



HAWAI'I
ACCESS TO JUSTICE COMMISSION

ANNUAL REPORT FOR 2017



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The Chairs of the Annual Report Committee, Jean Johnson and Rona Fukumoto, acknowledge and express appreciation to the following persons for assistance in obtaining information, editing, printing, and distribution of this annual report: Justice Simeon R. Acoba, Jr. (ret), Tracey Wiltgen, Carol K. Muranaka, Jill Hasegawa, Angela Kuo Min, Sergio Alcubilla, Jennie Silbiger, Hawai'i Justice Foundation, and the Mediation Center of the Pacific.



I. HAWAI'I ACCESS TO JUSTICE COMMISSION

This report describes the 2017 activities of the Hawai'i Access to Justice Commission ("Commission"). It was a pivotal year culminating in several key initiatives and accomplishments. Some highlights include the following, which will be described in greater detail in the pages to follow.

- Following the award of a Justice for All grant to Hawai'i, a year-long effort starting in January 2017, involved an inventory of resources, assessment of needs, and planning strategic action to move towards the goal of one-hundred percent access to effective assistance for essential civil legal needs.
- In 2017, 191 students submitted essays as part of the Pro Bono week activities. Since this activity began five years ago, more than 1,000 students have submitted essays.
- The work of the Task Force on Use of Paralegals and Other Non-Attorneys resulted in two orders issued by the Supreme Court to establish pilot navigator programs in the First and Second Circuits.
- The pilot pro bono appellate program that was launched in 2016 was made permanent by the Hawai'i Supreme Court.
- Approval was received from the Hawai'i Supreme Court to proceed with an unbundling project that would allow attorneys to engage in limited representation of unrepresented litigants.
- The 2017 Access to Justice Conference was attended by over 260 people and featured panel discussions and workshops. Dean Kellye Y. Testy was the keynote speaker.

A. Commissioners

The Commission comprises twenty-two Commissioners. The various Commissioners are appointed as designated in Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i*¹ by the following separate appointing authorities:

- Chief Justice of the Hawai'i Supreme Court
- Hawai'i State Bar Association ("HSBA")
- Hawai'i Consortium of Legal Service Providers
- Hawai'i Justice Foundation ("HJF")
- Hawai'i Paralegal Association

¹ Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i* is attached as Appendix A.



- Governor of the State of Hawai'i
- Attorney General of the State of Hawai'i
- State of Hawai'i Senate President
- State of Hawai'i Speaker of the House

The Commissioners who served in 2017 are listed below:

	Name	Appointed By	Term Ends
1.	Hon. Simeon R. Acoba, Jr. (ret) (Chair)	Chief Justice	12/31/18
2.	Hon. Edmund D. Acoba, Jr.	Chief Justice	12/31/18
3.	Hon. Joseph Cardoza	Chief Justice	12/31/17
4.	Hon. Ronald Ibarra	Chief Justice	12/31/18
5.	Hon. Brian Costa	Chief Justice	12/31/18
6.	Mark K. Murakami	HSBA	12/31/17
7.	Derek Kobayashi (Vice-Chair)	HSBA	12/31/19
8.	Carol K. Muranaka	HSBA	12/31/17
9.	Joanna E. Sokolow	HSBA	12/31/19
10.	Michelle Acosta (Volunteer Legal Services of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/19
11.	M. Nalani Fujimori Kaina (Legal Aid Society of Hawai'i)	Hawai'i Consortium of Legal Services Providers	12/31/18
12.	Nanci Kriedman (Domestic Violence Action Center)	Hawai'i Consortium of Legal Services Providers	12/31/19
13.	Victor Geminiani (Hawai'i Appleseed Center for Law and Economic Justice)	Hawai'i Consortium of Legal Services Providers	12/31/19
14.	Jean Johnson (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with the Chief Justice	12/31/18
15.	Rona Fukumoto (Non-attorney public representative)	Hawai'i Consortium of Legal Services Providers in consultation with the Chief Justice	12/31/17
16.	Gary M. Slovin	HJF	12/31/18



17.	Dean Aviam Soifer	William S. Richardson School of Law	12/31/19
18.	Matthew Sagum	Hawai'i Paralegal Association	12/31/19
19.	Diane T. Ono	Governor	² N/A
20.	Marie M. Gavigan	Attorney General	N/A
21.	Hon. Gilbert Keith-Agaran	Senate President	N/A
22.	Hon. Della Au Belatti	House Speaker	N/A



Commission Chair, Justice Simeon Acoba, (ret.), presented a certificate of appreciation to Commissioner Ronald Ibarra upon his retirement at the end of June 2017. A long-term member of the Commission and as Chief Judge of the Third Circuit, Commissioner Ibarra was a staunch advocate for increasing access to justice. At a time when Hawai'i's foreclosure rate was approximately ten times the national average, and one home in 189 had received a foreclosure filing in Hawai'i County, he administered a Foreclosure Mediation Pilot Project to give homeowners the opportunity to negotiate with lenders and remain in their homes and to reach dispositions in foreclosure actions that were satisfactory to both sides.

² Supreme Court Rule 21 states, "Governmental representatives appointed under Subsection 3(vii) shall rotate by their terms of office or at the will of the appointing authority."



B. Purpose

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

- (1) Provide ongoing leadership and oversee efforts to expand and improve delivery of high quality civil legal services to low-income people in Hawai'i.
- (2) Develop and implement initiatives designed to expand access to civil justice in Hawai'i.
- (3) Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income Hawai'i residents.
- (4) Increase and stabilize long-term public and private funding and resources for delivery of civil legal services to low-income Hawai'i residents.
- (5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among providers of civil legal services.
- (6) Increase pro bono contributions by Hawai'i attorneys through such things as rule changes, recruitment campaigns, increased judicial involvement, and increased recognition for contributors.
- (7) Reduce barriers to the civil justice system by developing resources to overcome language, cultural, and other barriers and by giving input on existing and proposed laws, court rules, regulations, procedures, and policies that may affect meaningful access to justice for low-income Hawai'i residents.
- (8) Encourage lawyers, judges, government officials, and other public and private leaders in Hawai'i to take a leadership role in expanding access to civil justice.
- (9) Educate governmental leaders and the public about the importance of equal access to justice and the problems that low-income persons in Hawai'i face in gaining access to the civil justice system. Methods include informational briefings, communication campaigns, statewide conferences (including an annual summit to report on and consider the progress of efforts to increase access to justice), testimony at hearings, and other means, and increase awareness of legal rights of low-income people and where they can go when legal assistance is needed.
- (10) Increase effective use of paralegals and other non-lawyers in the delivery of civil legal services to low-income Hawai'i residents.



- (11) Increase support for self-represented litigants, including self-help centers at the courts.
- (12) Develop initiatives designed to enhance recruitment and retention of attorneys who work for providers of non-profit civil legal services in Hawai'i and to encourage law students to consider, when licensed, the practice of poverty law in Hawai'i.
- (13) Encourage the formation of a broad coalition of groups and individuals to address ways to alleviate poverty in Hawai'i.
- (14) Conduct a statewide assessment of unmet civil legal needs among low-income people in Hawai'i five years after the Commission holds its first meeting to measure the progress being made to increase access to justice.

C. Committees

The Commission created committees and various other ad hoc subcommittees and task force groups to carry out and facilitate its mission. Commissioners serve as chairs for the committees. The role of each committee is advisory only, and each committee is intended to make such recommendations to the Commission as the committee determines to be appropriate. The committees, their chairs, their members, and the areas of responsibility assigned to them may be changed at any time by the Commission.

Administration Committee

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

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

Summary of Activities

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

- (1) Approved two applications for service on the Commission's committees.



- (2) Recommended the appointments of Angela Kuo Min and Mark K. Murakami to the Pro Bono Initiatives Task Force; Mathew Sagum to the Task Force on Paralegals and Other Non-lawyers; Mark K. Murakami as the new Chair of the Committee on Overcoming Barriers to Access to Justice; and Judge William Domingo as Vice-Chair.
- (3) Reviewed the status of the unbundling project.
- (4) Reviewed the activities of the Justice for All Committee.
- (5) Reviewed the status of the various Commission committees.
- (6) Reviewed the status of the Task Force on Paralegals and Other Non-lawyers; approved appointments of members of the sub-committees on O'ahu and Maui; and recommended approval of a pilot Volunteer Court Navigator project in the First and Second Circuits.
- (7) Reviewed and aided in the submission, distribution, and posting of the Commission's 2016 annual report.
- (8) Monitored the planning of the 2017 Hawai'i Access to Justice Conference by the Committee on Education, Communications, and Conference Planning.
- (9) Reviewed the status of the appointment of an HSBA commissioner. Supreme Court Rule 21 requires that the HSBA appoint four members to the Commission as follows: (a) two representatives of the HSBA, who may be officers, directors, or the executive director of the HSBA; and (b) two active HSBA members who have demonstrated a commitment to and familiarity with access to justice issues in Hawai'i and who are not currently serving as an HSBA officer or director, one of whom shall be from a law firm of ten or more attorneys. At least one of the attorneys appointed by the HSBA shall be from an island other than O'ahu.
- (10) Approved revised language at the Commission subpages regarding the fact that the Commission does not render legal advice, place cases for representation with lawyers, make recommendations, or make referrals related to any individual case.
- (11) Approved preparation and submission of a letter in support of the proposed court rule allowing temporary licenses for spouses of military personnel.
- (12) Reviewed expenses related to the 2017 Pro Bono Celebration program.



Annual Report Committee

[Jean Johnson (Chair) and Rona S. Y. Fukumoto (Vice-Chair)]

- Assist in preparing an annual report of the activities of the Commission. The report is filed with the Supreme Court in accordance with Rule 21(j)(1).

Summary of Activities

- (1) The Annual Report of the Commission activities for 2016 was compiled and composed, submitted for approval by the Commissioners, printed, and distributed to the appropriate persons and entities.
- (2) The Annual Report of the Commission activities for 2017 was drafted and submitted to the Administration Committee and Commissioners for approval.
- (3) The Committee began collecting information for the Annual Report for 2018.

