

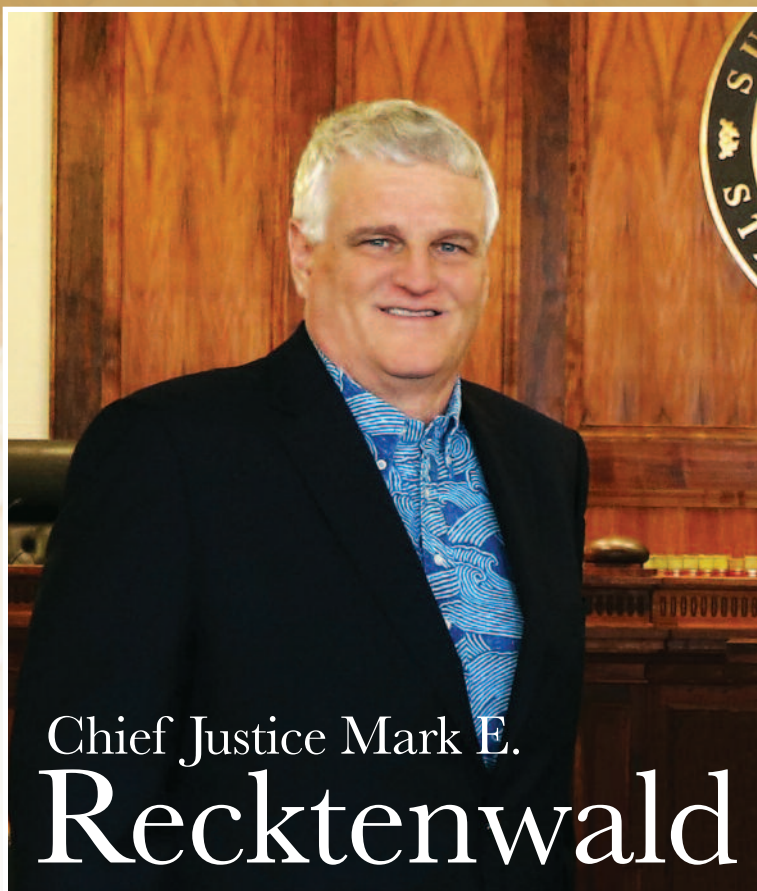
This October, Chief Justice Mark E. Recktenwald of the Hawai'i Supreme Court will reach the mandatory retirement age of 70, ending his 15-year run as head of the Hawai'i Judiciary. As he sprints to the finish line, it is time to reflect on his tenure as Chief Justice — how he chose to lead, the principles and values he embraced, and his legacy of service.

C.J. Recktenwald led by personal engagement and positive encouragement. The principles and values that guided him were simple: serve the public, provide equal justice for all, and treat everyone fairly and with respect. In addition to the over 200 opinions he authored, C.J.'s accomplishments were many, including enhancing access to justice, navigating the Judiciary through unprecedented pandemic challenges, innovating to address critical public needs, and ensuring trust and confidence in the judicial system.

The Path to Becoming Chief Justice

What was the improbable journey that led Mark Recktenwald, a kid from Chicago, to become Chief Justice of the Hawai'i Supreme Court?

Recktenwald was born in Detroit, but grew up in Chicago, the only child of



Chief Justice Mark E. Recktenwald

by the Honorable Craig H. Nakamura (ret.)

Senate committee investigating the Three Mile Island nuclear accident. Lawyers working on public policy and investigative journalists became his new role models, and Recktenwald decided to ditch his career as an archaeologist.

In D.C., he caught the political bug and volunteered for the fledgling 1980 presidential campaign of Illinois Congressman John Anderson. Recktenwald's initial campaign duties included standing on street corners handing out leaflets. He must have impressed. The Anderson campaign offered him a job as an advance man, and Hawai'i was one of the places he went to drum up support.

As fate would have it, the first person Recktenwald met when he walked off the plane was Gailynn Mahoe Williamson, his

future wife. She was a local girl helping the Anderson campaign, who just happened to volunteer to pick up the advance man. As Recktenwald tells it, "This was the best day of my life." Five years later, they were married.

Meanwhile, Anderson's election defeat left Recktenwald unemployed. Hawai'i was nice, he thought, so he came back looking for work. It ended up being his home for the next 45 years. State Senator Ann Kobayashi gave him a job as a committee clerk for the 1981 session, and he then became a wire



Left: Bill and Connie Recktenwald
Middle: C.J. at approx. 5 years old
Right: C.J. and Gailynn

Bill, a patent attorney, and Connie, an English teacher. A stellar student, he was admitted to Harvard University. He studied to become an archaeologist, graduating magna cum laude with a degree in anthropology. After graduation, he took a detour to work as a researcher in Washington, D.C., including a stint on a

service reporter for United Press International.

