

# Hawai'i Women Lawyers

March 2001

You can also find us at: <http://www.hsba.org/sections/HWL/hwl.html>

## Upcoming Events

**WHAT:** Brown Bag Lunch  
Building A Practice in ADR  
Co-sponsored with Center for  
Alternative Dispute Resolution

**WHO:** Victoria Marks,  
Circuit Court Judge  
Pat Park,  
Park Park Yu & Remillard;  
Ted Tsukiyama,  
Honorary Co-Chair of  
ADR Month

**WHEN:** Thursday, March 29,  
12 noon to 1 p.m.

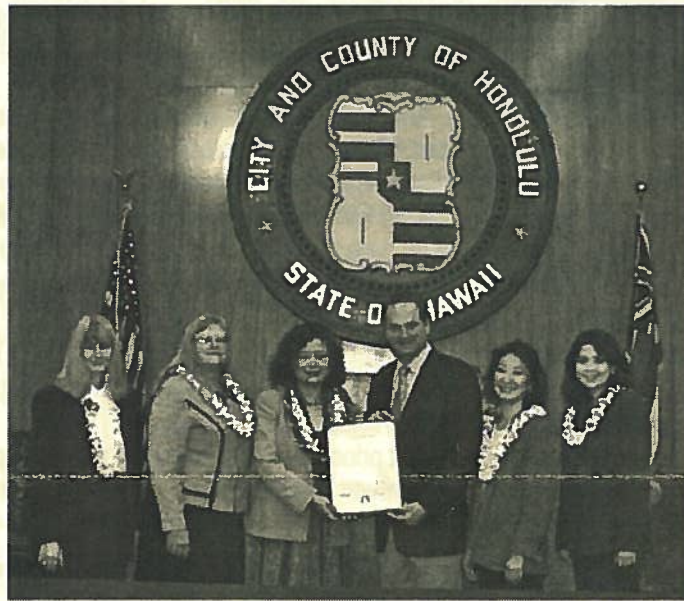
**WHERE:** Supreme Court  
Conference Room  
417 S. King Street, 2nd Floor

**WHY:** Come and hear experienced  
mediators/ attorneys discuss their back-  
grounds and practices in ADR, what  
skills are valuable in this area, and how  
to get clients willing to pay for those  
skills. (see page 5 for more info)

Recent HWL Award Winner,  
Emme Tomimbang is proud to present  
her first episode of the season:  
"EMME'S MAKEOVER MOMENTS"  
March 15 at 8:00 p.m. on KGMB 9.  
Rebroadcast on March 17 at 4:30 p.m.  
Watch as Emme transforms four local  
women mind, body, and spirit.

Hawaii Women Lawyers is co-  
sponsoring a Leadership Skills Forum  
presented by Financial Women Interna-  
tional. Tuesday, April 3, 2001  
Hale Koa Hotel  
2055 Kalia Road, Honolulu, HI  
REGISTRATION DEADLINE:  
March 27, 2001  
(more on page 6)

## Honolulu City Council Commends HWL



*HWL past presidents Nancye Bethurem, Rosemary McShane, Rai Saint Chu, Carol Mon Lee and HWL treasurer Lauren Rauschenburg accept a certificate from Honolulu City Councilman Duke Bainum recognizing HWL's 25th Anniversary. Also attending on behalf of HWL were vice-president April Wilson-South and past president Lorraine Akiba. Rai's efforts founding the organization were specially commended at the presentation.*

HWL founder Rai Saint Chu, past presidents Carol Mon Lee, Lorraine Akiba, Rosemary McShane, Nancye Bethurem and current board members April Wilson-South and Lauren Rauschenburg, recently accepted a certificate of recognition from the Honolulu City Council. The certificate of recognition was presented to HWL by Councilman Duke Bainum, on behalf of the entire Honolulu City Council. The certificate acknowledged Saint Chu's vision and efforts in organizing HWL and recognized the organization for its commitment to issues affecting the lives and careers of women in the profession and the community as a whole. The certificate was presented at a special ceremony at a City Council meeting and was aired on public access television. Mahalo to Councilman Bainum's staff members, Mallory Fujitani and Lana Yoshimura for coordinating the presentation, which coincided with HWL's 25th Anniversary. ☺

## President's Message: Fate's Dance



If not for the miss of a "Wheel of Fortune" -type spin, Judge Marie Nakanishi Milks might never have taken the LSAT, attended law school, become an attorney, or a judge.

