

Mitchell D. Roth
Mayor



Elizabeth A. Strance
Corporation Counsel

Laureen L. Martin
Assistant Corporation
Counsel

COUNTY OF HAWAII
OFFICE OF THE CORPORATION COUNSEL

101 Aupuni Street, Suite 325 • Hilo, Hawai'i 96720 • Phone (808) 961-8251 • Fax (808) 961-8622

July 20, 2021

Via Electronic Mail only

Kendra K. Kawai, Esq.
Torkildson, Katz, Hetherington, Harris & Knorek
Topa Financial Center, Bishop Street Tower
700 Bishop Street, 15th Floor
Honolulu, Hawaii 96813-4187
kkawai@torkildson.com

Dear Ms. Kawai:

Re: Fiscal Year 2021-22 Professional Services: Statement of Qualifications (SOQs)

Thank you for submitting your firm's Statement(s) of Qualifications for providing professional services to the Office of the Corporation Counsel, County of Hawai'i. Based upon the information provided, the Department's review committee has determined that your firm is qualified to perform services for the following category(ies):

- 50) Attorney/Law (Civil Rights Defense)
- 51) Attorney/Law (General Personal Injury Defense)
- 52) Attorney/Law (Criminal Defense of County Employees)
- 53) Attorney/Law (General defense in civil matters, including administrative proceedings)
- 54) Attorney/Law (Federal and State Tax)
- 55) Attorney/Law (Worker's Compensation)
- 56) Attorney/Law (Constitutional)
- 57) Attorney/Law (Public Sector Employment)
- 58) Attorney/Law (Public Financing)
- 59) Attorney/Law (Drafting of Legislation and Administrative Rules)
- 60) Attorney/Law (Real Estate)
- 61) Attorney/Law (Land Use, Planning)
- 62) Attorney/Law (Class Actions)
- 63) Attorney/Law (Procurement)
- 64) Attorney/Law (Enforcement of Federal, State and County Law)

Kendra K. Kawai, Esq.

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- 65) Attorney/Law (Condemnation)
- 66) Attorney/Law (Construction Litigation)
- 67) Attorney/Law (Bankruptcy)
- 68) Attorney/Law (Commercial Transactions)
- 69) Attorney/Law (Collections)
- 70) Attorney/Law (Fair Labor Standards Act and other laws related to compensation)
- 71) Attorney/Law (Environmental)
- 72) Attorney/Law (Regulatory)

If you are qualified for a category, your firm will remain on the Department's List of Qualified Providers of Professional Services until June 30, 2022. For your information, this list may be utilized by any County agency during this time period.

When the need for professional services arises, a selection committee will review the qualifications of firms on the list in the appropriate category. Professional services procurements that equal or exceed \$5,000.00 are posted on the County's website within seven (7) days of the contract award.

Thank you for your interest in providing professional services to the County of Hawai'i. If you have any questions or concerns, please contact Amy Bautista at (808) 961-8251 or corpcounsel@hawaiicounty.gov.

Respectfully,



J Yoshimoto
Deputy Corporation Counsel /
Chair, 2021-22 Professional Services
Statement of Qualifications (SOQs) Review Committee

bcc: County of Hawai'i, Procurement with enclosure

TORKILDSON KATZ
HETHERINGTON HARRIS KNOREK

ATTORNEYS AT LAW, A LAW CORPORATION
700 BISHOP STREET, 15TH FLOOR
HONOLULU, HAWAII 96813-4187
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KENDRA K. KAWAI
DIRECT DIAL: (808) 523-6000
E-MAIL: KKAWAI@TORKILDSON.COM

June 30, 2021

Via E-mail: corpcounsel@hawaiicounty.gov

Attn: Elizabeth A. Strance
Corporation Counsel
County of Hawai'i
101 Aupuni Street, Suite 325
Hilo, Hawai'i 96720

Re: Letter of Interest and Statement of Qualifications to Provide Legal Services

Dear Ms. Strance:

This responds to the County of Hawai'i's invitation to licensed attorneys to submit letters of interest and statements of qualifications to provide legal services for the County of Hawai'i on a contract basis as the need arises for the 2021-2022 fiscal year. The information requested by the notice is as follows:

1. The name of the firm or person, contact information including email address, the principal place of business, and location of all of its offices.

