

HAWAII WOMEN LAWYERS

NEWSLETTER

June 1995

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President's Message

Death is my neighbor now.

DAME EDITH EVANS

(in a radio interview, a week before her death at eighty-eight)

All my possessions for one moment of time.

ELIZABETH I (last words)

I dedicate this column to three women lawyers. One, Madelyn Lukela Perry, died last Saturday of metastatic breast cancer. She was forty-eight. The second woman lawyer, "Rachel," is in her early thirties. She has incurable metastatic cancer. "Rachel" still goes to work, when she is able, because she needs to put in a certain number of hours per month to keep her medical insurance active. This she does every month, no matter how exhausted, no matter how sharp the edge of her pain, no matter how deep her sorrow. She is too weak to drive, but never too weak to face her life.

The third woman lawyer, "Kate," was, she thought, healthy. When she saw her gynecologist last month for a routine examination, she was told her liver was enlarged and sent immediately to a hospital. Five days later an oncologist told her she had metastatic colon and liver cancer. It is inoperable and incurable, and he says she has less than six months to live. She is in her mid-thirties. "Kate" has taken a deep breath and made some decisions. She will quit her job and she will travel. She will say good-bye to friends and family. She will live each day as if it were an entire life.

I have kept anonymous the names of these last two women, for it will be their decision, and theirs alone, to choose to whom they reveal their situations. Madelyn Perry's obituary was in the newspaper this week. But I will say this. Each of these women attorneys is or was involved in trial law. Each continued to work despite incredible obstacles. In the case of "Kate," she lately has been feeling inordinately exhausted. At the end of the work day, she would come home and fall asleep, without dinner, before the sun even set. But still, she worked on. She thought it was only the fatigue of litigation. And she had a work ethic. Besides, women lawyers can't call in sick too often. It isn't "lawyerly."

The fate of these three women is important; certainly to them and also to us. Not only do we care deeply about each of these women, but we each also are forced to face the ineluctable certainty of our own death. How does one find meaning in the death of a young woman lawyer? What

then, is the meaning of our life?

What matters, I believe, is not the meaning of life in general but rather the specific meaning of each person's life at a given moment. Everyone has her own specific vocation or mission in life to carry out a concrete assignment or, actually, a series of assignments, which give her meaning and fulfillment. We each have our different gifts, histories, and context. Therein we cannot be replaced, nor can our life be repeated.

Dr. Victor E. Frankl is now a psychiatrist, but as a young man he was a victim of Auschwitz concentration camp. In his book *Man's Search for Meaning*, Frankl says he saw proof in the camps that everything can be taken from a human but one thing: "the last of the human freedoms — to choose one's own attitude in any given set of circumstances, to **choose one's own way.**" And choices there always are. Every day, every hour, offers the opportunity to make a decision. If death is certain, you can still choose how to face it.

Frankl also says, and I agree, that no power on earth can take your experiences from you. Not only our experiences, but all we have done, whatever great thoughts we may have had, and all we have enjoyed and all we have suffered and all we have loved, all this is not lost, it exists in us. In facing certain death, Frankl says that we must not lose hope, but must keep our courage knowing that the hopelessness of our struggle does not detract from its dignity and its meaning.

Florynce Kennedy claims "the biggest sin is sitting on your ass." Colette said: "What a wonderful life I've had! I only wish I'd realized it sooner."

I'm going home now to take my little boy on a twilight walk. Maybe we'll start that leaf collection.

ATTENTION HWL MEMBERS!

There is **too** a free lunch! And you get one, no strings. At the Plaza Club, no less. The HWL Board of Directors has decided to sponsor a **free lunch** at the Plaza Club for all members of Hawaii Women Lawyers. If you are not a member, but a wannabe, please come with checkbook in hand, and sign up. There will be no official program except for a brief talk about our varying projects. We want to hear what you want our organization to do and what you might be willing to sign up for. Your president wants to talk about a possible Christmas project. But our primary goal is simply to enjoy one another. Please come. It can only be fun.

