

JOURNAL
of the
SENATE OF THE
TWENTY - EIGHTH LEGISLATURE
of the
STATE OF HAWAI‘I

Special Session of 2016

Convened Thursday, June 23, 2016
Adjourned Friday, June 24, 2016

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THE
 TWENTY-EIGHTH LEGISLATURE
 STATE OF HAWAII
 SPECIAL SESSION OF 2016
 JOURNAL OF THE SENATE

FIRST DAY

Thursday, June 23, 2016

The Senate of the Twenty-Eighth Legislature of the State of Hawaii, Special Session of 2016, was called to order at 11:08 a.m., by Senator Will Espero, Vice President of the Senate, in accordance with the following Proclamation, which was read by the Clerk and was placed on file:

“Proclamation

June 15, 2016

I, Ronald D. Kouchi, President of the Senate of the Twenty-Eighth Legislature of the State of Hawaii, pursuant to the power vested in me by Section 10, Article III of the Constitution of the State of Hawaii, 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 as sought in the petition at 11:00 o'clock a.m. on Thursday, June 23, 2016, in the State Capitol Senate Chambers, for the purpose of carrying out its responsibilities established by Section 3, Article VI of the Constitution of the State of Hawaii.

/s/ Ronald D. Kouchi
 Ronald D. Kouchi
 President of the Senate”

The Roll was called showing all Senators present with the exception of Senators Baker, English, Gabbard, Harimoto, Kidani, and Ruderman who were excused.

At this time, Senator Slom welcomed, on behalf of Senator Galuteria and himself, a group of Boy Scouts from Troop 616 (Waikiki-Kapahulu); Scouts Kainoa, Kalae, Tyler, Sterling, and Nigel were seated in the gallery with Scoutmaster Kamuela Melemai and parent Louis Hitchcock.

The Chair extended an additional welcome to the Boy Scouts.

JUDICIARY COMMUNICATIONS

The following communications from the Judiciary (Jud. Com. Nos. 1 and 2) were read by the Clerk and were disposed of as follows:

Jud. Com. No. 1, submitting for consideration and confirmation, the nomination of M. KANANI LAUBACH to the District Family Court of the Third Circuit (Island of Hawaii), for a term of six years, was referred to the Committee on Judiciary and Labor.

Jud. Com. No. 2, submitting for consideration and confirmation, the nomination of JAMES S. KAWASHIMA to the District Court of the First Circuit (Island of Oahu), for a term of six years, was referred to the Committee on Judiciary and Labor.

At this time, Senator Dela Cruz rose to wish Senator Inouye a happy birthday.

Senator Keith-Agaran announced that the Committee on Judiciary and Labor would be holding a decision making meeting on Jud. Com. Nos. 1 and 2 at 1:00 p.m. that afternoon in Conference Room 016.

STANDING COMMITTEE REPORTS

On motion by Senator Green, seconded by Senator Slom and carried unanimously, the Clerk was authorized to receive standing committee reports on Jud. Com. Nos. 1 and 2. In consequence thereof, and subsequent to its recessing at 11:13 a.m., the Senate took the following actions:

Senator Keith-Agaran, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 1) recommending that the Senate consent to the nomination of M. KANANI LAUBACH to the District Family Court of the Third Circuit, in accordance with Jud. Com. No. 1.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 1 and Jud. Com. No. 1 was deferred until Friday, June 24, 2016.

Senator Keith-Agaran, for the Committee on Judiciary and Labor, presented a report (Stand. Com. Rep. No. 2) recommending that the Senate consent to the nomination of JAMES S. KAWASHIMA to the District Court of the First Circuit, in accordance with Jud. Com. No. 2.

In accordance with Senate Rule 37(6), action on Stand. Com. Rep. No. 2 and Jud. Com. No. 2 was deferred until Friday, June 24, 2016.

ADJOURNMENT

At 4:30 p.m., the Senate adjourned until 11:00 a.m., Friday, June 24, 2016.

