

## 2024 HAWAI‘I ACCESS TO JUSTICE CONFERENCE

### “MEETING THE CHALLENGES OF CIVIL ACCESS TO JUSTICE FOR ALL”

Friday, June 21, 2024

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

#### Summary of Morning Session

8:30 – 9:00 **Welcome: Former Dean Aviam Soifer and Robert LeClair, co-emcees, Hon. Joseph Cardoza, Chair, Hawai‘i Access to Justice Commission, State of Hawai‘i Second Circuit Chief Judge (ret.), Hon. Mark E. Recktenwald, Chief Justice, Hawai‘i Supreme Court**

*Welcome.* Co-emcee Avi Soifer welcomed attendees to the 15th annual Hawai‘i Access to Justice Conference. He thanked everyone that helped put on the conference including the William S. Richardson School of Law for providing the facilities for the conference.

*Hon. Joseph E. Cardoza, Chair of the Hawai‘i*

Judge Cardoza also welcomed everyone to the conference and thanked the Hawai‘i Access to Justice Conference Commissioners, under the leadership of Chief Justice Recktenwald, and the various committees who worked to organize and put on the conference. He led a moment of silence for the late Patricia Mau-Shimizu and recognized her work as the Executive Director of the Hawai‘i State Bar Association.

Judge Cardoza spoke about those impacted by the Maui wildfires and those that provided help and support following the wildfires.

Judge Cardoza highlighted meeting Immaculee Ilibagiza, a woman who survived the Rwandan Holocaust and a member of the Tootsie minority ethnic group. Following the assassination of the Rwandan president, the majority ethnic group, Hutu blamed the Tootsie members for his death and murdered nearly a million Tootsies. Immaculee and seven other women hid in a small bathroom for 91 days from the Hutus, including a childhood friend, who violently killed all but one of Immaculee’s family members.

From this Rwandan tragedy we learn the dangers of a divided society and the importance of forgiveness. Judge Cardoza encouraged everyone to embrace our rich diversity and not let division change the way we think about one another. Instead, be mindful and prepared to seek justice for all. He concluded by thanking attendees and everyone to enjoy the conference.

*Hon. Mark E. Recktenwald, Chief Justice, Hawai'i Supreme Court.*

Chief Justice Recktenwald acknowledged Judge Cardoza's leadership of the Hawai'i Access to Justice, and Justice Simeon Acoba and Justice Daniel Foley as prior leaders. He thanked all attendees, the Hawai'i Access to Justice Commission, and volunteers. He recognized the support of his colleagues Justice Sabrina S. McKenna, Justice Todd W. Eddins, Justice Lisa M. Ginoza and Justice Vladimir P. Devins who were also in attendance. He thanked Robert LeClair, Carol Muranaka, the Cades Foundation and the Hawai'i State Bar Association. He talked about the important partnership with the William S. Richardson School of Law, including Dean Camille Nelson's support of the Access to Justice Commission.

Chief Justice Recktenwald briefly highlighted the relationship between Alaska and Hawai'i and the similarities for both states. He spoke about Nikole Nelson, the CEO of Frontline Justice, a new initiative with the goal of getting community members to help those in need of legal services. This includes training and supervising nonlawyers to assist and provide resources to people in rural communities.

He also mentioned the Rural Paternity Advocate Pilot Project which started serving approximately 8-9 individuals in the Third Circuit. He thanked Judge Darien Ching Nagata for spearheading the project which involves the Legal Aid Society of Hawai'i and provides help to self-represented parties in paternity cases.

Chief Justice Recktenwald highlighted the partnerships and community efforts that came together to help with the Maui Wildfires. He thanked the 274 lawyers who volunteered to man the hotlines, former HSBA President Rhonda Griswold and HSBA Executive Director Patricia Mau-Shimizu. He expressed "Mahalo" to the Maui County Bar, Legal Aid Society of Hawaii, Volunteer Legal Services, and the Domestic Violence Action Center, who provided guidance to those affected by the wildfires and helping to protect their interests.

The Legislature has provided \$1.2 million in funding for civil legal services since 2022. Chief Justice Recktenwald praised the partnership between the Legislature and Hawaii Access to Justice which helps improve the justice system. He mentioned how the access to justice initiatives, in particular the Self-Help Centers that allow attorneys to volunteer their time to help self-represented individuals. More than 37,000 people have been helped since the first Self-Help Center opened on Kauai in 2011.

Chief Justice Recktenwald touched on how courts have transitioned from remote proceedings during the pandemic to in-person and hybrid appearances. There were about 780,000 remote hearings held across the state. He discussed the technology and the lessons learned from the pandemic and how remote hearings may not be for everyone or for all cases.

Artificial Intelligence (“AI”) was another topic raised by Chief Justice Recktenwald in terms of helping self-represented litigants but also the dangers to our justice system. He recognized Justice Devins and Judge John Tonaki, the chairs of the AI committee set up by the Judiciary and made up of members from the Judiciary, UH law school and the bar. The committee is looking at the challenges of AI, what AI means, the risks of AI and maximizing AI potential to access to justice.

