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IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the
TENANT-ADVOCATE PILOT PROJECT, FIRST CIRCUIT

ORDER ESTABLISHING A TENANT-ADVOCATE
PILOT PROJECT IN THE FIRST CIRCUIT

(By: Recktenwald, C.J., Nakayama, McKenna, Wilson, and Eddins, JJ.)

Upon consideration of the Tenant-Advocate Pilot Project for the First Circuit, and accompanying materials, approved by the Hawai‘i Access to Justice Commission and submitted to this court on October 20, 2020 for review, we note with approval the purpose of the pilot project is to establish a program to provide assistance to self-represented tenants in landlord-tenant disputes. Therefore,

IT IS HEREBY ORDERED that the Tenant-Advocate Pilot Project is established in the First Circuit of the State of Hawai‘i, effective upon the entry of this order and expiring one year later, unless extended or made permanent by order of this

court. Materials related to the Project are appended to this order.

IT IS FURTHER ORDERED that the Legal Aid Society of Hawai'i shall submit, within nine months of the entry date of this order, a report to the Access to Justice Commission regarding the performance of the Pilot Project, and the Access to Justice Commission shall submit to this court, within two months thereafter, a report addressing the project's viability and feasibility, as well as a recommendation regarding the long-term fate of the project. The Commission, however, may request an extension of this deadline for good cause.

IT IS FURTHER ORDERED that, pursuant to Rule 3(f) of the Rules of the District Court of the State of Hawai'i, any existing court forms that are amended to be used with this Pilot Project shall be submitted to this court for review and possible approval by this court.

DATED: Honolulu, Hawai'i, February 11, 2021.

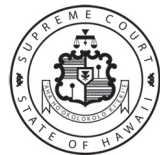
/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins



FIRST CIRCUIT ADVOCATE PILOT PROJECT PROTOCOL

1. Purpose

The purpose of the Advocate Protocol is to establish a program to provide representation by advocates, working under the supervision of a Hawai'i-licensed attorney, for self-represented clients in landlord-tenant or other practice areas as authorized by the Hawai'i Supreme Court in which low-income parties are significantly underrepresented. The program will help to alleviate continuing critical unmet needs. A recent study has indicated that approximately 50 % of all eviction cases filed result in a default judgement against the tenant and less than 10% of tenants involved in evictions have access to representation. The advocates selected will be supervised by a Hawaii-licensed attorney and in accordance with Hawai'i Rules of Professional Conduct ("HRPC") Rule 5.3 and all other pertinent rules and statutory authority.

2. Process

- a. The project will be established by the Hawai'i Supreme Court as a pilot project for Legal Aid Society of Hawai'i in the field of landlord-tenant law or other practice areas authorized by the Hawai'i Supreme Court.¹
- b. For the pilot period, one advocate will be employed by

¹ The Chief Justice's December 23, 2016 letter to the Commission states: "In addition to landlord-tenant issues, the Court would also be open to the possibility that of these services being applicable to domestic violence, paternity or other family court cases, if the Commission finds it appropriate." The Commission suggests that the Hawai'i Supreme Court also consider debt collection cases.

Legal Aid Society of Hawai'i and designated as an "Advocate."

- c. Training: A draft of the curriculum is attached. Briefly, the curriculum would consist of 14 classroom hours; 5 courtroom observation hours; and 10 to 50 hours shadowing an attorney working on landlord-tenant cases.
- d. The Advocate must have the following qualifications:
 - A college degree from an accredited university; or
 - A Kapi'olani Community College or other ABA-approved paralegal certificate or degree; or
 - Seven years of relevant experience.
- e. Scope of Practice:
 - Obtain the facts that are pertinent to the client.
 - Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding.
 - Inform the client of applicable procedures for proper service of process and the filing of documents.
 - Review documents or exhibits that the client has received from the opposing party and explain their relevancy to the client.
 - Conduct appropriate legal research.
 - Draft and cause to be filed all necessary documents relevant to the case.

- Obtain the necessary documents or records relevant to his/her case.
- Interact with opposing parties and their legal representatives, including participating in a mediation and/or negotiating a resolution.
- Provide full representation in court.

f. Limitations:

- The Advocate will be supervised by a Hawaii-licensed attorney in the employ of Legal Aid Society of Hawai'i. In accordance with HRPC Rule 5.3, the attorney is responsible for the conduct of the Advocate and shall make reasonable efforts to ensure that the Advocate's conduct is compatible with the professional obligations of the attorney.
- The Advocate is prohibited from independently engaging in the practice of law, outside the scope of this project.
- The clients may be income-qualified under the guidelines of the Legal Aid Society of Hawai'i.
- The client will be a tenant who is not represented by an attorney.

