

MINUTES
HAWAII STATE BAR ASSOCIATION
SPECIAL BOARD MEETING

1100 Alakea Street, Suite 1000
Honolulu, HI 96813

Monday, February 4, 2019

A. **CALL TO ORDER**

President Derek Kobayashi called the meeting to order at 12:38 p.m. with a quorum present. [Prior to this, the Board met in executive session to interview Attorney General Nominee Clare Connors.]

The following persons were present for all or part of the meeting:

Officers Present

Derek Kobayashi
P. Gregory Frey
Paul Naso

Others Present

Matthew Matsunaga

Directors Present

Steven Chow
Rebecca Copeland
Vladimir Devens
William Harrison
Geraldine Hasegawa (phone)
Kristin Izumi-Nitao
Carol Kitaoka
Erin Kobayashi
Kai Lawrence
Jacob Lowenthal (phone)
Lisa Munger
Mark K. Murakami
Zale Okazaki
John Tonaki
Summer Kaiawe (phone)

HSBA Staff

Patricia Mau-Shimizu
Iris Ito
Christina Bae
Katra Cuskaden

Directors Absent

Russ Awakuni - excused
Karin Holma - excused
Corianne Lau - excused

B. **NEW BUSINESS**

1. **2019 Legislative Measures Introduced for Consideration**

- a. **HSBA Legislative Participation** - The Board agreed to first discuss House Speaker Scott Saiki's letter requesting that the HSBA refrain from using any

resources to take positions on legislative proposals while the *Fleck* case is pending.

Action taken: After discussion, a motion was made and seconded to communicate to Speaker Saiki that the HSBA Board, in following its *Keller* policy, will determine whether it is appropriate to take positions on legislative proposals as they arise, and if yes, will take a position. This motion was withdrawn.

Action taken: After further discussion, a motion was made, seconded, and carried without opposition for President Kobayashi and Executive Director Mau-Shimizu to request to meet with Speaker Saiki to discuss his request.

- b. **HB1311/SB1457** - Proposes a Constitutional Amendment for the appointment and retention of justices and judges; authorizes the Senate to approve or reject subsequent terms of office for justices and judges.
- c. **SB864** - Proposes a Constitutional Amendment for the appointment and retention of justices and judges.

Action taken: A motion was made, seconded, and carried without opposition that HB1311/SB1457 and SB864 are issues that meet the HSBA's two-prong standard related to *Keller*, specifically:

- Determines that the issue is germane to the purposes of the unified bar (i.e. regulating the legal profession or improving the quality of legal services); and
- Believes in good faith that members would support the HSBA Board taking action (i.e. submit testimony if a hearing is scheduled) on the issue.

Action taken: After discussion, a motion was made, seconded, and carried without opposition to submit testimony opposing HB1311/SB1457 and SB864 (when the bills are scheduled for hearing) in order to retain/ensure judicial independence.

- d. **HB353/SB865** - Makes decisions of the Family Court appealable to the Supreme Court instead of the ICA.

Action taken: A motion was made, seconded, and carried without opposition that HB353/SB865 are issues that meet the HSBA's two-prong standard related to *Keller*.

It was noted that the Family Law Section does not currently plan to take a position on these bills because it did not appear that there was a clear consensus among the section members. It was also noted that the Appellate Law Section will likely oppose the bills. President Kobayashi asked Legislation Committee Chair Matt Matsunaga to contact these two sections to ask of their plans for taking positions on these bills. The Board agreed to refrain from taking any position on these bills at this time.

- e. **HB372/SB863** - Amends appellate jurisdiction of the Supreme Court and the ICA to conditions as they existed prior to July 1, 2006.

Action taken: A motion was made, seconded, and carried without opposition that HB372/SB863 are issues that meet the HSBA's two-prong standard related to *Keller*.

Action taken: After discussion, a motion was made, seconded, and carried without opposition to submit testimony opposing HB372/SB863 (when the bills are scheduled for hearing) and suggest that a task force be created to study the need to amend current appellate jurisdiction. It was noted that the Appellate Section and the Hawaii Association of Criminal Defense Lawyers intend to oppose these bills.

- f. **HB1298/SB861** - Reduces the number of ICA judges from 6 to 5. Adds 2 District Court judges.

Action taken: A motion was made, seconded, and carried without opposition that HB1298/SB861 are issues that meet the HSBA's two-prong standard related to *Keller*.

Action taken: After discussion, a motion was made, seconded, and carried without opposition to submit testimony (when the bills are scheduled for hearing) opposing the reduction of ICA judges and supports the increase in District Court judges. It was noted that the Appellate Law Section intends to oppose the bills.

- *g. **HB369/SB860** - Provides that the Legislature shall have standing to intervene in any court proceeding involving a claim based upon a constitutional or statutory provision.


Action taken: A motion was made, seconded, and carried without opposition that HB369/SB860 are issues that meet the HSBA's two-prong standard related to *Keller*.

Action taken: After discussion, a motion was made, seconded, and carried without opposition to submit testimony (when the bills are scheduled for hearing) opposing the Legislature's intervention into court proceedings citing the importance of judicial independence.

C. ADJOURNMENT

The meeting adjourned at 1:30 p.m.

Submitted by:



Patricia Mau-Shimizu
HSBA Executive Director

Approved by:



P. Gregory Frey
HSBA President-elect

* Not on agenda.