Kendra K. Kawai, Esq., Director, Torkildson, Katz, Hetherington, Harris & Knorek, Topa Financial Center, Bishop Street Tower, 700 Bishop Street, 15th Floor, Honolulu, Hawaii 96813-4187, phone: (808) 523-6000, fax: (808) 523-6001, e-mail: kkawai@torkildson.com. Our law firm also has an office located at 120 Pauahi Street, Suite 312, Hilo, Hawaii 96720.

2. The age of the firm and its average number of employees over the past five years.

Founded in 1947, Torkildson, Katz, Hetherington, Harris & Knorek is an "AV" rated law firm with offices in Honolulu and Hilo. The firm will be celebrating 75 years of service to the business community next year. The firm provides Hawaii, domestic and international corporations a range of expert legal services, including labor and employment law, business litigation, corporate law, health care law, tax planning and litigation, real estate transactions, liquor and administrative licensing, and immigration law. Currently, our law firm has 20 attorneys.

3. The education, training, and qualifications of the individual, or if a firm, its key employees in accordance with HRS 103D-304 and/or the professional and scientific occupation series contained in the United States Office of Personnel Management's Qualifications Standards Handbook (<https://www.opm.gov/policy-data-oversight/classificationqualifications/general-schedule-qualification-standards/#url=GS-PROF>).

I earned a B.A. degree in Political Science from University of California, San Diego and a J.D. degree from the University of Oregon Law School; and was employed as a Law Clerk to the Honorable Colleen Hirai, 2002-2004; Deputy Corporation Counsel for the City and County of Honolulu, 2004-2007; 2014-2015; attorney with Torkildson, Katz, Hetherington, Harris & Knorek 2007 to 2014; 2015 – present. I am licensed and authorized to practice in the following jurisdictions: State of Hawai'i, United States District Court for District of Hawai'i, United States Court of Appeals for Ninth Circuit, United States Supreme Court. (See my comprehensive background and qualifications in my attached resume.)

4. A list of recent projects and the names of up to five clients who may be contacted, including at least two for whom services were rendered during the preceding year.

I am an experienced trial attorney seeking to provide legal services to the County of Hawai'i in the areas of Civil Rights Defense (#50); General Defense in Civil Matters, including Administrative Proceedings (#53); Public Sector Employment (#57); and Fair Labor Standards Act and Other Laws Related to Compensation (#70). We have handled a wide variety of labor and employment law compliance counseling and litigation matters for employers in the private and public sector, contract violation and interest arbitrations, all administrative and judicial hearings for employment matters, motions and other appearances in all types of labor and employment matters before state and federal courts and agencies, and other concentrated areas include civil rights and constitutional law.

Please see attached for a summary of the number and type of cases or matters that I have worked on in the past.

Feel free to contact my current and past clients:

- Margarete Hester, Enterprise Holdings, Inc., (808) 543-1523
- Ruby Mae Espiritu, HawaiiUSA Federal Credit Union, (808) 844-8357
- Elisabeth Contrades, University of Hawai'i, (808) 956-9625
- Marlene McKenzie, Armstrong Produce, (808) 203-6270
- Mahina Eleneki Hugo, Queen Lili'uokalani Trust, (808) 203-6150

I have provided services to the first two contacts during the current and preceding years.

5. Any promotional or descriptive literature which the individual or firm desires to submit.

Please see attached.

Very truly yours,

TORKILDSON, KATZ,
HETHERINGTON, HARRIS & KNOREK
Attorneys At Law, A Law Corporation

A handwritten signature in black ink, appearing to read "Kendra K. Kawai". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kendra K. Kawai

Enclosures

TORKILDSON KATZ
HETHERINGTON HARRIS KNOREK

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KENDRA K. KAWAI
DIRECT DIAL: (808) 523-6000
E-MAIL: KKAWAI@TORKILDSON.COM

LEGAL SERVICES TO BE PROVIDED:

- General advice and representation in civil rights, contract, litigation, labor, constitutional, and personnel matters.
- Drafting and/or analysis of employment agreements.
- General advice on labor and employment matters.
- Advice and representation in employment investigations, administrative matters, and other adverse claims brought against County of Hawai'i.
- Legal compliance advice and review of labor, employment, and human resource policies and practices.

