

# HAWAII BAR NEWS



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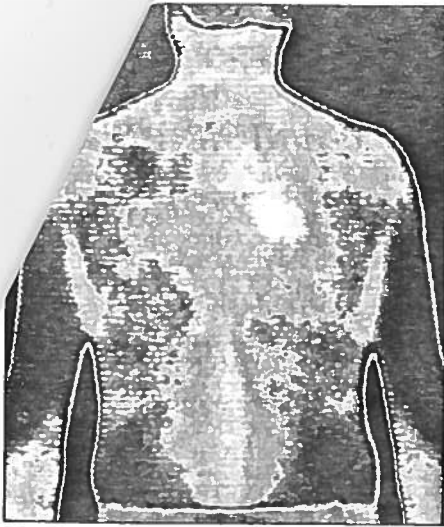
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## Hawaii Women Lawyers

By Cynthia A. Farias,  
HWL Legislative  
Committee Chair

### CHILD CARE LEGISLATION IN THE 1988 SESSION

Was the 1988 Hawaii Legislative Session a success in terms of child care? The answer, as you might expect, is yes and no. Of the over 30 bills and resolutions introduced this session relating to children and youth, only a fraction actually passed. However, the measures that did survive are considered by some as a foundation upon which more comprehensive child-care programs and policies can be based.

Many of the child-care appropriations were effected as part of the budget package. \$95,000 was appropriated for a pilot project to develop child-care alternatives and programs for businesses. \$36,000 was allotted for a Child Care Coordinator Advocate position to be administered out of the Office of Children and Youth. Also funded was an after-school child-care project with an emphasis on enhancing literacy. There was \$125,000 appropriated for a child-care needs assessment and some monies were given to develop a family child-care recruitment and training program. Finally, funds were appropriated for a Child Care Switchboard to be operated by People Attentive to Children (PATCH). The switchboard will provide free information and referrals on, among other things, available child-care providers.

Individual measures passed by the legislature include a bill to appropriate \$150,000 for a parenting education demonstration project and parenting telephone line. The project will seek to emphasize positive parenting techniques and be geared towards preventing child abuse and neglect.

The largest appropriation in this area is the \$1.6 million allotted for the transition of AFDC recipients into the job market. A major component of the program is providing

suitable child care for these families.

Licensing requirements for child-care home services will be expanded under another successful bill. Also in the area of child-care providers is a program to offer orientation and training to employees responsible for making child-abuse and -neglect reports. In addition, the Attorney General's office will be developing a plan to investigate the criminal history of child-care workers.

Several resolutions passed this session relating to children and youth include S.C.R. 86, which requests a feasibility study of child-care centers throughout the University of Hawaii system, a resolution requesting the study of employer-offered child care as an optional prepaid benefit, and one requesting the Department of Labor to conduct a study of parental leave.

There were, of course, far more bills that died. One of the most notable of these measures was a bill to give tax credits for employers who provide child-care subsidies. The other, a bill relating to a program of child- and parental-care leave. According to Representative Dennis Arakaki, vice-chairman of the House Human Services Committee, the parental-leave bill suffered due to a lack of objective information concerning cost factors. He hopes that the parental-leave study should provide this information. In any event, both these measures will very likely be renewed next legislative session.

One very positive aspect of the session was that it revealed who were strong advocates of child-care legislation. From all accounts, Representatives Arakaki, David Hagino, Carol Fukunaga, Tom Okamura and Jim Shon were among those at the

forefront. There were others. All eight women senators, Lehua Fernandes Salling, Mary George, Donna Ikeda, Ann Kobayashi, Mary-Jane McMurdo, Malama Solomon, Eloise Tungpalan and Patsy Young formed a coalition to advance the cause of child care. The session also brought together numerous community groups involved in the social services, as well as saw participation by state agencies and commissions. One of the most active of these was the Governor's Office of Children and Youth, headed by Lynn Fallin.