SECOND DAY

Friday, June 24, 2016

The Senate of the Twenty-Eighth Legislature of the State of Hawai'i, Special Session of 2016, convened at 11:09 a.m. with the President in the Chair.

The Roll was called showing all Senators present with the exception of Senators Baker and Harimoto who were excused.

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

At this time, Senator Shimabukuro introduced Keri Teramae, a junior majoring in political science at the University of San Francisco, who was serving as a volunteer intern in her office.

ORDER OF THE DAY

ADVISE AND CONSENT

Stand. Com. Rep. No. 1 (Jud. Com. No. 1):

Senator Keith-Agaran moved that Stand. Com. Rep. No. 1 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Keith-Agaran then moved that the Senate consent to the nomination of M. KANANI LAUBACH to the District Family Court of the Third Circuit, for a term of six years, seconded by Senator Shimabukuro.

Senator Keith-Agaran rose to speak in support of the nominee as follows:

"I think even a cursory review of the testimony supporting this nominee confirms her credentials as a well-rounded practitioner. Ms. Laubach brings to the bench extensive experience working in the Third Circuit, currently as a private-practice attorney handling criminal cases in the District, Family, and Circuit Courts, and previously as a deputy prosecuting attorney for the County of Hawai'i. She served as a member of the Violent Crime Unit, where she handled cases ranging from child sex assault to homicide. She also has extensive experience involving temporary restraining orders.

"Ms. Laubach has deep ties to the community in which she will serve as a judge, having devoted many hours as a volunteer to local self-help centers, the Waiākea High School Foundation board, and the Hawaii County Bar Association. In addition to her professional and volunteer work, she and her husband are busy raising three young children.

"Her background in psychology, her extensive courtroom experience, and her many years of interaction with the community through her personal and family experiences will no doubt provide her with special insight and the temperament necessary for the often-challenging cases brought in Family Court. She also indicated a passion for bringing Girls Court to the Big Island, and, in discussions with our colleague from Hawai'i Kai, to tweak procedures in the courtroom to move cases along more efficiently for the parties and for the attorneys.

"So, having reviewed the testimony and other material submitted on this nomination and having examined the nominee in a hearing, your committee is satisfied that Ms. Laubach has a deep sense of justice, and we recommend and I would urge all my colleagues to consent to the nomination of M. Kanani Laubach as a District Family Court judge of the Third Circuit."

Senator Inouye rose to speak in strong support of the nominee as follows:

"Thank you, Mr. President. It certainly is my honor to stand in strong support of Ms. Kanani Laubach, or Kanani, as we

know her. To add further to the Judiciary chair's comments, Kanani also practiced family law with cases involving temporary restraining orders – I'd like to add that, because that's one of our Women's Caucus measures that we all deal with.

"South Kohala District Court opened in the 1970s and was considered to be a part-time courthouse, and judges assigned to the Waimea courthouse, which is in my district, would serve on a rotating basis or per diem. In 2008, Mel Fujino was appointed as the first full-time judge because of an overwhelming caseload that warranted this full-time position. If confirmed, Kanani will be the second full-time judge to rule in Waimea's District Family Court and will make strides as the first woman ever to do so.

"With the growing population in North Hawai'i and the number of court cases scheduled every day, we will be fortunate to have Kanani serve as judge. She will bring justice to the community and immediate relief to the backlog of cases in Hawai'i island's judicial system.

"I'd like to also congratulate Ms. Laubach on the impact she's had on Hawai'i's youth in our public schools. She has performed presentations for the Junior Judges Program in public schools and assisted in coordinating and serving as a judge in the Hawai'i County mock trial competitions. Kanani is an inspiration to our keiki, and I know she will continue to keep up the good work. I urge all my colleagues to support advise and consent. Mahalo."

Senator Slom rose to speak in support of the nominee as follows:

"Thank you, Mr. President. Colleagues, your Senate Minority gives full support for the nominee. We echo the words of the Judiciary chairman: In terms of experience, the suggestions that she made, the thoughtfulness in approaching the job were very refreshing, but probably the most important thing was, at the end of the testimony and the questioning, the Judiciary chair raised the possibility that there may be a vacancy coming up soon in circuit court, and would she be interested in taking that? And her answer was that she was passionate about doing the job that she is being nominated for, that she wants to see some of the improvements made there, and that that's the job she's going to do if she's confirmed, and so I urge all my colleagues to confirm her as well. Thank you."

