

**First Judicial Circuit – Adult Client Services/Juvenile Client Services**

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**William A. Santos**  
CHIEF COURT ADMINISTRATOR

**Wendell K. Kikuchi**  
DEPUTY CHIEF COURT ADMINISTRATOR

October 24, 2007

Senator Brian Taniguchi  
Chair, Judiciary & Labor  
Hawaii State Senate  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Dear Senator Taniguchi:

I'm writing in support of Judge Randal Lee to be confirmed as an Intermediate Court of Appeals Judge by the Hawaii State Senate. As a Judiciary employee for 32 years, and an administrator for the last 20 years, I've had the privilege to work with Randal Lee as a judge, deputy prosecutor and deputy public defender. He has had an extensive career in public service as an attorney and judge. Through my experiences with him, he has always been legally prepared and knowledgeable in court, while at the same time his demeanor was fair and even tempered. I believe he is an excellent choice as an appeals court judge.

Yours truly,

A handwritten signature in black ink, appearing to read "Wendell Kikuchi".

Wendell Kikuchi  
Deputy Chief Court Administrator  
First Judicial Circuit, State of Hawaii



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

**RANDAL K.O. LEE**  
**Associate Judge, Intermediate Court of Appeals**

To: Senate Committee on Judiciary and Labor  
 The Honorable Brian T. Taniguchi, Chair  
 The Honorable Clayton Hee, Vice-Chair

Hearing: Thursday, October 25, 2007, 9:00 a.m.  
 Conference Room 229  
 State Capitol

The Board of Directors of the Hawaii State Bar Association appreciates the opportunity to comment on the qualifications of Randal K.O. Lee for the position of Associate Judge, Intermediate Court of Appeals.

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

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

Taking into consideration all of the information presented by and about the nominee and an interview with the nominee, the vote of the Board of Directors of the Hawaii State Bar Association resulted in an equal split between qualified or better, and not qualified.

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

October 24, 2007

Senator Brian Taniguchi, Chair  
Senator Clayton Hee, Vice-Chair  
Senate Judiciary and Labor Committee  
Hawaii State Capitol, Room 219  
415 South Beretania Street  
Honolulu, HI 96813

**RE: GM1. Hearing: Thursday, October 25, 2007 at 9:00 am, Room 229  
Senate Judiciary and Labor Committee**

**TESTIMONY IN STRONG SUPPORT OF THE CONFIRMATION  
OF GUBERNATORIAL NOMINEE RANDALL K.O. LEE TO THE  
INTERMEDIATE COURT OF APPEALS, ASSOCIATE JUDGE**

Dear Chair Taniguchi, Vice-Chair Hee and Members of the Senate Judiciary and Labor Committee:

I am writing in **strong and unequivocal support** of the confirmation of Randal K.O. Lee to the Intermediate Court of Appeals, State of Hawaii.

I have known Judge Lee for **over 25 years**. During the summer of my first year of law school in 1981, I met Randal Lee while I was working for the Public Defender's Office. At that time, Mr. Lee was a young and rising deputy public defender.

Subsequently, Mr. Lee moved to the Prosecutor's Office and eventually became the head of the White Collar Crime Division. At one point in my career, I considered returning to Hawaii from my position as a trial attorney at the United States Department of Justice, Tax Division, in Washington, DC, and working for Mr. Lee in the Prosecutor's White Collar Crime Division.

Over the years, I have remained in contact with Mr. Lee, both professionally and personally. In fact, I represented a client who was a suspect of one of Mr. Lee's white collar investigations while I was at Goodsill Anderson Quinn and Stifel, emphasizing civil and criminal tax controversies and litigation. Fortunately, Mr. Lee was fair and deliberate and did not rush to judgment in that matter.

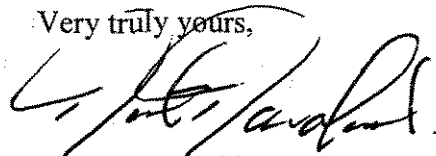
In my opinion, Mr. Lee is a very fair, intelligent, and high integrity professional and person. He is open-minded, thoughtful, and will not rush to judgment. Because he started his career as a public defender, he has a balanced perspective comprised of his

experience as a public defender and a prosecutor. Randal grew up modestly, and attended Hawaii's public schools including McKinley High School and the University of Hawaii at Manoa. Subsequently, Mr. Lee earned his law degree from Southwestern University Law School in Los Angeles. Randal is the perfect example of a local boy that preserved and allowed his exceptional work to speak for him.

In sum, I strongly and unequivocally support the confirmation of Judge Lee to the Intermediate Court of Appeals, State of Hawaii, and urge this Committee to recommend advice and consent to the entire Senate.

Thank you for allowing me this opportunity to present my views of Judge Randal K.O. Lee.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kurt Kawafuchi', written in a cursive style.

Kurt Kawafuchi

Wayson Chow  
Attorney at Law  
A Law Corporation  
Century Square  
1148 Bishop Street, Suite 601  
Honolulu, Hawaii 96813  
Telephone (808) 599-8844

October 24, 2007

VIA FACSIMILE (808) 586-6659

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

Dear Senator Taniguchi:

Re: **Opposition to the Nomination of Judge Randal K.O. Lee**  
to the Hawaii Intermediate Court of Appeals  
Hearing Date & Time: Thurs., October 25, 2007. 9:00 a.m.

I am writing in opposition to Hawaii Circuit Court Judge Randal K.O. Lee's confirmation to the Hawaii Intermediate Court of Appeals, for an initial ten years term. Since 1975, I have worked as an attorney in private practice here, and served as chair of the Hawaii Chapter of the National Lawyers Guild, a national civil rights organization.

I have not had any cases before Circuit Court Judge Randal K.O. Lee, nor have I had any cases with former Deputy Prosecutor Lee. Nevertheless, I recently reviewed Deputy Prosecutor Lee's conduct in State of Hawai'i vs. Frederick D. King, et al, Supreme Court Nos. 145548, 14586, and 14633, Memorandum Opinion, November 19, 1991 ("hereinafter King Memo Opin.") and Judge Lee's rulings in a civil rights—employment discrimination case of Gerald R. Lales v. Wholesale Motors Co., dba JN Automotive Group, et. al, Civil No. 03-1-2415 RKOL, a case which is now pending before the Hawaii Supreme Court, Docket No. 28516.

Compliance with the Prosecutor's discovery obligations enumerated in Rule 16, of the Hawaii Rules of Penal Procedure, is essential to balancing society's needs to prosecute dangerous felons, with protecting Defendant's constitutional rights to a fair trial, due process of law, and effective assistance of counsel. In this light, the Hawaii Supreme Court's reversal of Frederick King's conviction, and its stinging critique of Prosecutor Lee's repeated failure to produce thousands of pages of requested (HRPP Rule 16 discovery) documents were "so pervasive, extensive and sweeping, that we can only conclude that that failure deprived appellants of a fair trial, and thus

Senator Brian T. Taniguchi  
October 24, 2007  
Page 2

**violated their right to due process under Article I, Section 5 of the Constitution of the State of Hawaii, and their right to counsel under Article I, section 14 of the Constitution of the State of Hawaii.** King Memo Memo Opin., page 3.

Secondly, all civil litigants reasonably expect that their cases will be heard and fairly decided by an impartial judge, who abides by the letter and spirit of the Revised Code of Judicial Conduct (hereinafter CJC ) Canons 2 and 3 regarding "impartiality". Similarly, CJC Rule 3(e) provides:

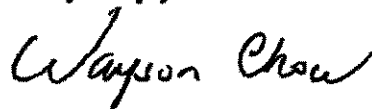
**"A judge shall disqualify himself or herself in a proceeding in which the Judge's impartiality might reasonably be questioned, including but not limited to cases where a) the judge has a personal bias or prejudice concerning a party or a party's lawyer."**

The Commentary to CJC Canon 3(B)(5) further states:

**"A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. . . . A judge must be alert to avoid behavior that may be perceived as prejudicial."**

Judge Lee's recent award of \$149,667.85 in reverse civil rights attorney's fees, in Lales v. Wholesale Motors, to Defendant Wholesale Motors and his labeling Plaintiff's civil rights—national origin lawsuit as "frivolous" (despite a favorable EEOC 'reasonable cause' determination finding "national origin discrimination", numerous French national origin slurs, & disputed issues of material fact precluding summary judgment, etc.), and Judge Lee's denials of Plaintiff's attorney Daphne Barbee's May 2005 Motion for Recusal (despite 15 years of testy relations, and two successful appellate reversals by Daphne Barbee) raises serious concerns of Judge Lee's fairness, biases, prejudices and their "chilling effect" for all civil rights victims and their attorneys. In summary, I strongly urge you to reject Judge Randal K.O. Lee's confirmation to the Hawaii Intermediate Court of Appeals, in favor of other judicial nominees, who are far more qualified and experienced in civil litigation.

Very truly yours,



Wayson Chow

NORMAN H. SUZUKI  
WILLIAM L. GOO

**SUZUKI & GOO**  
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October 24, 2007

By fax: 586-6659

Senator Brian T. Taniguchi  
Chairperson of the Senate  
Judiciary Committee  
Room 219, State Capitol  
Honolulu, HI 96813

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

Re: Nomination of Randal Lee to Intermediate Court of Appeals

I am a member of the Hawaii State Bar Association and have maintained a civil law practice in the State of Hawaii for approximately 27 years. I would like to offer my support of the nomination of Judge Randal Lee as an Associate Judge of the Intermediate Court of Appeals.

Since his background was in the area of criminal law, my experience with Judge Lee has been limited to a wrongful death case in which he was instrumental in settling. Notwithstanding my limited contact with Judge Lee, I was impressed with his obvious preparation and knowledge of the factual and legal issues in the case. Judge Lee displayed fairness and proper judicial temperament in presiding over the case in recognizing and at the same time without compromising the positions or claims of the parties. I felt that the parties appreciated his analysis and comments which led to an early settlement of the case.

I have no doubt that Judge Lee will perform his duties as an Intermediate Court of Appeals judge with the same thoroughness and attentiveness which he exhibited as a Circuit Court judge.

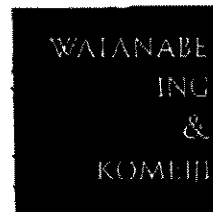
Thank you for considering my comments.

Very truly yours,



William L. Goo

WLG:sm



LLP

October 24, 2007

Sender's E-mail:  
[jkomeiji@wik.com](mailto:jkomeiji@wik.com)**VIA FACSIMILE (586-6659)**

Chairperson Taniguchi and Members of the Committee  
Senate Committee on Judiciary and Labor  
c/o Senate Sergeant-At-Arms Office

Re: **Judge Randall Lee**  
**October 25, 2007 at 9:00 a.m.**

Dear Chairperson Taniguchi and Members of the Committee:

I would like to support the nomination and confirmation of Judge Randall Lee to the Intermediate Court of Appeals, State of Hawaii.

I initially met Judge Lee when he served as a prosecutor. During the criminal proceedings, he was not solely focused on obtaining a conviction, but was more interested in seeing that justice was served. He vigorously pursued the prosecution with integrity and civility. Following this experience, I was convinced that, even in his position as a prosecutor, he was fair and objective.

My next encounter with Judge Lee was in his capacity as a civil judge. I was somewhat apprehensive in initially appearing before him. His lack of civil experience caused me concern regarding his decisions and management of my civil case. However, my concerns were immediately quelled. It became clear that Judge Lee had expended significant effort to educate himself regarding civil procedure and evidentiary matters. He seemed to enjoy the substantive issues presented to him in arguments on motions. As a result, I became confident that he had the intellect and analytical necessary for our complex civil case.

Based upon these experiences, it is my belief that Judge Lee would make an excellent appellate judge. He is intelligent and able to analyze complex issues. Balanced with his intelligence is a practical approach to problems. This balance results in wise actions and decisions.



Chairperson Taniguchi and Members of the Committee  
Senate Committee on Judiciary and Labor  
c/o Senate Sergeant-At-Arms Office  
October 24, 2007  
Page 2

For these reasons, I wholeheartedly support the confirmation of Judge Lee. Thank you for your consideration.

Very truly yours,



JOHN T. KOMELI  
for  
WATANABE, ING & KOMELI

JTK:cmm  
392593.1

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A Partnership of  
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Jason N. Baha  
(1957-2001)

October 22, 2007

Via facsimile - 586-6659 and  
E-mail - [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Senator Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee  
Room 219, State Capitol  
Honolulu, Hawaii 96813

Re: Nomination of Judge Randal Lee for the  
Intermediate Court of Appeals for the State of Hawaii

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

I am writing this letter in support of the nomination of Judge Randal Lee to the Intermediate Court of Appeals for the State of Hawaii. As an active trial lawyer for over 25 years and having handled hundreds of court cases, I have had the opportunity to appear before Judge Lee on a number of matters. Although I have not had a trial with Judge Lee, I have had motions and settlement conferences before him, and I believe I can speak competently as to judicial qualifications, temperament, and demeanor.

I do not know Judge Lee on a personal or social level, and therefore can only address what I observed professionally. In the matters I have had before Judge Lee, I found him to be exceptionally knowledgeable about the case, having thoroughly read submissions by counsel. I found him to be a quick study, and that he took care and pride in distilling all the issues presented before him. Even in fairly complex matters, I found that Judge Lee was able to cut to the chase very quickly, and had the ability to focus on critical issues before him.

As both a motions and settlement judge, I found Judge Lee to be very fair and objective, but also very forthright if he believed a party had a weak legal argument or lacked evidence to support a particular position. I observed Judge Lee to always be fair but firm with counsel, and I believe that he always had the respect of counsel who appeared before him.

I think that Judge Lee would bring intelligence and integrity to the ICA, and I know of no reason why his nomination should not be approved.

Senator Brian T. Taniguchi  
October 22, 2007  
Page 2

Thank you for your consideration.

Very truly yours,

BAYS DEEVER LUNG ROSE & HOLMA

By:



Harvey J. Lung  
Attorney at Law, A Law Corporation  
Its General Partner

HJL:sam

**MOSELEY BIEHL TSUGAWA LAU & MUZZI**

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October 24, 2007

**Facsimile & E-Mail (808) 586-6659**

Senator Brian Taniguchi  
Members of the Chairman Senate Judiciary and Labor Committee  
415 S. Beretania St.  
Honolulu, Hawaii 96813

Re: Confirmation Hearing of Circuit Court Judge Randal K.L. Lee  
Date of Hearing: October 25, 2007  
Time of Hearing: 9:00 a.m.

Dear Chairman and Members of the Senate Judiciary and Labor Committee:

I would like to express my firm support for the nomination of Judge Randal K.L. Lee to the Hawaii Intermediate Court of Appeals.

I have known Judge Lee for eighteen (18) years since 1989, when I was employed as a prosecuting attorney. Judge Lee was already an experienced prosecutor and I was fortunate enough to have him as a supervisor for a time. My trust in his sound legal advice was easily earned as I found him to be knowledgeable, intelligent and wise; qualities which are essential for someone whose decisions regarding the proper interpretation of our constitution, statutes and laws will have a profound and widespread impact upon all citizen of Hawaii.

My respect for Judge Lee, both as an attorney and a person, continued to grow as I became more of a colleague of his and I was extremely pleased that he had been appointed to the Circuit Court bench, where has proven himself to be an excellent judge.

Our State would be well-served by allowing Judge Lee to exercise his talents and abilities in the capacity of an Associate Judge of the Intermediate Court of Appeals of Hawaii and he has my firmest support. My only regret is that the legal community, particularly those who practice civil litigation like me, will be losing an excellent Circuit Court judge.

Senator Brian Taniguchi  
Members of the Chairman Senate Judiciary and Labor Committee  
October 24, 2007  
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If you have any questions, please do not hesitate to call me.

Very Truly Yours,

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

Tedson H. Koja

# AYABE, CHONG, NISHIMOTO, SIA & NAKAMURA

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(1949 - 2004)

A LAW CORPORATION\*

October 24, 2007

## VIA E-MAIL

Committee on Judiciary and Labor  
Senator Brian T. Taniguchi, Chair  
State Capitol, Room 219  
415 South Beretania St.  
Honolulu, HI 96813

Re: Judge Randal Lee's nomination as Associate Justice  
to the Intermediate Court of Appeals

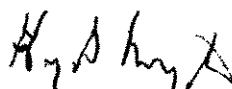
Dear Senator Taniguchi:

This letter is written in support of Judge Randal Lee's nomination as Associate Justice to the Intermediate Court of Appeals.

My experience with Judge Lee occurred during his term as a Circuit Court Judge in civil matters. Judge Lee was fair and even-handed with all parties. He was always well-prepared and allowed the parties to express their positions on issues. His rulings on matters were consistently well-reasoned and supported by the law.

Judge Lee's background in criminal and civil law is invaluable and will allow him to make significant contributions to each appeal he participates.

Very truly yours,

  
Gary S. Miyamoto

**WAYNE S. SAKAMOTO**

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(808) 538-3840

October 19, 2007

Via Facsimile Transmittal (808) 586-6461 & U.S. Mail

Honorable Brian Taniguchi, Chair  
Committee on Judiciary and Labor  
415 South Beretania Street, Room 219  
Honolulu, Hawaii 96813

Re: In the Matter of the Confirmation of Judge Randal Lee  
for the Intermediate Court of Appeals

Dear Senator Taniguchi and Committee Members:

I am honored to provide this letter of recommendation on behalf of Judge Randal Lee in support of his nomination to the Intermediate Court Appeals.

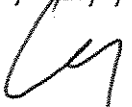
I recently had a case before Judge Lee. This was a very difficult civil case that had some novel and sensitive issues. I found that Judge Lee was conscientious, hard working and had a very firm grasp of the issues. He had a sense of justice and fairness while working through difficult legal issues with the parties and their counsel. Through his efforts the parties were able to resolve this very difficult and emotional case.

While I am saddened by the fact that we will lose Judge Lee on the trial bench, he will undoubtedly be a tremendous asset to the Appellate Courts. I wholeheartedly support the confirmation of Judge Lee.

Thank you for allowing me to provide my support for the nomination of Judge Randal Lee as judge for the Intermediate Court of Appeals.

Please call me if you have any questions and/or concerns.

Very truly yours,

  
Wayne S. Sakamoto

WSS:smn

**MCCORRISTON MILLER MUKAI MACKINNON LLP**

ATTORNEYS AT LAW

October 19, 2007

VIA FACSIMILE – 586-6461 and  
EMAIL – [sentaniguchi@capitol.hawaii.gov](mailto:sentaniguchi@capitol.hawaii.gov)

Senator Brian T. Taniguchi and Committee Members  
Judiciary and Labor Committee  
Hawai'i State Capitol  
417 South Beretania Street, Room 219  
Honolulu, Hawai'i 96813

Re: Confirmation of Randall K. O. Lee as Judge,  
Intermediate Court of Appeals

Dear Senator Taniguchi and Committee Members:

I write to support the confirmation of Randall K. O. Lee as Judge,  
Intermediate Court of Appeals.

In the legal profession, it is common to meet other lawyers when you are on opposite sides of a case. I met Randy when he was investigating and successfully prosecuting Campaign Spending Violations. At that time I was representing a former mayor and his campaign committee. Although there were issues which were hotly debated, I found Randy to be courteous, professional, prepared, and diligent in conducting the business of the Prosecuting Attorney's Office. Perhaps more to the point, however, I found him to be fair and honest. When Randy tells you there is an agreement, his word is his bond.

As circumstances would have it, I was also involved in one of Randy's first civil cases upon his appointment as a Circuit Court Judge. To be honest, since Randy's professional career was largely in criminal law, I was curious to see how he would handle a civil case. I am happy to report that he again was thoroughly prepared, he had independently researched the legal issues, he had an obvious mastery of the rules of evidence, and he adeptly applied the civil rules of procedure.

In sum, I have found Randy to be an intelligent, thoroughly prepared, honest and fair person, both as a lawyer and a judge. In my opinion, he is uniquely qualified for this important judicial position.



Senator Brian T. Taniguchi and Committee Members  
October 19, 2007  
Page 2

I apologize for not being able to testify before your Committee as I will be in New York during the hearings.

I urge you to give Randy your favorable consideration.

Aloha,

McCORRISTON MILLER MUKAI MacKINNON LLP



William C. McCorrison

WCM:ps

cc: Senator Colleen Hanabusa (via fax: 586-7797/email: [senhanabusa@capitol.hawaii.gov](mailto:senhanabusa@capitol.hawaii.gov))  
The Honorable Randall K. O. Lee



**Ted H.S. Hong**  
**Attorney at Law**

*Employment, Workplace Law & Litigation*

October 23, 2007

The Honorable Brian Taniguchi, Esq.  
Chairperson  
Judiciary and Labor Committee  
Hawaii State Capitol, Room 219  
415 South Beretania Street  
Honolulu, HI 96813

**RE: Testimony in Support of Nomination of Darwin L. D. Ching, Esq.  
Director, Department of Labor and Industrial Relations**

Dear Chairperson Taniguchi and Members of the Judiciary and Labor Committee:

I am privileged and honored to submit testimony in support of Darwin L. D. Ching, for the position of Director, Department of Labor and Industrial Relations. I have known Darwin since 1982. I consider Darwin my mentor, role model and close personal friend. I first worked with Darwin while I was a law student intern at the Department of Prosecuting Attorney, City and County of Honolulu.

Darwin has a varied and rich professional background as an advocate. He served at the supervising attorney for the District and Family Court Division of the City's Department of the Prosecuting Attorney. Through his leadership, instruction and example, attorneys like myself learned how to be zealous advocates for the community, victims of crime, and hold ourselves to a higher ethical and professional standard.

I also worked with Darwin in the State's first White Collar Crime Unit at the City's Department of the Prosecuting Attorney. The creation of this division was his idea and we focused on public corruption as well as criminals who committed financial crimes against the elderly and organizations. Under his leadership, the unit took on some important and high profile cases involving defendants who were prominent State and government officials.

As an administrator, Darwin was open, fair and compassionate. Darwin was always available to work with, develop and listen to the attorneys and staff under his supervision. There are many attorneys and judges throughout the State who began their legal career under Darwin's supervision and to this day remark how that time was the best learning grounds they could have ever hoped for.

After moving to the Big Island, I found myself on the opposite side of Darwin in several employment cases. Darwin was representing union members against the County of Hawaii in contract grievance/arbitrations. Darwin was a formidable and fair opponent.

Darwin has always been a zealous, professional and ethical attorney. People retain Darwin because of his ability, his passion and professionalism. In the course of my professional

Letter to Chairperson Taniguchi and Judiciary Committee

October 23, 2007

Page 2.

career, whenever I do a "gut check" of where I am, I constantly hold myself up to his high standard.

I highly recommend Darwin to this Committee. He has the ability, the skill and personality to help refocus and reshape the Department of Labor and Industrial Relations to fulfill its responsibilities to the working people and employers in our State. He grew up in a working class, blue collar, family and understands the need to protect employees and employers. As an administrator he has a fair and balanced approach and invites input from all stakeholders. Darwin is an individual that if your committee decides to give him the privilege as serving as the Director for the Department of Labor and Industrial Relations, we help retool the Department to face the rapidly changing workplace of the 21<sup>st</sup> Century.

It is my hope that the Committee is able to see Darwin for the person he truly is. He is a person you can depend on. He is a responsible and fair minded person. He is a zealous advocate when tasked or retained to represent a particular client. He is also a courageous person, taking cases and causes that other attorneys would avoid, simply because the wrongdoers were politically powerful, connected or wealthy. After much thought and reflection, Darwin left his lucrative practice to accept this new challenge to serve our State.

Darwin is an example of the promise Governor Burns made so long ago, that we can rise above our humble beginnings to take on important and responsible roles in our community to improve our State and the lives of our citizens. It is my sincere hope that you grant Darwin that chance to serve all of us and lead the Department of Labor and Industrial Relations.

Thank you for this opportunity to comment on Darwin's nomination.

Respectfully,

  
Ted H. S. Hong

**DAVID J. GIERLACH**

**ATTORNEY AT LAW**

**500 Ala Moana Boulevard  
Suite 330, 5 Waterfront Plaza  
Honolulu, Hawaii 96813**

**Telephone: (808) 523-1332**

**Fax: (808) 526-2275**

**Email: [gierlach33@aol.com](mailto:gierlach33@aol.com)**

October 23, 2007

SENATOR BRIAN T. TANIGUCHI  
Senate Judiciary Committee

Room 219  
State Capitol  
Honolulu, Hawaii 96813

VIA FACSIMILE  
Original

to Follow  
(808) 586-6659

[testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Dear Chairperson Taniguchi and Members of the Senate Judiciary  
Committee:

I have known Judge Randal K.O. Lee for about 18 years. I urge his confirmation as a Judge on the Intermediate Court of Appeals. Judge Lee, both as an attorney and as a judge, has consistently displayed considerable intellectual depth, excellent legal analysis, unquestionable ethical standards and in all other respects has been an honor to our profession. It is without question that he is an appropriate candidate for the Intermediate Court of Appeals. I am confident that he will continue to serve the people of Hawaii in that capacity. I have no doubt that he will serve with distinction and honor in that role as he has in the previous positions of public trust and confidence that have been reposed in him.

SENATOR BRIAN T. TANIGUCHI

October 23, 2007

Page Two

I make these statements having known Judge Lee for some 18 years. When he was a prosecutor, I represented criminal defendants in cases that Judge Lee prosecuted. In all of those circumstances, he was courteous, professional, ethical to the highest degree and fair. These qualities will serve him well on the Intermediate Court of Appeals. Please confirm him.

