba. Tracey Wiltgen obtained the reports from the legal service providers. The separate statements of unmet needs were written and provided by the respective legal services providers.

PROGRESS TOWARD INCREASING ACCESS TO JUSTICE
by the
ACCESS TO JUSTICE COMMISSION

In 2008, the Supreme Court of the State of Hawai‘i through Supreme Court Rule 21 established the Hawai‘i Access to Justice Commission. This action was in response to the report titled, Achieving Access to Justice for Hawaii’s People: The 2007 Assessment of Civil Legal Needs and Barriers to Low- and Moderate-Income People in Hawaii.

Supreme Court Rule 21 requires the Commission to issue annual reports on its activities and periodic reviews of its progress toward the goal of substantially increasing access to justice in civil legal matters for low- and moderate-income Hawai‘i residents.

This report briefly highlights accomplishments of the Commission inclusive of the Three-Year Evaluation filed with the Supreme Court of the State of Hawai‘i on July 21, 2011. The first part of this report covers the period from May 1, 2008, through the end of calendar year 2015, describing accomplishments achieved to date. More detailed information is available in each of the annual reports by the Commission, available at <http://www.hawaiijusticeorg/hawaii-access-to-justice-commission>.

The second portion of this report covers the activities of providers of civil legal services to low- and moderate-income residents of Hawai‘i over that period of time as well as the continuing unmet needs identified by those organizations.

Efforts to increase access to justice by the Commission are the responsibility of 22 commissioners, working through committees and task forces. Supreme Court Rule 21(f). The role of committees and task forces are advisory, and they make such recommendations to the Commission as the members of such committees and task forces deem appropriate.

Progress toward Achieving Greater Access to Justice

The early efforts of the Commission have resulted in a substantial increase in resources to provide legal services to low- and moderate-income residents of Hawai‘i. The following paragraphs highlight those accomplishments.

Annual Access to Justice Conferences. The Commission has sponsored seven annual all-day Access to Justice Conferences. A nationally-recognized leader in access to justice issues makes a keynote presentation to each conference. These annual conferences provide a unique opportunity to bring access to justice issues to the larger community. Strong participation and support by Hawai‘i Supreme Court Chief Justice Mark Recktenwald validates the value of these conferences. The most recent Access to Justice Conference covered by this report was held in June 2015 with 260 attendees and 150 attorneys obtaining continuing legal education credits for participation. The conference hosted 38 speakers or panelists in various sessions, including 12 workshops.

Establishment of Self-Help Centers in All Circuits. Probably the most significant increase in resources over the past four years for the many residents of Hawai‘i who are unable to afford legal services has been establishment of Self-Help Centers in each courthouse in each of the State’s judicial circuits. These centers are the result of a collaborative effort involving the Commission, the Hawai‘i State Judiciary, the Hawaii State Bar Association (“HSBA”) through its Committee on the Delivery of Legal Services to the Public, the Legal Aid Society of Hawai‘i, Americorps, the county bar associations, and the HSBA Family Law Section.

These Self-Help Centers are open for specific hours during specific days of the week. On the neighbor islands, volunteer attorneys provide limited legal information to self-represented litigants on civil matters. On Oahu, the volunteer attorneys provide limited legal advice to self-represented litigants in three areas: landlord-tenant issues, temporary restraining orders involving

non-family members, and debt collection issues. The attorneys offering their volunteer time at the Kapolei Family Court assist in such matters as child support, child visitation, other divorce issues, paternity, and other issues.

Increase in Pro Bono Activities by Members of the Bar. A major focus of the Commission has been to encourage participation of private and government attorneys in providing one-to-one legal assistance to clients who are unable to afford legal services. This effort has been successful as a result of a number of initiatives. Initially, model pro bono policies were developed for private firms, government lawyers, and judges. As a result, private firms and some government lawyers increased pro bono activities. The Self-Help Centers have been one venue for use of their services.

In another effort, the Commission initiated rule changes to promote pro bono activities, access to the legal system, and legal services by exempting lawyers from conflict of interest rules in pro bono activities. Another change allows a \$500 contribution to non-profit entities in lieu of 50 hours of pro bono activities. Military attorneys have been allowed limited admission to practice law and character reports have been waived for them. Additionally, attorneys employed by non-profit entities are now granted limited admission to practice for two years.

