

In the Matter of the Amendment
of the
Rules of the Supreme Court of the State of Hawaii

ORDER ADOPTING RULE 21 OF THE
RULES OF THE SUPREME COURT OF THE STATE OF HAWAII

____ (By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

IT IS HEREBY ORDERED that Rule 21 of the Rules of the Supreme Court of the State of Hawaii is adopted, effective May 1, 2008, as follows:

Rule 21. ACCESS TO JUSTICE COMMISSION.

(a) Creation. There shall be a commission to be known as the Hawaii Access to Justice Commission (the Commission).

(b) Purpose. The purpose of the Commission shall be to substantially increase access to justice in civil legal matters for low- and moderate-income (together low-income) residents of Hawaii. To accomplish this, the Commission shall, along with such other actions as in its discretion it deems appropriate, endeavor to:

- (1) Provide ongoing leadership and to oversee efforts to expand and improve delivery of high quality civil legal services to low-income people in Hawaii.
- (2) Develop and implement initiatives designed to expand access to civil justice in Hawaii.
- (3) Develop and publish a strategic, integrated plan for statewide delivery of civil legal services to low-income Hawaii residents.
- (4) Increase and stabilize long-term public and private funding and resources for delivery of civil legal services to low-income Hawaii residents.
- (5) Maximize the efficient use of available resources by facilitating efforts to improve collaboration and coordination among civil legal services providers.
- (6) Increase pro bono contributions by Hawaii 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 Hawaii 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 of the problems low-income people in Hawai i face in gaining access to the civil justice system through 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 low-income people's legal rights and where they can go when legal assistance is needed.

(10) Increase effective utilization 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, such as through self-help centers at the courts.

(12) Develop initiatives designed to enhance recruitment and retention of attorneys who work for nonprofit civil legal services providers 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) Membership.

(1) NUMBER OF MEMBERS AND TERMS OF OFFICE. The Commission shall consist of 22 members, with staggered terms. The initial members (other than the chair and the four members appointed under subsection (3)(vii) below) shall draw their terms by lot so that five members shall serve a term ending on December 31 of the year of appointment, six shall serve a term ending on December 31 of the year following the year of appointment, and six shall serve a term ending on December 31 of the second year following the year of appointment. All subsequent appointments of such members (other than appointments to fill vacancies as described in subsection (2)) shall be for terms of three years or until his or her successor is appointed. Such members shall not be appointed to serve more than two successive terms, but an initial term of any member that is less than 30 months shall be disregarded for purposes of this limitation. Governmental representatives appointed under subsection (3)(vii) shall rotate by their terms of office or at the will of the appointing authority. Terms shall run on a calendar year basis, except that a member shall continue to serve until his or her successor is duly appointed.

(2) VACANCIES. A vacancy in the office of a member shall occur upon (i) the written resignation, death or permanent incapacity of such member, (ii) the determination by the applicable appointing authority that there has been a termination of a position held by such member that was the basis of such member s appointment to the Commission and that the appointing authority wishes to replace such member with a new appointee, or (iii) for such other cause as shall be specified in the bylaws, rules or written procedures of the Commission. Upon the occurrence of a vacancy, the appropriate appointing authority shall appoint a successor member to serve the remainder of the term of the vacating member.

(3) APPOINTMENT OF MEMBERS. Members of the Commission shall be appointed as follows:

(i) The Chief Justice of the Supreme Court shall appoint five members to the Commission as follows: (A) the Chief Justice or an Associate Justice of the Supreme Court and (B) four other judges who the Chief Justice shall endeavor to appoint from different judicial circuits and to include at least one circuit court judge, one family court judge, and one district court judge.

(ii) The Hawai i State Bar Association (the HSBA) shall 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.

(iii) The Hawai i Consortium of Legal Services Providers (the Consortium) shall appoint six members to the Commission as follows: (A) four representatives of Hawai i nonprofit civil legal services providers; and (B) in consultation with the Chief Justice of the Supreme Court, two non-attorney public representatives not directly associated with any such provider who have demonstrated a commitment to and familiarity with access to justice issues in Hawai i. The initial members of the Consortium shall be the American Civil Liberties Union Hawai i, Domestic Violence Action Center, Hawai i Disability Rights Center, Legal Aid Society of Hawai i, Mediation Center of the Pacific, Na Loio, Native Hawaiian Legal Corporation, University of Hawai i Elder Law Program of the Richardson School of Law, and Volunteer Legal Services Hawai i. Other civil legal services providers may be added to, and members may resign or be removed from, the Consortium as determined by the vote of a majority of the then members of the Consortium.