Very truly yours,

DAVID J. GIERLACH

DJG/bmp



STATE OF FLORIDA  
COUNTY COURT OF MARION COUNTY

*R. James McCline, Jr.*

JUDGE OF THE COUNTY COURT

October 22, 2007

KIM COLEMAN  
JUDICIAL ASSISTANT

TELEPHONE 352-401-7824

FAX 352-401-7840

Senator Brian Taniguchi  
Hawaii State Capitol  
415 South Beretania St., Room 219  
Honolulu, HI 96813

BY MAIL and by FAX (808) 586-6461

MARION COUNTY  
JUDICIAL CENTER  
110 N.W. 1ST AVENUE  
SUITE 505  
OCALA, FLORIDA 34475

Re: Judge Randall Lee

Dear Senator Taniguchi:

It is a great pleasure to provide the following comments concerning the qualifications of Judge Randall Lee for a position on the appellate bench of the great state of Hawaii.

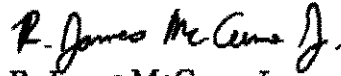
I have known Randy for approximately ten years as we met at the National Advocacy Center in Columbia, SC. Both Randy and I were prosecutors at the time and both of us handled complex "white collar crime" cases. Over the years we both returned to serve together as faculty members for different courses at the National Advocacy Center. Thus, I have had an excellent opportunity to come to know Randy and to observe his leadership skills and dedication to the judicial system and to our legal profession. In every encounter, I have found Randy Lee to be smart, hard-working and a joy to work with.

Randy Lee is an experienced, tested and proven judge and leader. The record of his performance as a trial judge is before you along with the long list of his professional, personal and volunteer accomplishments. I will therefore focus on his qualifications as they relate to his dedication to ethics and professionalism in the practice of law. As a judge myself for the past almost 6 years, practicing attorney for 25 years and immediate past chair of the Florida Bar's Standing Committee on Professionalism, I can commend Randy Lee as a person of impeccable

character. His values are firm, noble and deeply rooted.

Randy Lee has all of the qualifications necessary to serve your great state with honor and distinction as an appellate court judge. Please do not hesitate to contact me for any additional information or assistance I can give to you in this matter.

Sincerely,



R. James McCune, Jr.

Judge of the Marion County Court

**LAW OFFICES OF FRANK K. GOTO, JR.**  
*Attorneys at Law, LLC*

*888 Mililani Street, Suite 300  
Honolulu, Hawaii 96813*

*Frank K. Goto, Jr.  
Jane Kuan*

*Tel: (808) 531-4686 Fax: (808) 531-4680*

---

October 22, 2007

**VIA FACSIMILE (586-6659)**

The Honorable Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee  
State Capitol, Room 219  
415 South Beretania Street  
Honolulu, Hawaii 96813

**Re: Committee on Judiciary and Labor Hearing**  
**Date: Thursday, October 25, 2007**  
**Time: 9:00 A.M.**  
***Testimony in Support of Gubernatorial Nominee***  
***RANDAL K.O. LEE's Confirmation to the***  
***Intermediate Court of Appeals, Associate Judge***

**Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:**

My name is Frank K. Goto, Jr. I am an attorney who has been licensed to practice law in the State of Hawai'i since 1979. In the course of my 29 years in practice, I have appeared before and argued cases in all State Circuit Courts, the Intermediate Court of Appeals and the Hawaii Supreme Court. I write this letter in support of Judge Randal K.O. Lee's nomination as Associate Judge to the Intermediate Court of Appeals.

I have personally appeared before Judge Lee on a number of occasions. I have tried a civil jury-waived trial before him which involved complicated issues of fact and law. I have also participated in several settlement conferences with him which also involved complicated legal and factual issues. Based on my appearances before him, I believe Judge Lee possesses excellent legal



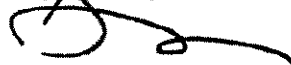
**LAW OFFICES OF FRANK K. GOTO, JR.**  
**Attorneys at Law, LLC**

**The Honorable Brian T. Taniguchi**  
**Chairperson of the Senate Judiciary Committee**  
**October 22, 2007**  
**Page 2**

reasoning and analytical skills. During trial, he asked questions from the bench which reflected his knowledge and understanding of the legal issues raised in the case. As a result of the trial, he had to issue findings of fact and conclusions of law which set forth the legal reasoning for his decision. Finally, Judge Lee always exhibited even headedness to all counsel. His judicial temperament and demeanor are excellent.

**Thank you for considering this testimony**

**Respectfully submitted,**



**FRANK K. GOTO, JR.**

**WILLIAM J. SARRUS**

ATTORNEY AT LAW

14771 PLAZA DRIVE, SUITE H  
TUSTIN, CALIFORNIA 92780

TELEPHONE (714) 544-2464  
TELECOPIER (714) 544-1822  
E-mail: sarruslaw@earthlink.net

WILLIAM J. SARRUS  
CALIFORNIA & NEW JERSEY BAR  
Internet Home Page  
www.stormloader.com/sarruslaw

October 22, 2007

Honorable Senator Brian Taniguchi  
Hawaii State Capitol  
Honolulu, HI 96813

RE: Judicial Nomination of Randal K.O. Lee

Dear Honorable Senator Taniguchi:

I first met Randy Lee in August of 1978 at orientation at law school at Southwestern University in Los Angeles, California.

I know Randy from working with him as a judicial intern and professionally from consulting with him on various legal matters, both civilly and criminally. I know Randy socially as one of my closest personal friends.

Randy has excellent intellectual capacity and his written and oral communications skills are at the top of his profession.

I have always found Randy to be fair, objective, courteous, and he has ethics that are unsurpassed. These characteristics of Randy reaffirm my belief that he would have excellent judicial temperament as an appellate judge.

Randy has always been a man of his word and always works at the highest level of integrity and honesty. I consider his professional reputation outstanding.

Randy is an extremely hard worker and I personally have observed this throughout his law school career and in observing him in the courtrooms in Hawaii and in his preparation of his "white collar" criminal cases.

I have never seen Randy exhibit any bias based on race, sex, or religion.

Frankly, in my professional opinion there is no one more

Honorable Senator Brian Taniguchi  
October 22, 2007  
Page 2

qualified then Randy Lee to be appointed an appellate judge. I believe it would be a loss for the people and State of Hawaii not to have Randy Lee on the bench. Therefore, I urge you with the utmost sincerity to confirm Randy Lee as an appellate judge in Hawaii.

You may disclose my identity and I may be contacted by anyone evaluating Randy Lee.

Very truly yours,

*William J. Sarrus*  
WILLIAM J. SARRUS

**Rowena Anelaaulii Somerville, Esq.**  
1302 Aloha Oe Drive  
Kailua, Hawaii 96734  
(808) 263-3251  
**hirowena@yahoo.com**

October 21, 2007

The Honorable Brian T. Taniguchi, Chair  
Committee on Judiciary and Labor  
State of Hawaii  
Hawaii State Capitol  
Honolulu, Hawaii 96813

RE: GM 1, October 25, 2007, 9:00 a.m.  
Confirmation to the Intermediate Court of Appeals, Associate Judge  
Gubernatorial Nominee Randal K.O. Lee

Chair Taniguchi and members of the Committee on Judiciary and Labor, I am writing in support of Gubernatorial Nominee Randal K.O. Lee's confirmation as Associate Judge to the Intermediate Court of Appeals, State of Hawaii.

Mr. Lee was a colleague of mine for nine years, while we served as Deputy Prosecuting Attorneys for the City and County of Honolulu. He proved to be a highly skilled and effective trial attorney with an impeccable reputation both in and out of the courtroom. These traits have enabled him to become a highly respected Circuit Court Judge.

Mr. Lee carries out his job with extreme professionalism and exhibits patience and respect towards others. He is always prepared and very organized. He has vast trial experience, and is very comfortable in the courtroom. He has the ability to recognize and cite any legal issue at a moment's notice because he prides himself in knowing the most current rules, statutes and case law. Mr. Lee performed his duties as a Deputy Prosecuting Attorney with fairness, integrity, and compassion, and continues to do so as a Circuit Court Judge. These traits would serve him well in the Intermediate Court of Appeals.

Aside from his extensive courtroom experience, Mr. Lee is also an excellent advisor and trainer. I first met Mr. Lee when I was a legal extern at the Office of the Prosecuting Attorney. He was the supervisor of the Felony Trials Division and his guidance instilled a great appreciation for the practice of public service law. After I became a Deputy Prosecuting Attorney, he served as my "mentor," and he was an invaluable resource to me. While he has vast expertise in many areas of the law, he personally taught me the intricacies of "White Collar Prosecution." He helped me to prosecute three City employees who were abusing their "starter" positions at the Ala Wai

Golf course. With his help, we were able to remove these employees who expected bribes in exchange for sought after tee times. We restored integrity to these City services, and the community directly benefited from this prosecution.

Mr. Lee has also shared his knowledge through teaching. He has been selected to teach courses for the National District Attorney's Association at the National Advocacy Center in Columbia, South Carolina on several occasions and he has lectured to several organizations here in Hawaii and across the nation.

Mr. Lee has chosen to dedicate himself to public service and has spent the last twenty-five years doing so. He has worked tirelessly and selflessly for the public, and he truly believes in the judicial system. For these reasons, I strongly support the appointment of Mr. Randal Lee to the Intermediate Court of Appeals, State of Hawaii.

I thank you for the opportunity to provide these written comments. Should you have any questions, I can be contacted at the above numbers.

Very truly yours,

Rowena A. Somerville

# VAN BUREN CAMPBELL & SHIMIZU

*Attorneys at Law*

October 22, 2007

VIA FACSIMILE: (808) 586-6659

Honorable Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee  
Room 219, State Capitol  
Honolulu, Hawaii 96813

Re: Nomination of Circuit Court Judge Randal K. O. Lee to  
the Intermediate Court of Appeals of the State of Hawaii

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

I am writing on behalf of myself and my partners, George W. Van Buren and Robert G. Campbell, in support of the selection of Circuit Court Judge Randal K. O. Lee to the Intermediate Court of Appeals of the State of Hawaii.

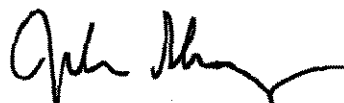
We are licensed attorneys in all courts in the State of Hawaii.

Our law firm's practice is limited to civil cases. Our firm appeared several times before Judge Lee during his relatively short tenure on the civil bench. Although Judge Lee's prior experience had been primarily in the criminal area, we found that he was knowledgeable in both the legal and procedural aspects of the cases we participated in. In addition to demonstrating a detailed knowledge of the applicable law, Judge Lee also exercised practical decision-making skills in processing and disposing of cases.

We believe that Judge Lee would be a fine addition to the Intermediate Court of Appeals, and we whole-heartedly support his selection to that position.

Thank you.

Very truly yours,



JOHN B. SHIMIZU



**King & King**  
*Attorneys at Law*

**Samuel P. King Jr.**

Dillingham Transportation Building  
735 Bishop Street, Suite 304  
Honolulu, Hawaii 96813

**Adrienne S. King**

Ph. (808) 521-6937  
Fax. (808) 533-4745

October 24, 2007

VIA FAX: 586-6659

Senator Brian Taniguchi  
Chairman, Senate Judiciary Committee  
Hawaii State Capitol  
Honolulu, Hawaii

Re: Appointment of Randy Lee to Intermediate Court of Appeals

Dear Senator Taniguchi:

I am writing in support of nomination of Judge Randy Lee for appointment as a judge on the Intermediate Court of Appeals. I previously wrote in support of Judge Lee's nomination as a Circuit Judge, and I was pleased to see that his nomination at that time was confirmed. I think Judge Lee would make an excellent ICA Judge.

I am a criminal defense attorney, and I dealt with Judge Lee when he was a deputy prosecuting attorney for probably close to 20 years (maybe more). Judge Lee was always fair and always knew the law applicable to the facts of every case. He was also a hard worker, always prepared, and always willing to talk.

I was called by the HSBA to comment on Judge Lee's "legal ability" and "writing ability." As mentioned above, I know his "legal ability," that is, his knowledge of the law and his ability to analyze facts and cases, is excellent, and I so reported to HSBA. As for his "writing ability," Judge Lee and I didn't deal in words, so I can't speak to that except to say that I have no reason to doubt that his writing ability is excellent as well - he has always been very articulate in supporting his positions with me, and I think that ability would be reflected in this writing ability as well.

Senator Brian Taniguchi  
Chairman, Senate Judiciary Committee  
October 24, 2007  
Page Two

In conclusion, I have no doubt that Judge Lee would make an excellent ICA Judge, I think his ability to analyze facts and cases and articulate his positions would be excellent, and I think he would be fair to all parties. I sincerely hope that he is confirmed to yet another position of trust and influence within the Judiciary. He will be an asset for the State of Hawaii

Very truly yours,



Samuel P. King, Jr.

spk:cj



**access2**

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**From:** testimony  
**Sent:** Wednesday, October 24, 2007 8:15 AM  
**To:** Robert Watland  
**Subject:** FW: Consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee RANDALL K.O. LEE, for a term of ten years

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

**From:** Christen Lee [mailto:leecy@hawaii.edu]  
**Sent:** Tuesday, October 23, 2007 8:12 PM  
**To:** testimony  
**Subject:** Consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee RANDALL K.O. LEE, for a term of ten years

**Committee:** "Committee on Judiciary and Labor"

**Date:** October 25, 2007

**Time:** 9:00 a.m.

-Hearing subject: "Consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee RANDALL K.O. LEE, for a term of ten years."

**Name:** Christen Lee

**Mailing Address:** 3440 Ala Ilima Street Honolulu, Hawaii 96818

**E-mail Address:** leecy@hawaii.edu

Dear Hawaii State Legislature,

My name is Christen Lee, and I am currently a freshman at the University of Hawaii at Manoa and in the Honors Program. I am writing in regards to the consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee RANDALL K.O. LEE, for a term of ten years.

I support confirming Judge Randall K.O. Lee to the Hawaii Intermediate Court of Appeals. Judge Lee and I may have the same last name, but we are not related. Last year I was a senior at Hawaii Baptist Academy and a participant in its Mock Trial program. Judge Lee was one of the several coaches that the teams had. Due to the popularity of Mock Trial at HBA, three teams--Black, Gold, and White--were fielded. Judge Lee assisted all teams, but was one of the primary coaches for the Black team, which I was on.

As a judge, Judge Lee was able to teach the students aspects of law that only a judge could. He taught us about how judges' think and rule on cases based on the evidence. As the case we were dealing with was a criminal one, Judge Lee taught us how to look at the witness testimony, use the autopsy report, and find the facts in favor of whatever side--prosecution or defense--we were going to playing as in the match.

Judge Lee also allowed us to use his courtroom for practice and even brought his clerk, Mr. William Tanaka, to help us too. Along with that, Judge Lee provided materials such as the federal objections and different case laws.

Without Judge Lee, the HBA Mock Trial Black team would not have gone to State Championship. Making it through the regular season was full of surprises and trials, both literally and figuratively. Often times, my teammates and I would have exams, SATs, and jobs to go to. Judge Lee always made it a point to accommodate our schedules, even if it was not convenient for him. He also counseled many of us on personal problems, whether Mock Trial related or not.

Judge Lee always supported the team with his immense knowledge and help. He taught us all to appreciate the judicial system and respect due process. The amazing thing all about of this is he, as a respected judge, took time off his busy schedule to help high school students learn about the legal process, all for free. Judge Lee was not paid to teach us about the law or be our counselor. Instead, he showed a servant's heart and did so.

I thank you for taking your time to read and consider my opinion. I hope that the session goes well.

Sincerely,

Christen Lee

access2

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**From:** testimony  
**Sent:** Wednesday, October 24, 2007 8:48 AM  
**To:** Robert Watland  
**Subject:** FW: Testimony in Support of Senate Confirmation of Randal K.O. Lee for the Intermediate Court of Appeals



RANDYLEE.PDF (34  
KB)

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

**From:** John Nishimoto [mailto:john.nishimoto@hawadvocate.com]  
**Sent:** Wednesday, October 24, 2007 7:33 AM  
**To:** testimony  
**Subject:** Testimony in Support of Senate Confirmation of Randal K.O. Lee for the Intermediate Court of Appeals

<<RANDYLEE.PDF>>  
Committee on Judiciary and Labor  
Senator Brian T. Taniguchi, Chair

Hearing Date - October 25, 2007, 9:00 a.m., Conference Room 229: Senate Confirmation of Judge Randal K.O. Lee for the Intermediate Court of appeals, associate Judge position

I believe one copy for the chairperson and each committee member is required to be submitted.

**From:** John S. Nishimoto  
Pauahi Tower, 1001 Bishop Street  
Suite 2500  
Honolulu, HI 96813

COMMITTEE ON JUDICIARY AND LABOR

October 25, 2007

9:00 AM

**"Consideration and confirmation to the Intermediate Court of Appeals,  
Associate Judge, Gubernatorial RANDAL K.O. LEE, for a term of ten years"**

---

TESTIMONY OF  
CHERYL SATO ISHII

October 24, 2007

The Honorable Brian Taniguchi  
Chair, Judiciary and Labor Committee

Dear Chair Taniguchi, Vice Chairman Hee, and members of the Judiciary Committee::

Please accept my letter of support for the consideration and confirmation of Randal K.O. Lee to the Hawaii Intermediate Court of Appeals.

I had the distinctive pleasure of observing Judge Lee as a Mock Trial coach of the Hawaii Baptist Academy team this past year. It was amazing to watch my daughter quickly develop a keen interest in law and an appreciation for the complexities of legal process as a member of the team. Throughout the competition process, Judge Lee worked with the students to develop legal knowledge and courtroom effectiveness. And, as significant he instilled and demonstrated the values of - doing the right thing, fair decisions, working hard, and respect. I believe these are some of the personal qualities and traits you would consider as you deliberate his confirmation.

Challenging and fully engaging young adults into the legal process requires a special individual who can earn their respect and trust. With all the variety of choices in extra-curricular activities, getting them to sacrifice and give 110% is very unique. Judge Lee had accomplished this. His contribution to the community and specifically to young adults I believe demonstrates his dedication to the profession and legal process. I, am, therefore writing to support the confirmation of Randal K.O. Lee to the Hawaii Intermediate Court of Appeals.

Respectfully Submitted,



Cheryl Sato Ishii

Malia Rausch  
629 Wanaao Road  
Kailua, Hawaii 96734  
Hm: 263-8220  
Wk: 539-4330

October 23, 2007

Senate Committee On  
Judiciary and Labor  
State Capitol, Room 219  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Re: Confirmation of Randal K.O. Lee, Associate Judge  
Intermediate Court of Appeals

Dear Senator Taniguchi, Senator Hee and Committee Members:

I would like to offer my testimony in support the confirmation of Randal K.O. Lee for Associate Judge to the Intermediate Court of Appeals.

I met Judge Lee nineteen (19) years ago when I started as a paralegal at the Prosecutor's Office. I consider myself very fortunate to have worked with Judge Lee on a daily basis, assisting him with the prosecution of many cases ranging from murder, complex white-collar crime and political corruption. Judge Lee has proven that he is an extraordinary trial attorney.

When Judge Lee was appointed to the Circuit Court bench I took on the position as his Judicial Assistant and I again had the opportunity to work along side him. I observed Judge Lee perform his duties as a civil and criminal judge. Judge Lee does his own research for motions and he writes his own findings of fact and conclusions of law. He has excellent research and writing skills and he has a strong ability to interpret the law and analyze case law.

In addition, Judge Lee's experience as a trial attorney has proven to be most valuable in successfully performing his duties as a judge. His knowledge of the rules of evidence and his years of experience doing trials enables him to make quick decisive rulings on motions and during trials.

Judge Lee is a hard worker and he has always performed his job conscientiously and diligently with a 110% effort and he is dedicated to serving the people of the State of Hawaii.

Senator Taniguchi, Senator Hee and Committee Members  
Page 2

I believe that Judge Lee is qualified to be an Associate Judge on the Intermediate Court of Appeals because of his combined years of experience as a Deputy Public Defender, Deputy Prosecutor, and Judge on the civil and criminal bench. Who better to review the rulings of the lower court than someone who has been there from both sides of the bench.

Sincerely yours,  
Malia Rausch

Douglas Chin  
2423 Lanai Street  
Honolulu, Hawaii 96817

VIA E-MAIL (testimony@capitol.hawaii.gov)

Attn: Senate Judiciary and Labor Committee  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

October 24, 2007

Subject: Confirmation hearing of the Honorable Randal Lee, Circuit Court of the First  
Circuit, to the Intermediate Court of Appeals

Dear Committee Members:

I write this letter in support of Judge Randal Lee's nomination to the Intermediate Court of Appeals (ICA). Having worked with Judge Lee at the Honolulu Prosecutor's office for six years, and having witnessed his community service in youth soccer programs such as the American Youth Soccer Organization for several years, I believe that Judge Lee possesses the temperament, knowledge, qualities and skills that would make him an excellent addition to the ICA and an outstanding jurist in our community.

Thank you for your consideration. Please do not hesitate to contact me with any questions.

Sincerely,



Douglas Chin, Esq.

*[THIS LETTER IN SUPPORT IS SENT VIA ELECTRONIC MAIL. 25 COPIES ARE NEEDED  
FOR SUBMITTAL]*

**access2**

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**From:** testimony  
**Sent:** Wednesday, October 24, 2007 9:03 AM  
**To:** Robert Watland  
**Subject:** FW: Testimony on Behalf of Randall K.O. Lee

---

**From:** Donna Hu [mailto:donna\_hu@hmsa.com]  
**Sent:** Wednesday, October 24, 2007 8:53 AM  
**To:** testimony  
**Subject:** Testimony on Behalf of Randall K.O. Lee

The following is submitted on behalf of Judge Randall K.O. Lee for consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee RANDALL K.O. LEE, for a term of ten years. The hearing is to be held as follows:

**DATE:** Thursday, October 25, 2007  
**TIME:** 9:00 a.m.  
**PLACE:** Conference Room 229  
State Capitol  
415 South Beretania Street

October 23, 2007

My husband and I had the opportunity to meet Judge Randall Lee through our daughter's participation on her school's Mock Trial Team these past two years. The Mock Trial competition afforded her a great opportunity to learn about our legal system and participate in the actual workings of both civil and criminal proceedings. It was a great experience, but one made possible only through the sacrifice of people like Judge Lee.

We watched him quietly give up many evenings and weekends to lead, teach, encourage and exhort. He played a critical role in resolving key conflicts and got a very diverse group of young adults, coaches, and parents to work together and achieve great success in statewide competition. Perhaps most importantly, he accomplished this using a leadership style and a set of values that I would be most proud and fortunate to have my daughter emulate.

While many agree on the value and importance of investing time and talent to better our world, not many actually do it, and there are fewer, still, who contribute to the extent that Judge Randall Lee does. I respectfully ask that you all consider the opportunity of having our state be served by a man who not only possesses the technical skills and legal acumen necessary to serve in the capacity being considered, but also a demonstrated set of values and a personal commitment to living by them that is equally valuable.

Thank you for your time and consideration in this matter.

10/24/2007



Donna T. Hu  
92-1354 Kikaha Street  
Kapolei, HI 96707

Via e-mail: [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Tana Kekina-Cabaniero  
1610 Ala Mahamoe Street  
Honolulu, Hawai'i 96819

Honorable Brian Taniguchi, Chair  
Senate Judiciary and Labor Committee  
State Capitol, Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

October 24, 2007

RE: Confirmation of Judicial Nominee Randal K.O. Lee

Dear Chairman Taniguchi and Committee Members:

I am writing in strong support for Randal K.O. Lee's confirmation to the Intermediate Court of Appeals.

I have known Randy for twelve years. He was my first supervisor at the Prosecutor's Office in traffic and family court. Now, he continues to be a mentor, confidant and friend. As a prosecutor, Randy held us to a high professional standard in the courtroom. He expected us to know the law, be prepared and try our best. He was always fair when discussing plea negotiations, and gave us constructive advice on our performance in court. He prided himself as a fair and effective prosecutor, and taught us the same skills that he had developed. As a judge, he continues to hold those same values and expectations for all litigants in court. And most importantly, he continues to treat everyone: victims, defendants, witnesses and litigators, with respect.

Randy is an excellent trial judge. He is intelligent, fair, honest and hard working. As an appellate judge, Randy would apply the law and court rules impartially, without prejudice and bias. He would make an excellent appellate judge.

Thank you for your giving me an opportunity to comment on Randal K.O. Lee. You may contact me at 527-6447 if you have any questions.

Very truly yours,

Tana Kekina-Cabaniero

Cecelia C.Y. Chang  
60 N. Beretania Street, #2809  
Honolulu, Hawai'i 96817

Honorable Brian Taniguchi  
Chair, Senate Judiciary and Labor Committee  
State Capitol  
415 S. Beretania Street  
Honolulu, HI 96813

October 24, 2007

Re: Testimony in Support of Judicial Nominee Randal K. O. Lee

Dear Senator Taniguchi and Committee Members:

I am a deputy prosecuting attorney in Honolulu and submit this testimony in my individual capacity.

Thank you for the opportunity to express my strongest support for Randal K.O. Lee's confirmation to the Intermediate Court of Appeals.