3. Evaluation

Within 60 days after termination of this pilot project, a report addressing the viability and feasibility of the program will be prepared and forwarded to the Hawai'i Access to the Justice Commission for review and approval. Following approval, the report will be forwarded to the Hawai'i Supreme Court.

4. Pilot Period

The pilot period for this model project is one year after approval of the establishment of the Advocate program.

Landlord-Tenant Paralegal pilot - curriculum draft

14 classroom hours

5 courtroom observation hours

10 to 50 hours shadowing an attorney working on landlord-tenant cases

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Landlord-Tenant law
Lesson Title and Number:	1. Basics of Landlord-Tenant law (1 hour)
Place/Date/Time	Kapiolani Community College (“KCC”)
Lesson Objectives:	
<ul style="list-style-type: none"> • Identify all of the statutes on the topic of landlord-tenant law • Identify any relevant rules on landlord-tenant law • Review of court system relating to trial-level landlord-tenant cases 	
Summary of activities:	
TBD	
Instructor: KCC	

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Landlord-Tenant law
Lesson Title and Number:	2. Further Landlord-Tenant law (1 hour)

Place/Date/Time	KCC
Lesson Objectives:	
<ul style="list-style-type: none"> • Discuss further scenarios of landlord-tenant cases. 	
Summary of activities:	
TBD	
Instructor: To be determined	

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Landlord-Tenant law and Civil Procedure
Lesson Title and Number:	3. Evidence and Discovery in Landlord-Tenant law (7 hours)
Place/Date/Time	TBD
Lesson Objectives:	
<ul style="list-style-type: none"> • Understanding the basic landlord-tenant cause of action, including tenant defenses • Reviewing court documents in a landlord-tenant cases • Understanding jurisdictional defenses • Understanding other defenses potentially applicable in a landlord-tenant case • Learning what types of evidence can rebut standard landlord claims • Learning what types of evidence support tenant defenses • How evidence is introduced in court • Potential challenges to the introduction of evidence. • How to introduce evidence in court (role-playing scenarios) 	
Summary of activities:	

TBD, but will include hypotheticals for training, culminating in scenarios the paralegal must solve.

Instructor: To be determined

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Civil Procedure
Lesson Title and Number:	4. Examination and Cross-examination (1 hour)
Place/Date/Time	KCC
Lesson Objectives:	
<ul style="list-style-type: none">• Coverage of HRCP rules on examination and cross-examination• Observation of good and bad examinations (video scenarios)• Practice on direct and cross examination	
Summary of activities:	
TBD	
Instructor: KCC	

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Civil Procedure
Lesson Title and Number:	5. Interviewing skills (1.5 hours)

Place/Date/Time	KCC
Lesson Objectives:	
<ul style="list-style-type: none"> • Prepare to conduct a client interview. • Obtain relevant facts and information from the interviewee to determine likelihood of success of a legal action. • Identify and incorporate effective communication skills in interviewing. • Prepare for effective negotiation with an opposing party. • Present a case before the court. • Outline and draft opening statement, direct and cross-examination, closing argument. 	
Summary of activities:	
TBD	
Instructor: KCC	

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Mediation
Lesson Title and Number:	6. Mediation (1.5 hours)
Place/Date/Time	KCC
Lesson Objectives:	
Understand and be able to apply the basics of mediation	
Summary of activities:	
TBD	

Instructor: To be determined

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Ethics (1 hour)
Lesson Title and Number:	7. Refresher on basic legal ethics
Place/Date/Time	KCC
Lesson Objectives:	
Refresh the paralegal understand and application of confidentiality, privilege, conflicts of interest, and scope of unauthorized practice of law exemption (pending court approval)	
Summary of activities:	
TBD	
Instructor: KCC	

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Civil procedure
Lesson Title and Number:	8. Courtroom observation (5 hours)
Place/Date/Time	District Court
Lesson Objectives:	

<ul style="list-style-type: none"> To become familiar with court processes and procedures in landlord-tenant cases
Summary of activities:
<ul style="list-style-type: none"> Be physically present in a courtroom with landlord-tenant cases and take notes on procedure, substance, and issues. Discuss observations with, and ask question of the supervising attorney
Instructor: To be determined

Subject / Course:	Landlord-Tenant Paralegal Pilot Preparation Course
Topic:	Civil procedure
Lesson Title and Number:	9. Shadowing (10 to 50 hours)
Place/Date/Time	District Court and other appropriate venue(s)
Lesson Objectives:	
<ul style="list-style-type: none"> To serve as a second chair to one or more attorneys representing tenants in landlord-tenant or debt collection cases (as appropriate) 	
Summary of activities:	
<ul style="list-style-type: none"> To work with one or more attorneys representing tenant, reviewing the case file and court documents, discussing the attorney's strategies, and observing the implementation of the strategies in the cases. 	
Instructor: To be determined	