

Pacific Islands Committee

NEWSLETTER

WINTER 2021



A Word from the Chair

This has been a time of change and transition. We mourned the loss last spring of Chief Justice Camillo Noket of the Chuuk State Supreme Court, who also served as the president of the Pacific Judicial Council. We welcome Chief Justice Repeat Samuel of the Chuuk State Supreme Court, who was elevated after Chief Justice Noket's death.



Hon. M. Margaret McKeown, Circuit Judge, Ninth Circuit Court of Appeals

Long-time Chief Justice Arthur Ngiraklsong retired in June and Oldiais Ngiraikelau, who was previously an associate justice of the trial division, is the new chief justice of the Palau Supreme Court. Chief Justice Ngiraklsong was a dynamic leader and a special friend for me in the island courts, and we pay tribute to him in this issue.

COVID-19 has dramatically affected our approach to training. Beginning in March 2020, the islands in this region-imposed travel restrictions and other preventative measures to limit the spread of COVID-19. To date, the Marshall Islands, Micronesia, and Palau have not reported any cases. These restrictions have been positive from a public health perspective but have also affected our ability to conduct in-person trainings. Thus, we transitioned our approach and much of the past eight months has been spent reassessing and reinventing the methods to deliver education to the judiciaries in the Pacific Islands. Since the program's existence, the focus has been on bringing subject-matter experts

JUSTICE PROFILE

Acting Associate Justice Elvis R. Pila Patea High Court of American Samoa Pago Pago, Tutuil

Talofa! (That means hello in Samoan.) American Samoa is a United States territory comprised of seven islands and atolls located in the South Pacific Ocean, southeast of the independent nation of Samoa. Except for a few limited causes specified by federal statutes, all matters arising under federal law in American Samoa are adjudicated over 2,500 miles away in the U.S. District Court for the District of Hawaii or 7,000 miles away in the U.S. District Court for the District of Columbia in Washington, D.C.



Hon. Ramona Villagomez Manglona, Chief District Judge, Northern Mariana Islands

But fortunately for its residents, American Samoa does have a local court system to adjudicate non-federal matters. This article features one member of that judiciary, Judge Elvis R. Pila Patea.

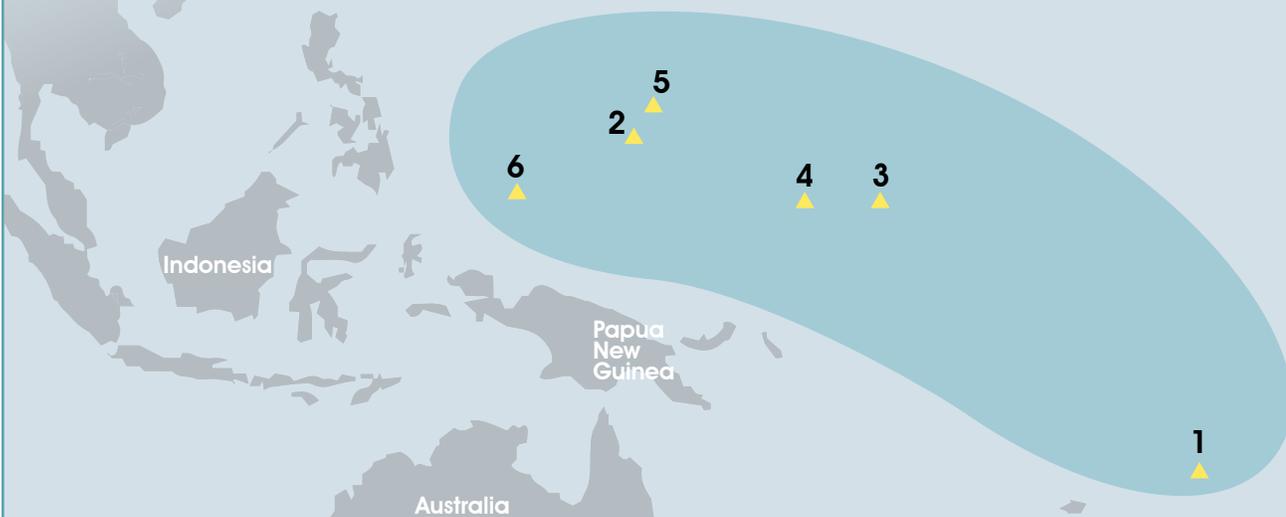
A Tribute to Retired Chief Justice Arthur Ngiraklsong

