

2018 Hawai'i Access to Justice Conference
"Fighting for Access to Justice for All"
Friday, June 29, 2018

Workshop summary:¹

"Access to Justice for Immigrants"

Presenters: Gary G. Singh (facilitator), Chief Judge Robert A. Katzmann, United States Courts of Appeal, Second Circuit; John Egan

Singh: Made a brief introduction to the workshop and speakers.

Egan:

- Stressed the importance of community-based organizations/individuals to assist immigrants because immigrants usually face other issues (domestic violence, language barriers).
- 18.5 % of Hawai'i residents were born in another country.
- Only five states have a larger percentage of non-native residents than Hawai'i. However, Hawai'i is different from the other states whose primary immigrants are from Spanish-speaking countries. Hawai'i's immigrants are primarily from Asia and the Pacific Islands
- Further, immigrants in Hawai'i do not "walk here." Thus, Hawai'i has a different type of immigrant population, more "overstays" than illegal entrants.
- The Immigration Bar Association in Hawai'i has 60 members, with maybe 20 members who practice immigration law full-time; 12 appear regularly in immigration court.
- In addition, some community-based non-profits provide legal and other services to immigrants. Egan asked a representative from each of these organizations to describe their work.
- Hawai'i Immigrant Justice Center. The Center merged with Hawai'i Legal Aid Society of Hawai'i a decade ago. They deal with human trafficking, sexual assault, and domestic violence. The Center comprises a small team of four attorneys and one paralegal. This summer (2018), they were fortunate to have assistance from two law clerks. Their biggest hurdle is lack of enough money and staff. Availability of petty cash to meet some needs would be helpful. For example, a recent case of a victim of domestic violence lacked the \$15 needed to get a copy of the marriage license and a green card. For many, traveling to O'ahu from the neighbor islands for documents is a major expense. As part of Hawai'i Legal Aid, the Center is under the Legal Service Corporation mandate restrictions.
- Catholic Charities. As in other states, Catholic Charities constitute a major provider. They have three accredited representatives (non-attorneys who do immigration law) in Hawai'i, one full-time and two part-time. They serve O'ahu and Hawai'i Island. Accredited representatives are provided

training, a hot-line, and conferences. Some others are “partially accredited” but do not go to court. Other services provided include travel visas and naturalization services. They serve 175 clients a year. Fees are very low and for clients who cannot afford the fees, the services are subsidized by Catholic Charities. A challenge they face concerns clients from Hawai‘i Island who must come to O‘ahu for finger printing and other services. These clients bear the travel cost, plus loss of wages while they are away from their jobs.

- The Legal Clinic – Justice for Our Neighbors. This clinic was organized by a Methodist Church pastor. It is a new non-profit in Hawai‘i. The Clinic hopes to provide services beginning in 2018. The Methodist Church operates 18 sites across the country. Insufficient money is a problem. Currently, they are trying to recruit staff.
- Pacific Gateway Center. This organization is the registered Refugee Resettlement Center for Hawai‘i. Its representative described it as a community-based non-profit established 25 years ago to empower immigrants and refugees. It seeks to provide access to justice by meeting the most critical needs of immigrants and refugees.
- Hawai‘i Language Bank. The Language Bank is a community development, culinary kitchen incubator, accredited by the Department of Justice. It encourages food startups and development of family businesses. It also provides immigration advocacy services, helping farmers with reunification, citizenship training, and lessons in English language.
- Hotel and Restaurant Workers Local Union 5. Provides citizenship training and efforts to lift immigrants from poverty.
- William S. Richardson School of Law. Dean Soifer has established an Immigration Clinic. On August 1, Egan will be responsible for the Clinic. The commitment is to help interest students and to provide services.

Egan summarized that, although several agencies are providing various services, the state is currently far short in providing legal access. He described the current federal status as follows:

- Immigration courts are administered within the Department of Justice. They are not Article 3 courts under the Constitution.
- What happens first? The immigrant is asked, “Do you have a lawyer?”
- Immigrants who do not have a lawyer are given a list of pro bono immigrant attorneys. The problem is that no name is on the list—neither Hawai‘i nor Guam has registered legal service provider. This situation has existed for as long as Egan can remember.
- The problem to be solved is to make more pro bono attorneys available.
- Of the 12 attorneys in Hawai‘i, about six do pro bono cases.
- Currently, Singh has eight cases; Egan has seven cases.
- Egan stressed the value of replicating Katzmann’s New York Justice Corps in Hawai‘i (see www.justicecorps.org).

- To make this happen, needed is a platform with four legs (community-based organizations, law firms and attorneys, a law school, and donors).