Senator Kahele rose to speak in strong support of the nominee as follows:

"Colleagues, today is a special day. It's a special day for this individual, Kanani Laubach, as she is about to embark on, really, a new journey in her life. It's a special day for her husband, David, who has worked so hard to support Kanani and whose sacrifices and commitment through the years have culminated also in this special day. It's also a special day for their children – their two sons, Tanoa and Tevita, and their daughter, Tiana – and for Kanani's parents and extended family, who are so proud of her nomination and who have come here from Hilo to support her and really have shaped the careers and the life and the professional that she has become. Finally, it's a special day for our justice system and the communities and its residents who will benefit from Kanani's passion and her infusion of energy at the Waimea District and Family Court that she'll bring to the bench.

"Mr. President, for me personally, I'm very proud of the nominee from Hilo, Mrs. Kanani Laubach, who I had the pleasure of growing up with in Hilo. We attended the same public schools – I'm a 1992 graduate, Kanani is a '94 graduate

of Waiākea High School – and we also attended the University of Hawai‘i, Mānoa, in the mid-1990s together. And I’m sure, Mr. President, if both Kanani and I could take a step back in time, 20 years ago, to 1996, to the Hale Wainani dormitories at UH, and if somebody had walked up to us and said, ‘Hey, 20 years from now, you are gonna be the senator from Hilo, on the floor of the Hawai‘i State Senate, and you are gonna be in the gallery as the nominee by the Chief Justice of the Hawai‘i Supreme Court to serve our community in Waimea as a judge,’ I think both of us would have looked at that person and said, ‘You are crazy.’ But, Kanani, here we are today, and I’m so very, very proud of you, so very, very proud of your family, and I just wanted to say congratulations – congratulations, David – and I look forward to many years of your service to our community. Congratulations. Thank you, Mr. President.”

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 23. Noes, none. Excused, 2 (Baker, Harimoto).

Senator Keith-Agaran then introduced Judge M. Kanani Laubach, who was present in the gallery with her mother, Dolores Bugado; her husband, David; her sons, Tanoa and Tevita; her daughter, Tiana; her sister-in-law, Karen Vance; her aunt, Clarice Ishimine; and her cousin, Crystal Ishimine.

Stand. Com. Rep. No. 2 (Jud. Com. No. 2):

Senator Keith-Agaran moved that Stand. Com. Rep. No. 2 be received and placed on file, seconded by Senator Shimabukuro and carried.

Senator Keith-Agaran then moved that the Senate consent to the nomination of JAMES S. KAWASHIMA to the District Court of the First Circuit, for a term of six years, seconded by Senator Shimabukuro.

Senator Keith-Agaran rose to speak in support of the nominee as follows:

“Mr. Kawashima has served as a per-diem judge in the First Circuit since 2010 and therefore is already accustomed to being addressed as ‘Judge Kawashima.’ Mr. Kawashima, armed with a Princeton education and a USC law degree, brings a particularly broad range of experience to the bench, ranging from private practice in labor and employment law, state and federal criminal defense work, trust and probate litigation, personal injury cases, as well as working with entrepreneurs in California during the dot-com boom and bust, and as an entrepreneur himself here in Hawai‘i.

“Mr. Kawashima believes his performance over the past four years of per-diem work are the best evidence of his energy and passion for public service on the bench. He has handled both civil and criminal trial calendars as well as the large DUI trial docket resulting from the Supreme Court’s *Won* decision. He’s already trained to preside over the Mental Health Court calendar. Further, Mr. Kawashima represented that he has assisted in updating District Court training manuals and implementing the Judicial Information Management System and, in doing so, has shown a particular interest in the efficiency and consistency of operations within the judiciary. In short, Mr. President, Judge Kawashima brings experience and skills to the bench in areas other than the usual legal research, writing, and reasoning expected as the minimum. I’d encourage my colleagues to consent to this nomination.”