Still interested in public policy, Recktenwald enrolled at the University of Chicago Law School in 1983. He made law review and graduated in the top ten percent. With J.D. in hand, he clerked for U.S. District Judge Harold Fong, then signed on with the Goodsell Anderson Quinn & Stifel law firm. Feeling the tug of public service, Recktenwald joined the Hawai'i U.S. Attorney's Office in 1991. There he thrived in a job whose objective was to "do justice." In 1997, he was hired away by the Marr Hipp Jones & Pepper firm as a partner handling employment cases. Recktenwald, however, realized that public service was his true calling, and in 1999, he rejoined the U.S. Attorney's Office. Then in 2003, he expanded his public service and leadership horizons by accepting Governor Linda Lingle's appointment as Director of the Hawai'i Department of Commerce and Consumer Affairs.

Recktenwald began his judicial career in 2007. His ascent up the judicial ladder was swift. His first appointment was as Chief Judge of the Hawai'i Intermediate Court of Appeals (ICA), he then became an Associate Justice of the

Hawai'i Supreme Court, and on September 14, 2010, he was sworn in as Chief Justice.

A Good Dude with Integrity

So who is Mark Recktenwald? Everyone who has spent time with C.J. will say the same thing. He is kind, caring, sincere, and humble. He is devoted to his family and is a great friend. As retired Justice James Duffy succinctly describes, "He's a good dude."

His judicial colleagues say that besides his brilliant legal mind, C.J. is warm, open, and fair, a person of impeccable character and integrity. Duffy relates that C.J. has "high moral principles." "He always keeps his word, and he also always tries to do the right thing."

Retired Justice Paula Nakayama recalls working with C.J. on administrative matters presenting thorny ethical questions. C.J.'s "sterling character always shone through," and he "never wavered in his straight moral compass." Citing Manager Dave Roberts of her beloved L.A. Dodgers, Nakayama asserts that just as Roberts always bets on character in making roster moves, "I also always bet on character and that is why I will always bet on Mark Recktenwald."

Long-time staff in C.J.'s office say that he is "good-hearted and sincere," "down to earth," "considerate," and "super kind." "His parents raised him well." He is "very genuine," and the way he appears in public is how he really is. His staff notes that C.J. works incredibly hard, "the Energizer Bunny on steroids," constantly thinking about things that need to get done. This means they can expect C.J.'s phone calls from the time he gets up to long after he leaves the office. Why do they work so hard for him? It is because they know how passionate C.J. is about serving the State, seeing that "justice is done," and helping the "most vulnerable in the community."

C.J. is an extraordinarily accomplished high-achiever who is also an exceedingly caring, unassuming, and genuinely nice person. It is this rare combination that makes C.J. who he is.

Two Jobs in One

Being the Chief Justice involves two incredibly difficult and important jobs combined into one. First, there is the Chief Justice's well-known role as the top jurist of the highest court in the State—the court with the final say on interpreting Hawai'i's constitution and laws, the



*Screenshot of C.J. at first oral argument held remotely during pandemic
Inset Left: Kauai Bar Self Help Attorneys. Inset Right: Hilo Self Help Center Opening*

power to promulgate court rules, and the responsibility for disciplining attorneys and judges. The Chief Justice is also the administrative head of the courts, responsible for leading the Judiciary, a co-equal branch of state government, that has almost 1,800 employees and a budget of over \$200 million.

A Positive, Empowering Leader

Justice Vladimir Devens observes: “Leadership is not just about providing direction—it’s about standing up for what is right in the face of great adversity, inspiring others, making difficult decisions with wisdom, and creating an environment where people can thrive. Our C.J. exemplifies all of this and more.”

From the outset, C.J. recognized that as the face of the Judiciary, it was important to put himself out there. Within the Judiciary, he attends every event possible, talking story with judges and staff, taking an interest in their lives. He actively engages with lawyers, community partners, and the public. He has a well-earned reputation for never saying “no” to invitations to speak at a multitude of events. His energy and presence bring attention to these events, boosts morale, and supports good causes. C.J. spends countless hours meeting with legislators, explaining the Judiciary’s budgetary needs and its position on matters affecting the administration of justice. C.J.’s efforts have created a strong network of support for the Judiciary and built critical relationships and trust.

C.J. is a “servant leader”—someone

*Top: Hawaii Supreme Court
Bottom: Chief Justice Recktenwald swearing in*



who leads with humility and integrity, who listens, empowers, and collaborates, and who does not seek personal recognition, but to uplift the institution and the community he serves.

C.J. leads through positive encouragement, welcoming new ideas and urging others to take the helm in pursuing promising initiatives. When difficulties arise, he does not look for someone to blame but focuses on finding the solution. He gives credit to others when things go well and assumes responsibility when they don’t. He deflects praise away from himself. C.J.’s positive leadership is empowering. It inspires those around him to step up, innovate, and take action.

C.J. leads with humility and gratitude. As Judge Melanie May recounts, “C.J. not only appears at staff-appreciation lunches and events honoring volunteers, but he puts on a plastic apron and serves food at the lunches, and he always

itches in to clean up.” “He even helped clean up after his own Chief Justice swearing-in ceremony!” recalls Rodney Maile, Administrative Director of the Courts. There he was, helping the maintenance staff put away chairs, after the well-wishers had gone downstairs for the reception. C.J.’s actions send the message that it

takes a team effort to accomplish things and that everyone’s contribution is important.