Page 5

An Overview of the Pacific Islands

The Pacific Islands Committee assists the local judiciaries in six governmental entities. Guam and American Samoa have existed as United States territories for more than a century. The Commonwealth of the Northern Mariana Islands, the republics of Palau and the Marshall Islands, and the Federated States of Micronesia were previously parts of the Trust Territory of the Pacific Islands established by the United Nations after World War II. The U.S. administered the trust until 1986, when Palau, the Marshall Islands and Micronesia attained their independence through a Compact of Free Association. Rather than independence, the Northern Mariana Islands established a

political union with the U.S. while remaining self-governing with locally-elected political leaders. Legal systems in some of the islands are a mix of common law and customary law and sometimes use U.S. law as guidance. All of the islands have local court systems. The Northern Mariana Islands and the “organized” territory of Guam also have federal courts, while the “unorganized” territory of American Samoa has a high court whose chief justice and associate chief justice are appointed by the secretary of the U.S. Department of the Interior. ●



1. American Samoa (South Pacific)



U.S. territory since 1900
Highest local court:
High Court of American Samoa
*Population: 49,437

2. Guam (North Pacific)



U.S. territory since 1898
Highest local court: Supreme Court of Guam
*Population: 168,485

3. Republic of the Marshall Islands



Attained independence 1986
Highest court: Supreme Court
*Population: 77,917

4. Federated States of Micronesia



Attained independence in 1986
Highest court:
Supreme Court of FSM
*Population: 102,436

5. Northern Mariana Islands



Commonwealth established 1976
Highest local court:
Supreme Court of CNMI
*Population: 51,433

6. Republic of Palau



Attained independence in 1994
Highest court: Supreme Court of Palau
*Population: 21,685

* July 2020 CIA World Factbook Estimate

The youngest of seven siblings, Judge Patea (59) was born in Fiji to Samoan parents who were living in Fiji at a time when Fiji was still a British colony. His father was originally from American Samoa, and his mother from Samoa, formerly known as Western Samoa.

Judge Patea was born at a time when his namesake, Elvis Presley, was churning out hit songs and making his acting debut. Judge Patea's older brother, Wayne, was also named after a Hollywood star—John Wayne. As a child, Judge Patea attended Catholic elementary schools in Samoa and American Samoa. His Catholic education continued into early adulthood. First, he attended college at St. Louis University—a private Jesuit university in St. Louis, Missouri—and then law school at the University of San Diego School of Law, where Judge Patea graduated in 1984. But despite all this Catholic schooling, he is still a Methodist.

Judge Patea is the only lawyer in his family. He grew up watching the television series “Perry Mason,” which influenced him to pursue the legal profession. After graduating from law school, he became a naturalized United States citizen and moved to Hawaii to begin his legal career with the State of Hawaii Office of the Public Defender in Honolulu and Maui. During those first seven years as a lawyer (1985–1992), Judge Patea handled a broad caseload including misdemeanors, felonies, and appeals.

Judge Patea returned home to American Samoa in 1992 to be closer to his family. He continued public service by working at the Attorney General's Office and then entered the private sector as in-house counsel for the semi-autonomous telephone company.

Judge Patea started his judicial career in 1999 as a pro tem judge, and five years later joined the High Court as staff attorney. In 2009, he was appointed by the Governor of American Samoa and confirmed by the Senate of the local legislature as one of two full-time judges on the District Court. Judge Patea has been the sole judge on the District Court for almost two years now. The types of cases he hears in District Court are approximately 80 percent criminal and traffic cases, 5 percent civil cases, 10 percent small claims (up to \$7,500), and the rest are miscellaneous cases such as child support enforcement and uncontested adoption cases.



Acting Associate Justice Elvis R. Pila Patea

Judge Patea's prior government service prepared him well for all the preliminary felony proceedings. His private sector background also prepared him for the civil and small claims cases, while his roots to the community assisted with cases involving interplay with the culture. A strong legal and personal background has come in handy, especially because the District Court does not provide a law clerk for its judge(s).

