

Chief Justice Mark E. Recktenwald
ATJ 2.0: Reimagining Access to Justice
2013 Hawaii Access to Justice Conference

June 21, 2013

Aloha and good morning everyone.

I'd like to thank the Access to Justice Commission for sponsoring today's conference, as well as Bob LeClair and the Hawai'i Justice Foundation, the Cades Foundation, Dean Avi Soifer and the William S. Richardson School of Law, and President Craig Wagnild and the Hawaii State Bar Association, for their continued support, and everyone who has worked so hard to plan today's conference or who will be presenting here today. I'd also like to thank the women at the Women's Community Correctional Center who made the beautiful lei that I am wearing.

What does justice look like? That's a complex question, but one place where you can find an answer is at the self-help center in our Hilo courthouse. The attorneys who volunteer at that center open its doors for business just before lunchtime; when they arrive, sometimes they find self-represented individuals who have been waiting there for hours to see them. Some of those individuals have woken up in the twilight hours to be able to catch a bus as early as 6:00 a.m. to get to Hilo from

rural areas along the Hamakua Coast or Pahoā. They then wait for the opportunity to speak with an attorney at the center to get information about the legal process so they can tell their side of the story to the court. That visit might mean the difference between a family staying in their apartment, or being on the street; between a parent losing custody of a child, or enabling them to stay together. While the individuals who seek help at these centers reflect the great diversity of our state, they are united by one thing -- they cannot pay for a lawyer to represent them, and they need help navigating a judicial system that can be daunting and complex for a lay person.

Justice for all is a noble ideal. But it takes hard work to make sure that ideal is a reality for every person in our community, whatever their background or economic condition. In Hawai'i, there are literally thousands of people who must represent themselves in civil cases in our courts each year. Here on Oahu, we had more than 4,000 divorce cases filed last year -- in nearly 60% of them, neither party had an attorney, and in an additional 26%, only one party had legal counsel. Of the landlord-tenant claims filed last fiscal year throughout the state, in 96% of the cases at least one of the parties did not have an attorney.

Over the past five years, the Hawaii Access to Justice

Commission has done extraordinary work to help make the ideal of justice for all more than just a slogan. The Commission has taken the lead in creating partnerships and promoting innovative efforts to help meet the unmet civil legal needs of the most vulnerable members of our community. Our Commission, which is one of 28 that exists nationwide, serves as a model for other states because of all that it has achieved with very limited resources. Please join me in thanking the Commission, particularly its Chair Judge Daniel Foley and his predecessor Justice Simeon Acoba, for their leadership and for the great work of the Commission.

I'd also like to thank our legal services providers-- and in particular their attorneys and staff--for the incredible work they do every day in providing high quality services to so many members of our community. Even in the most challenging times during the economic downturn, their commitment never wavered. They are the backbone of our access to justice efforts. Please join me in acknowledging and thanking them.

The legislature has also been making significant strides in its efforts to support the Access to Justice movement. In 2011, the legislature increased court filing fees that support legal service providers. This past session, the legislature gave the judiciary the authority to disburse an

additional \$1 million of the fees that we collect each year. Those funds help provide a steady and more reliable funding source for the providers. I would like to thank Senators Clayton Hee and David Ige, Representatives Karl Rhoads, Jessica Wooley, Della Au Belatti, and Sylvia Luke, Speaker Joseph Souki, President Donna Mercado Kim, and their colleagues for their continued support of access to justice. Can you join me in acknowledging our legislators for their support.

Centers such as our Hilo self-help center have been one of the Commission's most important innovations. We now have such centers -- where self-represented parties can get legal information or limited scope legal advice from volunteer attorneys -- operating in every circuit of the state. In two short years, we've established a network of centers from Hilo to Lihue providing information and assistance to people whose voices might not otherwise be heard. Many different organizations and individuals -- the Legal Aid Society of Hawaii, the Hawaii State Bar Association, Americorps, the neighbor island bar associations, and the many attorneys who have generously donated their time -- came together to make those centers a reality. So far, we've been able to help more than 2,280 people, at almost no cost to the public.

I am encouraged by the great things that I am hearing

about our self-help centers. Our centers have received high praise from self-represented individuals that have been served, such as: "Excellent resources and assistance; thank you for providing these services. They well served the people"; "The help I received and answers I got helped me to navigate the legal system and the process I need to go through"; "Very helpful and a great service"; "Excellent experience; much easier than I expected"; "Perfect for people who are lost in their case. Thank you! Very helpful in giving me faith." These comments show that the centers are making a real difference in our community.

Clearly, the self-help center concept highlights the simple truth that there is no limit to what people who are dedicated to a cause and willing to work hard can achieve. It is critical that we keep this momentum and energy going. But where do we go from here? The ATJ movement in Hawaii is like a startup company that has succeeded beyond its founders' wildest expectations, but faces tough decisions about what to do next. Those are some of the questions that today's meeting can help to answer.