Committee on Education, Communications, and Conference Planning

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

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



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

Summary of Activities

- (1) Planned, recommended, and coordinated the 2017 Access to Justice Conference ("Fulfilling the Promise of Equal Justice") held on Friday, June 16, 2017.
- (2) Prepared an application for approval of six CLE credits for Hawai'i-licensed attorneys attending the 2017 Access to Justice Conference. (Approval for the six CLE credits was ultimately received from the HSBA.)
- (3) Prepared a report to the Commission summarizing the 2017 Access to Justice Conference, including expenses, evaluations, and suggestions.
- (4) Worked on possible topics for the 2018 Access to Justice Conference.

Committee on Funding of Civil Legal Services

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

- Make recommendations and provide advocacy in support of establishing a permanent "home" for the legislative funding of providers of civil legal services to low-income individuals. The aim is that funding for such services may be stable and secure. Make recommendations and provide advocacy in support of increased legislative funding for providers of civil legal services.
- Make recommendations and provide advocacy in support of increased funding for civil legal services providers by the federal Legal Services Corporation and other federal and state agencies.
- Make recommendations and provide advocacy in support of increased funding of civil legal services through the indigent legal services filing fee surcharge and other measures. Assist providers of legal services in exploring additional public and private funding sources and in developing programs or projects for which funding may be sought.
- Make recommendations in collaboration with the Judiciary, the HSBA, law firms, and other employers of lawyers, to encourage attorneys to provide substantial financial support to providers of legal services, including additional amounts in years when such attorneys do not meet the aspirational pro bono goals of Rule 6.1 of the *Hawai'i Rules of Professional Conduct* ("HRPC").



Summary of Activities

- (1) Through the actions of the chair, continued efforts to work with legal service providers and others to advocate for general funds from the Legislature to further the efforts of the providers to provide legal services on behalf of low-income persons.
- (2) Continued efforts at the Legislature to maintain Indigent Legal Assistance Fund ("ILAF") support for the legal services providers.
- (3) Met periodically with legal service providers to discuss strategies for securing needed funds.

Committee on Increasing Pro Bono Legal Services

[Michelle D. Acosta (Chair)³, Tracey Wiltgen (Vice-Chair), Judge Edmund Acoba, Sergio Alcubilla, Rebecca Copeland, Gilbert Doles, Representative Linda Ichiyama, Gregory Kim, Derek Kobayashi, Catherine Taschner, and Shannon Wack]

- Study best practices in other jurisdictions for increasing the level of pro bono services by lawyers, paralegals, and others who may assist in overcoming barriers to access to justice. Methods include developing effective recruitment campaigns.
- Make recommendations concerning ways to develop a culture of commitment to pro bono service among Hawai'i's lawyers.
- Maintain a list of providers of legal services and others who offer opportunities for pro bono service, describe the nature of those opportunities, and explore and assist providers in increasing the opportunities they provide for such service.
- Make recommendations concerning ways to make providing pro bono service more attractive to attorneys. Methods include assisting in developing resources for the pre-screening of cases, ensuring proper training, providing support, and recognizing service.
- Make recommendations concerning ways in which the Commission, the Judiciary, and the HSBA—acting alone or in partnership with others—can encourage attorneys to provide higher levels of pro bono service.
- Make recommendations concerning ways to encourage law firms and others who employ lawyers (including governmental agencies and corporate law departments) to promote greater pro bono service among their attorneys.

³ In December 2017, upon the resignation of Michelle Acosta, Angela Kuo Min was appointed Chair.



- Make recommendations concerning ways to encourage retired lawyers and judges to provide pro bono or staff legal services to low-income persons.

Summary of Activities

- (1) Identified current pro bono initiatives, providing to Commissioners information on those initiatives.
- (2) Supported ongoing pro bono initiatives implemented by various providers and groups.

Committee on Initiatives to Enhance Civil Justice

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

- Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income residents of Hawai'i.
- Study best practices in other jurisdictions and develop and recommend new initiatives to expand access to justice in Hawai'i.
- Make recommendations and provide advocacy in support of enhancing recruitment and retention of attorneys to work as staff members or to volunteer pro bono for non-profit providers of civil legal services in Hawai'i. Methods may include the following.
 - Establishment by the Hawai'i legislature of a student loan repayment assistance program to help full-time, non-profit civil legal services attorneys pay back their student loans; and adoption by the Hawai'i Supreme Court of rules to permit attorneys actively licensed to practice law by the highest court of a state or territory of the United States or the District of Columbia or Puerto Rico and who are working on staff or volunteering pro bono for non-profit providers of civil legal services. Permission would allow these providers to practice in that capacity for up to one year without being admitted to practice law in Hawai'i.
- Make recommendations concerning ways in which paralegals and other non-lawyers may assist in meeting specified unmet civil legal needs, including whether ethical or procedural rules would need to be changed to accommodate such assistance.



Summary of Activities

- (1) Established a cultural and legal partnership between Marshallese youth and local attorneys in the First Circuit. This action culminated in the first graduating class of students, which facilitated a mobile legal clinic in their community.
- (2) Developed additional forms for pro se litigants in paternity, divorce, and foreclosure proceedings in the First and Third Circuits.
- (3) Developed an initiative for mass recall of stale bench warrants in traffic cases.
- (4) Expanded use of online services for disposal of traffic matters.
- (5) Developed a program to air on Olelo called “A Day in the Life of...” to follow a Public Defender or Legal Aid Attorney for a day.
- (6) Explored other technology to assist pro se and low-income litigants. Examples include communication apps and text message reminders of court hearings.

Law School Liaison Committee

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

Make recommendations concerning ways to accomplish the following actions.

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



ganizations that serve the legal needs of low-income populations, contributing financially to organizations that serve the legal needs of low-income persons, and filing amicus briefs in proceedings affecting legal services to the underserved.

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

Moses Haia remained Chair of the committee until his appointment to the Commission ended on December 31, 2016. During its April 2017 meeting, the Commission decided to defer further work of the Committee because the Dean of the Law School, Dean Aviam Soifer, who is a Commissioner and serves as Chair of the Committee on Education, Communications, and Conference Planning, maintains a liaison and working relationship between the school, and the Commission and its programs.

Committee on Overcoming Barriers to Access to Justice

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

- Make recommendations concerning ways to remove impediments to accessing the justice system because of language, cultural, and other barriers. In addition, make recommendations concerning what programs should be initiated to address these barriers. Such programs may include the following:
 - Providing multilingual services, including increasing the number of available staff and pro bono attorneys and court personnel who are bilingual;
 - Providing forms in multiple languages;
 - Providing translation services in court, administrative agencies, and with providers of legal services; and,
 - Partnering with the University of Hawai'i and other schools offering language training to encourage multilingual volunteers to provide outreach and translation services.
- Identify other barriers to obtaining legal assistance and make recommendations concerning methods to address them. Such methods may include provision of ancillary services (e.g., providing for child care during a court hearing) or services required for maintaining necessary mental health.



- Seek to reduce barriers by recommending ideas on existing and proposed laws, court rules, regulations, procedures, and policies that may affect meaningful access to justice for low-income residents of Hawai'i.

Summary of Actions Taken

- (1) Met to strategically determine unmet needs to develop a work plan.
- (2) Invited the Office on Equality and Access to the Courts of Language Assistance Services of the Hawai'i State Judiciary to present to the committee the current issues, challenges, and unmet needs in serving limited-English-proficient persons.

Committee on the Right to Counsel in Certain Civil Proceedings

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

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

Summary of Activities

- (1) The Vice-Chair obtained, from the 2017 Equal Justice Conference, materials for review, evaluation, and guidance regarding the right to counsel.
- (2) The Chair began a review of different types of civil matters in which the right to counsel might be appropriate.



Committee on Self Representation and Unbundling

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

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

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

Summary of Activities

- (1) In March 2017, the Hawai'i Supreme Court responded to proposed amendments submitted by the Committee by approving the program in large part but seeking a response as to certain revisions of the procedures and court forms.
- (2) The Rule 1.2 Subcommittee was reconstituted to draft a response to the Supreme Court on the proposed rules.



II. JUSTICE FOR ALL PROJECT

A. Justice for All Project and Vision

In 2016, Hawai'i was ranked among the top three states in the country for practices aimed at making access to justice a reality for all people. This movement arose largely through the efforts of a broad network including the Hawai'i Access to Justice Commission, the Hawai'i Justice Foundation, the Hawai'i State Bar Association and local bar associations, the Judiciary, including Chief Justice Mark E. Recktenwald, leaders in government, legal services providers, and hundreds of volunteers.

To build on that foundation, in November 2016,⁴ Hawai'i was one of seven states awarded a grant of nearly \$100,000 to support efforts to enhance access to justice for all persons of Hawai'i by embarking on the Justice For All (JFA) Project.⁵ The JFA Committee was formed by the Hawai'i Access to Justice Commission and the committee coordinated the efforts on the grant. The first phase of the JFA Project was a twelve-month⁶ effort involving an inventory of resources, assessment of needs, and strategic action planning to move towards the goal of one-hundred percent access to effective assistance for essential civil legal needs.

The vision for one-hundred percent access to justice in Hawai'i is a civil justice system resembling the craft of *ulana lauhala*. Hala trees are native to the Hawaiian and Pacific Islands. Traditional weavers refine the raw and thorny hala leaves, *lauhala*, into strong, tightly-woven, functional mats, baskets, hats, wall thatch, and canoe sails. The JFA Project, like the *lauhala*, has refined Hawai'i's access to justice foundation by bringing together stakeholders and renewing commitments.

An effective civil justice system depends in large part upon strong legal service providers that are interwoven with other community organizations and government agencies to provide functional access to justice for those of low-income. Just as hala leaves are refined, community and government organizations are primed and positioned to engage with each other.