In addition to being a District Court judge, Judge Patea was appointed in 2010 as an acting associate justice of the High Court. The High Court consists of the appellate, trial, land & titles, and Family, Drug & Alcohol Court divisions. The High Court, with the assistance of two law clerks, is the highest legal authority in American Samoa for a population of about 55,000 people. The court is under the leadership of Chief Justice F. Michael Kruse, and the other full-time position is occupied by Associate Justice Fiti Sunia. The chief justice, associate justice and acting associate justice are appointed to a life tenure by the U.S. secretary of the Department of the Interior. All three justices are statutorily empowered to preside in all divisions of the High Court.

to the island venues. The focus on in-person training was necessary because of the limited internet bandwidth in the region until late 2019. But fortunately, most of the islands are now connected to the internet via undersea fiberoptic cable. For the first time, widespread internet and webinar training has become a reality.

Since the pandemic, the committee offered a session on challenges faced by the courts under COVID-19 and has assisted in the development of Court Interpreter Training for the Marshall Islands, as well as Cannabis and Impaired Driving Webinar Series for the Pacific Judicial Council. The Cannabis and Impaired Driving Series were facilitated by national expert Judge Mary Celeste, who addressed these topics in three sessions: the Toxicology of Cannabis, Drugged Driving, and How the Legalization of Marijuana and Hemp is Impacting Search & Seizure & Testing in Impaired Driving Cases. A fourth webinar featured Judge Richard Vlavianos on Sentencing, Probation and Risk Assessment Tools in Impaired Driving Cases. According to evaluations, these programs were very successful and they exceeded participation goals, with more than 200 judges, bar members, and justice partners (law enforcement, public health, and social services) participating in each webinar.

The transition to webinars has also helped to attract a broader range of experts. For example, in 2021, internationally-recognized leadership, trust, and change expert Simon Sinek will provide a series of four webinars on leadership for a target audience of court leadership, managers, and supervisory staff.

PIC staff is also busy developing trainings on Alternative Dispute Resolution, Domestic Violence, Judicial Writing, as well as several topics for court staff.

Finally, I would like to thank the judges, judicial staff, and members of the bar in the region for their creative and dedicated response to the pandemic. We all look forward to getting together soon—hopefully sometime in 2021. ●

Seven non-law-trained associate judges of the High Court are appointed by the Governor of American Samoa and confirmed by the Senate. They sit in the Appellate Division in panels of five that include all three justices. In *matai* (chieftain) titles disputes, four associate judges sit on a panel of five – with the presiding justice providing the tie-breaker vote. In all other matters before the High Court, they sit in panels of three that include a presiding justice. The chief justice chooses one of them to be the chief associate judge.

Criminal defendants are accorded jury trials with six jurors for felonies or misdemeanors punishable by more than six months. All are tried in Pago Pago, the capital on the main island of Tutuila.

Judge Patea enjoys both the fast pace of the District Court and the more measured trial and appellate work of the High Court. There is no regular calendar for appellate sittings, and he finds the mix in both courts a good variety.

If Judge Patea is not busy at work, he enjoys spending time with family and gardening. Fortunately for him, three of his older siblings and their families reside in American Samoa as well. Living in such a small community limits his social circle to avoid the almost inevitable conflicts that may arise. For this reason, he appreciates and enjoys representing his court at the Pacific Judicial Council, being a longtime member of the PJC Education Committee. Judge Patea is also grateful for the opportunities PJC provides in trainings and seminars to keep up to date with the law, as well as the added comradery and social gatherings with judges from other island jurisdictions. ●



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CONGRATULATIONS ON YOUR RETIREMENT
CHIEF JUSTICE ARTHUR NGIRAKLSONG
SUPREME COURT, REPUBLIC OF PALAU



Rock Island, Palau



the United States of America, graduating in 1974 with a Doctor of Jurisprudence. Chief Justice Ngiraklsong worked as an attorney for the staff of the Congress of Micronesia in the Trust Territory of the Pacific Islands in 1976. He began his judicial career as an Associate Justice of the Supreme Court of Palau in 1986. Honorable Arthur Ngiraklsong became Chief Justice in 1992 and resigned from the position on June 1, 2020.



