

2024 HAWAI‘I ACCESS TO JUSTICE CONFERENCES
“MEETING THE CHALLENGES OF CIVIL ACCESS TO JUSTICE FOR ALL”

Friday, June 21, 2024

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

12:45 – 2:00 p.m.

“INITIATIVES TO FACILITATE ACCESS TO JUSTICE”

Presenters: **Judge Darien Ching Nagata (Facilitator), Nikole Nelson, Jessica “Jaycee” Uchida**

Opening Remarks:

Judge Nagata introduced herself as a Family Court Judge in the 3rd Circuit (Big Island) in Hilo, Hawai‘i. Judge Nagata introduced Nikole Nelson, CEO, Frontline Justice and Jessica “Jaycee” Uchida, Senior Attorney for Legal Aid Society of Hawai‘i (“Legal Aid”) in Hilo.

Judge Nagata indicated that, as of July 2023, Hawai‘i County has approximately 14.447% of the statewide population according to the Department of Business, Economic Development and Tourism Census website. According to the Hawai‘i State Judiciary’s 2023 Annual Report Statistical Supplement for fiscal year 2022-2023 the Third Circuit’s carried approximately 25% of the statewide total caseload for paternity cases. There is a large disparity of paternity cases in the Third Circuit compared to the statewide population. The overwhelming majority of these cases are self-represented litigants, many of whom fall below the poverty guideline and cannot afford an attorney.

Senior Attorney Uchida discussed the purpose and objective behind the Rural Paternity Advocate Pilot Project in the Third Circuit. Senior Attorney Uchida explained that this pilot project was created with the intention of helping to meet the critical unmet needs of rural, low-income self-represented litigants in child custody, timesharing and paternity matters by allowing

qualified, non-lawyer Legal Aid advocates under the supervision of a Legal Aid attorney licensed in Hawai'i to represent them in court. Senior Attorney Uchida further noted that this pilot project initiative being executed by Legal Aid was made possible by the Hawai'i Supreme Court and Hawai'i Access to Justice Commission, who approved the pilot project and issued the order allowing non-attorney Legal Aid advocates to appear in court. Senior Attorney Uchida covered the content and creation of the rigorous curriculum developed to train the advocates regarding substantive law material and courtroom practice and procedure. She further discussed the progress that the pilot project has made thus far and what she hopes the initiative will accomplish in the remainder of the pilot project period. She ended her portion of the presentation by sharing the positive experience of a client who was represented by a Legal Aid advocate.

Judge Nagata discussed non-lawyer initiatives that she implemented in her courtroom in the Hilo for her paternity cases. The Rural Paternity Advocate Pilot Project is assigned to her courtroom and she has worked with the Legal Aid Society of Hawai'i to help develop a process for the project. Besides utilizing this Project, it is common for Judge Nagata to refer parties to mediation. The mediation center in Hilo charges parties based on a sliding scale so that parties are able to afford the services. Additionally, the Third Circuit can appoint a self-represented litigant a Fact-Finding Investigator ("FFI") at absolutely no charge to the litigants. Custody Evaluators ("CE") are allowed by Hawaii Revised Statute Section 571-46.4, but are often not affordable by the self-represented litigants. If self-represented litigants cannot afford a CE, a FFI from the Judiciary's Program Services division can be appointed free of charge to the litigants. Another initiative utilized by Judge Nagata for paternity cases are Voluntary Settlement Masters ("VSM"), family law attorneys from Oahu, who provide pro bono services to

help litigants resolve paternity matters via zoom in sessions that are separate from the court proceedings. There is no cost to the self-represented litigants. The VSM sessions are held remotely using a separate judiciary zoom account during Judge Nagata's court paternity calendar so there is no extra cost to the judiciary and is done while the court is running its own calendar. If the above mentioned measures do not result in the resolution of the case, an option is to have a settlement conference held by a different judge. These pilot projects and initiatives help resolve paternity cases at no cost (with exception of the mediation) and with less time to the litigants. These non-lawyer initiatives benefit the self-represented litigants, the judiciary and the community as a whole.

CEO Nelson discussed the Alaska Community Justice Worker model and its expansion to four other states (Montana, Arizona, Oklahoma and Minnesota) to provide disaster recovery assistance in tribal communities. She gave details about how Alaska's Community Justice Worker model has been implemented. Explaining that it had been an outgrowth of the Alaska Supreme Court's Access to Justice subcommittee's "Justice for All" project and involved integrating legal aid across other community-based nonprofits such as healthcare and social services providers. CEO Nelson explained that it was made possible both by Alaska's permissive "unauthorized practice of law" statute as well as a Supreme Court waiver that empowers justice workers to provide legal assistance that would otherwise run afoul of the UPL restrictions so long as they are doing so under the supervision of Alaska Legal Services Corporation (the state's legal aid program). CEO Nelson further explained that with funding from the Legal Services Corporation the Alaska model had been expanded to support work in 4 states in the Lower 48 to help disaster recovery efforts in remote communities. She also discussed other non-lawyer models in Arizona, Utah and Delaware.

The session ended with a question-and-answer session.