As the Judiciary team’s leader, C.J. has emphasized enhancing access to justice, delivering critical services, innovating to address community needs, ensuring judicial independence, and promoting trust and confidence in the courts.

Enhancing Access to Justice

C.J.’s leadership and the progress made in enhancing access to justice “will be his greatest legacy,” observes Daniel Foley, former Chair of the Access to Justice Commission (Commission) and retired ICA Judge. C.J.’s leadership has brought “national recognition for Hawai‘i” as one of the top states in “making access to justice a reality for all.”

Starting with the Commission, there are many who have contributed to Hawai‘i’s tremendous progress in access to justice. However, as Foley explains, C.J.’s role has been indispensable as he is the one person with the gravitas to bring all the stakeholders together and make things happen. “C.J. deserves a great deal of credit” because his passionate support has been “essential to the progress made.”

A signature achievement in Hawai'i's access to justice movement has been the establishment of self-help centers in courthouses across the State. In Hawai'i, thousands are unable to afford legal representation in civil cases raising issues deeply affecting their lives, such as child custody and eviction. Through self-help centers, volunteer attorneys provide free legal advice or information to enable self-represented individuals in civil cases to more effectively present their cases in court. The first self-help center opened on Kaua'i in 2011. From there, the centers quickly spread so that now there are self-help centers operating in every judicial circuit in the State. The centers have been a resounding success with nearly 40,000 free legal consultations provided, at little or no cost to the public.

There were many obstacles that had to be overcome in making the centers a reality. C.J. worked step-by-step with partners to find solutions. No separate funding? C.J. worked with chief judges to make courthouse space available and with the Hawaii State Bar Association (HSBA) and county bar associations to staff the centers with volunteer attorneys. What about malpractice insurance and training? The HSBA stepped up to provide insurance coverage, and the Legal Aid Society of Hawai'i and AmeriCorps provided training and administrative support. Wouldn't the assistance by volunteer lawyers present client conflict issues? The Hawai'i Supreme Court made amendments proposed by the Commission to the Hawai'i Rules of Professional Conduct that clarified and narrowed the scope of potential conflicts arising from the legal services provided by the volunteer lawyers.

Retired Justice and former Commission Chair Simeon Acoba states that "C.J. has been of tremendous help in supporting the Commission's work." Acoba notes that the Commission's proposals for rule changes, pilot programs, and court initiatives have usually been promptly approved. Moreover, C.J.

constantly emphasizes the importance of access to justice—in his speeches, through attending events recognizing volunteers, and by his devoted involvement in the Commission’s annual conferences. C.J.’s persistent efforts have helped build a strong access-to-justice culture in Hawai‘i.

Beyond self-help centers, C.J. has helped launch other access to justice initiatives. C.J. has supported the development of an online pro bono service by Volunteer Legal Services of Hawai‘i; a partnership with the State library system that has dramatically increased the public’s access to interactive legal resources; adoption of a pro bono program for cases on appeal; establishment of a Hilo pilot project that allows Legal Aid paralegals, under attorney supervision, to represent clients in paternity cases; creation of a Maui volunteer court navigator program to assist unrepresented litigants make court appearances; and training of community leaders to disseminate information about available court resources.

The progress made has garnered national attention. During C.J.’s tenure, the National Center for Access to Justice has consistently ranked Hawai‘i among the top states for adopting best practices for ensuring access to justice for all people. At various times, Hawai‘i has been ranked number one in categories for supporting litigants who represent themselves, supporting people with limited English proficiency, and supporting people with disabilities.

Delivering Critical Services

Hawai‘i courts play an essential role in ensuring the safety and well-being of the community. The courts provide a fair and impartial forum for the adjudication of criminal matters and the peaceful resolution of civil and family disputes. In any given year, Hawai‘i courts resolve more than 30,000 criminal cases, 18,000 civil cases, and 13,000 family court cases, as well as hundreds of thousands of traffic and parking cases.

(1) Leading Through the Pandemic

But what happens when an unprecedented global pandemic strikes? The pandemic created immense challenges to a court system predicated on meeting in person. How do you keep court users and Judiciary personnel safe while providing court services essential to the public? During the pandemic, C.J. displayed steadfast leadership and took decisive action. He met daily with key Judiciary leaders, relentlessly gathering information necessary to plan and respond. He worked incessantly to ensure that the Judiciary issued clear guidance on court operations, policies, and procedures, updating guidance as new information emerged. He maintained and quickly resumed court proceedings to the extent permitted by public safety. C.J. was directly involved in issuing, reviewing, or approving more than 300 pandemic-related orders that he, the supreme court, and chief judges filed.

To address pandemic challenges, C.J. rallied judges and court administrators to persevere, adapt, and innovate. Courtrooms were reconfigured for safety and social distancing to make it possible to hold proceedings requiring in-person attendance, such as jury trials. For other proceedings, remote hearings, virtually non-existent before the pandemic, became a new way for courts to convene, with their use increasing exponentially. Through it all, C.J. led with wisdom and sound judgment, navigating the Judiciary to emerge from the pandemic as a stronger, more resilient institution.

