

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

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**Second Special Session of 2008**

**Convened Wednesday, July 30, 2008**  
**Adjourned Thursday, July 31, 2008**

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THE  
TWENTY-FOURTH LEGISLATURE  
STATE OF HAWAII  
SECOND SPECIAL SESSION OF 2008  
JOURNAL OF THE SENATE

FIRST DAY

**Wednesday, July 30, 2008**

The Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Second Special Session of 2008, was called to order at 9:10 a.m., by Senator Colleen Hanabusa, President of the Senate, in accordance with the following Proclamation:

"July 30, 2008

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 Wednesday, July 30, 2008, at 9 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 J. Kalani English, Hawai'i State Senate, after which the Roll was called showing all Senators present with the exception of Senators Bunda, Hee, Tokuda, Trimble and Whalen who were excused.

**JUDICIARY COMMUNICATION**

Jud. Com. No. 1, submitting for consideration and consent, the nomination of KELSEY T. KAWANO to the Office of Judge, District Court of the Second Circuit, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, 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 Jud. Com. No. 1. In consequence thereof, and subsequent to its recessing at 9:14 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 KELSEY T. KAWANO to the office of Judge, District Court of the Second Circuit, in accordance with the provisions of Article VI, Section 3, of the Hawaii State Constitution, and 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 Thursday, July 31, 2008.

**ADJOURNMENT**

At 11:04 a.m., the Senate adjourned until 9:00 a.m., Thursday, July 31, 2008.

## SECOND DAY

Thursday, July 31, 2008

The Senate of the Twenty-Fourth Legislature of the State of Hawaii, Second Special Session of 2008, convened at 9:17 a.m. with the President in the Chair.

The Divine Blessing was invoked by the Honorable Mike Gabbard, Hawai'i State Senate, after which the Roll was called showing all Senators present with the exception of Senators Bunda 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 (Jud. Com. 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 KELSEY T. KAWANO as Judge of the District Court of the Second Circuit, in accordance with the provisions of Article VI, Section 3, of the Hawai'i State Constitution, seconded by Senator Hee.

Senator Taniguchi rose in support of the nominee and said:

"Madam President, I rise to speak in support of the judicial nominee for the District Court of the Second Circuit, Mr. Kelsey T. Kawano.

"Good morning, Madam President. I rise to speak in support of the Judicial Nominee for the District Court of the Second Circuit, Mr. Kelsey T. Kawano. Mr. Kawano appeared before the Judiciary and Labor Committee this past Monday to testify on his qualifications to be a District Court judge. During our hearing, Mr. Kawano spoke of his compassion for children in need of representation. In child custody cases, it emphasized that as a guardian ad litem he was sometimes the only voice of the children. I believe this compassion and the experience he gained in private practice and while serving as a per diem judge in the Second Circuit shows his ability and willingness to serve as a District Court judge. Several individuals testified before your Committee and indicated that he has a temperament to be a good judge. Some testified on his professional work and others on his community and family involvement. The Hawai'i State Bar Association provided its assessment—after review and input from the legal community—that Mr. Kawano is qualified to serve as judge for the District Court of the Second Circuit. For these reasons, I ask my colleagues to consent to the nomination of Kelsey T. Kawano. Thank you."

Senator Baker rose in support of the nominee and said:

"Thank Madam President, colleagues. I too rise to speak in favor of the confirmation of Kelsey Kawano to the District Court of the Second Circuit, Maui.

"Madam President, I'm proud to say that Mr. Kawano, although born in Punene, is a lifelong resident of Kihei, which is part of my Senate District. He is respected by his colleagues and his confirmation hearing has drawn only words of praise for his abilities as a compassionate, fair-minded litigator. His even-tempered approach will continue to serve him well, I believe, on the bench. I think it exemplifies that kind of heart that our colleague spoke of just a few moments ago. Kelsey is a solo practitioner of civil litigation specializing in family law. He brings a keen intelligence and solid work ethic to each case that

he handles. His non-confrontational approach to the difficult complex practice of family law has resulted in positive outcomes for children and parents, in spite of some of the terrible situations and complicated, formidable issues so typical of the kinds of cases that he handles. He excels in that kind of child protection, child welfare service, guardian ad litem cases that most attorneys would simply shy away from. In that regard, he will leave a bit of a void in our community, but those skills that he possesses are sorely needed on the bench, I believe.