The motion was put by the Chair and carried on the following showing of Ayes and Noes:

Ayes, 22. Noes, none. Excused, 3 (Baker, Harimoto, Thielen).

Senator Keith-Agaran then introduced Judge James S. Kawashima, who was present in the gallery with his spouse, Elaine; their daughters, Sophia and Olivia; his father, James; his mother, Melvia; his sister, Emily; and his brother-in-law, Tommy Waters.

Senator Keith-Agaran also acknowledged the presence of Rod Maile, administrative director of the courts, who was seated in the gallery.

At 11:24 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 11:37 a.m.

SENATE RESOLUTION

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

S.R. No. 1 “SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SECOND DAY OF THE FIRST SPECIAL SESSION OF 2016.”

Offered by: Senators English, Slom.

On motion by Senator Green, seconded by Senator Slom and carried, S.R. No. 1 was adopted.

ADJOURNMENT

Senator Green moved that the Senate of the Twenty-Eighth Legislature of the State of Hawai‘i, Special Session of 2016, adjourn Sine Die, seconded by Senator Slom and carried.

At 11:38 a.m., the President rapped his gavel and declared the Senate of the Twenty-Eighth Legislature of the State of Hawai‘i, Special Session of 2016, adjourned Sine Die.

STANDING COMMITTEE REPORTS

SCRep. 1 Judiciary and Labor on Jud. Com. No. 1

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

DISTRICT FAMILY COURT OF THE THIRD CIRCUIT

J.C. No. 1 M. KANANI LAUBACH, for a term to expire in six years

Your Committee has reviewed the resume and statements submitted by the appointee and finds M. Kanani Laubach to possess the requisite qualifications to be appointed to the District Family Court of the Third Circuit, State of Hawaii.

Testimony in support of the appointment of Ms. Laubach was submitted by Retired Judge Michael Town, Circuit Court of the First Circuit; and ninety-six individuals. Comments regarding the appointee were submitted by the Hawaii State Bar Association Board of Directors.

Ms. Laubach graduated with distinction and obtained her Bachelor of Arts degree in Psychology from the University of Hawaii at Manoa. Subsequently, she received her Master of Science degree in Counseling Psychology with a concentration in Human Services from Chaminade University and later earned her Doctorate of Jurisprudence from the William S. Richardson School of Law at the University of Hawaii at Manoa.

Ms. Laubach is a Partner at Laubach & Frenz, AAL, LLC in Hilo, where she focuses her legal practice on criminal cases heard in District, Family, and Circuit Courts and family law cases involving temporary restraining orders. Prior to entering private practice, she served as a Deputy Prosecuting Attorney at the Office of the Prosecuting Attorney of the County of Hawaii, where she handled various stages of criminal cases in District, Family, and Circuit Courts. She also served as a member of the Violent Crime Unit where she was assigned violent crime cases involving criminal matters ranging from child sex assault to homicide. She also previously served as Deputy Prosecuting Attorney at the Department of the Prosecuting Attorney of the City and County of Honolulu, where she was assigned to domestic violence misdemeanor cases, cases involving misdemeanor jury demand, and felony trial cases.

Ms. Laubach is licensed to practice law in Hawaii and has extensive service in the legal and local community of the County of Hawaii. She currently serves as an arbitrator in the Court Annexed Arbitration Program, a volunteer at a self-help center in Hilo, an organizer for the East Hawaii Defense Bar, and a Director on the Waiakea High School Foundation Board. She previously served as a Recording Secretary and currently serves as the Vice President of the Hawaii County Bar Association. She has performed presentations for the Junior Judges Program in public schools and assisted in coordinating and serving as a judge in the Hawaii County Mock Trial Competitions.

