

Pacific Islands Committee NEWSLETTER

WINTER 2018



A Word from the Chair

I was pleased to be reappointed to the Pacific Islands Committee several years ago after taking a break to serve on other committees. It is gratifying now to assume the duties of chair of the committee.

I have worked extensively with judges and lawyers in the Pacific Islands over the span of many years. I hope that this association, along with my other international work as chair of the American Bar Association Rule of Law Committee, as a member of the managerial board of the International Association of Women Judges, as a US delegate to the International Association of Judges, and as a trainer in many international venues, will help inform the work of the committee.

The Pacific Islands Committee has a unique and important mission – to help improve the administration of justice in the U.S. territories of Guam and American Samoa, the Commonwealth of the Northern Mariana Islands, the Republics of Palau, the Marshall Islands and the Federated States of Micronesia. Interestingly, most of our work is with the state-level courts of these jurisdictions. We develop and present a variety of judicial education and court professional training programs through grants from the U.S. Department of the



*M. Margaret
McKeown,
Circuit Judge*

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Island Judges Gather for Environmental Law Training

The Pacific Judicial Council held its first training focused on environmental law November 13-17, 2017 in Guam. The conference brought together delegates from the judicial, executive and legislative branches of government, scientists and non-governmental organizations. The Pacific Islands Committee sponsored 26 judicial delegates to the conference and four presenters of legal topics.

The conference was designed to improve the courts' capacity to handle cases that include environmental issues and scientific evidence. The content focused on individual speakers and panel presentations on island-sustainability challenges in the region, the effects of climate change in the Pacific, policy and legal response options, the decline of coral reefs and its impact to island communities, environmental litigation, marine fisheries protection and law enforcement, and marine-protected areas and other conservation measures.

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Outgoing Chair Bids Farewell



*Conseulo B.
Marshall,
Senior District Judge*

I take this opportunity to thank those who made it possible for me to be a member and chair of the Pacific Islands Committee. It gave me an opportunity to learn about the judiciaries in Micronesia, Vanuatu, New Zealand, Papua New Guinea and Tonga, with whom I was able to share the American judicial experiences. It has been

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Judges from the Pacific Island courts gathered in September in Guam for the first Pacific Judicial Council Environmental Law and Science Conference. A number of district judges from the Ninth Circuit participated in the four-day program.

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The highlight of the conference was keynote speaker Noah Idechong, former speaker of the Palau Congress who led the environmental protection movement in Palau. Mr. Idechong is a consultant for the Northern Reefs Fisheries Project in the Republic of Palau. He spoke of the wisdom that was passed down from his father and elders about the ocean and fisheries health. He took the participants back to a time when Palau, shortly after its independence, faced a crisis with preservation of its marine resources, and how it turned that around through laws and work with the scientific community.

Chief District Judge Michael Mosman of the District of Oregon presented a session on judging between conflicting scientific studies and evidence entitled “Environmental Science in Court: A Litigation Primer.” The session was well-received and helped the scientific community better understand the burden of proof that courts need to make decisions in these cases.

Christopher Hale, of the U.S. Department of Justice and former assistant attorney general, presented “Marine/ Environmental Enforcement: Statutes, Current Capabilities, and Cooperation,” focused on the interplay of laws, agreements, enforcement capabilities and cooperation between entities and stakeholders.

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Island Judge Updates

Associate Judge Bogdan joined the Commonwealth of the Northern Mariana Islands Superior Court bench in September 2017. In addition to several years of private practice and working in the legal department at the Asian Football Confederation, he had served as a Commonwealth of the Northern Mariana Islands assistant attorney general and assistant public defender. He was also legal counsel to former Governor Eloy S. Inos and Governor Ralph DLG. Torres. He is married to Tomoko Kawakata Bogdan.

Associate Justice Nelson Joseph of the Pohnpei State Supreme Court was appointed acting chief justice, following the resignation of Chief Justice Benjamin Rodriguez. Acting Chief Justice Joseph has been nominated as chief justice, and the investiture date is currently being scheduled.

Associate Justice Kerio D. Walliby of the Chuuk State Supreme Court was sworn in by Chief Justice Camillo Noket on November 3, 2016. Prior to joining the bench, Justice Walliby was a state justice ombudsman for the Federated States of Micronesia Supreme Court for 18 years. He developed his legal experience through various legal trainings, seminar, workshops and conferences. Justice Walliby is married to Ermine Walliby and has five children.

PJC Holds Biennial Conference in Saipan

From September 26 to 29, 2017, the Pacific Judicial Council (PJC) held its Biennial Conference in Saipan, Northern Marianas Islands. The Pacific Islands Committee used compact and technical assistance grant funds from the Department of the Interior to sponsor presenter travel and expenses for 26 judges and court administrators from the territories and Freely Associated States to attend the conference. The Biennial Conference allows attorneys from the PJC jurisdictions to attend the conference for a nominal registration fee, approximately 100 attorneys attended all or part of the four-day conference.

The conference featured presentations entitled “Immigration Law and the Rights of Guest Workers in the CNMI, Guam, FSM, and Guam” and “Rejecting and Negotiating Citizenship,” instructed by Professor Rose Cuison Villazor, Research Scholar at the UC Davis School of Law. Professor Villazor researches and writes in the areas of immigration and citizenship law, property law, Asian Americans and the law, equal protection law and critical race theory. Many participants found these presentations informative and timely considering the guest worker issues in the territories and Freely

Associated States. It was also a homecoming for Professor Villazor, who attended high school in Saipan.