I have known Randy in a professional capacity for over 20 years. We served together as deputy prosecutors, first under Prosecutor Charles Marsland and later under Prosecutor Peter Carlisle. As a prosecutor, Randy earned the highest respect and admiration of his colleagues, both as a felony trials division chief and as a white collar crime specialist. Randy was well known for prosecutions involving law enforcement and government officials. His illegal campaign contribution prosecutions attracted media attention and public controversy. Through it all, Randy exhibited the moral courage essential to the fair and impartial administration of justice. His unwavering honesty, fairness and integrity are what the people of our community deserve and should expect from their highest courts. As an appellate judge, Randy would apply the law and the rules of court, without bias or political favor. Randy has the intelligence, the heart, and the fortitude to make the right decisions for the people of Hawaii.

Thank you again for the opportunity to comment and for your time and consideration.

Very truly yours,

Cecelia C. Y. Chang  
HSBA# 3929

TESTIMONY  
TWENTY-FOURTH LEGISLATURE  
SECOND SPECIAL SESSION OF 2007

TO: Committee on Judiciary and Labor  
Senator Brian T. Taniguchi, Chair

RE: Confirmation of RANDALL K. O. LEE to the Intermediate Court of Appeals

DATE: Thursday, October 25, 2007

TIME: 9:00 a.m.

PLACE: Conference Room 229  
State Capitol  
415 Beretania Street

*Deliver 1 copy of testimony to committee clerk.*

TESTIFIER: Myra M. Kaichi, Esq.

Chair Taniguchi and members of the committee:

I strongly support the confirmation of Randall K. O. Lee to the Intermediate Court of Appeals.

I have known Randall Lee for the past 10 years on a personal basis. Judge Lee has always exhibited the utmost integrity and the work ethic in everything he undertakes. He is an active participant in any activity that requires manpower, he is tirelessly industrious, and he constantly manages to maintain an even disposition in confronting and accomplishing his tasks. Judge Lee would bring unbridled energy to the Intermediate Court of Appeals.

As an attorney, I have never had the opportunity to appear before Judge Lee. However, over the past years, we have had the opportunity to discuss our views and opinions on legal issues which affect our work. Judge Lee certainly has his opinions on matters, but is always mindful that matters, controversial or not, favorable or otherwise, or popular or unpopular, should be resolved according to the applicable law. His somewhat strict adherence to the law is much needed for practicing attorneys, enabling us to anticipate how a law will be interpreted and applied to our clients' particular situations. This, in turn, provides stability and a level of predictability that allows attorneys to counsel our clients, assess the risks and exposures involved in our clients' situations or transactions, and make sound recommendations upon which they can rely to conduct their affairs within the bounds of law, or where necessary, to settle disputes quickly and unemotionally. The legal community will be greatly-served by Judge Lee's appointment.

October 24, 2007

Senator Brian Taniguchi  
Chairman  
Senate Judiciary and Labor Committee

Re: Consideration of Randal Lee for the Intermediate Court of Appeals  
Confirmation Hearing – October 25, 2007 at 9:00 a.m.

Dear Chairman Taniguchi,

Thank you for the opportunity to submit this letter in support of Randal Lee's consideration for the Intermediate Court of Appeals. I had the privilege and the pleasure of working with Judge Lee at the Prosecutor's Office before he was appointed to the Circuit Court of the First Circuit. Our paths first crossed when I was a summer law clerk in 1991, and Judge Lee was a felony trials supervisor. Mr. Lee's expertise, direction, and guidance have always been extremely helpful to me. As my felony trials supervisor, Mr. Lee always provided insightful trial strategies and guidance of many legal issues. He was unselfish with his time and knowledge. When I became the Chief of the Misdemeanor and Traffic Division, and Judge Lee was still with the Prosecutors Office, I routinely asked Mr. Lee to assist me in training our new deputy prosecutors in areas such as direct and cross-examination.

Judge Lee is dedicated, compassionate, highly skilled, and has an outstanding work ethic. He is highly effective not only because of his ability to analyze complex legal issues, but also because of his ability to respectfully communicate with others. Fair, open-minded, and resolutely prepared, Judge Lee is very well-respected. He has routinely demonstrated that he is committed to seeking justice and serving the community.

As he has demonstrated, Judge Lee would be an excellent candidate for the Intermediate Court of Appeals. He is dedicated and highly skilled, will perform his duties fairly and efficiently, and is committed to serving the public.

Thank you for the opportunity to provide input. If you have any questions, please do not hesitate to contact me at 547-7518.

Very truly yours,

  
Renee R. Sonobe Hong

BENJAMIN M. ACOB  
22 Lala Ohi'a Place  
Wailuku, HI 96793

October 24, 2007

THE HONORABLE BRIAN T. TANIGUCHI, CHAIR  
THE HONORABLE CLAYTON HEE, VICE-CHAIR  
COMMITTEE ON JUDICIARY AND LABOR

THE SENATE  
THE TWENTY-FOURTH LEGISLATURE  
INTERIM SESSION OF 2007  
STATE OF HAWAII

TESTIMONY OF BENJAMIN M. ACOB,  
IN SUPPORT OF RANDALL K.O. LEE'S NOMINATION  
TO THE INTERMEDIATE COURT OF APPEALS

The Honorable Chairpersons and Committee Members:

My name is Benjamin M. Acob, and I am writing in support of Randall K.O. Lee's nomination and confirmation to the Intermediate Court of Appeals as Associate Judge.

I am currently the Prosecuting Attorney for the County of Maui. I first met Judge Lee when he was a Deputy Prosecuting Attorney for the City and County of Honolulu. As you know, Judge Lee's integrity and qualifications were scrutinized very recently when he was nominated to be a judge for the First Circuit of the State of Hawaii. Since his confirmation, Judge Lee has served well on the bench. I ask that you consider the same impeccable integrity, his knowledge of the law, and his fine experience as a deputy prosecutor and judge for his confirmation to the Intermediate Court of Appeals.

Thank you for the opportunity to testify on behalf of Judge Lee. I hope that you will decide on his nomination favorably.

October 24, 2007

Senator Brian T. Taniguchi  
Chairperson, Committee on Judiciary and Labor  
The Senate, State of Hawaii  
State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

Re: Endorsement of Nomination of Randal K.O. Lee as Associate Judge,  
Intermediate Court of Appeals

Dear Chair Taniguchi & Committee:

I would like to include my endorsement of Circuit Court Judge Randal Lee to the Intermediate Court of Appeals. I have known and worked with Judge Lee for nine years prior to his appointment to the Circuit Court bench. I have always found him to be honest and fair-minded, with a commonsensical approach to both the law and life. He would make an excellent appellate judge.

Sincerely yours,



Colin J. Lau

Committee on Judiciary and Labor  
October 25, 2007  
0900

Consideration and Confirmation to the Intermediate Court of Appeals, Associate Judge,  
Gubernatorial Nominee Randall K.O. Lee, for a term of 10 years

October 23, 2007

Dear Members of the Committee on Judiciary and Labor,

Our family has known Judge Randall K.O. Lee and his family since 1996, when our children were classmates in kindergarten at Hawaii Baptist Academy (HBA) Elementary School in Nuuanu.

We have always known Judge Lee to be friendly, involved, helpful and fair. Even during busy school functions, he has always been willing to lend a helping hand. His wife, Renee is cheerful and supportive. Their son, Ryan is growing up to be an active and concerned young man.

This past year, our daughter and several other HBA students were involved with the Mock Trial team. Judge Lee gave unselfishly of his time and expertise, along with a dedicated group of attorneys, to teach and mentor our children. Their devotion provided our students with an experience that was unmatched and will impact them for years to come. Even with his busy schedule, Judge Lee continues to play a major role with our team.

I thank you for your time in considering my letter in your confirmation of Judge Randall K.O. Lee to the Intermediate Court of Appeals. He is truly a worthy nominee to this position of responsibility.

Sincerely,



Carolyn Uehara  
2551 Booth Road  
Honolulu, Hawaii 96813

ruehara@aol.com



To the Senate Committee on Judiciary and Labor,

Aloha!

We, Taryn Bohan and Darlene Fukuji had the opportunity to work with Judge Lee through Hawaii Baptist Academy's Mock Trial team. Last year we were new members and found a passion for law.

During pre-season of Mock Trial, we were both very scared. Our public speaking skills were not the greatest and our exposure to the law was very limited. We feel strongly that Judge Lee has helped us to overcome those fears throughout the course of the Mock Trial year. He let us visit his chambers, and for many of our teammates this was our first time in a courtroom.

Judge Lee not only let us visit, but gave us a opportunity to experience what it was like to speak in a courtroom. Without this experience, we would not have felt the confidence to be able to speak in front of a judge and others who we did not know.

Having him at practices, we were able to feel more comfortable around people with higher authority.

We would not have made it as far as we got, without his generous help. As first-year Mock Trial members we were fortunate enough to place second in Oahu, behind our other team of upperclassmen.

In the short time that we were fortunate enough to know Judge Lee, he was able to have a great impact on us. Despite being in a high position in society, he always had a caring heart and a passion for law.

Thank you for your time and we hope this will help in the decision concerning Judge Randall Lee.



Taryn Bohan  
823 Kahuna Lane  
Honolulu, HI 96826



Darlene Fukuji  
2728 Henry St.  
Honolulu, HI 96817

October 24, 2007

Senator Brian T. Taniguchi  
Chair, Committee on Judiciary and Labor  
The Senate, State of Hawaii  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

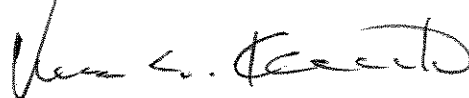
Re: Judicial Nomination of Randal K.O. Lee

Dear Chair Taniguchi,

I strongly support the nomination of Judge Randal K.O. Lee to the Intermediate Court of Appeals. I have known Randy for approximately seventeen years. He and I worked together at the city prosecutor's office during from 1990 until 2002, and we remain friends today. Randy is an extremely conscientious and hard-working individual. He is diligent, ethical, honest, and intelligent. I recently appeared before him in a hearing for a civil case, and counsel were impressed by his meticulous preparation for the hearing and his solid understanding of the complex legal issues involved. Please favorably consider Randy's nomination to the appellate bench.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Vince S. Kanemoto". The signature is written in a cursive style with a large initial "V".

Vince S. Kanemoto

## A few words for Judge Randall Lee

This is a testimony of my personal experiences with Judge Randall K. O. Lee.

When I started Mock Trial four years ago in my freshman year, I didn't know what to expect. At the time, my mind was telling me that I wanted to major in history and become a lawyer, which is why I joined my school's Mock Trial team in the first place. Through Mock Trial, I was finally beginning to live my dream.

My first year consisted of learning the basic rules of competition, objections, and getting over my fears of speaking in front of an audience. I had rid myself of such fears by the end of that first Mock Trial season. In my second year, our team had grown twice in size and additional coaches were added to support the larger group of students. It was in that season that we won our first Oahu Division Championship, defeating our second HBA team. Our coaches had definitely prepared us well. However, it wasn't until my third year in the Mock Trial competition that our HBA Mock Trial group had gained 40 participants. We were able to form 3 separate teams, and Judge Lee courageously volunteered to be the coach for my team, the black squad.

Our team consisted of the "focused" Mock Trial veterans, the students who wanted to win the championship at all costs. We had won the Oahu Division Champions title due to our victorious season the year prior, and Judge Lee understood our desire to win the next title as Hawaii State Champions. Instead of letting us run wild, he made sure that we got our direct and cross examinations done, and that we were practicing our objections on a daily basis.

I can recall one specific instance last season when I was practicing my direct examination with Judge Lee. Because I'd been in Mock Trial for over two years, it was expected that I'd be able to perform with ease, so Judge Lee had me practice my direct examination in front of the entire team. At first I was nervous because I was about to present in front of 40 of my Mock

Trial peers, but then I remembered that my questions were right in front of me, and all I had to do was read them. As I began reading my first few questions, my body immediately calmed itself. Unfortunately, that calm didn't last long. Judge Lee walked over to where I was questioning my witness, took my questions away from the stand in front of me, and gave me a look as if to say, "please continue." I tilted my head up to him with a surprised look on my face and said aloud, "I can't do my direct exam without my questions!" He calmly replied with, "You already know the questions by heart. You can do this." Though I didn't think I could conduct the entire direct examination by memory, I remembered my first question and began questioning my witness. After asking about ten questions by memory, Judge Lee stopped me and pointed out that without my notes, I had a much more confident demeanor. He also pointed out that after working on my questions for so long, he knew that I'd known my questions by heart. I merely needed that extra "push" to gain confidence in myself, and that is exactly what I achieved that day. It was this type of teaching, the "push" that I needed, that showed me how much Judge Lee really believed in us. Yet, Judge Lee's faith in every one of my teammate's abilities, including my own, was only one of the many traits that I've come to admire about him.

His traits of humility and love were always expressed, and his knowledge of the law was demonstrated on a daily basis. As a coach, he knew the exact balance of work and play that allowed us to get our tasks done, but to have fun doing those tasks. Whenever I struggled with the law, objections, or stipulated facts, I always turned to Judge Lee. His knowledge from being both a former attorney and current judge gave him a perspective that was particularly helpful in my situation as a Mock Trial attorney. Because I had to perform my case in front of a judge, it was vital for me to get an input of what an actual judge would think about my conduct in court. I specifically looked to Judge Lee for such advice, and I know that it was because of his tremendous amount of guidance that I performed as well as I did last season. And knowing that

Judge Lee has a family of his own, I respect him more so for the incredible amount of time and effort he put into Hawaii Baptist Academy's Mock Trial program. Judge Lee was at almost every single practice we had, (3-4 practices a week, each lasting between 2-4 hours) even on Saturdays and Sundays! His devotion to our team definitely strengthened my personal commitment to the team, for I didn't want his efforts to be put to waste.

Even after the Mock Trial season was over though, Judge Lee once again showed me how generous of a man he really is. For a school film project, our creative team had decided on shooting a scene in a courtroom. Immediately, I thought of asking Judge Lee to use his courtroom, and because he had no trial on one particular day after school, we were able to make effective use of our time at his court. We finished filming the entire scene, and after putting that scene into the movie, the reality of the court scene gave the exact feeling we were hoping for. Our movie's success would not have been possible without Judge Lee's unfaltering generosity.

Within just one year of knowing him, Judge Lee has impacted both my academic life and my self-esteem. His constant encouragement, unfailing support, and unrelenting knowledge of the law have helped me overcome some of the hardest times in past Mock Trial seasons and life in general. This is a man I know I can depend on through any situation. And even with a position as high as his, his willingness to support and coach our team shows his immense amount of humility and genuine love of justice. I'll end with saying this: Randall K. O. Lee is not only judge; he's a dedicated father, knowledgeable and supportive Mock Trial coach, and a man who knows exactly what justice means.

Audrey Hara  
3317 Ala Ilima Street  
Honolulu, HI 96818

Statement of Troy Egami in support of the Hawaii State Senate's consideration and confirmation of **Randal K. O. Lee** as gubernatorial nominee for Associate Judge of the Hawaii Intermediate Court of Appeals, for a term of ten years.

Submitted: October 24, 2007

For: Hearing scheduled October 25, 2007, 9:00 a.m., Conference Room 249

Chairman Taniguchi, Vice Chairman Hee, and Honorable Members of the Hawaii State Senate Committee on Judiciary and Labor:

In my view, the State of Hawaii cannot afford to miss the opportunity to elevate the Honorable Randal K. O. Lee to a position of greater leadership within the Hawaii State Judiciary.

Over the past year and a half, I have experienced a somewhat unique privilege. I have had the opportunity to see, and interact with, a sitting Judge of the First Circuit Court of the State of Hawaii outside the courtroom, outside of his chambers, working on a project in an environment where we ostensibly stood as equals.

I will tell you, quite frankly, that I am certain we are nowhere near equals. I have worked side by side with a man who, in my view, possesses superior and simply outstanding intellectual strength, wisdom, restraint, humility, and an understanding of people and processes that I can only aspire to.

As of July of 2006, I was deeply involved coaching an interscholastic Mock Trial team for Hawaii Baptist Academy. Mock Trial is a program in which High School students undertake the roles of lawyers, witnesses and court personnel, trying either side of a hypothetical case, before actual, sitting State Judges and volunteer attorneys, in First Circuit and Hawaii State Appellate Courtrooms.

Last year, the Hawaii Baptist Academy program fielded three teams, with 38 students. For HBA coaches, the season began in July of 2006, and ended in March 2007. Work for the new season began this past July.

Last year, two of HBA's teams finished first and second for the Island of Oahu, and its Oahu Championship team lost a close match in the 2007 State Finals to a long reigning and eventual State Champion Kauai High School program.

At the beginning of last year's season, Judge Lee was, somewhat carefully, asked if he would be willing to provide some of his time to assist HBA coaches with the 06-07 team. The expectation of the existing coaching staff was that, as a sitting Judge, Judge Lee would be agreeable to perhaps doing a talk here and there, or come into our practices from time to time to critique the progress of our students.

To our surprise and eventual delight, Judge Lee instead committed to taking on a full coaching responsibility. It is a responsibility he did not take either casually or lightly. From July 2007 through November of 2006, I do not recall Judge Lee missing a scheduled practice (which occurred two to three times a week for 2-4 hours each) for any reason.

Throughout the months of December of 2006, January, February and March of 2007, I estimate that Judge Lee participated in practices up to 20 hours a week, in the late afternoons and evenings, and on weekends. I know he also devoted additional time to the team in the wee hours of the morning, even after his family had gone to bed, because I would often receive emails from him relating to our coaching duties time stamped past midnight.

His participation in terms of time was consistent with the commitment he made to coach. It was complete and unconditional.

However, the true impact of Judge Lee's participation cannot be measured in time alone. Indeed, the time he spent merely gave rise to the truly important and meaningful part of his presence in our program.

It would be easy to speculate about what impact it might have on high school students to have a sitting Judge grace them with his presence in a classroom to coach a discipline, much less to coach something at which he is an unsurpassed expert (that being legal trial practice). One would expect a "viewpoint from on high", a constant air of judicial trapping, and perhaps even a disconnect or aloofness. I can tell you that coaches, teachers and students alike had those expectations when Judge Lee appeared at his first practice. I can also tell you that those expectations and concerns vanished within about 30 seconds.

As a coach, I saw Judge Lee first and foremost exercise utter respect and deference to the previously existing coaching staff. While he was never reluctant to add his views and thoughts, he made it clear from the beginning that he saw himself as a newcomer, an individual working within a pre-existing system, and a responsible for the overall coaching workload as any other coach, if not more so.

Over time, we as coaches naturally began deferring to Judge Lee. Not because of his position as a Judge (which he never once, ever, reminded us of), but because of the soundness and strength of his knowledge, experience and views. Even more so, it was clear to all of us that this man had no agenda, no overbearing ego, and no inclination to do anything except what was right and best for our team and the students on it.

As a person who cares about the student members of that team, I can say that Judge Lee enhanced all of their experiences beyond just relating legal knowledge or Courtroom skills.

Let me be clear. All of Judge Lee's experience and knowledge as a first rate litigator made it onto the coaching floor. Similarly, he found ways to fully communicate the mysterious considerations of a Judge sitting in judgment of a trial situation. Our kids received technical insight and knowledge that was simply amazing.

But, beyond this technical knowledge, Judge Lee also imparted a constant sense of integrity, and gently demanded that our students not only learn their roles well in order to compete, but also apply a commitment to excellence and preparation that I suspect he imposes of practitioners in his own courtroom.

He did this with the gentleness of a caring father when the need arose, as a friend as was appropriate, and always with the understanding that the students and coaches looked up to him and were relying on him. As we all know, many who occupy such positions of respect can wield such authority poorly or inappropriately from time to time. I can tell you that I never once disagreed with anything Judge said or did. In fact, I was constantly amazed and, frankly somewhat amused, by the consistency, prudence, and wisdom with which he analyzed and handled all situations, either involving adults or the kids. In this day and age, for me, that is simply amazing.

Also, it is clear to me that the messages given and lessons taught by Judge Lee were clearly intended to last beyond the confines of "Mock Trial". He became not only a coach of trial skills, but a teacher of lessons and principles that I know our students will carry and are carrying forth both in school and in life. Certainly, the kids could have felt honored and enriched by the prestigious implications of his very presence, and their access to him. However, I believe I can safely say that that benefit is viewed as almost trivial to those students, as compared to the substantive lessons learned and values and skills they developed under his tutelage.

As I composed this, I was initially tempted to relate several specific anecdotes that illustrate the points I have made above. It occurred to me, however, that since they involve students, they may be subject to educational privacy considerations. Due to the rushed nature of these proceedings, I have not had the time to seek, in an abundance of caution, the consents that may be necessary for me to share them with you. Thus, I will just say that my observations are based on what I've observed, what I've been personally told by persons affected by Judge Lee, and what I've personally experienced.

I am aware that this Committee may receive additional testimony in support of Judge Lee emanating from the HBA Mock Trial program. I would suggest to you that such expressions of support are not only consistent with my testimony, but truly a testament to the extent that Judge Lee's efforts with the HBA Mock Trial program were appreciated, respected and valued.

I cannot tell you how Judge Lee actually behaves as a Judge in a Courtroom. I have never appeared before him. However, I strongly suspect that you will hear testimony that he is thorough, compassionate, and principled as a Judge. I further suspect you will hear testimony that he is a hard and diligent worker in that capacity. And, I strongly suspect



that you will find that his decision making is systematic, thoughtful, supported by the facts and law, and, wherever he was required to rule for one side over another, he was ultimately fair and just.

I feel very safe making these sorts of predictions. They are all qualities that Judge Lee demonstrated to me and others, time and time again, in his personal dealings, in a public service capacity, when he was not subject to review by a higher Court. I believe strongly that these qualities occur to him naturally, but that he strives to incorporate them into all tasks at hand, whether in the capacity of a coach, a teacher, a father or any other role he might find himself in. Therefore, it only makes sense to me that he would apply these same qualities in his role as a Judge.

Honorable Senators, I suspect that in terms of record, Judge Lee will impress you as a diligent and successful practitioner of law. All indications I have seen are that he has been a devoted and eminently respectable servant of the public throughout his career. I suspect that aside from the personal disappointments or beefs that the adversarial process of litigation gives rise to, you will find that whenever he was required to choose a winner, Judge Lee's decisions were supported by the facts and law, and can, in the final analysis, be viewed as fair and just. I suppose that the agendas, personal interests, and even economic backyards of some might affect the support, or lack thereof, that Judge Lee may receive today and as you make your decision on his nomination.

However, since he has fulfilled the basic prerequisites for appointment to the Intermediate Court of Appeals, I ask you to consider the fact that standing behind those objectively quantifiable prerequisites stands a man who has proven to me and others that he is a man of character and commitment. I believe Judge Lee is fundamentally a good man. A very, very, good man. And, a very, very good person.

I believe that Hawaii cannot afford to miss the opportunity to ensure that the State Judiciary is led by good people. And, I believe that when one comes our way, we must seize the opportunity to make full and good use of them. To do otherwise would be a terrible waste.

Thus, I urge you to confirm the nomination of Randal K.O. Lee as Associate Judge of the Hawaii Intermediate Court of Appeals.

Aloha and Mahalo,

/s/ Troy Egami

Troy Egami

Committee on Judiciary and Labor

October 25, 2007

9:00 a.m.

"Consideration and confirmation to the Intermediate Court of Appeals, Associate Judge,  
Gubernatorial Nominee RANDAL K.O. LEE, for a term of ten years"

**Ren Ishii**

*Temporary Address:*

*Arizona State University  
2360 Hassayampa Academic Village  
1201 South McAllister  
Tempe, Arizona 85281  
rkishii@asu.edu*

*Permanent Address:*

*45-663 Loihi St.  
Kaneohe, HI 96744*

October 20, 2007

The Honorable Brian Taniguchi  
Chair, Judiciary and Labor Committee  
Hawaii State Capitol, Room 219  
415 South Beretania Street  
Honolulu, HI 96813

RE: In Strong Support of the Nomination of Judge Randal K.O. Lee to the Hawaii Intermediate  
Court of Appeals

Dear Chairman Taniguchi, Vice Chairman Hee, and members of the Judiciary Committee:

Thank you for the opportunity to express my strong support for Judge Lee to the Hawaii Intermediate  
Court of Appeals.

My name is Ren Ishii and I am currently a freshman at Arizona State University studying mechanical  
engineering with the aspiration for graduate studies or law school. I am finding my first few months of  
college academically challenging as well as intellectually stimulating. I've come to realize that my  
nine years in public school at Noelani Elem. and Kawananakoa Middle School and four years at  
Hawaii Baptist Academy (HBA) gave me a very solid foundation (both academically as well as  
socially.) When I'm amongst my peers from all over the country, I take great pride in saying, "I'm from  
Hawaii." Being born in Hawaii isn't only what I take great pride in though; I take pride in the  
experiences and opportunities I have had while growing up in Hawaii. This is the reason why I am  
writing to you.

I have come to know and appreciate very special individuals like Judge Lee. He was one of the Mock  
Trial coaches for our HBA team this past year. His contribution in time, effort, and expertise has  
made a lasting impact on me.

I was involved in the HBA mock trial program for two years. In my senior year, our team learned that we would have an additional coach, a judge and by many, one of the best prosecutors in the state. I remember I couldn't wait to begin, but I was tempered because I understood that busy and important people like Judge Lee wouldn't be spending much time with individuals. I was wrong.