(2) Coming Together to Support Maui

The devastating Maui wildfires also tested the Judiciary's resilience and the community's ability to help a vast number of people suddenly facing urgent legal issues. C.J. immediately consulted with Maui judges, staff, and members of the bar to determine what they needed and how the Judiciary could best support the Maui community. Maui personnel,

including those who came to work after losing their homes, kept the courts running.

The Maui fires left many in the community desperate for legal help. As soon as conditions allowed, C.J. personally went to Lahaina to offer comfort and support. He proudly witnessed members of the Maui County Bar Association, legal service providers, and other volunteer lawyers stepping up to provide assistance in locations around Lahaina. HSBA also opened a hotline that was staffed by almost 300 lawyers from across the State. C.J. believes that this quick grassroots response is a testament to the relationships and trust that have been built through Hawai'i's access to justice movement.

(3) Listening to the Bar

C.J. has improved the delivery of critical services and the administration of justice by listening to the bar. He has been an enthusiastic supporter of bench-bar conferences and law forums sponsored by the HSBA Judicial Administration Committee (JAC).

A conference or forum is held every year on an alternating basis, with separate sessions for civil, criminal, and family law practitioners. During C.J.'s tenure, these sessions have blossomed into productive group efforts to address systemic practitioner and judiciary concerns, with hundreds of lawyers, judges, and court administrators participating. The JAC prepares comprehensive reports on the issues and recommendations raised during the sessions. C.J. and his Judiciary



Keahuolu (Kona) Courthouse

team carefully review the reports, which are provided to all judges, and investigate what can be done. C.J. then prepares a written response, explaining what the Judiciary has done or is doing to address the issues and recommendations. These “exchange of views lends meaning and legitimacy to the process,” notes Acoba, the long-time Chair of the JAC. To ensure transparency and accountability, the JAC's reports and C.J.'s response are published in the Hawaii Bar Journal.

According to Acoba, “C.J. has played a pivotal role in the JAC activities by encouraging judges and attorneys to attend the programs, by actively participating in the events, and by giving serious consideration to the reports.”

The conferences and forums have led to significant judicial reforms. For example, in response to the criminal

sessions, the Criminal Pretrial Task Force was formed, which led to measures to prevent low-risk, pre-trial defendants from being kept in jail simply because they could not afford bail. The civil sessions were instrumental in the adoption and implementation of comprehensive rule amendments designed to reduce the costs of civil litigation, streamline discovery, and expedite the setting of trials.

(4) Securing Judicial Resources

The delivery of critical services requires sufficient physical facilities and judges. C.J. has worked hard to secure funding for two new courthouses and six new judicial positions. Previously, court proceedings in West Hawai'i were held in three scattered buildings, not designed as courthouses, that presented significant security and operational concerns. To secure funding for a new Kona courthouse, the Judiciary promised that it would be constructed on time and within budget. C.J. and the Judiciary made good on those promises, and in 2019, the new Kona courthouse, which serves as a vibrant judicial hub for West Hawai'i, was opened. Next year, the new Wahi-

awa District Court will open as part of the Wahiawa Civic Center, expanding the resources available to that community. During C.J.'s administration, one ICA, two district court, and three district family court judges have been added, expanding the Judiciary's capacity to handle caseloads and provide services.



June 25, 2025/Women's Court Graduation

Innovating to Address Community Needs

Beyond the traditional role of adjudicating cases, the Hawai'i Judiciary has been called upon to play an ever-expanding role in addressing problems affecting our community. C.J. embraces this broader role. He is constantly searching for ways to innovate and forge partnerships to address community needs.

(1) Protecting Vulnerable Children and Supporting Families

With C.J.'s encouragement, family court has been at the forefront of developing programs to protect vulnerable children and support families. These include programs to provide counseling to children of divorcing parents, protect newborns whose mothers abused drugs, and support foster children left without permanent homes. Family court is where one will find the ground-breaking Girls Court and Juvenile Drug Court, which address the unique needs of teenage girls and minors with substance abuse challenges.

Because placing minors in detention makes outcomes worse, C.J. has supported detaining youths only when necessary for public safety and diverting others into supervision and treatment. These efforts have been tremendously successful. Since 2010, the number of juveniles detained has dropped by about 80 percent, while the number of juvenile felony petitions has also been reduced by a similar percentage. Moreover, in June 2022, for the first time ever, there were no girls detained at the Hawaii Youth Correctional Facility.

To provide critical resources for at-risk youth, C.J. helped forge a first-of-its-kind partnership between the Judiciary, an executive branch agency, and a private developer. The result was the Hale Kalele/Hale Hilinai complex, a gleaming 20-story building constructed on the site of the former Alder Street Juvenile Detention Center, which had fallen into disrepair. The new mixed-use building

provides probation services, shelter, and treatment to keep at-risk youth out of detention, as well as 200 affordable housing units.