⁴ Nearly two dozen local access to justice leaders were personally involved in the grant application, including Chief Justice Mark Recktenwald, other judges, the Administrative Director of the Courts, legislators, executive directors of civil legal service providers, the State Law Librarian and Access to Justice Coordinator of the Hawai'i State Judiciary, the Chair and nine commissioners of the Hawai'i Access to Justice Commission, and directors of the Hawai'i Justice Foundation.

⁵ The JFA Project is supported by the Public Welfare Foundation and the National Center for State Courts (NCSC). The Hawai'i Justice Foundation also committed to supplement the grant with additional funds.

⁶ The Project's official period is December 15, 2016 to December 15, 2017.



Indeed, a growing number of partners in Hawai'i are committed to providing access to information or assistance as needed, in a manner that is timely and usable by all. This project promises to be the foundation upon which to develop a more robust and tightly-woven support system—a *lauhala* mat—to meet the full continuum of needs of underserved persons.

B. Hawai'i Justice for All Project Final Report

Through the JFA Project, the Hawai'i Justice Foundation, Hawai'i Access to Justice Commission, and Hawai'i State Judiciary, along with dozens of leaders in government, and private and non-profit sectors, have renewed local partnerships and strengthened relationships while identifying resources, assessing the local landscape, and crafting a strategic action plan to reduce barriers to access to justice and to move towards the goal of one-hundred percent access to effective assistance for essential civil legal needs.

Hawai'i's civil justice system and broader network of community organizations provide invaluable assistance to tens of thousands of people every year to overcome a variety of barriers, including income. Yet for many, barriers remain and prevent effective assistance for essential civil legal needs.

The Hawai'i JFA Project Final Report, submitted on December 22, 2017, is organized in three parts: (1) an inventory of existing access to justice resources, programs, and projects being undertaken by Hawai'i's access to justice stakeholders, including Hawai'i's Judiciary, Access to Justice Commission, the Legislature, and Hawai'i's vast array of legal service providers; (2) an assessment of Hawai'i's access to justice needs based upon the JFA Committee community, and network partner meetings undertaken in the course of this JFA Project; and (3) a strategic action plan comprising four key recommendations for Hawai'i's access to justice partners to focus on. Appendices to the Report provide supplementary and reference materials.

1. Inventory

The inventory of existing resources provides a wide panorama snapshot in time, and endeavors to portray the lush landscape of the current system that provides critical services to tens of thousands of people in Hawai'i every year. While this rendering may not capture the fine-grain detail of all that the current system offers, this snapshot generally provides a collective understanding of current resources and collaborative efforts.

The inventory attempts to capture the historic and current work by many partners across our State in communities and online, at the Capitol and in courthouses, in state statutes and state contracts, and among informal agreements and customary ways of carrying out business. This inventory describes the design,



governance, and management of efforts to increase access to justice and captures practices and programs that continue to be reviewed, expanded, and improved.

2. Assessment of Underserved Populations and Network Partners

The underserved populations' assessment, through the assistance of local consultants, reviewed select underserved communities and segments of the population across the State. The assessment focused on those people expected to face the greatest variety and most intractable barriers to access to justice and explored those barriers in depth. Issues discussed with individuals in these communities were aggregated into themes, resources, opportunities, and gaps in the system.

Meetings with network partners included discussions with leaders of state and county agencies, leaders in the healthcare industry, leaders in organized labor, homelessness and other social services providers, domestic violence service providers and survivors, librarians, immigration attorneys, and others.

The assessment of underserved populations revealed challenges, opportunities, and an understanding of social issues that often predate, correlate with, potentially cause, or underlie essential civil legal needs or barriers to assistance. Among these are fear and intimidation of the "system" or others; hopelessness that leads to resignation; and competing priorities of shelter, food, work, or others that appear to many in the moment to be a higher priority than resolving an essential civil legal need. The assessment also revealed varying degrees of the following: lack of awareness; lack of information; lack of comprehension; economic barriers; geographic barriers; and the unavailability of assistance.

The assessment of the community and network partners revealed many strengths of the current system, among them a host of resources, such as government agencies and judiciary services, legal services providers, libraries, places of worship, social workers, and the internet. All of these are places where people naturally seek information and assistance. Other strengths identified include the existence of sanctuaries, or places where people feel safe to share their challenges and seek assistance without fear. Such places include domestic violence assistance organizations, homelessness services organizations, mediation centers, immigration services organizations, community health centers, houses of worship, and others.



3. Strategic Action Plan

The strategic action plan identifies four recommendations for implementation by Hawai'i's access to justice community. The JFA Project is an extraordinary opportunity for all and is running parallel to an already fast-moving system that is continually innovating, improving, self-assessing, self-correcting, and planning for the future. These four recommendations together, particularly when combined with the ongoing services captured in the inventory, paint a picture of what the landscape of access to justice might look like in Hawai'i in the near future.

Creating a system to achieve meaningful access to justice in Hawai'i will require careful and strategic investment in actions that can effectively lay the groundwork from which the system can continue to develop. From the conversations and lessons learned in this planning process, the common themes that arose as critical intervention points were around how information could be accessed and how resources are coordinated.

With this as a backdrop, the core principles and the inventory of current resources, the JFA Committee developed four recommendations—to supplement existing programs—to form the basis of a strategic plan to better achieve meaningful access to justice for essential civil legal needs for all in our community.

Recommendation One: Community Navigators

One of the biggest takeaways from the community meetings was an interest among participants in wanting to help. Participants saw civil legal needs as important in their communities and noted many needs that continue to be unanswered.

Over the years, legal service organizations have used paraprofessionals to help bridge gaps in many communities by providing legal information and advice, legal education, and on-going community-based services. These paraprofessionals provide a critical link with specific expertise generally related to the critical legal needs in the communities they serve. These paraprofessionals work directly under the supervision of attorneys and work closely to ensure that the right legal advice is provided.

The Community Navigator project contemplated by this recommendation would supplement the work of these paraprofessionals, by aiming to train identified community leaders who are trusted in rural and other communities of high need (e.g., religious leaders, librarians, social and outreach workers from organizations and agencies, informal community leaders, health clinic workers, public-facing employees of various city and state agencies, school leaders, and others) provide accurate and relevant information to community members in need, set



community members on a path toward self-help to resolve legal needs and other needs, and to refer more complex situations to legal service providers.

The Community Navigator project would be developed in partnership with the legal service providers and other key community partners who will bring their experience and expertise to developing appropriate training for identified community leaders and to assist in creating a network of connections to assist those in need.

Navigators could be trained with curriculum and materials developed by legal service providers and agencies. Identification and training of current and new navigators will be ongoing, and the reach of Navigators will continue to expand. Technology tools, including on-line training, could also be leveraged as needed. On-going meetings among providers to ensure that accurate and new information is consistently provided to community navigators would also be included in the development of the project.

Recommendation Two: Promotion of Use of Preventative Legal Assessments in Various Settings as an Access to Justice Tool

Early identification of civil legal needs was a significant common challenge and potential solution that emerged throughout the focused community and network partner meetings. This recommendation seeks to encourage use and integration of legal needs assessments into legal and non-legal settings as a tool to increase awareness of civil legal needs and identify opportunities to solve challenges before these escalate into crises. This recommendation also contemplates expanding opportunities for legal checkups and training people at a variety of institutions to perform such checkups. When performed in the right setting, legal assessments could address safety, security, and competing priorities, assist in getting information, identify self-help pathways to address legal needs, and connect individuals with providers who may be able to provide more extensive, appropriate, and affordable legal services.

Drawing on existing resources like the Medical Legal Partnership I-HELP assessment, and soon to be developed American Bar Association Center for Innovation Online Legal Check Up tools, Hawai'i can work with these tools and modify them, if necessary, for use with various community partners and legal service providers. Meetings with legal service providers, social service providers, and other community partners, including government agencies that currently fund civil legal and other social services, can be convened to identify and modify tools if needed, create policies that support the utilization of legal assessments, and work on mechanisms to best deploy and use legal assessments by community partners.

Broader use of legal assessments can identify preventative, non-legal, and other resources that can assist in addressing future civil legal needs or identifying



interventions that may prevent development of such legal needs. These resources may include early referrals and access to mediation, counseling, classes, respite care, and other services.

Recommendation Three: Strengthening Connections between Institutions and Alignment of Social Service Resources and Programs

The need and opportunity for better collaboration and coordination throughout the civil justice system emerged from the network partner meetings. This recommendation focuses on strengthening connections between institutions and organizations working to address civil legal needs and connecting these institutions, organizations, and programs with people in need. This recommendation builds upon and further encourages the robust collaborations that already exist among many of the legal service providers and government entities, especially the Judiciary, that comprise Hawai'i's access to justice community.

This recommendation also seeks to encourage network partners to pursue methods of leveraging resources and aligning social service resources and programs that share the common goal of resolving a combination of legal, social, and health service challenges. For example, Medicaid and other existing Department of Human Services, Department of Health, Judiciary, and other governmental programs could continue to improve alignment of resources and programs to better coordinate and better deploy government funding resources to improve services and access to services such as housing supports, substance abuse treatment programs, anger management counselling, family counselling, or domestic violence victim support services.

The JFA Committee believes that funding for one full-time Policy and Program Specialist position in the amount of \$78,000.00 within an appropriate state agency could effectively be used to convene community partners, governmental directors, or program managers from the Judiciary and appropriate executive agencies to further better collaboration and coordination of services. This position could also be tasked with advancing other JFA recommendations including: (1) assisting efforts to advance, develop, train, and connect community navigators to the larger civil legal justice community; and (2) convening the interagency roundtable discussed below.

Recommendation Four: Interagency Roundtable Focused on Achieving Greater Access to Civil Legal Justice.

Based upon the network partner meeting of state and county department directors and other program representatives, there was consensus about the potential benefits and utility of continuing the conversation among government agencies to focus on achieving greater access to civil legal justice. Inspired by the



2015 White House Legal Aid Interagency Roundtable convened under the leadership of President Barack Obama, this recommendation supports and encourages creation of an interagency roundtable of state and county government agencies that meet regularly to coordinate ways to improve meaningful access to justice for all, at all points on the continuum of needs.