(iv) The Hawai i Justice Foundation (the Foundation) shall appoint one member to the Commission, who shall be an officer, director or the Executive Director of the Foundation.

(v) The Dean of the University of Hawai i William S. Richardson School of Law shall appoint one member to the Commission, who may be the Dean.

(vi) The Hawai i Paralegal Association shall appoint one member to the Commission, who shall be a paralegal with a demonstrated interest in equal access to justice.

(vii) The Governor of Hawai i, the Attorney General of Hawai i, the President of the Hawai i Senate, and the Speaker of the Hawai i House of Representatives shall each be entitled to serve on the Commission or to appoint one member, provided that any appointee of the Governor shall be drawn from the Executive branch of government, any appointee of the Attorney General shall be a Deputy Attorney General, any appointee of the President of the Senate shall be a state Senator, and any appointee of the Speaker of the House shall be a state Representative.

(4) **COMMUNITY WIDE REPRESENTATION.** In making appointments, the appointing authorities shall take into account the effect of their appointments on achieving a Commission composed of members who are residents of different islands in Hawai i and who reflect the diverse ethnic, economic, urban, and rural communities that exist in the Hawaiian Islands.

(d) Officers. The Chief Justice of the Supreme Court shall designate from among the members of the Commission a chair and a vice chair of the Commission. The chair, who shall be the Chief Justice or the Chief Justice s designee, shall serve an initial term of one year and thereafter shall be designated at such times as the Chief Justice shall determine. The vice chair shall be designated for a term of two years, provided that such term shall expire at any earlier date on which the term of the vice chair as a member of the Commission shall expire or be terminated. The Commission shall select such other officers as it deems necessary and useful. Terms of all officers shall run on a calendar year basis, except that an officer shall continue in office until his or her successor is duly designated or selected. Designations or selections to fill officer-vacancies shall be for the remainder of the term of the vacating officer.

(e) Bylaws, Rules and Procedures. The Commission may adopt bylaws, rules or operational procedures as it deems necessary for and consistent with Sections (c), (d) and (f) through (j) of this rule.

(f) Committees and Task Forces. The Commission may create such committees and task forces, and appoint such committee and task force members, as it deems necessary or desirable to facilitate the work of the Commission. The Commission shall designate a chair of the committee or task force. The Commission may appoint to the committee or task force persons who are not members of the Commission. The role of committees and task forces shall be advisory, and they shall make such recommendations to the Commission as the members of such committees and task forces deem appropriate. Meetings of committees and task forces shall be at the call of the chair or at the call of at least 20% of the members of the committee or task force. A quorum consisting of not less than one-third of the then-appointed and serving members of a committee or task force shall be necessary at a duly called meeting to adopt a recommendation to the Commission.

(g) Meetings, Quorum, and Voting. The Commission shall meet at least quarterly and shall have additional meetings at the call of either the chair or at least seven members upon at least ten days prior notice. A quorum consisting of not less than one-third of the members of the Commission then in office shall be necessary to transact business and make decisions at a meeting of the Commission. On any votes taken at a meeting of the Commission, the chair shall vote only in the event of a tie.

(h) Staff and Funding Support. It is anticipated that staff and funding support for the Commission will be provided by a combination of private and public sources of financial and in-kind support.

(i) Recommendations. Any recommendations by the Commission shall be made in the name of the Commission only, and not in the name of the individual members or the institutions or entities they represent.

(j) Reports and Review.

(1) **ANNUAL REPORTS.** The Commission shall file with the Supreme Court an annual report describing its activities during the prior 12-month period and deliver a copy of the report to the Executive Director of the HSBA.

(2) THREE-YEAR REVIEW. Three years after the Commission holds its first meeting, the Supreme Court shall evaluate the progress made by the Commission toward the goal of substantially increasing access to justice in civil legal matters for low-income Hawai i residents.

DATED: Honolulu, Hawai i, April 24, 2008.