Chief Justice Recktenwald closed his opening remarks by encouraging everyone to renew their commitment to volunteering and to visit the various agency tables set up at the conference that are providing many volunteer opportunities.

9:00 - 10:00 **“The Future of Justice Work”**

**Nikole Nelson, Chief Executive Officer, Frontline Justice**

Nikole Nelson began her keynote address with her background as the Chief Executive Officer of the nonprofit Frontline Justice and as a 25 year resident of Anchorage, Alaska. She spent 25 years with the Alaska Legal Aide as a staff attorney, supervisor and as its Executive Director.

Ms. Nelson spoke about the future of justice work and how community and justice well being are very intertwined with each other. She explained that the circumstances of the civil justice crisis and the data she will share in her presentation are daunting and a huge cause for concern. However, she believes that there’s much reason for hope to new and innovative ways to improve access to justice.

Ms. Nelson first discussed the size and scope of the problem of the justice crisis and how there are 150 to 250 million new civil legal problems in the United States in a year. These problems disproportionately impact the poor, people of color and the elderly. According to the World Justice Index, the United States is last in terms of accessibility and affordability of its civil justice system. One reason for this is that we only see the problem in terms of a lack of lawyers and the practice of law being restricted to only lawyers. Lawyers are also expensive and legal aid is underfunded and not equipped to meet current demands.

Ms. Nelson further explained that even if we had more lawyers and more money to solve legal problems, the research tells us that we only see the tip of the iceberg or less than 20 percent of the problems. As a result, about 80 percent of legal issues are not addressed and escalate to devastating levels. People get evicted, lose their health care or become unemployed. She explained that the Alaska Access to Justice subcommittee determined that to address the access to justice crisis, they needed to move beyond lawyer only solutions.

Ms. Nelson highlighted Alaska’s geographically vast size, rich diversity, extreme weathers, and remote communities in terms of the challenges to their infrastructure and accessing justice. Most legal service organizations are turning away one person for every person they are able to serve and there are more people

with unmet needs than we are aware of. She spoke about the “Justice Gap Report” and how it is more of a “Justice Crisis.”

The presentation discussed the community mapping conducted to understand the ecosystem in Alaska, where the lawyers were and were not, and what other resources were available. As a result, they discovered that there were large areas that had no access to the legal system. They also found that the healthcare system had the biggest footprint in Alaska and the legal system could borrow from the health care infrastructure. The social determinants of health, like housing, food and medical care, that the healthcare community are trying to solve overlapped those of the legal system.

The healthcare partners trained a wide range of different healthcare practitioners to perform various duties and services. The Alaska Community Justice Worker model was then created to develop targeted training programs to address widespread community problems, or “areas of low hanging legal fruit.” The plan was to infuse legal knowledge into the existing non-legal workforce to solve life problems that would otherwise be overlooked.

Ms. Nelson reported that the model is showing promising results and nearly 500 justice workers are being trained and supervised by the Alaska Legal Aid. The workers are in 47 different communities working in partnership with community based organizations. The Alaska Supreme Court approved a waiver allowing community justice workers to do work that may otherwise be unauthorized practice of law. Alaska Legal Services has been able to handle twice as many cases in just one year. Funding was also provided to use the model other states and in particular tribal communities in Montana, New Mexico, Arizona, Oklahoma and Minnesota.

Ms. Nelson closed with a quote by artist Nina Elder “It will not be the same, but it might be beautiful.” She encouraged us to move beyond idealized notions of our current legal system because it is simply not serving communities as well as it should. The more people empowered to know and use the law will increase access to justice. And including the people closest to the problems and solutions is the way to better justice.

#### **10:15 - 11:45 Collaborations During a Crisis**

**Commission Chair Hon. Joseph Cardoza (facilitator), Chief Justice Mark Recktenwald, David Kopper, Wendy Hudson**

Judge Cardoza started this segment with the devastating impact of the Maui wildfires on August 8, 2023 and the efforts to provide disaster relief to the community. Two short videos were played to provide a before and after look of Lahaina and to show the intensity of the fires that engulfed the town. Judge Cardoza then led a moment of silence to remember those lost and those impacted by the Maui wildfires.

To engage participants, Judge Cardoza asked each person to describe in one word their reaction when they first learned of the Maui wildfire and to send this word to slido.com for everyone to see on the screen. Some of the audience answers included “disbelief, devastated, shock, pain, and heartbroken.”

The next question posed by Judge Cardoza was what you thought were the immediate needs during the first few weeks for the people impacted by the Maui wildfires. Participants responded with “water, housing, shelter, community, food, safety, love and comfort.”

Chief Justice Recktenwald was asked about the judiciary’s initial response to the Maui wildfires. He recalled asking whether the courthouses were going to operate the next day. He immediately thought of the Judiciary’s ohana living in Lahaina and the impact on their families. The Judiciary issued court orders the very next day regarding the closure of the courthouse and extending filing deadlines. The focus was to provide justice and continue functioning while being mindful of those impacted by the wildfires.