To further support and encourage pro bono activities, the Commission sponsors a Pro Bono Celebration each fall through its Pro Bono Initiatives Task Force. With support from the Hawaii State Bar Foundation, this Pro Bono Celebration honors individuals and organizations for outstanding pro bono activities. Additionally, to inspire the next generation to appreciate the value of volunteerism, for the past three years, a statewide essay contest was held among high school students in grades 10 through 12. In 2015, more than 240 essays were received and reviewed by volunteer preliminary judges comprised of attorneys and sitting judges. The final

essay judges were Chief Justice Recktenwald, a Commissioner, and the HSBA bar president. Six students, one from Kauai, Big Island, and Maui, and three from Oahu, were selected as essay award recipients. Each honored student received a \$500 cash award in addition to transportation to attend the ceremony in Honolulu. Funds for the student awards were donated from private law firms and financial institutions.

A subcommittee of the Commission's Committee on Increasing Pro Bono Legal Services, along with Volunteer Legal Services Hawai'i, and the Appellate Law Section of the HSBA, has been successful in creating a Pro Bono Appellate Pilot Project. This project was established by the Hawai'i Supreme Court in July 2015, with two years to demonstrate its effectiveness in matching eligible pro-se appellate litigants with volunteer appellate attorneys willing to provide pro bono legal services.

In 2015, local banks were encouraged to promote pro bono services by their staff attorneys. Central Pacific Bank organized an event to show the training video for attorneys to volunteer at the Access to Justice Room (self-help center) at the Honolulu District Court. The general counsels at Bank of Hawaii, First Hawaiian Bank, American Savings Bank, Hawaii National Bank, and Finance Factors encouraged their respective employee-attorneys to attend the training and to provide pro bono legal services at the Honolulu District Court Access to Justice Room.

Amendment to Indigent Legal Assistance Fund ("ILAF") Statute. In collaboration with the Hawaii Justice Foundation ("HJF"), the Commission worked to increase the surcharges collected on certain filing fees for state court cases. These funds are retained by the Judiciary for distribution to qualified service providers. The HJF acts as administrator for those funds. The

ILAF funds are distributed, in cooperation with the Hawai'i State Judiciary, to extend legal services for low-income Hawai'i residents.

The amounts available in ILAF funds vary each year, depending upon the number of eligible cases filed and the rate of the surcharge. The ILAF program has seen tremendous growth due to the increase in the surcharge rate. The final step increase took effect January 1, 2014. In FY 2012-2013, the amount distributed to eight grantees was \$472,039; for FY 2013-2014, \$1,400,000; and for FY 2014-2015, \$1,425,000.

Although these funds do not replace the decreases in funding that has resulted from sequestration and reductions in federal and state support for service providers, the funds do represent a substantial increase in resources for the service providers to provide legal assistance to the low-income population.

Improved Access to Language Services. As part of its commitment to ensuring language access to speakers of other languages, in 2013, the Commission obtained a grant of \$20,000 from the American Bar Association to improve language access of limited-English-proficient clients. The project was successful in developing a procedure for requesting an interpreter for court proceedings, producing a program to educate attorneys on language access and the use of interpreters to work effectively with limited-English-proficient clients and to provide implicit bias training for judges. In terms of language access, the project identified the challenges of the cost of translation of informational materials, the high cost of travel for professional training, and the continuing challenges in availability of qualified interpreters.

A successful one-day conference on implicit bias for judges was held with panelists from the faculty of the Richardson School of Law and state judges. Numerous materials were produced and transmitted to the ABA for use by other states.

The Commission's Committee on Overcoming Barriers to Access Justice ("COBAJ") initiated a series of Roundtable Meetings on Linguistic and Cultural Access to Justice. These Roundtable meetings brought together five participants: the Hawai'i Supreme Court Committee on Access to the Courts; the Hawai'i Supreme Court Committee on Court Interpreters and Language Access; the Judiciary's Office on Equality and Access to the Courts; HSBA's Committee on Diversity, Equality, and the Law; and COBAJ. The intent of the Roundtable was to provide a venue for collaboration to dismantle the language and cultural barriers that block many from obtaining justice through the use of Hawai'i's legal system. The meetings provided an opportunity to avoid duplication and to share resources to meet common goals.

Access Needs of Special Populations. The Commission has addressed special access needs of minority populations or vulnerable groups. Special attention has been given to the needs of migrant populations from the Freely Associated States of the Pacific. The needs of this population constitute a significant block of unmet needs in the community. The Commission has sponsored several workshops during the annual conferences to address these needs. In 2012, an article was published in the Hawaii Bar Journal to document the historical issues and current challenges facing this growing population of state residents.

Another vulnerable population whose needs have been addressed are the infants and toddlers who are removed from their homes for abuse or neglect. Hawai'i's Zero-to-Three Court, under the leadership of Family Court Judge Mark Browning and former Zero-to-Three Court Judge Christine Kuriyama made significant strides in improving access for these members of the population who have neither voice, words, nor language. The Commission was successful in bringing the needs of this population to the attention of the Judiciary, resulting in a permanent

source of funding for the Zero to Three Court. These needs were also documented in an article in the Hawaii Bar Journal.

