

Well-Being Task Force Final Summit
May 14, 2021 - Remarks of Chief Justice Recktenwald

Aloha, and thank you for inviting me to share some closing thoughts. I am excited to see the culmination of the Task Force's hard work, and I look forward to supporting its recommendations. From what I've seen this morning, those recommendations reflect the careful thought and expertise of this extraordinary group. You have laid the groundwork to make meaningful, positive change in the legal profession in Hawai'i. Thank you for all that the Task Force has done.

I'd like to extend a special mahalo to the Co-Chairs, my colleague Justice Sabrina McKenna and Louise Ing. And I'd also like to thank all those who made today's summit possible: particularly Professor Calvin Pang and his assistant Melissa Korta, as well as the summit planning committee, Louise Ing, Pat Mau-Shimizu, Makana Risser-Chai, and Justice McKenna. I'd also like to thank everyone from the Task Force for their assistance during the summit, from facilitating sessions to taking notes on the discussions. Mahalo to the HSBA Leadership Institute Fellows who assisted today: Pohai Nu'uhiwa-Campbell, Page Ogata, Tawnee Sakima, and Christine Terada. And mahalo for those who have been on the front lines of these issues - especially the Attorney and Judges Assistance Program and its Executive Director Liam Deeley.

The Hawai'i Task Force was created in response to the report of the National Well-Being Task Force, which provided recommendations for improving attorney well-being for judges, employers, law schools, and other stakeholders in the legal profession. It included statistics which were frankly shocking - a survey of nearly 13,000 attorneys showed that 21-36% were problem drinkers, and approximately 28% were struggling with depression.

Hawai'i's task force was charged with evaluating the national group's recommendations in light of our local needs. The Report of the National Task Force reflected serious issues within the legal profession with stress, mental health, and substance abuse. Let me be clear: we face all of those same challenges here in Hawai'i, although we need to understand how to best address them given our own unique context. That is why the work of our Hawai'i Task Force is so crucial.

This work is timelier now than ever. The pandemic has increased the strain on many in the law, both in Hawai'i and nationally. I am proud and grateful of the amazing legal community here in Hawai'i that has come together to support and uplift each other, even during these challenging times. However, the economic upheaval of the past year has devastated the community in so many ways, and the legal profession has not

been unscathed. And the stress of being physically isolated from friends and colleagues has also taken a toll on many, and as Justice McKenna has noted, the guardrails that “going home” used to provide have eroded as practice has become 24/7. Just this week, one of the researchers who worked on the earlier ABA study released results of a survey of almost 3,000 lawyers in California and DC, which showed roughly half experiencing symptoms of depression, and over half screening positive for risky drinking.

Moreover, the effects of the pandemic have had disparate impacts. During the pandemic, women have left the workforce at about four times the rate of men¹ – both because of pandemic-related layoffs and furloughs in industries in which women dominate, and because of the closure of support systems, like schools and childcare centers, requiring women to shoulder childcare and educational duties at higher rates than men.² And the study I just mentioned found that one in four women considered leaving the legal profession due to mental health problems and stress – compared to 17% of male attorneys. This phenomenon is particularly relevant to today’s conversation because in the law, even before the pandemic, women graduated

¹ <https://www.jdsupra.com/legalnews/coming-up-for-air-women-in-law-and-8541536/>

² Id.

from law school and worked in entry-level associate positions at roughly the same rates as men, but were significantly underrepresented in senior leadership roles.³ Through factors like pay disparity and harmful office culture, entrenched biases in the profession negatively impact women lawyers' wellness and cause women's attrition from legal career.⁴ This issue is compounded for women of color, for whom sexism in the workplace is interwoven with racial stereotyping, prejudice, and bias. We must all work to make the legal profession supportive of the whole person, not just their output and work product, and work to uproot the entrenched biases that weigh on the mental health of lawyers from underrepresented groups. The Task Force's work is a key component of that effort.

One upshot of the pandemic's overhaul of the workplace is that more employers have seen firsthand that working from home and providing other flexible work options are feasible without costing productivity.

We have seen in the Judiciary that holding court hearings remotely in lieu of requiring in person attendance has

³ Joyce Sterling and Linda Chanow, In their Own Words 2 (ABA 2021) <https://www.americanbar.org/content/dam/aba/administrative/women/intheirownwords-f-4-19-21-final.pdf>

⁴ Destiny Peery, Paulette Brown, and Eileen Letts, Left Out and Left Behind 10 (ABA 2020), https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/left-out-left-behind/

helped the courts to keep up with the needs of our community without sacrificing the judiciary's core mission of the fair and impartial administration of justice. Many people welcome the convenience of appearing remotely, rather than coming to a brick-and-mortar courthouse, and lawyers don't need to take costly trips to the neighbor islands for routine hearings.

My hope is that as a profession, we can learn from the experience of the pandemic, taking the advantages of flexible work options and applying them permanently to create a new model of a modern workplace, but with appropriate guardrails so employees can still get much needed downtime.

To close, I am extraordinarily grateful for the hard work of the Task Force. We have acknowledged that we have a wellness problem, and we are taking positive steps to address it. But we cannot lose the momentum you have built - and I am committed to moving forward with the work you have begun.

Mahalo to everyone who attended this morning's summit: your presence here today demonstrates your commitment to making real, positive change to the practice of law. As our community continues to recover from the challenges of the past year, let's strive to take the lessons of the pandemic to heart, rethinking how we do business and prioritizing people. Our profession truly is a noble one and like so many of us, I have found deep

fulfillment in the law, but it is challenging and at times thankless work. I am confident that together, we can work to change the legal profession for the better.

Aloha and mahalo.