

Hawai'i Women Lawyers

May 2002

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

Upcoming Events

WHAT: HWL Lunch: Coping With Chronic Complainers, Over-Controlling People and Other Difficult Types

WHEN: Friday, May 24, 2002, noon to 1 p.m.

WHERE: Carlsmith Ball Conference Room
1001 Bishop Street
Pacific Tower, 21st Floor

WHO: Rob Welch, Ph.D., CSAC

WHY: Difficult people can make your life miserable, waste time, and ruin a good day. Come and hear some effective strategies for dealing with these people. Dr. Welch helps people who are seeking satisfying work and personal relationships, strong families, and children who succeed. He is a clinical psychologist in private practice.

COST: \$7, includes lunch. RSVP to Erin Uyeda at eu@miyasaki.com or call her at 521-3255. Please send a check payable to Hawaii Women Lawyers, to her by May 22, at Pacific Tower, Suite 1030, 1001 Bishop St., Honolulu, Hawaii 96813.

Correction:

Sau Ung Loo Chan (JD 198) was Hawaii's first Asian woman to be licensed to practice law. She passed the bar in 1940 in the Territory of Hawaii. In our previous newsletters, we had mistakenly listed Representative Patsy Mink as the first Asian woman to be licensed to practice in Hawaii. Our apologies!



*Above: Elizabeth Croom (left) receives award from Irene Anzai.
Right: Award recipient Elizabeth Croom*

Rhoda Lewis Award for Public Service Presented to Elizabeth Croom



A Note from Rosemarie Fazio: HSBA Candidate for the Judicial Selection Commission

I ask for your support of my candidacy for the Judicial Selection Commission. I came to Hawaii in 1973 as a social worker. In connection with my work with abused women and children, I authored the grant that resulted in the opening of the first shelter for abused women and children in Hawaii. When U.H. opened the Law School, I decided to change directions in my career. I thought that, as a woman, I would have a greater voice as an attorney.

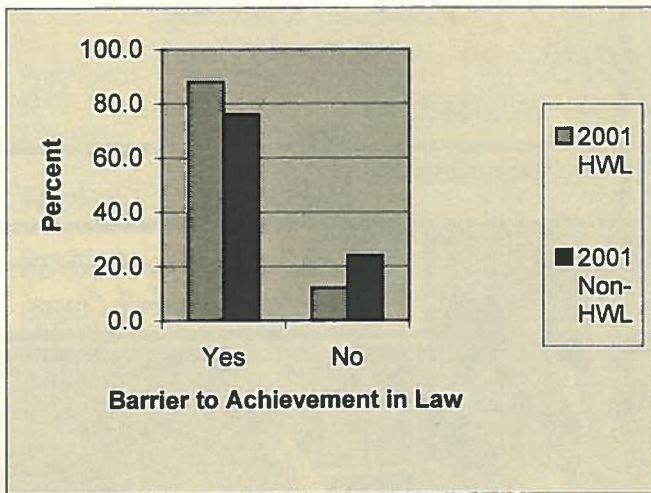
I have practiced since 1978 in Ashford & Wriston's litigation section. Before that, I was a law clerk for Judge Shunichi Kimura (State Third Circuit Court in Hilo) and a law clerk/extern for Judge Herbert Y.C. Choy (Federal Ninth Circuit Court of Appeals).

I've been a member of HWL since its inception. Back then, "lady lawyers" were a distinct minority—especially in private practice. When Bernice Littman made partner at Cades, it was an occasion of great rejoicing for our group. How times have changed!

During my professional career I have been active in numerous Bar and community activities. I currently serve as Chair of the Board of Hawaii Public Radio, Vice-Chair of the Disciplinary Board and Treasurer of Lambda Alpha International (an honorary interdisciplinary land economics organization). I am also a member of the boards of the U.H. Law School Alumni Association, the Friends of the Law School and the Waikiki Improvement Association. As a Lawyer Representative to the U.S. Ninth Circuit Judicial Conference and as a member of the Criminal Justice Act's Voucher Review Commission for the federal district court, I witness first hand administrative issues with which judges must deal. Previous board experience includes being a Director and Treasurer of the HSBA and HSBA/YLD, and a member of the boards of Child & Family Service, YWCA (East Oahu), The Outdoor Circle, Health and Community Services Council and the National Association of Industrial and Office Properties. Ironically, some of my most satisfying contributions have had nothing to do with the practice of law. As the surgical assistant for my physician-husband, I've participated in several medical missions to various third world countries.