Katzmann:

- Opportunity is available for Immigrant Justice Corps (“IJC”) to expand to Hawai‘i under the right circumstances. John Egan has already met Jojo Annobil, Executive Director, at the recent American Immigration Lawyers Association Conference in San Francisco.
- The law school has a key role in identifying young lawyers who will be devoted to immigration justice issues. Most Fellows are graduates of Immigration Justice Clinics in law schools.
- After students are identified, it will be necessary to figure out how the students can become Fellows.
- The community-based support component necessary for IJC expansion into a community is already fairly fully developed here in Hawai‘i.
- He believes these links can work in this state.
- Attorneys and firms contribute through the private philanthropy that can help fund a Fellow.
- As a result, you have a well-trained individual devoted full time to immigrant justice and working with the community-based organizations.
- The key thing is to get the IJC attorney involved in the case as early as possible. Appearing before the Board of Immigration Appeals is too late. Building the record early is critical. With one Fellow, Hawai‘i could begin to sustain and multiply capacity.
- The Immigrant Justice Corps would welcome the opportunity to expand to Hawai‘i.
- The Fellow could be placed with a well-established legal provider, such as Legal Aid, or with a community-based organization that does immigration work, but is weak in providing legal assistance.
- Fellows are provided financial assistance and intellectual support.
- For assistance, Fellows can go to other Fellows, graduates, or other staff. The program seeks to foster a sense of community among the Fellows, knowing they are supported as part of a cadre. Once a year the Fellows are brought together for a meeting. Other meetings are held via Skype.

Egan: Raised the issue of Hawai‘i being a small state without really big law firms or other large donors such as Soros. Asked how the New York group was able to recruit these donors.

Katzmann: IJC uses its stories to dramatize the need. Stories are the best ways to attract interest and funding from law firms and clients of law firms.

Egan: IJC going from \$0 to \$7,000,000 in a short period of time is staggering. Asked how the local community can be brought “on board” with this project.

Katzmann: Some of funds can possibly be raised locally and some nationally. The national organization will be willing to assist.

Egan: How did you overcome the competition for funds?

Katzmann: As a judge, he cannot be involved in soliciting funds. As an IJC Board member, he can say that the idea was that the Immigration Justice Center (“IJC”) wanted to supplement and aid rather than compete for funds. For example, Legal Aid was given an IJC staff member, thus IJC was value-added. And, the sources of funding were different. He mentioned the idea of recruiting a good development person. In the first few years, the IJC functioned without a full-time development person. But they recently have funded a person to identify possibly funding sources and people who can tell the stories. Good development staff are difficult to find, costing in the \$100,000-\$150,000 annual price range. But the funding has a multiplying effect. The IJC has limited full-time management people. It is critical to have someone to do the data-gathering, enabling you to know if you are meeting your benchmarks. Locally, it will be necessary to identify candidates for Fellows. Local supervision could be through the clinic or one of the legal service providers.

Egan: Hawai‘i may be challenged in many ways but not in a lack of bright young people who care about immigration justice.

Singh: Opened the floor to questions from the audience.

Question: Asked about the magnitude of the need.

Answer: There are two Immigration Court judges serving Hawai‘i with under 500 cases. These judges also hear cases in Guam and Los Angeles. A typical judge carries 1,200 - 1,500 cases. The current capacity of local pro bono attorneys is only about 15 cases, an obvious deficit.

LeClair: Currently, there is a “collective hate” about immigration – how can we get beyond that culture?

Singh: Hopefully, things are changing. People demonstrated outside Homeland Security this week. On Saturday there will be a march by the Hawai‘i’s Federal Court House. We have regressed 30 years under the current administration.

Egan: Ultimately “immigrants” are us. Migration is part of human condition. Speak that truth again and again. He referenced the book,

Tent of Miracles, by the Brazilian author Jorge Amado. We need to break down the prejudice of immigrants as “someone not like us.” Replacing it with understanding – “We are like them.” “They are like us.”

Question: What is the Robin Hood Organization that has funded IJC?

Answer: They raise money from a diversity of sources, including from the business community. Their theme is poverty – immigrants cannot be lifted out of poverty without legal status. This is how they got into funding immigration legal justice. Important to think beyond traditional funders.

Question: What will happen to climate-induced refugees – who will pay the bill?

Egan: Kosrae did not cause the climate disaster – the industrialized world did. The Pacific Island communities are probably the most underserved community without access to justice. The Compact of Free Association (“COFA”) is now being renegotiated. We are going to be swamped by the caseload of immigrants fleeing global warming.

Question: Is any training available for attorneys interested in this area but not interested in a full-time commitment.

Egan: Dean Soifer has agreed that the law school will be providing training for pro bono services. Also, the Ninth Circuit has an excellent online guide to Immigration. He has also had some preliminary conversations to connect the clinic to the UH social work program.

Question: (To Katzmann). What is your advice for the next step?

Katzmann: Articulate the need and identify a nucleus of a working group of key players to work toward increasing the supply of quality immigration lawyers. Include someone from a firm, from the Hawai‘i Justice Foundation, and other key organizations.

Closing comments from John Egan and Gary Singh:

- These are not happy times for people representing immigrants.
- Things are rough and will get rougher.
- Early in the new administration, Bannon and Miller promised to do “shock and awe” on immigration – delivering bomb after bomb. They have succeeded!
- Trump has stated that we don’t need more judges.
- Take Immigration courts out of the Department of Justice.

- George W. Bush gave the Florida ballot counters jobs as Immigration Judges.
- The overall quality of the Immigration Bar is considered poor.
- The quality of Immigration Judges is very inconsistent across the country.

¹ A draft was prepared by Jean Johnson, Hawai'i Access to Justice Commission commissioner, and edited by the presenters.