*Visiting Scholar
Harvard Law School
September
1980 - May 1981*

*Rutgers University
School of Law
1971 - 1974, J. D.*

*University of Hawaii
1966 - 1967*

*M.A. (Political Science)
John Hay Whitney Fellow*

Honorable Arthur Ngiraklsong

Honorable Arthur Ngiraklsong was Chief Justice of the Supreme Court of Palau from 1992 to 2020. Ngiraklsong was educated at Rutgers University in



Jellyfish Lake, Palau

Ke mesulang ra ungil lomeralem ma decham ra ureor!

THANK YOU FOR YOUR HARD WORK!

NOVEMBER 13, 1992- JUNE 01, 2020
CHIEF JUSTICE OF THE PALAU SUPREME COURT
APPOINTED BY PRESIDENT NGIRATKEL ETPISON.

JULY 14, 1986- NOVEMBER 13, 1992
ASSOCIATE JUSTICE OF THE PALAU SUPREME COURT
APPOINTED BY PRESIDENT LAZARUS E. SALII.

JUNE 1983 – JULY 1986
ASSISTANT ATTORNEY GENERAL
GOVERNMENT OF GUAM

JUNE 1981 – 1983
ASSISTANT ATTORNEY GENERAL
GOVERNMENT OF GUAM

DECEMBER 1979 – SEPTEMBER 1980
LEGISLATIVE COUNSEL
CONGRESS OF THE FEDERATED STATES OF MICRONESIA

JANUARY 1979 – DECEMBER 1979
ASSISTANT LEGISLATIVE COUNSEL
CONGRESS OF THE FEDERATED STATES OF MICRONESIA

AUGUST 1, 1976 – JANUARY 1979
STAFF ATTORNEY
CONGRESS OF THE FEDERATED STATES OF MICRONESIA

APRIL 1975 – APRIL 1976
STAFF ATTORNEY
MICRONESIAN CONSTITUTIONAL CONVENTION



*You will always
be remembered
for your
accomplishments.
Thank you for
your years of
hard work and
dedication to the
Pacific Judicial
Council.
Congratulations
on your
retirement!*



It has been my privilege to serve on the Pacific Islands Committee with Justice Ngiraklsong for many years. He has a remarkable career of public service, from his positions in Guam and the Federated States of Micronesia to his long service to the judiciary of Palau beginning in 1988. From the time I first set foot in Palau and its pristine waters in the early 2000s to the time Justice Ngiraklsong retired from the bench, I have been the beneficiary of his friendship, leadership, and enthusiasm. I have particularly admired the Justice's commitment to judicial administration and excellence, his outreach to secure outstanding judicial clerks, and his commitment to ethics training and high standards for the judiciary and the bar. It seems not that long ago that I was hanging off a dock trying to get an Internet connection not far from the courthouse. Yet today, the judiciary has moved into the Internet age, thanks to Justice Ngiraklsong looking ahead. He was always a gracious and amiable host, whether sending me off to Jellyfish Lake or taking me out to see Palau's natural wonders. Although he has retired, he will always be part of our Pacific Island Committee. He was officially Justice Ngiraklsong or Justice N, but to many of us, he was Arthur. Arthur, I will miss your smile and your spirit.

Judge Margaret McKewon
Chair, Pacific Islands Committee



*A message from
Judge
Margaret
McKeown,
Chair,
Pacific Islands
Committee*



Dear Chief Justice Ngriklasong (ret'd):

Sharing thoughts about my visits to Palau. I was always impressed with your ability to make continuing legal education courses available to the Bench and Bar in Palau to prepare them to be knowledgeable about current legal issues, including case management.

You often traveled to our district, the Central District of California, and to the east coast to personally interview prospective law clerks because you knew it was important to hire the best. I met some of those clerks. They always expressed how much they learned about your judicial system and, of course, the opportunity to visit the beautiful country of Palau, including night diving.

I appreciate your arranging for many of us to meet the United States Ambassadors to Palau by hosting a reception or arranging a visit to their office.

While we were both members of the Pacific Islands Committee, you were often a participant and delivered papers at judicial conferences held in other countries in the Pacific, such as Papua New Guinea, Vanuatu, and the Solomon Islands, to name a few. When I attended those conferences, you introduced me to the Chief Justices and made sure I had a better understanding of their legal system. There were occasions when I believe you were responsible for my being invited to present a paper at the conference. I always appreciated your attendance at the Ninth Circuit Judicial Conferences giving judges and lawyers an opportunity to learn more about your country and its judicial system.