I am committed to the continued improvement of our judicial system. If elected to the Judicial Selection Commission I will serve independently, will work hard to find and retain quality judges, and will ensure that women receive fair and equal consideration in the judicial selection and retention process.

President's Message



Do Barriers To Achievement Still Exist For Hawai'i Women Attorneys As Compared To Hawai'i Male Attorneys?

Over 70% of Hawai'i Women Lawyers Said "Yes."

"Some of the reasons Hawai'i women lawyers have chosen to practice professions outside of law may have to do with barriers they find to practicing law. When asked if there are still barriers to achievement for females compared to males in the law profession the large proportion of respondents said "yes." The response was similar for both members of HWL and non-members. The playing field for female attorneys is still not level compared to males." (Ftnt 1)

So did women lawyers in Hawaii celebrate a happy equal payday on April 16?

Nope.

Wage gaps and glass ceilings -- with the resulting lower pay and smaller pensions -- still dominate women's working lives.

Every year, the National Committee on Pay Equity, a coalition of civil rights & women's organizations, trade associations & labor unions, organizes Equal Pay Day to draw attention to the fact that, on average, women earn less than men. Each year the coalition singles out one day, as "Equal Pay Day" to symbolize that on average women work a full week, plus Monday and part of Tuesday of the next week to earn the wage that the average man earns in the previous five-day-work week; this year Equal Pay Day was April 16, 2002.

Unfortunately, the most recent statistics reveal the gap between American men's and women's wages has increased since 1996. Worse yet, a recent, highly publicized government report from the General Accounting Office revealed that the wage gap is particularly high between male and female managers.

Equal pay has been the law for FORTY YEARS. Yet women are still paid less than men with similar education, skills and experience. In 2000 on average a woman was paid 73 cents for every dollar a man received. Nationwide, working families lose \$200 billion income annually to the wage gap. The net result is that over her lifetime, an average 25-year-old woman will lose more than \$523,000 to unequal pay.

Even worse -- because they are paid less -- women have less to save for the future and earn smaller pensions. With the result that in 1998 half of all older women received a private pension of less than \$3,486 per year, compared with \$7,020 per year received by older men.

Things are even worse for women of color. African American women earn only 67 cents and Latinas 55 cents for every dollar that men earn. Asian Pacific American women's pay inequality is less severe than for women as a whole, but they still earn only 83.5 cents for every dollar that a man earns.

We need to take a closer look at women's workplace inequality if we are to resolve the problem. For starters, here are a couple of important statistics we rarely discuss:

- Eighty-five percent of women become mothers, and
- Two-thirds of mothers work less than the standard full-time schedule during the key years of career development.

Given that depressed wages, few benefits, and lack of advancement are conditions uniformly experienced by part time workers, it is easy to explain women's continuing inequality in the workplace.

WORSE YET -- AND EVEN MORE SIGNIFICANT -- the wage gap statistics that are most frequently cited compare the wages of men who work full time to those of women who work full time. If commonly used wage gap surveys look only at women whose work patterns are most similar to men's, they are only looking at the women who are in a better economic situation than other women. Naturally, this results in a significant underestimation of women's true economic inequality.

Yet, oddly, the focus on full time workers does help to explain why the wage gap has grown. Increasingly, "full time" work has come to mean "overtime" work. In fact, in the United States we work longer hours than in any other industrialized nation. Overtime work is not evenly distributed: It's more common in better-paid jobs. Anyone who works part-time or who works with part-time workers can tell you that part-time workers are uniformly denied the pay and benefits that full-time workers receive.

Combine the inequality towards part-time workers with the fact that most women eventually become mothers who can't consistently work overtime, and you can easily explain the wage gap among managers and the glass ceiling for women professionals. Recent studies comparing the wages of mothers and other adult workers demonstrate that the wage gap between mothers and others has been

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President's Message

(Continued from page 2)

steadily increasing with women earning only about 60 percent of the wages of fathers.

Increasingly higher-level (& higher paid) positions require more than 40 hours a week – this is certainly true for most attorneys. Most mothers cannot work 50 and 60-hour weeks, so instead of rising in their profession in proportionate numbers, working mothers languish in jobs classified as "part-time" (even if they require a 40-hour work week), or stall out in "full-time" jobs in middle management or "mommy track" positions.