VALUE ADDED SERVICES:

- Having extensive practice experience in the private and public sectors in Hawai'i, many of our attorneys have built extensive networks and contacts. We are always willing to assist our clients in finding the trusted and specialized expertise needed to solve any particular issue they face.
- In addition to hiring and training well-qualified attorneys, Torkildson, Katz, Hetherington, Harris & Knorek ("TKHH&K") has built up a wealth of knowledge and experience over the years, allowing us to serve our private and public sector clients in the most efficient and effective manner possible. This expertise often allows us to provide quick and immediate answers to clients, avoiding additional research and analysis costs.

BACKGROUND OF RECENT EMPLOYMENT MATTERS

I have both worked on and handled a number of cases and/or employment matters (*i.e.*, complaints filed in circuit court and federal district court, charges of discrimination, work injury discrimination complaints filed with the Department of Labor and Industrial Relations, ESARO (Employment Security Appeals Referees' Office) hearings, etc.) for over the past eleven (11) years with the firm. I worked on and/or handled approximately 25-35 cases. I have also assisted Robert S. Katz in interest arbitrations representing governmental entities involving Bargaining Units 8 and 11, and labor matters representing the University of Hawai'i. I previously worked as a deputy corporation counsel for the City and Counsel of Honolulu in the litigation section for approximately three years (2004-2007). In that time, I handled approximately 7-12 civil rights cases, and approximately 10-15 cases involving various civil litigation matters against the City and County of Honolulu.

Brief representation sample of **employment** cases or matters handled:

Horita v. Kauai Island Utility Cooperative; Civ. No. 07-cv-00357 JMS-BMK, 2008 WL 11344895 (D. Haw. Aug. 22, 2008), *aff'd*, 352 Fed. Appx. 194 (9th Cir. 2009) (unpublished), *cert. denied*, 1561 U.S. 1006, 30 S. Ct. 3469 (2010) – Served as co-counsel in obtaining summary judgment in a race and sex discrimination case in federal district court on behalf of an employer, prevailed on appeal to the Ninth Circuit in 2009 and successfully defeated plaintiff's application for certiorari to the United States Supreme Court in 2010.

Sack v. The Hawaii School for Girls dba La Pietra – Hawaii School for Girls et al.; Civil No. 17-1-1426-09 JPC; DPR No. 17-0576-A – Successfully served as first chair and obtained a defense arbitration award in December 2018. Plaintiff filed a retaliation claim against Defendants in Honolulu District Court *pro se* for non-renewal of her employment contract after she filed an age discrimination complaint with the Hawaii Civil Rights Commission. Plaintiff later retained counsel and filed a 7-count First Amended Complaint (with a jury demand), alleging claims such as age discrimination, retaliation, wrongful termination and/or retaliation in violation of Hawaii Whistleblower's Protection Act claim, and various negligence claims (NIED, negligent training and negligent supervision). The parties stipulated to arbitrate the matter based on Plaintiff signing an agreement to arbitrate with her employment agreement.

Kamakeeaina v. Armstrong Produce, Ltd.; Civil No. 18-00480 DKW-RT – Represented Armstrong Produce on a Charge of Discrimination Plaintiff filed with the Equal Employment Opportunity Commission, which was dual filed with the Hawaii Civil Rights Commission, alleging discrimination on the basis of age and disability. The EEOC dismissed the Charge for no cause, and Plaintiff subsequently filed *pro se* a 12-count Complaint based on the same operative facts. The parties settled the matter.

Brief representation sample of **labor** cases:

Robert S. Katz and I represented the Employer Group consisting of the State of Hawai'i, the City and County of Honolulu, County of Hawai'i, County of Maui and County of Kauai in a Hawaii Labor Relations Board matter involving the Hawaii Fire Fighters Association, Local 1463, IAFF, AFL-CIO, and the Bargaining Unit 11 interest arbitration from 2016-2017. Our firm was engaged through a contract with the County of Maui.

Interest Arbitration between *HGEA (Bargaining Unit 8) and David Y. Ige, Governor, State of Hawai'i; Board of Regents, University of Hawai'i; and David Lassner, President, University of Hawai'i*; Case No. I-08-156 – Represented the University of Hawai'i with Robert S. Katz in the interest arbitration arising out of an impasse reached in negotiations between the State and the University (collectively "Employer"), and HGEA, concerning the 2015-2017 collective bargaining agreement for Bargaining Unit 8.