While working as a secretary for Congresswoman Patsy Mink in Washington, D.C., the young Marie Nakanishi dreamed of becoming a princess in the Washington Cherry Blossom parade. Only one of three Hawaii candidates would be selected by the spin of a wheel, but Marie felt confident of victory, imagining herself waving beauty-pageant-style on Pennsylvania Avenue. To her disappointment, the wheel's pointer slipped past her name. She was not selected. Tearfully, she decided to take the LSAT exam instead, held the same day as the parade.

She told this story recently to more than 50 female high school students in the Girl Scout Council of Hawaii's Teaming For Tomorrow mentor program, as an example of how to find the good in life's disappointments -- or as Teaming for Tomorrow trainer Delorese Gregoire puts it, "be bitter or be better." Judge Milks also shared this story as part of the HSBA's Gender & Other Fairness Committee's "profiles" project, which will be aired on public access television later this year. The twists of fate that led to Judge Milks serving as a state circuit court judge are legion - and a lesson for us all that, while focused goals are important, so is flexibility.

Today, Judge Milks serves as chair of the Girl Scout Council of Hawaii, is a former winner of Hawaii Women Lawyers' President's Award, and is a mentor to high school students and an inspiration to men and women lawyers, among many, many other roles.

Her near miss as a pageant princess is one of my favorite examples of another often-repeated Gregoire-ism: **Change Happens And New Growth Emerges.**

— *Melissa T. Pavlicek*



*2001 "Teaming for Tomorrow" mentor program participants. The program, sponsored by the Girl Scout Council of Hawaii, pairs high school students with professionals for a day of job shadowing.*

*Breaking Barriers & Building Bridges: Women Lawyers in the New Millennium*  
*Excerpts from Keynote Address by Charlene S. Shimada*  
*at Hawai'i Women Lawyers 25th Anniversary Celebration*

**I**n discussing some of the barriers confronting women in the law today, I must speak about what I know best, namely, private practice in large law firms. My fundamental message is one of optimism about women's ability to overcome those barriers.

When I began clerking for Judge Pence in 1979, women partners were rare in Honolulu's large law firms, indeed, almost nonexistent. San Francisco didn't have a better record. When I started at McCutchen, the firm had over 100 lawyers, large by 1981's standards, yet there were only two women partners. By the time I became a partner five years later, that number had swelled by two. I therefore became McCutchen's fifth woman partner, and, the first in litigation, the last bastion of male domination.

But now McCutchen's 105 partners include 27 women (over 25%). In a 1998 survey of large law firms, it had the second highest percentage of women partners in the country. Recently, Fortune magazine named McCutchen to its list of 100 Best Companies To Work For, expressly citing its diversity. It is therefore doubtful that any woman at McCutchen will ever repeat my experience: namely, becoming a partner without having worked for a woman. Indeed, one day I would like to report that no man will ever have to repeat that experience.

### **B**arriers To Partnership

We need to be realistic, however. San Francisco in general and McCutchen in particular have been especially progressive on women's issues. In 1998, 7 of the 10 large firms having the highest percentage of women partners were located in San Francisco. Other major metropolitan areas cannot explain away this enormous statistical disparity as mere chance. Unfortunately, even in San Francisco minority women partners are exceedingly rare. In 1986, I became McCutchen's first minority woman partner, and 15 years later I remain its only one. I recognize that male partners in large firms throughout the country insist that, at least in their firms, merit is the only barrier to partnership for women, and a surprising number of women partners agree. As just noted, the statistics suggest otherwise. Furthermore, given the highly personal nature of the partnership decision, the term "merit" may be void for vagueness. For example, judgments about what personality traits make

a good litigator, business getter or simply a congenial partner are difficult to apply in a gender-neutral manner. Moreover, male partners tend to establish the strongest personal relationships with younger versions of themselves.

While the subjectivity of partnership decisions cannot be eliminated, the disadvantage to women is rapidly declining as partnerships include more women. Right now, women represent over 40% of associates in the nation's large law firms and half of law school entering classes. Their ultimate success can be greatly assisted if women partners will go out of their way to mentor younger women.

### **B**arriers To Management Opportunities And Equal Compensation

As women gradually make their way into firm partnerships, however, they will confront their next barrier, achieving management positions commensurate with male partners, as well as comparable compensation.