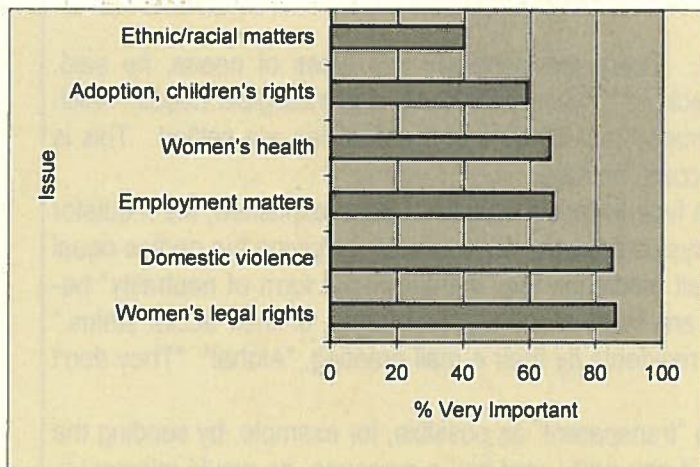
Changing this situation will require steady pressure, critical thought, and multiple strategies. One strategy involves identifying the best practices of employers, and the development of new model practices that do not include "mommy tracks" or stigmatized "family-friendly" policies that go unused because of the negative impact on careers. (Ftn. 2) To eliminate discrimination against women workers, personnel practices cannot penalize workers who are sometimes out of work to care for children, elders, or sick family members.

Another strategy includes pushing for appropriate public policy initiatives. The three months of leave provided under the state and federal family medical leave laws are an important first step. But raising children doesn't take three months; it takes a lifetime. Families need sick leave so that they can care for ill children as well as themselves. This includes pushing for laws that guarantee "part-time parity": proportional pay, benefits, training, and advancement for part-time work, and that push for higher pay, benefits, and legal rights for workers doing marginalized work traditionally performed by women.

While the wage gap in Hawai'i is smaller than the national average, these numbers do not automatically signal improved economic status for women. One reason for women's relatively improved pay status, is that the wages of many minority men in Hawai'i are extremely low. Plus even though women's wages in Hawai'i are among those of the best states in the nation—Arizona, California, Florida, Massachusetts, New York and Rhode Island — women in Hawai'i still only earn little more than 80 percent as much as men.

A third strategy involves union representation for workers – a proven and powerful tool for raising workers' wages, particularly for those most subject to labor market discrimination. Consider these facts:

- **The typical female union member** earns 38 percent more per week—\$157—than a woman who does not belong to a union.
- **Unionized women of color** earn almost 39 percent more—\$135—than nonunion women of color. In fact, minority union women earn \$45 a week more than nonunion white women. (Ftn. 3)



While it is now quite trendy to attempt to lay all of the ills of Hawai'i's economy at the feet of the unions, the fact is that our unions push pay equity in the legislature and at the bargaining table, where they bargain for pay upgrades for lower-paid classifications, for re-classifications and upgrades for female-dominated job classifications, and by bargaining for pay equity studies with phased-in pay adjustments.

Consistent with our mission and with the wishes of our membership, when it makes sense for us to do so, HWL is standing right beside unions in fighting for the rights of Hawai'i's workers. In a 2001 member survey identifying important legislative issues for HWL, the most popular issues among members were women's legal rights, domestic violence, followed by employment, women's health, then adoption and children's rights, and ethnic and racial inequalities.

The HWL legislative committee worked in the legislature this session on many bills designed to improve women's legal and employment rights – particularly women who are

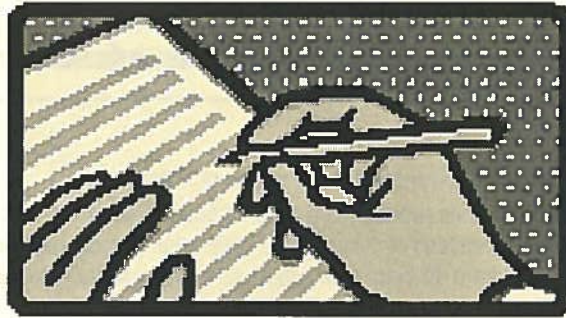
victim's of domestic violence. In weeks to come, HWL Legislative Committee will be meeting to discuss our successes and failures this session and to brainstorm a new and improved agenda for next year. Another, as yet unnamed committee, will be meeting to discuss how we can establish a mentorship program that will help and inspire Hawai'i students and workers.

All HWL members are encouraged to join us in this work – you can get involved by e-mailing me or any other member of the Board (identified on the back page of this newsletter).

Finally, we will soon be holding elections for next year's HWL board. While many board members' terms do not expire this year, there are likely to be a number of openings on the board. Please send an e-mail if you would like to be on next year's HWL board.