Other Initiatives Contributing to Improving Access. A number of other initiatives have made a significant impact on improving access to justice. These include the following Commission activities:

- Initiated a successful foreclosure mediation program in the Third Circuit in response to the legal crisis created for many Hawai'i residents as a result of the collapse of the housing market in 2008. That collapse resulted in escalating foreclosures and bankruptcies. This need continues—in foreclosure cases, the percentage of pro se defendants increased from 79.5% in FY 2006 to more than 86% in FY 2014.
- Recommended amending *Hawai'i Rules of Civil Procedure*, Rule 23 to improve distribution of class action funds that are not claimed and created a cy pres kit that instructs lawyers on the distribution of unclaimed class action proceeds to non-profit organizations.
- Encouraged the Ka'u Project designed as a pilot for delivery of legal services to underserved rural communities in the State.
- Supported a study on the feasibility of providing subsidies for law students who choose public interest work.
- Recommended adoption of an unbundling protocol for court proceedings in which an attorney could perform services for only a portion of the case. Those recommendations are currently before the Hawai'i Supreme Court for consideration.

- Supported installation of court form and document assembly workstations at courthouses.
- Supported a partnership with the Judiciary, Legal Aid Society of Hawai‘i, and the Hawai‘i State Library System, training librarians with interactive interviews in 50 libraries across the state, accessible on nearly 1,000 computers.
- Used legal and public media to highlight access-to-justice issues through articles in the Hawaii Bar Journal aimed at the legal profession. Numerous articles in local newspapers targeted the general population.
- Held four community briefings to inform local communities about the Commission’s efforts and available resources, at schools, churches, and other venues.

Challenges Commission Needs to Address to Increase Access to Justice

As the Commission moves beyond the enthusiasm surrounding its creation and the initial successes it has achieved, it embraces the goal described by Jonathan Asher in his keynote during the June 2015 Access to Justice Conference: *“the goal is justice-not just access to the Courts.”* As he further elaborated, while technology is a helpful tool, it is not the end; it is not justice.”

More Effective Roles for Paralegals. Supreme Court Rule 21(b)(10) mandates that the Commission “shall...increase effective utilization of paralegals and other non-lawyers in the delivery of civil legal services to low-income Hawai‘i residents.” In 2011, the Three-Year Evaluation stated that, in 2009, the Commission made preliminary efforts to assess whether

access to civil legal services might improve if paralegals were allowed a greater role in matters like uncontested divorces and guardian ad litem work. Although efforts were made to assess the role of paralegals, the issue has largely remained dormant. Action is needed to thoroughly examine and make recommendations regarding all issues related to the role of paralegals and other non-lawyers in expanding access to justice for low- and moderate-income residents.

As stated by James Sandman, President of the Legal Services Corporation in his keynote address during the 2014 Access to Justice Conference, “We must expand the role of non-lawyer professionals in the way the medical profession has deployed paraprofessionals to speed and improve patient care....Access to justice should never be driven by lawyers’ self-interest.” Or as discussed in the 2014 afternoon workshop by Politano and Reber Porter, “...many of these rules and regulations now act as barriers to permitting lawyers and others to provide the legal information and legal services necessary to serve the public.”

Responding to Recommendations Resulting from Access to Justice Conferences. The value of the Access to Justice Conferences is the opportunity to bring together the community that cares about access-to-justice issues to bring to the attention of the Commission issues that need to be addressed. A number of salient recommendations have arisen from the conferences that deserve the attention of Commissioners. Among those recommendations are the following:

- Strong recommendations have arisen in the workshops at the Access to Justice Conferences for the Commission to find ways to address the relationship between poverty and reduced access to justice. Supreme Court Rule 21(b)(13) provides that the Commission “encourage the formation of a broad coalition of groups and individuals to address ways to alleviate poverty in Hawai‘i.” As reported in the July 2011 Three-Year Evaluation, as an initial step in 2009, the Commission began considering a study of legal

proceedings governing housing issues in Hawai‘i. That study has not yet materialized. Further, the Chief Justice in his October 2015 remarks at the HJF Annual Meeting, recognized the role that the Commission should play in addressing social challenges such as income inequality.

- Create access to pro bono representation of low- and moderate-income individuals in agency administrative hearings and appeals.
- Although access to proceedings in a person’s first language has improved in recent years, workshop participants have documented inadequacies that continue. Too often interpretation does not consider cultural factors. Written translations are often grossly unintelligible to speakers of the languages because no quality control exists for oral or written interpretations. Much needs to be done to improve the attractiveness of positions for court interpreters. Community support is needed to prepare migrants for what to expect when they move from an area such as Micronesia to Hawai‘i. The Commission was asked to explore the possibility of a pilot court navigator program.

