



**Supreme Court** — THE JUDICIARY • STATE OF HAWAII

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**Remarks for Access to Justice Conference**  
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Aloha and good morning.

I'd like to thank the Access to Justice Commission for sponsoring today's conference, and the Hawai'i Justice Foundation, Dean Soifer and the William S. Richardson School of Law, and the Cades Foundation for their support of today's event.

I'd also like to thank Judge Lora Livingston for traveling here from Texas to share her perspective with us; Senator Hee, Speaker Say and Chair Oshiro for providing us with the legislature's point-of view, and for their support of access to justice initiatives; and all of our other speakers and presenters who have put so much effort into developing an outstanding program.

I will begin this morning by offering a simple proposition: we have a real opportunity to make history in Hawai'i, by significantly expanding access to justice for people who have been left behind for much too long. That opportunity didn't just drop from the sky; rather, it's the product of a lot of hard work by a number of people, many of whom are here today. Because of those efforts, we have made

significant strides in recent years in developing the policies, the organizational structure, the financial and volunteer support, and the widespread enthusiasm for the cause of access to justice that are critical to success. In my view, we have the critical mass needed to effect real change. The question is how do we get there from here, which is a subject that today's conference can help answer.

Because so much has happened in the last few years, I think it is important to step back for a moment and review that history.

It was four years ago that the Access to Justice Hui focused attention on just how far short we were falling in ensuring that there was equal access to justice for everyone in Hawai'i. The Hui concluded that only about one in five low to moderate income Hawai'i residents had their civil legal needs met. The challenges facing those residents have gotten worse since then, with the downturn in our economy. There are many more people facing eviction, collections actions, foreclosure, loss of jobs or benefits . . . and related problems as well, such as divorce or domestic violence. At the same time, state funding for legal services organizations was sharply reduced because of the economic crisis, and revenues from other traditional funding resources--such as IOLTA--substantially declined.

I have previously described that situation as a crisis, which was a term that I didn't use lightly. Our judicial system exists to provide equal justice for all, but that ideal is tarnished if

people can't get the help they need to meaningfully participate.

So why, if the unmet need was so great in 2007 and there have been substantial, additional challenges since then, do I think that there is so much reason for optimism? For one thing, the Hui's report is that rare study that didn't just go on a shelf to collect dust; rather, it has served as a blueprint for action. Moreover-and I think this is critical-that action has proceeded on a number of different fronts, and wasn't just limited to, for example, a narrow focus on direct government funding. The result has been to develop a significant and growing number of people and organizations who are committed to access to justice and are able to contribute in a variety of different ways to that cause.

One key has been ensuring that there is leadership that provides sustained focus. As a result of the recommendations of the Hui, the Supreme Court formed the Access to Justice Commission in 2008. This year marks the third anniversary of the Commission and, in that time, the Commission has had a number of significant accomplishments. For example, the Commission has made tremendous strides in increasing funding for legal services providers. This year, the Commission supported legislation to provide a substantial increase in funding for indigent legal services through surcharges on court filing fees. That bill was passed by the legislature just last month, and is currently pending before Governor Abercrombie.

In addition, the Commission recommended an amendment to

Rule 23 of the Hawai'i Rules of Civil Procedure that will allow funds left over from class-action lawsuits to be given to nonprofit groups that provide indigent legal services. The former rule did not specify where the money should go. However, under the amended rule, which takes effect July 1, the money can be given to organizations such as LASH, VLSH, and the Domestic Violence Action Center, upon agreement by the parties and the court.

The Commission also took an early leadership role in addressing foreclosures, an issue that many Hawai'i citizens are facing. Back in 2009, the Commission helped to develop a Foreclosure Mediation Pilot Project in the Third Circuit for individuals facing judicial foreclosures; the supreme court recently extended that project through March 2012. This past session, the legislature passed a bill, which has already been signed into law by Governor Abercrombie, that expands the role of mediation in foreclosure cases statewide by establishing a program to offer mediation to those homeowners who are subject to non-judicial foreclosures. The judiciary is assisting with the implementation of that program.

There have also been great strides in recent years in encouraging attorneys to fulfil their obligation to provide pro bono service. The Commission has adopted a number of model pro bono policies, and has secured a commitment from 21 law firms and government agencies to meet the goal of providing 50 hours of pro

bono service annually. HSBA members provided almost 300,000 hours of pro bono service in 2010 alone.

Through efforts such as these, the Commission has significantly advanced the cause of access to justice in Hawai'i. I'd like to thank the members of the Commission for their hard work, and Justice Acoba and Judge Foley for their leadership, and I look forward to working with them and supporting the Commission's efforts in the years ahead.

Although I have focused on the work of the Commission, there are many other initiatives underway to find new ways to meet the need. For example, our legal services providers are working to find ways to make it easier for attorneys who are interested in providing pro bono services to take the first step. There was a day-long seminar held here last fall in which attorneys received training in how to handle domestic violence cases on a pro bono basis.

I visited with the participants that day and saw their enthusiasm to have the opportunity to be able to contribute. I'd like to thank LASH, the Domestic Violence Action Center and the other sponsors of the seminar.

Another idea which is moving forward with the support of the Commission, the HSBA and the neighbor island bar associations is the concept of self-help centers in the courts, in which lawyers volunteer their time to provide legal information to pro se parties.

There was a conference held at the capitol last November where

participants learned how those centers operate in California, and had the opportunity to discuss how they might function here. The judiciary has been working with the bar to move forward on this idea, and we are planning to open such a center on Kauai by the end of this year. I want to thank Judge Trudy Senda, the Kauai Bar Association, and Legal Aid on Kauai for their leadership, and everyone else across the state who is working to make these centers a reality.

I'd also like to thank the many individuals, firms and organizations that have stepped forward to provide their time and support on this and other initiatives, whether by providing pro bono services or by otherwise supporting access to justice. We have some great leaders in the bar in Hawaii, but those who have been working on access to justice issues really stand out. I'd like to thank them for all the contributions that they, and the organizations they are associated with, are making. Hawai'i is a better place because of their efforts.

I haven't talked yet about what is the most intangible but in some ways the most important achievement of the last few years, which is the dramatic change in the level of awareness of access to justice issues, both in the legal community and in the community at large, and the genuine and wide-spread enthusiasm that has developed for increasing access to justice. This conference is a great example of that enthusiasm--we have about 250 people here today, which is an incredible turnout.

We cannot let that momentum dissipate, and indeed, must find ways to accelerate it further. It is clear that education and awareness are the keys to tapping into the human resources that exist in our community and that could be brought to bear to increase access to justice. The supreme court has emphasized that an understanding of access to justice is part of what it means to be a professional, competent attorney, by including access to justice among the issues that can be addressed in fulfilling the annual mandatory continuing legal education requirement.

In summary, we have many of the pieces in place that we need to make a real difference in increasing access to justice in Hawai'i: the institutional framework, the potential for increased funding for legal services providers, policies that encourage pro bono service, and genuine and widespread enthusiasm for the task at hand. The challenge now is to keep the momentum going, to keep striving to find new and better ways to meet the need, and to set clear goals for what we want to accomplish and for measuring whether we are getting there.

Today's conference can help us chart that roadmap to a more just society. I want to thank everyone who worked so hard to make this conference a reality, and everyone who is attending today for your commitment to access to justice.

Aloha and mahalo.