

## **CURRICULUM VITAE**

MELODY KAPILIALOHA MACKENZIE

Professor of Law

Ka Huli Ao Center for Excellence in Native Hawaiian Law

William S. Richardson School of Law

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### **Teaching and Professional Experience**

William S. Richardson School of Law

Professor of Law (current)

Teaching Areas: Native Hawaiian Rights, Selected Topics in Native Hawaiian Law,  
Federal Indian Law, Native American Moot Court Team, Writing Program

Acting Dean of the Law School (August 2017 – December 2017)

Professor and Director of Ka Huli Ao (August 2014 – July 2017)

Associate Professor and Director of Ka Huli Ao Center (April 2010 – July 2014)

Assistant Professor and Director of Ka Huli Ao Center (June 2005 – March 2010)

Visiting and Adjunct Professor (August 2001 – May 2005)

Attorney/Consultant (November 1999 – May 2005), member of litigation team that defended the Office of Hawaiian Affairs against constitutional challenges to Native Hawaiian programs; represented Hawaiian families in quiet title actions; worked on selected projects related to the public land trust; and worked with Native Hawaiian Legal Corporation on selected cases relating to iwi kūpuna and access rights.

Executive Director (February 1992 – October 1999), Hawaiian Claims Office, Department of Commerce and Consumer Affairs, State of Hawai'i; administrator and attorney in office established to receive, investigate, and recommend damages for Hawaiian Home Lands beneficiaries' breach of trust claims.

Native Hawaiian Legal Corporation, public interest law firm advancing and protecting the rights of the Native Hawaiian community.

Senior Staff Attorney (October 1986 – January 1992)

Executive Director (October 1982 – September 1986)

Staff Attorney (December 1980 – September 1982)

Law Clerk to Chief Justice William S. Richardson, Supreme Court of Hawai'i (1977-1980)

### **Education and Bar Admittance**

1976 Juris Doctor, William S. Richardson School of Law

1970 Bachelor of Arts *cum laude* in Religious Studies/Anthropology  
Beloit College, Beloit, Wisconsin

Admitted to United States Supreme Court  
Practice Law: United States Court of Appeals for the Ninth Circuit  
United States District Court for the District of Hawai'i  
Hawai'i State Courts

### **Awards and Honors**

Native Hawaiian Advocate Award, Native Hawaiian Legal Corporation, Honolulu, Hawai'i (October 2017)

Faculty Award, Advocates for Public Interest Law, Honolulu, Hawai'i (March 2017)

Honored by the Native American Rights Fund at its 45<sup>th</sup> Anniversary Dinner, Denver, Colorado (November 2015)

'Ahahui o Hawai'i Award for Excellence in Native Hawaiian Law, WSRSL (September 2013)

Regents' Medal for Excellence in Teaching, University of Hawai'i (March 2013)

Law School Outstanding Professor of the Year, 2011-12 (selected October 2012)

Public Service Award, William S. Richardson School of Law Alumni Association, Honolulu, Hawai'i (October 2009)

Leadership Award, YWCA of O'ahu, Honolulu, Hawai'i (June 2009)

Students' Choice Award, William S. Richardson School of Law, University of Hawai'i at Mānoa, Honolulu, Hawai'i (April 2008)

Lifetime Achievement Award, Hawai'i Women Lawyers, Honolulu, Hawai'i (March 2006)

### **Recent Scholarship**

*A Collective Memory of Injustice: Reclaiming Hawai'i's Crown Lands Trust in Response to Judge James S. Burns*, 39 U.HAW. L. REV. 481 (2017) (co-authored with D. Kapua'ala Sproat).

NATIVE HAWAIIAN LAW: A TREATISE, Editor-in-Chief, of the authoritative resource on Native Hawaiian law; sole author of four chapters, and co-author of another chapter (Kamehameha Publishing, July 2015).

- Ch. 1 - *Historical Background*
- Ch. 2 - *The Public Land Trust*
- Ch. 5 - *Native Hawaiians and U.S. Law*
- Ch. 15 - *Religious Freedom*
- Ch. 12 - *Papahānaumokuākea* (co-authored with Wayne Chung Tanaka)

Contributing author (section on Native Hawaiians) to the revision of Felix S. Cohen's HANDBOOK OF FEDERAL INDIAN LAW (2017).

*Ke Ala Loa – The Long Road: Native Hawaiian Sovereignty and the State of Hawai'i*, 47 TULSA L.

REV. 621 (Spring 2012).

*Ke Ala Pono – The Path of Justice: The Moon Court’s Native Hawaiian Rights Decisions*, 33 U. HAW. L. REV. 447 (Spring 2011).