Other sessions included a three-part presentation on evidence facilitated by former Pacific Island Committee member, Senior District Judge John Coughenour of the Western District of Washington. Supreme Court of Guam Associate Justice Robert J. Torres led a very well-received session entitled “Judicial Ethics and Social Media.” Joe Regalia, adjunct professor at University of Nevada, Las Vegas School of Law, facilitated a full-day, intensive session on judicial writing, and Bruce A. Bradley, Esq., who served as a special ethics prosecutor for the Guam Supreme Court and the Commonwealth of the Northern Mariana Islands Judiciary, facilitated a presentation on attorney discipline.

The Pacific Judicial Council Biennial Conference features content specifically for chief judges and court leaders. The conference rotates between the member jurisdictions of American Samoa, the Northern Marianas Islands, Guam, the Federated States of Micronesia and Palau. 

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Interior. We also collaborate with the Pacific Judicial Council, an organization made up of judicial officers from a number of island nations.

The latter half of this year has been particularly busy for the committee. In this edition you will read summaries of the trainings ranging from constitutional law to legal writing, immigration law, evaluating scientific evidence and environmental law.

In the first quarter of 2018, the committee will renew our partnership with the University of Hawaii, William S. Richardson School of Law, which will conduct the Fourth Pacific Islands Legal Institute for non-lawyer judges from American Samoa, the Federated States of Micronesia Palau and the Republic of the Marshall Islands. Nineteen judges will join us in Kolonia, Pohnpei, Micronesia to attend the one week ethics and professional responsibility seminar. Retired Judge

Marie Milks, who has considerable experience in judicial ethics, will lead this session. Other week-long sessions will focus on constitutional law, criminal law and procedure, decision making, and traditional law and land rights.

In closing, I would like to give special thanks and kudos to Senior District Judge Consuelo Marshall for her service as Pacific Islands Committee Chair from 2007 to 2017. Judge Marshall worked closely with the Department of the Interior, congressional representatives from the islands and key players in the region to keep them updated on the work of the Committee. With her hard work, connections and perseverance, the courts in the Pacific have benefited from a decade of judicial training that has contributed to effective administration of justice in the Pacific. 

Eugene Pangelinan, executive director of Federated States Of Micronesia National Oceanic Resource Management Agency, presented a session entitled "Marine Fisheries Protection and Law Enforcement." In the concluding session of the conference Mr. Pangelinan commented, "I thought I was coming here to teach judges about fisheries, and I walked away learning so much from everyone here."

David Sakoda, a marine law fellow with the State of Hawai'i's Department of Land & Natural Resources, Division of Aquatic Resources, facilitated "An Environmental Court: the Hawai'i Experience and Other In-shore Marine Resource Conservation and Management Measures," which was on Hawai'i's experience with the formation of an environmental court.

Sessions were also designed to allow time for all disciplines in attendance to discuss these issues in a facilitated forum. These discussions allowed the opportunity to collaborate and explore how to best assist each other to protect the island communities' natural resources.

The delegates from the executive and legislative branches mentioned that they walked away with a better understanding of where legislation can focus on environment, fishery and reef protection issues.

The four day conference concluded with an optional tour of the Humatak Watershed and Fu'a Bay facilitated by the University of Guam Sea Grant Program. The participants began the tour in the hillsides of the upper watershed and culminated on the shores of Fu'a Bay, the site of human creation according to Chamorro folklore. Scientific experts and cultural practitioners met participants at different stops along the adventure to discuss Guam's natural resources, watershed connections and environmental threats. The participants also planted native seeds intended to restore the watershed, which was damaged by a road construction project that left the hillside void of its usual vegetation sediment entering Fu'a Bay. 🌱

one of the most rewarding and memorable times in my judicial career.

I owe special thanks to Judge Schroeder, who appointed me to the committee and later as chair; Judge Kozinski and Chief Judge Thomas, who allowed me to continue serving as chair; and Judge Wallace, who shared his knowledge acquired while he chaired the committee, which helped me to best serve the judiciaries of Micronesia. I appreciate the justices and judges of Guam, Saipan, Marshall Islands and Palau, and the members of the Pacific Islands Committee assisting with training and program planning to help strengthen those judiciaries.

The Pacific Islands Legal Institute, which was held at the William S. Richardson School of Law in Hawaii for one week over a three-year period, provided excellent instruction by faculty members at the law school. This institute was especially important to the judges and justices who had not attended law school. I was impressed with their ability to learn, in one week of instruction, much of what I had learned in law school during a semester. It was my honor to have presided over a mock trial at the conclusion of one of the programs and observed the skills that the judges and justices demonstrated after the training.

The Pacific Judicial Conference held in Papua New Guinea, in which each member of the committee who attended made presentations on various topics, was a great success.

During my term as chair, the citizens of Palau voted to have jury trials in the most serious criminal cases. I was asked to provide training to the judiciary on presiding over jury trials. Later, Chief Justice Ngiraklsong asked me to make a comparison of the newly enacted criminal code and the old code and to discuss the two on a panel, which judges, legislators, lawyers and others in the community attended. United States District Judge Andre Birotte, who at the time was the U.S. attorney for the Central District of California, and Sean Kennedy, the public defender of the district, had much to share with those in attendance and to help them better understand the changes in the law. This was a rich experience that I will always remember.

Join me in welcoming Judge McKeown, the new chair of the committee, who will do an outstanding job. 🌱



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