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Honolulu, Hawaii



Current Employer-Title Sole Practitioner

Professional Summary For the first 20 years of my legal career, I was a member and managing partner in midsize commercial law firms located in metropolitan Honolulu. I represented local and multinational companies in sophisticated commercial litigation matters in State and Federal courts in Hawaii and on the Mainland U.S. In the mid-80's, however, I represented a plaintiff pro bono in *Parnar v. Americana Hotels*, a pivotal case that established the tort of wrongful termination in Hawaii. In 1999, I established my own law firm in downtown Honolulu in order to commence an ADR practice. By 2013, I accomplished my goal of transitioning to become a fulltime arbitrator, mediator, workplace investigator and expert witness.

Profession Attorney - Arbitrator, Mediator, Workplace Investigations, Expert Witness (consulting and testimonial), with concentration in Employment, Fair Labor Standards Act; Antitrust; Real Property, Contracts Law.

Work History Attorney, Sole Practitioner, 1999 – Present; Simons & Ichinose A Law Corporation, 1995 – 1999; Of Counsel, Simons & Associates, 1995; Head of Litigation, Foley Maehara Nip & Chang, 1991 – 1995; Managing Partner, Miller & Ichinose, 1985 – 1991; Partner/Associate, Mukai Ichiki Raffetto & MacMillan, 1977 – 1984. Adjunct Professor of Appellate Advocacy (from 1985 – 1993) and Pretrial Litigation (from 2005 – 2006), University of Hawaii, 1985-2006. Prior to law school, I worked as a commercial writer/editor and staff member for the Judiciary of the State of Hawaii, and the State of Hawaii Department of Planning and Economic Development.

Experience Over 46 years in law practice, 37 of them as a civil trial lawyer concentrating in litigating and arbitrating antitrust, contract, employment, fraud, partnership, professional negligence, and real property disputes; also experienced as Adjunct Professor at Richardson School of Law at University of Hawaii (appellate advocacy, pretrial litigation, mediation). Experienced in handling claims ranging in value from the thousands of dollars to over \$100 million for plaintiff and defense. Current practice since 1999 has focused on alternative dispute resolution as mediator, arbitrator, workplace investigator, and expert consultant. Ceased accepting advocacy clients in 2012 to devote practice to work as a neutral.

Representative litigation cases: pro bono representation of plaintiff Eugenie Parnar in *Parnar v. Americana Hotels*, which in 1984 established in Hawaii the right of an at-will employee to sue for

wrongful termination; representation of plaintiff Kay Austen in *Austen v. State of Hawaii*, the first sex discrimination case in Hawaii to be successfully tried and upheld on appeal; representation of the Trustee in the bankruptcy adversary action, *In re Airwest International, Inc. dba Air Hawaii* (action for securities fraud, professional malpractice, breach of fiduciary duty, and racketeering); representation of Island Tobacco Co., plaintiff in *Island Tobacco Co. v. R. J. Reynolds*, the seminal (and only) case elaborating on restraints of trade under Hawaii's antitrust statutes, Chapter 480 (Monopolies and Restraint of Trade) and Chapter 481 (Fair Trade Regulations); successful defense of ORS in *USA v. ORS, Inc., et al.* (criminal antitrust); defense of American Tobacco Co. in tobacco/asbestos litigation; defense of sublessee Costco, Inc. in *The Queen Emma Foundation v. Poseiden Limited Partnership, et al.* (commercial lease dispute); representation of plaintiff in *Discovery Airways, Inc. v. Sanwa Bank* (business fraud); representation of the Claimant-Intervenor in *EEOC v. The Queen's Medical Center*; representation of two families of decedents in the Xerox killings (*Kanehira et al. v. Uyesugi, et al.*).

Elected by members of the Bar Association of Hawaii to serve on the State's Judicial Selection Commission (2006-2013), and elected by members of that Commission to serve as Chairperson (2011-2013). Appointed to three three-year terms (1999-2002, 2002-2005, 2005-2007) as Lawyer Representative to the 9th Circuit Judicial Conference from the District of Hawaii. Elected by Ninth Circuit Lawyer Representatives to be At-Large Lawyer Representative to the Conference Executive Committee for the 9th Circuit Court of Appeals (2002-2005).

Since 1995, consistently named Best Lawyer in litigation and several other categories by The Best Lawyers in America. For over a decade, those categories have been: Arbitration, Mediation, Employment Law (Individuals), and Employment Law (Management). Named a Tier 1 Best Law Firm in US News & World Report annually for the last 25 years.