*Hawaiian Custom in Hawai’i State Law*, Conference Paper from TŪHONOHO: THE STATE AND CUSTOM, Tainui Endowed College and Te Mātāhauariki Research Institute, University of Waikato, Hamilton, Aotearoa/New Zealand, published in THE YEARBOOK OF NEW ZEALAND JURISPRUDENCE (2010).

### **Other Short Works**

*Senator Inouye’s Contribution to the Fight for Hawaiian Sovereignty* in LOOKING TO THE FUTURE: THE LIFE AND LEGACY OF SENATOR DANIEL K. INOUE (National Museum of the American Indian, Smithsonian Institution, 2016).

*“The Trial of Queen Lili’uokalani,”* short essay for program accompanying performances of the play, *The Trial of a Queen* (October 2013).

*Hali ‘ā Aloha: A Tribute to Jon M. Van Dyke*, 34 U. HAW. L. REV. 369 (Spring 2012).

*Ka Lama Kū O Ka No ‘eau*, a tribute to Chief Justice William S. Richardson, 33 U. HAW. L. REV. 3 (Winter 2011).

*“But for the Overthrow-Imagining an Alternate Future,”* short essay for *Mai Poina*, a guided walking tour illustrating the events leading up to and during the 1893 overthrow (September 2010).

*“Law and the Courts,”* essay in THE VALUE OF HAWAI’I: KNOWING THE PAST, SHAPING THE FUTURE (Craig Howes and Jonathan Osorio, eds., August 2010).

*Introduction to Ka Lama Kū O Ka No ‘eau, Selected Cases of Chief Justice William S. Richardson*, coauthored with Dean Aviam Soifer (December 2009).

*Restorative Justice for Hawai’i’s First People: Selected Amicus Curiae Briefs in Doe v. Kamehameha Schools*, co-authored with Susan Serrano, Eric Yamamoto and David Forman, UC Berkeley Boalt Hall School of Law, 14 ASIAN AMERICAN LAW JOURNAL 205 (May 2007).

*A New Kind of Environmental Justice: Indigenous Hawaiians Reclaiming Land and Resources*, co-authored with Susan Serrano and Koa Kaulukukui, NATURAL RESOURCES & ENVIRONMENT, Vol. 21, No. 3, Winter 2007, a journal produced by the American Bar Association Section of Environment, Energy, and Resources. Note that this article is included in the casebook, THE PRACTICE AND POLICY OF ENVIRONMENTAL LAW (J.B. Rule, J.C. Nagle & J. Salzman, 2007).

*An Introduction to the Rights of the Native Hawaiian People*, co-authored with Professor Jon Van Dyke, HAWAI’I BAR JOURNAL (July 2006). The article was written to highlight Native Hawaiian issues in conjunction with the ABA’s Annual Convention in Honolulu in August 2006.

*Ever Loyal to the Land: The Story of the Native Hawaiian People*, HUMAN RIGHTS MAGAZINE (Spring 2006), published by the American Bar Association Section of Individual Rights and Responsibilities.

## **Selected Recent Presentations, Panels, and Forums**

Presentation: *The Public Land Trust*, Native Hawaiian Law Training Course (have presented twice a year from 2013 to present).

Instructor/Trainer: *Federal Laws that Trigger Consultation with the Native Hawaiian Community*, U.S. Dept. of Defense Native Hawaiian Cultural Communications and Consultation Course, Honolulu, Hawai'i (Feb. 2017, May 2019).

Panel Member: *Developments in Native Hawaiian Law: Ea – Cultural and Political Self-Determination*, American Judges Association 2018 Annual Educational Conference, Lihue, Kaua'i (September 2018).

Co-Presenter: *Emerging Areas of Native Hawaiian Law*, Hawai'i State Bar Ass'n., Continuing Legal Education Seminar, Honolulu, Hawai'i (May 2018).

Panel Member: *Native Hawaiian Culture, Tradition, and Sovereignty*, ABA Section on Litigation, 2018 Winter Leadership Meeting, Honolulu, Hawai'i (January 2018).

Presentation: *Judicial Independence in Hawai'i*, Hawai'i State Judicial Conference, Honolulu, Hawai'i (November 2017).

Presentation: *Decolonization and Statehood: The Hawai'i Experience*, Statehood and Integration in the 21<sup>st</sup> Century Pacific, Festival of Pacific Arts, Hagåtña, Guam (May 2016).

Presentations: *The Public Land Trust* and *The U.S. Constitution and Native Hawaiians*, 2016 'Aha – Native Hawaiian Convention, Kailua, Hawai'i (February 2016).