Judge Lee was in for the long haul. He spent a lot of quality time with our team—contributing his expertise and keeping our team together and motivated through stressful times. I remember thinking to myself, "how and why?" By the end of the season, not only did I get to hear Judge Lee's comments on the case, but I also got to work with him on my opening statement and cross examination. I had no experience as an attorney so every piece of advice was carefully internalized. I always enjoyed working with him because he never spoon-fed me answers. Yes, I did say "working with." Judge Lee always talked over ideas with me; he never talked down to me. Might I add that he was very patient with me when I had to digest unfamiliar legal concepts. I hope that that makes sense because I really appreciated his style of coaching. I was never really told what to put in my cross examination word for word; Judge Lee just talked it over with me. We collaborated, if you will. The ideas that came out of collaboration were great too. Not only did I feel accomplished, but I felt the responsibility to collaborate effectively with my team.

Our team made it to the State Championship but we were devastated at the loss to the State champions, Kauai High School. Judge Lee was there for us. He wasn't at the courthouse, but he was waiting at school.

I recall the conversation that I had with Judge Lee when I was really depressed that we lost. I was desperately holding back tears when Judge Lee approached me asking what the outcome was. After I explained what happened to the best of my ability, he gave me a hug. He said that he was proud and knew that we were the best. We talked about the Mock Trial experience and about it being more than winning or losing. He also explained that the legal system is in need of people with honest convictions to improve the legal profession by doing what is right and making fair decisions. He explained that that's why he went into law and that he works hard every day to uphold those values.

It is for these reasons that I believe Judge Lee would make an excellent Judge on the Intermediate Court of Appeals. He has an ongoing commitment and passion for the law and for justice. That is what I admire most about him, and tell me if I'm wrong, but that's what the law profession is all about, right? Passion for the law. Commitment to justice.

I just wanted to share one last thing with you. This is a part of an email that Judge Lee sent to me. I actually printed this email out and kept it in the journal I have here with me at ASU. In this email he wrote, "As you go on to college, remember to SHOOT FOR THE STARS and never give up, even when things get rough. I know that you want to study engineering. GO FOR IT and STRIVE TO BE THE BEST."

Whether I become an engineer or attorney, I hope to strive for excellence just like Judge Lee.

Thank you for this opportunity to extend my support for Judge Lee. He has been an inspiration to me, and I strongly believe that he will fulfill and execute the mission of the Intermediate Court of Appeals.

Sincerely,



Ren Kiyoko Sato Ishii

Senator Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee  
Room 219, State Capitol  
Honolulu, Hawaii 96813  
Fax: (808) 586-6659  
Email: [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Dear Senator Taniguchi,

I am writing in favor of Judge Lee's appointment to the Intermediate Court of Appeals. I had the opportunity, as a first year law student, to clerk for Judge Lee. I clearly remember the first day I walked into Judge Lee's chambers for work. Judge Lee handed me a file, pointed out the relevant sections in the Hawaii Rules of Evidence, and asked for a sentence recommendation. I was shocked and felt entirely unprepared, but eventually found my way through this first assignment. As I gingerly knocked on his door to discuss my decision I was concerned, but as the conversation ensued I was able to appreciate his amazing abilities as a mentor and teacher. Judge Lee has a talent that not many have. Throughout the summer I was engaged, inspired, and expected to work hard, as a result I learned countless invaluable lessons from the Judge. Additionally he led by example. Judge Lee was always willing and available for a discussion or exchange of ideas. I never again felt the need to gingerly knock on his door, in fact, I often charged into chambers ready to debate. Judge Lee had a profound impact on my desire to practice law; he has ignited a spark of excitement in me. Working for him, and watching him in his practice, has confirmed my hopes that law can be constantly challenging, interesting, and rewarding.

Sincerely,  
Melinda Yamaga  
William S. Richardson School of Law  
Juris Doctorate Candidate (2009)

October 24, 2007

VIA FACSIMILE (808) 586-6659  
Senate Sergeant-At-Arms Office  
The Honorable Senator Brian T. Taniguchi  
Chair of the Committee on Judiciary and Labor

Re: Selection of Randall K.O. Lee to the Intermediate Court of Appeals,  
Associate Judge, State of Hawaii

Dear Chair Taniguchi:

I am writing in support of gubernatorial nominee Randall K.O. Lee to the Intermediate Court of Appeals, State of Hawaii. As a prior Deputy Prosecuting Attorney, I had the pleasure and privilege of working with Randy as my supervisor. Randy was always helpful and interested in our cases. I always felt that his analysis of our cases was even-handed and his assessments extraordinarily fair due to his balance and understanding of criminal prosecution and defense work. I truly enjoyed working for somebody who cared about what he did, who understood what justice means, and who had the compassion and intelligence to do his job well.

I am pleased to hear that Randy is being considered as an Associate Judge for the Intermediate Court of Appeals. Given his wealth of experience and background in our court system, he would make a wonderful appellate judge.

Thank you for your consideration and attention in this matter.

Very truly yours,



Kristin E. Izumi-Nitao  
Deputy Attorney General

Senator Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee  
Room 219, State Capitol  
Honolulu, Hawaii 96813  
Fax: (808) 586-6659  
Email: testimony@capitol.hawaii.gov

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

Serving as a judicial extern under Judge Randal Lee was the high-point of my summer work experience. Judge Lee's patience, deliberation, and willingness to teach, combined to improve my legal skills and reasoning.

Whether it was ruling on a motion in limine, or sentencing a defendant, both careful deliberation and impeccable reasoning were always evident in Judge Lee's decisions. Even so, Judge Lee always encouraged us externs to discuss and defend our individual positions on a given matter, regardless of whether they were in agreement with his. This was despite the fact that the other externs and I were still relatively inexperienced in the legal world. Judge Lee's willingness to listen to our thoughts, and the manner in which he explained his conclusions, made a big impression on me and were invaluable contributors to my education.

If I were to pick one thing I learned from Judge Lee as being the most valuable piece of wisdom from this past summer, it would be his approach to decision making. He encouraged us to form a solid opinion on an issue, and to stick to this opinion and wholeheartedly defend it. In my mind, the only way to come to a position solid enough to stick with and defend so strongly, is to carefully consider the full body of facts relevant to an issue, and then step by step, piece together and follow these facts to the correct position.

With that framework in mind, my position is that Judge Lee exemplifies exactly what Hawaii needs in its judiciary, and that with his attitude, work ethic, and dedication, he will be a tremendous addition to the ICA.

Sincerely,

Addison Bonner  
P.O. Box 1344  
Keaau, Hawaii 96749  
808-896-3353  
abonner@hawaii.edu

Committee on Judiciary and Labor  
Hearing on October 25, Thursday @ 9:00 a.m.  
Jasmine and Renee Kaneshiro  
91-145 Puhikani Place  
Ewa Beach, HI 96709

To Whom It May Concern,

We would like to express how much Judge Lee has been an important part of our Mock Trial Team at Hawaii Baptist Academy. Although, Judge Lee must have a very busy schedule, he always was dedicated to the students as they trained and competed in the Mock Trial Competitions. His vast knowledge and expertise assisted our students to place 2nd finish in the State tournament and we were very proud of our students' success. But this would not be possible without the dedication, sacrifice and hard work of coaches like Judge Lee.

We would strongly encourage a confirmation of Judge Lee for the appointment in the Court of Appeals.

Thank you very much, Renee and Jasmine(10th grader at H.B.A.) Kaneshiro

**Live, love and laugh. Renee**

SENATE COMMITTEE ON JUDICIARY AND LABOR

TESTIMONY IN SUPPORT OF  
RANDALL K.O. LEE  
GUBERNATORIAL NOMINEE TO THE  
INTERMEDIATE COURT OF APPEALS, ASSOCIATE JUDGE

GM 1

DATE: Thursday, October 25, 2007

TIME: 9:00 a.m.

PLACE: Conference Room 229

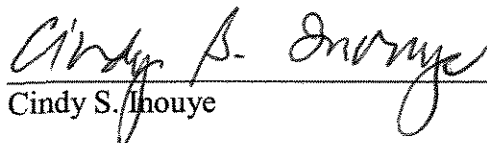
Chair Taniguchi, Vice-Chair Hee and Members of the Committee;


I am writing in support of the confirmation of Randall K.O. Lee as Associate Judge of the Hawaii Intermediate Court of Appeals.

I am currently the Deputy Director of the Department of Human Resources Development. Prior to holding this position, I was the supervisor of the Tort Litigation and Civil Rights Litigation Divisions of the Department of the Attorney General. In that capacity, I had personal contact with Judge Randall Lee in connection with several of our divisions' cases. I also had limited contact with him when he was a Deputy with the Prosecuting Attorney's Office.

In my dealings with Judge Lee, I always found him to be well-prepared and courteous to counsel. His legal analysis was sound and well-reasoned. Whether he ruled in our favor or against, it was apparent to me that much thought went into his decisions and that he always tried to be fair. I feel confident that if confirmed, Judge Lee will bring valuable perspective to the Intermediate Court of Appeals. He will interpret/apply the law equitably, without bias.

I respectfully request your support of Randall Lee's confirmation. Thank you for your consideration.

  
Cindy S. Ihouye

  
Date



DANIEL H. SHIMIZU  
2702 LANILOA ROAD  
HONOLULU, HI 96813

October 23, 2007

The Honorable Brian Taniguchi and Members of the Senate  
Judiciary and Labor Committee  
415 South Beretania Street  
Honolulu, HI 96813

Dear Chairperson Taniguchi and Committee Members:

Re: GM 1: Gubernatorial Nominee Randal K. O. Lee.

I am writing in support of the nomination of Circuit Court Judge Randal K. O. Lee to fill the judicial vacancy on the Intermediate Court of Appeals of Hawai'i. This testimony is submitted in my individual capacity.

I first met Randy Lee at the Honolulu Prosecutor's Office in 1986. Even though I was a young prosecutor straight out of law school and Randy was already a seasoned veteran of many jury trials, he took the time to make me feel welcome. Later, when we both were assigned to the White Collar Crime Unit, Randy gave me the benefit of his vast trial experience. The lessons I learned from Randy back then still hold true to this day.

Although I left the Prosecutor's Office in 1989, I maintained contact with Randy throughout the years and followed his career with great interest. I can attest that Randy's rise to positions of ever increasing responsibility was not due to coincidence. Randy works extremely hard and is always prepared for every contingency.

In October 2001, I returned to the Prosecutor's Office as an attorney in the appellate division. Having done appellate work for the past six years, I know that Randy possesses the necessary intellect, work ethic, and professional experience to make a fine Associate Judge. Because of his friendly demeanor, many people are not aware of the fact that Randy graduated from college in three years and from law school in only two, instead of the usual four and three.

Randy also possesses the requisite judicial temperament. He has always been fair and reasonable and treated everyone with respect, no matter his or her station in life. I know that Randy will carefully consider both sides of an argument before making a reasoned decision based on the facts and the law.

I respectfully urge you to confirm Randy's nomination to the Intermediate Court of Appeals. Thank you.

Sincerely,



Daniel H. Shimizu

The Senate  
The Twenty-Fourth Legislature  
Second Special Session of 2007

Before the Senate Committee on Judiciary and Labor  
Chair, Senator Brian T. Taniguchi  
Vice Chair, Senator Clayton Hee  
Thursday, October 25, 2007  
9:00 am, Conference Room 229  
State Capitol, 415 Beretania Street

**Testimony in Support for Consideration and Confirmation to  
The Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee  
RANDALL K.O. LEE, for a term of ten years.**

I support the gubernatorial nomination and confirmation of Judge Randall Lee to the Intermediate Court of Appeals for a term of ten years.

I know Judge Lee outside of court proceedings, as a father, husband and friend. His daughter and my daughter played on the same volleyball club team the past two years. Parents often don't socialize but I found Judge Lee to be personable, articulate and intelligent. I recognized and commended his character and experience for previously prosecuting white-collar crimes when he was at the City Prosecution Office. I often praised him for his work there but he would quietly reply, "I was just doing my job." Often people in authority would relish the power but not Judge Lee.

As parents, he and his wife Rene would always be at volleyball practices for their daughter twice a week for eight months. And with weekend volleyball tournaments, they like the other parents spent hours and days supporting our daughters. Even when conflicts of scheduling occurred during the weekends, he would later show up at the tournaments dressed in his work attire. He is a man of integrity and is always respectful to others. At a club steak fundraiser, he would voluntarily organize the parents making sure that we all knew our roles and responsibilities when people came to pick-up their steak plates. That showed leadership in organizing the parents to work as a team. He is a family man, always putting his family first before anything else. I am proud to know a man like Judge Lee. Our daughters are friends forever, so is our families.

Judge Lee is suited for this responsibility in the Intermediate Court of Appeals, and I support his gubernatorial nomination and confirmation to this Bench.

Respectfully,



Nelson L. Ayers  
1818 Anapuni Street  
Honolulu, Hawaii 96822

**Subject:** Support for Judge Randal K.O. Lee for the Intermediate Court of Appeals Associate Judge Position

October 23, 2007

William K. Tanaka  
2482 Halekoa Drive  
Honolulu, HI 96821  
(808) 429-0341  
willtanaka@yahoo.com

Senator Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee  
Room 219, State Capitol  
Honolulu, Hawaii 96813  
Fax: (808) 586-6659  
Email: testimony@capitol.hawaii.gov

**Hearing date: October 25, 2007, 9:00 a.m., Conference Room 229: Senate confirmation of Judge Randal K.O. Lee for the Intermediate Court of Appeals, Associate Judge position**

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

I am writing this letter to provide the highest possible recommendation for Judge Randal K.O. Lee for the position of Associate Judge of the Intermediate Court of Appeals. I am a civil litigation attorney at the law firm of Goodsill Anderson Quinn and Stifel. As his law clerk from 2006 to 2007, I worked closely with Judge Lee on a daily basis and thus, I believe that I can offer you my candid and genuine assessment of him as a Judge and as a person.

In my humble opinion, three qualities are essential to succeed as an appellate judge: passion for the law, legal aptitude and exemplary character and integrity. Judge Lee has all three.

First and foremost, I strongly believe Judge Lee is the right person for the Intermediate Court of Appeals because of his passion for the law and his continued efforts to improve the judicial system. Judge Lee demonstrates his passion by independently reviewing all the pleadings himself, researching the case law and drafting the opinions for each case and motion that come before him. Prior to hearing the motions, Judge Lee and I would thoroughly discuss the law and the facts of each case to ensure that the parties have fair and equitable rulings. Judge Lee's collaborative style is a perfect fit for the Intermediate Court of Appeals – a setting where three judges have to work together on each case. Judge Lee also shares his passion for the law with students by volunteering as a coach on the Hawaii Baptist Academy high school mock trial team. When I volunteered as a coach

on several occasions, I saw firsthand Judge Lee's desire to teach these students not only about the law, but also to help them gain confidence in public speaking and to improve their writing and logical reasoning skills.

Judge Lee has an exceptional legal mind and extensive experience writing legal opinions. During this past year, the court drafted and filed (published) opinions on virtually every substantive motion and on every civil bench trial. On the civil side, Judge Lee dealt with various cases including environmental assessment matters, insurance coverage, real estate easement litigation, corporate successor liability and personal injury; and on the criminal side, he handled cases involving mental health issues, drug court, repeat offenders, sentencing and evidentiary issues in trial. Not only does Judge Lee independently review and research the cases himself, but he takes the initiative to produce the court's own order, instead of relying on the attorneys to draft them. Furthermore, Judge Lee is not afraid to make the tough decisions and will take accountability for each case that comes before him. During my judicial clerkship, he always made the effort to settle a case without punting it to mediation no matter how complicated the issues were.

Judge Lee maintains the integrity of the judiciary by ruling from the bench and rarely, if any, did he take a case under advisement. He tackles every issue head on and provides a reasoning behind every decision. Even a losing party, although disappointed, cannot help but at the very least respect Judge Lee's decision knowing that his research was thorough and that his order was supported by facts and the law.

I strongly believe that he will foster greater public confidence in the Hawaii State Judiciary. As the Intermediate Court of Appeals hears nearly all appeals from trial courts and some state agencies, you need someone who will tackle the challenging issues head on with a practical approach. Judge Lee has the fortitude to make the tough decisions and is the type of person who is driven to write full-fledged appellate opinions, establishing more Hawaii state case law, which will leave more guidelines for the trial courts to follow. In addition, in both civil and criminal calendars, Judge Lee has always moved his cases so that there is a minimum backlog of cases and the motions can be heard within a reasonable amount of time. In fact, because of his ability to settle cases and rule from the bench, he has even offered to advance some trials to provide defendants an even speedier trial than warranted by law in the criminal arena, and provide parties an earlier resolution of their cases in civil court.

On a personal level, Judge Lee was not only my boss, but also a great mentor and friend. He is humble and very generous with his time whether it was teaching me about the rules of evidence or just advising me on how to fix a plumbing problem. Judge Lee's interactive approach with his staff and his desire to constantly take on new challenges and share his passion always made me want to work even harder for him. I find Judge Lee to be incredibly sharp and articulate, who is both fair and considerate in the courtroom and out. Judge Lee has always placed an importance on integrity and doing the "right thing."

My clerkship with Judge Lee has given me a strong foundation and prepared me for a career as a *civil litigation attorney*.

I firmly believe that Judge Lee is the right person for the Intermediate Court of Appeals because of his passion for the law, his uncompromising intellect and his desire to uphold the integrity of the Hawaii State Judiciary.

Please feel free to call me at 429-0341 if you have any questions. Thank you for your time and consideration.

Sincerely,

William K. Tanaka

Senator Brian Taniguchi  
Chairman of the Labor and Judiciary Committee  
415 South Beretania Street  
Honolulu, Hi 96813

Dear Senator Taniguchi,

I am writing in support of Judge Randal K.O. Lee for confirmation to the Intermediate Court of Appeals.

I have known Judge Lee since 1989. In the years 1996, 1997, 2003 and 2004, he was my direct supervisor. Judge Lee was always available for advice and guidance whenever I or others needed him. He has always been willing to help attorneys regardless of whether they were under his supervision or not. Judge Lee remains the gold standard by which other prosecutors are measured.

Recently, I had the opportunity to appear before him in his capacity as a Circuit Court Judge. Judge Lee demands promptness, preparedness, professionalism, courtesy, fairness, and respect from all attorneys. He inspires us all to do our very best. Judge Lee does his homework on all cases in his court and expects that we do the same.

Judge Lee is a nationally recognized expert in white collar crime. He has traveled the mainland as an instructor for many legal organizations sharing his vast knowledge with attorneys from every state in the nation.

Judge Lee is the consummate family man who can often be seen at his children's softball, soccer and other activities. He has tirelessly worked to raise money to send kids on trips for sports activities. I give my highest recommendation to Judge Randal K.O. Lee and support his confirmation to the Intermediate Court of Appeals. Judge Lee will make for an outstanding Appellate Court Justice.

If you have any questions please feel free to contact me at 375-5795.

Sincerely,

Paul R. Mow  
Deputy Prosecuting Attorney

**Subject:** Testimony for Judge Randal Lee's confirmation hearing, 10/25/07, at 9:00 a.m., Senate Judiciary and Labor Committee; Please have 25 copies made for hearing.

Mark Yuen  
c/o 1060 Richards Street, 9<sup>th</sup> Floor  
Honolulu, Hawaii 96813

To the Honorable Senator Brian Taniguchi,

I write this letter in support of Judge Randal Lee's nomination as an appellate judge in the Intermediate Court of Appeals. Approximately 11 years ago, I began my legal career as a Deputy Prosecuting Attorney for the City and County of Honolulu. At that time, Judge Lee was the division director and my supervisor. Judge Lee was always a fair and thoughtful supervisor who knew the law well. Although I have not had the privilege of appearing before him in the First Circuit Court, I am certain that the same qualities that made him a great supervisor 11 years ago have served him well as a judge in the circuit court. In short, I believe Judge Lee is a fine candidate as an appellate court judge because he is fair, a very hard worker, and intelligent. I therefore personally support his nomination as a judge and ask that you and the other members of the esteemed Senate confirm his nomination. Thank you for your consideration, Mark Yuen.

**testimony**

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**From:** Takata, Kevin [ktakata@honolulu.gov]  
**Sent:** Tuesday, October 23, 2007 9:42 AM  
**To:** testimony  
**Subject:** CONFIRMATION OF JUDGE RANDALL K.O. LEE

Senate Judiciary and Labor Committee  
State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: Confirmation of Judge Randall K.O. Lee to Intermediate Court of Appeals  
Senate Judiciary and Labor Committee, Room 229  
Hearing on Thursday, October 25, 2007 at 9:00  
25 copies required

Dear Senator Brian Taniguchi and Committee Members:

For about twenty (20) years, I have known Judge Randall Lee, who supervised me as a deputy prosecutor, who I supervised in that same capacity, and as a judge who I appeared before. Without hesitation, equivocation, or reservation, I recommend his confirmation to the Intermediate Court of Appeals. Judge Lee is eminently qualified for that position because of his abundant legal skills, character and integrity. He has successfully tried cases that ranged from murder to complex white collar crimes, he has sat on the civil and criminal calendars, and he has taught others. In prosecuting campaign fraud crimes, Judge Lee realized that he was jeopardizing his dream of becoming a judge, nonetheless, he did so because it was the right thing to do. He was an excellent supervisor and mentor to deputy prosecutors, he was a joy to supervise because he required no supervision, and he is a judge of honor who attorneys respect.

*Kevin K. Takata*

Department of the Prosecuting Attorney  
Deputy Prosecuting Attorney  
1060 Richards Street  
Honolulu, Hawaii 96813  
Telephone: (808)527-6458  
Fax: (808)547-7513  
email: ktakata@honolulu.gov



Senator Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee Room 219, State Capitol  
Honolulu, Hawaii 96813  
Fax: (808) 586-6659  
Email: testimony@capitol.hawaii.gov

Hearing date: October 25, 2007, 9:00 a.m., Conference Room 229:  
Senate confirmation of Judge Randal K.O. Lee for the Intermediate Court  
of Appeals, Associate Judge position

Dear Chairperson Taniguchi and Members of the Senate Judiciary  
Committee:

I am writing to strongly recommend Judge Randal Lee for appointment to  
the Intermediate Court of Appeals. I currently am a litigation  
attorney with Alston Hunt Floyd & Ing.

I have personally interacted with Judge Lee on many occasions during my  
clerkship this past year with Judge Karen Ahn of the First Circuit  
Court. As our chambers was located right next to his, Judge Lee, his  
staff and I would often talk about interesting legal topics and current  
events or just "talk story." I was also able to personally observe  
Judge Lee on the bench. From my experiences with him, I believe that  
he has the judicial temperament to be fair to both sides and the legal  
ability to provide sound legal bases for each of his rulings. I  
believe he has the extensive trial experience, a sharp legal mind and  
the practical mind set to succeed as an appellate judge.

Again, I highly recommend, without reservation, the appointment of  
Judge Randal Lee to the Intermediate Court of Appeals.

Thank you for your consideration.

Sincerely,

Jessica Y.K. Wong

EMAIL: [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)

Senator Brian T. Taniguchi, Chairperson of the Senate Judiciary Committee  
Room 219, State Capitol  
Honolulu, Hawaii 96813

**Re: RANDALL K.O. LEE  
In Support of Confirmation as Associate Judge to the ICA**

Chairperson Taniguchi, Vice Chair Clayton Hee and Members of the Senate Judiciary Committee:

I am Wray Kondo, a lawyer with Watanabe Ing and Komeiji and have been licensed to practice law in Hawaii since 1977.

It is with pleasure that I submit this letter in support of the confirmation of RANDALL K.O. LEE, as an Associate Judge to the Intermediate Court of Appeals. I have known Judge Lee both socially and professionally for about 12 years. I first met "Randy" at the Children's Center pre-school where our kids were in different classes. At that time, Randy was with the City prosecutor's office. With only three classes, we got to pretty much know all the parents saying hello in the morning, but mostly through working together at the fundraising activities, the fall Holiday Fair and the Christmas Tree sale.

I, for one, believe you get to know the inner core of a person when you work with the person, do they arrive early to help set up, do they do the hard work or just hang around and talk story, and do they stay late to help clean up. Simple evaluation, but for me a good method to measure the character of a person. Randy was one of those who came early, worked hard and left late. In between we also talked about how to do things to make it easier for us to unload and stack the trees, cut the bottom and load into the customer's vehicle. We also talked story during slow periods. Randy always impressed with his contribution to the discussions, his ability to listen to the opinions or stories of others, his hard work and his even keel manner, even at the end of the day when we were tired or when we had to work in intermittent rain. After our children left the pre-school, I had little contact with him.

However, within the last 2 -3 years, I have appeared before Judge Lee in several cases. Same thing. Judge Lee listened to the arguments and opinions of others, he spent the time to explain his rationale as to how he reached his decision, showing that he did the hard work of reading the memorandums detailing the facts and the law. Significantly, Judge Lee always presided with an even keel manner, notwithstanding the adversarial issues and arguments. Judge Lee's decisions were fair and based on the facts and the law, not on who he was or who appeared before him.

In closing, please accept this as my very strong support for the confirmation of RANDALL K.O. LEE, as an Associate Judge to the Intermediate Court of Appeals.

**testimony**

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**From:** David Hall [dhallhi@yahoo.com]  
**Sent:** Tuesday, October 23, 2007 3:40 PM  
**To:** testimony  
**Subject:** Testimony re nomination of Randall Lee

Senate Committee on Judiciary and Labor  
Hearing: Thursday, October 25, 2007 at 9:00 a.m.

Testimony of David W. Hall, 735 Bishop Street, Suite 236, Honolulu, HI 96813

Re: Randal Lee Judge Lee should not be appointed to the ICA. He is biased in favor of the government as opposed to citizens and deficient in his reasoning ability.

