

# HAWAII WOMEN LAWYERS

## NEWSLETTER

September 1996

President: Magali V. Sunderland 528-3900  
Vice President: Susan M. Ichinose 536-3255  
Secretary: Pamela Berman Byrne 541-2521  
Treasurer: Rebecca Williams 921-6530

Directors: Susan Lynn Arnett 586-2200  
Daphne Barbee-Wooten 533-0275  
Donna Mae Gray 541-2521  
Na'unanikina'u Kamali'i 522-7598  
Susan Orlando Liu 545-3011  
Rosemary McShane 523-4878  
T. Lynne Wasson 545-2681

## State Auditor Marion M. Higa Featured Speaker on September 27th

### *HWL Speaker's Forum Resumes After Summer Hiatus*

After taking our traditional summer break, HWL resumes its popular Plaza Club lunch time Speaker's Forum on September 27, 1996, with State Auditor Marion M. Higa. The Office of the Auditor conducts post audits and generally evaluates financial performance, to discover any evidence of unauthorized, illegal, irregular or unsafe handling or expenditure of state funds. It's a tough job!

#### *Wide Area of Responsibility*

During just one three-month period over the past year, Marion Higa issued reports on such varied subjects as:

**\*The Hawaii State Hospital**, where the U.S. Department of Justice's contempt order had garnered negative media attention on the hospital's poor condition and poor patient care. In the course of the audit, Higa reported that hospital employees were paying only 40¢ for subsidized meals costing \$5, resulting in a cost to the State of \$300,000 per year. Additionally, employees were being paid for unauthorized leave, gasoline use was self-service on an honor system, and linen inventory was neither monitored or verified.

**\*The Department of Education**, where her office discovered discrepancies in the implementation of certain programs which resulted in violation of the Department of Education's and Board of Education's policies on graduation and equal access to education.

**\*State Contracting for Professional and Technical Services**, an audit which uncovered the Airports Division's failure to maintain competition in the contractor selection process, and inadequate monitoring of project managers which resulted in the waste and inefficient use of public funds including more than \$102 million in payments to contractors for canceled projects, with no apparent benefits to the public.

**\*The Workers' Compensation Claims Process for State Employees**, a study which recommended significant steps to better control the State's cost of worker's comp claims by its employees. The study found that over the past five years, the State's expenditure for these benefits has increased from over \$13.5 million to more than \$25.6 million.

**\*The Hilo Medical Center**, a financial audit which revealed that the Medical Center's problems were primarily the result of several layers of bureaucracy and inattention by the Division of Community Hospitals. The audit report

recommended that the Legislature approve a proposal authorizing the Hilo Medical Center to operate autonomously. **\*The Maui Memorial Hospital and Hana Medical Center**, a financial audit which suggested that the Division of Community Hospitals consider pursuing collection of cash discounts which cost the hospital about \$3 million in lost revenues granted to two insurers, which may not have been authorized or based upon sound reasoning

Auditor Higa has been watchdog of the state's pursestrings since 1992, when she was appointed by the Legislature to an eight-year term. She has been with Office of the Auditor since 1971, starting as an assistant analyst. Currently she is one of fifteen elected staff members of the Executive Committee of the National Conference of State Legislatures. Previously, Ms. Higa served as secretary and member of the Executive Committee of National Legislative Program Evaluation Society.

#### *Make Your Reservations Early*

Lunch will be from 11:45 a.m. until 1:15 p.m. at the Plaza Club, located on the 20th floor, 900 Fort Street Mall. Call Mary Houghton at 395-9743 for reservations. Lunch costs \$15. Bring a friend. We look forward to seeing you!

### **CHOP SUI GENERIS**

Hawaii attorney, Evelyn J. Black, formerly with the Honolulu office of Alcantara & Frame has formed Marine Adjusting Services Corp., a marine claims adjusting and risk-management service. A former police officer with Honolulu and Maui County, Ms. Black's new office is located in the Century Square Building at 1188 Bishop Street. She can be reached at 599-6555.

Saturday practice sessions have begun for the Annual Women's Flag Football Championship between UH law grads and current UH law students, in preparation for November's ETEBOWL. For more information call Coach Jim Williston at 527-5704.

## Two Staff Positions Open At Sierra Club Legal Defense Fund

The Sierra Club Legal Defense Fund, a national non-profit, public interest law firm, is recruiting for the positions of Staff Attorney and Associate/Project Attorney for their Hawai'i office. The Hawai'i office work emphasizes the protection of endangered species and marine mammals; coastal waters, streams and groundwater; shorelines and public lands; environmental justice; and native Hawaiian rights.