DATE: Friday, June 30, 1995. TIME: 11:45 a.m.
PLACE: Plaza Club
RSVP: Call Mary Houghton at 395-9743

PREGNANCY DISCRIMINATION CASE DECIDED BY CIVIL RIGHTS COMMISSION

NEWSLETTER EDITOR WANTED!

Got a yen to edit? Want to have your fingers on the pulse of legal life in Hawai'i? Have a few spare hours each month?

The Hawaii Women Lawyers Newsletter needs a volunteer editor starting with the September issue. You will work with the other fine people who help to put our newsletter together: Cori Lau, contributing editor; Mary Houghton, our typesetter; Susan at NewTech, our printer; and Jeanette Nagaue, our mailer. Please direct your inquiries to either Susan Jaworowski, the current volunteer editor, at 587-0663, or Pamela Berman Byrne, the president, at 541-2521.

If you come on board before September, Susan will be happy to walk you through an earlier issue. Her son Nicholas will be starting school at the Punana Leo O Kawaiaha'o in September, which requires a large time commitment, so she will only be available until that time.

On March 3, 1995 the Hawaii Civil Rights Commission issued a decision finding sex discrimination against Employer Sam Teague, Ltd dba Page Hawaii and Sam Teague (Docket No. 94-001-E-P). The employer hired the complainant and later refused to allow her to return to work when she took pregnancy leave. The employer argued the complainant lied to him when she said she could work for at least a year in his company, because she knew she was pregnant. Under civil rights laws, an employer may not inquire whether an employee is pregnant. Conversely, a prospective employee does not have to inform a prospective employer she is pregnant. The Commission ordered the employer to pay complainant lost wages in the amount of \$16,500.00 and general damages of \$5,000.00. The hearing officer had originally recommended lost wages in the amount of \$5,000.00 and general damages in the amount of \$20,000.00. Civil Rights Commissioner Daphne Barbee-Wooten wrote a separate opinion disagreeing with the reduction of general damages from \$20,000.00 to \$5,000.00. The Employer has appealed this case to Circuit Court.

SPOTLIGHT ON

JUDGE SANDRA A. SIMMS

by Daphne E. Barbee-Wooten

Judge Sandra A. Simms, appointed to the First Circuit Court bench in 1994, has a multifaceted background. She comes from Chicago, Illinois, where she was graduated from Hyde Park High School. She attended undergraduate school at the University of Illinois. Her schoolmates included U.S. Senator Carol Mosely Braun, the first African American woman in the U.S. Senate, and Judy Mitchell Davis, a judge in Cook County.

After law school at De Paul University in Chicago, Judge Simms travelled to Hawaii, a place her husband, Henry (Hank) Simms dreamed of living due to the aloha spirit and warm weather. Henry Simms works for United Airlines and had opportunities to travel all over the world, sampling living conditions in many places.

When Judge Simms arrived on Oahu, she obtained a job as law clerk for Judge Hayashi, Intermediate Court of Appeals, in 1980-1982. She worked for the Corporation Counsel from 1982-1991. In 1991, she worked for the Office of Information Practices for a few months, until she was appointed to District Court of the First Circuit later in 1991. Judge Simms was a member of the Board of Directors for Hawaii Women Lawyers in the early 1980s.

Judge Simms has three children, all of whom attended public schools in Mililani. Judge Simms is very active in her community, and has served on the neighborhood board. She is Vice President of Links, Inc., a social organization, which was instrumental in having African American Artists display their work at Honolulu Hale during Black History Month (February). Judge Simms has also been a guest lecturer on law to students at Chaminade, the University of Hawai'i, and other schools.

It is imperative to mention that Judge Simms "can really burn," which means that she is an excellent cook! Dinner at her house is always a treat.

Have you during your legal career been subjected to insulting or demeaning behavior because of your gender?

The Hawaii Supreme Court Committee on Gender and Other Fairness has proposed a rule of professional conduct that prohibits attorneys from engaging in discriminatory behavior:

Proposed Rule 8.4 Misconduct

It is professional misconduct for a lawyer to . . . knowingly manifest by words or conduct, while engaged in the practice of law, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or marital status. This paragraph does not preclude legitimate advocacy with respect to the foregoing factors . . .