I will use as my point of departure perhaps the most highly publicized, if not most important, litigation in a generation, the recent Florida election cases. The media reported that the two presidential candidates were assembling "Dream Teams" of lawyers to press their cases. While I realized these cases would likely determine the next President of the United States, my mind kept wandering. I could not help wondering where the women lawyers were.

The election cases were for me still one more demonstration, and an exceedingly public one at that, of women lagging far behind men in the actual practice of law. This fact is intertwined with women's absence at the highest levels in firms, whether measured by management positions or compensation. Until women catch up to men in bringing new, significant work to their firms, men will monopolize major management positions, they will make the major firm decisions and they will command the highest compensation. After all, law firms today operate far more like businesses than would have been conceivable 20 years ago and the pressure to produce profit for the firm intensifies every year. Thus, firms tend to reward the most economically valuable attorneys, to the exclusion of other criteria,

*(Continued on page 4)*

## Breaking Barriers & Building Bridges: (continued)

(Continued from page 3)

with the highest compensation and management positions.

**B**arrier of Family Commitment  
The last barrier to women's advancement that I have time to address is perhaps the most difficult one and the one that seems most pressing to women today. It is the barrier of women's own commitment to their families, which makes it difficult to put in the hours necessary to succeed in large firms as they are currently governed. I have little sympathy for the view that men, as a rule, feel the pull of family obligation as strongly as women. Large firms are dominated by men. If balancing work and home were a dilemma men felt as deeply as women, policies would be instituted overnight that would at least alleviate the problem.

Moreover, I have witnessed women regularly making decisions that may hinder their careers in order to spend more time with their children, for example, by refusing new work, by going part-time, by declining to entertain clients or even by quitting their firms. I have observed nothing remotely comparable by men. Indeed, although men make up 75% of McCutchen's partnership, I am unaware of any male partner who decided to work part-time to spend more time with his children. When I was asked to be the managing partner of McCutchen's San Francisco office, I had to do a great deal of soul-searching. Taking on additional responsibilities when my daughters were 4 and 6 caused me serious misgivings. It is difficult for me to imagine many of my male partners feeling similarly constrained.

Unfortunately, I do not believe that the issue of balancing work and home is being adequately addressed by large law firms. It is too easy for firms to dismiss the issue by insisting that law firms are economic entities and that if women choose to work fewer hours to devote more time to their families, they should be compensated accordingly and excluded from management. In fairness, it must be emphasized that many women assert this position as stridently as men. While solidarity among women reigns in gatherings like tonight, once we return to our firms the rule of "every man or woman for himself or herself" often prevails.

But the issue of balancing work and home cannot be reduced to a question of compensation. Many

women would gladly go home to their children at 5 o'clock each day, if diminished compensation were the only consequence. The harsh reality, as I suggested earlier, is that women are too frequently dependent on male partners for legal work because they lack sufficient clients. Indeed, to create more family time, women often sacrifice client development first. Women therefore are reluctant to turn down work for fear that gradually the offers of work may evaporate or because they may be viewed as unreliable. Furthermore, a reduction in hours may produce not only reduced compensation, but reduced status and respect, and reduced opportunity to influence firm management or policies, something that should not turn on strictly economic considerations at all. Women are thus under constant pressure to work long hours, while still getting home for their children's school activities, sports events, dinner or even their bedtime stories.

If we are ever going to satisfactorily resolve this issue, women must help each other. I just don't see any other answer. We must insist on firm policies ensuring that women who choose to spend time with their families will receive enough work when they are at the office. We must insist that firm management includes women who have reduced their hours to care for their children. We must help each other with client development. Women with enough clients to support their own practice can adjust their workload far more flexibly than can women who are dependent on work from others. In addition,

women with a significant client base can wield far more power in their efforts to reform firm policy.

That is where organizations like Hawai'i Women Lawyers can be vital. Women can meet other accomplished women whom they may hire or refer to others. While I am not saying that women should always hire women, I am saying that women should go out of their way to consider women for legal matters. After all, it is women who will understand that just because a woman attorney cannot get endorsements from the general counsels of the world's largest corporations or never had the opportunity to litigate on the Dream Team, it does not mean her legal abilities suffer in comparison to men's. ☞

—Charlene S. Shimada

"I do not believe that the issue of balancing work and home is being adequately addressed by large law firms . . ."