Chief Justice Recktenwald met with the Maui County Bar and worked with the HSBA to figure out what could be done to support the Maui bar. They worked to provide language access in the form of interpreters and translation services and created a resource link. After consulting with employees, the courthouse in Lahaina was opened on September 5, 2023.

Wendy Hudson, Board Member of the Maui County Bar Association (“MCBA”), discussed the MCBA’s initial response to the wildfires. She recognized the outpouring of help and the local coordination among the HSBA, Young Lawyers Division, the Judiciary, Legal Aid, Volunteer Legal Services Hawaii, the Public Defender’s Office, the Prosecutor’s Office, the MCBA, and West Maui Outreach.

Ms. Hudson added that there were computers set up at the Lahaina courthouse for people to do Zoom appearances and kiosks connected to Red Lightning which helped with connectivity. The MCBA set up legal tables at the Lahaina Civic Center which included FEMA and the Red Cross and were manned by 50 attorneys who worked over 300 hours. A manual was also prepared by Legal Aid which was a valuable resource to refer people to the right place for additional help. She talked about how some people simply needed someone to listen to them and their stories.

David Kopper, the Executive Director of the Legal Aid Society of Hawaii (LASH), continued the discussion in terms of the efforts by LASH to assist following the wildfire. He went over the flow chart for a Federally Declared Disaster and how the various agencies like the American Bar Association, HSBA, Legal Aid, County Bar and Specialty Bars work to provide appropriate responses.

Mr. Kopper outlined the three types of needs following a disaster: short term needs (1-6 weeks), medium term needs (1-6 months) and long term needs (6 months to a year). He spoke about recognizing trauma that occurred and how services needed to be provided in a trauma informed way. He also highlighted the enormous need for language access because there are many immigrants living on Maui.

Chief Justice Recktenwald continued the discussion in terms of identifying what help was being offered and how to appropriately refer people. Some help came in the form of fundraisers. He spoke about reaching out to other jurisdictions that experienced disasters to see how they dealt with impacts on the court system and what the needs are going to be moving forward. The needs following a disaster are evolving and the Judiciary worked to support and fill in the gaps.

Ms. Hudson addressed how bar members are still actively engaged in relief efforts, including coordination with the Judiciary, service providers, the public defenders, prosecutors and others. The HSBA members continue to volunteer with the self-help centers. She thanked the Public Defender's Office for their quick response with outreach centers and the HSBA for the two truckloads of supplies. She recognized monetary donations from various firms and organizations, including mainland firms that donated laptops. The probate section continues to provide volunteers to assist with probate issues.

Mr. Kopper described the activities of LASH that enhanced the response in the days and weeks following the initial disaster response. He started with building the Disaster Recovery Legal Services to deal with the volume and determine how to get resources within LASH out to those in need. Then externally, they moved the hotline from the Young Lawyer's Division to an automated intake line and provided other online resources. He recognized how building relationships and the power of working together was very important to addressing needs. They are also more flexible on eligibility criteria so they can help more people.

Judge Cardoza asked participants another poll question, what should go into your emergency/disaster toolkit? "Affordable housing" was a very common response, along with "healing, money, stability, resources, water and public benefits." He then turned to the panel to discuss the available resources and lessons learned in terms of better preparing for the future.

Chief Justice Recktenwald acknowledged the innovative thinking of how the legal system responded. He spoke about how we have gotten better and stronger since the disaster. The community has come together with mutual respect and Aloha among the providers, among the bar and as an institution. There is still more to do but all of the work so far has served us well. Lastly but most pressing is the idea of forming a dedicated response team with designated individuals who will be in touch with providers and accepting information.

Ms. Hudson further discussed available resources and lessons learned from the Maui wildfires by highlighting that they did their best to help using basic human skills in light of this traumatizing event. She recognized that most of us were not trained in trauma response and so future training in trauma response would be helpful. The manual and future CLE trainings are great ways to encourage more attorneys to volunteer in areas of law unfamiliar to them, like probate or landlord tenant.

Mr. Kopper introduced the “System Mapping: Maui Hope” to highlight the disaster resiliency initiative and the community coming together with the legal community. The hope is for both communities to build together and identify initiatives which are ongoing. The map includes all of the responses, leaderships, engagements, challenges and resiliency planning. Three initiatives have been developed: a county playbook, increased training and education and “low bono.”

In response to Judge Cardoza’s question on how those in the legal community are doing self-care, Ms. Hudson said not very well and mental health support is needed. Mr. Kopper added that although we may be focused on serving, we need to make sure there’s resources available, including trauma informed services.

Judge Cardoza asked the panel how we connect and coordinate individual relief, recovery and rebuilding with a community systemic relief recovery and rebuilding. Mr. Kopper responded by pointing to the longer term recovery phase of responding to disasters and community led initiatives. He emphasized rebuilding community led efforts because those are the people we are serving.

Lastly, the panel was asked about reports of post fire fraudulent practices like consumer fraud. Chief Justice Recktenwald said that the Office of Disciplinary Counsel was actively looking into reports of unauthorized practice of law. Judge Cardoza recalled that issues relating to housing and landlord/tenant were previously raised in terms of raising rent and the Governor’s proclamations.