Served as Adjunct Faculty of the Richardson School of Law at the University of Hawaii in 2005, 2006, 2014; as a Member of Faculty, Hawaii State Bar Association Trial Academy, 2011, 2014, 2016, 2018, 2020. Panelist on Mediation Center of the Pacific's annual Mediator Training, 2019-2023. Appointed Discovery Master in 2021 by Judge Jeffrey P. Crabtree in State Circuit Court matter *Patricia Adams v. Hawaii Medical Service Association*, Civil No. 07-1-1388-07 JPC

Recent service: as arbitrator on a three-member panel in a multi-district arbitration matter involving dozens of employees of a national company claiming violations of ERISA; as arbitrator on a local AAA panel involving employment related claims, and as solo arbitrator on commercial and employment disputes in Hawaii.

Appointed as an Adjunct Professor on Commercial Transactions, Appellate Advocacy, at Richardson School of Law 1985-1993, 2005, 2006.

Mediator Experience

Mediated cases through various ADR providers, and as a court-appointed mediator for approximately 20 years. In 1999, established a solo practice as a commercial litigator for plaintiff and defense, and began to concentrate more on ADR activities as a neutral workplace investigator, as an expert witness in employment cases, and as a neutral in employment. Employment and commercial litigation disputes are now principal area of concentration in neutral work. Successfully mediated privately, as well as for public record court-appointed cases, which have included the following: the *Sharon Black v. HPD* case (high profile sexual harassment case); the *Kornya v. HSI* non-compete case; the *Suzuki v. HWM* sexual harassment case; cause cases brought by the EEOC (*EEOC v. MORI*, sexual harassment and wrongful termination) and HCRC (*Hoshijo v. Schuman Automotive*); and other public record litigations involving government parties (age discrimination, disability discrimination, antitrust). Has also mediated cases for confidential settlements not made part of the public record. Had also maintained a commercial litigation practice until the end of 2013, when decided to concentrate entirely on neutral practice; no longer accepts litigation clients.

Representative Issues Handled as a Mediator

Employment issues mediated have included: sexual harassment, sexual orientation harassment, retaliation, age discrimination, disability discrimination, non-compete covenants, wrongful termination of a contract employee, wrongful termination of an at-will employee, and wrongful termination of a union employee. Contract issues mediated have included: breach of publishing agreement, breach of trust agreements, intra-corporate dispute among family members, close corporation dispute, multi-party anti-competition litigation, and consumer credit transactions. Real property cases mediated have included: DROA disputes, condominium disputes, and development disputes.