### *Staff Attorney*

Responsibilities of the Staff Attorney include the investigation, development and litigation of an active caseload in federal and state courts. S/he will work both independently and as a member of a team representing the interests of diverse groups of clients and managing all aspects of public interest advocacy, including media outreach, grant development and coalition building.

Five or more years of civil litigation experience and timely admittance to the Hawai'i bar are required for the position of Staff Attorney. Salary negotiable; excellent health and other benefits.

### *Associate/Project Attorney*

Responsibilities of the Associate/Project Attorney include legal research, drafting and fact investigation, new matter screening, case development, and active litigation. S/he will assist staff attorneys and also develop and independent caseload. Requirements of one or more years of civil litigation experience and timely admittance to the Hawai'i bar are required for Associate/Project Attorney. The term for this position will be approximately two years. Salary is low-\$30s, with excellent health and other benefits.

### *General Requirements*

Also required for *both* positions are excellent written and oral advocacy skills, solid academic record, commitment to environmental justice, ability to be a team player, eagerness to rock the boat responsibly and to have fun doing it, strong work ethic, and ability to see the forest *and* the trees.

The Sierra Club Legal Defense Fund is an equal employment opportunity employer and encourages applications from women, people of color and other members of underrepresented groups who will contribute to the diversity of its staff.

### *Here's How To Apply*

To apply, send a cover letter, resume, law school transcript, legal writing sample, and a list of three professional legal references to:

Paul Achitoff  
Sierra Club Legal Defense Fund  
223 South King Street, Suite 400  
Honolulu, Hawai'i 96813-4501.

## United Nations International Criminal Court To Be Established

Fifty years after the Nuremberg trials, the world community is finally poised to create a permanent International Criminal Court (ICC) to enforce international law prohibiting genocide, war crimes, and crimes against humanity.

A draft statute for a permanent ICC is now being negotiated by a UN Preparatory Committee, which will reconvene this fall. If there is enough political support, an international diplomatic conference will then be held to finalize and adopt the Court's statute.

Since 1978, the Lawyers Committee for Human Rights, located in Washington, DC, has worked to protect and promote fundamental human rights. Its work is impartial, holding each government to the standards affirmed in the International Bill of Rights. The Lawyers Committee for Human Rights strongly supports the creation of the ICC.

### *International Enforcement is Needed*

Most perpetrators of gross violations of international law are not punished by national or international bodies. National enforcement mechanisms have proven ineffective for most international crimes. Governments are rarely willing to prosecute their own citizens and domestic justice systems often break down during times of internal conflict or war. The existing International court of Justice in The Hague only resolves disputes between states and does not try individuals responsible for international crimes. An ICC is needed since a permanent court could enforce international law, wherever and whenever violations occur.

Despite this recent progress, the Court's future is still uncertain. The U.S. government's support is critical to the creation of the ICC. The Lawyers Committee for Human Rights encourages you to register your support for a permanent and independent Court to President Clinton at the White House (zip code 20005), your members of Congress, and Michael Matheson, Legal Advisor of the U.S. Department of State. Mr. Matheson's address at the Dept. of State is Room 6423, in Washington, DC 20520-6310.

### *Details Still Under Debate*

A number of issues regarding the formation of the ICC are still under debate. The Lawyers Committee for Human Rights has prepared a position statement discussing what crimes should be covered; who can initiate an investigation; who the court will ensure due process; and what relationship will exist between the ICC and national courts. If you would like more information about the proposed ICC, please contact Michael Posner, Executive Director or Stefanie Grant, Director of Program & Policy in the Lawyers Committee for Human Rights Communications Department at the New York office. The telephone number is (212) 629-6170. The Fax line is (212) 967-0916. Or you can E-mail Mireille Hector, UN Program Coordinator, at [comm@lchr.org](mailto:comm@lchr.org)

## Sherry P. Broder Named as Finalist 1996 Trial Lawyer of the Year

### *Thirteen Finalists Nationwide*

HWL member Sherry P. Broder is one of thirteen outstanding national attorneys named by Trial Lawyers for Public Justice (TLPJ) for its 1996 Trial Lawyer of the Year Award. The nationally prestigious award is bestowed annually upon the trial lawyer or lawyers who have made the greatest contribution to the public interest by trying or settling a precedent-setting case.

"These attorneys exemplify how trial lawyers use their skills and determination to create a more just society," said TLPJ Foundation President Michael E. Withey of Seattle's Schroeter, Goldmark & Bender. "They serve as inspiring models for all of us."

