

2023 HAWAI‘I ACCESS TO JUSTICE CONFERENCE

“BUILDING TRUST AND UNDERSTANDING ABOUT CIVIL ACCESS TO JUSTICE”

Friday, June 16, 2023

William S. Richardson School of Law, University of Hawai‘i

12:45 - 2:00 p.m.

“ ‘For the Public Good’ -- Pro Bono -- Obligation or Opportunity?”
[Judge Joseph E. Cardoza (ret.) (Moderator), Justice Simeon R. Acoba, Jr. (ret.), Caroline Peters Belson]¹

The Hawai‘i Access to Justice Commission was founded in May 2008 pursuant to Rule 21 of the Hawai‘i Supreme Court Rules. The purpose of the Commission was to substantially increase access to justice in civil matters for low- and moderate-income residents of Hawai‘i, a purpose that arose out of a 2007 Access to Justice Hui Report, that found a) legal service providers are able to help only one in three of those persons who contact them for assistance; and b) only one in five low- and moderate-income Hawai‘i residents have their legal needs met.

The 22-member Commission had fourteen objectives including implementing initiatives, supplementing long-term funding of delivery of civil legal services, increasing pro bono contributions by Hawai‘i attorneys, and educating the public about the importance of access to justice. The full description of these objectives and the work done by the Commission can be found online at the Hawai‘i Justice Foundation website or the Hawai‘i State Judiciary website.

Rule 6.1 of the Hawai‘i Rules of Professional Conduct provides that a lawyer should aspire to provide at least 50 hours of pro bono services per year. In lieu of providing 50 hours of pro bono services, a lawyer may contribute at least \$500 each year to the Hawai‘i Justice Foundation or entity that provides legal services at no fee, or a reduced fee.

For the years 2020-2022, 55-62% of the attorneys who held active membership in the Hawai‘i State Bar Association (HSBA) reported contributing pro bono services while 18-26% of government attorneys reported contributing pro bono services. Of the total HSBA membership during this period, 34-41%

¹ Caroline Peters Belson prepared this summary with the assistance of her co-presenters, Justice Simeon Acoba and Judge Cardoza.

of the member attorneys reported providing pro bono services in the average amount of 52-60 hours per member attorney.

Since government attorneys make up roughly 20% of the active HSBA membership, in moving forward, the Commission might consider developing a model pro bono policy that would establish guidelines for government employers and attorneys and encourage government attorneys to engage in pro bono activities. The model policy would address issues for government attorneys when faced with pro bono services, namely, a) pro bono activity conflicts with their employment duties; b) they may appear to be using public resources for private benefit; and c) there may not be legal malpractice coverage for pro bono services. Moreover, there are no exceptions within existing government policies and practices for providing pro bono services.

There are some model policies one can look at when trying to create a pro bono policy, including 1) Model Pro Bono Policy for Hawaii Law Firms, 2) Model Policy for Government Attorneys, 3) Performing Pro Bono Work by the Corporation Counsel, City and County of Honolulu, and 4) Hawaii Judicial Pro Bono Policy. Possible consideration should be given to a) exploring an amendment to the state statutes to permit pro bono services by deputy attorneys general, b) encouraging county corporation counsel offices and county prosecutor offices to adopt pro bono programs, c) exploring an amendment to the state statutes to permit the public defenders office to adopt a pro bono program, d) inviting smaller government legal offices to adopt a pro bono program or policy, e) encouraging government lawyers to contribute to pro bono services on an individual private basis, and f) encouraging financial support and/or increasing the suggested \$500 Rule 6.1 contribution.

Upon further examination of Rule 6.1, it is clear that our system of law depends on equal access to the privileges and protections that pro bono representation can provide. Such services level the playing field for clients who are not able to pay for capable representation. The benefits for the pro bono attorney include learning new skills, making career connections, and boosting one's professional profile. For law firms, there is the opportunity to train associates, recruit law students and other lawyers, enhance the firm's public reputation, and develop business. In providing pro bono services, an attorney supports the goals of the justice system, contributes to the public good, and improves the lives of others.

The opportunities to participate in pro bono services are numerous and varied. One such opportunity is volunteering to provide legal information to self-represented litigants through the Self-Help Centers within each of the State's five circuits. Operating remotely, volunteer attorneys dispense legal information to callers who have or intend to have claims pending in the District

Courts. The most common areas of law for a caller are family law, landlord/tenant matters, and small claims/collection matters. During any hour, a volunteer attorney may handle, on average, three callers.

There are many types of recipients of pro bono services, but they all are real people with real needs for whom a volunteer attorney can make a world of difference. The demand for pro bono services is high. Statistics show that every licensed attorney in the United States would have to provide 180 hours of pro bono services every year in order to provide 1 hour of service to every household with an unmet civil legal need.

Sign up with one of these Hawai'i legal services providers:

- Legal Aid Society of Hawai'i
- Volunteer Legal Services Hawai'i
- Domestic Violence Programs
- Mediation Programs
- Volunteer Court Navigator Program
- Commission's Committee on Increasing Pro Bono Legal Services and the HSBA Delivery of Legal Services to the Public Committee
- The Mediation Center of the Pacific
- The Legal Clinic (Immigration Law and Justice Network-Hawaii)

Pro Bono is both an ***obligation*** and an ***opportunity*** to make a difference.