In the Matter of the Arbitration between HGEA (Bargaining Unit 8) and the University of Hawai'i (Frank Yap Jr., Arbitrator); and Asato et al. v. HGEA and the University of Hawai'i; Case No. 18-CU-08-365a-h & 18-CE-08-921a-h – Represented the University of Hawai'i with Robert S. Katz in a class grievance arbitration involving the termination of certain temporary positions and later the employees filed prohibited practice complaints with the Hawaii Labor Relations Board (HLRB) after the parties did not proceed to arbitration. The HLRB hearing was concluded and post-hearing briefs were filed in September 2019. The Board has not issued its decision in the matter.

KENDRA K. KAWAI

2177 Ala Mahamoe Street • Honolulu, Hawai'i 96819 • 808.223.8549 • kkawai_24@yahoo.com

EDUCATION

UNIVERSITY OF OREGON SCHOOL OF LAW
Juris Doctorate, 2002

University of California – San Diego
B.A. Political Science, 1998

PROFESSIONAL AFFILIATIONS

SOCIETY FOR HUMAN RESOURCE MANAGEMENT (SHRM) HAWAII CHAPTER, EDUCATIONAL FOUNDATION
Member of Programs Committee (2008-2014; 2018-present) and Co-Chair of Programs Committee (2011- 2012)

CHAMBER OF COMMERCE OF HAWAII
Member of Board of Directors (2018-present)

PROFESSIONAL EXPERIENCE

TORKILDSON, KATZ, HETHERINGTON, HARRIS & KNOREK, HONOLULU, HAWAII, 2015 – PRESENT

SENIOR COUNSEL/DIRECTOR, LABOR AND EMPLOYMENT LAW SECTION

Defended employers in all aspects of labor and employment law matters before state and federal courts and administrative agencies. Drafted and reviewed employment agreements, independent contractor agreements, and settlement documents. Advised clients as to wage and hour, family leave law, and disability issues and participated in interest arbitration proceedings that resulted in successful outcomes for government agencies. Conducted independent fact-finding investigations.

KEY ACHIEVEMENTS:

- Served as co-counsel in interest arbitrations representing various government employers and obtained favorable results on behalf of management.
- Successfully served as first-chair counsel in obtaining a defense decision in an age discrimination case at arbitration on behalf of employer (December 2018).
- Assisted with the update and publication of the Chamber Desk Manual, created list of presentation topics, and organized the firm's participation at the Annual Employment Law Seminar hosted by the Chamber of Commerce of Hawaii (August 2019).

DEPARTMENT OF THE CORPORATION COUNSEL, CITY & COUNTY OF HONOLULU, HONOLULU, HAWAII, 2014-2015

DEPUTY CORPORATION COUNSEL, COUNSELING & DRAFTING DIVISION, PERSONNEL SECTION

Advised City departments on labor and employment law matters. Managed workers' compensation appeals before the State of Hawaii Labor and Industrial Relations Appeals Board. Drafted legal advisory memoranda on various issues. Reviewed contractual agreements for City departments.

TORKILDSON, KATZ, MOORE, HETHERINGTON & HARRIS, HONOLULU, HAWAII, 2007-2014

ASSOCIATE ATTORNEY/SENIOR ASSOCIATE ATTORNEY, LABOR AND EMPLOYMENT LAW SECTION

Defended employers in all aspects of labor and employment law matters before state and federal courts and administrative agencies. Drafted and reviewed employment agreements, independent contractor agreements, and settlement documents. Advised clients as to wage and hour, family leave law, and disability issues and reviewed and updated employee handbooks.

KEY ACHIEVEMENTS:

- Served as co-counsel in obtaining summary judgment in a race and sex discrimination case in federal court on behalf of an employer, prevailed on appeal to the Ninth Circuit in 2009 and successfully defeated plaintiff's application for certiorari to the United States Supreme Court in 2010.

DEPARTMENT OF THE CORPORATION COUNSEL, CITY & COUNTY OF HONOLULU, HONOLULU, HAWAII, 2004-2007

DEPUTY CORPORATION COUNSEL, LITIGATION DIVISION

Litigated several jury trials in state and federal court as either first or second chair. Cases included: civil rights violations, employer retaliation, breach of contract and tort. Managed a caseload of approximately 20 cases.

HONORABLE COLLEEN HIRAI (RET.), CHIEF JUDGE, CIRCUIT COURT OF THE FIRST CIRCUIT, STATE OF HAWAII 2002-2004

LAW CLERK

Drafted bench memos, conducted research, and managed weekly hearings.