III. 2017 HAWAI'I ACCESS TO JUSTICE CONFERENCE

Over 260 people attended the 2017 Conference, including 118 attorneys seeking CLE credits for attendance. This number does not include the panelists who either sought Certificates of Attendance and Teaching (6 credits) or only Certificates of Teaching Credits (3 credits). There were 42 speakers or panelists. Dean Aviam Soifer and Robert LeClair served as co-emcees for the conference.

The Commissioners in attendance included Justice Simeon Acoba (ret.), Chair, Hawai'i Access to Justice Commission, Judge Joseph Cardoza, Judge Ronald Ibarra, Representative Della Au Belatti, Michelle Acosta, Rona Fukumoto, Victor Geminiani, M. Nalani Fujimori Kaina, Derek Kobayashi, Nanci Kreidman, Mark K. Murakami, Carol K. Muranaka, Diane Ono, Gary Slovin, Dean Aviam Soifer, and Joanna Sokolow.

A. Opening Remarks

Governor David Ige opened the Conference, praising the work of the Commission and encouraging the audience to participate in expanding access to justice. Chief Justice Recktenwald acknowledged the participation of Governor Ige, expressing appreciation for his commitment to achieving justice for all.

Chief Justice Recktenwald reviewed the myriad ways that recent advances in technology pose challenges to the role of the courts and the legal profession as traditionally understood.⁷ Yet technology presents great opportunities for increasing access to justice. He applauded the leadership of the Commission and legal service providers in adopting these cutting-edge initiatives that assist self-represented parties to present their side of the story.

The Chief Justice concluded with the following statements.

While those who care about improving access to justice have diverse viewpoints and experiences, we are united by a common goal: the pursuit of meaningful justice for all of Hawai'i's people. I am proud of the work we have done, I am excited for the challenges that lie ahead, and I am optimistic for a future in which "justice of all" is not just an ideal, but a reality.

In his welcoming remarks, Commission Chair Justice Acoba described four significant accomplishments of the Commission.

⁷ A copy of Chief Justice Mark E. Recktenwald's welcoming remarks at the 2016 Access to Justice Conference is attached as Appendix B.



- (1) Hawai'i received a Justice for All grant from the Public Welfare Foundation in the approximate amount of \$100,000 “to retain consultants and to cover expenses for the purpose of assessing the needs in the State, of identifying resources, and of creating a plan to address such needs by the end of this year.”
- (2) In May of this year, the Commission forwarded to the Hawai'i Supreme Court a proposal for a Volunteer Court Navigator Pilot Program for the First and Second Circuit District Courts. “The navigators would consist primarily of lay volunteers, paralegal assistants, and law school and paralegal college students.”
- (3) The Commission received approval by the Hawai'i Supreme Court to continue work on an unbundling project, which would allow attorneys to engage in limited representation of an unrepresented litigant.
- (4) The pilot pro bono appellate program that was launched last year was made permanent by the Hawai'i Supreme Court recently.

Justice Acoba ended his opening remarks with the following comments.

In this environment, what we can do through personal and collective acts of charity, of generosity, of sharing, of sacrifice becomes all the more important and valuable. We can stand for such virtues by encouraging public support of assistance to others and by endorsing the valuable contributions our colleagues make in this respect—especially in our legal system.

B. Keynote Address

Kellye Y. Testy, Toni Rembe Dean and Professor of Law at the University of Washington, delivered the keynote address for the conference. Dean Testy is also serving as the incoming President and Chief Executive Officer (“CEO”) of the Law School Admissions Council.

In her keynote address titled, “Just Innovations,” Dean Testy shared her views concerning the current state of justice in our nation.⁸

Our world is in poor legal health. We do not hear as much about this as we do our physical health. Imagine for a moment if all the energy going into juice machines, the latest power bar, the newest no-carb diet, the new salty crunchy chip that's not really a chip because it's made out of kale rather than a potato, the fancy exercise machine that can get you fit in just under seven minutes per day, you get the idea.

⁸ A copy of Dean Kellye Y. Testy's keynote address is included as Attachment C.



What if all that energy were put into legal health? Or if an equal amount of federal and foundation funding looking for the next cancer or Alzheimer's intervention were put into addressing civil legal needs?

And, when we think of our legal health, we see concerns. We see them at a very fundamental level in what has been a steady erosion of focus upon and respect for the rule of law as the bedrock of human flourishing. The rule of law is often misunderstood or taken for granted. I have come to believe that perhaps it is too much like air, easy to not appreciate until you feel its absence. Only then, gasping, do we see how vital it is for life.

Dean Testy cautioned that “‘just innovation,’ that is, innovation for its own sake, is not only unhelpful, it is also dangerous.” She said that we must nurture “a spirit of innovation whose first principle is to advance justice and human dignity.” She mentioned technology as a tool for innovation, but not for gadgets and a need to focus on human-centered design for law and collaborations within the legal system.

Further, she described how Washington has created a new class of providers, seeking to fill voids in access to legal services in certain defined areas of need. To meet this need, the state has now graduated four cohorts of students as Limited License Legal Technicians. They now have almost 50 licensed Legal Technicians, an innovation that has begun to change the landscape regarding access to justice for single persons and parents who would not be able to afford an attorney for his/her divorce or other basic family law matters. She expects this program to grow in family law and anticipates that additional practice areas will be added in the future. She also hopes that other states will move in this direction.

C. Panels and Workshops

Following the keynote address, Chief Justice Recktenwald facilitated the “Creating Innovative Partnerships for Equal Justice” morning workshop with Mark Rossi, Vice-Chairman, Chief Administrative Officer, General Counsel, and Corporate Secretary of Bank of Hawai'i; Mateo Caballero, legal director of American Civil Liberties Union of Hawai'i; Jason Shimizu, Hawai'i Regional Council of Carpenters. There were 131 attendees who signed up for this workshop.

Tracey Wiltgen, Executive Director, The Mediation Center of the Pacific, facilitated the concurrent morning workshop, “Dispute Resolution Processes That Increase Access to Justice” with First Circuit District Court Judge Hilary Gangnes; Laurie Tochiki, President and CEO of Effective Planning and Innovative Communication, Inc., dba EPIC 'Ohana; Erika Ireland, former deputy prosecuting



attorney; and Lorenn Walker, Executive Director of Hawai'i Friends of Restorative Justice. There were 83 attendees who signed up for this workshop.

These were five concurrent workshops for the first afternoon session.

1. "Legislative Panel—A discussion of equal access to justice for the low-income Hawai'i residents and funding challenges" with Representative Della Au Belatti and Senator Karl Rhoads. There were 56 attendees who signed up for this workshop.
2. "Preventing Fraud and Abuse of Older Persons—The Importance of Finding and Utilizing a 'Dementia-Capable' Attorney" with Professor James Pietsch (facilitator), Lennie Lee, and Scott Suzuki. There were 47 attendees who signed up for this workshop.
3. "License Reinstatement and Bench Warrant Removals—Removing Barriers to Re-Employment (An overview of the program where low-income violators who are seeking to become re-employed have a means to resolve outstanding warrants.)" with Michelle Acosta (facilitator), Judge Melanie May, and Jefferson Willard. There were 34 attendees who signed up for this workshop.
4. "Overcoming Barriers to Access to Justice" with Eric Seitz (facilitator), Lunsford Phillips, and Judge William Domingo. There were 51 attendees who signed up for this workshop.
5. "Complexity of Achieving Access to Justice for Domestic Violence Survivors" with Nanci Kreidman (facilitator) and Lynne McGivern. There were 31 attendees who signed up for this workshop.

For the second part of the afternoon, another set of concurrent workshops were scheduled as follows.

6. "Challenging Issues for the Low-Income Client in Family Court (discussing the voluntary settlement master program, military families, and veterans)" with Judge Mark Browning (facilitator), Mei Nakamoto, and Jim Hoenig. There were 54 attendees who signed up for this workshop.
7. "Native Hawaiian Civil Access to Justice Issues" with Moses Haia (facilitator), and Sharla Manley. There were 28 attendees who signed up for this workshop.



8. "Initiatives for Civil Access to Justice (discussing court innovations; strategies to engaging lawyers for pro bono work; updates from legal service providers; community lawyering)" with Judge Ronald Ibarra (facilitator), Judge Joseph Cardoza, Nalani Fujimori Kaina, and Christina Aiu. There were 62 attendees who signed up for this workshop.
9. "Challenges in Pro Bono Representation in Immigration Cases" with Gary Singh (facilitator), John Egan, and Bow Mun Chin. There were 21 attendees who signed up for this workshop.
10. "Affordable Housing Issues" with Victor Geminiani (co-facilitator), Gavin Thornton (co-facilitator) and Deja Ostrowski. There were 52 attendees who signed up for this workshop.

In the closing program, Professor Calvin Pang and Dean Testy had a "conversation" with the audience. Dean Testy reiterated that the spirit of innovation means a willingness to give things a try and, while knowing that there will be times that we will get stuck, we need to listen and create an openness. We should attempt to work together respectfully. In this endeavor, the spirit of unity means bringing into the room people who would not ordinarily be there. "Enlarging the circle is important," she said. She concluded the day by quoting Poet Gwendolyn Brooks, "We are each other's business; we are each other's bond."



Photographed at the end of the conference (left to right): Commission Chair, Justice Simeon R. Acoba (ret.); William S. Richardson Law School Dean, Aviam Soifer; keynote speaker, Dean Kellye Testy; and Hawai'i Chief Justice, Mark E. Recktenwald.



IV. PRO BONO CELEBRATION

“Today’s celebration honors those who volunteer their time and talent to help others. Whether it be advocating for the rights of foster children, volunteering in a homeless shelter, or guiding a pro se litigant through the legal process, today’s students and pro bono honorees possess a quality of selflessness that helps to make Hawai’i a better place for all.”