Presentation: *E Mau Ke Ea – Native Hawaiians and Self-Determination*, Native American Rights Fund 45<sup>th</sup> Anniversary Forum, Boulder, Colorado (November 2015).

Continuing Legal Education Seminar: *Native Hawaiians: Understanding Self-Determination Under U.S. Law*, Hawai'i State Bar Association, Honolulu, Hawai'i (August 2015).

Luncheon Speaker: *Native Hawaiians and Sovereignty*, Our Ocean Planet: Governance for a Better Future Conference, Honolulu, Hawai'i (December 2014).

Presentation: *Sovereignty and the Native Hawaiian People – E Mau Ke Ea*, Symposium on Current Affairs of Hawai'i's Indigenous People, Center for Ainu and Indigenous Studies, University of Hokkaido, Japan (September 2014).

Panel Member: *Sovereignty Endures—E Mau Ke Ea*, Symposium: Looking to the Future: The Life and Legacy of Sen. Daniel K. Inouye, National Museum of the American Indian (May 2014)

Panel Member: *Canadian First Nations, Native American Indian Tribes, and Native Hawaiians: Sovereignty and Full Faith & Credit*, American Judges Association Annual Education Conference, Kona, Hawai'i (September 2013).

Panel Member: *Utilizing Indigenous Tradition and Custom in Decision Making*, He Hali'a No Jon, Symposium Tribute to Jon Markham Van Dyke, Honolulu, Hawai'i (February 2013).

Panel Member: *Law and the Right of Self-Determination*, Federal Bar Association Hawai'i Conference, Honolulu, Hawai'i (December 2012).

Scholar answering questions and providing commentary for the Mai Poina Guided Walking Tours, a free walking tour sponsored by the Hawai'i Pono'i Coalition, illustrating the events leading up to and during the 1893 overthrow of the Hawaiian Kingdom (September 2010-2015, 2018).

Invited Witness: Presented testimony before the U.S. Senate Committee on Indian Affairs, chaired by U.S. Sen. Daniel K. Akaka, on the trust relationship between the federal government and the Native Hawaiian community (April 2012).

Presentation: *Native Hawaiian Legal History and Traditional and Customary Rights*, for panel entitled "Native Hawaiian Legal Issues You Need to Know to Practice Law in Hawai'i," HSBA Annual Convention, Honolulu, Hawai'i (September 2011).

Presentation: *Honoring Chief Justice Richardson*, at Ho'okupu Mākou Iā Richardson, U.H. Law Review and Hawai'i State Judiciary tribute to Chief Justice Wm. S. Richardson, Honolulu, Hawai'i (August 2011).

Presentation: *The U.N. Declaration on Rights of Indigenous Peoples: 'Āina and Sovereignty*, Emerging Leaders Workshop, Council for Native Hawaiian Advancement's Annual Convention, Honolulu, Hawai'i (August 2011).

Presenting Scholar at *Challenges of American Citizenship for Native Peoples: A Workshop for Hawai'i and Alaska State Teachers*, Judiciary History Center, Honolulu, Hawai'i (July 2011).

Presentation: *Ke Ala Pono: New Cases in Native Hawaiian Law*, UH Faculty Lecture Series - Sharing Our Work and Knowledge, Honolulu, Hawai'i (April 2011).

Presentation: *Ke Ala Pono - The Path of Justice*, UH Law Review Symposium on the Moon Court Era, Honolulu, Hawai'i (March 2011).

Presentation: *Ke Ala Loa –The Long Road: Native Hawaiians and the State of Hawai'i*, AALS Section on Indian Nations & Indigenous Peoples, San Francisco, California (January 2011).

Panel member: *Hawaiian Law and the State: Knowing the Past, Shaping the Future*, Judiciary History Center, Honolulu, Hawai'i (October 2010).

Presentation: *Native Hawaiian Rights and the Akaka Bill*, Hawaii Paralegal Association, Honolulu, Hawai'i (February 2010).

Panel Member: Experts' discussion on the legal implications of the Native Hawaiian Government Reorganization Act, KITV-4, sponsored by the Office of Hawaiian Affairs, Honolulu, Hawai'i (January 2010).

### **Law School, University, and Community Service**

Chair, Faculty Appointments Committee, 2019-20.

Co-Advisor to the 'Ahahui o Hawai'i, the Native Hawaiian law student association (2006 – present).

One of three faculty advisors to the *Asian-Pacific Law and Policy Journal* (2006 – present).

Co-Advisor to the Native American Moot Court team (2012 – present).