In my view, there are several issues that we should focus on as we re-imagine access to justice in Hawaii. First, we need to find ways to sustain and in some sense institutionalize our most significant gains. The self-help centers are a great

example. We need to take stock of the experience to date, assess feedback from our volunteers and users, and make sure that we are providing the most positive experience possible for both. We need to find ways to attract new volunteers to the centers, and keep existing volunteers coming back. One idea that has worked on Oahu has been asking law firms to sign up to cover entire months at the ATJ Room at Honolulu District Court; we deeply appreciate the assistance of the many firms that have responded to that call. We also need to publically acknowledge and thank those volunteers who give their time, which we have done at several ceremonies around the state in recent months.

Second, we need to consider how to take advantage of technology to get the most possible benefit from the resources we have. To cite one example, the judiciary is partnering with the Legal Aid Society on a project that will enable self-represented litigants to prepare court documents through an interactive computer program. Other states have created new and innovative initiatives that use technology to increase access to justice. For example, Wyoming is starting a pilot project involving skype-based remote law offices to provide civil legal aid at rural sites. North Carolina is creating a website with state-specific resources and referral information for veterans and pro bono attorneys who want to represent them. It is an ideal time for us

to build upon the work of other states, and our own solid foundation, and reimagine access to justice in Hawaii.

For example, we have a strong, statewide public library system in Hawaii, that is wired for internet access. Wouldn't it be great for self-represented litigants to be able to walk into a public library and jump onto an ATJ computer and generate the forms they need to file in court?

Or on any given day in our self-help centers, we may have more customers in one center than our volunteers can possibly serve, while it may be a slow day in another. For example, in our Hilo center there have been days where we have had to ask customers to return on another day to see an attorney.

What if we could set up a live video conference between the customer in Hilo and an attorney who is volunteering in a center on another island? And along the same lines, there are areas of the state, such as Molokai, Lanai or Hana, where it will be difficult to establish and staff brick-and-mortar self-help centers. Can we use technology to link our volunteer attorneys to customers in those locations? Similarly, what about self-represented litigants elsewhere in the state who are unable to leave their homes-could we use skype or other technology to meet their needs? Could we, for example, create videos to post on the judiciary's website that would walk a litigant step by step

through aspects of the litigation process?

There clearly are some innovative ideas out there--but how do we make them a reality? Recently, the Judiciary completed a strategic planning process, in which that question was considered. One of the key outcomes of this process was the forming of a judiciary Working Group on expanding access to justice for self-represented litigants, which will be chaired by Justice Acoba. Over the course of the next year, this working group will be tasked with further integrating access to justice principles into the fabric of the Judiciary. The Working Group will make recommendations on ways the Judiciary can expand or enhance services offered in our service and self-help centers, including through the use of technology; ways to improve access for self-represented litigants to the judiciary's online filing system; and suggestions on what baseline information should be available on the Judiciary's internet site to better assist self-represented parties. I look forward to the product of the Working Group, and thank Justice Acoba for his leadership.

The key to any new initiatives will be the support and participation of our bar and other members of our community who care about access to justice. Without that support, the many accomplishments of the Access to Justice Commission over the past five years would not have been possible. I'd like to thank each

of you here today for the commitment you have shown by taking the time to attend this conference, and encourage you to share your thoughts about how we can re-imagine what we are doing and help narrow the gap between the ideal and the reality of providing justice for all.

I wanted to leave you with a quote from a volunteer at the Hilo Self-Help Center, which sums up both the challenges and rewards of pro bono service: "I have never felt more like a lawyer than when I have finished a day at the center. I know many of our bar members would echo this sentiment. It is why so many of us went to law school- to help people in need. To listen to the issues people are facing in our community, specifically in the family law area, makes all of us realize how necessary these self-help centers are. People are scared of losing their kids, they are facing economic and other stresses. If Legal Aid or Volunteer Legal Services Hawaii doesn't take their case, they are on their own to navigate through family court. A daunting task. They are in desperate need of guidance."

I started today by asking the question: what does justice look like? There is a professor at Princeton named Cornel West, who has written and spoken extensively about injustice in America--and conversely, about what it takes to achieve justice. Dr. West has observed, correctly I think, that justice is what

love looks like in public. Every day across this state, the attorneys who volunteer in our self-help centers or otherwise provide pro bono services, the attorneys and staff at our legal services providers, and countless other individuals who are working to increase access to justice in Hawaii, are demonstrating the kind of love that Dr. West was talking about. I thank each of them for their commitment, and each of you for coming here today.

Aloha and mahalo.