The general feeling, it appears, is that there is much more work to be done in the area of child care. Certainly, next year will be critical. The 1989 Legislative Session will indicate if we are, in fact, moving toward comprehensive, enlightened child care in our state.

## In Memoriam: C. Frederick Schutte

By Bill McCorriston,  
HSBA President

C. Frederick Schutte, distinguished lawyer, environmentalist, and humanitarian, passed away on April 7, 1988.

Mr. Schutte, the Hawaii State Bar Association president in 1976, gave generously of his time to our profession. Of particular importance were his leadership of the Disciplinary Board and his contributions to Hawaii Women Lawyers.

Mr. J. Russell Cades, a partner and friend of Mr. Schutte's for many years, has written the following memoir of a man who served his firm, his profession, and his community so very well.

### C. FREDERICK SCHUTTE — A MEMOIR

The legal and financial community and his partners and associates record their sense of loss of a friend and a wise, outspoken, strong-minded leader. Out of his busy law practice, he devoted in the public interest an enormous amount of time and energy to important issues of legal



ethics, professional responsibility, and human rights. He seemed always able to inform both his approach and advice by his impressive scholarship and vast Hawaiian and general historical knowledge.

In considering concrete complex cases ("the hard contingency of complex facts"), he diligently employed his well-known incisive probing ability: the ability to stimulate those engaged in the dialogue to take simultaneously into account any possible conflict and collision of reasonable

competing ideas. The resolutions obviously called for sensitive professional and moral judgment of a high order.

His writings both as a lawyer and a public official seem particularly illuminated by a quality we, in our cultural and social diversity, search for and value so highly — an informed sense of fairness, justice, and human dignity.

## Disciplinary Counsel's Report

By Gerald H. Kibe  
Chief Disciplinary Counsel

### IN MEMORY C. FREDERICK SCHUTTE

A great loss is felt by the Disciplinary Board and Office of Disciplinary Counsel due to the death on April 7, 1988 of Disciplinary Board Chairman C. Frederick Schutte.

Mr. Schutte, a senior partner at Cades, Schutte, Fleming & Wright, played an integral role in the organization and development of our present lawyer ethics system. Mr. Schutte had served for some time as a member of the old "Rule 16" dis-

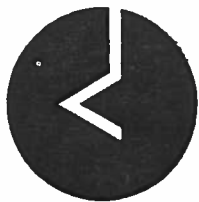
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table organizations where payment of legal fees would significantly deplete their resources, and the administration of justice. It does not include writing off a bill because it is not collectable.

Do we need a mandatory pro bono requirement as a condition of licensure to ensure that all lawyers fulfill EC2-25? Arguably there is no need for the requirement since we are already under an obligation, "every lawyer, regardless of professional prominence or professional workload, should find to participate in serving the disadvantaged." But as you can see by the HLC statistics, only a

small portion of the bar chooses to discharge the obligation by participating in the bar-sponsored project. It may be that individual members chose to do pro bono service outside of HLC, but it is unlikely that all of the 84% non-participating members are providing pro bono service.

The issue of mandatory pro bono service is an important one for the bar. Many of you actively participate in the program and support HLC by contributing annually. I believe that those already providing pro bono service are in the best position to address the issue and urge that you all participate in the discussion.

## D.C. Circuit Rules on Sex Discrimination

By Sherry P. Broder,  
HWL

Judge Joyce Hens Green filed a benchmark opinion in *Hopkins v. Price Waterhouse*, 825 F.2d 458 (D.C. Cir. 1987), a Title VII case. Ann B. Hopkins joined Price Waterhouse as a manager in August 1978. Hopkins had previously worked at Touche Ross, another large accounting firm where her husband was also employed, but left because the firm's rules prohibited both husband and wife from being considered for partnership. In 1981 Price Waterhouse told Hopkins that, because of her husband's position at Touche Ross, she would not be eligible for partnership. She threatened to resign, and the matter was resolved only because her husband left Touche Ross to set up his own consulting firm. Hopkins was nominated for partnership a year later.