—Chief Justice Mark Recktenwald

The Commission hosted the fifth annual Pro Bono Celebration on Thursday, October 26, 2017, at the Hawai’i Supreme Court. The Celebration was supported by the HSBA and the Hawai’i State Bar Foundation. The Program honored ten outstanding persons, including nine attorneys, who volunteer for legal service providers, sixty-five attorneys, law firms, and groups who volunteer for the First Circuit District and Family Court Access to Justice Rooms, and six winners of the student essay/video contest.

Hawai’i Supreme Court Associate Justice Simeon Acoba (ret.), Chair of the Commission, opened the ceremony by reflecting on the importance of encouraging and recognizing volunteerism, stating:

The goal of pro bono service is to extend legal assistance to those who would otherwise be unable to obtain or who are restricted in obtaining such services. This assistance is undertaken by lawyers to promote equal justice for all, regardless of economic, cultural, language, or other barriers that those in need may encounter. Equal justice is at the core of our democracy, and in fulfilling such service, lawyers help to preserve our democracy and our constitutional form of government.

A. Pro Bono Honorees

Hawai’i Supreme Court Associate Justice Michael Wilson recognized the pro bono attorneys honored by the legal service providers. The honorees were presented with certificates from Governor David Ige by Attorney General Douglas Chin. Legislative certificates were presented by Representative Della Au Belatti. The following persons were honorees.

Raynette Nalani Ah Chong was honored by the Hawai’i Appleseed Center for Law and Economic Justice for her efforts as a foster parent and as an advocate for foster families. Over a period of nearly 20 years, Ah Chong and her family opened their home to more than 100 foster children. Her family also adopted two children and cared for two more long term. In recent years, like many other foster



parents, Ah Chong found that it had become impossible to adequately provide for the foster children in their home with the \$529 monthly expenses reimbursement that the state had provided without adjustment for 24 years. Had the reimbursement been adjusted for inflation during that time, it would have increased to over \$970. Instead of abandoning the foster care system as many financially stretched foster parents have done, Ah Chong sought to improve it by challenging the state's refusal to adequately increase the reimbursement. Ah Chong bravely stepped out and spoke up on behalf of the roughly 1,000 foster families in the state, serving as class representative in a case that has continued for nearly four years.

Clare Hanusz and Kevin Block were honored by the ACLU of Hawai'i for their commitment throughout their careers to the public interest, and the many immigrants whose civil rights they defended pro bono as part of their immigration practice. Over the past years, they helped with matters ranging from racial profiling by the Maui police to advocating for the rights of Compact of Free Association migrants and all immigrants in Hawai'i. Hanusz and Block have, in partnership with the ACLU of Hawai'i, worked tirelessly to do outreach and conduct "know your rights" workshops for vulnerable immigrant communities that live in constant fear of immigration enforcement and deportation across the Hawaiian Islands.

Johanna Chock-Tam was honored by the Native Hawaiian Legal Corporation for her efforts to preserve the Hawaiian language. As a legal extern working for the Office of the Administrative Director of the Courts, she worked with the Hawaiian Language Web Feasibility Task Force created by the legislature and was given the task of translating the Judiciary website into Hawaiian. Most recently, Chock-Tam dedicated much of her free time working with the Native Hawaiian Legal Corporation as a pro bono attorney on a lawsuit about the ability of Hawaiian families to communicate in the Hawaiian language with their loved ones who are incarcerated.

William C. Darrah was honored by the Mediation Center of the Pacific for his efforts over the years to increase access to justice for divorcing couples. Despite a busy legal practice as a family law attorney, he has dedicated thousands of pro bono hours to provide the people of Hawai'i with the knowledge and tools to effectively navigate the divorce process fairly and respectfully. From serving as editor-in-chief of the *Hawai'i Divorce Manual* and the annual supplements since 2002, to developing and presenting 195 Divorce Law in Hawai'i monthly sessions at the Supreme Court since 2002 (and more recently at Family Court in Kapolei), creating and conducting 19 annual Divorce Mediation Best Practices workshops for the Mediation Center of the Pacific since 2006, and publishing the monthly *Journal of Hawai'i Family Law* since January 1990, Darrah has worked tirelessly to help divorcing couples work through the terms of their divorce with the least amount of stress and pain.



John Egan was honored by the Hawai'i Immigrant Justice Center for being a pillar in the legal community in fighting for immigrant rights. His consistent advocacy and dedication to upholding justice for immigrants is a shining example for the team at the Hawai'i Immigrant Justice Center at the Legal Aid Society of Hawai'i. Egan helps Legal Aid organize naturalization workshops by bringing his valuable institutional knowledge and experience to the table. He is always willing to work with Legal Aid through creative and effective case strategies in wading through murky immigration issues. He has also taken cases from Legal Aid pro bono. Egan regularly speaks at community events and continuing legal education seminars to share his knowledge. He even invites lawyers to come to his office to use his law library and resources.

Jill Hasegawa was honored by the Domestic Violence Action Center ("DVAC") as a spirited and active member of the legal community and a generous professional serving many through her array of volunteer leadership positions. She has served on the Hawai'i Access to Justice Commission, Hawai'i Women's Legal Foundation, ABA's Commission on IOLTA, was past president of the HSBA Young Lawyers Division, and an active consultant to the Domestic Violence Action Center. In addition to accepting pro bono cases, Hasegawa has mentored and trained agency staff attorneys over the last eight years. Her kindness, warmth, and welcoming professionalism is deeply appreciated by all staff and management of the DVAC.

Lynne Jenkins McGivern was also honored by the DVAC for the leadership roles she has taken at the organization for more than 15 years. She has been a mentor, trainer, and Board president of the agency. She always provided wise guidance, clear investment, and generous willingness to meet the problem of domestic violence with bold grace. She also provides pro bono representation and case consultation regularly for clients and staff at DVAC.

Neva Keres was honored by the University of Hawai'i Elder Law Program ("UHELP") where she has been volunteering since 2013. She always makes herself available to help when assistance is needed and has participated in a wide range of activities, from helping with major conferences to making presentations in the community for UHELP, to mentoring and going on outreach with elder law clinic students, to editing publications, to answering the UHELP office phone. She has a depth of legal knowledge developed in a range of legal settings. As an example of her impact on behalf of UHELP, Keres developed quite a following at the Kokua Kalihi Valley Memory Clinic. She is a valued volunteer with UHELP and always exhibits the highest levels of competence, confidence, civility, and cheerfulness.

Jefferson S. Willard was honored by Volunteer Legal Services of Hawai'i ("VLSH") for his public service through volunteer work. Most notably, Willard has



donated not only his time, but also his legal training and skills to helping over 44 low-income individuals through VLSH's Pro Bono Program. He logged in over 113 hours this year in VLSH's Re-employment and Community Services program. Despite his busy practice and commitments to his wife and daughter, he has made time to give back to the community.

B. Access to Justice Room Volunteers

Judge Melanie May and Mark Murakami recognized the individuals, law firms, and groups who volunteered at the District Court Access to Justice Room. These individuals included: Sharon Lovejoy, Jefferson Willard, Alana Peacott-Ricardos, Nathaniel Higa, Arlette Harada, Cheryl Park, Beverly Sameshima, Kristie Chang, Bryant Zane, Stacey Djou, Tred Eyerly, Daniel Kim, Bruce Paige, Sam Yee, Miriah Holden, Samantha Chan, Daniel Cheng, Rowena Somerville, Justin Brackett, Bruce Paige, Sergio Alcubilla, Eileen C. Zorc, Dan O'Meara, and William H. Gilardy, Jr. The law firms included: Chong Nishimoto Sia Nakamura & Goto; Hawai'i Women Lawyers; McCorriston Miller Mukai Mackinnon; Carlsmith Ball; Cades Schutte; Goodsill Anderson Quinn & Stifel; Hawai'i Filipino Lawyers Association; Bronster Fujichaku Robbins; Schlack Ito; Starn O'Toole Marcus & Fisher; Alston Hunt Floyd & Ing; Ashford & Wriston; Damon Key Leong Kupchak & Hastert; Marr Jones Wang; and Yamamoto Caliboso.

Judge Catherine Remigio recognized the individuals who volunteered at the Family Court Access to Justice Room including: John Bryant Jr., Leslie Ching Allen, Richard Diehl, Noah Gibson, Jessi Hall, Seth Harris, Jill Hasegawa, Steve Hioki, Ann Isobe, Mari Kishimoto, Erin Kobayashi, Lynnae Lee, Marianita Lopez, Dyan Mitsuyama, Juan Montalbano, Michelle Moorhead, Mei Nakamoto, Elizabeth Paek-Harris, Gemma-Rose Poland Soon, Ellen Politano, Madalyn Purcell, Jackie Thurston, Carol Tribbey, Cheryl Yamaki, and Sandra Young.

C. Recipients of the Essay/Video Award

The Commission received 191 essays and videos from public and private high school students in grades 10 through 12 on the theme: "*Why we need volunteers, and how volunteering has helped me to answer this question.*" Regan Iwao, the lead coordinator of the contest, noted that the Commission received over 1,000 entries for the contest over the past five years. This year was the first time that videos were included in the contest.

The 2017 essay/video award recipients were: Kylie Alarcon, Aiea High School (video); Lona Girardin, Seabury Hall; Mya Hunter, Trinity Christian School; Elise Kuwaye, Kaimuki Christian School; Emily Kuwaye, Kaimuki Christian School; and Madison Pratt, Keauu High School.



These winners are pictured below along with Commission Chair, Justice Simeon Acoba (ret.), Hawai'i State Bar Association President, Nadine Ando, and Representative Della Au Belatti, Commissioner.