Strategic Plan. Supreme Court Rule 21 (b)(3) encouraged the Commission to develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income residents of Hawai‘i. Perhaps the time has come to build upon the achievements of the past years to develop a plan that can propel the Commission over the next years to focus not only on access, but work to “assure” that justice is accessible for all.

Moreover, the Conference of State Chief Justices adopted Resolution 5 encouraging each state to develop a strategic plan with realistic and measurable outcomes and set an ambitious overall goal of 100 percent access to the justice system through a continuum of meaningful and appropriate services.

Summary

Since the first meeting of the Commission in July 2008, low- and moderate-income Hawai‘i residents have gained expanded resources to navigate the judicial system, more attorneys are providing pro bono services, nonprofit legal services providers have increased fiscal resources, the Judiciary, Legislative, and Executive branches of government have demonstrated commitment to ensuring access to justice, and greater public awareness of these issues exists. The Commission has succeeded in responding to at least ten of the endeavors recommended in Rule 21.

The Commission can find satisfaction in its rating by the National Center for Access to Justice (“NCAJ”). NCAJ created the Justice Index that rates each state on four elements of the state-based justice system: (1) the number of civil legal aid attorneys serving the poor; (2) systems available to assist the self-represented litigants; (3) systems available to assist those with limited English proficiency; and (4) systems available to assist those with disabilities. Overall, NCAJ acknowledged Hawai‘i as a national leader, ranking it number four in providing access to the civil and criminal courts for the most vulnerable populations. Hawai‘i was ranked number one across the nation in its support for self-represented litigants. Hawai‘i tied for first in providing support for people with disabilities.

The Commission is committed to ensuring that there is equal justice for all. As Justice Simeon Acoba said, “Equal access to justice should not be a mere illusion. We should be energized to meet the challenge of such equality.”

**UPDATED SUMMARY ASSESSMENT OF UNMET CIVIL LEGAL NEEDS
PURSUANT TO HAWAI‘I SUPREME COURT RULE 21(b)(14)**

DOMESTIC VIOLENCE ACTION CENTER

The legal needs of survivors of domestic violence do not vary greatly. It is essential that effective, accessible, affordable advice, brief services, and full representation be available to victims suffering the harm of abuse – whether it be physical, coercive control, or exploitation of any kind. The Domestic Violence Action Center (DVAC) meets this mandate. But, far too few are served. Representation by adequately trained attorneys is especially important in Family Court. Issues of ambivalence and vulnerability are enormous and poorly understood. Facing an abuser in any proceeding is terrifying. Victims need attorneys who understand the risks, the full meaning of abuse, and how the system can covertly and subtly be used as a weapon by the abuser against the victim.

The challenging work, coupled with the vicarious trauma and the insufficient salary, make recruiting and retaining attorneys difficult. The historical experience of the DVAC has been that we attract young, inexperienced attorneys, train and supervise them carefully – until they become ready or desirable for the private market. Then they depart.

The uncertainty and unpredictability of budget revenues continues to be a destabilizing fact in delivering legal services. Real lives are on the line. Attorneys must be adequately trained to serve clients to minimize client risks to life, property, and mental health. One-year grants challenge this commitment. The constant search for multiple grants to maintain staffing challenges stability because staff have no assurance that their positions will continue to be funded.

These conditions contribute to an ongoing need for a firm foundation to meet the unending civil legal needs of victims of domestic violence. Published research suggests that legal services are the most important thing a survivor needs. Judges say that legal services are crucial for their court management, and there is a steady demand for help. The DVAC maintains

a waitlist, provides brief services, full representation, and experiments with the idea of “clinics.” But these are not really suited for survivors, since the legal system is used to re-victimize them. The need remains great; there is no substitute. A totally unmet need is criminal defense for victims erroneously arrested.

During the period 1/5/16 – 1/15/16, 55 survivors were served in TRO Court program, 40 requests for legal help were received, and 54 callers to Legal Helpline needed legal information. According to Judge Katherine Tennyson, “It would be helpful to all of us on the bench if there was an effective way to make sure everyone had a lawyer. It’s the most lacking asset. It’s critical to get off to a very clear start. Once one mistake is made, everything kind of compounds on that. At the very beginning of the case, if a judge finds that something did not occur, then it’s very hard to undo.”

Her advice to survivors, whether they’re looking to extend an order of protection, secure custody, or something else related to domestic violence is, “Don’t go it alone. Just make sure it’s representation from someone knowledgeable,” she warns. “Having bad help is almost as bad as having no help. Having help at the beginning is critical. The biggest mistake people make is trying to do this themselves.”