The finalists were nominated for their committed work in cases addressing a broad range of social issues, including civil rights, environmental protection, human rights, and government and corporate accountability.

Sherry P. Broder of Honolulu and Robert A. Swift of Philadelphia were named for their continuing work in the Ferdinand E. Marcos human rights litigation on behalf of almost 10,000 Filipinos who were tortured, summarily executed or disappeared during the Marcos martial law years. Finalists for the Trial Lawyer of the Year Award in 1994 for their work on the liability and punitive damages portions of this case, Swift and Broder are 1996 finalists for their litigation of the compensatory damages phase. In a fight that has lasted over a decade, Swift and Broder have achieved an almost \$2 billion judgment. In compensatory damages phase, the court adopted counsel's proposal to use an aggregate method of damages. This entailed random selection of 137 claims to be tried before the jury. At the trial here in Hawaii, a jury awarded the victims over \$766 million in compensatory damages. After doggedly pursuing ownership to a Honolulu house where Marcos lived in the late 1980's, counsel also obtained a \$1 million settlement. This marked the first known collection of a civil judgment for violation of international human rights.

Former HSBA President, & 1993 ABA sole practitioner of the year, Sherry Broder is also a candidate for the Judicial Selection Commission. If elected, she would become the first woman commissioner, who is also an attorney.

## ACLU Fetal Rights Position Statement

The Reproductive Freedom Project, a division of the American Civil Liberties Union, has issued a lengthy position paper on the subject of fetal protection statutes and wrongful death actions on behalf of fetuses.

While acknowledging the deep emotions that fetuses may evoke for millions of Americans, the ACLU opposes the creation of theories of "fetal rights." Permitting legal actions on behalf of stillborn fetuses or enacting laws to protect fetuses opens a Pandora's box in terms of how the law treats pregnancy and childbirth. However great our compassion and concern for bereaved prospective parents, the ACLU must examine such lawsuits and legislation with a critical eye. If they pose a real threat to reproductive rights, as the often do, the ACLU believes that the legal community must intervene and oppose them.

The newly released position paper cites cases, follows various state legislative updates, and list factors to evaluate in current local legislation.

If you would like a copy of the latest issue of "Reproductive Rights Update," write to Janet Gallagher, Director of the ACLU Reproductive Freedom Project at 132 West 43rd Street, New York, NY 10036. The phone number is (212) 944-9800, ext. 618. The fax number is (212) 869-4314.

## Open Policy Forum September 30th

### *"Immigrants and Health Care: Implications of New Federal Welfare Legislation"*

The Hawaii State Primary Care Association invites all interested parties to a policy forum to be held on Monday, September 30, 1996, from 9:30 a.m. to noon in room 325 at the State Capitol.

Special speakers will include:

- **Representative Calvin Say**  
Chair, House Finance Committee
- **Charles Duarte**, Executive Director  
Kalihi Plama Community Health Center
- **Jory Watland**, Executive Director  
Kokua Kalihi Valley Health Center

For additional information call the Hawaii State Primary Care Association in Honolulu at 536-8442.

## New President for National Association of Women Lawyers

### *Sally Lee Foley, Michigan Attorney*

Sally Lee Foley, 52, a private practice attorney with considerable experience in Michigan state government has taken the helm of the NAWL. From 1973 to 1975, she served as Assistant Attorney General in the Consumer Protection and Antitrust Division of the Department of Attorney General of the State of Michigan.

Ms. Foley currently serves as chairperson of the State Bar of Michigan's Franchise, Distribution and Dealer Law Committee. She is a member of the ABA, the American Arbitration Association's commercial panel of arbitrators and is also a member of the Michigan Advisory Council. As a part of the Legal/Legislative committee of the International Franchise Association, she has testified before state legislative committees on state franchise law issues. Her practice includes: franchise, antitrust, contract, copyright, trademark, trade secret and unfair competition litigation; prosecuting trademark and copyright applications; and consulting on licensing arrangements with franchisers, distributors and dealers.

Ms. Foley's installation, as well as the election of other Executive Board members took place during the NAWL 1996 Annual Meeting in Orlando, Florida on August 3rd

## 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:

\_\_\_\_\_

\_\_\_\_\_

HAWAII WOMEN LAWYERS  
P.O. Box 2072  
Honolulu, Hawaii 96805

**BULK RATE  
U.S. POSTAGE  
PAID  
HONOLULU, HI  
PERMIT NO.172**