The preliminary judges for the contest included Judge Rhonda Loo, Judge Catherine Remigio, Judge Melanie M. May, Judge Michael Tanigawa, Judge William Domingo, Judge Dyan Mitsuyama, Judge James Kawashima, Judge John Montalbano, Judge Thomas Haia, Judge Randal Shintani, Judge Darolyn Lendio Heim, Judge James Ashford, Judge Hilary Benson Gangnes, Judge Steven Hartley, Jessi Hall, Derek Kobayashi, Sergio Alcubilla, David Brittin, Jenny Silbiger, Tracy Jones, Roya Deyhim, Joanna Sokolow, Jo Kim, Laurel Loo, and Shannon Wack.

The finalist judges of the essay contest were Chief Justice Recktenwald, Judge Ronald Ibarra, Commissioner, and 2017 HSBA President Nadine Ando. They praised the high school students for their inspiring essays and for actively engaging in volunteerism. Each of the students received a cash award of \$500, donated by McCorriston Miller Mukai MacKinnon, LLP; Schlack Ito, LLP; Goodsill



Anderson Quinn & Stifel, LLP; Damon Key Leong Kupchak & Hastert; Carlsmith Ball, LLP; and Bronster Fujichaku Robbins.

The Commission is grateful to everyone who supported and participated in the 2017 Pro Bono Celebration. The event represents an important gesture of gratitude to the attorneys and individuals who so generously donate their time to assist hundreds of people each year and serves to inspire Hawai'i's young people to volunteer. Equally important, the Celebration is a reminder to all of the importance of giving back and helping those in need to achieve access to justice.



V. ACCESS TO JUSTICE ROOMS and SELF-HELP CENTERS

by Jean Johnson, DrPH⁹

A major contribution toward increasing access to justice over the past few years has been the establishment of Access to Justice Rooms or Self-Help Centers in each courthouse in each state judicial circuit. This initiative has been a collaboration among the Hawai'i State Judiciary, the Commission, the Hawai'i State Bar Association, Legal Aid Society of Hawai'i, the AmeriCorps program and the county bar associations. For the First Circuit, the designation is Access to Justice Rooms; for the other circuits, the designation is Self-Help Centers.

Just as the names differ, the centers differ in the types of services they offer. The volunteer attorneys at the Honolulu District Court can provide legal advice. However, on the neighbor islands, the volunteer attorneys are limited to providing legal information. In 2012, when the Access to Justice Room was established at the Honolulu District Court, legal advice has largely focused on three civil areas: debt collection, temporary restraining orders (non-family), and landlord-tenant cases. Volunteer attorneys at Kapolei provide legal advice on family court issues. In the first circuit, Hookele, a service center or self-help desk, staffed by Judiciary employees make the referrals of self-represented litigants to the Honolulu District Court or Kapolei.

This report has been compiled for 2017 to provide a composite profile of the numbers of clients served, the income levels of those clients, the description of the services provided, and the client satisfaction with services.¹⁰ AmeriCorps personnel provide staffing support at each of the centers on the neighbor islands and at Honolulu District Court and are responsible for collecting and compiling the data and for producing monthly reports for submission to the Judiciary. Staff at Family Court provide similar data for Kapolei.

This is the first effort to provide a statewide picture of the clients and services being provided by the Access to Justice Rooms and the Self-Help Centers. While the data are not directly comparable because of the differences in the types

⁹ Jean Johnson is a Commissioner, serving as a community representative on the Commission.

¹⁰ Appreciation is expressed to the Legal Aid Society of Hawai'i's AmeriCorps members for overseeing and compiling these reports to the Judiciary on the monthly services provided at each center. Gratitude is also extended to the following AmeriCorps members for their dedication to providing access to justice in Access to Justice and Self-Help Rooms and their persistence in encouraging attorneys and clients to complete the surveys: Honolulu—Cynthia Ann Cuestas, Amy Peria, Destiny Brown, Sasha Georgiades, Monica McConnell, and Danielle Woo; Maui—Abegael Aldoso and Kathleen Brown; Hilo—Alexandria Agdeppa and Katie Kamelamela; Kona—Laura Cushman and Sarah Kelly; and Kaua'i—Sonia Song. At Kapolei, reports were provided by the law clerk for the Chief Judge of the First Circuit Family Court.



of legal support provided by volunteer attorneys, the data do provide an assessment that the services have been a significant factor in increasing access to justice for low-income and moderate-income persons.

Preparing the data was a challenge because it should be noted that the data collection formats differ across centers. Some centers had more challenges in collecting some portions of the data. Collecting data during the late summer months when AmeriCorps personnel are transitioning is a challenge. Also, a lag time exists in completion of year-end reports.

A. Profile of Clients Served

For 2017, Table 1 displays the number of persons referred for services and the number of attorneys providing services on the days each center was open. The number of attorneys is not an unduplicated number. It reflects the days that the center was staffed by an attorney. Some attorneys provided services on multiple days. Other attorneys may have only provided service on a single day during 2017. For Honolulu, 176 individual attorneys provided services; 35 provided services in Kona; 49 provided services in Hilo; 24 provided services in Maui; 10 provided services in Kaua'i; and 67 provided services for Kapolei.

Considerable variation exists in the number of days that individual attorneys provide professional services at the centers. For Kapolei, since the center was opened, four attorneys have volunteered more than 20 times. One has volunteered 28 times. For Kona in 2017, 14 attorneys served 65% of the clients. Another 40 attorneys served fewer days, providing services to 35% of the clients.

Table 1. Persons Served in 2017 by Court

Court	Number Referred	Number of Attorneys	Number Served by Attorney	Number Not Seen by Attorney on Date	Number Served by AmeriCorps
Honolulu	1,128	260	1,034	94	1,110
Kapolei	406	96	279	127	N/A
Maui	799	78	799	0	567
Hilo	1,152	188	1,127	25	1,135
Kona	632	137	600	32	613
Kaua'i	533	36	277	256	235
Total	4,650	795	4,116	534	3,660



In 2017, across the state, 4,650 eligible residents received legal information and services that would have been otherwise unavailable without the establishment of these resources. On a population basis, the centers on the Big Island appear to have served the largest percentage of their eligible population.

Centers differed in the challenges encountered in recruiting private attorneys to staff the center. On Kaua'i, staffing was limited to Legal Aid attorneys until five private attorneys volunteered in July, one in August, and three each for October and December. Maui was fortunate to not have to turn away a single client. Kapolei employs a different process whereby there are a designated number of slots for clients. Regardless of the number of referrals, only 24 clients could be seen for the first nine months of the year when six attorneys provided staffing. In October, the number of attorneys increased to eight, increasing the number of slots available for clients.

The column on the number of clients not seen by an attorney may be an indication that the client arrived too late or had to leave before the attorney was available to meet with them. Or, more clients may have appeared that day than could be accommodated by the available time slots. Those clients not seen on that day were likely rescheduled for the next available open date.

For the First Circuit, the majority of people were first-time clients. Approximately one-third over the year had previously received services from the center. Similarly in the Second Circuit, two-thirds of the clients were first-time clients and a third were repeat clients. For the Third Circuit, the data are different, with 49% of those receiving services being repeat visitors. Some of the clients at Hilo had visited the center as many as seven times previously. For Kaua'i, the results are similar to the Third Circuit with 167 (54%) of the 307 clients having previously been served by the Center. Approximately one-third of the clients seen in Kapolei had previously received services, some as many as eight times.

In 2017, for Honolulu, 233 (20%) of the clients served were veterans. Veterans comprised 7% of the clients on Maui. For Kona, 74 (23%) of the clients were veterans. For Hilo, 13% of the clients were veterans. On Kaua'i, 34 (7%) of the 493 clients were veterans. Kapolei does not collect information on veteran status.

Table 2 reflects the self-reported income for clients in 2017. This survey information is voluntary, resulting in a significant percentage (42%) of clients choosing not to reveal that information. Kapolei does not collect data on income. This table indicates that these centers are reaching the intended population of low-income and moderate-income clients.

The largest percentage (38.8%) of the total number referred, who completed the survey form, were from the lowest-income level—those under 125% of the



Federal Poverty Level (FPL). Altogether, those reporting incomes under 250% of the FPL constituted 58.1% of the clients served. Those reporting incomes exceeding 250% of the FPL may well represent more middle-income individuals, comprising 19.6% of the population served. By circuit, those individuals in the Third Circuit represented the largest percentage across the state of low-income clients receiving services.

Table 2. Client's Self-Reported Income for 2017 by Court

Court	Under 125% FPL	125-200% of FPL	200-250% of FPL	Above 250% of FPL	No Response
Honolulu	250	93	54	247	394
Maui	280	124	62	123	249
Hilo	393	94	27	91	247
Kona	214	90	30	125	145
Kaua'i	221	52	46	99	113
Total	1,358	453	219	685	1,148

B. Description of Cases and Services Provided

Through the neighbor-island Self-Help Centers, short-term legal support is provided to self-represented litigants on district court civil matters such as landlord-tenant, debt collection, family issues, and small claims. At the Kapolei Courthouse Access to Justice Room, advice is limited to family law issues, including custody/visitation, child support, divorce and paternity issues, guardianships, adoptions, and temporary restraining orders.

As described earlier, when the Access to Justice Room was established at the Honolulu District Court, the decision was made to focus on three civil areas: debt collection, temporary restraining orders (non-family), and landlord-tenant cases. The table for Honolulu includes additional categories of "Small Claims" and "Other." Table 3 describes the issues for which legal assistance was sought.

These differences make data difficult to compare. Honolulu District data forms reflect the categories of Landlord-Tenant, TRO, Debt Collection, Small Claims, and Others. The categories on the neighbor island data forms were more extensive. To create the table, it was necessary to combine some of the categories on the neighbor island forms. For example, from the neighbor island reports, the categories of "Landlord/Tenant Dispute or Eviction" and "Foreclosure" were combined under the "Landlord-Tenant" category for Honolulu. Also, "Small Claims" and "Garnishment" in the neighbor island reports were combined under "Small Claims."