HAWAI‘I APPLESEED CENTER FOR LAW AND ECONOMIC JUSTICE

The Hawai‘i Appleseed Center for Law and Economic Justice (Hawai‘i Appleseed) is a nonprofit, 501(c)(3) law firm created to advocate on behalf of low-income individuals and families in Hawai‘i on civil legal issues of statewide importance and to complement the assistance provided by existing legal services providers in the State.

Hawai‘i Appleseed conducts important research on housing, health, education, child nutrition, immigrants and disability rights issues, to identify underlying problems in the community. Once problems are identified, Hawai‘i Appleseed may engage in legislative and administrative advocacy to ensure that the policies, laws, and practices intended to address the problems of those living in poverty are well designed and are implemented legally, fairly, and effectively.

Hawai‘i Appleseed may also conduct seminars, prepare publications, and engage in legal education to disseminate its findings and inform low-income individuals and community groups of their rights and the options available to exercise those rights. Hawai‘i Appleseed also reaches out to other like-minded community groups through building grassroots coalitions and supporting the work of other public-interest advocates in Hawai‘i. These collaborative partnerships facilitate the sharing of technical skills and substantive knowledge and the coordinated use of resources. Finally, Hawai‘i Appleseed, when necessary, conducts large scale, complex litigation to protect the rights of the low-income community.

Our current top priorities include the following:

- Advocating for tax policy changes to correct the inequities of our current state taxing system, which has been determined by the Institute for Tax and Economic Policy (ITEP)

to be the second worst system in the nation for taxing our low- and moderate-income residents.

- Recommending and supporting creation of affordable housing models, including Accessory Dwelling Units and Micro Units that will produce more affordable housing alternatives. The program has also concentrated on ensuring that tenants in public housing have critical repairs made to their apartments as well as receiving refunds for overpayments and inhabitable conditions in their housing.
- Ensuring access to critical health services for low-income immigrants by ensuring that COFA residents receive sufficient coverage.
- Advocating for improved systems to feed our children through development of more efficient school breakfast delivery as well as ensuring that timely provision of food stamps is provided to eligible individuals and families.

Since 2010, Hawaii Appleseed has provided the following services (number of residents served is approximate):

- 110,000 low-income residents gain more income through the expansion of current refundable tax credits.
- 15,000 low-income tenants receive services to ensure habitable conditions and receive refunds of rent overcharges.
- 8000 low income immigrants have had health care coverage preserved.
- 45,000 low income individuals receive timely food stamps when in need.

Numerous unmet needs in our community continue, including these;

- Providing legal representation of tenants who face eviction.

- Ensuring that opportunities for the creation of truly affordable housing are maximized as decisions are made on the use of available land included in Transit Oriented Development.
- Improving language access for immigrants.
- Advocacy for disabled individuals who are eligible for Social Security Disability and Supplemental Security Income programs.

HAWAII DISABILITY RIGHTS CENTER

The Hawaii Disability Rights Center is the state designated protection and advocacy system. We have been designated by the Governor of Hawai'i in Executive Orders No. 77-3, 82-4, 89-2 and 94-06 to provide advocacy services to individuals with disabilities, in accordance with various federal laws (see 42 U.S.C. § 15001, 42 U.S.C. § 10801, and 29 U.S.C. § 732). Hawaii law, at Section 333F -8.5 of the Hawaii Revised Statutes, expressly recognizes the obligation of the State to provide advocacy services to individuals with developmental disabilities and mental illness in order to receive federal funds. The federal statutes require, as a condition of funding services provided by a number of state agencies, that a protection and advocacy agency be established by the State.

Our Annual Report serves as a baseline indicator of our overall funding and activities. We have a reasonable budget based upon the aggregate of our federal grants. Of course, the funds received from the Indigent Legal Assistance Fund (ILAF) grant were very helpful to supplement our work. The Hawaii Disability Rights Center is a small, efficient agency that serves thousands of individuals each year with legal issues surrounding their various disabilities. We effectively utilize our resources and keep our administrative costs to a minimum.

However, federal funding has plateaued over the past several years, and been reduced in recent years as a result of sequestration, while expenses have continued to increase. Each federal grant is specific and restricted to serving only those individuals who meet the requirements of the literal definition of that disability. If all funds from that particular grant are expended, then we are less able to serve individuals within that population. The ILAF grant was very useful in filling potential gaps that exist within the limits of each federal grant.