Testimony in support of Ms. Laubach's appointment indicate that her practice of law in the government and private sectors makes her a well-rounded practitioner with substantial trial experience. Her psychology background will be an asset for the District Family Court when assisting individuals and families who are in crisis and conflict. She has the reputation for being a person of integrity who treats everyone equally and fairly and has the ability to relate to and is respectful toward everyone – attributes that are especially important at the District Court level, where the public is most likely to come into contact with the court system.

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 appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.

Ayes, 7. Noes, none. Excused, none.

SCRep. 2 Judiciary and Labor on Jud. Com. No. 2

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

DISTRICT COURT OF THE FIRST CIRCUIT

J.C. No. 2 JAMES S. KAWASHIMA, for a term to expire in six years

Your Committee has reviewed the resume and statements submitted by the appointee and finds James S. Kawashima meets the requisite qualifications to be appointed to the District Court of the First Circuit, State of Hawaii.

Testimony in support of the appointment of Judge Kawashima was submitted by twenty-seven individuals. Comments regarding the appointee were submitted by the Hawaii State Bar Association Board of Directors.

Judge Kawashima earned his A.B. in English from Princeton University. He later received his Doctorate of Jurisprudence from the University of Southern California Law Center. During law school, he became a finalist in Moot Court and as a result, he was bestowed the honor of arguing before United States Supreme Court Justice Byron White. He currently is a sole practitioner of his own private law practice specializing in labor and employment law, state and federal criminal defense, trust and probate litigation, commercial litigation, and personal injury, although he has devoted himself to his per diem judicial appointment over the last four years. His prior legal experience includes serving as an Associate in several private law firms in California and Hawaii, Deputy Attorney General for the Hawaii Department of the Attorney General in the Medicaid Fraud Control Unit, and Deputy Prosecuting Attorney at the Department of the Prosecuting Attorney of the City and County of Honolulu in the Special Prosecution Unit. His previous business experience includes ownership of Prestige Learning LLC for which he created an Excel-based performance analysis system for SAT grading and developed SAT programs at Punahou School and Le Jardin Academy, and advising clients in Silicon Valley.

Since November 2010, Judge Kawashima has served as a Per Diem Judge for the District Court of the First Circuit. On the civil trial calendar, he has presided over and mediated cases involving temporary restraining orders, landlord and tenant disputes, and small and regular claim matters. On the criminal trial calendar, he has presided over trials involving petty misdemeanors, misdemeanors, and

traffic crimes and infractions. Judge Kawashima is one of the few judges who are trained to preside over the Mental Health Court calendar. Furthermore, he has assisted in updating the District Court training manuals, revising and supplementing the DUI (Driving Under the Influence) bench book, and implementing the Judicial Information Management System, which will accelerate the court's ability to handle a large volume of cases as well as increase litigants' access to filing and public information.

Judge Kawashima is licensed to practice law in Hawaii and California and is an active participant in the legal community. He has served as a judge in high school and law school mock trial competitions as well as a presenter for the Junior Judges Program at Kalihi and Koko Head Elementary Schools. He has previously provided SAT and college application preparation for at-risk youth through Punahou School's PUEO (Partnerships in Unlimited Educational Opportunities) Program and worked with 'Ōlelo Community Television to produce educational programs for SAT, ACT, and LSAT examination preparation and programming regarding restraining orders.

Testimony in support of Judge Kawashima's appointment indicate that he exhibits a strong work ethic, keen intellect, and skillful diplomacy to get to the heart of each dispute without escalating tensions between the parties. He is able to calmly and fairly evaluate the key points of a disagreement and identify an effective solution for the parties to reach an agreement. As a Per Diem Judge, he has displayed strong legal analytical skills, excellent communication skills, and an even temperament. His broad experience prior to serving on the bench and experience gained as a Per Diem Judge will provide Judge Kawashima with a strong foundation of legal and judicial knowledge from which to draw in District Court.

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 appointee, has found the appointee to be qualified for the position to which appointed and recommends that the Senate consent to the appointment.

Signed by the Chair on behalf of the Committee.
Ayes, 7. Noes, none. Excused, 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 SECOND DAY OF THE FIRST SPECIAL SESSION OF 2016.	3			3