Chair of the Law School's Department Personnel Committee (2018-19); Co-Chair of the Law School's Accreditation Committee (2016-17); Chair of the Law School's Budget Committee (2014-16); Member of the Law School's Appointments Committee (2015-16); Member (2010-12) and Chair of the Law School's Admissions Committee (2012-13).

Responsible for Native Hawaiian Law Certificate program (2007-2017). From 2007-09, eleven students received Pacific-Asian Legal Studies-Specialty in Native Hawaiian Law certificates; since the inception of the stand-alone certificate program in 2010, over 100 students have received Native Hawaiian Law Certificates.

Member of the Committee for the Dan and Maggie Inouye Distinguished Chair in Democratic Ideals (2017 to present).

Appointed by UH-Mānoa Chancellor to the Campus Climate Committee to review policies and address issues relating to Free Speech, Safety, and Tolerance on the Mānoa campus (2017-2018); Pīko'oko'o - with other Native Hawaiian faculty across the Mānoa Campus drafted a proposal and received funding for the Pīko'oko'o Initiative to hold a conference in Fall 2018 featuring Kanaka Maoli scholars, programs, and projects (2017-2018).

National Native American Law Students Association Moot Court Competition – the Law School hosted the competition in February 2012. Authored the problem, raised funds, oversaw various aspects of the competition, and organized a Symposium: *Of Membership and Recognition* following the competition itself.

Appointed by UH-Mānoa Chancellor to sit on the Native Hawaiian Advancement Task Force to identify strengths and challenges in current programs and recommend actions needed to support advancing Native Hawaiian initiatives at UH-Mānoa (August 2011 – February 2012)

Appointed by UH-Mānoa Chancellor to Indigenous Public Health Cluster Hire Screening Committee to screen candidates for three positions in cluster related to Indigenous Public Health (September 2011 – April 2012).

Ka Huli Ao was awarded the 'Ikena Award from the Hawai'i State Bar Association for "outstanding service to the public or profession toward legal education" (September 2010).

Appointed by U.S. District Court Judge Mollway as one of nine members of the Merit Selection Panel to review applications for an anticipated vacancy for the U.S. Magistrate Judge for the District of Hawai'i (July – September 2010).

One of twenty indigenous scholars invited to attend a training seminar on the Inter-American Commission on Human Rights and the UN Systems for the Protection of Indigenous Peoples' Rights, Washington, D.C. (June 2010).

Member of the Hawai'i Delegation to the 23rd Council of Pacific Arts Meeting. Discussions focused on the efforts Pacific nations to protect traditional knowledge, planning for the 11th Festival of Pacific Arts for Solomon Islands in 2012, and information on cultural mapping and developing cultural policies, Noumea, New Caledonia (March 2010).

### **Contracts and Grants**

Native Hawaiian Law Training Course: Negotiated a \$150,000 contract with the Office of

Hawaiian Affairs to create materials and curriculum and conduct trainings at least twice a year for members of state and county boards, commissions, and councils on Native Hawaiian legal issues and the responsibilities of decisionmakers in relation to Native Hawaiian lands, resources, and cultural practices (2012-13). Contract extension of \$70,000 each year since initial contract (2014-present).

Wrote proposal for and administered a \$1.5 million grant under the Native Hawaiian Education Act (NHEA) from the U.S. Dept. of Education (2010-11).

Primarily responsible for negotiating and administering a four-year \$750,000 grant from the Kamehameha Schools for Ka Huli Ao's Post-J.D. research fellowship program (2009-13).

### **Organizations and Affiliations**

1975 – Present Hālau Mōhala 'Ilima – 1989 kumu hula graduate; active member and currently co-teach an adult women's class within the hālau; as a hālau member, attended and danced at the 8<sup>th</sup> Festival of Pacific Arts in New Caledonia in 2000, the 9<sup>th</sup> Festival of Pacific Arts in Palau in 2004, and the 12<sup>th</sup> Festival of Pacific Arts in Guam in 2016.

1992 – Present Native Hawaiian Bar Association, founding board member and past president.

2006 – Present Kūali'i Council, representing UH-Mānoa faculty and staff in Native Hawaiian programs. Successfully worked on revisions to the UH mission statement reflecting the University's commitment to Hawai'i's indigenous peoples, adopted by the Board of Regents in March 2009.

2009 – Present Kailua, Kau a Ho'oilu, Kailua ahupua'a cultural descendant group regularly consulted on issues relating to iwi kūpuna (ancestral remains).

2010 – Present Hika'alani, founding member and current board member of Native Hawaiian cultural and educational non-profit.

2017 – Present Hui Maunawili-Kawainui, founding member of group seeking to preserve and maintain watershed, agricultural lands, and important historical and cultural sites in the Maunawili Valley of Kailua ahupua'a.