I observed him in a case involving the Uniform Information Practices Act (UIPA) and the Hawaii Administrative Procedures Act (HAPA) and access to geotechnical and drainage reports submitted by an applicant's consultants to the Department of Planning and Permitting (DPP) which is responsible for reviewing subdivision applications. The DPP followed a records practice of receiving reports, writing comments upon them and returning them to the consultant without keeping copies until it "formally accepted" a version. It then made the "formally accepted" version available to the public but did not make prior versions with comments available. This practice was not contained in the DPP Rules of Practice and Procedure, which instead contained a provision that all DPP files were open to the public. The the practice was not adopted pursuant to the HAPA nor was it mentioned in DPP's Guidelines on Processing a Subdivision Application which was not adopted pursuant to the HAPA. Despite the UIPA's provision that requires agencies to keep accurate and complete records, the legislative history of the model UIPA and Office of Information Practices (OIP) opinions interpreting the UIPA's provisions, Judge Lee ruled that the UIPA did not obligate DPP to keep copies of the reports and comments and that because DPP did not retain copies of the reports and comments returned to the consultants, DPP did not "maintain" the reports and comments so that they were not government records required to be disclosed.

Despite OIP Opinions interpreting the provision of the UIPA exempting deliberative documents from disclosure if they are inter- or intra-agency and predecisional or deliberative and a case holding that agency communications with third parties are not shielded from disclosure, Judge Lee ruled that the reports and comments, which clearly were not inter- or intra-agency and were not predecisional or deliberative within an agency, were not subject to disclosure because they were part of DPP's deliberative process.

Despite provisions of the HAPA that rules not adopted pursuant to the HAPA are invalid, that the records practice was not adopted pursuant to the HAPA and DPP's failure to address the HAPA claim in their briefs, Judge Lee ruled, without any reasoning, that the records practice was not invalid under the HAPA.

The Circuit Court Case was Nuuanu Valley Association v. City and County of Honolulu, et al. Civil No. O6-1-0501-03 (RKOL). Needless to say it is being appealed with the above points among those which will be raised as errors.

Thank you for the opportunity to comment.

Sincerely,  
David W. Hall

10/23/2007

Rom Trader  
960 Prospect Street, No. 1  
Honolulu, HI 96822

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**TRANSMITTED BY FAX:**  
**(808) 586-6659**

October 22, 2007

Senator Brian Taniguchi  
Chairman, Senate Judiciary & Labor Committee  
State Capital, Room 229  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: Intermediate Court of Appeals Nominee - Randal K.O. Lee

Dear Senator Taniguchi,

I am extremely pleased to write in support of **Randal K.O. Lee's** nomination for Judge of the Intermediate Court of Appeals. As a prosecutor who has known and worked with Randy for nearly twenty years, I can think of no one more qualified for this position.

In my opinion, Randy possesses an invaluable combination of qualities and abilities which make him uniquely qualified to serve on the Intermediate Court of Appeals bench. He is an seasoned veteran trial attorney who, as a prosecutor, enjoyed the respect of not only his fellow prosecutors, but also many experienced defense lawyers and judges throughout the legal community. Following his appointment to the Circuit Court bench in April 2005, he has continued to distinguish himself and has gained a favorable reputation for his legal knowledge and work-ethic on both the civil and criminal calendars.

Without a doubt, Randy clearly possesses a keen legal and analytical mind which has served him well over many years both as a prosecutor and more recently as a circuit court judge in dealing with some of the most complex and challenging legal issues of our time. During his distinguished career, he has forged a reliable decision-making process which has always been well-reasoned, balanced and demonstrated consistently sound judgment. Furthermore, I have always been impressed with Randy's professionalism, even temperament, and his commitment to doing the highest caliber work possible.

On a personal note and perhaps more importantly, I have always found Randy to be a person of the utmost integrity. One need look no further than the character he demonstrated, as a prosecutor, in leading the most meaningful probes into government corruption and campaign spending violations in city history to understand that he is a person of courage who does what he thinks is right, not what others think may or may not be popular.

Given his considerable experience, Randy is very familiar with the broad range of problems and difficulties encountered during the trial process and how best to solve them. As such, he also knows and intimately understands how the system currently functions and may have some fresh ideas as to how improvements might be made to better serve the litigants and the system as a whole. Overall, his experience as both a litigator and a trial judge make him exactly the type of individual whose legal knowledge, tempered significantly by his considerable "time-in-the-trenches," equip him very well with the necessary perspective to review and decide legal issues on the appellate level.

In short, Randy has a wealth of knowledge and experience. This is extremely important because if appointed the appellate bench, he would have the tremendous advantage of being able to make immediate contributions to the justice system. I have every confidence he would transition quickly to his duties and responsibilities as an appellate judge since it would simply be a natural and logical extension of what he already has been doing successfully for so many years.

I am certain that you will find none better qualified than Randy Lee for this position. I have every confidence that he would make an excellent Judge of the Intermediate Court of Appeals.

Should you have any questions or would like additional information, I may be reached at 527-6437 (office) or 382-9266 (cellular). Thank you for your kind attention and consideration of my comments.

Very truly yours,



Rom Trader

Senator Brian Taniguchi  
Chairman of the Labor and Judiciary Committee  
415 South Beretania Street  
Honolulu, Hi 96813

Dear Senator Taniguchi,

I am writing in support of Judge Randal K.O. Lee for confirmation to the Intermediate Court of Appeals.

I have known Judge Lee for over fifteen years. He was my direct supervisor for many years at the Department of the Prosecuting Attorney. Judge Lee has also been more than a supervisor, but a mentor and friend to many attorneys that have worked under him. He treats everyone with fairness and respect.

I have also had the opportunity to appear before him in his capacity as a Circuit Court Judge. He is always professional, prepared and fair to everyone that appears before him. There has never been an instance when he didn't know every aspect of each case that was on his calendar, no matter how insignificant. His appointment, however, would be a great loss to the Circuit Court Bench.

Judge Lee is also a very good father and husband and active in his community. I whole heartedly support the confirmation of Judge Randal K.O. Lee to the Intermediate Court of Appeals because he has consistently exhibited the qualities that make for an outstanding Appellate Court Justice.

If you have any questions please feel free to contact me at 383-6041.

Sincerely,

Sherri L. Chun  
Deputy Prosecuting Attorney

October 23, 2007  
P.O. Box 10612  
Honolulu, HI 96816

**RE: Judicial Nominee Randal K.O. Lee**  
**Hearing October 25, 2007 9:00 am**  
**Senate Judiciary and Labor Committee**  
**Twenty-five (25) copies needed**

*BY FACSIMILE*

To Chair Brian Taniguchi and the Senate Judiciary and Labor Committee:

I am writing this letter of support on behalf of attorney Randy Lee who has been nominated to the Hawaii Intermediate Court of Appeals. I have known Judge Lee since the mid-1980s as a deputy prosecutor with the City and County of Honolulu, although I am writing this letter in my individual capacity. During the time that Judge Lee was a deputy prosecutor, he was a trusted friend and colleague. His record as a trial attorney, in the many high-profile cases he prosecuted, was outstanding. Judge Lee was also my supervising attorney from 1995-97 when he was the Division Chief of the Misdemeanor Division and I was the Team Captain of the DUI and Traffic team.

I highly recommend Judge Lee to the position of Intermediate Court of Appeals judge. He would make an excellent appellate judge as he is a person of integrity, has a solid grasp of substantive and procedural law and good judicial temperament, is an experienced writer, and is a respected Circuit Court judge. Since being appointed to the Circuit Court bench in 2005, he has served well on both the civil and criminal benches. I have not made any appearances in front of him, but have heard from my colleagues that he is fair and decisive and expects attorneys to be prepared and professional.

If there are questions on this recommendation, I can be reached at the above address or at the Honolulu City Prosecutor's Office (1060 Richards St., 9<sup>th</sup> floor, Honolulu, HI 96813), at phone number 808-527-6456, or at the e-mail address of [snitta@honolulu.gov](mailto:snitta@honolulu.gov). Thank you for your consideration in this matter.

Sincerely,



SHEILA B. NITTA

October 23, 2007

Senator Brian Taniguchi  
Committee on Judiciary and Labor  
The Senate  
The Twenty-Fourth Legislature  
Second Special Session of 2007

RE: Confirmation of Randall K.O. Lee, for consideration as Associate Judge, to the Intermediate Court of Appeals.

Date: Thursday, October 25, 2007  
Time: 9:00 a.m.  
Place: Conference Room 229  
State Capitol

Senator Taniguchi and members of the Committee,

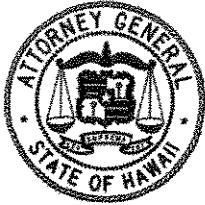
I write in support of the nomination of Randall K.O. Lee, to the Intermediate Court of Appeals as an Associate Judge. I had the privilege of working with the nominee for a number of years during my tenure as a Deputy Prosecuting Attorney and believe that he will be an excellent jurist at the appellate level.

Respectfully,



Earl R. Hoke, Jr.





**TESTIMONY OF THE STATE ATTORNEY GENERAL  
SECOND SPECIAL SESSION OF 2007  
TWENTY-FOURTH LEGISLATURE**

---

**ON THE FOLLOWING MEASURE:**

G.M. No. 1, Submitting for consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee, RANDALL K.O. LEE, for a term of ten years.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Thursday, October 25, 2007 **TIME:** 9:00 AM

**LOCATION:** State Capitol, Room 229  
*Deliver to: Committee Clerk, Room 219, 1 copy*

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

---

Dear Chair Taniguchi and Members of the Committee:

I write in strong support of Randall K.O. Lee's nomination to be an Associate Judge of the Intermediate Court of Appeals. I know Judge Lee only professionally, not personally. I knew of Judge Lee's representation as a prosecutor, and I know of his reputation as a judge. Both are excellent.

Judge Lee has devoted his entire life to public service. He has not deviated from that public service course, never working in private practice, but always for the public, with the Office of the Public Defender, with the Department of the Prosecuting Attorney, and as a judge.

As the testimony submitted on Judge Lee's behalf with regard to his confirmation in 2005 demonstrated, Judge Lee is a person who possesses excellent skills as an attorney, and has the highest degree of ethics, and a superb temperament. I believe that Judge Lee's time on the bench has demonstrated not only that the Senate made the right choice in 2005 when it confirmed Judge Lee with no negative votes, but also that Judge Lee's excellent service as a judge has demonstrated his fitness for the Intermediate Court of Appeals.

I believe there is absolutely no question that Judge Lee's qualifications are of the very highest caliber. His experience both as a practicing attorney and as a Circuit Court judge (none of the judges on the Intermediate Court of Appeals had ever served as a trial judge) will serve the State well. Judge Lee is ethical, honest, skilled, and highly qualified. I respectfully urge you to vote to send Judge Lee's nomination to the floor of the Senate, with a favorable recommendation.

LINDA LINGLE  
GOVERNOR



DARWIN L.D. CHING  
INTERIM DIRECTOR

COLLEEN Y. LACLAIR  
DEPUTY DIRECTOR

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

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labour](http://www.hawaii.gov/labour)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

October 24, 2007

(Via Facsimile: 586-6461)

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

Re: Confirmation of Randal K.O. Lee, Intermediate Court of Appeals  
Judiciary, State of Hawaii

Dear Senator Taniguchi and Committee Members:

I strongly support the appointment of Randal K.O. Lee for the Intermediate Court of Appeals Judge. Randal represents the common man and common sense in his decision making.

I have known Randal since about 1985 when I went to the Prosecutor's Office. Over the years, he has been a fellow deputy prosecuting attorney, an opponent (when I was a criminal defense attorney) and a litigant (when he became a Judge). He was fair and to the point throughout.

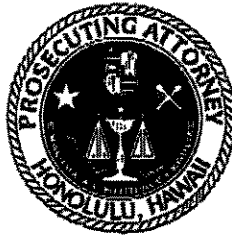
Therefore, I strongly support his nomination. Thank you for your time and consideration.

Sincerely,

DARWIN L.D. CHING

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1080 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 547-7400 • FAX: (808) 547-7315



PETER B. CARLISLE  
PROSECUTING ATTORNEY

DOUGLAS S. CHIN  
FIRST DEPUTY  
PROSECUTING ATTORNEY

**THE HONORABLE BRIAN T. TANIGUCHI, CHAIR**  
**SENATE COMMITTEE ON JUDICIARY AND LABOR**  
Twenty-fourth State Legislature  
Second Special Session of 2007  
State of Hawaii

October 24, 2007

**RE: G.M. 1; NOMINATION OF RANDALL K.O. LEE TO THE INTERMEDIATE COURT OF APPEALS**

Chair Taniguchi and members of the Senate Judiciary and Labor Committee, the Department of the Prosecuting Attorney submits the following testimony in favor of the nomination of Randall K.O. Lee to the Intermediate Court of Appeals.

Many of us at the Department of the Prosecuting Attorney know Randy. For twenty-three years, Randy Lee was an integral and significant part of the department. He ably served as a supervisor for the Circuit Court, Family Court, District Court and Traffic Court sections of the office, where he daily demonstrated his willingness to assist other deputies, his knowledge of the law, his common sense and his sense of fair play.

At the time he left our office to become a Judge on the Circuit Court of the First Circuit, Randy was handling campaign spending, complex financial white-collar, and public corruption cases and trials with integrity and skill. These cases were difficult not only because of the high level of publicity generally involved but also because of the high degree of dedication, patience and perseverance needed to put together these cases. In short, during his tenure as a deputy prosecutor, Randy distinguished himself as being one of the best and the brightest.

As a sitting Judge, we have noted that Randy has had impressive concern for judicial economy and efficiency; this concern is evidenced by the high standards of preparedness and professionalism that he requires of both prosecutors and defense counsel. I believe that these high standards are both appropriate and beneficial in ensuring that the criminal justice system operates as effectively as possible. He also seems to deal evenhandedly with the prosecution and defense as demonstrated with his interactions with Public Defender John Tonaki and myself.

Randy has also shown a strong commitment to serving his community through his participation in numerous organizations which include youth organizations and activity leagues, as well as serving as an instructor for various legal courses and programs.

I think Randy's dedication, patience, fairness, integrity, intelligence, knowledge of the law and common sense make him highly qualified and an excellent choice for the Intermediate Court of Appeals. For this reason, I strongly support his appointment as Associate Judge of the Intermediate Court of Appeals and strongly urge this committee to support his appointment as well.

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE

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PETER B. CARLISLE  
PROSECUTING ATTORNEYDOUGLAS S. CHIN  
FIRST DEPUTY PROSECUTING ATTORNEY

October 24, 2007

Senator Brian Taniguchi  
Senate Judiciary and Labor Committee  
Hawaii State Senate  
State Capitol  
415 S. Beretania Street  
Honolulu HI 96813

transmitted by facsimile

RE: Confirmation of the Honorable Randal K.O. Lee  
October 25, 2007 9:00 a.m. hearing

Dear Senator Taniguchi:

I am writing to respectfully ask you to vote to advise and consent to the nomination of the Honorable Randal K.O. Lee to the Intermediate Court of Appeals. I began working with Judge Lee when I joined the Department of Prosecuting Attorney in 1984. I was fresh off the boat from the Mainland. He was kind enough to extend his aloha to me, mentor me, and teach me the intricacies of criminal prosecution.

After brief employment at the Public Defender's Office, Judge Lee was a Deputy Prosecuting Attorney for twenty-three years. During that time, he served in a variety of supervisory positions including Division Chief of the Felony Prosecutions Division. It is always interesting to see how someone responds when he occupies a position of power. Judge Lee always led by example, often assigning the most difficult cases to himself. Moreover, he treated those whom he supervised with the utmost respect. He was very understanding and empathetic whenever someone whom he supervised had a family concern.

Senator Brian Taniguchi  
Page 2  
October 24, 2007

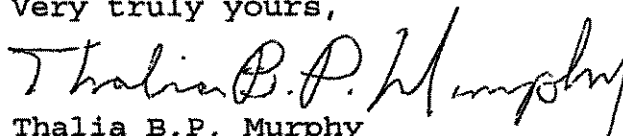
Judge Lee is highly analytical and can readily identify what is at issue. He is well-versed with the Rules of Evidence, Rules of Court and the case law. He is an excellent trial attorney, who is well-qualified to teach advanced trial advocacy. In addition to trying a variety of cases including murder trials and complex white collar prosecutions, he also screened and charged cases. Thus, he is well-versed in the criminal process.

In the latter part of his career at the Prosecutor's Office, Judge Lee began specializing in White Collar prosecutions. These cases are particularly difficult. Although his dream was always to become a judge, and prosecuting White Collar Crime may have jeopardized his desire to join the judiciary, he always did what was right, and impressed upon those whom he supervised the prosecutor's duty to do justice. In other words, as a supervisor, he was the first to underscore to others the prosecutor's ethical duties under the Disciplinary Rules despite any adverse consequences it may have for the successful prosecution of the case.

As a Deputy Prosecuting Attorney, Judge Lee was well-respected by the Defense Bar. As a judge, he has demonstrated the utmost professionalism, integrity, compassion and fairness to both the Defense and the State. I strongly urge you to advise and consent to his nomination.

If you or your staff have any questions regarding the aforementioned, I can be reached at 527-6486.

Very truly yours,



Thalia B.P. Murphy  
Senior Deputy Prosecuting Attorney



ATTORNEYS AT LAW

Ronald Albu  
Kathryn Momi Albu

Darci Ernce  
Legal Assistant

**TESTIMONY OF RONALD ALBU  
OPPOSING THE CONFIRMATION OF RANDALL K.O. LEE  
AS ASSOCIATE JUDGE OF THE INTERMEDIATE COURT OF APPEALS, STATE OF  
HAWAII  
(Governor's Message 1)**

**COMMITTEE ON JUDICIARY AND LABOR**

Senator Brian T. Taniguchi, Chair  
Senator Clayton Hee, Vice Chair

DATE: Thursday October 25, 2007  
TIME: 9:00 a.m.  
PLACE: Conference Room 229

Chair Taniguchi, Vice Chair Hee and Members of the Judiciary and Labor Committee,

Thank you for this opportunity to testify regarding the nomination of Randall K.O. Lee to serve as an Associate Judge on the Intermediate Court of Appeals. I ask that you reject this appointment.

Judge Lee has served as a Circuit Court Judge for only a relatively short time and his background in civil law is very limited. The Hawai'i State Bar Association routinely schedules evaluations of Judges based upon questionnaires sent to attorneys who have appeared before the judges being evaluated at regular intervals. Unfortunately, Judge Lee has not been a Circuit Court Judge long enough to have even received an evaluation by the members of Bar who have practice in his Court.

I have had the experience of representing an African American inmate at OCCC whose leg was severely fractured when his leg was snapped sideways by a security guard. At the time the inmate was handcuffed behind his back and surrounded by numerous security guards. Judge Lee was the settlement judge and the State was represented by

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Albu@bizwind.com



a Deputy Attorney General who had been a prosecutor and colleague of Judge Lee when he was a prosecutor. The Deputy AG referred to Judge Lee as her "buddy." When I went to the settlement conference, Judge Lee first called the Deputy AG into a private meeting. Next I was called in to meet with Judge Lee. Without asking me any questions about the case or my involvement, Judge Lee told me that the Deputy AG had informed him that one of the prison guards had been a former client of mine, and that my failure to name this state employee as an individually liable defendant in the lawsuit against the State for negligence could subject me to a claim for malpractice by my client. Judge Lee went on strongly urge that I should persuade my client to accept the extremely low settlement offer made by the State so that my client would never find out about my alleged malpractice.

Needless to say, I was stunned by Judge Lee's handling of the settlement conference. Without offering me an opportunity to respond to the allegations made in private by the Deputy AG, Judge Lee was pressuring me to unethically seek to protect myself from what he argued was a potential malpractice claim, to the substantial economic detriment of my client. Subsequently, the Deputy AG filed a motion to have me disqualified from representing my client and the trial judge denied the motion as without merit.

Following the experience with Judge Lee, I informed that Deputy AG that any further settlement conference with Judge Lee would be fruitless given his offensive and heavy handed handling of the matter and his suggestion that I should engage in unethical conduct to the detriment of my client. He had never made any attempt to explore the fair settlement value of the case. Instead, the matter was settled through the services of a private mediator for a substantially higher settlement amount and the settlement was approved and funded by the Legislature.

Giving Judge Lee the benefit of the doubt, I concluded that his handling of the matter was based upon his unfamiliarity with civil cases and his inexperience in conducting settlement conferences. However, based upon his limited experience as a Judge in handling civil cases, I do not believe that he is a good choice for elevation to the Intermediate Court of Appeals. Furthermore, his intimidating manner, his apparent partiality for his former colleague, and his failure to realize the ethical implications of the action that he was proposing raises significant concerns that he is not the best candidate for this appointment.

Thank you for this opportunity to testify on this matter.

Respectfully submitted,



Ronald Albu

# AYABE, CHONG, NISHIMOTO, SIA & NAKAMURA

ANN H. ARATANI  
SIDNEY K. AYABE\*  
ROBERT A. CHONG  
STEPHEN G. DYER  
PATRICIA T. FUJII  
STEVEN L. GOTO  
KENNETH T. GOYA  
RYAN I. INOUE  
GAIL M. KANG  
RONALD T. MICHIOKA  
GARY S. MIYAMOTO  
RICHARD F. NAKAMURA  
LAWRENCE H. NAKANO  
JOHN S. NISHIMOTO

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[Ann.aratani@hawaadvocate.com](mailto:Ann.aratani@hawaadvocate.com)

ZALE T. OKAZAKI  
MICHAEL C. SCHWARTZ  
RONALD M. SHIOEKANE  
JEFFREY H. K. SIA  
PHILIP S. UESATO  
MICHAEL J. VAN DYKE  
J. THOMAS WEBER  
DIANE W. WONG  
CALVIN E. YOUNG

Of Counsel:  
DAVID A. GRUEBNER  
EDMUND K. U. YEE

RODNEY S. NISHIDA  
(1949 - 2004)

October 24, 2007

## Via E-Mail

Committee on Judiciary and Labor  
Senator Brian T. Taniguchi, Chair  
State Capitol, Room 219  
415 South Beretania St.  
Honolulu, HI 96813

RE: Hearing date - October 25, 2007, 9:00 a.m., Conference Room 229  
Senate confirmation of Judge Randal K.O. Lee  
Intermediate Court of Appeals, Associate Judge position

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

I have known Judge Randal Lee for approximately twenty-four years, and his integrity, intelligence, and work ethic have been exemplary. Please confirm Judge Lee's appointment to the Intermediate Court of Appeals.

Randy's background is somewhat unique as he previously practiced as a Deputy Public Defender and then as a Deputy Prosecuting Attorney. When I met Randy in the early 1980's as a fellow Deputy Prosecuting Attorney, he handled complex felony cases, and also trained the new trial attorneys. Randy thoroughly prepared his cases for trial, and kept his sense of humor even during the stress of litigation.


Over the years that I have been in private practice, I maintained contact with Randy as he continued his career as the head of the White Collar Crime Unit, and as a First Circuit Court Judge of the State of Hawaii. Randy's objective enforcement of the laws and ability to sort through voluminous documents led to his success in White Collar Crime cases. Some attorneys would have avoided controversy and not prosecuted engineers who exceeded campaign contribution limits as part of a long standing business practice in Honolulu. Randy enforced the existing laws in a professional manner, without regard for any possible negative impact on his personal career.

Senator Brian T. Taniguchi, Chair  
Senate Judiciary Committee  
October 24, 2007  
Page 2

When an appellate court rules upon whether or not a trial judge abused his/her discretion, it is invaluable that the appellate judge have personal experience as a litigator and trial judge. As an Associate Judge on the Intermediate Court of Appeals, Randy will have the perspective of a trial judge and former litigator for both the public defender and prosecutor's offices. In establishing new Hawai'i case law, Randy will bring his substantive experience as a trial litigator and judge applying the written law on a daily basis.

Randy is a highly ethical man of integrity, who rules based upon the law. While all trial judges will have their rulings challenged and one party will lose in each trial, Randy will continue to serve the State of Hawai'i by focusing on the law. Randy is a humble person who does not promote his accomplishments or seek publicity for personal gain. Hawai'i will be well served by the addition of Judge Randy Lee to the Intermediate Court of Appeals. Thank you for your consideration.

Very truly yours,



Ann H. Aratani

AHA:baq

[#264765]

# AYABE, CHONG, NISHIMOTO, SIA & NAKAMURA

ANN H. ARATANI  
SIDNEY K. AYABE\*  
ROBERT A. CHONG  
STEPHEN G. DYER  
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J. THOMAS WEBER  
DIANE W. WONG  
CALVIN E. YOUNG

Of Counsel:  
DAVID A. GRUEBNER  
EDMUND K. U. YEE

RODNEY S. NISHIDA  
(1949 - 2004)

A LAW CORPORATION\*

October 24, 2007

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

RE: Senate Confirmation of Judge Randal K.O. Lee for the  
Intermediate Court of Appeals

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

I am a partner with the law firm of Ayabe Chong Nishimoto Sia & Nakamura. I am submitting this letter in support of the nomination of Judge Randal K.O. Lee to the Intermediate Court of Appeals.

As an attorney, I have known "Randy" for over 25 years, having first met him when we were young, just out-of-law school attorneys with the Office of the Public Defender. From that time I was able to observe his tireless work ethic, and his professional commitment to the cases he handled. Over the years I have watched him grow skillfully as a trial attorney, further honed when he left the Public Defender's Office to become a Deputy Prosecutor. His reputation for trying difficult and controversial criminal cases for the State of Hawaii is well known in the general community and legal circles.

