

TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) formerly known as the CONSUMER LAWYERS OF HAWAII (CLH) IN OPPOSITION TO H.B. NO. 1636

February 24, 2009

To: Chairman Jon Riki Karamatsu and Members of the House Committee on Judiciary:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in opposition to H.B. No. 1636.

The Hawaii Legislature recently requested a comprehensive study of the emergency doctor shortage by the Legislative Reference Bureau (LRB). The LRB submitted a 54 page analysis (Report No. 2, 2006) on the causes for the shortage and potential solutions. The LRB study does not support the premise of this bill that tort reform is the answer to the problem.

The LRB studied the alleged causes of the emergency doctor shortage: 1) Insufficient Compensation; 2) Impact on Lifestyle and their own Private Practice; 3) Supply and Demand - - national shortage of emergency and trauma shortage; and 4) Liability concerns. The LRB study confirmed the impact of insufficient compensation, impact on lifestyle and private practice and supply and demand. However, the LRB was unable to confirm the role of medical malpractice. The LRB report cautioned: "However, evidence on how premiums were affected is mixed and findings are at best inconclusive. In this regard, researchers who study the tort system have found only a loose connection between claim filings and outcomes and premium spikes. Policy makers should be wary of exaggerated and misdirected statistics offered in support of partisan positions."

The LRB study offers many suggestions to address the emergency and trauma doctor shortage. The suggestions relating to the major undisputed causes should be pursued before pursuing tort limitations whose impact have been determined to be "at best inconclusive."

Because of our concerns stated above HAJ is not supportive of this measure. Thanks you for the opportunity to testify on this bill.