Table 3. Types of Cases Assisted in 2017 by Court

Court	Landlord Tenant	TRO	Debt Collection	Small Claims	Family Law	Other
Honolulu	471	146	289	145	0	101
Kapolei	0	0	0	0	348	0
Maui	129	58	48	55	370	134
Hilo	103	129	36	55	512	145
Kona	81	46	44	49	309	109
Kaua'i	95	70	12	50	286	31
Total	879	449	429	354	1,825	520

For Family Court in Kapolei, the following are the totals for services provided in each of the categories.

- Custody/Visitation: 117
- Child Support: 54
- Divorce Issues: 1
- Guardianship: 16
- Paternity: 16
- Other Issues: 41

Family-law cases accounted for 41.4% of the cases statewide. Except for Kona, family-law issues were the majority of cases in each of the other courts. The patterns were similar with divorce and custody/visitation issues being the most frequent reasons for requesting legal assistance.

Except for Hilo, the second most frequent reason for seeking services was landlord-tenant issues. For the neighbor islands, assistance with Temporary Restraining Orders (TROs) was a major area of service-need. For the first circuit, the most frequent type of “other” case involved personal injury. For the other circuits, a wide range of other needs were catalogued.

The types of services provided by attorneys are classified into the following categories: brief question and answer, extended question and answer, in-depth question and answer, analyzed documents, provided forms, assisted with forms, reviewed forms, assisted with computer research, assisted with filing, and other.

For the First Circuit, the most frequent service provided (for six of the twelve months) was the “extended question and answer.” Altogether, brief, extended, and in-depth question and answer services were the most frequently services provided by the attorneys. Analysis of documents was the next most frequent service indicated.



Maui provided a different pattern, with the extended question and answer being the most frequent service, with no reports of brief or in-depth services provided. Analysis of documents was the next most frequent for the seven months for which data were reported.

For the Third Circuit, brief question and answers was the most frequent service provided, with in-depth question and answers rarely provided, with assistance with forms the second most frequent service provided. While, in the Fifth Circuit, brief, extended and in-depth question and answer services were the most frequent service provided; a higher percentage related to forms was evident in the Fifth Circuit.

In Honolulu, relatively few referrals were made to legal service providers. As an indicator of the extensive needs of the clients, the majority of referrals were to other agencies. In the Third Circuit, at the beginning of the year, almost all referrals were to other legal providers; however, by the last half of the year the majority of referrals were to other agencies. For the Fifth Circuit, referrals to other agencies accounted for a smaller percentage of referrals. Referrals to private attorneys appeared more frequent for the Fifth Circuit.

On Maui, the pattern differed, with a greater percentage being referred to legal service providers and relatively few to other providers for the seven months in which data were provided. Similarly, for Kapolei, although multiple services were provided to clients, the most frequent were question and answers followed by review of documents.

C. Client Satisfaction with Services Provided

As with the income surveys, the satisfaction surveys are voluntary and need to be completed by the clients. A significant number choose not to complete the satisfaction survey. For 2017, 1,338 (28.8%) of the 4,650 clients did not return their satisfaction survey. Another 103 (2.2%) returned the survey but did not indicate their level of satisfaction with the services provided. The change-over of AmeriCorps personnel during the year complicates efforts to obtain complete data.

The client satisfaction surveys contain requests for extensive information, including requesting responses to the visit assessment, the service assessment, and requests comments and suggestions. It may be that the length of the satisfaction survey discourages participation.

Surveys were returned in the Honolulu District Court for approximately 50% of the clients served. For 2017, this return-rate ranged from a high of 63% returned to a low of 28% returned. For Kapolei, the return rate varied from a low of 57% to a high of 94%. The Second Circuit encountered greater difficulty in getting survey forms returned. The percentage declined month by month, from



62% not being returned in January to 96% not being returned in July. Only limited survey data were recorded for the last six months of the year. Kona was quite successful in obtaining returned surveys. For 2017, the average return rate for the satisfaction surveys was 93%. Hilo had return rates that averaged 81%. Kaua'i was also quite successful, getting 70% of its surveys returned, from a low of 55% to a high of 88% across the twelve months.

Table 4. Client Satisfaction Reports in 2017 by Court

Court	Very Satisfied	Satisfied	Unsatisfied	Very Unsatisfied	No Answer	No Survey Returned
Honolulu	480	97	4	6	4	448
Kapolei	153	37	2	5	10	54
Maui	87	28	0	0	1	468
Hilo	529	237	0	16	10	165
Kona	349	128	11	5	67	43
Kaua'i	277	91	5	2	11	160
Total	1,875	618	22	34	103	1,338

What is obvious from Table 4 is that the great majority of clients (97.8%), who returned surveys and provided an answer, are either very satisfied or satisfied with the services they received. Overall, a majority (73.6%) described themselves as “very satisfied.” Sometimes the responses were “very, very satisfied!” Only 2.2% of those returning surveys indicated that they were unsatisfied or very unsatisfied.

In addition to rating the services, the forms provided clients an opportunity to express personal comments and suggestions for improving the services. These comments and suggestions contain qualitative indicators of the value of the services to the individuals. A Hilo client shared, “I was very happy with the information and service and feel a little more prepared for the next steps.” Someone visiting the Honolulu District Court expressed appreciation for “an excellent experience and so helpful to my situation.” A common comment was the wish for more time to spend with the attorney. A Maui visitor acknowledged, “I could have been better prepared.” A Kona client expressed, “All good. You are a life saver.” The experience on Kaua'i was described as, “Great service, would recommend to others in the community.” A visitor to Kapolei summed up her experience as, “Gave me the support and hope I needed and encouraged me to come back.”

D. Center Locations and Hours of Service

The Access to Justice Room at the Honolulu District Court is located on the third floor of the Honolulu District Court Building at 1111 Alakea Street. On Mondays and Wednesdays from 9:00 AM to 1:00 PM the room is staffed by a law firm or organization adopting the month to volunteer. On Fridays it is open the same



hours with other attorney volunteers. An AmeriCorps representative provides services MWF from 8:30 AM to 1:30 PM. At the Kapolei Courthouse, the Access to Justice Room opens from 11:30 AM to 1:30 PM on the 1st and 3rd Thursdays of each month.

The Maui Self-Help Center is located on the first floor of Ho‘apili Hale, 2145 Main Street in Wailuku. It is open on Thursdays from 9:00 AM to noon. Residents on Moloka‘i, Lana‘i, and Hana have access to the Center by phone during opening hours.

Hilo’s Self-Help Desk is located on the first floor of Hale Kaulike at 777 Kilauea Avenue in Hilo. Services are available on Tuesdays and Fridays from 11:15 AM to 12:45 PM. Open on Wednesdays from 11:00 AM to 1:00 PM, the Kona Court Self-Help Desk is located at the Keakealani Building, 79-2010 Haukapila Street in Kealekekua.

Kaua‘i’s Self-Help Center, located at Pu‘uhonua Kaulike, was the first center opened in the state. It opened with a commitment to provide services five days a week. Currently, the center is open on Mondays, staffed by a Legal Aid attorney and an AmeriCorps member. On Tuesdays through Thursdays from 9:00 AM to noon, only by the AmeriCorps member. On Fridays it is open from 9:00 AM until noon, with a volunteer attorney and the AmeriCorps member.



VI. OTHER INITIATIVES TO INCREASE ACCESS TO JUSTICE

A. Online Pro Bono

Hawai'i's Online Pro Bono (HOP), administered by Volunteer Legal Services Hawai'i, was launched in October 2016. This initiative started as one of the projects initiated by the Committee on Initiatives to Enhance Civil Justice based on a model from Tennessee. This legal service platform is part of the American Bar Association Free Legal Answers Project. The goal of HOP is to provide an additional tool for individuals who cannot afford an attorney. Volunteer attorneys can log in at any time, choose a question and then respond. The service is accessible from any computer, including public library computers.

Through HOP, users can simply register at Hawai'i.FreeLegalAnswers.org and post a specific civil legal question. To qualify to use the service, users must meet income and asset qualifications. Once qualified, the user can post legal questions via an email format, and upload any picture or document associated with the legal issue. Once posted, the question will be added to the bank of questions on the site which can only be viewed by registered volunteer attorneys.

HOP is an opportunity for attorneys to provide limited assistance to those in need of legal guidance. The commitment is short term, and there is no expectation for representation beyond the question and answer format. Volunteers are provided professional liability insurance through the American Bar Association for pro bono activities provided through HOP. HOP is intended to be an opportunity to engage more attorneys in providing pro bono services to those most in need. The online format makes it easy for both users and attorneys to connect with one another whenever and wherever is most convenient for them.

In 2017, HOP successfully finished its first full year of services. A total of 226 questions were asked by qualified clients and answered by more than 60 volunteer attorneys. In total, 349 hours of professional services were provided with an estimated value exceeding \$83,000.

Although Honolulu had the majority of users (51%), the highest population percentage using the HOP were residents of the Big Island (35%). Eight percent (8%) of the users were from Maui county; 6% were on Kaua'i. Similar to the data found in Self-Help Centers, the largest percentage (48%) consisted of questions related to family law, divorce, custody, and paternity. Debt and collection questions were the next largest category (18%), followed closely by landlord-tenant questions (16%). Bankruptcy (4%), immigration (3%), and veteran benefits (2%) accounted for less than 10% of the total.



B. Unbundling Rule

Currently, the Self-Representation and Unbundling (“SRU”) Committee is re-constituting its “Rule 1.2 Subcommittee,” and working on a recommendation to the Access to Justice Commission for a response to a letter received in March 2017 from the Supreme Court on proposed amendments to court rules relating to the provision of unbundled services. The Supreme Court had published these proposed rule amendments for public comment, following a recommendation by the Commission that the rules be adopted. The Supreme Court requested, after the close of the public comment period, that the Commission consider certain revisions and prepare additional related court forms. The Commission referred the Supreme Court’s letter to the SRU Committee for a recommendation on a response.

By way of background, beginning in about September 2009, under the diligent leadership of former SRU Committee Chair, the Honorable Trudy Senda, the SRU Committee initially set out to investigate means to provide opportunities and support for attorneys to deliver limited scope representation or “unbundled services” to self-represented litigants. This investigation included reviewing the ABA Standing Committee on the Delivery of Legal Services’ “White Paper” of June 2009, on the components of a successful unbundled system.