I was quite pleased with his selection as a Circuit Court Judge, as the appointment was well-deserved given his over 20 years of public service. Likewise, I am extremely pleased to learn of his nomination by Governor Lingle for a judicial appointment at the appellate level.

On a personal note, I can attest to comments made by my law partners who have appeared in his Court. He has shown the same work ethic as a Judge. His courtroom demeanor is professional, and he gives the same courtesies to each party or

Senator Brian T. Taniguchi, Chair  
Committee on Judiciary and Labor  
October 24, 2007  
Page 2

litigant, without favor or bias. He was thorough in his preparation of a case handled by my senior partner, having his written findings and conclusions of law promptly submitted following his ruling on a complex civil case.

In conclusion, it is without any reservation I strongly support the appointment of Judge Lee as an Associate Judge on the Intermediate Court of Appeals. The State of Hawaii and the legal community will greatly benefit from his trial and judicial experience at the appellate level.

If you have any questions about my support of Judge Randall Lee, please do not hesitate to contact me.

Very truly yours,



KENNETH T. GOYA

KTG:lk  
[347417]

**David Glenn Bettencourt**

Attorney at Law - Hawaii Bar No. 970

Suite 425 Dillingham Transportation Building • 735 Bishop Street • Honolulu, Hawaii 96813

Telephone: (808) 521-3491 Fax: (808) 521-3492 E-mail: [airlaw@pixi.com](mailto:airlaw@pixi.com)

521-3494

24 October 2007

Senator Brian T. Taniguchi  
Chairperson of the Senate Judiciary Committee  
Room 219, State Capitol  
Honolulu, Hawaii 96813

Re: Randy Lee:

Dear Senator Taniguchi:

I will not be able to attend tomorrow legislative session due to previously scheduled depositions in Lihue, Kauai, which cannot be postponed. This letter is to document my continued support for Judge Lee, as I felt he was the most qualified person for the Circuit Court judgeship and I now believe that he is the best qualified person for appointment to the Intermediate Court of Appeals. I provide this support, knowing full well that we differ in our views of the law and of the criminal process that forms a large portion of my law practice, because I continue to believe that Judge Lee's highly diversified background is the most critical asset and mandatory requirement for any trial or appellate judicial nominee. Law school may train a person in the intricacies of the law, but only a varied life experience can train a person to be a fair, knowledgeable and impartial judge of one's fellow citizens.

In my opinion a large number of Governor Lingle's prior judicial appointments lack these attributes and come the judiciary with preconceived views on a wide variety of issues that may come before them, in addition to lacking varied life and working experiences. If I had not had these years of experience with Deputy Prosecuting Attorney Lee I would have great qualms about putting another prosecutor on the I.C.A. or any other court.

I doubt that any judicial nominee will agree with my view of the law on the wide variety of issues that may face the I.C.A.; what is required in a good judge or nominee is not predisposition to agree with me but the pragmatic ability to fully consider the legal and factual issues fairly and honestly and to always retain the ability to be convinced by the merits of the arguments of counsel. The great majority of my prior experience with Judge Lee was as litigation opponents while Judge Lee was a deputy prosecuting attorney; I have only appeared before him in his judicial role in a single case. I know from our prior contacts as opposing counsel that Judge Lee is a person who will fully consider both sides of legal or factual dispute even while acting as an advocate rather than as a neutral. Such a person certainly has a much higher ability to do so when assigned the role of jurist where neutrality and ability to be educated by counsel is absolutely mandatory.

Mahalo nui loa

  
David Glenn Bettencourt



**Law Offices of Michael Jay Green, Attorney at Law**

---

October 23, 2007

345 Queen Street  
Second Floor  
Honolulu, Hawaii 96813  
Tel 808.521.3336  
Fax 808.566.0347

**COMMITTEE ON JUDICIARY AND LABOR**

Senator Brian T. Taniguchi, Chair  
Senator Clayton Hee, Vice Chair

Date: Thursday, October 25, 2007  
Time: 9:00 a.m.  
Place: Conference Room 229  
State Capitol  
415 South Beretania Street

Re: GM 1 Submitting for consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee RANDALL K.O. LEE, for a term of 10 years

**TESTIMONY OF MICHAEL JAY GREEN  
IN SUPPORT OF CONFIRMATION OF RANDALL LEE**

I am submitting this testimony in support of Judge Randall Lee's confirmation to the Intermediate Court of Appeals as an Associate Judge.

I have been licensed to practice law in Hawaii since 1987. Prior to moving to Hawaii, I litigated numerous criminal cases for over 20 years throughout the country.

My very first trial as a defense attorney in Hawaii was against Randall Lee. It was a pleasant surprise to be opposed by a prosecutor that was very knowledgeable in the law, professional and courteous as then deputy prosecutor Randall Lee.

Since that first trial, I have litigated numerous cases against Mr. Lee and I have grown to have profound respect for him in his legal ability and professionalism. I have a great deal of respect and admiration for our trial bar and judiciary and would recommend and champion the confirmation of Judge Lee. It is judges like this that make it better for litigants.

Very truly yours,

  
Michael Jay Green

DEREK R. KOBAYASHI

TOPA FINANCIAL CENTER  
745 FORT STREET · SUITE 1500  
HONOLULU, HAWAII 96813

TELEPHONE (808) 523-6060 · FAX (808) 523-6030  
INTERNET: dkobayashi@sil-law.com

October 24, 2007

*Via Email: [testimony@capitol.hawaii.gov](mailto:testimony@capitol.hawaii.gov)*

Senator Brian T. Taniguchi and Committee Members  
Committee on Judiciary and Labor  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: Confirmation of Randal K. O. Lee to the Intermediate Court of Appeals

The Honorable Chair Brian Taniguchi and Honorable Committee Members:

I am writing to express my strong support for the appointment of The Honorable Randal K. O. Lee to the Intermediate Court of Appeals ("ICA") of the State of Hawaii.

I have been in private civil practice in the State of Hawaii for 17 years and came to know Judge Lee about two years ago through my practice. I have appeared before him on motion hearings, status conferences, settlement conferences, and pretrial conferences. I also worked with his Court as a court-appointed administrator of accounts of a business involved in litigation. I am an adjunct professor of law and Judge Lee assisted me by opening up his courtroom after hours and hearing oral argument on motions by the students in my Pretrial Litigation course at the William S. Richardson School of Law.

In my experience, Judge Lee is always thoroughly prepared and diligent. He has a well-developed understanding of court rules and the rules of evidence and appropriately applied that understanding in all matters I have had before him. He demonstrates sound legal analysis, is decisive, and at each hearing that I had before him, ruled promptly and articulately from the bench, immediately upon completion of oral argument.

Judge Lee is skilled at handling his court docket and managing court room time. His even temperament, patience, and professional demeanor towards counsel and litigants, even during the most trying of hearings, are exemplary.

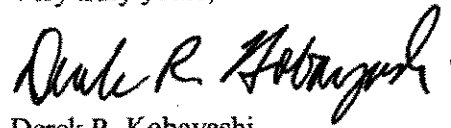
In sum, Judge Lee will be a valued asset to the ICA. While he will be missed by practitioners in his trial court, I am convinced that he will be a diligent, hard working, and much appreciated addition to the ICA.



Senator Brian T. Taniguchi and Committee Members  
Committee on Judiciary and Labor  
Page 2

For all of these reasons, I strongly support Judge Lee's appointment to the ICA. I regret that prior commitments preclude me from appearing to offer testimony at hearing tomorrow before your Committee and thank you for the opportunity to submit these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Derek R. Kobayashi". The signature is fluid and cursive, with a prominent initial "D" and "K".

Derek R. Kobayashi

# LYNCH ICHIDA THOMPSON KIM & HIROTA

A LAW CORPORATION

MAILE M. HIROTA  
WESLEY W. ICHIDA  
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STEVEN J. KIM  
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October 24, 2007

Senator Brian Taniguchi, Chair  
Senator Clayton Hee, Vice-Chair  
Senate Judiciary Committee

Via E-mail

Re: Nomination of the Honorable Randal Lee to the Intermediate Court of Appeals  
Hearing: October 25, 2007, 9:00 a.m.

My name is Steven Kim. I write to inform this Committee of my experience with Circuit Judge Randal Lee, as it pertains to his recent nomination to Hawaii's Intermediate Court of Appeals.

I have been an attorney in private practice in Hawaii for approximately 19 years. During that time, I have practiced before judges in each of Hawaii's state circuits, as well as our federal district court, and I have had what has turned out to be a rare privilege of presenting oral argument to both the Hawaii Supreme Court, and the Intermediate Court of Appeals, to which Circuit Judge Lee has been nominated.

I have had the opportunity to work with Circuit Judge Lee on several levels, both professional and civic. As a civil practitioner, I did not have many opportunities to work on criminal cases, however, I had one significant that brought me into contact with Circuit Judge Lee while he was an attorney in the white-collar crime unit of the prosecutor's office. This particular case was a complex, document oriented case, which required compilation, tracking and analysis of literally years of financial transactions. Because the Defendant in this particular criminal case was also responding to related civil claims that I was defending, I had substantial interaction with then Prosecutor Lee almost on an opposing counsel basis. Investigation of the claims against my client led me to pose numerous discovery type questions and requests to Prosecutor Lee, and in each instance I was gratified by Prosecutor Lee's professionalism and fairness. Each telephone request and message I left for Prosecutor Lee was returned promptly, and the substance of each question and request I made was answered fairly and substantively. Prosecutor Lee provided discovery in that case freely and completely, which although expected of attorneys, is not always the norm.

Last year, I had the opportunity to work alongside Circuit Judge Lee as a volunteer coach of the Hawaii Baptist Academy mock trial program. Mock trial is a highly competitive interscholastic high school competition that teaches students valuable life skills such as advocacy, analysis, communication, and seeing competing perspectives, through the

device of having students prepare and try fictitious civil and criminal cases before actual Hawaii appellate and trial judges. Mock trial requires a tremendous investment of time and effort by student participants, but even to a greater extent, by lawyer coaches. I was surprised and pleased when Circuit Judge Lee offered to volunteer his time as a coach of the HBA mock trial team. When Circuit Judge Lee began coaching, I made certain assumptions about his time availability, due to the competing and demanding duties accompanying his office as a Circuit Court judge. My assumptions were wrong. Circuit Judge Lee was in no manner a part-time coach, rather, he rolled up his sleeves and dedicated himself fully to the task of teaching, training, and developing relationships with HBA's mock trial team members. I was impressed by his unassuming persona, lack of ego, and above all, by the enormous amounts of time he spent with the team and coaches after hours on weekdays and for full days on weekends. Your committee may have received similar information from some of the students who benefited from Circuit Judge Lee's dedication and effort. I am here to represent to your committee that I witnessed first hand a donation of time and expertise that demonstrates that beyond his professionalism, which I suspect is beyond question, Circuit Judge Lee also possesses a strong civic commitment to our community and youth. Clearly our students learned much from him concerning evidence, trial, and communication skills. I suspect they also learned something greater, however, about the importance of volunteerism and giving reinvesting yourself in your community, no matter who you are, no matter high your status.

Let me close by saying that attorneys in our firm have had the opportunity of appearing before Circuit Judge Lee during his tenure as a Circuit Judge. I have spoken to one of my partners who had a significant case with Circuit Judge Lee, and his comment to me reflected what I would call grudging support for his appointment to the ICA. Let me qualify the grudging adjective by explaining that my partner believed that Circuit Judge Lee will be an excellent appellate judge, however, the feeling expressed is that it will be a shame to lose an excellent trial judge like Judge Lee from the trenches of the everyday trial practice. The last time I heard this sentiment expressed was when then Circuit Judge Ronald Moon was nominated to the Hawaii Supreme Court. Circuit Judge Lee, like Judge Moon, would certainly be missed from the trial bench. However, there is no doubt in my mind that Judge Lee can serve a greater good in shaping Hawaii law from the ICA, and that our State would be well-served in entrusting Randal Lee with the office to which he has been nominated. I sincerely urge this Committee to act favorably with respect to confirming Circuit Judge Lee's nomination to the Intermediate Court of Appeals.

Very truly yours,

LYNCH ICHIDA THOMPSON KIM & HIROTA

/s/ Steven J. Kim

*Law Office of*  
**William W. Milks**  
*Attorney at Law*

*American Savings Bank Tower*  
*Suite 977*  
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October 24, 2007

The Honorable Brian Taniguchi, Senator  
Chairman of the Judiciary Committee,  
And Members of the Committee  
2<sup>nd</sup> Floor, State Capitol  
417 So. Beretania Street  
Honolulu, Hawaii 96813

Subject: October 25, 2007 Confirmation Hearing: Nominee Randal K.O. Lee

Dear Mr. Chairman and Members of the Committee,

I write this letter on behalf of Randal K.O. Lee.

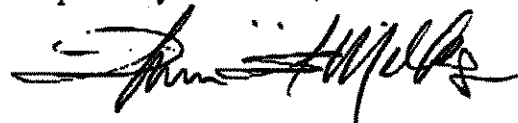
I have no personal relationship with the judge. As an attorney, however, I have presented cases before him as a presiding judge, since he was named as a Circuit Court Judge.

In two of the cases, I was representing a corporation sued by a pro se plaintiff. For the Committee's consideration, I suggest that for a judge, presiding over a trial or pre-trial matters involving a pro se party against a corporation with an attorney, there is a strong—and understandable—tendency to be accommodating to the pro se party. I appreciate that fact as most attorneys do. However, there is a fine line that judges must walk, in accommodating pro se parties. For example, bending procedural rules may be permissible; it is impermissible when doing so clearly prejudices the party with the attorney. Similarly, when it comes to the application of the law, where bending in favor of the pro se party might be extremely prejudicial, I have found Judge Randal K.O. Lee to deal with such matters in the most judicial-like manner. He has been courteous, understanding, and patient; however, he does not bend the rules to prejudice any party and he adheres to the "rule of law."

I find these attributes admirable at the trial court level and at the appellate level as well. It is critical that individuals, attorneys in particular, and public citizenry know that individuals serving in judicial capacities—at whatever level of judicial review—will adhere to the rule of law.

If your committee members have any questions of me or desire my attendance at the confirmation hearing, please provide me sufficient advance notice to allow me to make an appearance at the Capitol.

Respectfully Submitted,



William W. Milks

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Renee M. Furuta  
Tedson H. Koja  
Camille N. Sirivattha

October 24, 2007

**Facsimile & E-Mail (808) 586-6659**

**Senator Brian Taniguchi**

**Members of the Chairman Senate Judiciary and Labor Committee**

**415 S. Beretania St.**

**Honolulu, Hawaii 96813**

**Re: Confirmation Hearing of Circuit Court Judge Randal K.L. Lee**

**Date of Hearing: October 25, 2007**

**Time of Hearing: 9:00 a.m.**

Dear Chairman and Members of the Senate Judiciary and Labor Committee:

I would like to express my firm support for the nomination of Judge Randal K.L. Lee to the Hawaii Intermediate Court of Appeals.

I have known Judge Lee for eighteen (18) years since 1989, when I was employed as a prosecuting attorney. Judge Lee was already an experienced prosecutor and I was fortunate enough to have him as a supervisor for a time. My trust in his sound legal advice was easily earned as I found him to be knowledgeable, intelligent and wise; qualities which are essential for someone whose decisions regarding the proper interpretation of our constitution, statutes and laws will have a profound and widespread impact upon all citizen of Hawaii.

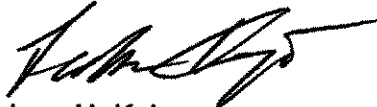
My respect for Judge Lee, both as an attorney and a person, continued to grow as I became more of a colleague of his and I was extremely pleased that he had been appointed to the Circuit Court bench, where has proven himself to be an excellent judge.

Our State would be well-served by allowing Judge Lee to exercise his talents and abilities in the capacity of an Associate Judge of the Intermediate Court of Appeals of Hawaii and he has my firmest support. My only regret is that the legal community, particularly those who practice civil litigation like me, will be losing an excellent Circuit Court judge.

Senator Brian Taniguchi  
Members of the Chairman Senate Judiciary and Labor Committee  
October 24, 2007  
Page 2

If you have any questions, please do not hesitate to call me.

Very Truly Yours,

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

Tedson H. Koja



**DAPHNE E. BARBEE**

**ATTORNEY AT LAW**

**1188 BISHOP STREET, SUITE 1909, HONOLULU, HAWAII 96813**

**TELEPHONE (808) 533-0275**

October 17, 2007

Honorable Senator Brian Taniguchi  
Chair of Judiciary, State Capitol  
415 S. Beretania Street, Room 219  
Honolulu, Hawaii 96813

Testimony Against the Appointment of Randal K.O. Lee as Intermediate Court of Appeals Judge

Dear Senator Taniguchi:

I am an attorney who practices civil rights law in the State of Hawaii. I have had the unpleasant experience of appearing before Judge Randal Lee when he was first appointed as a Circuit Court judge. Prior to his appointment, I have also had experiences with Randal Lee while he was a prosecutor in State v. King, a copy which is attached to my testimony. In the State v. King case, the Appellate Court reversed a conviction when it was discovered that documents pertinent to the case were not disclosed by Randal Lee during trial. The case was reversed by the Intermediate Court of Appeals and during the second trial the case was dismissed due to other prosecutorial problems. See State v. Wells, 78 Haw. 373 (1995). The case was ongoing for 13 years, up to 200, and there was animosity between myself, representing Mr. King, and Randal Lee, as a prosecutor.


When civil rights case of mine, Lales v. Wholesale Motors, was assigned to Judge Randal Lee, I requested that he recuse himself based upon our past adversarial contacts. Judge Lee refused to recuse himself. Subsequent to his recusal, he dismissed the civil rights case where my client was called ethnic slurs such as "F'ing French bastard" by his supervisor in an automobile dealership. Judge Lee further found the case was frivolous and awarded attorney's fees and costs to defendant employer in the amount of over \$160,000.00. There was no trial. The federal EEOC had found cause to believe my client Mr. Lales was discriminated against. The law in Hawaii for civil rights claims does not allow for attorney's fees and costs for defendants. Judge Lee found *there was no right to sue letter when the Hawaii Civil Rights Commission did issue a right to sue letter*. All of these decisions by Judge Lee both as a prosecutor and as a judge raise alarms as to his qualification to sit in the Intermediate Court of Appeals. I filed a complaint against Judge Lee with the Judicial Discipline Commission and they await the appellate decision before it will decide.

It is also of grave concern that a lot of attorneys have expressed similar feelings about Judge Lee but will not come forward for fear of retaliation. Retaliation is very real. In order to

provide protection to attorneys and assurances that their opinions will be valued, the Senate and Legislature should consider eliciting an agreement by all nominees that should they be approved that there would be no retaliation against attorneys who have testified against them. Retaliation by judges against attorneys who have opposed them is as real as retaliation in the workforce as my experience with Judge Lee demonstrates. There should be safeguards to prevent retaliation from occurring. The Lales case is up on appeal, to be decided ironically by the Intermediate Court of Appeals. Should Judge Lee become an Intermediate Court of Appeals judge, I sincerely hope that he will recuse himself in this matter and all other matters involving my cases given his prior animosity towards myself and towards civil rights cases.

Should you have questions or desire more information, please call me.

Sincerely,



Daphne E. Barbee  
Attorney at Law

encl.



TESTIMONY OF ARTHUR PARK IN OPPOSITION TO THE  
CONFIRMATION OF CIRCUIT JUDGE RANDAL LEE AS A JUDGE OF THE  
INTERMEDIATE COURT OF APPEALS

October 24, 2007

To: Chairman Brian Taniguchi and Members of the Senate Committee on  
Judiciary and Labor

My name is Arthur Park. I am a partner at Park Park Yu & Remillard and have been in private practice in Hawaii for over thirty years. I served on the Judicial Selection Commission from February 1999 through February 2005. I and two other attorneys at Park Park Yu & Remillard have appeared before Judge Lee in several personal injury cases.

I speak against the confirmation of Judge Randal Lee as a judge of the Intermediate Court of Appeals for the reasons stated below.

In the first appeal in the criminal case of **State v. King** that occurred in 1991, the Hawaii Supreme Court severely criticized Judge Lee, then a prosecutor for the City and County of Honolulu, for inexcusably withholding thousands of pages of discovery material from defendants' counsel which deprived the defendants of a fair trial and due process under the Hawaii State Constitution. The Supreme Court reversed the verdict and ordered a new trial.

It is important to note that in the first trial upon which the foregoing first appeal is based Judge Lee blatantly misrepresented to the trial court that he had

given all materials to the defense when in fact he had not.

In the second appeal in the same case that occurred in 1995, the Hawaii Supreme Court again reversed the verdict against the Defendants because it found the indictment for which Judge Lee was responsible to have been unconstitutionally defective. It should be noted that the attorney for the defendant that brought the two foregoing appeals was Daphne Barbee.

Judge Lee's conduct in the King case is indicative of his judicial philosophy for denying pre-trial discovery and is consistent with his rulings which have deprived my clients of information and documents relevant to their cases.

In the civil employment discrimination case of **Lales v. Wholesale Motors** (2005), which occurred ten years after the last **King** decision, the plaintiffs' attorney Daphne Barbee requested that Judge Lee excuse himself from hearing the case based on their prior experience in **State v. King**. Judge Lee refused her request and proceeded to dismiss her case and impose more than \$160,000 in attorneys fees and costs upon her client. Ms. Barbee's client has appealed, and is awaiting a decision by the appellate court on which Judge Lee might be sitting.

At the very least Judge Lee's refusal to excuse himself from the **Lales** case reflects an appearance of impropriety. To maintain the integrity of the judiciary, every "appearance" of impropriety should be avoided where it would have been

reasonable to do so given the circumstances of the **King** case.

In his application to the Judicial Selection Committee for his present position, Judge Lee's response was "No" to the question "Has your behavior or conduct ever been criticized or have you been admonished in a written decision by any court?" This response was completely false as the **King** decision was a severe criticism of Judge Lee's prosecutorial misconduct.

In a March 3, 2005 letter to the then chairman of the Senate Judiciary Committee, Judge Lee stated that he had never been criticized or admonished in a written decision by any court although the court may have commented on his conduct in a court proceeding. This again was a false representation, and was also misleading as the entire **King** decision dealt with his prosecutorial misconduct.

Judge Lee has little if any civil experience as a lawyer, and he served for about a year on the civil bench before being transferred to the criminal court. The Intermediate Court of Appeals deals with the full range of cases both criminal and civil. Therefore, the candidate for the Intermediate Court should have considerable experience in both these areas. In view of his minimal civil experience, Judge Lee falls far short of being qualified in this respect.

There are many individuals, including many sitting trial judges, whose experience, unquestioned integrity, and well rounded backgrounds are ideal to fill

this vacancy. In view of his blatant misconduct in the **King** case, his blatant misconduct in the **Lales** case, his misrepresentations to the Judicial Selection Committee and this committee, and his lack of civil trial experience, Judge Lee is not qualified to serve on the Intermediate Court of Appeals, and, therefore, should not be confirmed for that position.

Thank you for the opportunity to testify.

**Honolulu Hawaii NAACP**

P O Box 6  
Honolulu, Hawaii 96810  
808-599-5500

October 22, 2007

Honorable Senator Brian Taniguchi  
Chair of Judiciary, State Capitol  
415 S. Beretania Street, Room 219  
Honolulu, Hawaii 96813

Re: Testimony against appointment of Randal K.O. Lee as Intermediate Court of Appeals Judge

Dear Senator Taniguchi and Committee:

The National Association for the Advancement of Colored People (NAACP) is opposed to the appointment of Judge Randal K. O. Lee to the Intermediate Court of Appeals because of his record involving civil rights cases.

It is fair to suggest that the rights of the people in Hawaii would suffer should this legislature support Judge Lee's appointment to the Intermediate Court of Appeals. You do not need a long list of examples; you only need to look at his actions in the recent Lales v. Wholesale Motors case.

The referenced case rulings are not the example of an individual you want to have sitting on the Intermediate Court of Appeals. The EEOC reviewed the facts of this case and found cause. Yet, Judge Lee found the case was frivolous and awarded court cost and attorney fees of more than \$160K to the defendant's employer. This was a civil rights case. Victims discriminated against in the workplace have a right and reasonable expectation that they will at least have a chance at fairness and equality in the courtroom.

The NAACP is concerned that these types of decisions will deter civil rights lawyers from taking these cases and creates a greater disparity in our justice system. This case is laden with examples why Judge Lee is the wrong individual to hear the people's appeals for justice. We do not need to discuss the history of Judge Lee's rulings. This recent represents the recent conduct of Judge Lee and as a matter of record speaks for itself about his adjudication of civil rights cases. The gravity of which alone is sufficient grounds to declare Judge Lee unfit to sit on the Intermediate Court of Appeals for the state of Hawaii.

The people deserve better and our great Constitution demands a higher standard of performance and ethical conduct. You may not have the direct power to overturn the decisions of Judge Lee in this case. However, you can demonstrate to the people of Hawaii by your actions today that you are unconditionally committed to preserving the integrity and creditability of individuals sitting on the Hawaii Intermediate Court of Appeals.