Children cannot learn if they are not in school. To address chronic absences by students, family court partnered with the Department of Education and the Attorney General's Office to develop the Truancy Court program. When students start missing school, family court probation officers intervene quickly to identify the cause, which can be as basic as lack of appropriate clothing. C.J. has been a devoted supporter of the Truancy Court program. The program started in 2016 at Wai'anae Intermediate School, where it reduced students chronically absent by 78 percent, and has been expanded to other intermediate schools. A similar program now reaches elementary school students. Last year, a combined total of over 500 students were helped by these programs.

(2) Enhancing Public Safety While Restoring Lives

How can we enhance public safety while at the same time heal and restore those entangled in the criminal justice system? One answer is treatment courts, a judicial innovation that has worked effectively to reduce recidivism and justice-system costs while providing rehabilitation and a new life for participants. Treatment courts address the root causes that bring particular groups into the criminal justice system, focusing on those at high risk for re-offending. Using a team that includes judges, prosecutors, defense counsel, and treatment providers, these courts develop specialized programs to enable participants to overcome deep-seated problems and lead productive lives.

C.J. has been a strong proponent of treatment courts. During his tenure, C.J. helped establish Veterans Treatment Court, which uses military peers to mentor veterans experiencing problems re-entering civilian life, and Driving While Impaired Court, which incorporates

Correction: The August 2025 Bar Journal article on Chief Justice Recktenwald incorrectly referred to statistics on mediations held “[i]n 2009” in the third circuit’s foreclosure mediation program that should have been attributed to mediations held from 2012 to 2016 through the program by Ku’ikahi Mediation Center and West Hawai’i Mediation Center.

electronic monitoring and treatment services to rehabilitate habitually impaired drivers. More recently, C.J. worked to establish Women’s Court, which addresses the distinct factors that bring women into the criminal justice system. Treatment courts work miracles in turning lives around. C.J. shows his support by personally hosting or attending as many treatment court graduations as possible. He takes great joy in congratulating graduates and celebrating their success.

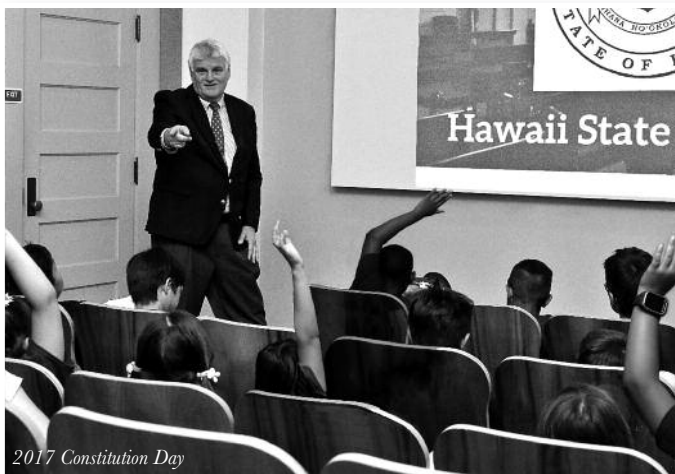
(3) Creative Use of Mediation to Find Solutions

C.J. has endorsed the inventive use of mediation to mitigate economic hardship caused by catastrophic events. During the financial crisis, foreclosures rose to record levels, and homeowners were losing their homes without the ability to meaningfully participate in the judicial process. With C.J.’s backing, the supreme court established a foreclosure mediation program for the third circuit. The results were outstanding. In 2009, of the 406 mediations held, 74 percent reached agreement and over 200 homeowners remained in their homes.

When the pandemic hit, it was predicted that a veritable tsunami of evictions would follow. But that did not happen. Through a collaboration between the Judiciary and the Legislature, Act 57 was enacted, which instituted a mediation process for eviction cases. It was a win-win for tenants and landlords. Of the 1,600 cases mediated statewide, over 85 percent were settled, with over 85 percent of the O’ahu settlements resulting in tenants remaining in their homes. The success of Act 57 paved the way for similar legislation in response to the Maui wildfires. Recently, the Mediation Center of the Pacific honored C.J. for “his tireless work to support community mediation.”

(4) Working Collaboratively to Address Community Concerns

C.J. understands that there are difficult problems with complex causes



afflicting our community that the Judiciary cannot hope to solve on its own. Homelessness and mental illness are among the top of this list. But C.J. believes the Judiciary can help make things better and has committed to collaborating with others to make progress and find solutions.

One novel approach that has produced remarkable results is Community Outreach Court. In cooperation with the offices of the Honolulu Prosecutor and State Public Defender, this court focuses on non-violent individuals with pending minor offenses who are houseless or on the verge of becoming houseless. Teams go out into the community to enroll eligible participants who agree to perform community service to resolve their pending cases. In return, participants are offered assistance in obtaining services, such as housing and mental health and drug treatment. What C.J. loves about this court is that judges go to where participants live, convening court in a community center or public library and sometimes speaking with participants across a picnic table. Community Outreach Court has resolved nearly 11,000 cases and assisted over 700 participants, with almost 7,500 hours of community service completed.