## March 2001 is Alternative Dispute Resolution Month

March is Alternative Dispute Resolution Month! A consortium of dispute resolution professionals from the public and private sector, led by Chief Justice Ronald T.Y. Moon and Ted Tsukiyama, have planned a month of activities through March to inform, engage, and entertain people of all ages about alternative dispute resolution.

Alternative dispute resolution, often abbreviated as ADR, refers to methods of resolving conflicts outside the scope of traditional courtroom litigation. When people disagree, too often their first reaction is to hire a lawyer and sue their opponent. Preparing for and going to trial can be a stressful and expensive ordeal where each step of the process escalates the anger tension. ADR encourages people to approach their conflict by looking at alternatives to lawsuits to resolve their differences.

Mediation and arbitration are two of the most popular methods of ADR. The two methods are often confused but it is important to understand the differences between the two in deciding which is right for a particular dispute. In mediation, the disputing people decide how to resolve the problem with the assistance of a mediator. In contrast, at an arbitration proceeding, the arbitrator decides what the solution or resolution to the problem is after listening to each person's point of view. In short, arbitration is more like a court case, and mediation is more similar to negotiation.

Under mediation the disputants work with a neutral third person, called the mediator, to help them discuss the problem, evaluate the issues, and explore solutions. In mediation, the mediator does not decide the outcome of the dispute. Instead, the mediator helps the disputants communicate with each other and try to resolve their differences. The mediator may also assist in finding possible answers to the dispute. The people in the dispute decide for themselves the best solution.

Usually, people who resolve their own disputes are more satisfied with the results than those who allow others, like a judge, to decide for them. If no resolution to the dispute is found in the first mediation session, another mediation session may be planned in the future.

Under arbitration, the disputants use a neutral third person, called the arbitrator, to hear each version of the disagreement and make a decision. Arbitration is similar to court in that the arbitrator makes a final decision, as a judge or a jury would. In arbitration, however, the rules for the process are generally more relaxed and less formal than in court. This often makes arbitration quicker and less expensive than a court trial.

ADR is a successful avenue for both business and personal disputes. Often, contracts include a mediation or arbitration clause, which requires the parties to the contract to try ADR first or instead of bringing a lawsuit in court. Community mediation centers are available in Hawaii on each island and provide a full range of mediation services for a nominal sum or at no cost if parties cannot afford to pay for the services. Mediators and arbitrators are also available for hire in the private sector.

The success of ADR has led many court programs to include ADR as part of the court process. Today there are mediation programs at each level of court in the Hawaii State Judiciary. The Hawaii Judiciary also administers a non-binding arbitration program for certain personal injury cases. More information about these programs can be obtained by calling the Center for Alternative Dispute Resolution at 539-4237, or on the World Wide Web at <http://www.hawaii.gov/jud/cadr.htm>.

Many activities are planned during the month of March 2001 to inform the public about mediation, arbitration, and other types of ADR. Discussions, information, videotapes, and demonstrations will be available at various locations including shopping malls. For a complete list of activities, contact the Center for Alternative Dispute Resolution at 539-4237, the Hawaii State Bar Association at 537-1868, or look on the World Wide Web at <http://www.hsba.org>.

# Hawaii Womens Coalition Announces Legislative Package for 2001



On February 13, 2001 the Hawaii Womens Coalition held a news conference to announce their legislative package for this Legislative Session.

*HWC Co-chair Annelie Amaral addresses the media*



**Left:** HWC President, Melissa Pavlicek discusses legislation written to help women with cancer.  
**Right:** HWC Vice-President April Wilson—South discusses employment legislation in the HWC package.



Hawaii Women Lawyers is co-sponsoring a Leadership Skills Forum presented by Financial Women International, called  
 Island Leadership: Building the Alliances That Make You A Winner  
 Tuesday, April 3, 2001  
 Hale Koa Hotel  
 2055 Kalia Road, Honolulu, HI

**REGISTRATION DEADLINE: March 27, 2001**

April 3rd is Equal Pay Day, join us to learn:

- 1) where women rank in Hawaii according to a recent survey completed by the State of Hawaii Commission on the Status of Women;
- 2) the financial services industry according to a recent National survey conducted by FWI; and
- 3) Sharpen your leadership skills with Island Leadership Training to get you to that next level.