If you are interested in working for the adoption of the proposed Rule 8.4, or if you have relevant anecdotes to share, please contact Dew Kaneshiro, Project Director, Office on Gender and Other Fairness, State of Hawaii Judiciary, 417 S. King Street, Honolulu, Hawaii, 96813-2912. Telephone: 539-4860. Fax: 539-4985.

A Reminder

The HWL Board has decided to publish a column in the newsletter offering congratulations to women lawyers who have achieved successful trial, appellate, or arbitration results. The Board is especially interested in highlighting cases or results of first impression or special significance. If you know of such a case, please contact Susan Jaworowski at 625-1386 with the case name and docket number, the issue resolved by the decision/verdict, and the name, address, and telephone number of the woman lawyer involved in the case. Please do not hesitate to blow your own trumpet.

Excerpts from a conversation between Magali Richter and Naomi Campbell:

NAOMI Later however, after I left the Family Court and Charles had lost the election, I needed a job. So when he approached me again, he said if you become a member of our staff, I promise you that I will treat you as a professional in every respect. You will not be hampered in any way. And so I took him for his word and I went in with the Corporation Counsel with him as my boss.

MAGALI How did it come to pass after employment in partnership with Judge Crumpacker that you chose going into government with the Court?

NAOMI Well, I guess it was because I had begun to practice privately and my practice was largely in family law. As a result, Judge King and Judge Corbett had come to know me and my work. It was just at that juncture that Family Court opened its doors July 1, 1966 and they knew that there was an opening for a referee so they suggested that I apply. There were 19 applicants and I was chosen. So I felt quite blessed at that. That's how it happened.

MAGALI And you remained on the Family Court bench for how long?

NAOMI From 1966 to 1970, so it was four years.

MAGALI And what caused you to step down?

NAOMI Well my husband at that time was a State Senator and he wanted to become Lt. Governor. Polls had been taken by various agencies and/or the press, I cannot remember. I remember that Charles scored above George Ariyoshi who was the leading Democratic contender at the time. He felt this was very hopeful and he had a good chance because he had always been a top vote getter. I would say for the most part he was a top vote getter in races that he ran. So he approached me and ask me if I would leave the Bench to help him in his campaign. Again this was a very difficult decision to make because I was very happy with what I was doing. I had begun to grow in my work I believe and develop into a strong person on the bench. So, I decided to leave the Court to help Charles. Eventually, we did lose that election.

MAGALI While you were on the Bench as a Family Court Referee, what were some of the issues or professional challenges which you faced?

NAOMI To me the family has always been the bedrock of society. You know they say in an old African proverb that to rear a child well does not just take the effort of the mother and father but an entire village. I learned through some of my own research into Hawaiian culture, for example, the volumes of Nana I Ke Kuma, Queen Liliuokalani Children's Center books, that this was the Hawaiian culture as well. I felt that meant that everyone of us, whomever we are and however we

encounter a child in our lives, has responsibility to leave that child in a situation where he is better off and more fulfilled and ready to contribute to society than before. And so, I for one thing, I did feel challenged to help children and I have to acknowledge that at the very beginning I did feel quite helpless sitting in Court with a child and his parents in front of me and having no ability to get through to the child no matter what I said. It took me quite a while to learn how to look at a child's eyes and listen to him speak in very simple terms and learn somehow what had occurred in his life, if I could, that prompted him to be what he was.

Continued in next newsletter.

HWL MEMBERSHIP

HWL invites you to become a member, or to renew your membership dues, if you have not already done so. Please send the following form and your check to: HWL, P. O. Box 2072, Honolulu, Hawaii 96805. Dues are as follows:

- Regular members \$40 Out-of-state members \$20 Student members \$10
- New admittees (within 1 year of Hawaii admission) \$20
- HWL President's Circle: \$100 \$500 \$1,000

Name _____

Mailing Address _____

Phone (day) _____ (night) _____

Please indicate if you are interested in information about serving on the HWL Board or Committees or note any topics or projects in which you would be interested in assisting.

If you have any announcements you wish to submit for the monthly newsletter, please call Susan Jaworowski at 625-1386 (afternoons), or send a copy to HWL by the end of the month.

HAWAII WOMEN LAWYERS
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