Sincerely,

  
Alphonso Braggs  
President

**AYABE, CHONG, NISHIMOTO, SIA & NAKAMURA**

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SIDNEY K. AYABE\*  
ROBERT A. CHONG  
STEPHEN G. DYER  
PATRICIA T. FUJII  
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MICHAEL J. VAN DYKE  
J. THOMAS WEBER  
DIANE W. WONG  
CALVIN E. YOUNG

Of Counsel  
DAVID A. GRUBBER  
EDMUND K. U. YEE

RODNEY S. NISHIDA  
(1949 - 2004)

A LAW CORPORATION\*

October 24, 2007

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

RE: Senate Confirmation of Judge Randal K.O. Lee for the  
Intermediate Court of Appeals

Dear Chairperson Taniguchi and Members of the Senate Judiciary Committee:

I am writing this letter in support of Governor Linda Lingle's nomination of Judge Randal K.O. Lee to the Intermediate Court of Appeals.

I was pleased to hear of his nomination by Governor Lingle. Judge Lee brings years of experience as a former prosecutor as well as his service to the community over the past two years as a Circuit Court Judge.

During his years as a Deputy Prosecuting Attorney with the City and County of Honolulu, Judge Lee handled significant cases involving campaign spending violations as well as white-collar crime. He did not hesitate prosecution against high profile individuals if they violated the law. Judge Lee was applauded by many for his perseverance in bringing to justice those individuals who disregarded the law.

Following his appointment as Circuit Court Judge, I appeared before Judge Lee on two cases. In both cases, Judge Lee demonstrated excellent legal skills and knowledge of the law. In a summary judgment hearing, his comments during the hearing evidenced that he knew the facts of the case as well as the legal theories advocated by the respective parties. Judge Lee exhibited patience in allowing the parties to advocate their respective positions but at the same time was deliberate in his decision-making process.

In another case, Judge Lee was tireless in his efforts to resolve a dispute arising from a real estate transaction. He entertained numerous settlement conferences in hopes of resolving the real estate dispute among the parties. On one of the settlement conferences,

Senator Brian T. Taniguchi, Chair  
Committee on Judiciary and Labor  
October 24, 2007  
Page 2

Judge Lee continued with the settlement conference through the lunch hour in hopes of bringing a resolution to the dispute which he did accomplish.

On my personal observation, Judge Lee is a tireless worker who certainly is in pursuit of excellence. He is prepared and exhibits an ability to understand legal theories and their application to the facts.

I was on the Judicial Selection Commission when Judge Lee submitted his application for the Circuit Court position. The Judicial Selection Commission considers the following qualities: integrity and moral courage; legal ability and experience; intelligence and wisdom; compassion and fairness; diligence and decisiveness; and, judicial temperament. Judge Lee was one of six names submitted to the Governor and was nominated and confirmed by the Senate to sit as a Circuit Court Judge, which is his present position.

The present members of the Judicial Selection Commission of which I am no longer a member again found that Judge Lee met the criteria noted above and submitted his name with five others to the Governor for a nomination to the Intermediate Court of Appeals. Before the Judicial Selection Commission submits a name to the appointing authority for consideration of a judicial position, persons are contacted to present comments about the applicant. In both instances, the Judicial Selection Commission concluded that Judge Lee met the criteria which placed his name for the Circuit Court position as well as the present position for the Intermediate Court of Appeals.

The legal community will certainly benefit from someone with the skills, training, experience and background like Judge Lee sitting as Associate Judge on the Intermediate Court of Appeals. He possesses the requisite traits which one would expect to find in an Associate Judge sitting on the Intermediate Court of Appeals. Judge Lee's appointment will also be a benefit to the community.

Without any reservations, I strongly recommend Judge Lee's confirmation to serve as an Associate Judge on the Intermediate Court of Appeals.

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

Very truly yours,



SIDNEY K. AYABE

SKA:lsk  
000999/347403

Dear Committee on Judiciary and Labor:

I am writing regarding Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee Randal K. O. Lee, regarding the hearing scheduled for Thursday, October 25, 2007 at 9:00 a.m. at Conference Room 229, State Capitol, 415 S. Beretania Street.

I am writing to offer my testimony based on my appearances before Judge Randal K.O. Lee in the Circuit Court. I have appeared before Judge Lee on hearings for motions, settlement conferences, and status conferences.

I believe that Judge Lee has displayed good judicial temperament, is open-minded, and always tries to be fair to all parties who appear before him. Based on my appearances before him, I believe he will do an great job as a Judge of the Intermediate Court of Appeals, Associate Judge, if confirmed.

Ryan G. S. Au, Esq.  
American Savings Bank Tower  
1001 Bishop Street Suite 1120  
Honolulu, Hawaii 96813  
Tel: (808) 533-7431  
Fax: (808) 521-4384



**TO:** SENATOR BRIAN T. TANIGUCHI, CHAIR  
SENATOR CLAYTON HEE, VICE CHAIR  
AND MEMBERS OF THE COMMITTEE ON JUDICIARY  
AND LABOR

**FROM:** JAMES J. BICKERTON

**DATE:** OCTOBER 25, 2007

**TIME:** 9:00 A.M.

**PLACE:** CONFERENCE ROOM 229  
STATE CAPITOL  
415 SOUTH BERETANIA STREET

**RE:** **TESTIMONY OF JAMES J. BICKERTON RE INTERMEDIATE  
COURT OF APPEALS, ASSOCIATE JUDGE, GUBERNATORIAL  
NOMINEE RANDALL K.O. LEE, FOR A TERM OF TEN YEARS**

Dear Chairman Taniguchi & Members of the Senate Judiciary Committee

I oppose the nomination to the Intermediate Court of Appeals (ICA) of Judge Randal K. O. Lee because I do not believe he has demonstrated the qualifications necessary for the position of Judge of the ICA.

My testimony is intended to provide the Committee with some important background information to help the Committee understand what the ICA position entails and my view that Judge Lee has not demonstrated that he is ready for the tremendous challenges of that position. To determine whether a candidate for a position is qualified for that position, the Committee should have an understanding of the requirements of the position. Because of changes over the past five years in (1) the law governing the courts of appeal, (2) the composition of the Court and (3) and the ICA's caseload, some members of this Committee may not be familiar with the current heavy demands of the position.

#### My Background

By way of background, I was the Chair of the HSBA Special Committee on Appellate Issues which prepared a detailed report to the HSBA in December 2003. This report addressed the appellate backlog problem, and gave extensive attention to its causes and possible solutions. As part of that study, the Special Committee looked at historical caseloads on a per judge basis and the "clearance rate" needed to avoid backlog growth. I can make a copy of the report available to any interested member of this Committee upon request.

Subsequently, I testified before the Legislature in both 2004 and 2006 regarding the proposed changes to the appellate system that would convert the Supreme Court into a court of "certiorari only" jurisdiction and require the ICA to hear and decide all but a handful of appeals in the first instance. In that regard, I engaged in further study of the appellate caseload and, in particular, the caseload that will fall on each judge.

In addition, I concentrate a significant portion of my practice on the professional responsibilities of attorneys. I have represented attorneys in more than 10 disciplinary cases and have sued and defended numerous attorneys in cases alleging malpractice or ethical violations. I served on the 1994 Chief Justice's Committee on the Adoption of the Model Rules of Professional Conduct, which remain in place today as the rules governing lawyers' ethics in Hawaii. Finally, I am an experienced appellate attorney, as well as a civil trial attorney of 26 years experience.

I have only ever testified once before in the Senate against the appointment of a Judge – in 1993 I opposed Governor Waihee's nomination of Sharon Himeno to the Supreme Court. I have supported several judicial appointments, and recently supported the re-appointment of Mark Bennett as Attorney General despite the fact that we do not always agree on the issues. Mr. Bennett and I worked side by side on the question of whether we should place nearly all of the appellate burden on the six judges of the ICA; we both agreed it would be a mistake. However, on this nomination I must part company with Mr. Bennett.

### Judge Lee's Qualifications

With virtually no civil practice experience and only one year on the civil bench, Judge Lee simply does not have the knowledge or experience in civil law that is needed. The last two nominees to the Court, Judges Nakamura and Recktenwald, in addition to attending top-level law schools, had substantial civil law experience to go with their criminal prosecutor backgrounds. I am not aware of any comparable background in Judge Lee's case. In my own appearances before him, he has appeared unfamiliar with some basic civil law concepts and he has shown a level of reasoning and comprehension well below what we expect of an appellate judge.

I have a further concern about Judge Lee's judgment. I am informed that he has personally contacted attorneys who have appeared or are likely to appear before him and asked them to support his nomination. I believe this violates both Canon 4 and Canon 5 of the Code of Judicial Conduct. Canon 4 prohibits the soliciting or receiving of "favors" from attorneys or litigants who appear before the court. Canon 5 prohibits any "political activity". While others may solicit support on behalf of a judge, it is improper for a judge himself to do so. I can provide you with the text of these Canons upon request if desired. The fact that Judge Lee would do this shows he lacks the degree of forethought and reflection we expect in an appellate judge.

### The Work of An ICA Judge

In years past an ICA judge was responsible for deciding approximately 52 cases per judge per year. With the change in 2006 to a "certiorari" system, each ICA judge must now decide approximately 110 cases per year, a more than 100% increase. Although the court acts as a body, the actual decision in each case is largely the product of a single judge, and the other two members of the panel will either sign it or dissent from it. Thus, the "cases per judge" statistic is a useful tool for understanding the caseload.

To decide this number of cases, each judge must review the briefs, analyze and decide more than two cases per week. Each ICA judge, to keep up his or her end of the process, must publish at least 16 opinions and write over 30 memorandum opinions per year. This means writing

virtually one opinion per week, without considering the time spent deciding at least 40-45 Summary Dispositions (short, one to two page decisions) per judge per year (again nearly one per week).

Clearly, this level of work requires judges who have a demonstrated ability to rapidly analyze cases and write opinions on a high volume basis without sacrificing quality of reasoning or analysis, and who have a wide knowledge of the law. There is no room for on the job training or persons with experience only in one or two relatively narrow fields, nor can anyone fall below these caseload expectations as that increases the load on the other already overburdened judges. Moreover, because the ICA now deals with cases of every stripe, Judges must have a deep knowledge of several areas of law, both civil and criminal, as there is no time to learn basic concepts.

These criteria mean that, until the per judge caseload changes, the ICA position should be limited to persons who have demonstrated the highest levels of academic and professional achievement and who have extensive experience in appellate law, with substantial experience in analyzing lower court records, conducting legal research, issue analysis and drafting of clear opinions. Experience as a trial judge is of some value in this regard, but the value is limited as there is relatively little writing involved in the Circuit bench position.

The load on the ICA is also increased because of the lack of diversity on the current court. Three of the five current ICA judges were career criminal prosecutors, one was a chief deputy attorney general and one was a civil rights attorney. There are no civil trial attorneys or criminal defense attorneys on the court, nor are there real estate, family law or tax specialists on the Court. With so much of the ICA's experience concentrated in one narrow area, the learning curve for the Judges on cases outside those areas is steep, and we have seen errors (and more frequent reversals on certiorari) by the Supreme Court in a number of areas. The ICA position thus requires someone with broad experience.

Finally, because the ICA is now in effect the court of last resort for most litigants, inasmuch as further review is discretionary in the Supreme Court, this means that the ICA position is much more important than it was before 2006. Most cases will not receive error correction by the Supreme Court, so it is more important than ever that the ICA decide cases correctly. In effect, we should require the same caliber of applicant for the ICA as we did for the Supreme Court before 2006 – persons of the highest demonstrated experience and ability in the legal community. Any lower standard will sell the public short because it will mean that appeals will no longer get the quality of decision that they used to get under the pre-2006 system.

Thank you for considering my testimony.

Very truly yours,



James J. Bickerton

# SENATE COMMITTEE ON JUDICIARY AND LABOR

## TESTIMONY IN SUPPORT OF RANDAL K.O. LEE AS AN ASSOCIATE JUDGE OF THE INTERMEDIATE COURT OF APPEALS

October 25, 2007  
9:00 a.m.

BRIAN T. TANIGUCHI, CHAIR and COMMITTEE MEMBERS, my name is  
Howard T. Chang, Esq.

I am writing the Committee in support of the confirmation of Randal K.O. Lee to be an  
Associate Judge of the Intermediate Court of Appeals.

I am and have been an attorney engaged in the private practice of law for over 30 years.  
My practice involves white collar criminal defense, criminal tax defense, civil tax  
litigation and civil litigation. Prior thereto, I served as an Assistant United States  
Attorney in Honolulu.

I first met Randal Lee in the mid-1990's when he, as a Deputy Prosecuting Attorney was  
prosecuting one of my clients for a white collar fraud case. I found Mr. Lee to be a  
formidable opponent, being knowledgeable about the law and excelling trial practice.

Over the years, I have had several other white collar criminal cases with Mr. Lee and he  
has always handled himself with the utmost integrity and ability. I believe he possesses  
the requisite judicial temperament, dedication and honesty to be an asset to our judiciary.

For these reasons, I fully support Randal K.O. Lee's confirmation as an Associate  
Judge of the Intermediate Court of Appeals.

I would be happy to provide any additional information regarding Randal K.O. Lee.

Howard T. Chang

102407

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October 24, 2007

TESTIMONY IN SUPPORT OF RANDAL K. O. LEE, GUBERNATORIAL NOMINEE FOR  
CONSIDERATION AND CONFIRMATION TO INTERMEDIATE COURT OF APPEALS,  
ASSOCIATE JUDGE FOR A TERM OF TEN YEARS.

Honorable Chair and Members of the Committee

It is my pleasure to support the nomination of Judge Randal K.O. Lee to the position of Associate Judge, Intermediate Court of Appeals.

I am a trial attorney licensed to practice law in the State of Hawaii, the Ninth Circuit Court of Appeals and the U.S. Supreme Court. I have litigated, arbitrated and mediated cases in Hawaii since 1990, handled over eight appeals to the Ninth Circuit and filed one Opposing Brief to a Writ of Certiorari to the U.S. Supreme Court. I believe I am sufficiently qualified to testify to a Judge Lee's judicial qualifications, including integrity, legal knowledge and ability, diligence, judicial temperament, collegiality and writing ability.

My last trial was a complex civil case tried, without jury, before Judge Lee in February 2007. The trial involved complicated and conflicting sonar engineering testimony from over six (6) experts with varying degrees of engineering education and experience, hundreds of engineering and technical exhibits and complex evidentiary, procedural due process and Daubert expert witness qualification challenges.

It was clear from the beginning of trial that Judge Lee had studiously examined the record, pre-trial briefs and exhibits filed in advance of trial, as he was conversant from day one as to the complex issues the attorneys had been working with for over three years. During trial, Judge Lee's identification and analysis of critical factual issues was on-point and his resolution of legal challenges to exhibit offerings and witness qualifications throughout the trial was always timely and decisive, well-reasoned and fair. At the conclusion of trial, Judge Lee authored a well-written, factually logical and legally sound Findings of Fact and Conclusion of Law which resulted in the award of significant monetary damages without an appeal filed by either party, a testament to his ability to craft a fair resolution with no appellate challenges in the record.

In closing, I have had the opportunity to observe Judge Randal K.O. Lee on the bench first-hand and I support his nomination as an Associate Judge on the Intermediate Court of Appeals. In my mind, the best appellate judges are experienced trial attorneys with good judicial experience. Judge Lee delivers on both counts.

Sincerely,

  
MICHAEL D. FORMBY

Senator Taniguchi:

My name is Billie Ann Uilani Higa. I am writing to urge the Senate to confirm Governor Lingle's nomination of Randal K. O. Lee as an Intermediate Court of Appeals judge.

I have known Randy for about 29 years, having first met him in law school. We, together with our families, have remained close friends over the years.

I am a Senior Judicial Attorney, working in the Second Appellate District of the California Court of Appeal. I have worked for the appellate court for a total of 18 years. As such, I have first hand knowledge of the workings of an appellate court and the important role the court plays in the interpretation and development of law and the establishment of precedent to be followed by the lower courts.

There is no doubt that Randy possesses the temperament and intellectual ability required to serve in the capacity of an appellate judge. Randy is one of the hardest working individuals I have ever known. His integrity is without reproach. These qualities, along with his vast legal experience gained as a prosecutor and as a circuit court judge sitting on civil and criminal assignments, his strong work ethic, his respect for the rule of law and his dedication, make him exceptionally well qualified to serve as a judicial officer at the appellate level. I therefore urge the Senate to confirm his nomination.

Thank you for the opportunity to speak on behalf of Randy.

Billie Ann Uilani Higa  
(213) 830-7502 (work)  
(323) 829-4284 (cell)

GLEN T. HIRABAYASHI  
2477 IRON FORGE ROAD  
OAK HILL, VIRGINIA 20171

October 24, 2007

Senator Brian Taniguchi, Chair  
Senator Clayton Hee, Vice-Chair  
Senate Judiciary and Labor Committee  
Hawaii State Capitol, Room 219  
415 South Beretania Street  
Honolulu, HI 96813

**RE: GM1. Hearing: Thursday, October 25, 2007 at 9:00 am, Room 229  
Senate Judiciary and Labor Committee**

**TESTIMONY IN STRONG SUPPORT OF THE CONFIRMATION  
OF GUBERNATORIAL NOMINEE RANDALL K.O. LEE TO THE  
INTERMEDIATE COURT OF APPEALS, ASSOCIATE JUDGE**

Dear Chair Taniguchi, Vice-Chair Hee and Members of the Senate Judiciary and Labor Committee:

I am writing in **strong and unequivocal support** of the confirmation of Randal K.O. Lee to the Intermediate Court of Appeals, State of Hawaii.

I have known Judge Lee for **more than 25 years**. I was born on O'ahu and grew up on Kaua'i. I attended public schools, and graduated from Waimea High School and the United States Military Academy. I am a Viet Nam veteran. Randall Lee and I were students at Southwestern University School of Law in Los Angeles. As local boys from Hawai'i we became fast friends. We have kept in contact with each other. I know Judge Lee and his family and can confidently state that he is an intelligent, thoughtful, and principled man who consistently strives to do the right thing, even when it may be unpopular to do so. I have admired him for the work that he has done as a public defender, prosecutor, and Judge presiding over criminal and civil matters.

We both began our legal careers as litigators and are now working in the court system. I attended Georgetown University School of Law and obtained a Master of Laws in Tax and been employed by the United States Tax Court for nearly 20 years where I have worked with many Judges. Judges, like all people, are diverse in the manner in which they do their work. I believe the best Judges are those who work hard to achieve the correct result while being thoughtful, principled, and fair. I strongly believe Judge Lee to be just such a person. Thus, I strongly and unequivocally support the confirmation of Judge Lee to the Intermediate Court of Appeals, State of Hawaii, and urge this Committee to recommend advice and consent to the entire Senate.

Thank you for this opportunity to present my thoughts about Judge Randal K.O. Lee.

Very truly yours,

Glen T. Hirabayashi

There was less than ten minutes before our bus left and I was freaking out. In just under an hour, I was supposed to be presenting my Mock Trial cross examination of Sergeant Darryl Mustard before the judge and I had almost no idea of what I was going to say because I had forgotten my script. Near hysterical would have been a good description of my state. But then, it was like magic. I had forgotten about one key thing in my preparation for my cross examination, Judge Lee. He had been helping me prepare for several weeks now and had my file saved on his own e-mail. Like a true lifesaver, he was able to print out an older copy of my work in time for me to grab it and run. Well, it wasn't quite that dramatic but he truly did save my skin that day – and has several times since.

Last year was a rather stressful time for our Mock Trial team. Several new coaches, like Judge Lee, had joined up with our team to help out the original three major coaches. But it became clear just into the season that our main coach wasn't going to be able to help us quite as much as he had the previous year. As a team, we were now both unsure about the upcoming year and doubtful that anyone could properly take our coach's place. But to their credit, and especially to Judge Lee's, the new coaches truly did step it up and prove to us beyond our wildest dreams how valuable they could be. At first though, it was a challenge. As with any new relationship, it took a great deal of time before we were completely comfortable around Judge Lee. I know personally, I was slightly intimidated at first by his "Judge" status. It wasn't everyday after all that one got to interact regularly with a judge. I couldn't have had a more mistaken first impression of him.

As the season progressed, everyone started to become more and more involved in the case – Judge Lee included. He really began to pour in his time into the case and ended up dedicating more than one Saturday morning to us. I feel guilty sometimes when I think about it because I know that he has a family outside of Mock Trial. But he never complained about Saturday practices and it became quite clear early on that we could count on him to show up. He came to almost every single one of our practices and when he wasn't able to make it, Judge Lee always provided us with a explanation of why. Instead of treating us like his students, pupils, or underlings, he treated us like friends and equals. He cracked jokes but with and at us and really bonded with us on a personal level. I really was surprised at how laid-back he was. While it was clear that Judge Lee knew his information, he never blatantly blew it



in your face. He managed to find the perfect medium between being the teacher and friend. In practices, he never shied away from helping me write my parts, editing my parts, or just listening while I presented my parts and often provided insight that I never would have thought of otherwise. In fact, he provided insight and creative ideas into the entire case itself, not just my own part. His knowledge of the law was quite honestly, astounding. It was pretty amazing at time, to just listen to him and our lawyer coaches discuss various aspects of the case.

But Judge Lee proved to be not only valuable in dealing with the Mock Trial case itself, but with our general team. There were definite low points in the season that brought everyone spirits down. They were just frustrating periods of time, where everyone on the team just seemed so sick of Mock Trial and everything to do with law. It was during these times that our team was truly tested and Judge Lee proved to be most important to our success. When we were all ready to explode and just spontaneously combust, Judge Lee always managed to gather us back in like little lost sheep and remind us why we were even here. Our ultimate goal, after all, had been to knock Kauai off their high pedestal and if we were to do that, he constantly reminded us, we were going to have to stick together as a team. Just because one of us was feeling junk or fed up with Mock Trial didn't mean that they had to take down the entire team with them, he said. Especially when things got intense between certain team members, Judge Lee served as the ideal mediator. He calmly dealt with the more "radical" of our team members and brought them back to a level of sanity I'm not sure any of us could have done on our own. I am still amazed by his people skills. Not only could he pacify the most Machiavelli of our team members, but he could do it in a way that would still leave them feeling important and not discarded. I know that personally, I would give a lot to be able to handle people the way he does. But I'm sure that comes with his job.

In the end, we fell short of our intended goal and ended up settling for a measly third place in the state tournament. But as disappointing as our loss was, I still felt that as a team, we had grown a lot. The season was stressful, disappointing, exciting, and complicated all at once. And while our successes were a result of all of our combined efforts, I hold no doubts that Judge Lee was instrumental in our success. Each and every one of us contributed to the team but Judge Lee truly did contribute a lot. He

was generous in everything he did, giving up his time, energy, knowledge, and even his courtroom at times, for our use. I highly respect him both as a person and as a Judge. Quite frankly, he is one of the most amazing adults I've ever encountered and I hope that in reading this, perhaps you have gotten a glimpse of what I so admire in him. Thank you for your time.

Jennifer Hu

Senator Brian Taniguchi, Chairman  
Senate Judiciary and Labor Committee  
Re: Honorable Randal K.O. Lee  
Nominee for Intermediate Court of Appeals  
Senate Confirmation Hearing: 10/25/07 at 9:00 a.m.

Dear Senator Taniguchi,

Governor Lingle made an excellent choice in nominating Judge Randal K.O. Lee to be the next Intermediate Court of Appeals judge. I have known Judge Lee for 6-7 years at the Department of the Prosecuting Attorney's Office. Although Judge Lee was never my direct supervisor at the Dept of the Prosecuting Attorney's Office, he was always eager to help and made himself available for deputies, including myself, who were seeking his advice. Despite his busy and stressful job, he always thanked his deputies and staff for their hard work. As such, he was well-liked by his deputies as well as his support staff. He always treated us fairly and with respect.

As a trial attorney, Judge Lee was the best of the best. Many junior prosecutors took time to go and watch his trials, as I did. He is extremely well prepared with his cases and is well versed in the law. Coupled with his natural talent as a trial attorney, he has been a very challenging adversary to the defense.

Although he has served as a prosecutor for most of his legal career, as a judge at the Circuit Court of the First Circuit, he has be fair to both sides: he has always been professional and respectful with both defendants and defense attorneys. His courtroom demeanor and practice have been consistent and fair, and I am sure that the defense bar considers him tough but fair.

He is already an asset to our community as an excellent trial judge at Circuit Court of the First Circuit, but I am confident that he will be even more of an asset as an Intermediate Court of Appeals judge.

Yours truly,  
Jeen H. Kwak  
Deputy Prosecuting Attorney  
City and County of Honolulu

Trish K. Morikawa  
272 Awakea Road  
Kailua, Hawaii 96734

October 24, 2007

Senator Brian Taniguchi  
Chairman  
Senate Judiciary and Labor Committee

Re: October 25, 2007 - Hearing for the Nomination of Randal Lee to the  
Intermediate Court of Appeals

Dear Chairman Taniguchi,

Thank you for the opportunity to submit this letter in support of Randal Lee's nomination for the Intermediate Court of Appeals. I have had the privilege and pleasure of working with Judge Lee at the Prosecutor's Office. He was my supervisor when I first started with the office. Judge Lee was always fair, knowledgeable and supportive. He was by far one of the best supervisors I have ever had. I never had a doubt when I went to court that Judge Lee would be there in an instant if I needed help or guidance.

I also have had the opportunity to watch Judge Lee when he was in trial, as a Deputy Prosecutor. He has prosecuted numerous complex trials, and has been highly effective not only because of his ability to analyze the legal issues but also because of his ability to communicate and explain the issues to the lay person.