I will always treasure the story boards and books given to me while in Palau which helped me to learn more about the culture and history of your country. And, of course, I will never forget the trips to the Rock Islands, hiking to Jellyfish Lake and swimming with the jellyfish. These visits have enriched my life. Many thanks for your contributions to the legal profession.

Enjoy your retirement.

Consuelo B. Marshall
Former Chair, Pacific Islands Committee



*A message from
Senior Judge
Consuelo B.
Marshall,
Former Chair,
Pacific Islands
Committee*



Congratulations to my fellow island judicial brother and friend, Chief Justice Arthur Ngiraklsong on his retirement after sitting on the bench of the Supreme Court of Palau for 24 years, 18 of which he was the Chief Justice. In addition to Arthur's judiciary leadership position, he was a public servant to the People of Guam in his capacity as an Assistant Attorney General from 1981-1986. On behalf of our judiciary and our people, I thank him for his outstanding service. As Acting President of the Pacific Judicial Council, I would also like to recognize Arthur's work with our council. Not only has he served as a member of the Executive Board for over 20 years, he has contributed immensely toward the establishment of a strong Education Committee dedicated to teaching the rule of law in Guam, CNMI, American Samoa, Republic of Palau, Chuuk, Kosrae, Pohnpei and Yap. May God bless you during your retirement years. Hope you will continue to enjoy family, friends and tennis matches. We also hope to see you at future Pacific Judicial Council events.

Chief Judge Frances Tydingco-Gatewood
District Court of Guam
President, Pacific Judicial Council

CJ is our dear friend. He loves the law, tennis and Washington DC football. And CJ loves Oceania and strived throughout his entire career to bring the Pacific judicial officers together. CJ's goal is competent, fair and just adjudication in the Pacific. So, he helped us unite in PJC to improve the administration of justice in Oceania by creating training and educational opportunities for all employees in all our courts. CJ recognizes our unique island cultures and circumstances. We come together to discuss difficult issues confronting us all and we share our experiences and solutions. CJ's commitment was so strong that he brought us together by hosting us in Palau at his personal expense at times. And even when our discussions were difficult and challenging his concern for us and his humor always kept our times together cordial, enjoyable and fruitful. The justices of the Guam Supreme Court thank you and honor you, CJ, for your effective leadership in the judiciaries of the Pacific.

Justice Katherine A. Maraman
Supreme Court of Guam
Member, Pacific Judicial Council





CJ Arthur as I called him is a one of the most ardent believer and supporter of PJC. As President of PJC he hosted one the best conferences in Palau bringing in dignitaries as speakers from the mainland. As executive member he always supported programs that would improve the legal and judicial system in the western pacific and promoted collegiality among PJC members. CJ Art is a very good friend and was always optimistic and found humor to be an antidote for mental and emotional well being.

His input and wisdom will be missed by the PJC and Palau Judiciary.

Presiding Judge Alberto C. Lamorena III
Judiciary of Guam
Member, Pacific Judicial Council





It has been an incredible honor to have had the opportunity to work with and to get to know such a wonderful gentleman, exceptional jurist, and all-around great person. I worked alongside and trained with Chief Justice Arthur Ngiraklsong as a member of the Pacific Judicial Council Education Committee. Our training took us to many of the Pacific Islands, and it is in this forum that I was blessed with the opportunities to observe first-hand the great respect and esteem that he is regarded with throughout all of Micronesia. His dedication to the law and efforts on behalf of all the people of Micronesia is surpassed only by his humility and quick wit. As is typical of Chief Justice Arthur Ngiraklsong, after 34 years of service, he quietly stepped away from the Judiciary of Palau and the legal profession he so deeply loved and respected without fanfare or the accolades that he so deserves. He has always been a strong advocate of the rule of law and has always supported the mission of the Pacific Judicial Council to improve the work of the judiciary at all levels. His countless contributions to this organization and to all of the Judiciaries of Micronesia will leave a lasting impact and legacy on those of us who continue to follow his example and leadership.

To our friend... Thank you for your hard work, courageous leadership, and 34 years of dedicated and faithful service.

Congratulations and God Bless you on your well-deserved retirement.

Judge Arthur A. Barcinas
 Superior Court of Guam
 Education Committee Chair, Pacific Judicial Council