The Annual Report also provides a breakdown of the number of individuals served as well as the types of cases. We work in the Special Education area to make sure that the DOE provides the Free and Appropriate Education (FAPE) to its students as required by federal law. We assist individuals in obtaining services and benefits to which they may be entitled but to which they have been denied. This would include services provided by the Department of Health Developmental Disabilities Division or its Adult Mental Health Division. We also represent individuals at hearings before an Administrative Law Judge to obtain Social Security Disability Benefits, or to obtain services from the State Department of Vocational Rehabilitation.

We have engaged in advocacy and representation of individuals with mental health issues within our prison system. Currently, prisons now house a very large number of such individuals. We have made it a priority to ensure that adequate mental health services are provided to inmates. We have also made it a priority to represent what we refer to as “underserved” populations. We have one advocate who spends most of his time conducting outreach and advocacy within the community of individuals who arrived here from the Compact of Free Association (COFA) nations. A large number of these people are from Micronesia and include the Chuukese and the Marshallese.

We have also represented individuals who have desired to receive residential or rehabilitative type services in community settings. The Olmstead Decision from the U.S. Supreme Court guarantees individuals with disabilities the right to reside in integrated settings in the community. We have had clients who were living in facilities (hospitals or nursing homes), and we undertook either advocacy or administrative or judicial action on their behalf to secure their placement in community settings with appropriate services.

We have also undertaken larger scale systems advocacy. We are involved in two class-action lawsuits that we believe will benefit an entire generation of children in Hawai'i. One lawsuit resulted in a 9th Circuit decision that overturned the DOE practice of requiring special education students to leave the school upon reaching the age of 20. In the wake of this lawsuit, students will be entitled to receive these services until the age of 22.

The other lawsuit was filed against the Department of Human Services for not providing proper coverage to children with autism as required by federal law. We are in settlement negotiations with them, and they have indicated that their policy has been changed to provide the services that are necessary.

While additional funding is always welcome, gauging the degree of unmet needs is difficult. For the most part, the Hawaii Disability Rights Center does not turn away people if they meet the priorities that the federal government sets out for us each year. The monies we receive from our federal funding and ILAF have been reasonably sufficient to allow us to perform our mandated functions.

The federal government specifically enumerates the types of cases we are expected to accept. For that reason, most cases that we reject are either ones that we think have little merit (which we would not take even if we had more staff) or do not fit the federal criteria that requires the legal issue presented be based upon the individual's disability. There are misconceptions that some have that we are an "all purpose" law firm for people with disabilities. But the federal requirements are much narrower. For that reason, we would not take cases outside of the federal guidelines even if we had more funding. Some cases are "borderline" cases where we feel the person can engage in self advocacy and perhaps we might take a few more cases if we had more

funding. However, given that the federal government also requires the development of self-advocacy, it is not clear that we would undertake a significant number of additional cases.

We have found that federal reporting requirements have become more onerous and extensive in recent years. For that reason, we are forced to spend additional hours complying with the myriad of forms presented and information required by the federal government. In that regard, additional funding might enable us to undertake some additional number of cases that would fall within the federal priorities.

LEGAL AID SOCIETY OF HAWAI'I

In 2015, the Legal Aid Society of Hawai'i (Legal Aid) opened approximately 9,800 cases in a variety of civil legal needs; 9,495 of these were for those under 250% of the federal poverty guidelines; 8,480 were for those under 125% of the federal poverty guidelines. The highest requests (32.38%) for assistance came in the area of family law, followed by public assistance (26.06%), and housing (14.35%). These statistics are similar for those under 250% and 125% of the federal poverty guidelines.

Of the approximately 9,400 cases closed in 2015, 90% of clients received some level of service, ranging from counsel and advice to full representation. Of the cases closed by Legal Aid in 2015, only 13.25% (about 1,250 cases) could be assigned to an attorney or paralegal for representation in a court or administrative hearing or in negotiations against an opposing party with or without the possibility of litigation due to limited resources.

The demand for legal assistance in the state of Hawai'i remains high. In October 2015, Legal Aid conducted 141 stakeholder interviews as part of its Priority Setting process and lay some ground work for its strategic planning process. These stakeholders ranged from clients to social service providers to judges to community leaders. Stakeholders identified family, housing, and public benefits as the priority legal areas that Legal Aid should focus on.

Growing legal needs identified by stakeholders included homelessness, lack of affordable housing, the increase of low-income individuals and the decrease of funding for legal service providers, lack of education, need for more resources for Limited English Proficient, and Social Security Disability assistance.

Lack of funding to provide an adequate level of services to those in need of assistance continues to be the number one issue facing legal service programs. In FY08, Legal Aid had 33

attorneys and 4 AmeriCorps attorneys providing direct legal services to clients. With funding cuts and increased costs, those numbers have dropped to 25.3 attorneys reducing the number of clients we are able to represent. While we can be creative and work to increase the amount of resources and information available to those who have the capacity to represent themselves, a segment of the population remains that needs more than just a pamphlet or a brief training.