As he has proven through his work experience, Judge Lee is an excellent candidate for this position. He is intelligent, highly skilled, and dedicated to seeking justice and serving the community. For all of these reasons, I think Judge Lee is an excellent candidate for the Intermediate Court of Appeals.

Thank you for the opportunity to provide input. If you have any questions, please do not hesitate to contact me at 387-6661.

Sincerely,

Trish K. Morikawa

To: Chair Brian Taniguchi and Members of Senate Committee on Judiciary and Labor

Date and time of hearing: October 25, 2007, 9:00 a.m.

From:

Chuck T. Narikiyo  
c/o 1164 Bishop Street, Ste. 1105  
Honolulu, HI. 96813

Dear Chair Taniguchi and Members of the Committee:

Please accept this as written testimony in strong support of the nomination of Randall Lee to the Intermediate Court of Appeals. I apologize for getting this to you less than 24 hours before the hearing; I was only just made aware of the date and time of the hearing.

By way of introduction, I am a graduate of Roosevelt High School, Stanford University, and the William S. Richardson School of Law, and have been licensed to practice law in the State and Federal Courts of Hawaii since 1988. I was in private law practice for sixteen years, the last nine as a partner in a local law firm, and spent 2005-2006 as the Executive Administrator of the Honolulu Charter Commission.

As an attorney, I have followed Judge Lee's career over the years and have always been impressed at his obvious dedication, professionalism, and pursuit of the public's interest. Over the last couple of years, I have had the opportunity to work directly with Judge Lee in a somewhat unusual venue -- as a co-coach of the Hawaii Baptist Academy Mock Trial Team. The team has been very successful, and has been the Oahu champions the last two years. It has been a unique opportunity to observe Judge Lee in an environment that is part-professional and part-social.

Despite his very busy schedule, Judge Lee has selflessly volunteered his time and expertise to the students. He has consistently shown himself to be skilled at what he does, and willing and able to communicate what he knows to an audience of high school teenagers. I believe that a Judge on our appellate courts should be dedicated, have an unwavering love of our state and its people, and have a high level of intelligence, common sense, and integrity. Judge Lee has demonstrated all of these qualities and more in my interactions with him.

The State would be very well served with Judge Lee on the appellate bench. I am happy and proud to support his nomination.

Chuck Narikiyo

**From:** Pacarro, Franklin [mailto:fpacarro@honolulu.gov]  
**Sent:** Wednesday, October 24, 2007 10:51 AM  
**To:** testimony  
**Subject:** Confirmation of Judge Randal K. O. Lee to the Intermediate Court of Appeals

Senator Brian Taniguchi  
Chairman, Senate Judiciary and Labor Committee  
State Capitol  
Honolulu, Hawai'i 96813

**Re: Confirmation of Judge Randal K. O. Lee to the Intermediate Court of Appeals**

Senate Judiciary and Labor Committee, Room 229  
Hearing on Thursday, October 25, 2007 at 9:00 a.m.  
25 copies required

Dear Senator Taniguchi and Committee Members:

I have worked with Judge Randal K. O. Lee at the Prosecutor's Office for eighteen years. On at least two occasions Judge Lee was my supervisor and on one occasion I was Judge Lee's supervisor. Judge Lee has the legal experience and has all the attributes that would make him an excellent Intermediate Court of Appeals Judge. Judge Lee has an *even keeled disposition about him. I have found that Judge Lee has made difficult decisions under pressure and his fairness in decision-making is unwavering.*

Judge Lee is an excellent lawyer. I have the utmost respect of Judge Lee's legal ability and his experience in law. Judge Lee has the experience as a public defender, a prosecutor and a Circuit Court Judge in the Civil and Criminal arenas. He is an experienced trial lawyer that has tried many complex cases. Judge Lee has impeccable integrity and the moral courage he has is unquestioned. An example of these characteristics is the manner in which he handled the prosecution of the campaign spending cases. Many people would shy away from making the difficult decisions in prosecuting people in powerful positions in the community for fear of retribution.

Judge Lee is diligent in his pursuit of justice. He is a consummate professional in handling all matters of business and law. Since Judge Lee has been assigned to the Criminal Calendar, I have appeared before him on several occasions. As the supervisor of the Trials Division, I have been informed by deputies who have tried cases before Judge Lee that his rulings have been fair. Judge Lee has shed his role as a litigator and has transformed himself into the impartial decision maker.

I support his nomination to the Immediate Court of Appeals. If you have any questions, please feel free to call me at 547-7474.

**Franklin "Don" Pacarro, Jr.**  
Department of the Prosecuting Attorney  
Trials Division Chief  
1060 Richards Street, 10 th Floor  
Honolulu, Hawaii 96813  
Telephone: (808) 547-7474  
Fax: (0808) 547-7513  
email: [fpacarro@honolulu.gov](mailto:fpacarro@honolulu.gov)

Melissa Pavlicek  
841 Bishop Street, Suite 1629  
Honolulu, Hawaii 96813  
(808) 523-3695

**Submitted by fax to Senate Sgt at Arms  
586-6659**

**Please submit 1 copy to the Committee Clerk in Room 219**

To the Senate Committee on Judiciary and Labor  
Hearing on Thursday, October 25, 2007  
9 a.m.  
Conference Room 229

Re: Randal K. O. Lee Appointment to Intermediate Court of Appeals

Chairman Taniguchi and members of the Committee:

I support the appointment of Randal Lee to the ICA.

I am an attorney who has been licensed to practice law in Hawaii for more than ten years. I have served as an officer of the Hawaii State Bar Association, chair of the Business Law Section of the bar association, chair of the bar association's Judicial Administration committee, chair of the HBSA Diversity Committee and as president of Hawaii Women Lawyers. I am a graduate of the Wm. S. Richardson School of Law.

Through my volunteer work with the bar association on numerous committees and in elected bar positions, I have had the opportunity to observe and work with Randal. He has the highest degree of integrity and is abundantly qualified to serve on the ICA by virtue of his intellect, legal skills and commitment to community.

I am disappointed in the bar association's qualification review process which resulted in the bar board members failing to unanimously endorse his qualifications. Please do not consider the bar board's recommendation to be reflective of the broader legal community.

Please confirm his appointment.

THE SENATE  
THE TWENTY-FOURTH LEGISLATURE  
SECOND SPECIAL SESSION OF 2007

COMMITTEE ON JUDICIARY AND LABOR  
Senator Brian T. Taniguchi, Chair  
Senator Clayton Hee, Vice Chair

Hearing  
Thursday, October 25, 2007  
9:00 a.m.  
Conference Room 229, State Capitol  
415 South Beretania Street

Testimony in Support of  
Randal K.O. Lee  
as an Associate Judge  
of the Intermediate Court of Appeals

CHAIR TANIGUCHI, VICE-CHAIR HEE, and COMMITTEE MEMBERS, my name is Barbara Sano.

This letter is written in support of the nomination of Randal K.O. Lee to the Intermediate Court of Appeals. I strongly believe that Randy is well qualified for the position.

I have known Randy for over 12 years. I met Randy and his family when our sons began Kindergarten at Hawaii Baptist Academy. My son has gone for "sleepovers" to Randy's home on numerous occasions.

Our boys played on the same American Youth Soccer Organization (AYSO) soccer team for many seasons. When Randy was approached to take a position on the AYSO Honolulu Region Board as Child Volunteer Protection Advocate, he gladly and willingly accepted the position. As a fellow board member, he was responsible for overseeing the AYSO Safe Haven child and volunteer protection program in accordance with AYSO guidelines, was the Honolulu Region's main resource on child protection issues, and served as the AYSO Honolulu region's liaison with the National Safe Haven Administrator/Manager at the AYSO National Support and Training Center. His duties included but were not limited to, conducting interviews of character references given by potential AYSO volunteers, a very time consuming and challenging position.

When Hawaii Baptist Academy approached him to help on various committees, he volunteered without fail. He was diligent, had a caring attitude and was more than willing to give of his time and talent for the cause of supporting the school.



His work and integrity have been beyond reproach. The love and dedication he has for his family, friends, and acquaintances surpasses the expectations of most. You can always count on him for sound advice, honest opinions and a compassionate heart.

I urge this Committee to vote in favor of Randy Lee's confirmation.

Thank you for your courtesies.

Barbara Sano  
2230 Noah Street  
Honolulu, Hawaii 96816

Honorable Brian T. Taniguchi, Chairman  
Senate Committee on Judiciary and Labor  
State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Re: Confirmation of Randall K.O. Lee for Associate Judge of the Intermediate  
Court of Appeals

Dear Senator Taniguchi and Members of the Committee,

I am writing to express my support for the judicial appointment of Circuit Judge Randall K. O. Lee for Associate Judge of the Intermediate Court of Appeals. Judge Lee would make an excellent appellate judge because of his intelligence and experience but also his integrity, courage and sense of fairness.

I have known Judge Lee over 15 years and primarily in the capacity as a supervisor while I was a deputy at the Honolulu Prosecutor's Office. During this time he provided me invaluable instruction in trial practice and guidance as a prosecutor. He stressed upon me the importance of public safety through just, fair and efficient prosecution. His leadership abilities and hard work ethic will transfer to the appellate bench and should garner respect for the law by both the public and practitioners who follow and work in the appeals process. This respect, as well as trust in the law will also come from his intelligence, reasonableness and courage, which are characteristics exemplified by his work as prosecutor in public corruption cases and as a judge handling civil cases which he did admirably.

Your confirmation of Judge Lee to the appellate bench will reflect the committee's view of intolerance for anyone who believes they are above the law and rewarding those that dedicate themselves and work hard for the public good.

Thank you for your consideration and attention.

Very truly yours,



Gary K. Senaga

FAX 586-6659

Lance M. Goto  
P.O. Box 4526  
Honolulu, Hawaii 96812

October 24, 2007

The Honorable Brian T. Taniguchi, Chair  
Senate Committee on Judiciary and Labor  
Twenty-fourth State Legislature  
Second Special Session of 2007  
State of Hawaii

**RE: GM 1 Submitting for consideration and confirmation to the Intermediate Court of Appeals, Associate Judge, Gubernatorial Nominee, RANDALL K.O. LEE, for a term of ten years**

**Date: Thursday, October 25, 2007, 9:00 a.m.**  
**Location: State Capitol, Room 229**  
**Copies: 1**

Chair Taniguchi and Members of the Senate Committee on Judiciary and Labor:

I am writing in support of the confirmation of the Honorable Randall K.O. Lee to the Intermediate Court of Appeals.

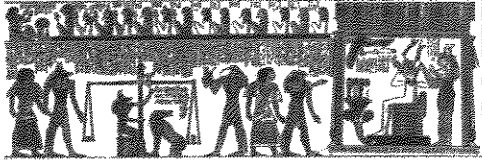
I am currently a deputy attorney general working under Mark Bennett. I have been with the Department of the Attorney General since 1997, and have also worked for the two prior Attorney Generals, Earl Anzai and Margery Bronster. All the while, I have worked in the area of criminal prosecutions. From 1985 until 1997, I worked as a deputy prosecuting attorney for the City and County of Honolulu. In that office, I worked under Prosecutors Charles Marsland, Keith Kaneshiro and Peter Carlisle. I have practiced in the area of criminal law for over twenty two years.

During my years at the Honolulu Prosecutor's office, I worked with Judge Lee and had many opportunities to learn about his knowledge of the law, his skills as a trial attorney, and his abilities to communicate with and work with others. For a number of years, Judge Lee supervised and trained many felony trial attorneys. For many other years, Judge Lee was the head of the white collar crime unit, engaged in the investigation and prosecution of numerous complex white collar crimes that often involved corrupt public officials. Judge Lee has great legal knowledge; and he is an excellent trial attorney. I also have no reservations or concerns about his abilities to communicate and work with others. Judge Lee is very bright, level headed, and has a great judicial temperament. He is passionate about his work, and very committed.

Judge Lee will be a great addition to the Intermediate Court of Appeals. The people of Hawaii will be very fortunate to have someone with his abilities and wonderful character serving on the appellate court.

I respectfully request the committee support Judge Lee's confirmation.

Lance Goto  
GM1  
10/25/07  
Page 2



**ANDRÉ S. WOOTEN**  
ATTORNEY & COUNSELOR AT LAW  
CENTURY SQUARE, SUITE 1909  
1188 BISHOP STREET.  
HONOLULU, HAWAII 96813  
TEL.: (808) 545-4165

October 24, 2007

Senator Brian Taniguchi, Chair  
Hawaii State Senate Judiciary Committee  
Honolulu, Hawaii 96813

Re: Intermediate Court of Appeals Nomination of Randy Lee

Dear Senator Taniguchi and Hawaii State Judiciary Committee

Members;

Ladies and Gentlemen I take no pleasure in speaking before you this morning, However, I fear that to remain silent while the Civil Rights of ordinary citizen litigants are in peril with Randy Lee's nomination to the Hawaii State Intermediate Court of Appeals. And therefore, we urgently plead with you to closely examine and then reject the Governor's anti-civil rights judicial nominee.

It has been pointed out that judge Lee has very limited civil litigation experience, having spent his entire career as a prosecutor. Except for the month he spent in the public defender's office, before accepting a 20 year prosecutor's job.

But in his very short time on the bench he has rendered unprecedented harsh punitive rulings against a Plaintiff he denied their constitutional right to a jury trial. And then after the appeal was returned because Judge Randal Lee signed a Judgement written by the Defendant company's attorney, which the

Appeals court ruled was inaccurate and incomplete.

Judge Randall Lee then takes it upon himself to issue a record order for the Plaintiff to pay over \$160,000.00 in the Defendant's attorney's fees. Fees which the corporation chose to pay or got a discount upon, which were far in excess of what the Plaintiff paid his own attorney. Which is frequently little or nothing, as the law as written and historically practiced allows contingency fees for Plaintiff's lawyer's who prevail, but not for Defendant's lawyers.

In light of this Record, Outrageous, Unprecedented ruling A FINE OF \$160,000.00 Against a person Judge Lee denied their right to a jury trial, so they will Never Know what Their Real Peers thought about their case, we must come to you to point out not only how wrong this ruling is: both on the facts and in it's message designed to send fear to the minds of Civil Rights victims thinking about trying to enforce their rights in court.

The right to a fair impartial judge and a jury trial, are what the Home of the Brave and the Land of the Free is supposed to be all about. Judge Lee's ruling attack that.

Defendants are generally not entitled to attorney's fees in Title VII civil rights cases

The U.S. Supreme Court's language in CHRISTIANSBURG GARMENT CO. v. EEOC, 434 U.S. 412 (1978) A Title VII case is appropriate in this Fair Housing ADA case for "disabled" Handicapped persons.

1. Although a prevailing plaintiff in a Title VII proceeding is ordinarily to be awarded attorney's fees by the district court in all but special circumstances, a prevailing defendant is to be awarded such fees only when the court in the exercise of its discretion has found that the plaintiff's action was frivolous, unreasonable, or without foundation. Pp. 415-422.

(a) There are at least two strong equitable considerations favoring an attorney's fee award to a prevailing Title VII plaintiff that are wholly absent in the case of a Title VII defendant, viz., the plaintiff is Congress' chosen instrument to vindicate "a policy that Congress considered of the highest priority," *Newman v. Piggie Park Enterprises*, 390 U.S. 400, 402, and when a district court awards counsel fees to a prevailing plaintiff, it is awarding them against a violator of federal law. Pp. 418-419.  
Page 413

(b) No statutory provision would have been necessary had an award of attorney's fees to a prevailing defendant been based only on the plaintiff's bad faith in bringing the action, for even under the American common-law rule (which ordinarily does not allow attorney's fees to the prevailing party) such fees can be awarded against a party who has proceeded in bad faith. P. 419.

Therefore, in line with CHRISTIANSBURG GARMENT CO. v. EEOC, in WARREN v. CITY OF CARLSBAD, 58 F.3d 439 (9th Cir. 1995) the United States 9th Circuit Court of Appeals stated this language relevant to this issue.

30] We have previously held that a district court may impose monetary sanctions, in the form of attorneys' fees, upon plaintiffs who file Title VII claims that are "frivolous, unreasonable, or without foundation." See EEOC v. Bruno's Restaurant, 13 F.3d 285, 287 (9th Cir. 1993) (quoting *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421-22, 98 S.Ct. 694, 700, 54 L.Ed.2d 648 (1978)).

**However, we specifically instructed that "[b]ecause Congress intended to `promote the vigorous enforcement of the provisions of Title VII,' a district court must exercise caution in awarding fees to a**

**prevailing defendant in order to avoid discouraging legitimate suits that may not be `airtight.'**" Id. (quoting Christiansburg, 434 U.S. at 422, 98 S.Ct. at 700-701); see also EEOC v. Consolidated Serv. Sys., 30 F.3d 58, 59 (7th Cir. 1994) (suggesting that the "frivolous" standard is much more stringent than merely "not substantially justified"). This same standard must apply to an substantially justified").

This same standard must apply to an assessment of Title VII claims under Rule 11, lest this Rule be used to thwart Congress's intent. **Courts must heed "the Supreme Court's warning in Christiansburg against the `temptation to engage in post hoc reasoning by concluding that, because a plaintiff did not ultimately prevail, his action must have been unreasonable or without foundation.'**" Bruno's Restaurant, 13 F.3d at 290 (quoting Christiansburg, 434 U.S. at 421-22, 98 S.Ct. at 700-701); see also Forsberg v. Pacific Northwest Bell Tel. Co., 840 F.2d 1409, 1422 (9th Cir. 1988) (applying the same "frivolous, unreasonable, or without foundation" standard to request for sanctions under Rule 11 and 42 U.S.C. § 2000e-5(k)). (Emphasis added)

[31] Warren made a prima facie showing of Title VII disparate treatment under McDonnell Douglas. He also raised additional facts that may point to a discriminatory motive for his rejection. Therefore, the district court's conclusion that Warren's case was "clearly frivolous" is incorrect. See Marquart v. Lodge 837, Int'l Assoc. of Machinists & Aerospace Workers, 26 F.3d 842, 853 (8<sup>th</sup> Page 445 Cir. 1994) (suggesting that **a plaintiff who makes out a prima facie case under Title VII cannot be found to have presented a claim that is "frivolous, unreasonable, or groundless"**); Kizer v. Children's Learning Ctr., 962 F.2d 608, 613 (7th Cir. 1992) (affirming **a district court's decision not to impose Rule 11 sanctions on a plaintiff who had failed to make out a prima facie case under Title VII because the claim was not filed with improper motives or inadequate investigation**). WARREN v. CITY OF CARLSBAD, 58 F.3d 439 (9th Cir. 1995)

Randy Lee's imposition of \$160,000 upon the Plaintiff in the Lales case, is unprecedented and horrendously portentous of bad



future rulings for ordinary citizens and Plaintiffs at the expense of corporations.

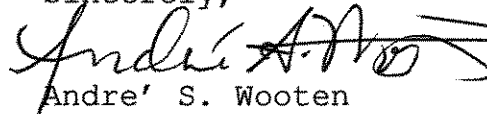
Defendants are not entitled to attorney's fees because the Hawaii civil rights statute only provides for attorney's fees for the Plaintiffs.

Given the Probable cause finding of the Hawaii Civil Rights Commission and it's Hawaii Civil Rights Commission Right to Sue letter, both of which judge Lee ignored, a prima facie case was nevertheless, and therefore attorney's fees not warranted at all.

The imposition for the very first time in Hawaii is a signal of outrageous and unprecedented hostility towards civil rights Plaintiffs, and cannot be ignored or endorsed in a free society.

Please reject Randy Lee's nomination for the Hawaii State Intermediate court of appeals, and select a more fair and experienced candidate.

Sincerely,

A handwritten signature in black ink, appearing to read "Andre' S. Wooten", with a long horizontal flourish extending to the right.

Andre' S. Wooten

**DEAN E. OCHIAI**  
**1100 Ward Avenue, Suite 555**  
**Honolulu, Hawaii 96814**

*Telephone: (808) 527-7111*

*Facsimile: (808) 527-7102*

October 23, 2007

**VIA FACSIMILE TO: 586-6461**  
**No Hard Copy Will Follow**

Senator Brian T. Taniguchi  
Chair, Senate Judiciary Committee  
415 S. Beretania Street  
Honolulu, Hawaii 96813

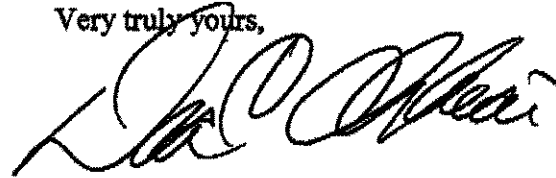
**Re: Nomination of Judge Randal Lee to the Intermediate Court of Appeals  
Committee Testimony**

Dear Senator Taniguchi:

If the rules permit, I would like to offer oral testimony in favor of the confirmation of Circuit Judge Randal Lee to the Hawaii Intermediate Court of Appeals. I previously sent in written testimony in support of Judge Lee's confirmation on October 23, 2007.

Thank you for your consideration.

Very truly yours,



Dean E. Ochiai

Testimony in support of the nomination of

**RANDAL K.O. LEE**  
Associate Judge, Intermediate Court of Appeals

To: Senate Committee on Judiciary and Labor  
The Honorable Brian T. Taniguchi, Chair  
The Honorable Clayton Hee, Vice-Chair

From: Jonathan Lopaka Inciong, Esq.

Hearing: Thursday, October 25, 2007, 9:00 a.m.  
Conference Room 229  
State Capitol

I am an attorney in private practice who has had the unique position of not only knowing Judge Randal Lee ("Judge Lee") for the past seven (7) years in the legal profession, but also had the privilege of appearing before Judge Lee on both civil and criminal matters in Circuit Court.

I first came to know of Randal K.O. Lee while serving as a Judicial Law Clerk in Circuit Court around 2000 when Judge Lee was a senior Deputy Prosecuting Attorney who was widely known for handling some of the most high profile criminal cases. Judge Lee always appeared professional, prepared, cordial, and civil to all of the staff and clerks as well as the defense attorneys and their clients who he came into contact and dealt with on a weekly basis. At the time, Judge Lee impressed me as a prosecutor who not only zealously strove to seek justice but one who sought fair remedies that were well balanced and within reasonable context to the circumstances of the case.

Shortly after Judge Lee was appointed to the Circuit Court, my office became involved in two separate civil cases that were assigned to Judge Lee's court. It quickly became apparent through our initial conferences and hearings that Judge Lee and his court was going to be very supportive, approachable, and accommodating to all of the parties involved. Judge Lee made it clear that his court existed to support the parties and help facilitate the cases in any way possible. Judge Lee further presented himself to be attentive, patient, thoughtful, and fair in his decisions and indeed, proved true to his word as an involved, "hands on" facilitator who personally guided the settlement conferences in an expeditious and proficient manner, which enabled the cases to be resolved despite the complicated issues and layers of interests that were being advocated by multiple parties.

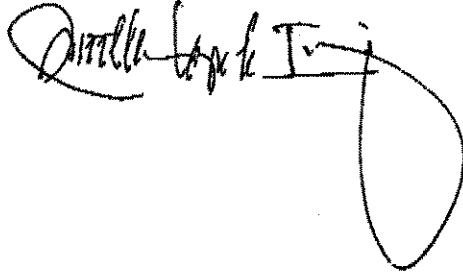
After serving in the civil division, Judge Lee then transferred to the criminal division and shortly thereafter, my office began representation of a criminal defendant whose case was assigned to be heard by Judge Lee. I once again found Judge Lee's judicial temperament

to be completely suitable even in the criminal defense context. As was consistent with my previously dealings with a Judge Lee court, Judge Lee was similarly conscientious, fair, approachable, reasonable and legally sound in his judgments and determinations.

Based on my personal experience and direct observation of Judge Lee and his Court, I believe that Randal K.O. Lee is highly qualified and request that you find in favor of his appointment as the next Associate Judge in the Intermediate Court of Appeals.

Should you have any questions or require additional information, please do not hesitate to contact me directly at 599-7525.

Jonathan Lopaka Inciong, Esq.  
BENTO & INCIONG, LLC

A handwritten signature in black ink, appearing to read "Jonathan Lopaka Inciong". The signature is stylized with a large, sweeping loop at the end.

Oct 21 2007

October 21, 2007  
Honolulu, Hawaii

Senator Brian Taniguchi  
Hawaii State Capitol  
Room 219  
415 South Beretania St.  
Honolulu, HI 96813

Dear Senator Taniguchi:

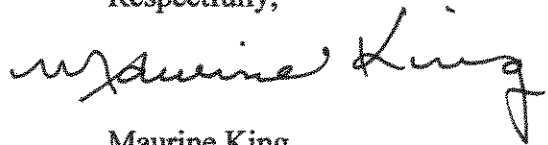
This letter is in support of Judge Randal Lee's nomination to the Intermediate Court of Appeals.

As the faculty sponsor for Mock Trial at Hawaii Baptist Academy, I got to know Judge Lee last year because he helped advise our teams. He would come after work and on Saturdays and even let the students use his courtroom to give them a feel for the real thing.

There was nothing in it for him except the satisfaction of helping kids learn to appreciate the law. He knows how to communicate with them and his wisdom was invaluable in dealing with relationships as well as with the intricacies of the fictitious legal case. He was discreet about his role, not even attending the matches lest his presence be prejudicial.

If unselfish community service is considered a qualification for an ICA judge—and I hope it is—Randal Lee is exemplary. Furthermore, his honesty and respect for the law have made him an exemplary role model for our students.

Respectfully,



Maurine King  
55 South Kukui St. 2413  
Honolulu, HI 96813