

**JOURNAL**  
**of the**  
**SENATE OF THE**  
**TWENTY - FOURTH LEGISLATURE**  
**of the**  
**STATE OF HAWAII**

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**Third Special Session of 2007**

**Convened Monday, November 19, 2007**  
**Adjourned Tuesday, November 20, 2007**

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**THE  
TWENTY-FOURTH LEGISLATURE  
STATE OF HAWAI'I  
THIRD SPECIAL SESSION OF 2007  
JOURNAL OF THE SENATE**

**FIRST DAY**

**Monday, November 19, 2007**

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Third Special Session of 2007, was called to order at 9:13 o'clock a.m., by Senator Colleen Hanabusa, President of the Senate, in accordance with the following Proclamation:

"November 19, 2007

PROCLAMATION

I, Colleen Hanabusa, President of the Senate of the Twenty-Fourth Legislature of the State of Hawai'i, pursuant to the power vested in me by Section 10, Article III of the Constitution of the State of Hawai'i, and at the written request of two-thirds of the members to which the Senate is entitled, do hereby convene the Senate in Special Session for the purpose of carrying out its responsibility established by Section 3, Article VI of the Constitution of the State of Hawai'i for a period of two (2) days commencing on Monday, November 19, 2007, at 9:00 o'clock a.m.

/s/ Colleen Hanabusa  
Colleen Hanabusa  
President of the Senate,"

was read by the Clerk and was placed on file.

The Divine Blessing was invoked by the Honorable Norman Sakamoto, Hawai'i State Senate, after which the Roll was called showing all Senators present with the exception of Senators Hee, Inouye and Whalen who were excused.

**MESSAGE FROM THE GOVERNOR**

Gov. Msg. No. 1, submitting for consideration and consent, the nomination of KATHERINE G. LEONARD to the office of Associate Judge, Intermediate Court of Appeals, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, for a term of ten years, was read by the Clerk and was referred to the Committee on Judiciary and Labor.

**STANDING COMMITTEE REPORT**

On motion by Senator Ige, seconded by Senator Hemmings and carried unanimously, the Clerk was authorized to receive a standing committee report on Gov. Msg. No. 1. In consequence thereof, and subsequent to its recessing at 9:16 o'clock a.m., the Senate took the following action:

Senator Taniguchi, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 1) recommending that the Senate consent to the nomination of KATHERINE G. LEONARD to the office of Associate Judge, Intermediate Court of Appeals, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the

Hawaii State Constitution, and in accordance with Gov. Msg. No. 1.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1 and Gov. Msg. No. 1 was deferred until Tuesday, November 20, 2007.

**ADJOURNMENT**

At 3:30 o'clock p.m., the Senate adjourned until 9:00 o'clock a.m., Tuesday, November 20, 2007.

## SECOND DAY

**Tuesday, November 20, 2007**

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Third Special Session of 2007, convened at 9:10 o'clock a.m. with the President in the Chair.

The Divine Blessing was invoked by Pastor Derrick Norris, Mililani Baptist Church, after which the Roll was called showing all Senators present with the exception of Senators Tsutsui and Whalen who were excused.

The President announced that she had read and approved the Journal of the First Day.

**ORDER OF THE DAY**

**ADVISE AND CONSENT**

Stand. Com. Rep. No. 1 (Gov. Msg. No. 1):

Senator Taniguchi moved that Stand. Com. Rep. No. 1 be received and placed on file, seconded by Senator Hee and carried.

Senator Taniguchi then moved that the Senate consent to the nomination of KATHERINE G. LEONARD to the office of Associate Judge, Intermediate Court of Appeals, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, seconded by Senator Hee.

Senator Taniguchi rose in support of the nominee and said:

"Madam President, I rise to speak in favor of Gov. Msg. No. 1 with reservations.

"Madam President, Katherine Grace Leonard is an attorney with the Carlsmith, Ball law firm. She's a graduate of the William S. Richardson School of Law and has been an attorney since 1991. Her colleagues at Carlsmith, as well as others who testified, have uniformly testified that she is bright, hardworking, and a very competent civil litigator. They and a number of non-lawyers have also commented positively on her involvement with her son's Boy Scout troop and soccer team. She has a science background and came to Hawaii in 1983 to work with orchids. Originally from Wisconsin, Ms. Leonard now considers Hawaii her home.