Chair Senda constituted and convened the “Rule 1.2 Subcommittee,” so-called because the subcommittee was focusing on Rule 1.2 of the *Hawai'i Rules of Professional Conduct* as the principal rule by which to promote delivery of unbundled services. The Rule 1.2 Subcommittee’s general mission was to:

- (1) Create guidelines to encourage attorneys to take cases involving unbundled services;
- (2) Create standardized forms (such as a standard retainer agreement); and
- (3) Explore court annexed, on-site programs which may be staffed by pro bono attorneys.

The Rule 1.2 Subcommittee accomplished much, including the production of initial proposed amendments to the HRCP, DCRCPC, the FCR and HRCP, together with drafts of the proposed forms to accompany the amended rules.

Thereafter, the Rule 1.2 Subcommittee’s proposed rule amendments and forms were presented during a session at the 2013 Access to Justice Conference. Attendees at the conference reacted in a mixed fashion. Most significant of the concerns raised were two primary issues:

1. Whether any amendment of HRPC Rule 1.2 was required, given the perspective that HRPC Rule 1.2(c) already provides that an attorney may limit the



scope of representation, “if the limitation is reasonable under the circumstances and the client gives consent after consultation;” and

2. Whether the limited scope representation/unbundled services rules should require that the attorney providing such services must disclose to the opposing parties and the Court that the representation is being provided to the client on a limited basis.

Given the comments received at the 2013 Access to Justice Conference and to address these two primary issues, members of the HSBA who had voiced concerns were invited to provide input on further revisions to the proposed rules and amendments, and also to participate in the 2014 Access to Justice Conference panel on the topic.

Following the 2014 Access to Justice Conference, the SRU Committee went back to work and considered the drafts developed by the Rule 1.2 subcommittee, the comments and further revisions at the 2013 and 2014 Access to Justice Conferences' panel presentations. Ultimately, at that time, the SRU Committee's proposed rule amendments for unbundled services did not include any proposed revisions to HRPC Rule 1.2 and proposed that the disclosure of the limited scope of representation by an attorney who provides such representation be permissive rather than mandatory.

Presently, however, now that the Rule 1.2 Subcommittee has been reconstituted and is working on a response to the letter from the Supreme Court on the proposed rules, the two primary issues mentioned above may again be revisited and discussion renewed within the subcommittee on the same.

C. Hawai'i Appellate Pro Bono Pilot Project

The Hawai'i Appellate Pro Bono Pilot Project was a joint project of a subcommittee of the Committee on Increasing Pro Bono Legal Services and the HSBA Appellate Section and the Hawai'i Appellate Courts. The purpose of the project was to match eligible pro se appellate litigants with volunteer appellate attorneys willing to provide pro bono legal services. The pilot project was established by the August 7, 2015, order of the Hawai'i Supreme Court, with the pilot expiring on July 1, 2017.

Administered by Volunteer Legal Services Hawai'i and the HSBA Appellate Section, the pilot proved to be a successful venue for increasing access to justice. In light of the project's accomplishments and the importance of continued provision of pro bono assistance to financially deserving pro se litigants in matters on appeal,



the Supreme Court ordered (SCMF-15-0000566) that the pilot be made permanent and thereafter referred to as the Hawai'i Appellate Pro Bono Program.¹¹

The program is focused on civil cases involving foreclosures, summary possessions, employment discrimination, worker's compensation, wrongful termination, denial of unemployment benefits, state tax appeals, probate matters, and paternity and non-married custody cases. Participants must meet income level requirements and are responsible for any costs associated with the appeal, including filing, transcript, or other costs related to the preparation of the record on appeal and presentation of arguments to the appellate courts. For 2017, of the eight applicants to the program, three met eligibility requirements.

D. Work of the Task Force to Increase Effective Utilization of Paralegals and Other Non-lawyers

At its January 11, 2016 meeting, the Hawai'i Access to Justice Commission approved the creation of the Task Force on Paralegals and Other Non-lawyers ("Task Force")¹² to examine the role of paralegals in expanding access to justice for low- and moderate-income people in Hawai'i. The Task Force met regularly, sometimes more than once per month, during 2016, and prepared a report to the Commission in July 2016 recommending the concurrent development of a court-sponsored Volunteer Court Navigator program, a dedicated paralegal Tenant Advocate, and a regulated Licensed Paralegal Practitioner to help address substantiated unmet need in housing, family, domestic violence, consumer, health, public benefits, and special education areas.

At its October 17, 2016 meeting, the Commission voted to "support the efforts of the Task Force and to send the Task Force report to the Supreme Court for its information and to await response from the Court;" by letter dated October 24, 2016, Commission Chair Simeon Acoba transmitted the Task Force Proposal "for

¹¹ SCMF-15-0000566 is attached as Appendix D.

¹² The current members of the Task Force on Paralegals and Other Non-lawyers are: Judge Joseph E. Cardoza, Chief Circuit Court Judge on Maui (Chair); Gilbert Doles, Rona Fukumoto, Victor Geminiani, Susan Jaworowski, Jean Johnson, Tracy Jones, Carol K. Muranaka, Diane T. Ono, and Mathew Sagum. The Task Force members have been working with others designated as the Maui Subcommittee and the Oahu Subcommittee. The Maui Subcommittee members include Judge Lloyd Poelman (Family Court); Judge Adrienne Heely (District Court); Brandon Segal, Maui County Bar Association President; Theresa Arcilla (retired Deputy Sheriff/Court Clerk, Process Server, paralegal); Sandy Kozaki, Chief Court Administrator; Traci Texeira, Special Operations Assistant; and Bevanne Bowers, Executive Director, Maui Mediation Services. The Oahu Subcommittee members include Judge Mark Browning (former Family Court); Judge Melanie Mito May (District Court); Iris Murayama, Deputy Administrative Director of the Courts; Evelyne Luk, Court Administrator for Legal Documents; Nanci Kreidman, Executive Director, Domestic Violence Action Center; Tracey Wiltgen, Executive Director, The Mediation Center of the Pacific; and Ashley King, vice president, Hawaii Paralegal Association.



the Court's information." In a letter to Justice Acoba dated December 23, 2016, on behalf of the Supreme Court, Chief Justice Mark E. Recktenwald expressed openness to the Commission's proposal for a Volunteer Court Navigator program, as well as the proposal for an Advocate pilot program to help with not only evictions but also certain family law cases (with the limitation that such Advocates be employees of legal services providers). However, the Court was not inclined to pursue the proposed Licensed Paralegal Practitioner program at that time.

In May 2017, the Commission approved the Task Force's proposal for a Volunteer Court Navigator program to be transmitted to the Hawai'i Supreme Court. The proposal presented a pilot program in the First Circuit (Oahu) and in the Second Circuit (Maui) to assist the self-represented litigants who are appearing in the District Courts on landlord-tenant, debt collection, and temporary restraining orders (non-family) cases. The project is modeled after the New York Court Navigator program, which has been successful.

On November 3, 2017, the Hawai'i Supreme Court issued its orders establishing a Volunteer Court Navigator Pilot Program in the First¹³ and Second¹⁴ Circuits. Attached to each order is the description of the Volunteer Court Navigator Pilot Project as approved by the Commission and sent to the Supreme Court for approval.

E. Funding Initiatives to Increase Access to Justice

The Commission's commitment to increase resources for funding legal service providers is led by its Committee on Funding of Civil Legal Services. Its Chair, Gary Slovin and his law partner, Mihoko Ito have been at the forefront of legislative efforts to increase fiscal resources. Over the past decade funding has increased by several million dollars, flowing primarily from the Indigent Legal Assistance Fund (ILAF) program. However, efforts are needed every year to oversee the funds for legal service providers.

With the increase in ILAF funding, the next hope was to initiate a program to raise funds in the private sector. However, it has not been possible to make progress on securing private sector funding because of the need to work during every legislative session to monitor ILAF funding for legal service providers. Securing funding from the private sector is a definite need and efforts will continue to develop that source.

¹³ The Order Establishing a Volunteer Court Navigator Pilot Program in the First Circuit filed on November 3, 2017 (SCMF-17-0000814 is attached as Appendix E.

¹⁴ The Order Establishing a Volunteer Court Navigator Pilot Program in the Second Circuit filed on November 3, 2017 (SCMF-17-0000814) is attached as Appendix F.



The Committee's Chair has also been involved in issues related to how government funded grants to legal service providers should be managed as well as supporting grants themselves. Those grants have averaged \$750,000. The committee has worked to increase the funding to \$2,000,000. While ILAF was maintained in 2017, the grant funding did not survive, despite the efforts of many to save the grants.

While not directly related to the committee agenda, the Chair has been involved in another effort to secure help for the legal service providers through chairing a task force that tried to persuade the Legislature to pass legislation that would assist law graduates in paying off their loans if they agreed to work for a legal service provider. That effort took much effort but was ultimately unsuccessful.

**APPENDICES**

- Appendix A: Rule 21 of the *Rules of the Supreme Court of the State of Hawai'i*
- Appendix B: Chief Justice Mark E. Recktenwald, Welcoming Remarks at the Hawai'i Access to Justice Conference, June 16, 2017
- Appendix C: Kellye Y. Testy, Toni Rembe Dean and Professor of Law, University of Washington, Keynote Address titled, "Just Innovation" at the Hawai'i Access to Justice Conference, June 16, 2017
- Appendix D: "In the Matter of the Hawai'i Appellate Pro Bono Pilot Project," SCMF-15-0000566, April 19, 2017
- Appendix E: "Order Establishing a Volunteer Court Navigator Program in the First Circuit," SCMF-17-0000814 (1CC), November 3, 2017
- Appendix F: "Order Establishing a Volunteer Court Navigator Program in the Second Circuit," SCMF-17-0000814 (2CC), November 3, 2017