People suffering from mental illness often do not belong in jail and further decompensate when held in custody. In 2019, C.J. and Governor Ige held a

mental health summit to bring together national experts and Hawai'i stakeholders to address shortcomings in how the criminal justice system treats the mentally ill. In response to the summit, the Legislature passed Act 26, which provides for expedited competency determinations for non-violent defendants charged with petty misdemeanors. It gives these defendants the chance to receive treatment, instead of languishing in custody. In 2023, the Judiciary, Honolulu Prosecutor's Office, Public Defender's Office, and Department of Health signed agreements directed at diverting qualifying defendants suffering from mental illness away from the criminal justice system and into community-based treatment. Then last year, a key recommendation from the summit was implemented with the opening of a "drop off" center in Iwilei. The police now have a place to bring individuals displaying obvious signs of mental illness, so they can be stabilized and offered services, instead of subjecting them to arrest. These measures represent progress in finding more effective and humane ways to treat people suffering from mental illness.

Judicial Independence and the Rule of Law

C.J. has fought hard to support and maintain judicial independence and the rule of law. He has repeatedly declared

that judges must be able to decide cases impartially, "free from passion, pressure, or outside influence," and based solely on the faithful application of the rule of law. "Only then can we expect the public to have confidence and trust in our decisions."

Under our constitutional system, it is the Judiciary's role to measure the actions of the other two branches against the law and to ensure that all people, regardless of popularity or status, receive the law's full protection. As retired United States Supreme Court Justice Anthony Kennedy explained, "Judicial independence is not conferred so judges can do as they please. Judicial independence is conferred so judges can do as they must." In performing their constitutional role, judges inevitably must render decisions that upset those in power or uphold the rights of the disadvantaged.

In defending judicial independence, C.J. has firmly opposed proposed legislation seeking to fundamentally alter Hawai'i's widely praised merit-based system of judicial selection and retention. Under Hawai'i's system, a non-partisan Judicial Selection Commission (JSC) submits a list of qualified candidates from which a judge must be chosen and determines whether sitting judges will be retained or removed when their term ends. The measures introduced, however, included those proposing amendments to the Hawai'i Constitution to eliminate the

JSC's role in the selection process by requiring judicial elections, or authorize Senate review of the JSC's retention decisions.

C.J. cogently explained the Judiciary's position that such measures would weaken judicial independence by injecting political considerations and outside influence into judicial selections and retentions. The measures ultimately were not passed.

Statement Affirming Principles of Equal Justice for All

Nationally, unfounded accusations and threats of impeachment against judges have risen to new levels. Attacks of this kind have not been confined to judges. Lawyers and law firms too are being attacked for who they represent and the positions they advocate. In this environment, it is more important than ever to speak up and defend judicial independence, the rule of law, and the principle of equal justice for all they embody.

In that regard, the Hawai'i Supreme Court recently issued a statement "Affirming Principles of Equal Justice for All," principles C.J. has passionately advocated throughout his career. The Court affirmed its commitment to ensuring that "all people receive fair and respectful consideration in our courtrooms," increasing access to justice, eliminating bias and addressing inequities, and maintaining "the most qualified judges and staff, who reflect the community they serve." The Court rejected any suggestion that its efforts to achieve these goals are somehow inconsistent with civil rights laws. In support of its statement, the Court cited the Aloha Spirit law, Hawai'i Revised Statutes (HRS) § 5-7.5, and the Law of the Splintered Paddle: Ke Kanawai Mamalahoe decreed in 1797 by King Kamehameha I. The Court concluded: "Equality before the law has long been a guiding principle in Hawai'i. It seeks to elevate all people by recognizing their

common humanity and eliminating the barriers that keep them from fully participating in society. It is a message that remains as important today as it was in 1797, and will always continue to guide the work we do at the Hawai'i State Judiciary."

Trust and Confidence in the Judicial System

C.J. describes ensuring public trust and confidence in the courts as "the single biggest challenge facing the Judiciary." He has worked tirelessly to nurture and earn the public's trust. Enhancing access to justice and protecting judicial independence and the rule of law have been part of his efforts. But building trust is a multi-faceted endeavor. C.J. has also made the Judiciary more transparent, appointed highly qualified judges, instilled a culture of aloha and respect, and promoted civic education.

To increase transparency, the supreme court now livestreams its oral arguments, more than 125 since 2020. Transparency has also been increased by the transformation to remote proceedings, now approaching 1,000,000 in number, and electronic filing for all courts.

Trust in the judicial system is built by having qualified judges, dedicated to public service, who reflect the diversity of the community they serve. As the person who appoints district court and district family court judges, the Chief Justice plays an important role in the selection process. C.J. has appointed 65 judges, who now make up the majority of the Judiciary's full-time judges. In making appointments, C.J. looks not only for excellence in handling cases, but for a demonstrated commitment to public service. Many of C.J.'s appointments have earned leadership positions, moved to circuit court, and taken charge of treatment courts. One diversity metric of significance—women are now slightly more than one-half of the Judiciary's full-time judges.