Leadership Skills Forum (includes - Lunch) 8:30 a.m. - 5:00 p.m. \$70.00

Luncheon Meeting (Speaker: Leslie Wilkins, Chair, Hawaii State Commission on the Status of Women)  
 11:30 a.m. - 1:15 p.m. \$20.00

Dinner Meeting (Speakers: Ronnie West, International President & Julie Cripe, International President-Elect, FWI)  
 5:30 p.m. - 8:00 p.m. \$35.00

Forum, Lunch and Dinner: 8:30 a.m. - 8:00 p.m. \$100.00

For more information, contact Gwen Yamamoto at 544-0682 or email at [gyamamoto@cpbi.com](mailto:gyamamoto@cpbi.com)

## ADR Month Calendar of Events

- March 2 **2001 Statewide Peer Mediation Conference**; Sponsored by Mediation Center of the Pacific. Hilton Hawaiian Village, Tapa 1 Ballroom, 8:00 a.m. to 2:00 p.m.; Contact: Tracey Wiltgen, Esq., 521-6767
- 2 **You & The Law: DISPUTE RESOLUTION IN THE ISLANDS: Alternatives to Litigation** Live Broadcast: 6:30 p.m. to 8:00 p.m., Rebroadcasts: March 10 & 11, 2001, 7:30 p.m. to 9:00 p.m., Channel 55; Contact: Robert LeClair, Esq., 734-9100
- 4 **"Mediation: An Alternative to Court"**; Sponsored by Hawaii Judiciary's Center for ADR; 12:00 noon, Channel 54 (re-plays: March 11, 18 & 25, 2001); 6:00 p.m., Channel 53 (re-plays: March 5, 12, 19 & 26, 2001); 4:30 p.m., Channel 52 (re-plays: March 14, 21 & 28, 2001)
- 6 **Ho'oponopono Brown Bag Seminar**; Sponsored by Hawaii Judiciary's Center for ADR and King Kamehameha V-Judiciary History Center Supreme Court Courtroom, 417 S. King Street, 12:00 noon to 1:00 p.m. Contact: Pam Martin, Esq., 539-4241
- 7 **Managing Conflict to Succeed in the New Economy**; Brown Bag Luncheon with David Bangert. Sponsored by University of Hawaii Program on Conflict Resolution. University of Hawaii Social Science Building (Porteus Hall), Room 704F, 12:00 noon to 1:00 p.m., Contact: Karen Cross, 956-6459
- 9 **Mediation Advocacy**; Presentation by John Barkai, Esq. Sponsored by University of Hawaii Program on Conflict Resolution William S. Richardson School of Law, Classroom 3, 9:55 a.m. to 11:35 a.m.; Contact: Karen Cross, 956-6459
- 9 **Living Ho'oponopono as a Way of Life**; Presentation by Manu Meyer; Sponsored by University of Hawaii Program on Conflict Resolution; University of Hawaii Social Science Building (Porteus Hall), Room 704F; 10:00 a.m. to 1:00 p.m., Contact: Bruce Barnes, Esq., 956-2437
- 9 **O'Hana Conferencing Group**; Presentation with Denise Lapilio; Sponsored by University of Hawaii Program on Conflict Resolution; 12:00 noon to 2:00 p.m., Contact Bruce Barnes, Esq., 956-2437
- 10 **Kahala Mall ADR Fair & Poster Contest**; Sponsored by SPIDR-Hawaii and Mediation Center of the Pacific 10:00 a.m. to 2:00 p.m.; Contact: Cindy Alm, Esq., 585-8865
- 12 **Honor thy Earth**; Presentation by Winona LaDuke; Sponsored by Matsunaga Institute for Peace, William S. Richardson School of Law, Associated Students of the University of Hawaii, School of Hawaiian, Asian and Pacific Studies, and various other University organizations; Campus Center Ballroom, 5:30 p.m. to 7:00 p.m., Contact: Karen Cross, 956-6459
- 14 **Intercultural Issues in Mediating Conflict**; Presentation by Gary Fontaine, PhD.; Sponsored by University of Hawaii Program on Conflict Resolution; University of Hawaii Social Science Building (Porteus Hall), Room 704F; 12:00 noon to 1:00 p.m., Contact: Bryan Cheplic, 956-6458
- 15 **"Naturally Speaking II" Forum**; Sponsored by Hawaii Judiciary's Center for ADR and HSBA Environmental Law Section; Supreme Court Courtroom, 417 S. King Street, 12:00 noon to 1:00 p.m., Contact: Pam Martin, Esq., 539-4241