"His professional qualifications make this appointment a logical step for this dedicated attorney, and for the record I will include an outline of his career in the law. In addition to his dedication to the law, he's a devoted husband to Colleen and father to daughter Kylie, and he even finds time to referee swim meets in the community. And Madam President, he told me that if judicial ethics allow, he still wants to continue to help out in that capacity. He is one of a handful of certified referees in the sport, so we hope that he'll be able to continue to do that as well. Throughout his legal career, Kelsey Kawano has upheld the highest ethics of his profession and exemplified strength of character and integrity. As a Maui native who cares deeply about his community, he has the insight to understand the people who come before his courtroom and decide each case fairly. So it's my honor on behalf of my fellow Maui senators—Senators English and Tsutsui—to speak in strong support of the confirmation of Kelsey T. Kawano as judge for the District Court, Second Circuit, County of Maui. Mahalo."

Senator Slom rose in support of the nominee and said:

"Thank you Madam President. Good morning. On behalf of your Minority, we would also like to offer our very strong support for Mr. Kelsey Kawano.

"During the hearings, it was evident that this is a man of compassion and a man of understanding. He was on a fast-track corporate career which would've earned him a great deal more money and prestige, but he chose to support those in the community, particularly our children and those in lesser circumstances. He is absolutely dedicated—as the good Senator from Maui said—his priorities are straight, his family and so forth, and he does have that understanding heart that Senator Gabbard referred to. So it's our pleasure to wholeheartedly and strongly support Kelsey Kawano. Thank you."

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

Ayes, 23. Noes, none. Excused, 2 (Bunda, Whalen).

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

At 9:28 a.m., the Senate stood in recess subject to the call of the Chair.

The Senate reconvened at 9:36 a.m.

## SENATE RESOLUTION

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

Senate Resolution

S.R. No. 1 "SENATE RESOLUTION AUTHORIZING THE PRESIDENT TO APPROVE THE JOURNAL OF THIS SENATE FOR THE SECOND DAY OF THE SECOND SPECIAL SESSION OF 2008."

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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, Second Special Session of 2008, adjourn Sine Die, seconded by Senator Hemmings and carried.

At 9:37 a.m., the President rapped her gavel and declared the Senate of the Twenty-Fourth Legislature of the State of Hawai'i, Second Special Session of 2008, adjourned Sine Die.

## STANDING COMMITTEE REPORT

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

DISTRICT COURT OF THE SECOND CIRCUIT

KELSEY T. KAWANO

Your Committee received testimony in support of Kelsey T. Kawano from the Department of Human Services (DHS), Raymond P. McCabe, Inc., and fourteen individuals.

The Hawaii State Bar Association found the nominee to be qualified for the position of Judge, District Court of the Second Circuit, based upon the criteria of integrity, legal knowledge and ability, professional experience, judicial temperament, diligence, financial responsibility, public service, collegiality, and writing ability.

Kelsey T. Kawano received a Bachelor of Business Administration from the University of Hawaii at Manoa, and a Juris Doctor from the University of Washington School of Law. He has been in solo private practice since 1994, and has been serving as a Per Diem Judge since 2006 with the District Court of the Second Circuit. Prior thereto, he worked with two other law firms. As a private practitioner, Mr. Kawano's practice has been in all aspects of general practice with particular emphasis on family law including: child custody, support, and visitation; divorce, paternity, guardianship, domestic violence and child abuse protection; and juvenile proceedings.

Mr. Kawano is a member of the Hawaii State Bar Association, and Maui County Bar Association of which he has served as Past President. He also served as Grand Jury Counsel for the Second Circuit Court from 1994 to 1995. He currently has membership in or serves with the following in the Second Circuit: Panel of Arbitrators; Parents' Counsel and Guardian Ad Litem; Special Counsel to the Judiciary; Volunteer Guardian Ad Litem Program; Family Drug Court; Advisory Counsel, Child Welfare Services, DHS.

Mr. Kawano has worked with the DHS on Child Protective Services on Maui as a Parents' Attorney and Guardian Ad Litem. The staff at the DHS found him to be professional, fair, and up-front. Other testifiers found him to have good judgment and to be fair, honest, patient, compassionate, committed to maintaining very high standards in legal work, personable, intelligent, caring, experienced, and skillful.

Your Committee notes Mr. Kawano's personal testimony to the effect that the values of people and family are most important to him. He described himself as sometimes being the "sole and lonely voice" for the children in family court as their guardian ad litem. He advocated for the needs of foster children and children needing a high level of medical or psychiatric care. Mr. Kawano has brought legal action against the DHS and the DOH to get them to cooperate together to provide needed care to particular children who need specialized services.

Mr. Kawano testified that he is flexible enough to be able to do all of the various cases in the District Court, including criminal, civil, and assumpsit. Your Committee notes that he has gained experience in a broad range of cases while in private practice which would qualify him to adjudge all types of District Court cases.

Your Committee finds that Mr. Kawano has a good sense of where the equities, rights, and responsibilities lie in a case, which is essential for a District Court judge.

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, 5. Noes, none. Excused, 1 (Hee).

| 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 SECOND SPECIAL SESSION OF 2008. | 2       |          |                     | 3        |