Mediator Style & Process Preferences	I believe in mediation as a process and as a genuinely satisfactory alternative to litigation. I have represented sophisticated litigants as well as unsophisticated litigants in multi-million dollar disputes that have exhausted the litigation (or arbitration) process; and have been struck by the failures of our system to afford true justice to most litigants. Mediation is an effective method of addressing claims and defenses without having to exhaust the process, and the parties' resources in that process. I expect the parties to come to the table in good faith with the objective of fully engaging in the mediation process. Whether or not that engagement will result in compromise and settlement is not the only goal; but it is often achieved when the parties truly lend themselves to negotiation.
Technology Proficiency	I am hands-on at the computer, utilize Zoom to conduct meetings and ADR sessions as needed, conduct witness interviews and meetings while taking contemporaneous computer notes in Word.
Education	Hastings College of Advocacy (1979); University of Hawaii, Richardson School of Law (JD-1977); George Washington University (AB, English, Philosophy and History-1968).
Professional Licenses	Admitted to the Bar: Hawaii (1977); U.S. District Court: District of Hawaii (1977); U.S. Court of Appeals: Ninth Circuit (1981); U.S. Supreme Court (1985).
Professional Associations	Hawaii State Bar Association (Past Elected Director); State of Hawaii's Judicial Selection Commission (Hawaii State Bar Association Elected Representative 2007-2013; Vice Chair 2009-2011; Chair 2011-2013); Hawaii Women Lawyers Association (Current member, Past President, Past Director); Ninth Circuit Judicial Conference (Former Delegate, member of Conference Executive Committee, Past Lawyer Representative); American Inns of Court (Bencher Emeritus); State Supreme Court (Committee on Pattern Jury Instructions, Head of Employment Law Subcommittee). HSBA-Appointed Member of the Board of Directors (2007-2017) of the Legal Aid Society of Hawaii (elected President of the Board, 2013-2015); Member, Board of Directors of Mediation Center of the Pacific, 2018-current; Member, Judiciary of Hawaii's Civil Justice Improvements Task Force, 2018-2019. Faculty Member, Hawaii State Bar Association Trial Academy at Richardson School of Law, 2011, 2014-2020.
Recent Publications & Speaking Engagements	<p>"Mediation," Chamber of Commerce of Hawaii Annual Conference 2005; "Avoiding Improper Termination under the FMLA," FMLA Update, August 2005; "The Revised Uniform Arbitration Act," HAWAII BAR JOURNAL, November 2002; "Hot Topics in Litigation," Hawaii State Bar Association Convention, October 2002; "Sexual Harassment Redux," HAWAII BAR JOURNAL, 1996; co-author, "Effective Appellate Practice in Hawaii," National Business Institute, 1994; "How to Use Negotiation, Mediation and Arbitration," Hawaii Institute of Continuing Legal Education, 1993; "Avoiding Lawsuits for Employment Discrimination," HAWAII LABOR AND EMPLOYMENT LAW, National Business Institute, 1991; "'Civil Rights in Employment,' They're Broader Than You Think," BASIC ISSUES IN EMPLOYMENT LAW IN HAWAII, National Business Institute, 1990; "Hawaii's Supreme Court Recognizes Tort of Retaliatory Discharge of At-Will Employees," HAWAII BAR JOURNAL, vol. XVII, no. 2, 1982.</p> <p>SPEAKING ENGAGEMENTS: Panelist, Hawaii State Bar Association seminar on Lales v. Wholesale Motors decision by Hawaii Supreme Court, at Hawaii State Bar Association April 29, 2014; Speaker and Trainer, "Preventing Discrimination and Harassment in the Workplace," for Legal Aid Society of Hawaii attorneys and staff, January 6, 2012; Speaker and Panelist, Hawaii State Bar Association Annual Meeting morning session on Ethical Issues for Employment and Labor Lawyers, Sept. 23, 2011; speaker and panelist, "Going to the Balcony to Get to Resolution" - Tips from Professional Mediators, Advanced Mediation Training Workshop, Mediation Center of the Pacific, May 14, 2011; speaker and panelist, "Generational Differences in Practicing Law," U.S. District Court (Hawaii) Judicial Conference, April 15, 2011; Lecturer, "Judges and Their Selection," September 27, 2011, and September 29, 2010, LLM Program in International Law, Richardson School of Law; speaker and panelist, "Mediating Disability Cases," Hawaii Civil Rights Commission Annual Civil Rights Training: EEO in Hawaii: Keeping Pace with Recent Trends, October 13, 2010; Lecturer, "Retaliation Avoidance for Managers," Department of Public Safety, State of Hawaii, December 15, 2009; "New Developments in the Law," Hawaii Civil Rights Commission Annual Civil Rights Training, October 7, 2009; "Mediation and Ethics," Hawaii State Bar Association Annual Meeting, September 18, 2009; "EEO in Hawaii: What's Hot and What's Not," Hawaii Civil Rights Commission Annual Civil Rights Training, May 9, 2007; "Mediating the Employment Case," Hawaii State Bar Association Annual Meeting, October 25, 2006; "Preparing Clients for Mediation," American Bar Association Annual Meeting, August 6, 2006; "EEO Basics," American Bar Association Annual Meeting, August 3, 2006; "Gender and Mediation," The</p>

Mediation Center of the Pacific, Center for Alternative Dispute Resolution, April 12, 2006; Instructor, HSBA's Second Annual Trial Academy, September 16-17, 2005; speaker and panelist on Mediation, EEOC seminar, August 2-3, 2005, Honolulu, Hawaii; presenter, Family Medical Leave Act retaliation claims/defenses, Hawaii FMLA Update 2005, August 16-17, 2005, Council on Education in Management; presenter on "Mediation," Chamber of Commerce of Hawaii Annual Conference 2005.

Locations Where Parties Will Not be Charged for Travel Expenses The island of Oahu, comprising the City and County of Honolulu, State of Hawaii.

Mediation Rate \$400 Per Hour

Languages English

Citizenship United States of America

Locale Honolulu, HI

The AAA's Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA's Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator's resume. If you have any questions about a mediator's experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.