- 16 **The Best of Mediation and Dispute Resolution in 2001**; Sponsored by the Mediation Center of the Pacific and the HSBA ADR Section; Ala Moana Hotel, 8:30 a.m. to 5:30 p.m., Contact: Tracey Wiltgen, Esq., 521-6767
- 16 **You and the Law: WATER CONFLICTS IN HAWAII: Challenges and Solutions**; Live Broadcast: 6:30 p.m. to 8:00 p.m., Rebroadcasts: March 24 & 25, 2001, 7:30 p.m. to 9:00 p.m., Channel 55. Contact: Robert LeClair, Esq., 734-9100
- 19-20 **2001: ADR Odyssey** ([www.adrhawaii.net](http://www.adrhawaii.net)); Presented by Honolulu-Pacific Federal Executive Board EEO Council, Federal Mediation and Conciliation Service, University of Hawaii Center for Labor Education and Research; Ala Moana Hotel
- 21 **Technology Assisted Group Solutions (TAGS)**; Presented by Federal Mediation Conciliation Service (FMCS); Ala Moana Hotel, 9:00 a.m. to 12:00 noon (session one), 1:30 p.m. to 4:30 p.m. (session two); Fee: \$75, Advanced payment required by March 1, 2001; Contact: Carol Catanzariti, 541-2568, email: [cctanzariti@fmcs.gov](mailto:cctanzariti@fmcs.gov)
- 21-23 **Basic Mediation Training**; Presented by the Mediation Center of the Pacific; HRSC Pacific Training Center, 8:00 a.m. to 4:00 p.m., 94-810 Moloalo Street, 2<sup>nd</sup> Floor, Waipahu, Hawaii 96797; Fee: \$399, Advanced payment required by March 5, 2001. Contact: Amanda Maika, 521-6767
- 24 **Proposed New Local Rules for ADR in the Federal Courts**; Presented by William S. Richardson School of Law Alumni Association; William S. Richardson School of Law Classroom 3, 9:00 a.m. to 12 noon; Speaker: Judge Barry Kurren; Fee: \$30; \$25 for WSRSLAA members in good standing; \$15 for current Law Students; Continental breakfast will be served. Contact: John Egan, [jregan@aloha.net](mailto:jregan@aloha.net) or fax (808) 988-8032
- 27 **ADR Recollections and Forecasts**; Sponsored by SPIDR-Hawaii, Presentation by Panel of Longtime ADR Practitioners; Ted Tsukiyama, Esq., David Chandler, Ph.D., Gerry Clay, Esq.; Goodwill Anderson Quinn & Stifel, 1099 Alakea St., 20th Floor, Conf. Room; 12:00 noon to 1:30 p.m. Contact: Cindy Alm., Esq., 585-8865
- 29 **"How to Incorporate ADR into Your Legal Practice"**; Presented by Hawaii Women Lawyers, HSBA Lawyers In Transition and Hawaii Judiciary's Center for ADR; Supreme Court Conference Room, 12:00 noon to 1:00 p.m.; Contact: Melissa Pavlicek, Esq., 522-5133

*Hawai'i Women Lawyers*

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What does the Corporation Counsel's office do? How do you get a job there? How do they hire outside counsel? These are some of the questions City and County of Honolulu's Corporation Counsel Dave Arakawa answered at our January brown bag lunch. The Corporation Counsel's office represents the Mayor, City Council, and the City and County's departments, agencies, boards, and commissions. The office's four divisions - litigation, family support, real property tax, and counseling and drafting - currently have a number of openings. Send your resume (David Z. Arakawa, Corporation Counsel, Department of the Corporation Counsel, City Hall, Honolulu, HI 96813) if you're interested. Applications for outside counsel are solicited in late May, early June. Hourly rates paid to outside counsel range from about \$120-\$150 for general litigation and about \$175-\$200 in specialty areas. What qualities do good outside counsel have? The primary one, according to Arakawa, is the ability to work with politicians. And, if you missed the lunch, you also missed some funny outside counsel stories.

HAWAII WOMEN LAWYERS  
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PRE-SORTED STANDARD  
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