Trust in the courts is also built by treating people and handling cases with respect and aloha. C.J. has worked to instill a culture of respect and aloha by protecting the use of 'Olelo Hawai'i in the courts. Through C.J.'s leadership, the Judiciary has adopted a policy to enable parties to express themselves in the Hawaiian language, recruited more Hawaiian language interpreters,

instituted Hawaiian language training for judges and staff, and hired a Hawaiian language coordinator. The supreme court now calls cases in Hawaiian and English. To ensure that people with limited English proficiency can meaningfully participate in the justice system, the Judiciary provides interpreters for all these individuals at all points of contact with the courts. The Judiciary also

provides services to ensure the meaningful participation of people with speech or hearing impairments.

In March 2025, a presidential Executive Order designated English as the national language and rescinded a federal mandate requiring language assistance to non-English speakers. C.J. quickly issued a response, clarifying that the Executive Order did not affect Hawai'i's recognition of both English and 'Olelo Hawai'i as the State's official languages or the Judiciary's policy of allowing people to communicate with the courts in either language. C.J. declared that "[r]espect for 'Olelo Hawai'i is a core value of the Hawai'i Judiciary." He further reaffirmed the Judiciary's commitment to providing interpreters for those with limited English proficiency or speech or hearing impairments as "a critical service to assure meaningful access to the courts."

Finally, the public's trust requires understanding of the Judiciary's constitutional role in our democracy. How do we teach these vital lessons to young people who will determine our future? C.J. established Courts the Community, a program near and dear to his heart. Through this program, the supreme court holds oral arguments, live, in actual cases, at Hawai'i high schools across the State. Volunteer attorneys use the actual case to teach students, including holding mock arguments, and the justices answer the students' questions after the argument is over. The energy and excitement is palpable in the packed gyms and auditoriums where the oral arguments are held. More than 6,000 students from 70 schools have attended, leaving them with a deeper understanding of the Judiciary's role.

C.J.'s Judicial Decisions

During C.J.'s tenure, the supreme court has issued over 700 published opinions. C.J. himself (as of June 15, 2025) has authored 135 majority, 17 concurring, 30 dissenting, and 30 partially

concurring and dissenting opinions.

The ranking and in-depth analysis of the most significant opinions authored by C.J. and issued by the supreme court during his tenure are better left for law review articles. However, the following are a few of the more high-profile cases in which C.J. authored the majority opinion. These opinions relate to: (1) the due process rights of Native Hawaiians opposing a permit to construct the Thirty Meter Telescope on Mauna Kea; (2) procedures for protecting archaeological resources, including Native Hawaiian burial remains, or iwi kupuna, impacted by the Honolulu rail project; (3) whether oil and gas companies can be sued for damages allegedly caused by misleading the public about the climate impacts of their fossil fuel products; and (4) whether a global settlement of claims arising from the Maui wildfires would be affected by the subrogation claims of insurers. In addition, C.J. was part of the majority in orders issued by the supreme court on petitions requesting the emergency release of certain inmates due to health risks caused by the pandemic.

In *Mauna Kea Anaina Hou v. Board of Land and Natural Resources*, 136 Hawai'i 376 (2015), Native Hawaiians opposed the application for a permit to construct an observatory in the summit area of Mauna Kea. The Board held a contested case hearing, but only after it had approved the permit. The Court held that the Board's failure to hold the hearing before approving the permit violated the Hawai'i Constitution's guarantee of due process, which protects the right "to be heard at 'a meaningful time and in a meaningful manner.'" *Id.* at 380.

In *Kaleikini v. Yoshioka*, 128 Hawai'i 53 (2012), Kaleikini, a Native Hawaiian whose traditional and customary practices included the protection of iwi kupuna, sued to enjoin the Honolulu rail project until an archaeological inventory survey (AIS) was completed for all four phases of the project. The Court held

that the Hawai'i Historic Preservation Law, HRS chapter 6E, and its implementing rules required an AIS to be completed for the entire rail project before the project's commencement. The Court therefore rejected the City's contention that it could begin construction on a particular phase of the project as long as an AIS for that phase had been completed, even though an AIS for other phases remained unfinished.

In *City and County of Honolulu v. Sunoco*, 153 Hawai'i 326 (2024), the City and Honolulu Board of Water Supply (Plaintiffs) sued oil and gas producers (Defendants), claiming that Defendants misled the public about the dangers and environmental impact of fossil fuels, resulting in climate change due to increased consumption of their fossil fuel products, which caused infrastructure and other damages in Honolulu. The Court agreed with Plaintiffs that their suit did not seek to regulate or seek damages for interstate greenhouse gas emissions, but rather raised traditional tort claims alleging Defendants "misled consumers and failed to warn them about the dangers of using their products." *Id.* at 340. The Court therefore rejected Defendants' arguments that Hawai'i courts lacked jurisdiction and that Plaintiffs' claims were preempted by federal common law or the Clean Air Act, and it permitted trial court proceedings to continue.