"I vote with reservations not because of any lack of legal ability on her part, nor because of any problem with her temperament. I do not question that she will work hard as a judge, and I hope that she will be fair to each and every party that comes before her. My concern centers on what I perceive as a need for diversity among the judges of our Judiciary – a need to have a balance of backgrounds when we fill positions. In the case of the Intermediate Court of Appeals, the last two judges who have left the court – Judge Burns and Judge Lim – were both former judges with healthy stints as trial judges. None of the current judges on the court previously served as trial judges. Thus, if Ms. Leonard is confirmed, which I expect she will, we will end up with not one ICA judge with any previous experience as a trial judge.

"That is why I strongly believe that the selection of someone with suitable judicial experience is not unreasonable under these circumstances, and I believe the Senate expressed this when turning down Judge Lee. This is not to say that there should be a requirement that this position be filled by a judge, nor is it to

say that an experienced trial judge would automatically be the best choice. In the aftermath of this Body's rejection of Judge Lee, I just believe the Governor should have taken this into consideration when making her selection.

"Thank you."

Senator Slom rose to speak in support of the nomination and stated:

"Madam President and colleagues, I rise in support of the nominee.

"I think that the hearing by the Judiciary Committee was very fair, was very complete, and it was very interesting that there was not one piece of negative testimony that was offered. There was not one complaint or suggestion that the applicant is not totally qualified. In fact what we have here is a person of exceptional talent, integrity, ability.

"As the Judiciary Chairman pointed out, many of the people that testified in support of the nominee talked to her great community work, and leadership, and support, and her giving of her time and of herself. I think it's also interesting to note that she does have a science background, and that's interesting in itself because it allows for a different perspective in approaching issues and conflicts. As several people said, Kate Leonard has the ability to disagree without being disagreeable. She has an ability to work with all kinds of people; perhaps that's part of her blue collar background, her family's small business background, and the idea that she's had to work for everything that she has achieved.

"We're getting a real bargain. We're getting someone that is taking a significant, significant salary reduction – someone who is definitely on the fast track in her law firm for even greater destiny – because she's interested in public service, because she wants to serve the people, all the people of Hawaii. She is not a business judge. She's not a prosecutorial judge. She is a judge for all issues for all people.

"And so I think we're indeed fortunate that we are going to confirm Judge Leonard, and I think that we will see in the future that, while we may want to look at judicial experience or trial experience, that this idea of life experience, particularly when we're talking about diversity in Hawaii, is as important or maybe more important. The fact that she was given high qualified ratings by the Bar Association, the fact that in all of her dealings in the past, she has been shown to have the utmost respect of her peers, including people that she beat out, Madam President, for the Law Review, and people that opposed her in hearings. She has shown that ability to work with everyone. And if all of this is not enough, we are very fortunate because I don't think we have anybody on the bench that knows how to play the mandolin well, and that is indeed a great triumph for us and for the people of Hawaii.

"So it is with great pleasure that I support the nomination and urge all of my colleagues to support Katherine Leonard for the ICA judgeship. Thank you."

Senator Sakamoto rose in support with reservations as follows:

"Madam President, I also rise in support with reservations, echoing the Senator who chairs the Committee.

"I believe people are smart, people are diligent, and that's not the qualification to sit on a panel in itself. The previous speaker talked about the wealth of community service. I think someone helping their son in the Cub Scout pack is great, and I think everyone should do that. Someone helping their son in AYSO, AYSO soccer or whatever soccer, that's great. But those two things don't seem to be the wealth of community experience that many people who are sitting here have. I believe compassion for others, seeing what others do, seeing things from others' perspective, having a heart, many times needs to complement just having a quick wit and a hard work ethic.

"You can say this finger is very important, but if the hand had all first fingers, it wouldn't do. You can say the thumb is very important; but if a hand or a glove had all thumbs, that wouldn't do. So I echo the speaker from the Judiciary – it's the combination. Certainly, Madam President, I believe you feel as well that the combination is very important. We hope in the future, appointers – whether it's the Governor or people of other persuasion, in other positions – really look at the composition, because we want effective composition for effective government for all of the people of our state.

"Thank you."

Senator Slom rose in rebuttal and said:

"Madam President, just a brief rebuttal.

"Perhaps the good Senator didn't hear my words clearly or certainly he was not in the committee hearing at the time. We are talking about a person that is extremely well-rounded; a person that has demonstrated the ability to work with others; a person that does have a very strong heart and is very compassionate; a person that has led in the community, not just for her son, and not just for Cub Scouts, but for other activities as well. I get a little concerned when I hear people try to denigrate or belittle the accomplishments that individuals have made, and that is the case here.