Ultimately, it will take a combined effort of all providers to work toward 100% access to legal assistance for critical legal needs: leveraging different types of services from mediation to legal advice to assistance completing forms to representation, utilization of technology for screening and dissemination of information, and coordination amongst partners in the community can help to make a difference.

THE MEDIATION CENTER OF THE PACIFIC, INC.

Guided by its mission of providing high quality mediation and dispute resolution services that are affordable and accessible, the Mediation Center of the Pacific, Inc. (Mediation Center) serves over 7,000 people annually. Over the past five years, the number of cases managed has grown by approximately 10% annually. In calendar year 2015, the Mediation Center managed a total of 1,808 mediations and facilitations. Of the 1,747 new cases opened, 1,231 were scheduled for mediation or facilitation processes; 51% of those cases resulted in written agreements.

The many opportunities provided by the Mediation Center to prevent and resolve disputes quickly and affordably through culturally sensitive processes are a vital resource for low income and vulnerable populations in Hawai'i. The services can mean the difference between: adult siblings creating a mutually agreeable plan to support an elderly parent compared with battling it out in an adult guardianship proceeding and permanently damaging their relationship; or a couple finalizing a divorce amicably compared with the escalation of emotions and potential violence.

Despite the continued growth in services, far more clients could be served if the Mediation Center had more financial and human resources. For example, the Family Court at the First Circuit would like to have more on-site mediators to assist with custody mediations. Additionally, despite providing direct services for 223 custody cases involving unmarried couples and 341 mediations for divorcing couples in the last calendar year, hundreds more couples would benefit from participating in the process. The Civil Rights Commission has also expressed an interest in having the Mediation Center provide mediation for housing discrimination cases.

Moreover, the number of eviction cases has steadily grown over the past few years. The tenants involved in these cases would benefit from participating in mediation. For example, at the beginning of fiscal year 2014, 5,182 summary possession (eviction) cases were pending in the District Court of the First Circuit. During the year, 1,786 new cases were filed, for a total of 6,968 cases. At the end of the fiscal year, 5,976 were pending summary possession cases.

While many of the landlords and tenants in residential eviction cases have the opportunity to participate in an abbreviated mediation process at District Court, the parties have only approximately 30 minutes to mediate. With the limited amount of time, only 50% are able to reach an agreement. Additionally, because the tenants have already breached their leases by not paying rent, the landlords have the right to evict them. Therefore, most of the agreements focus on providing a longer move-out date for the tenants to enable them to find a new home for their family, rather than working out payment plans to stay in the home.

While this is a positive outcome, with more time and information, and less emotional pressure, ideally more landlords and tenants could reach agreements that would allow the tenants to remain in their homes. If landlords and tenants accessed mediation first at the Mediation Center, as soon as an issue arises, then more agreements would be reached allowing the tenant to remain on the property. More specifically, the focus of the mediation would be to develop a plan for repayment of back rent and payment of current rent that is feasible in light of the tenant's income.

In summary, over the past five years the Mediation Center has served more people than before. However, due to the economic recession during this five-year period, and the high cost of living in the islands, the need for more services continues to be high. In particular, more mediation and dispute resolution services are needed to help unmarried couples working through

custody issues, divorcing couples with children, tenants struggling to remain on their property and the elderly who face multiple challenges as they age.

NATIVE HAWAIIAN LEGAL CORPORATION

The Native Hawaiian Legal Corporation (NHLC) sees legal representation in family court as an unmet legal need that is having a significant adverse impact on the lives and wellbeing of Native Hawaiians and Native Hawaiian children. A 2007 assessment of the justice gap in Hawai'i concluded that legal representation in family court is one of two of the greatest unmet legal needs in Hawai'i. Additionally, nearly half of the children in the foster care system of Hawaii are Native Hawaiian. But for a current lack of funding and resources, the NHLC would be addressing these unmet needs

VOLUNTEER LEGAL SERVICES HAWAI'I

Volunteer Legal Services Hawai'i (Volunteer Legal) is in its 35th year of providing civil legal services to the low- and moderate-income households in the State of Hawai'i. The primary function of Volunteer Legal is to engage the private bar in Hawai'i and facilitate meaningful ways to meet the civil legal needs of the low- and moderate-income community through pro bono service.

Like many other service providers in Hawai'i, Volunteer Legal experienced drastic funding reduction throughout the past seven years, which consequently forced the scaling down of services. During Fiscal Year 2009-2010, Volunteer Legal assisted 2,365 Indigent Legal Assistance Fund (ILAF) qualified individuals (those whose incomes are at 125% of the Federal Poverty Guidelines for Hawai'i). In FY 2014-2015, Volunteer Legal assisted 1,610 ILAF qualified individuals, a drop of 32% from FY 2009-2010.