There was no dispute that Hopkins was qualified for partnership consideration. None of the other candidates considered for partnership in 1983 had generated more business for Price Waterhouse than Hopkins. In addition, she billed more hours than any of the other candidates under consideration. She was the only woman among the 88 candidates nominated for partnership in August 1982.

A number of the complaints about Hopkins were a lack of "inter-

personal skills" and were couched in terms of her sex. One critic suggested that Hopkins needed to take a "course at charm school." The head partner at her office and perhaps Hopkins' most fervent supporter, advised her "to walk more femininely, talk more femininely, wear make-up, have her hair styled, and wear jewelry." The D.C. Circuit concluded that these comments simply underscored the genuineness of his belief that Hopkins' failure to behave in a manner apparently expected of a woman by Price Waterhouse partners had damaged her partnership bid. The Court also rested its finding of discriminatory sexual stereotyping on the testimony of Dr. Fiske, a social psychologist and an expert in the field of stereotyping.

The D.C. Circuit upheld the District Court's reliance on comments partners made about other female candidates. One partner stated that he could never vote for a female partner. The D.C. Circuit pointed out, "It is of course impossible to misconstrue the sentiment behind a categorical opposition to all female partnership candidates . . . the firm took no steps to admonish this partner for his statement. . . ."

The Circuit Court found ample support in the record for the District Court's finding that the partnership selection process at Price Water-

house was impermissibly infected by stereotypical attitudes toward female candidates.

Turning to the question of relief, the D.C. Circuit found that Hopkins was entitled to recover back pay from the date of her resignation and also found that the plaintiff was entitled to post-resignation damages. Because the parties had attempted to bifurcate the trial and postpone consideration of the issue of damages, the case was remanded for the determination of appropriate damages and relief.

### Lawyer Kokua Program

By James C. McWhinnie  
Attorney

The Lawyer Kokua Program monthly luncheon seminar on arbitration was held on Wednesday, April 13, 1988. The arbitration seminar featured Circuit Court Judge Ronald T.Y. Moon, Arbitration Administrator Edwin S. Aoki, and Wilson Loo as keynote speakers. Recently admitted and experienced attorneys were in attendance at the Intermediate Court of Appeals courtroom, located on the third floor of the old federal building, as Judge Moon, Ed Aoki, and Wilson Loo provided many helpful hints and practical tips. Ed Aoki also provided useful handouts that included the Amended Arbitration Rules and forms of the most commonly filed documents.

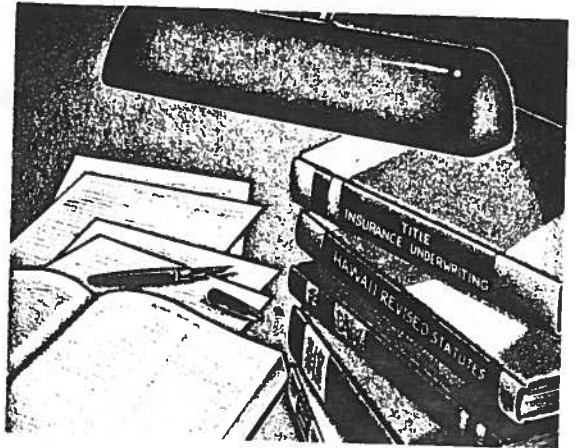
The Lawyer Kokua Program committee would like to remind all attorneys that its monthly "brown-bag" luncheon seminars are typically held on the second Wednesday of each month from 12:00 noon to 1:15 p.m. in the Intermediate Court of Appeals courtroom, third floor of the old federal building. The luncheon seminars have been an invaluable aid to both new attorneys making the transition from law school to legal practice and experienced practitioners. Each seminar has provided valuable insights and helpful hints.

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