Aloha,
April

Footnote 1: A Survey of Hawai'i Women Lawyers, July 2001; **Footnote 2:** Joan Williams, Executive Director of the Program on Gender, Work and Families, American University, Washington College of Law, suggests the first and second strategies identified here; **Footnote 3:** Much of the information for this column can be found at the Women's E-News website (www.womensenews.org) and from the AFL-CIO web site (www.aflcio.org).



Joy Miyasaki's Notes:

SETTLING DISPUTES BY E-MAIL AND USING E-MAIL IN THE NEGOTIATION PROCESS

SETTLING DISPUTES BY E-MAIL AND USING
E-MAIL IN THE NEGOTIATION PROCESS

Giuseppe Leone, our April lunch speaker, spoke to us about his experience as an online mediator in eBay disputes. eBay runs over 4 million online auctions daily. If a dispute arises, the buyer or seller can request a mediator from SquareTrade, an unrelated San Francisco-based company. Leone is in the pool of mediators that work for SquareTrade. He has mediated over 600 eBay disputes.

He called the online mediation process "simple, neutral, and inexpensive." Communication is solely by e-mail. Mediation, he said, is not fact finding or determining who is right or wrong. The mediator, he explained, is a third party who helps the parties reach a result acceptable to both of them.

Leone contacts both parties, after he receives a short description of the dispute. Any information he receives from one party may be disclosed to the other, unless the disclosing party tells him otherwise. He said it is important for the mediator to make a strong introductory statement that indicates the mediator's neutrality.

Leone helps the parties identify their needs. There are generally two types of needs, he said, "substantive needs, such as 'I want my money back' or 'I want a discount,' and intangible needs, which are usually addressed with an apology." He estimated that 50-60% of the disputes are settled. This is about the same settlement rate as in small claims court, he said.

How does the online mediator create trust? In face-to-face mediation, Leone explained, the mediator creates trust by indicating neutrality in as many ways as possible, for example, by giving the parties equal time and using neutral language. He called e-mail mediation the "quintessential form of neutrality" because "you don't even know whether the parties are male or female, their ages, or their social status." Although sometimes, he said, you can tell Hawaii residents by their e-mail greeting, "Aloha!" "They don't know I'm right here, in Kaneohe."

Leone creates trust by keeping the process as "transparent" as possible, for example, by sending the same message to both parties. In the beginning, if one party sent him a message, he would interpret it, perhaps to soften it, and then send his version to the other party. Now, if one party sends him a message, he sends it directly to the other side. He believes sending the party's message, unedited, speeds the process along. One potential trap, he said, is that the mediator may favor the more "articulate" party.

His e-mail messages to parties are "short and visually organized," and he uses "simple language" so that a less fluent party will not be disadvantaged.

The benefits of online mediation, he said, are twofold. First, "you read e-mail whenever you want." So, instead of simply reacting, a party can make decisions in an "optimal physical, mental, and emotional situation." Second, since you are writing, you are forced to think about what you want. The e-mail process, he said, "imposes clarity, on the parties as well as the mediator."

*Photos from the Balancing Work & Family Luncheon
at the William S. Richardson School of Law*



UH Law Students listen attentively to the experiences of Hawaii women lawyers.



Hawaii Women lawyers speak to the future Women Lawyers of Hawaii

More Photos from the Mad Hatter's Tea sponsored by HWLF



Top left: (left to right) Joy Miyasaki, Rosemary McShane, Carol Mon Lee, Louise Ing, and Rai Saint Chu

Top Right: (left to right) Linda Martell with Hope and Leah and Louise Ing with Julia.

Left: Ladies Jesuva, Pelagia, Simeona, and another guest enjoy the afternoon and the Mad Hatter's tea.

Hawai'i Women Lawyers

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Hawaii Women Lawyers is a non-profit organization of men and women, founded in 1976, committed to: Improving the lives and careers of women in all aspects of the legal profession, influencing the future of the legal profession, and enhancing the status of women and promoting equal opportunities for all people.

Reminder Renewals: If you have not already renewed your membership, you may do so by sending a check to: Hawaii Women Lawyers, P.O. Box 2072, Honolulu, HI 96805. Membership dues are \$40 annually. Membership dues for students are \$10 annually."

Second HWL Happy Hour Lots of Fun!

Everyone enjoyed HWL's Second Pau Hana Happy Hour of 2002, at Che Pasta on April 19. We learned that Attorney Maile Shimabukuro is running for State House from Waianae Makaha District 44. Her campaign kick-off fundraising party will be on Thursday, May 23, 2002, 5 p.m. to midnight, at Compadres at Ward Center (\$10 donation at door). And, be on the look out for HWL's next happy hour!

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