"Also, it should be noted for the record that among the people that testified on behalf of this nominee with strong testimony was the brother of the late justice on the ICA, and he gave his full confidence and support. And let us make sure that we understand that even though we're talking about diversified activities and a scientific background and leadership in the community, first and foremost we are talking about one of the smartest, brightest, and able attorneys, and someone who knows the law, practices the law, has given of the law. So when we're looking at Kate Leonard, we're looking at a person who has demonstrated already in her modest young years to make these contributions, and we are confident that she will make even greater contributions in the future.

"Madam President, I request a Roll Call vote, please."

The motion was put by the Chair and, Roll Call vote having been requested, carried on the following showing of Ayes and Noes:

Ayes, 23. Ayes with Reservations, 8 (Hanabusa, Hooser, Inouye, Kim, Kokubun, Sakamoto, Taniguchi, Tokuda). Noes, none. Excused, 2 (Tsutsui, Whalen).

At this time, Senator Taniguchi introduced Judge Leonard and her family to the members of the Senate.

At 9:27 o'clock a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:30 o'clock a.m.

### SENATE RESOLUTION

The following resolution (S.R. No. 1) was read by the Clerk and was disposed of as follows:

Senate Resolution

No. 1 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE LAST DAY OF THE THIRD SPECIAL SESSION OF 2007."

Offered by: Senators Hooser, Hemmings.

On motion by Senator Ige, seconded by Senator Hemmings and carried, S.R. No. 1 was adopted.

### ADJOURNMENT

Senator Ige moved that the Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Third Special Session of 2007, adjourn Sine Die, seconded by Senator Hemmings and carried.

At 9:31 o'clock a.m., the President rapped her gavel and declared the Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Third Special Session of 2007, adjourned Sine Die.

## STANDING COMMITTEE REPORT

## SCRep. 1            Judiciary and Labor on Gov. Msg. No. 1

Recommending that the Senate consent to the nomination of the following:

INTERMEDIATE COURT OF APPEALS, ASSOCIATE JUDGE

G.M. No. 1        KATHERINE G. LEONARD, for a term of ten years

Upon review of the background information submitted by the nominee, Katherine G. Leonard, your Committee finds that Ms. Leonard is currently an attorney with the law firm of Carlsmith Ball, LLP, and has been with the firm since 1992.

While with Carlsmith Ball, LLP, Ms. Leonard's practice has included working on issues and matters related to the termination of the Damon Estate and the Campbell Estate. She has also represented banks and other lenders in commercial loan matters and some defense matters.

Prior to joining Carlsmith Ball, LLP, Ms. Leonard was a law clerk at the First Circuit Court for six months and a law clerk with the Hawaii Supreme Court for six months.

Ms. Leonard is a graduate of the William S. Richardson School of Law at the University of Hawaii where she served as the Editor-in-Chief of the law school's law review and received numerous awards and accolades.

Before attending law school, Ms. Leonard, who received her Bachelor of Science degree from the University of Wisconsin, Parkside, with degrees in biology and chemistry, worked for HR Nursery in Waimanalo, helping to clone orchids.

Testimony in support of the nomination of Ms. Leonard was submitted by the Attorney General; the Hawai'i Women Lawyers; the Chamber of Commerce of Hawaii; the ILWU, Local 142; and eighty-five individuals, many of whom are affiliated with the Carlsmith Ball firm.

The Hawaii State Bar Association (HSBA) found Ms. Leonard to be qualified for the position of an Associate Judge on the Intermediate Court of Appeals. Seven members of the Board of the HSBA voted that Ms. Leonard was highly qualified; eight voted that she was qualified; and two voted that she was not qualified.

Your Committee finds that the testimony submitted was all in support of Ms. Leonard's nomination to the Intermediate Court of Appeals. Many testifiers supported Ms. Leonard for her intellect, hard work, and dedication and testified that the Intermediate Court of Appeals and the people of the State of Hawaii would benefit greatly from Ms. Leonard being placed on the Intermediate Court of Appeals.

Your Committee notes it does have concerns with Ms. Leonard's lack of judicial experience. Your Committee believes that it is not unreasonable for the Senate to want to see the Governor choose an Intermediate Court of Appeals nominee with judicial experience. While judicial experience is not a requirement, your Committee finds that it is still a significant factor because none of the current members of the Intermediate Court of Appeals had previous judicial experience and a nominee with suitable and varied judicial experience would provide a broader perspective to the Intermediate Court of Appeals.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee, after full consideration of the background, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the nomination.

Signed by the Chair on behalf of the Committee.

Ayes, 4. Ayes with Reservations, 2 (Kokubun, Taniguchi). Noes, none.

NUMBER AND TITLE	Offered	Referred	Report of Committee	Adoption
S.R. No. 1 AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE LAST DAY OF THE THIRD SPECIAL SESSION OF 2007.	3			3