During this same time period, Volunteer Legal reduced services to the neighboring counties of Hawai'i, Maui, and Kaua'i, and the eventual closure of bi-monthly and monthly legal clinics in the Windward and Leeward districts on O'ahu, and all neighbor island clinics in 2013.

In addition, the following are areas of service available five years ago and no longer available now: employment law matters (to include workers comp; unlawful termination); real estate litigation (to include foreclosures and complex probate matters); contracts; and immigration (with the exception of Deferred Action of Childhood Arrivals).

In the last three years, Volunteer Legal has focused its efforts on restoring services and ensuring that pro bono work remains an operative tool in achieving access to justice for Hawai'i residents. Currently, Volunteer Legal provides services in the following practice areas: family law (divorce; child custody, support and visitation; guardianship; domestic restraining orders);

guardianship and conservatorship; estate planning; Chapter 7 Bankruptcy; collections; Veterans benefits; and driver's license reinstatement (bench warrant removal).

Despite funding shortages, Volunteer Legal has maintained services to neighbor island residents through use of basic technology (phone and email), and small scale projects targeted at specific groups and legal issue areas.

Based on the number of Intakes conducted throughout the past five years, the greatest demand remains in the family law areas: divorce, paternity, child custody, support, and visitation. This is followed by debt relief (collections and bankruptcy), evictions defense, and elder care (guardianship/conservatorship, and basic estate planning: health and financial powers of attorney). Volunteer Legal has also experienced spikes in specific areas of law throughout the last 7 years. For example, demand for assistance in bankruptcy and foreclosure.

Volunteer Legal continues to receive a high volume of inquiries and applications each month. Applicants who call usually receive a call back within 24 to 48 hours. Outside of general and basic legal information provided during Intake, the current wait time for service is three weeks on average. Volunteer Legal has been in the process of reducing the wait time for service by expanding immediate services through use of online technology like the A2J Interactive Forms, and limited scope services provided by trained staff.

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

RESOLUTION 5

Reaffirming the Commitment to Meaningful Access to Justice for All

WHEREAS, the Conference of Chief Justices acknowledged in 2001 in Resolution 23 that the promise of equal justice is not realized for individuals and families who have no meaningful access to the justice system and that the Judicial Branch has the primary leadership responsibility to ensure access for those who face impediments they cannot surmount on their own; and

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators passed Resolution 2 in 2008 recognizing that ensuring access to justice in adversarial proceedings involving basic human needs, such as shelter, sustenance, safety, health, and child custody is one of the Conferences' highest priorities and encouraged their members to take steps to ensure that no citizen is denied access to the justice system due to the lack of resources, or any other such barrier; and

WHEREAS, significant advances in creating a continuum of meaningful and appropriate services to secure effective assistance for essential civil legal needs have been made by state courts, national organizations, state Access to Justice Commissions and other similar bodies, and state bar associations during the last decade; and

WHEREAS, these advances include, but are not limited to, expanded self-help services to litigants, new or modified court rules and processes that facilitate access, discrete task representation by counsel, increased pro bono assistance, effective use of technology, increased availability of legal aid services, enhanced language access services, and triage models to match specific needs to the appropriate level of services;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators support the aspirational goal of 100 percent access to effective assistance for essential civil legal needs and urge their members to provide leadership in achieving that goal and to work with their Access to Justice Commission or other such entities to develop a strategic plan with realistic and measurable outcomes; and

BE IT FURTHER RESOLVED that the Conferences urge the National Center for State Courts and other national organizations to develop tools and provide assistance to states in achieving the goal of 100 percent access through a continuum of meaningful and appropriate services.

Adopted as proposed by the CCJ/COSCA Access, Fairness and Public Trust Committee at the 2015 Annual Meeting.



On February 29, 2016, Chief Justice Recktenwald hosted a luncheon for Commission members. Pictured left to right. First Row: Associate Justice Richard W. Pollack, Associate Justice Paula A. Nakayama, Chief Justice Mark E. Recktenwald, Associate Justice Sabrina S. McKenna, and Associate Justice Michael D. Wilson. Second Row: Elton Johnson, Hon. Ronald Ibarra, Derek Kobayashi (Vice-Chair), Carol Muranaka, Victor Geminiani, Rep. Della Au Belatti, Mark K. Murakami, Jean Johnson, Hon. Simeon R. Acoba, Jr. (ret) (Chair), Tracy Jones, Moses Haia, Michelle Acosta, Hon. Karen Nakasone, Diane T. Ono, and Rona Fukumoto.