In the *Maui Fire Cases*, 155 Hawai'i 409 (2025), individual and class plaintiffs (Plaintiffs) agreed to a global settlement with various defendants (Defendants) to resolve all damage claims against Defendants arising from the Maui fires. The settlement was conditioned on an agreement or judgment resolving the subrogation claims of numerous insurance carriers (Insurers) against the Defendants. The trial court submitted reserved questions to the Court in order to obtain a definitive ruling on the complex subrogation issues presented by the global settlement and to remove

uncertainty over the Insurers' subrogation claims. The Court held that in the context of a tort settlement, HRS § 663-10, which establishes a lien-claim process that limits an insurer's right of reimbursement to special damages, "is the exclusive remedy for a property and casualty insurer to recover claims paid for damages caused by a third-party tortfeasor." *Id.* at 425.

In March 2020, in the early days of the pandemic, the Office of Public Defender (OPD) filed petitions for emergency action with the Court. The petitions sought the expedited release of certain categories of inmates to address the health risks posed to inmates and prison staff by the pandemic. In response to the March petitions, the Court appointed a Special Master, Daniel Foley, to work collaboratively with the parties to resolve issues raised by the petitions. In August 2020, the OPD filed an additional petition when the O'ahu Community Correctional Center was experiencing a surge in COVID-19 cases. When the March and August 2020 petitions were filed, vaccines were still not available, and the trajectory of the pandemic and the ability of Hawai'i's health care systems to handle significant outbreaks in prisons were uncertain. In light of the extraordinary circumstances, the Court relied on its inherent powers to provide multiple forms of relief, including establishing procedures and criteria for: (1) the expedited release of certain pretrial and sentenced defendants incarcerated for petty misdemeanors or misdemeanors; and (2) the expedited consideration by trial courts of individual release motions. Through the Court's rulings, the inmate populations were significantly reduced in a manner consistent with the protection of public health and public safety.

Time was of the essence in the *Maui Fires Cases* and the pandemic petitions. In both instances, the Hawai'i Supreme Court acted expeditiously to render decisions that resolved difficult and complex

issues. For the *Maui Fires Cases*, the Court accepted the trial court's reserved questions, ordered and considered the parties' briefs, held oral argument, and issued its ruling within five months of the submission of the questions. Media reports characterized the Court's ruling, which allowed the global settlement to move forward, as "speedy" and "remarkably quick."

For the pandemic petitions, the Court appointed a special master, considered the special master's first interim report and comments thereto, and issued an order establishing an expedited process and criteria for trial courts to consider release motions within 22 days of the March 2020 petitions. The Court issued an order granting relief on the August 2020 petition within four days after the petition was filed.

Collegial Court

As shown by the number of separate opinions that C.J. has authored, the justices do not always agree on how a case should be decided. But C.J. is proud of the way he and his colleagues express their differences in their written opinions—with mutual respect and cordiality, without personal attacks, and focused solely on the merits of the analysis. Indeed, United States Supreme Court Justice Sonia Sotomayor, while visiting Hawai'i as part of the Jurist-In-Residence Program of the William S. Richardson School of Law, remarked that the Hawai'i Supreme Court was the most collegial court she had met.

C.J. believes that the justices' collegiality and focus on the analysis in their opinion writing, and their willingness to write separately to articulate their views on the law, have sharpened and raised the level of the Court's opinions. The respectful manner in which the justices express their disagreements also serves to build trust in the courts. It manifests that



the justices make decisions with integrity by exercising their best judgment, and that they can disagree in good faith.

Cultivating the Next Generation of Leaders

In addition to his judicial opinions, which are there forever to guide the application and influence the development of the law, an integral part of C.J.'s legacy will be the role he played in cultivating the next generation of leaders. C.J. appointed 65 district court and district family court judges who share his commitment to public service and readiness to engage with the community to solve problems. He has mentored 48 young lawyers who served as his law clerks, numerous externs, and others who have worked by his side. They saw how hard he worked, the incredibly high standards he set for himself, and his passion for making a positive difference. Despite the immense demands and pressures of his job, they also saw how he treated people with kindness, caring, and genuine concern. C.J. has been an exemplary

role model, inspiring countless individuals through his empowering leadership, humility, and dedication to serving the public.

For his part, C.J. views teaching others and helping them grow as one of his most important responsibilities. He revels in the tremendous strides made by those he has mentored who have blossomed into leaders. He is proud of those who have followed his example and stepped forward with

vision and energy to pursue new and innovative ways to help the community.

Conclusion

C.J. has given his heart and soul to fulfilling the profound responsibilities entrusted to him as Chief Justice and to serving Hawai'i. Distinguished jurist, empowering servant leader, champion of access to justice and equal justice for all, inspirational role model, down-to-earth humility, and genuine kindness and caring—C.J. is all this and more. It is difficult to fully capture the essence of C.J. and what his exceptional leadership as Chief Justice has meant. One thing, however, is certain: his presence and his leadership will be dearly and deeply missed.

Craig Nakamura and Chief Justice Mark Recktenwald worked together at the Hawai'i U.S. Attorney's Office from 1991 to 1997 and from 1999 to 2003 and at the Hawai'i Intermediate Court of Appeals from 2007 to 2009. Nakamura also worked in 2022-2023 as a Special Assistant/Attorney for the Hawai'i Supreme Court.

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