

MINUTES
HAWAII STATE BAR ASSOCIATION
BOARD MEETING

1100 Alakea Street, Suite 1000
Honolulu, HI 96813

Thursday, July 28, 2016

A. **CALL TO ORDER**

President Jodi Yi called the meeting to order at 12:10 p.m. with a quorum present. The following persons were present for all or part of the meeting:

Officers Present

Jodi Yi
Nadine Ando
Howard Luke
Russ Awakuni
Mark M. Murakami

HSBA Staff

Patricia Mau-Shimizu
Iris Ito
Debra White
Christina Bae

Directors Present

Cecelia Chang
Steven Chow
Rebecca Copeland
Rhonda Griswold
Geraldine Hasegawa
Kristin Izumi-Nitao
Mei-Fei Kuo
Kai Lawrence
Georgia McMillen
Lisa Munger
Mark K. Murakami (by videoconference)
Alika Piper
Ryan Hew (by phone)

Others Present

Rex Fujichaku
Justine Herrera
Nalani Fujimori Kaina
James Kawachika

Board Members Absent

Vladimir Devens
Carol Kitaoka
Derek Kobayashi

*B. **REPORT ON THE EQUAL JUSTICE CONFERENCE** - Delivery of Legal Services to the Public Committee Chair Justine Herrera reported that the Hawaii delegation was very active and visible at the Equal Justice Conference in May in Chicago. In addition to learning about initiatives happening in other states, Hawaii also presented a panel discussion on Hawaii's initiatives. Ms. Herrera also said that VLSH has taken on a pro bono online project that will launch in August. Legal Aid Executive Director Nalani Fujimori Kaina noted that Hawaii has become a national presence on access to justice due to the efforts of many involved in bringing this issue to the forefront. DLSP Committee Member Rex Fujichaku commented that technology is being used to reach those that have not previously had access to legal services. He also stated that Hawaii will apply for the Justice-For-All grant to formulate a template that can be replicated and shared with other jurisdictions.

*C. **NEW BUSINESS**

1. **ABA Resolution 109 Relating to Misconduct** - HSBA/ABA Delegate James Kawachika described the background and evolution of proposed ABA Resolution 109 which proposes to add anti-discrimination and anti-harassment provision as a black letter rule rather than including it as mere comments in Rule 8.4 Misconduct. He explained that the Hawaii Rules of Professional Conduct is fashioned after the ABA Model Rules, so the change may affect the HRPC at some point. However, he noted that the Hawaii Supreme Court did not include under Rule 8.4 Misconduct the comments that are included in the current ABA Model Rules related to bias or prejudice towards protected classes.

Mr. Kawachika commented that the Standing Committee on Professional Discipline on which he serves had several concerns over the proposed rule, particularly that there should be a *mens rea* component in that the harassment or discrimination must have been done knowingly and not inadvertently (e.g. as a result of ignorance of another person's culture). He further noted that it appears that the Standing Committee on Ethics and Professional Responsibility, the primary sponsor of the resolution, now seems willing to include a *mens rea* requirement.

Mr. Kawachika stated that there may be changes to the resolution as it gets discussed on the floor of the House of Delegates. He offered three options for the Board to direct him, and recommended option three: 1) to vote to support the proposed resolution; 2) to vote not to support the proposed resolution; or 3) to allow him the discretion to vote in a manner he thinks is best.

Action taken: After further discussion, a motion was made and seconded to vote not to support ABA Resolution 109. The motion failed by a vote of 8 to 9.

Action taken: A motion was made, seconded, and carried by a vote of 12 to 3 to give HSBA/ABA Delegate James Kawachika the discretion to vote on ABA [Resolution 109](#) that is in the best interest of the HSBA. YLD President Hew abstained from voting on this motion as he did not have the YLD Board's authority to vote in this manner.

* Item take on of order due to the presence of guests.

- D. **APPROVAL OF MINUTES** - A motion was made, seconded, and carried without opposition to approve the minutes of the Board meeting on May 25, 2016 (the regularly scheduled Board meeting in June was cancelled).
- E. **TREASURER'S REPORT** - Treasurer Mark M. Murakami reported that income was received from new admittees during the month of June; credit card fee expense was slightly over budget; and that the balance on the mortgage loan is \$1.3M.
- F. **EXECUTIVE DIRECTOR'S REPORT** - Executive Director Patricia Mau-Shimizu reported on the following items:
- Staff is working with the software developer on the 2017 license renewal.
 - The October 14th Bar Convention will feature keynote speaker ABA President-elect Linda Klein.
 - A record number of 57 tables have been sold at the August 20th Annual Dinner. Attendees and roasters include 2 former governors, former HPD Chief of Police, former U.S. Congressional Member, and many sitting judges.
- G. **YLD PRESIDENT'S REPORT** - YLD President Ryan Hew reported that Law Week generated 113 calls through ActionLine ranging from family law to immigration law to landlord-tenant issues, that 170 people visited the legal clinics statewide. He also stated that YLD is trying to expand their social mixers to family-friendly activities.

F. **UNFINISHED BUSINESS**

2. **Proposed Revisions to HSBA Questionnaire for Judicial and Executive Nominees** - Director Steven Chow explained that revisions are being proposed on the questionnaire in order to make clear the HSBA's interest in any complaints being filed against the nominee and to ask whether the nominee had received any court-ordered sanctions.

Action taken: After discussion, a motion was made, seconded, and carried without opposition to adopt the Executive Committee's recommendation to approve of the proposed amendments to the HSBA questionnaire for judicial and executive nominees which clarify questions related to professional competency.

On a slightly related matter, Mr. Chow raised the issue of the confidentiality of HSBA judicial evaluations with respect to per diem judges, and sitting judges applying for a higher court position, who are asked by the Legislature for the results of their evaluations. It was suggested that language be added to the HSBA judicial evaluation that members' comments on judges being evaluated will be kept confidential by the HSBA except in instances consistent with Board Policy provisions.

G. **NEW BUSINESS**

3. **Proposed New Rules on Unbundled Legal Representation**

Action taken: A motion was made, seconded, and carried without opposition to adopt the Executive Committee's recommendation to solicit member comments via email on the proposed new rules on unbundled legal representation.

H. **ADJOURNMENT**

The meeting adjourned at 1:52 p.m.

Submitted by:



Patricia Mau-Shimizu
HSBA Executive Director

Approved by:



Russ S. Awakuni
HSBA Secretary